

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Urban Affairs Committee February 5, 2019

**HUNT:** Good afternoon, everyone, and welcome to your Urban Affairs Committee. My name is Senator Megan Hunt and I represent the 8th Legislative District, which is in midtown Omaha, and includes the neighborhoods of Dundee and Benson. I serve as the Vice Chair in this committee and today Senator Justin Wayne, our Chairperson, had to be in Omaha for court. So I will be presiding today. Let's start off with having some members of the committee introduce themselves starting on my right with Senator Arch.

**ARCH:** John Arch, District 14: Papillion, La Vista.

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

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

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

**PRECIOUS McKESSON:** Precious McKesson, committee clerk.

**HUNT:** Also assisting this committee are our committee pages: Noah Boger from Valley, who is a political science and French major at UNL; and Katie Pallesen from Omaha, who is a political science and history major at UNL. This afternoon we'll be hearing five bills and we'll be taking them in the order listed outside the room. On each of the tables in the back of the room you will find blue testifier sheets. If you're planning to testify today, please fill one out and hand it to Precious when you come up. And this will just help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on the committee statement for a particular bill, you must testify in that position during the bill's hearing. If you do not wish to testify, but would like to record your position on a bill, please fill out one of the gold sheets in the back of the room. Also, I'd like to note the Legislature's policy that all letters for the record must be received by the committee by 5:00 p.m. the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask that if you do have any handouts that you please bring 10 copies and give them to the page. If you need additional copies, the page can help you make more. Testimony for each bill will begin with the introducer's opening statement. After the opening statement we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make a closing statement if they wish to do so. We ask

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that those of you who are testifying begin by sharing your name and spelling it for the record so our records are correct. We're gonna be using a four-minute light system today. So when you begin your testimony, the light will turn green and then it will turn yellow. That's your one-minute warning, and then it will turn red and it's time to wrap up your thoughts. I'm a little bit strict about the light, but if you're in the middle of a thought I'll definitely let you finish. I just want to remind everyone, including senators, to please turn off your cell phones or put them on silent. And with that, we will begin. And I also wanted to ask Senator Crawford to introduce herself now that she's joined us.

**CRAWFORD:** Good afternoon. Senator Crawford, District 45.

**HUNT:** Thank you, Senator Crawford. So we'll begin today with LB317 with Senator Kolterman. Welcome, Senator.

**KOLTERMAN:** Thank you and good afternoon, Vice Chairwoman Hunt, members of the Urban Affairs Committee. I'm Senator Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, I represent the 24th District in the Nebraska Legislature. I'm here today to introduce LB317, a bill that eliminates the authority of the Public Service Commission to inspect manufactured and modular homes, and to allow for third-party agencies approved by the United States Department of Housing and Urban Development to conduct these inspections. For background purposes, a modular home is a home built within a factory which conforms to all state building codes. Sections of the home are transported to the building site then joined together on a permanent foundation by local contractors. Typically, these houses have full basements and are larger than manufactured homes, having full kitchens, bathrooms, bedrooms, and washer and dryer hookups. A manufactured home is a home built within a factory and conforms to the HUD code. These homes are built on a nonremovable steel chassis, and after delivery to a site the wheels are typically detached. Because these homes are not placed on a permanent foundation, they do not typically have basements. These houses tend to have skirted siding around the bottom of them to hide where the wheels were removed and give it an appearance of a typical home. LB317 would allow for modular and manufactured home builders to contract with third-party agencies and pay for design review in home inspections services. Due to the number of homes throughout the United States these third-party companies inspect, it allows them to do it for a lower cost to the manufacturer than if done by the Public Service Commission. Such savings can then be passed through to the

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buyer. Individuals from the industry who follow me will be able to address specific questions on the inspection process and those costs associated with that. Last year, I brought LB707, which, which only addressed manufactured homes. This year, after working with representatives of BonnaVilla Homes in Aurora as well as Champion Homes, I decided to be, it would be prudent for us to exempt modular homes as well. We've seen estimates from both Champion homes in York and BonnaVilla that by allowing for third-party inspectors it would save these, it would say these manufacturers approximately two-thirds in inspection costs. For homes delivered outside of the state, in some cases the homes also has to be inspected by the receiving state, which would result in double inspection costs. LB317 would allow Nebraska companies that build manufactured and modular homes the ability to compete on a level playing field with out-of-state manufacturers. Lowering the, lowering the inspection costs can keep jobs in Nebraska and help create new ones. Another point I would like to make is that this bill coincides with our current administrative policy of less government regulation. As I stated earlier, representatives from Champion Home Builders, the Manufactured Home Association, BonnaVilla are all here to give you more details and answer more technical questions. Thank you, and I'd be happy to try and answer any questions you might have.

**HUNT:** Any questions from the committee? Thank you very much, Senator Kolterman. Will you be staying to close?

**KOLTERMAN:** Yeah, I have the next bill up.

**HUNT:** OK. That was a trick question, I knew that.

**KOLTERMAN:** Thank you.

**HUNT:** All right, now we'll hear proponents of LB317. Come on up. Welcome, sir.

**MIKE CLONINGER:** Thank you. My name is Mike Cloninger, C-l-o-n-i-n-g-e-r.

**HUNT:** Can you spell your first name too?

**MIKE CLONINGER:** I can. I did that a couple of days ago, I think I can still get it right. M-i-k-e. If my mother is mad at me, it's M-i-c-h-a-e-l with an exclamation point at the end. So I apologize for being a little bit nervous. I'm more nervous about the lights. If my

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guys at work find out there's something that limits me to four minutes, they'll have it in my office in no time at all and we'll get a lot more done, I'm sure. I just want to share with the committee and the senators the difference in cost. One element that we're faced with out at the plant, I represent Champion Home Builders. We're in York, Nebraska. Champion has been, Champion, Skyline-- we recently merged with Skyline Corporation. We've been in business as a company since 1953. We've had our presence in our manufacturing plant in York, Nebraska since 1960. We're the oldest operating Champion manufacturing facility out of the 30 plants around the country, and we're, we're in a proud part of the committee, community in York. The fees that it costs us to, to basically build a manufactured home that are assessed by the state of Nebraska is really what got us started in this whole thing. We have, I wanted to share with the group here that other plants around the country that are not faced with a mandated state inspection process. And the ones I have on my list here, the short list: North Carolina, California, Idaho, Pennsylvania, Minnesota, Florida, Texas, New York, Kansas, and so on. The cost to those plants, our sister plants, to basically get the same inspection services that we get from the state of Nebraska cost them anywhere from \$100 per floor, \$200 for a double-wide, to \$145 per floor, and then double that for a double-wide. The cost to us to basically work with the state in Nebraska is \$400 per floor for the same, the same exact services. I did check with Arizona, we have plants in Arizona. Arizona has the same of the fee structure mandated by the state as Nebraska has. It costs our plant, our plants in Ari-- excuse me, in Arizona \$380 per floor against the cost of the other plants of 130 bucks. We ship, we build and ship houses from Nebraska to Colorado and Montana, Wyoming, North and South Dakota, everything, as do our plants in Minnesota and Kansas. And we're basically unable to compete with them fairly in the fee schedule with our own plants who ship past us into those states. So I just wanted to share that with the group, so thank you very much.

**ARCH:** Questions?

**HUNT:** Thank you. Do you want to stay for a couple questions?

**MIKE CLONINGER:** Sure, I'd be happy to. I just saw the yellow light come on and I was running for my, running for my life here.

**HUNT:** Senator Arch.

**ARCH:** Thank you for coming.

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**MIKE CLONINGER:** Yes, sir.

**ARCH:** And I question then, so you'll then be paying a private contractor to do the inspection, correct?

**MIKE CLONINGER:** That's correct.

**ARCH:** That's what this is? So if Nebraska is, I just quickly jotted down \$800 for a double-wide is that--

**MIKE CLONINGER:** Yes, sir.

**ARCH:** --is that about right? What would a private, what's it, do we know yet what that's going to cost?

**MIKE CLONINGER:** Well, sure. We-- excuse me, the figures that I have here are what sister plants of ours are using with the same third-party inspector. By the way I've invited him to attend the hearing today, thinking that there may be some questions that you might have that could be directed to the third party. And he's here. He'll be, he'll be testifying in a neutral capacity obviously there. So the same fee would be about \$100 to \$145 per floor, versus the \$400 per floor.

**ARCH:** So about \$200 to \$290 then?

**MIKE CLONINGER:** Yes, sir.

**ARCH:** For that comparable.

**MIKE CLONINGER:** Yes, sir. And we do, I'm guessing probably 200, 200-250 of the manufactured homes. We do a lot of modular homes as well. And we've got the HUD business, or the manufactured housing business, is becoming a bigger part of what we're, we're doing. We just landed a large contract for a couple hundred HUD homes to go into the state of Colorado that we'll start building next month. So that segment of our business is actually growing. HUD business.

**ARCH:** So then is it, is it correct to say then that instead of paying the Nebraska Public Service Commission, you'd be paying the, you'd be paying then the contractor for that?

**MIKE CLONINGER:** We'd be paying the contractor, yes, sir.

**ARCH:** Yeah.

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**MIKE CLONINGER:** We wouldn't be paying the state of Nebraska anything, it would all go to a third-party inspection organization, which is PFS.

**ARCH:** OK.

**MIKE CLONINGER:** And then the other plants around the country, they have the authority to also issue the, the HUD labels or the manufactured housing labels that we currently buy from the state of Nebraska.

**ARCH:** Thank you.

**HUNT:** Senator Lowe.

**MIKE CLONINGER:** Yes, sir.

**LOWE:** Thank you, Vice Chair. And thank you for being here today. So what do these inspections entail when they come in and inspect the home?

**MIKE CLONINGER:** We've got, on our production line we, we're currently doing about three and a half floors a day, we're ramping up to a four floors a day. We have around 20, at any given time, about 20 houses in the state of manufacture in the plant at any given point in time. What they would do if they were, if we could work with them, they would come in probably once a week and they would walk through the line and they would inspect every single house that we have in our production facility, facility. They would be there for the lion's share of the day or for two days, and they would look at houses that were in chassis, but we're building the floors and doing the rough plumbing and things like that. They check side walls, they check our construction of ceilings, how we, how we put the siding on the house, the insulation that we do. Very, very few cosmetic issues get we're talk, get inspected. It's primarily all construction-oriented, oriented items. So stud spacing; nailing patterns; the amount of glue we put on the units; the drywall and how that's assembled on there; the way the roof is put on, lagged on; and so on so forth is very strict. Our DAPIA, which is the inspection manual, is probably 5 pounds and basically outlines every single one of those, those operations. And they make sure that we're building our homes and in concert with the DAPIA.

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**LOWE:** And so are, are these inspections, are they more stringent than a stick-built house?

**MIKE CLONINGER:** Oh, yeah. Yeah, no question. In fact, the, our industry, and we have something that's being submitted from the Manufactured Housing Institute to the, to the group-- I think that was turned in ahead of the 5:00 deadline-- outlines the fact that we're the most regulated housing industry in the entire country. You know, we're still living, used to be trailer houses, quite frankly, and they're manufactured homes. And they're built to standards now that actually exceed a lot of the site-built houses. And when you build a site-built house, you'll have an inspector that comes out maybe three or four or five times in the process. Walk through, check your roof wiring, check your, your plumbing, check some things. But it's a cursory inspection of one house that's been built usually out in the elements some place and so on, and they're looking at different phases of the production. These folks will be in, our through-put time is about six and a half days, so they'll, a lot of the houses they will end up inspecting twice. You know, at the front end of the process and then again at the end of the process, to make sure that they're right. And just for the record, we've had some hurricanes and things like that here recently, obviously. We've got some pretty interesting photographs, if you will. The houses weren't built in our plant, they were built in Florida, but they were built to the same standards that we build in. And it's interesting, there's a whole subdivision of Champion homes that are standing, basically we've lost some shingles and things like that, and all of the homes around it were devastated by the hurricane, which is a testimony to how well-manufactured houses are being built nowadays compared to-- I'm not trying to take anything away from site builders. I'm just saying that we're a very well-regulated and inspected more so than any, anybody else in the industry.

**LOWE:** So what you're saying is your house was made to do 70 miles an hour down the interstate, a stick-built house isn't?

**MIKE CLONINGER:** In fact, that's an interesting conversation that we have with the haulers on a regular basis when they have a problem blowing tires and things like that. And they'll say, well, I was only going 55. But when you get out on the interstate, you'll get passed by these houses that are going by. I can tell you, the tires are only rated for 55 but the drivers are rated for something above that. We don't hire the drivers, I might add.

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**LOWE:** Thank you very much.

**MIKE CLONINGER:** Anybody else?

**HUNT:** Thank you, Senator Lowe. Yes, Senator Crawford.

**MIKE CLONINGER:** Yes, ma'am.

**CRAWFORD:** Thank you. And thank you for being here today. So if I understand it correctly, there is an inspection fee and then there's a seal fee as two separate components.

**MIKE CLONINGER:** Right.

**CRAWFORD:** And so with this bill you would be paying someone else to do inspections but the PSC would still charge the seal fee? Is that your understanding as well?

**MIKE CLONINGER:** That, that's a scenario that we could have. In other states, they don't. In other states, the company that does an inspection also provides the seal. Usually the seal is about \$100, somewhere thereabouts. And the gentleman here from PFS can address those very specifically. They've got, I think, 200 or 2-plus-- 200 manufacturing companies around the country that they handled the inspections with, so they could address that much more succinctly than I can. But usually it's about \$100 charge for the label, and then when you amortize the cost of the inspections through the plant it works out to \$30 or \$40, \$35 per floor to, to go through and do the inspections. Another piece of that, by the way, would be for some of the-- we're one of the larger manufacturers around. BonnaVilla is another large manufacturer. But there are also a couple smaller manufacturers of modular, primarily modular homes, in the area, who would take advantage of this as well. Because if this third-party inspection company was coming into our plant on a weekly basis and over to BonnaVilla on a weekly basis, then one of our other competitors that's shipping a home to, say, Minnesota or Idaho or Utah or someplace like that the state of Nebraska is not recognized to handle those inspections, they're mandated just like we are to call a third party in, because that house has to be inspected, even though state of Nebraska is not necessarily certified to do that. So when those situations occur, the cost of having the PFS third-party inspector coming out, their travel costs and things like that are amortized. They're already out basically doing the inspections at our plant or at BonnaVilla's, it would be very cost-effective for them to

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go up and inspect, you know, one or two homes at one of our competitors. Their prices should go down dramatically, just by piggybacking on to the higher-volume plants that they would be out at on a regular, week-by-week basis.

**CRAWFORD:** Thank you.

**HUNT:** Thank you, Senator Crawford. Any other questions from the committee? I have a couple of questions.

**MIKE CLONINGER:** Yes, ma'am.

**HUNT:** How many, how many of these homes did you produce in 2018 would you estimate that are subject these HUD certifications?

**MIKE CLONINGER:** I'm going to guess it was probably 200 and-- 230 or 240, but that's, but I'd have to go back and take a look.

**HUNT:** And just for my understanding and clarity, you're building a lot of these homes that have been shipped out to other states, correct?

**MIKE CLONINGER:** That's correct.

**HUNT:** And when they arrive in these states they go through another inspection?

**MIKE CLONINGER:** In some cases, depending on the state.

**HUNT:** Do you think that it's necessary for homes that are produced in Nebraska to be inspected in Nebraska and then inspected again in the states when they--

**MIKE CLONINGER:** My opinion?

**HUNT:** Yeah.

**MIKE CLONINGER:** No.

**HUNT:** OK. Do you think that, do you think that some of these fees and costs could lead to businesses leaving the state?

**MIKE CLONINGER:** I think, that's a tough question to answer, answer. I can tell you this. There are fewer, fewer manufacturers in the state now than there were 10 or 15 or 20 years ago. I can't look you in the eye and say the reason why they're not here is because of those fees. I can tell you this. That we have a plant in Ark City, Ark-Kansas

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[PHONETIC] City they actually call it, instead of Arkansas City, which is weird. But Ark City, Kansas, that produces houses, in many cases the same floor plan as we do. They ship to Colorado. We have a plant in Worthington, Minnesota, that builds some houses that are identical to ours. They ship to our same customer base inside of Nebraska and outside of the state and so on. They are providing those houses at hundreds of dollars less than we are. So we need to compete for that business on the basis of other things: a higher quality house or being able to deliver faster, things along those lines. I can't look you in the eye and say that this would be a factor to drive us out of manufacturing in the state of Nebraska. I can honestly tell you it makes it much more difficult for us to compete, even with our own, own plants. That doesn't count Cavco, Clayton, Palm Harbor, a bunch of these other guys that are also competing for the same, the same business, you know, out there.

**HUNT:** Thank you. Do you have another thought? I'm sorry.

**MIKE CLONINGER:** I was just going to say our, our market, several, several hundred dollars means a lot to a person who's buying a manufactured home. And there's, and that, when they can buy a house and save \$500 or \$600 or \$700 in terms of fees, and we pass those fees through out there, it's in many cases, it's meaningful to a lot of our customers.

**HUNT:** Thank you so much, Mr. Cloninger. Oh, one more question from Senator Briese.

**BRIESE:** Thank you, Vice Chairman Hunt. Thanks for being here. This particular bill would enhance your competitiveness it sounds like, correct?

**MIKE CLONINGER:** No question.

**BRIESE:** Would it allow you to increase production? Would it enable you to increase production?

**MIKE CLONINGER:** Yes and no. And the reason I say yes and no is right now one of the problems for, in our, that we're faced with in increasing production is a low unemployment rate in the state of Nebraska. Our unemployment stayed in York. Our unemployment in York, Nebraska is 2.2 percent, which is less than the state of Nebraska. And, and so we, we have other constraints along the way. It would, I believe, impact our backlog and our, and our, who our-- we have kept

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our people working in our plant every day for the last three years, not taking a single down day. And we worked very, very diligently to build a backlog up so we get to the wintertime and we don't have to lay people off during the winter and so on. So the answer to the question is if it keeps on, I believe it will. But I don't know that for a fact. We are, we are increasing production. It's, we're trying to bring additional people on board and our biggest issue right now is everybody in the entire city of Nebraska is have signed up to hire people. And so we have to be a better organization, our culture has to be better in order to get people to come to work for us.

**BRIESE:** Sure. Under the right scenario, though--

**MIKE CLONINGER:** No question.

**BRIESE:** --you will be able to increase production?

**MIKE CLONINGER:** Yes, absolutely.

**BRIESE:** Thank you.

**HUNT:** Thank you, Senator Briese. Any other questions from the committee? Thank you very much, sir.

**MIKE CLONINGER:** Thank you.

**HUNT:** Appreciate your time today. Next proponent for LB317.

**TRACY DAY:** Thanks for the opportunity. Tracy Day, T-r-a-c-y, Day, D-a-y. I was, as well as Mike, I work for Champion, so I'm a proponent for this bill. And I certainly won't take near as much time as he will, since he stole all the thunder. But just to give you some more definite information as far as the cost, and this would, this number would strictly refer to all the modular product that we built and shipped last month. With the Public Service Commission, our number was \$8,612.89. And the same relative number working with PFS, again this is just on modular product, would be roughly around \$5,200. And then just this last week, the last month of January, and this is fresh, I've seen it with the Public Service Commission we spent \$3,817. In using PFS, it would have been \$1,350. So those are just a little bit more specific numbers. And if you have any questions, that's all I have.

**HUNT:** Any questions from the committee?

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**TRACY DAY:** All right.

**HUNT:** I have a quick question.

**TRACY DAY:** OK.

**HUNT:** Do you, do you currently work with any subcontractors who inspect these homes?

**TRACY DAY:** Well, we use some once in a while, depending on the state it goes to. So if you go to North Dakota, you know, they may require it. And Idaho may require it.

**HUNT:** OK. Would the-- well, I don't know if this is a question for you. But, but would the Public Service Commission be able to subcontract from these contractors as well to inspect these homes for a lower price potentially?

**TRACY DAY:** Sure.

**HUNT:** OK.

**TRACY DAY:** Sure.

**HUNT:** All right. Thank you for your testimony.

**TRACY DAY:** Thank you.

**HUNT:** Any other proponents for LB317? Seeing none, we can move onto opponents for LB317.

**DOUG FILLINGHAM:** Hi there.

**HUNT:** Welcome, sir.

**DOUG FILLINGHAM:** My name's Doug Fillingham, D-o-u-g F-i-l-l-i-n-g-h-a-m. I did send a letter out to everybody on the committee. I'm here on behalf of my family-owned business, Family Built Homes. We're out of Gering, Nebraska. We are a modular-only builder. My father, myself, and my two sons are the principles in the company. Differently than what you've listened to, we're not a nationwide corporation. We do not have sister companies across the country. We do not have a nationwide contract with a private third-party inspection agency. We rely on the law and the, and Mark Luttich and his, his group to do plan review and inspections in that of our product and what we build. We build to the tune of about four

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to eight houses a month versus the numbers that you're talking, we build in a high-end modular product line in that. What we've looked at, we talked to a company called RADCO, which is a third party, independent, independent agency that we work for or with in the past several years back. And that-- we got a new quote from them. OK? We are looking at somewhere in the neighborhood of about \$1,500 to \$2,000, \$2,000 a house to us for their inspection services. In order to, if we move away, if this bill goes through, we no longer have the state in Nebraska doing it for us. We have to bring them in. We will have to get certified. That is an on-line inspection process that they said would take a minimum of five, if not more, inspection trips out there, and they estimated it somewhere between \$18,000 and \$20,000 for those inspection processes. Then we have to pay \$95 an hour for them to do design review. As was mentioned, before we have QA manuals also, and they are quite substantial. They would have to look at our QA manual, do a review that at \$95 an hour. They would do a review of, we have seven different design packages. PE stamp design packages; standard package, which is two-piece, single story; we got double story; we have single-wide double story. We have basically seven different design packages that would all have to be looked at in that at \$95 an hour. I would estimate that they're going to spend 20 hours or better per design package in that to look those through. Those are kind of upfront costs us. Then also, we're in the Panhandle in Nebraska. OK? We're six hours from this end of the state. Their closest inspector is in Billings, Montana. They would travel in, I would pay \$76.50 an hour for travel time or inspection time, whichever it is. So I'm looking at, if they were gonna come in and do a one-day inspection, it's gonna be a three-day process where I'm paying hotel, per diem, all of that stuff too, in order to be able to, to do that. This is, this is all direct, legitimate costs. I do not have sister companies or a big corporation that can make a better deal for me out there that brings these costs into check, in that these are real costs that I will have to incur. And you talk about impacting you in the marketplace. That would do a lot to impact my company in the marketplace. I see the yellow light, so I'll stop there.

**HUNT:** Thank you, Mr. Fillingham. Are there any questions from the committee? Yes, Senator Arch.

**ARCH:** Thank you. And in the testimony that we heard previously was about \$800. Is that about what you're paying now for--

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**DOUG FILLINGHAM:** My average cost is about \$350 a seal from the state, and it's 19 cents a square foot is what the state of Nebraska charges for their service for this program in that. So and I, \$350, I threw out at about 1,800 square foot on the house.

**ARCH:** OK. OK, so you're-- all right. You're about \$300 and you're anticipating because of expenses. Your letter says about \$2,000 more per home. Is it, are the expenses what drive it up?

**DOUG FILLINGHAM:** That was a combination of the fact that the inspector comes out of Billings, Montana, and what it will cost me to do the inspections. Then it's also the fact that we're taking the plan review and we're, we're going to have to work with them on that. My company, we do not have a brochure of boiler-plated floor plans and this is all we build. We do have some standard floor plans, but I would say probably 80 percent of my business or better is not a standard floor plan. It's the customer comes in and says, can you build me something that looks like this? So then we will develop that. So then in every instance I would have to send that plan in, have it, and have it reviewed in that. And the average, as stated to me, they said it would be an average of 10 hours plan review on a--

**ARCH:** OK.

**DOUG FILLINGHAM:** --on a home.

**ARCH:** That helps me understand. Thank you.

**DOUG FILLINGHAM:** Yeah.

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

**LOWE:** Thank you, Vice Chair. And thank you for coming here to testify today.

**DOUG FILLINGHAM:** You bet.

**LOWE:** So the fellow out of Billings, Montana, right? Is he the only inspector in the area that would inspect a house?

**DOUG FILLINGHAM:** He was, they referenced him as the closest to our location in Gering, Nebraska. The closest inspector that they have. Now, we did business with them years ago, and they had somebody in

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Colorado. But that inspector since then has left them and is no longer available to them.

**LOWE:** Would there be a chance you would use a different company or corporation that would do the inspection?

**DOUG FILLINGHAM:** I, we've checked with like two different outside. They about the same money in the past, that's why we did business with RADCO and worked with them in that. So, you know, again, I don't have the bargaining ability of a nationwide contract. I'm basically a one-horse operation, and I find, we have to find our niche. Champion and Clayton and those bigger companies, they go out and they, they hit the masses. They do the HUD code, they do the modular, they do it. And we have to find our special niche for what we do because we can't compete in the marketplace on, on material purchase and procurement. You know, all of those things are done on a nationwide basis. So in order for us to be viable, we have to find our own little niche, our own customer base, and we service those people and try and be competitive in doing so.

**LOWE:** OK, thank you.

**HUNT:** Any other questions from the committee? Seeing none, thank you very much, Mr. Fillingham, And I want to comment, thank you very much for coming here to testify about this. You've given us a lot to think about.

**DOUG FILLINGHAM:** Yeah, all the way across Nebraska.

**HUNT:** Yeah. I don't want that to go without gratitude from the committee, so thank you.

**DOUG FILLINGHAM:** All right, thank you very much.

**HUNT:** Yes. Any other opponents to LB317?

**DAN KUBR:** My name is Dan Kubr, D-a-n K-u-b-r, I am the owner of Vantage Pointe Homes. We are located just southwest here of Lincoln, but predominantly all of our work is in the rural areas of the state and in small communities throughout. We do very little work locally. I want to enforce everything that Doug just brought up. The research we've done and the experience we've had is, is pretty much right on line with what he has. We were more with a company in Minnesota, where we needed to ship a house out of state that didn't accept Nebraska's inspection. And it was a, it was a traumatic experience to say the

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least, just because of distance and cost. One of the things that I use for my clients who complain about the cost of housing, and of course, you know, taxes in our state, as you guys know, Nebraska has over 77,000 square miles of area. And one of our neighboring states, Missouri, is 69,000 and change of area. Nebraska's population is 1.95, Missouri's is 6.1 million. So economies of scale in this state are a difficult situation for every industry. We are the same as Doug. We are a small modular-only company, we're a build-to-order company. It's rare when we have two homes that look alike in any kind of succession. We would have the same issues of plan review, the same issues with inspections, which not only the, not only the cost of the inspections but the time to be able to deliver the product while we wait for a plan review, while we wait, wait for all these things will increase the cost of that housing, especially in a, in a state where the cost of housing is an issue and, and the lack of housing is an issue. We're, we're doing a lot of work. The Legislature has been doing a lot of work in the last couple of years with work force housing. We know it's an issue, and anything that increases the cost of that housing is going to be a, be a problem. So that economies of scale plays into both lack of materials for out-state Nebraska and lack of labor, labor across the state. So, so any, any increase can affect that or slow down in keeping that labor going and things like that. So thank you.

**HUNT:** Thank you very much, Mr. Kubr. Are there any questions from the committee? Senator Lowe.

**LOWE:** Thank you very much for coming here today. And thank you, Vice Chair. Now we've heard that Doug had to go to Montana for his inspector.

**DAN KUBR:** Minnesota.

**LOWE:** And you go to-- Minnesota. But most of the time you use the Public Service Commission.

**DAN KUBR:** All the time.

**LOWE:** All the time.

**DAN KUBR:** And I want to say, you know, obviously they're fee, they're a, they're fee-supported and they're not a tax burden to our population, which I think is, is a huge thing. We, we constantly, you know, this is a-- building inspections are a health and safety issue for the issue of the homes. We do a lot of things in this state to

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protect people. And when it can be paid for by the industry that needs it, I think is important. Where, just like I said, it's hard to get things done in the, in the whole state because of this economies of scale, that we have to be very careful.

**LOWE:** My point is--

**DAN KUBR:** I'm sorry.

**LOWE:** I was glad to let you go on. But he had to go to Montana, you went to Minnesota. Being in the eastern, southeastern part of the state, is there another company that you could also go to besides the one in Minnesota or are there, are they very limited?

**DAN KUBR:** There is one in Kansas City, but they were about double the cost. I know that the thought is that, you know, if more people have to do it, the price should come down. But I think the fact that many of us small operators will probably not last long enough for that to happen. And so that's the very big concern for me. You know, we do have a couple large operators, but the majority of this state, just like most of our industry, are small, family-owned operations that depend on things as good as possible. And right now when I talk to other, I mean, if you look at some of our surrounding states, smaller operations like myself don't, don't operate. They're not there. They wonder how come Nebraska can do this, you know? If I go to conventions or I go to things.

**LOWE:** You talked about work force housing. Could you give me a ballpark? I know you make all different houses and they're custom made and everything else. Could give me a ballpark of a basic home you might build, as far as price?

**DAN KUBR:** Well, we, our homes are priced from \$165,000-- now, I'm talking turnkey because we are primarily a turnkey company. So not only do we build the home, we will put it on the site, put in the basement, do, do everything. We've been doing that for almost 25 years. That's just the way we have done it. We do supply houses, you know, for other people too but, but predominantly, so when I quote a price, it's ready to live in. So in that \$165 range, which seems to be about the minimum size house that people will use, up to \$500,000. You know, I mean, we have some, and most of those that we've done have gone to where there are no builders. You know, 2008 was, was tough on this industry, and the industry as a whole. And a lot of communities lost their builder. He either retired or he moved to a better market

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and, and so those people look to companies like you're seeing here speaking to provide their housing.

**LOWE:** Thank you very much.

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

**BRIESE:** Thank you, Vice Chairman. And thank you for being here. You and the previous testifier have talked about your inability to access economies of scale. How many other folks are similar situated as, what would you guess in the state? How many other builders?

**DAN KUBR:** Well, at times, four to five. Before 2008, I think there were quite a few of us.

**BRIESE:** OK.

**DAN KUBR:** And some maybe are operating so slow that I'm not aware of them.

**BRIESE:** Did you indicate how many homes you build in a year?

**DAN KUBR:** Before 2008 we built about 50 a year, now 25 is-- but the homes are larger.

**BRIESE:** And these four to five builders you referred to, are they similarly sized? The previous testifier was talking maybe 48--

**DAN KUBR:** Bigger and smaller. You know, I think, I'm not sure how many, how many modular providers there are in the state currently.

**BRIESE:** OK. So we might be talking a couple hundred homes a year that really are built under the conditions you're talking about?

**DAN KUBR:** Yeah, I don't know.

**BRIESE:** Don't have access.

**DAN KUBR:** Yeah, that's a number I'm not aware of.

**BRIESE:** OK.

**DAN KUBR:** I don't even want to speculate because I'll be wrong.

**BRIESE:** OK, thank you.

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**DAN KUBR:** Yeah.

**HUNT:** Thank you, Senator Briese. Any other questions from the committee? Seeing none, thank you for your testimony today.

**DAN KUBR:** Thanks for the opportunity.

**HUNT:** Of course. Are there any other opponents in the audience for LB317 today? May I see a show of hands of people still waiting to testify on this bill? Thank you.

**CRAIG JACKSON:** My name is Craig Jackson, and I represent Heritage Homes of Nebraska. We're located in Wayne, Nebraska, been there since 1978. Small, family-owned, modular-only builder. Hundred percent of our homes are custom homes. I would just like to say that over the years we have had an absolutely wonderful relationship with the Public Service Commission. They've been nothing but good to us, good for us, good for the state. Much like the gentleman before me, a standard 1,800 square foot house for us if reviewed, inspected, and seals from the state would cost us \$342. We do build in states of North Dakota and Minnesota, which the state of Nebraska does not have reciprocity with. And we do use PFS corporation to approve the plans and do in-plant inspections. And with the approvals stamps inspections, I looked up invoices from one of the ones we've done in the last year and it was \$1,675 for the approval, for the stamp, for them to come out to our plant and inspect. And in my mind, \$342 or \$1,675, it doesn't seem to be a question of what's best, because that, all the extra money has to get passed on to our consumer. And it's, it's hard these days to keep those costs low. And this bill just doesn't make tons of sense to me. But like I said, we have nothing but good to say about the Public Service Commission. They provide excellent service, they're always there for us. And I'd really hate to see, see that part of it go away.

**HUNT:** Thank you very much for your testimony. Any questions from the committee? Yes, Senator Briese.

**BRIESE:** Thank you, Chairman Hunt. Thank you for being here. I'm assuming that perhaps we'll have somebody from the PSC testifying. But in case we don't, can you estimate for me the man hours they would spend on an, on an inspection for one home?

**CRAIG JACKSON:** Typically when they come to our plant, you know, when they come to our plant it will be just, lots of times just that one house going to, going to Minnesota or North Dakota. They would

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typically spend, I'd say three hours, you know, probably most of a morning or most of an afternoon.

**BRIESE:** So, so they can do what's needed to be done in three hours, give or take?

**CRAIG JACKSON:** Yes.

**BRIESE:** Per house.

**HUNT:** Any other questions? Are we good? Sorry. I don't mean to cut you off. Yes, Senator Lowe.

**LOWE:** Thank you, Vice Chair. And thank you for coming to testify today. Now, the fellow from Champion home said that they had the inspector in twice a week. How often does the inspector come in and check your homes out?

**CRAIG JACKSON:** Typically when, when--

**LOWE:** Because you're on a smaller scale.

**CRAIG JACKSON:** Right, correct. Correct. Depending on how stats are running, what we have on the line, lots of times probably once a week. Sometimes multiple times a week, but probably on average once a week.

**LOWE:** You call them to come and inspect or do they just automatically just show up?

**CRAIG JACKSON:** I call them, yes.

**LOWE:** OK. When you come to a certain point about--

**CRAIG JACKSON:** Correct, correct.

**LOWE:** --construction.

**CRAIG JACKSON:** Different states have different requirements. The state of Colorado requires them to see the house in rough in and final. If it were built in Nebraska, they have to see it on the production line.

**LOWE:** OK, thank you.

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

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**BRIESE:** Thank you again, Chairman, Vice Chairman Hunt. Thank you again. If we could devise a system whereby the commission would continue to inspect your properties but allow third-party inspections for the larger producers that can access those economies of scale, would you object to something like that?

**CRAIG JACKSON:** No.

**BRIESE:** OK, thank you.

**HUNT:** Thank you, Senator Briese. Any other questions? Seeing none, thank you for your testimony today. Next opponent. Welcome, sir.

**BRUCE FAHSHOLTZ:** Everybody. I'm Bruce Fahsholtz.

**HUNT:** If you could spell that for us.

**BRUCE FAHSHOLTZ:** B-r-u-c-e F-a-h-s-h-o-l-t-z.

**HUNT:** Go ahead.

**BRUCE FAHSHOLTZ:** Good afternoon. I'm with Quality Homes. We're a modular one-piece home builder located in Pawnee County, Nebraska. We're on the Nebraska side of the Kansas-Nebraska state line. We have more than 40 employees and/or subcontractors that work at our facility and on our homes, and my family has owned the business since 1986. Since our plant is located in Nebraska we're required to purchase a seal from the Nebraska Public Service Commission for every home that we build and have inspections on every home, regardless of the home's final destination is Nebraska or Kansas. Currently, the fee structure is for plain review and plant inspection is 19 cents a square foot. The cost average between \$200 and \$400 per house. LB317 as written will add a third-party plan review and plant inspection or inspections. The Nebraska Public Service Commission will become the monitor of the third party. They still exist. We have been in contact with a third-party company and we estimate the following. And this is in a letter that they sent us last week on a Friday. To review the documents \$1,000 per model, the quality manual for each model is \$500, and they estimated each inspection at a minimum of two inspections per home at \$900 for each home minimum. There could be three. The third, they have a third-party label fee on top of the label that, the seal from the Nebraska Public Service Commission. That's additional, an additional \$30 you have to pay an out-of-pocket expense for mileage, meals, with a 10 percent markup on it. That, the number we came up

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with last week was \$3,550 per home added expense. Less the \$300 average that we pay now. So it's more than \$3,000 to us. The, for the third party to come and review our plant, we also have a quality assurance program that has been developed with the Nebraska Public Service Committee for the last 30 or so years. And for them to review that they told us would be a minimum of two weeks, 80 man hours at \$111 per hour. Plus any engineering or drafting fees, if required. These costs are unacceptable. Forty-five percent of our business goes to homes located in Kansas, addresses in Kansas. This fee is because of our location in Nebraska. We pay the CO fee on every home and have every fee, every home inspected by the Nebraska Public Service Commission. For homes located in Kansas, we don't have to do this, but because of our plant location we have to. So we're already at a disadvantage for other plants that manufacture homes in Kansas. This legislation to us is totally unnecessary, expensive, and creates a nonbusiness environment for the state of Nebraska and our workers. We oppose the bill as written as it pertains to modular homes. And this bill only benefits manufactured housing.

**HUNT:** Thank you for your testimony. Any questions from the committee? Senator Arch.

**ARCH:** Thank you. The Public Service Commission, do they do they charge expenses on top of the fee?

**BRUCE FAHSHOLTZ:** No.

**ARCH:** OK, so that's a difference, right? The private, the private would charge you expenses plus whatever the inspection fee would be. That's--

**BRUCE FAHSHOLTZ:** The \$900 a day is for the inspection, inspection process. And then the way they quoted us, we pay expense: mileage, meals, and other daily expenses on top of that.

**ARCH:** OK. Thank you.

**HUNT:** Any other questions? Seeing none, thank you for your testimony here today.

**BRUCE FAHSHOLTZ:** Thank you for your time.

**HUNT:** Next opponent.

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**MIKE LEITSCHUCK:** Good afternoon, committee. My name is Mike Leitschuck, M-i-k-e L-e-i-t-s-c-h-u-c-k. I'm representing Quality Homes down in Summerfield, Kansas. Bruce kind of explained where we're located at, we're in Pawnee County. We originally started in on the Kansas side of the line. In '81 we moved over to the Nebraska side of the line, in part because of the Public Service Commission, their inspection department. At that, before that, we had to pay them to come down to inspect, inspect the houses that went into Nebraska. Kansas has no inspection process for like modular housing. I've been that with the company for 39 years, and the public service department commission, housing commission there has been wonderful to work with. And a number of years ago they tried to eliminate that again and it just, it's a good department or division to have. Someone said earlier that they wouldn't have a seal cost from the state of Nebraska if this bill went through. Public Service Commission is still going to be overseeing this third-party program, so I can't see where that seal, where that we still have to purchase, is going to go away completely. Because they're still going to be, to my understanding, still inspecting like recreational vehicles if this bill passes. So that department needs some source of income to fund themselves. So you're still going to have the director, secretaries, the inspectors, so I'm not sure where it's going to save the state any money because you're still going to have that department there. And I still, I think that there would have to be a seal fee of some sort for them to oversee this third-party inspection program. Like I said, we have one inspection fee, whether they inspect the house two, three, or four times. It's that 19 cents a square foot. And so when you get an independent like that it's \$900 every time they're there, and they're going to do several inspections on that. So, you know, it's not just that \$900 one-time fee, it's each time they're there on that unit. You know, we're, we're a smaller company. To me, this bill is more, in my opinion is more advantageous to large in or out-of-state companies that are operating in the state in Nebraska. I mean, we're, we're just across the road from the state line. For us to add that many dollars onto it may force us to go back across the state line, just because then we only have to deal with it on the houses going into Nebraska, not into Kansas. Because we're in an agricultural business, I mean, the agriculture business kind of dictate our sales. And right now, that, the agriculture economy is not the greatest, with high production costs, low crop prices. And so if we have to add dollars on that additionally makes that much harder to try and do sales and keep our employees employed. So thank you for hearing us today.

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**HUNT:** Thank you for your testimony. From the committee any questions?  
Senator Lowe.

**LOWE:** Thanks, Vice Chair. And thank you for coming to testify today. Would it be possible because the larger companies are able to get a better pricing for the inspections to contract with the other larger companies to get an inspector that may be able to do it for cheaper?

**MIKE LEITSCHUCK:** The larger companies are probably two hours away from us. So if we're paying the mileage for two, two hours one way and two hours another way, we're already past the, you know, when they charge \$95 to \$110 an hour just for travel time, we've already surpassed our state seal fee with the state of Nebraska already. In just one inspection.

**LOWE:** It may be worth it to them to pay those fees for you.

**MIKE LEITSCHUCK:** Well, I don't foresee that happening. But, yeah, if they want to, they can.

**LOWE:** Just ballparking out there.

**MIKE LEITSCHUCK:** Yeah. But, I mean, we're, we're in a rural area, and so for us to get any, any place large, I mean, it's a two-hour trip no matter which direction we go. So to get to someplace that may have a third-party inspector, I mean, the closest one we found was two hours away from us.

**LOWE:** Is that the one in Kansas City?

**MIKE LEITSCHUCK:** It's actually in Topeka. So, but like I said, no matter where we go, we're, we're a long ways from someplace so.

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

**HUNT:** Thank you, Senator Lowe. Any other questions? Seeing none, thank you for your testimony.

**MIKE LEITSCHUCK:** Thank you.

**HUNT:** Do we have any other opponents? Welcome, sir.

**MARK LUTTICH:** Hello. My name is Mark Luttich, it's M-a-r-k L-u-t-t-i-c-h. Good afternoon, Vice Chair Hunt and members of the Urban Affairs Committee. I'm Mark Luttich, the director of the Housing

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and Recreational Vehicle Department in the Nebraska Public Service Commission. I'm here today on behalf of the commission to oppose LB317 in its current form. I personally have been involved with this bill's program since 1978, and have been the department's director since 1985. I am on a number of national standards development committees and am a past chair of some of those committees. The department oversees three programs: modular homes; manufactured homes, sometimes called the HUD product; and recreational vehicles, which are motor homes, travel trailers, and fifth wheels that are used for camping. The department is entirely cash funded. Label fees are adjusted annually to cover department expenses. Now, last year, LB707 was introduced at the request of one of the two factories in Nebraska that produce the manufactured HUD homes in Nebraska. LB707 was focused entirely on manufactured homes, not, it did not affect the modular housing units as this bill does. LB707 sought to eliminate Nebraska as the exclusive inspection agency for manufactured homes built in Nebraska, along with other associated duties of the federal Manufactured Home Program. LB707 did not impact modular housing last year. Now, please be aware both factories producing manufactured homes, the HUD product, also produced modular homes. There are seven other factories in Nebraska that produce only modular homes. Now the difference between these two types of homes is the construction codes and regulations the manufacturers must adhere to. Often you can't tell the difference by looking at them from the street. Nebraska is the fourth-largest producer of modular homes in the nation, according to a national association that tracks such data. Now, LB317 eliminates inspections and plan review by the commission for both manufactured and modular homes. Nebraska factories would be required to utilize private, out-of-state, third-party plan review agencies and inspectors for all homes produced. However, LB317 creates a duty for the department to authorize these through, private, third-party inspectors to work in Nebraska and to ensure the private, third-party inspectors are conducting those inspections in an effective and uniform manner. The same is true for the private, third-party plan review agencies. The department would continue issuing seals based upon the inspections of those private, third-party inspection agencies. The department would receive copies of all plans that are received and approved by the private, third-party with the intent for the department to monitor the third party's compliance. The department's duties are changed in LB317 from what we presently do, but not fully eliminated. Presently, the department utilizes a three-person staff along with contract labor. We anticipate under that bill that our staffing will remain unchanged but probably no longer need the contractors under, under

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this bill's new provisions. Label fees will not go away but will continue to be assessed. Please be aware that no general funds are received by the commission to offset costs of the program. The program is entirely cash funded. That's not the case in neighboring states. The commission reviews the needs of the department and adjusts the fees annually after a hearing. We anticipate little, if any, reduction in department costs. Opposition to the bill stems from the concerns with the current form of the, as the bill is drafted. We don't oppose changing our role or methods but we do have concerns because the bill is unclear in many areas. Therefore, we need more specific direction, not only for the commission but for the third-party agencies and the factories that, than that which is currently provided in the bill. Our main concerns with the bill in its current form are what process is there for our authorization of the third parties? What will be the required application process? Will our authorization require documentation of a private, third-party agency as a whole or will it need to be inspector and plan review, individual specific? Commission authority to, to review work of the third parties needs to be clarified and defined. Commission authority to enforce or have clear remedies and/or recourse if the third party is not performing efficiently, uniformly, and as required by statute regulation and adopted construction codes. It must clarify if the commission would continue to investigate and work on consumer complaints. Iowa and Missouri have programs similar to what is proposed in this bill, LB317, but has more detail and clearly define the duties, authorities, etcetera. We will be happy to work with the, with Senator Kolterman and the committee to add clarification and direction to enable the commission to carry out the intent of LB317. Questions?

**HUNT:** Thanks so much, sir. Are there any questions from the committee? Senator Lowe.

**LOWE:** Thank you. And thank you for coming to testify today.

**MARK LUTTICH:** You're welcome.

**LOWE:** How many inspectors do you have?

**MARK LUTTICH:** We have one inspector and we have one, but we have two inspectors on contract that are used as needed. Since we are a cash-funded program, we use inspectors as the cash comes in. If production goes up, we need to use the contract inspectors. And as

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production goes down, we don't need those and therefore we don't have an expense, but we do need one inspector that we keep busy full-time.

**LOWE:** I'm, I, I was just thinking because you have manufactured homes in York and in Wayne, and then you have the fellow way out in Gering. And so your inspector travels back and forth across the state most of the time?

**MARK LUTTICH:** That's how it used to be, but we do now have a private contracted inspector that is located in the Scottsbluff area. Saves a lot of travel time. And then we have another contract individual in the Seward area. The full-time inspector that we have employed lives in Central City. So his location is wonderful for a majority of the plants in the eastern part of the state.

**LOWE:** If Senator-- if LB317 goes through and you are no longer in charge of the, these inspections, these inspectors could probably stay in the same locations and just still do the inspections?

**MARK LUTTICH:** The inspectors--

**LOWE:** As a contract, contracted inspector.

**MARK LUTTICH:** If I'm following the question, if the bill went through, what we anticipate is the contract inspector that we have in Scottsbluff and the one in Seward we would no longer need. We could perform the duties under this bill, if we've analyzed it correctly, would handle all the monitoring of the third parties that the bill is implying.

**LOWE:** My intent was that if you no longer need these two they could go along and form their own service.

**MARK LUTTICH:** Quite possibly.

**LOWE:** Then contract to the, to the manufacturers. They would know how to do it. My point is they would already know how to do that.

**MARK LUTTICH:** That could possibly happen. Depending on the requirements of the bill and what the individual's qualifications might need to be.

**LOWE:** Understood. Thank you very much.

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**MARK LUTTICH:** You're welcome.

**HUNT:** Thank you, Senator Lowe. Any other questions from the committee? I have a question. So you have you have contract workers who provide these inspections.

**MARK LUTTICH:** Some of them.

**HUNT:** I understand that right? OK. Is there a competitive request for proposal process by which you contract these inspectors?

**MARK LUTTICH:** No, we have not done that.

**HUNT:** OK. How-- when, when were your current subcontractors selected? How long have they been working for you, I guess as contractors?

**MARK LUTTICH:** The Seward individual was put on board, I believe in last July. And the gentleman in Scottsbluff, a year and a half ago, I would imagine.

**HUNT:** So what, what would prevent the Public Service Commission from contracting other third-party inspectors at a lower cost?

**MARK LUTTICH:** I would suppose nothing would. I'd have to talk to accounting and legal staff on what the provisions would be for utilizing a contractor for an extensive length of time in a full-time position.

**HUNT:** OK. Thank you so much. Any other questions? Senator Briese.

**BRIESE:** Thank you, Vice Chairman Hunt. Thank you for being here. You undoubtedly heard the testimony earlier of some of the bigger producers and what their cost savings might be under this bill.

**MARK LUTTICH:** Yes.

**BRIESE:** Do you disagree with some of those numbers?

**MARK LUTTICH:** Since I don't work with that aspect of the private, third-party inspection agencies, I know, I know many of them, but I don't know what their billings are, are like. So I cannot respond to that in a personal--

**BRIESE:** But your--

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**MARK LUTTICH:** Because we've never used-- we don't use those individuals or companies for the work that we do. So I have no idea what they charge.

**BRIESE:** But you've suggested that you're going to have some expenses here and they're going to give me some fees for some seals and things of that sort, correct?

**MARK LUTTICH:** Yes. The way the bill is written the, our oversight changes. Presently, we inspect the homes on the production line. The bill says that we will have some sort of oversight over the accepted third-party inspection agencies and plan review agencies. So our label fee will not go away. Might go down a little or might go up, depending upon how the bill is interpreted and regulation is written.

**BRIESE:** But wouldn't that suggest that maybe they're overestimating their savings, or are you willing to say that?

**MARK LUTTICH:** I couldn't say. I just know that our costs would not drop to zero. Definitely not. And personally, look, running the numbers, it looks like our label fee might stay pretty much where it is right now.

**BRIESE:** OK. Anything you can think of to enhance efficiencies here? To garner some of these savings they are trying to attain but without this bill?

**MARK LUTTICH:** The, we have put efficiencies in place. You might remember the housing crunch in 2008 or thereabouts. We had to lay off staff, and the remaining staff went on furlough until things straightened out. And then I saw that the use of contract employees became a great way to ride out the ups and downs of this economy. Because it happens all the time. I've been doing this for so long, I've seen it under many times over 30-some years. And so using the contract individuals has kept our costs down. Some years ago, our label fee was 40 cents and now we're operating at 19 cents. And if we look at the neighboring states, that always becomes a question, and I'm sure that will come from you somewhere in this process of considering this bill. Iowa for example, they don't have factories but they run a program and sell a label for \$30. But that is the cash-funded portion, they receive general tax revenue to cover the rest of the program. And the same thing happens in Missouri but with different numbers. Now we look at the state of Colorado. I don't believe they have a factory in their state, but when any of the

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manufacturers in Nebraska ship to Colorado, Colorado perform plan review and plan review only. Colorado accepts our inspection, there is no additional inspection fee for homes going to Colorado other than Colorado's plan review and label fee. Their plan review and label fee is more than our label fee, which covers both aspects of that duty. We take our costs for the year and just divide it by the number of labels we assume will be sold the following year, and that's our label fee at 19 cents. And we do a similar thing with the HUD manufactured home program. But that production has dropped. Years ago, Nebraska would produce nearly 3,000 manufactured home floors. Last year, it was about 155. It's tough to run a federal program when production is that low.

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

**HUNT:** Senator Lowe.

**LOWE:** I'm sorry for extending this out but I--

**MARK LUTTICH:** It's fine.

**LOWE:** If we were to amend this bill so that the PSC could still do the inspections along with the private, contracted inspectors, would you be able to sustain your service if you lost your two biggest manufacturers?

**MARK LUTTICH:** It would depending upon what would be required of us. If we lost the two largest manufacturers, yes, I would see the label fee increasing. But then, once again, we might need less staff. But if the bill, as it's currently written, requires us to monitor the third parties, we'd have to recuperate those, recoup those costs in some fashion. So if we're still doing inspection at some factories and plan review, but not at others, but we're monitoring the third parties at those factories that want to use third parties, I can't see our label fee going down. In fact, it might become more expensive. It all depends on what's eventually required of us. Right now, we are taking the best shot at it to provide information that you and the industry can use.

**LOWE:** Thank you very much.

**HUNT:** Thank you, Senator Lowe. Any other questions from the committee? Seeing none, thank you for your testimony today. Are there any other opponents to LB317? Seeing none, would anybody wish to testify in the neutral capacity? Come on up.

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**AUDREY WALFORD:** Senator Hunt and members of the Urban Affairs Committee, my name is Audrey Walford, spelled A-u-d-r-e-y W-a-l-f-o-r-d. I am here today on behalf of Chief Industries in a neutral capacity on LB317. I am the project manager and marketing manager for BonnaVilla, Chief Industries' modular home division. A little background, Chief Industries is entering its 65th year of business in Nebraska. We build modular homes at our BonnaVilla Homes plant in Aurora, and have since 1970. BonnaVilla builds quality, affordable modular homes throughout a 12-state area, from North Dakota to Kansas, Montana to Wisconsin. I have brought a few picture books if you want to see some of the work we've done to show you how they have kind of changed in the last few years. BonnaVilla prides itself on building safe and quality homes. We want our homes and our processes inspected. The reason that we are neutral on LB317 is that while we want to ensure that our homes are inspected, we want to make sure that they are inspected in the most economical and efficient manner possible and we will support any legislation that will get us there. I'm going to go through a few of the states that we send to, just to show you how our programs differ from them. Obviously, Nebraska, like you've heard before, we do a print approval and inspection for 19 cents a square foot. Nebraska right now does not allow the third-party inspections and only the PSC can improve-- approve and inspect the home. In Colorado, in which about right now about 60 to 65 percent of our business goes to Colorado, along with sending to, sending our prints to the PSC for approval, we also have to send the prints to Colorado. So addition to the 19 cents a square foot, roughly the \$350, \$400 number we were talking earlier, Colorado charges 25 cents a square foot. We are paying double labels in the state of Colorado. Colorado Department of Housing allows us to use the NPSC to do the inspections. They'd also allow a third party. But right now we're using the NPSC. Montana, if we build a home for delivery in Montana, Montana must review and approve the plans for a fee as well. The home must be inspected, but Montana allows for a third-party inspected, inspection, so we use the NPSC. They also require a label at \$80, so we pay for the label for Montana and we're paying for the label for Nebraska. So in Montana, as well as Colorado, we are paying twice in those states. North Dakota, Minnesota, Wisconsin, none of these states recognize the state of Nebraska modular program. They require a third-party plan anyway. So in addition to the, their, their seals and the Nebraska state seals, we have to pay for a third-party inspection. These homes are inspected twice in our factories. Wyoming, Oklahoma, Kansas, as you've heard, some of these states they don't, they don't have any modular program in place so we have-- they are paying, we are

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paying for the plans and inspections through the state of Nebraska to get the seal because they're built here. If a built, if a home is built in a state located other than the state of Nebraska, the PSC will approve the plans, but they will allow the third party to go in and inspect in the factory there. The rationale for state inspections is safety, and we absolutely agree. We want to ensure that our customers receive the best quality product. The question was asked, though, why is it OK for a third party to inspect a home if it is built elsewhere but right now it's not OK for the third party to inspect in the state of Nebraska? I should point out the state of Nebraska does a really good job of inspection and we have no objection to their work, but it is not cost-effective when we have to pay for both inspections, third party and the state of Nebraska, especially in those other, in those other states. The best of all worlds for BonnaVilla would be to have the third-party inspectors and services, as long as we don't have to continue to pay for both of the costs. We understand that the state may have the costs associate, may still have this cost-associated program as it exists today, and that would be the worst of all conditions to have to pay the same rate for less services. Be happy to address any questions.

**HUNT:** Thank you for this explanation, Ms. Walford. Are there any other, any, any questions from the committee? Senator Lowe.

**LOWE:** Wyoming, Oklahoma, and Kansas, they don't have an inspection process. So do they have any manufacturers in those states?

**AUDREY WALFORD:** Kansas, I'm not-- I'm honestly not for sure on the--

**LOWE:** So it is just the building inspector, the local building inspector--

**AUDREY WALFORD:** The local building inspector.

**LOWE:** --inspects it once it gets placed or before it gets placed?

**AUDREY WALFORD:** Probably once it gets placed, or the plan approval before it would be set if--

**LOWE:** So they just look at the plans--

**AUDREY WALFORD:** --maybe.

**LOWE:** --and they say, well, it's been inspected here, it must be good.

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**AUDREY WALFORD:** Sure. They probably will look that it doesn't have a seal of some sort, is my understanding.

**LOWE:** OK, it just seems very efficient.

**AUDREY WALFORD:** I really didn't talk about economy of scale where BonnaVilla fits in with everybody. Last year, we're kind of in the mid, mid-range. We are, state of Nebraska only, we last year we built I think roughly six-- high five-hundreds floors, so roughly 250 houses. And at any given time we have, we have 30 stations on our lines, so about 15 homes on line. So when the state inspectors can come in they can see in a week's time, and they're there like once a week or twice a week, they can see up to 15, 15 houses.

**LOWE:** Thank you.

**HUNT:** Any other questions from the committee? Thank you, Ms. Walford.

**AUDREY WALFORD:** Easy on me, compared to them.

**HUNT:** Before I invite you to close, we have a couple letters to read into the record on LB317. We have letters of support from the Platte Institute and the Manufactured Housing Institute; and we have letters in opposition from Family Built Homes and Quality Homes. Senator Kolterman, if you would like to close. Oh, I'm so sorry. I didn't I didn't ask for more neutral, I'm sorry. Welcome, I apologize.

**ROBERT GORLESKI:** No you're fine.

**HUNT:** Do we have to start over. Just kidding. No one thought that was funny.

**ROBERT GORLESKI:** I'm Robert Gorleski, R-o-b-e-r-t G-o-r-l-e-s-k-i. Good afternoon and thank you for giving me an opportunity to speak. I like-- I am neutral. We are a third party evaluation agency based in Madison, Wisconsin. Well, obviously, we're-- I'm sorry, not obviously, we're right outside of Cottage Grove on that. We have offices in North Carolina, Texas, Pennsylvania, California. And like I said, our corporate office in Madison, Wisconsin on that. We provide of plan review and inspection services to modular and manufactured home clients. So we have over 200 clients throughout the United States. We have agreements with 38 states that have a modular program. And we have certified inspectors that are on staff and we also have certified plans examiners that are on staff as well for the modular product that manufacturers produce. We, our certified inspectors have to take

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certification exams through the International Code Council. So for residential, they have to take four exams: building, mechanical, electrical, and plumbing. And then for commercial, they also have to take commercial building, mechanical, electrical, and plumbing, and thermal. And there are some states that have special certifications for inspectors. That would be for Florida, Texas, and some other states throughout, throughout the country on that. I'm here just to give you an overview of how third party evaluation agency works on that. Obviously, we're under contract with modular and HUD code manufacturers that are our clients. So we contract with those manufacturers, either for a planning review or inspections. And we also are monitored by state agencies, modular manufacturers on state agencies on that. And Mark Luttich actually monitors our, our company as well. But we're monitored throughout the state. They each have a regulatory agency that will monitor us to make sure that we're doing our job in the production facility and doing that as far, and plan examiners, that we're doing the job correctly. We also are monitored by HUD, which is the Housing and Urban Development for the manufactured housing. So they monitor us as well in the production facility, and they have a modeling contractor, IBTS, that does audits in the production facilities for the manufactured home clients. And we're part of those audits because they're auditing us as a third-party evaluation agency on that. So I just want to give you-- that was just a little overview like that. I'd like to take your questions, you know, whether you have any on what we do or how we could help manufacturers that are looking to maybe contract with a third party, third-party agency. And in this, hearing the testimony today from some of these other manufacturers, and some of these manufacturers are our clients, Heritage Homes. And, yes, I understand the cost for that one client is expensive on that. But you've got to remember they're only building one unit or one home at that production facility. So the cost to service that client does get expensive. But if they have a production facility that's doing many homes, and we are contracted on that to do inspections on that either once a week or twice a week, their cost goes down because we spread that cost over the production of that facility. So it's not on per inspection of the unit, it's how many units you have on that production facility. So if we're charging \$1,300 for an inspection and you have 10 units on line, you, your cost is going to go down.

**HUNT:** Thank you, Mr. Gorleski.

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**ROBERT GORLESKI:** You're welcome.

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

**ROBERT GORLESKI:** Thank you.

**HUNT:** Senator. Kolterman, would you now like to close? Sorry for the mix up.

**KOLTERMAN:** Gave my copy away. I'll need one of those copies, but I think I can go from memory.

**LOWE:** We already have one of these.

**KOLTERMAN:** Thank you for hearing this bill today. Obviously for me this is a constituent-driven bill. One of my constituents, Champion Homes, brought to me a year ago. Their bottom line is important to them to keep competitive in the state of Nebraska, as well as throughout the United States. Between Champion Homes and cheap BonnaVilla homes, we're looking at about 480 homes being built in the modular arena on an annual basis. That's about 67 percent of the homes for them. Between those two, they could probably save in the area between \$150,000 to \$175,000 a year just in inspection costs. We know that inspection costs are not going to go away. What we're finding is in Champion's case they're in other states, so they're competing against themselves, so to speak, with their own companies. I think it's important that we grow Nebraska. I think competition is important. We have to be competitive. I also appreciate the opponents' testimonies today. The challenge we face is, and I'm not about taking jobs away from anybody. I come from a small town, I want to see the small towns grow and thrive. The challenge that we face is, how do we take care of the larger manufacturers and at the same time treat the individuals that do maybe four or five homes, or in some cases one home, a year fairly? I'm willing to work with the builders, Public Service Commissioners. Obviously there are challenges. But with that, I would try and answer any questions you might have. Thank you.

**HUNT:** Thank you, Senator Kolterman. Senator Arch.

**ARCH:** Senator Briese asked the question earlier, is there a possibility of providing the independent inspections as an option to those that want it or, either or? That you could-- I don't know if the economics work with something like that because you're not necessarily

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reducing the cost to the Public Service Commission at the same rate. It's just a question to you.

**KOLTERMAN:** I believe there is room, but we've been told that even if we bring in independents that their fees are going to remain relative, and you heard it yourself, they're going to stay relatively the same. They don't see that it's going to save a lot of money. I find it hard to believe that. If you take three \$30-\$40,000 a year jobs out of the picture, that should change the way you approach things. I think we have to be open to that. I don't sense that that is there. But at the same time, I am willing to work with people to try and make that happen.

**ARCH:** Thank you.

**HUNT:** Thank you Senator Arch. Any further questions?

**KOLTERMAN:** Thank you very much.

**HUNT:** Thank you, sir, for being here. Having read the letters into the record, that will close our hearing on LB317 and we will move on to LB23. Thank you all for coming.

**KOLTERMAN:** Thank you for your efficiency, Senator.

**HUNT:** So I will now open the hearing on LB23. Senator Kolterman, go on ahead.

**KOLTERMAN:** Vice Chairman Hunt, members of the Urban Affairs Committee, my name is Senator Mark Kolterman, representing Legislative District 4. M-a-r-k K-o-l-t-e-r-m-a-n. This afternoon I'm pleased to bring LB23 to the committee for your consideration. LB23 amends a Property Assessed Clean Energy Act or PACE Act, which was adopted in 2016 and amended in 2017. The PACE Act allows cities and counties to authorize PACE financing within their jurisdictions for energy efficiency, water conservation, and renewable energy projects for commercial, agricultural, industrial, and residential properties. PACE loans are nonrecourse, long-term, fixed-rate, and are attached to the property with an assessment contract that stipulates the manner of repayment will be similar in status and priority to property taxes. Recognizing that energy efficiency and water conservation measures have long-term saving paybacks, state and local governments across the county, country have enacted PACE programs, allowing the loans to be repaid through special providers the security they need to make long-term

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loans. Giving private capital providers the security they need to make long-term loans. The underlying mortgage holder, typically a bank, must provide written consent before a property owner can enter into PACE loans. The Nebraska First National Bank of Omaha, Great Western Bank, and Five Points Bank have consented to commercial PACE loans. In order to use PACE, a city must pass an ordinance establishing a PACE district and a structure under which a PACE program is administered. Municipalities collect administrative fees, and there are no costs to state or municipal governments for PACE programs. In 2018, Omaha approved applications for four commercial PACE projects and private capital lenders closed on loans for three of the projects, totaling over \$31 million. A \$4.7 million loan for the, for the fourth approved project is expected to close early in 2019 this year. Lincoln's program has its first PACE application under review. Bellevue has also passed an ordinance creating a PACE district. LB23 makes three important changes to the Nebraska PACE Act. First, cities are adding PACE to their economic development toolbox as a way for commercial property owners and developers to address energy efficiency and water conservation needs and to help finance their new construction, remodel, or rehabilitation projects. Nebraska's PACE Act currently only recognizes PACE as a tool to promote energy efficiency. LB23 adds language to the legislative findings in the act making it clear that PACE is an economic development tool that promotes energy efficiency and water conservation. Second, Nebraska PACE Act is silent on the time frame in which eligible energy conservation measures can be approved for PACE financing. PACE is a long-term financing tool, and commercial real prop-- real estate property owners and developers don't always finalize their long-term financing or capital stack until construction has begun. It's-- or it's nearly complete or even until after completion. The changes proposed in LB23 provide clarity that PACE financing can be used for qualifying energy conservation measures and are to be installed or have already been installed, as long as the energy conservation measures have at least a 10-year remaining useful life. Third, the Nebraska PACE Act requires qualifying projects to achieve a savings to investment ratio or SIR, as it's referred, threshold that undercuts a powerful policy tool to encourage property owners to invest in energy efficiency and water conservation. The PACE Act requires a qualifying project to achieve more energy savings over the term of the PACE financing than the project's original capital cost. This requirement fails to recognize challenges resulting from lower fluctuating energy prices that could negatively impact the ability of the project, especially new construction to qualify, even though the project clearly will reduce energy usage and our fee,

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increase efficiency and may provide water conservation. The changes proposed in LB23 reinforce that there, there must be a finding of estimated economic benefit using engineering certifications or federal or state standards and removes that SIR requirement. Two-thirds of the stage, states with active commercial PACE programs do not have an SIR provision in state law. With that, I urge the committee to advance LB23 to the full Legislature for consideration. And I would be glad to answer any questions from the committee. I believe there are testifiers behind me that can get into the technical aspects of the bill. But I brought this bill because I look at it as an economic tool, and it also clarifies, it cleans up some of the legislation that we've passed over the last couple of years. With that, I would try and answer any questions you might have.

**HUNT:** Thank you, Senator Kolterman. Any questions from the committee? I have a question. Out of curiosity, I didn't start learning about this type of thing until I got on this committee. So I was doing some research about your bill and I was wondering who brought you this bill. How did you get the idea for this?

**KOLTERMAN:** Well, it was brought to me by a lobbyist. But they, they represent PACE, who actually, some financiers at work in this arena.

**HUNT:** OK, thank you.

**KOLTERMAN:** Yes.

**HUNT:** That's my only question. All right, are there any proponents of LB23?

**MICHAEL O'HARA:** Hello. My name is Michael O'Hara, M-i-c-h-a-e-l O--'H--a-r-a. I'm a registered lobbyist for the Sierra Club of Nebraska and I want to thank Vice Chair Hunt and the committee members for the great patience you're showing today. You have had a long day. I want to thank Senator Kolterman for introducing the bill, which we support. There is much to like in LB23. We particularly liked the fact that it's going to expand the possibility of bringing this type of funding forward on energy efficiency on remaining life. You don't always know all the benefits you might reap at the time of initiating a project. We like, really like, the facts adding water efficiency, and we certainly like the fact it expands who can do certification. We're not so thrilled that it adds economic development, as it will dilute the focus of the PACE Act. And as an economist, if you can do energy efficiency, you're going to get economic development. If you

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can do water efficiency, you're going to get economic development. But it might distract others, and it also then brings in political forces against you like TIF. But we're very supportive of it. Since I have to run upstairs, I'll also say I'm in support of Senator Crawford's bill LB124 because it makes it more flexible and more likely we'll see more PACE activity. If you have any questions, I'd be glad to answer them.

**HUNT:** Thank you very much. Any questions from the committee? Senator Briese

**BRIESE:** Thank you, Chairman Hunt. Thank you for being here. This bill would allow PACE financing to be used retroactively on projects that were already commenced at a prior date, correct?

**MICHAEL O'HARA:** Retroactive in the sense that they have a remaining life, that it may have already started and then you realize that you have something that also allows you to, because project has already started and you're starting afterwards, you may decide to upgrade what you were doing. And then that upgrade project would be eligible for the PACE. So like when you started a project, you might not have been able to realize all the benefits of using LED lights. It sometimes comes as a surprise people that the energy efficiency of LED lights, while substantial, is minimal compared to the worker's comp savings. You don't change the bulb by getting on the ladder.

**BRIESE:** OK. And so when it refers to it being applied retroactively or for projects already commenced, the situation you're describing is simply an upgrade. And that, would that be the only situation that would be--

**MICHAEL O'HARA:** No, I mean, you could, you're not going to get recovery for time passed. It's only for time future. And you have to have a remaining life of 10 years, which justifies long-term financing.

**BRIESE:** OK. Would this be used in situations where you aren't really talking about an upgrade, just essentially refinancing an existing project?

**MICHAEL O'HARA:** It could be merely a refinancing or recognition of something you already put in. Depending upon the sophistication of the person who's doing the project, they realize all of the savings at the time of their initial planning. Other times, as you move from having pencil and paper drawings to actually building it, things change. And

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then you might not have been able to qualify for PACE when you started the project but now that you're into it, you realize you could qualify for PACE.

**BRIESE:** OK. The other states that utilize a similar mechanism, do they allow it to be used on projects already?

**MICHAEL O'HARA:** I'm not certain on that, but it would be ordinary.

**BRIESE:** And what's the purpose of PACE? Is it essentially to incentivize certain conduct or certain actions?

**MICHAEL O'HARA:** Nebraska exports a lot of cash when it buys energy. Mostly we import energy, and therefore we're exporting cash. We can really improve our balance of trade as a state if we improve on energy efficiency. And so, yes, you want to incentivize energy efficiency.

**BRIESE:** But fair to say that's the purpose of PACE, to incentivize--

**MICHAEL O'HARA:** Today without the amendments to add economic development, yes. But this also adds water efficiency.

**BRIESE:** Thank you.

**HUNT:** Any other questions from the committee. Seeing none, thank you for your testimony today. Next proponent for LB23. Welcome, sir.

**CHRIS PETERSON:** Thanks. Madam Chair, members of committee, my name is Chris Peterson, C-h-r-i-s P-e-t-e-r-s-o-n, and I am representing PACE Sage Capital. It might be referred to as a PACE loan broker or originator, but more than anything else has been a promoter of PACE in Nebraska, beginning back in 2016 with the passage of the original PACE Act. I'm appearing today in support of LB23, and I want to thank Senator Kolterman for introducing the bill. PACE financing encourages energy efficiency, water conservation, and use of renewable energy. Nebraska's PACE Act only explicitly recognizes PACE in this way. But PACE financing is also an economic development tool that can be used to encourage capital investment and job creation. PACE can serve both purposes and LB23 recognizes this reality by adding the words "economic development" into the legislative intent. LB23 also recognizes that commercial real estate projects sometimes have short-term or construction financing and later the project shifts to long-term financing. PACE financing is long-term financing and can be 20 to 25 years in length. Because of this, LB23 clarifies that PACE applications can be submitted at any time prior to construction in the

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middle of construction or after construction, so long as the qualifying items to be financed have at least 10 years of useful life remaining. The law isn't clear as to when a PACE application must be submitted today, and LB23 adds clarity. Finally, LB23 ensures energy efficiency projects that clearly deliver energy efficiency aren't determined to be ineligible because they fail to meet savings to investment ratio. A certified engineer will continue to verify that qualifying items produce energy savings by issuing an energy analysis that will continue to be part of the PACE of application. Based on PACE Sage Capital's experience in Nebraska, these are sensible changes to Nebraska's PACE Act. I'd be willing to answer any questions from the committee.

**HUNT:** Thank you, Mr. Peterson. Are there any questions from the committee? Senator Crawford.

**CRAWFORD:** Thank you, Vice Chair. And thank you for being here, Mr. Peterson. I don't know if you can answer the question based, based on what you've seen in other states or what you would see as, as best practices, the bill allows the economic benefit to be derived from federal, state, or third-party certifications. I wonder if you would just speak to what that looks like.

**CHRIS PETERSON:** Today, in order to qualify a project, if the project is new construction, the qualifying items, whether they be energy efficiency or water conservation, must exceed the current energy code. Whether that be a federal, a state, the city code, whatever would be applicable for that project. And so that's unchanged for a renovation or rehabilitation of an existing commercial building. The new items, the energy efficient items that are being installed, must generate energy efficiency beyond the items that they're replacing. And so those, those new items can be at that code, whatever code the local jurisdiction is using. And so that actually, Senator, that process is not intended to change under the bill. So that language is just intended to indicate that that code is still intended to be a benchmark for how to determine if items have qualified.

**CRAWFORD:** Thank you.

**HUNT:** Thank you, Senator Crawford. Any other questions? I have a question. If LB23 passes, how many buildings can be affected? How many, how many buildings and projects could take advantage of this financing?

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**CHRIS PETERSON:** Senator, thank you for the question. PACE is still relatively new to Nebraska, it's relatively new nationally. There's, it's been around 10 years nationally. As Senator Kolterman indicated in his testimony, there have been four PACE transactions that have been submitted as applications in Omaha and approved. Three of those have closed and been financed. There is an application pending in the city of Lincoln. And, based on conversations that I've had with property owners and developers, there are projects in at least eight communities other than Omaha and Lincoln where there is an interest in exploring this as an option. Really, the most direct way to answer your question is that any commercial real estate property that is in need of energy efficiency upgrades or a new construction project, that in order to meet some of the, some of the qualifying thresholds that the financing companies will look at, those projects have to likely exceed in the neighborhood of say \$2 million. And by that I mean a value of the finished building project, what that stabilized value would be of that project. The lenders in this in this market are niche lenders, they're sophisticated lenders, and they're going to scrutinize a potential loan as much or more than your typical bank would scrutinize. And so they're going to be looking for projects that where there is going to be a certainty that the loan will be repaid by the, by the developer or the property owner that is going to take on that special assessment.

**HUNT:** OK. So we're not sure exactly how many?

**CHRIS PETERSON:** It's really open-ended. As the, as PACE becomes more widely known then more, more folks may step up and have an interest in pursuing PACE. But the great thing about PACE is it's a fascinating tool to encourage energy efficiency and economic development without public dollars being involved.

**HUNT:** Thank you very much.

**ARCH:** I've got a question.

**HUNT:** Sure. Senator Arch.

**ARCH:** So the-- it, it notes that it removes the savings to investment ratio. Is there, does that mean you could ever get into a situation where your savings would be less than, I mean, is there no standard where that it, that it must meet after with this bill?

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**CHRIS PETERSON:** There is a standard, and the standard must be that the qualifying items produce energy efficiency. That there be an economic benefit, that there would be energy savings from the installation of that qualifying item. What, what is intended is that you avoid a situation where you may be installing an item, whether it be a roof or an HVAC unit, windows, lighting, what have you, that will clearly produce energy savings. But, but because of the savings to investment ratio over a 20-year period, perhaps it doesn't quite generate enough savings to pay for the item. And therefore, under the current law, would be disqualified, would not be a qualifying energy measure. And so you could have a situation where an item might generate 90 percent of the savings or, or 78 percent of the savings necessary to cover the cost of that item, and that item would not be eligible under today's law. So what the, what LB23 proposes is to eliminate the savings to investment ratio, as is the case, as is the case in two-thirds of the states that have an active commercial PACE program. And but keep in place the process whereby a certified engineer submits an energy analysis that is submitted alongside the rest of the application for approval. And that energy analysis says, yes, indeed, these items will produce energy efficiency.

**ARCH:** Don't you think that would just make the standard wide open for participation in this program? I mean, if I replace the furnace in my house-- I mean, not that I would qualify for this but, I mean, of course you're going to have a more efficient furnace in your house. I mean, all these commercial buildings could, could fall into that, couldn't it?

**CHRIS PETERSON:** Senator, it-- PACE is, is niche financing in that what I've come, what I've come to learn and PACE Sage Capital is come to learn is, and PACE, the PACE lenders that we work with through PACE Sage Capital, that not every commercial building has an interest in using it. There are a variety of reasons why you may use this tool, but a lot of, a lot of commercial real estate developers or property owners for whatever reason don't have an interest. And so while it will undoubtedly make some, increase eligibility for PACE loan and increase the ability to qualify for a PACE loan, the number of PACE loans will still be relatively small, especially compared to traditional financing.

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

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**CHRIS PETERSON:** Great, thank you.

**HUNT:** Any other testifiers in support of LB23? Anyone here in, in opposition? Anyone in the neutral capacity? Welcome.

**EDISON McDONALD:** Hello, committee. My name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, and I am here today representing myself. I'm a big believer in PACE. I've done a lot of work on PACE in the private industry, working with the solar developer; here in the legislature working on studying PACE as a tool; and then also working with nonprofits to go and make sure that we continue to promote and get out the word about the economic and environmental benefits of PACE. And in fact, I'm going to invite all of you to, April 25th I'm bringing in the PACE director from Missouri to come and talk to local stakeholders and talk about these issues. I'm testifying in the neutral today because I think that there are a lot of great pieces about this bill. I also have a few concerns. On the positive side, I really like the focus on economic development. I think that this is really a true economic development tool. I think the expansion to include water is truly beneficial in terms of counting those benefits and those extra benefits towards ensuring that you are seeing a higher bottom line and a better cash flow. I think that that's important. I also think that the definition defining who can go and qualify and create those reports is great. I do think that we need to add in there that we add in certified electricians. I know that as I've worked on renewable energy projects that's been one issue that we've continuously had a process with, because otherwise on pre-existing projects you would have to go and meter what you've already had. And that frequently can go and kill a lot of the benefits. And it's very time-intensive to go and account for all of that. So I think that adding in electricians and also considering other potential tools, because part of this area is still kind of being developed. And I think that there are other tools that can be used to measure that efficiency. And then circling around to my concerns. My biggest one is in terms of the retroactive aspect. I think that this is something that, while I've been talking with municipal leaders, community members, this has been a concern of theirs. They want to make sure that it's not used retroactively for some people or that it's not potentially abused. I think that this could lead to some potential situations where it might not be beneficial for everyone involved. Normally, I say PACE is great. There's, there's no reason to hold back. There is no reason why you would go and want to limit this. But I think that that could be one. With that said, I think it could also

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help to open up some new doors for some new projects. I know that there are some businesses who I've talked to who would be interested in this. But thank you very much for your time, and any questions?

**HUNT:** Thank you, Mr. McDonald. Any questions from the committee?  
Senator Crawford

**CRAWFORD:** Thank you, Vice Chair. And thank you, Mr. McDonald. You're in, in terms of the people you've talked about who are concerned about retroactive financing, do you think that the 10 dollar-- excuse me, 10-year restriction, that it has to show value in the next 10 years, helps to address those concerns or not?

**EDISON McDONALD:** Yeah, I think that it, it is helpful. I still think the, you know, and I'd have to go and draw out exactly what that would look like. But I do see some situations that I think, you know, could be harmful. I think 10 years though is, is reasonable, it's just not ideal. And in that regard, I think the other thing that would be beneficial is, for those who have already created PACE districts, ensuring that this is an option or maybe leaving it up to the municipality or PACE district, for them to decide if they want to. So then they, you know, it would have to reopen that conversation, but then you're respecting the interests of that city.

**HUNT:** Yes.

**CRAWFORD:** Thank you. Is there a specific example you can give us of what the concern might be about retroactive financing?

**EDISON McDONALD:** You know, I think the biggest concern is that folks really want to see this continue to develop new projects. They don't want it to just be about going and saying, how can we go and finance stuff that's already out there?

**CRAWFORD:** So it's really wanting to encourage new growth and new projects.

**EDISON McDONALD:** And then, you know, in terms of the current funding setup, Sage PACE is the main player. But it's also, it's important to keep in mind what happens when the residential market starts to open up. And I think that, that then, you know, is going to be harder to determine how that plays out when Senator Arch can go and finance, you know, like his house. What does that look like? And when you don't have as many sophisticated buyers in there.

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**CRAWFORD:** What would be the concern about an explosion of the use of PACE?

**EDISON McDONALD:** Just the concern, I mean, that's, that's my dream. That's what I would absolutely--

**CRAWFORD:** That's what I thought.

**EDISON McDONALD:** --love to see.

**CRAWFORD:** That's what I'm trying to understand.

**EDISON McDONALD:** I, you know, I would love to see, and I do think that PACE could go and really change a significant portion of the state. I'm just concerned if, you know, what those rates look like and what that structure looks like. And in terms of potential consumer protections I think it would just open that up as a conversation that we would need to have and would increase the need for municipalities to need to have it. I'm not sure that it's necessarily going to be an issue, but I think that it is a concern that people, you know, might have, might talk about. And it might be something that slows the adoption of PACE outside of Omaha, Lincoln, Bellevue.

**CRAWFORD:** Thank you.

**HUNT:** Any other questions from the committee? Seeing none, thank you for your testimony. Do we have anyone else testifying in the neutral capacity? Seeing none, we have no letters for the record. So Senator Kolterman, if you'd like to close on LB23.

**KOLTERMAN:** Thank you very much. As you can see, there are some questions that have been raised. Good dialogue today. PACE, as our slogan in the state would be: It's not for everyone. On the other hand, I would say it would fit right into the Imagine Nebraska Act, which is an economic development tool that we're bringing in the next few weeks. I think that there are advantages to this program. Can they be tweaked to make them more palatable? Probably so. I know that Senator Crawford is working on a PACE bill, and perhaps we talked together. But I think that there's a lot of room for this. It's just got all kinds upside potential, and I would encourage you to support this and move it out of committee so that we can begin to work on this together. And I'd try to take any questions you might have.

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**HUNT:** Thank you. Any questions? Seeing none, thank you for bringing this to us.

**KOLTERMAN:** It's been a pleasure today. I won't be back.

**HUNT:** You're not invited. Just kidding. And that will close a hearing on LB23. Next up we have LB124. Welcome, Senator Crawford.

**CRAWFORD:** Thank you. Good afternoon, Vice Chair Hunt and members of the Business and Labor Committee-- Urban Affairs Committee, excuse me. It's Tuesday. Wrong day. For the record, my name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. And I'm here today to present LB124, a cleanup bill dealing with PACE districts. For those of you who are unfamiliar, PACE stands for Property Assessed Clean Energy. PACE is a financing mechanism that allows local governments to finance the upfront costs of energy efficiency and renewable energy improvements with the financing costs paid by property owners as special assessments on their property tax bill and a lien placed on their property until the assessment is paid off. Nebraska's PACE statutes were passed in 2016 and were expanded to include counties in 2017. Under the PACE Act, municipalities and counties are authorized to create clean energy assessment districts which are similar in nature to assessment districts for streets, sewers, and other forms of municipal infrastructure. Currently, the city of Omaha and the city of Lincoln are the only cities that have established PACE programs. While the PACE statutes clearly envision that two or more municipalities could create a joint PACE district through the Interlocal Cooperation Act, language in the section of statute that contains the requirements for PACE districts appears to technically prohibit joint PACE districts. Over this interim, the city of Bellevue and the city of Omaha entered into discussions about Bellevue potentially joining Omaha's PACE district. Based on the current language in the PACE statutes, it appears that if Bellevue couldn't include any terri-- it appears as if Bellevue couldn't include any territory from Omaha in their joint PACE district and vice versa. LB124 would correct this apparent oversight and clarify that municipalities and counties can create joint PACE districts. The legal counsel for Urban Affairs Committee brought this issue to my attention, has indicated that an oversight and drafting of original statutes did not clearly reflect the original intent of the bill. LB124 cleans up the language to reflect the original intent of the PACE Act. Jennifer Taylor, attorney for the city of Nebraska-- city of Omaha, will speak more to the need

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for this language clarification and the situation with Bellevue and Omaha that brought this to our attention. If cities want to join resources to create joint districts, they should be able to do so. With that, I'll turn it over to the testifiers. First, I can try to answer any questions.

**HUNT:** Thank you, Senator Crawford. Are there any questions from the committee? Seeing none, thank you very much. I would invite the first proponent of LB124 to come up. Welcome.

**JENNIFER TAYLOR:** Thank you. Excuse me. Good afternoon, Senator Hunt, members of the Urban Affairs Committee. I first want to thank Mr. Fitzgerald and Senator Crawford for being willing to work with me on addressing this issue. After the city of Omaha created its PACE district in 20, 2017, we were approached by the city of Bellevue with an interest in essentially joining our district or having us administer projects on their behalf. As we worked through the statute in order to attempt to accomplish that, it occurred to me that the way that the statute defined the district and defined the ability to use the Interlocal Cooperation Act, that we couldn't technically bring Bellevue into our district or vice versa. That Bellevue would actually be required to create its own district and then enter into an inter, interlocal cooperation agreement with the city of Omaha to jointly administer the two separate districts. And I think I realized, if you look at the way the statute is written, I don't think that was what was intended, I think it was likely an oversight. So what has, what is here is actually would allow, you would still have to have Bellevue not essentially create a district but make its, its municipality part of our district. You would still have the two governing bodies be both in charge of the combined district. But for example, and in the current situation we have in Omaha, the city of Bellevue would not be forced to create its own separately-identified title district of its own that then partnered with the city of Omaha's district, but they could instead be one joint district that covered the entire area. So that is really the only intent of this bill and it essentially assists us in cleaning up and making the municipalities maybe go through a little less legislation locally in order to partner with other districts. Bellevue essentially came to us because they have a couple of projects that people might be interested in using PACE, but didn't really want to have to undertake the entire infrastructure, trying to administer PACE projects, review them. And they instead would prefer to utilize the city of Omaha's existing framework to do so. And this would allow us to do that with a little less effort. I would only make

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one comment in that the current bill, LB124 makes changes to 13-3210, and I think probably for clarity's sake I would respectfully request or suggest that we consider also amending 13-3204 (1) where it states that such districts may be separate, overlapping, or coterminous and may be created anywhere within the municipality or its extraterritorial zoning jurisdiction. I think that may still restrict a district to just the municipality and its ETJ. And it's possible that clarifying that section as well to say: except as maybe provided for in section 13-3210 would make it very clear that that's the intent of the amendment. Otherwise, I'm happy to answer any questions about my experience or the need for the bill.

**HUNT:** Thank you, Ms. Taylor. Are there any questions from the committee? Senator Lowe.

**LOWE:** I think my ears were closed. Could you say your name and spell it?

**JENNIFER TAYLOR:** I did not. Actually, I just realized that as I stopped sleeping, that I forgot to tell you my name and spell it. So thank you very much. Jennifer Taylor, it's J-e-n-n-i-f-e-r T-a-y-l-o-r. My apologies for the oversight.

**HUNT:** Thank you both.

**JENNIFER TAYLOR:** I've never been here before.

**HUNT:** I have a question for you. And it's about PACE, and it's a little bit in relation to the previous bill we just heard actually. And you didn't come up here on that one, so I wanted to ask you. Are you aware of any other states that have authorized a retroactive PACE program?

**JENNIFER TAYLOR:** To be clear, the city of Omaha actually clarified its own ordinance to allow projects that were in process when the state law was passed to come and approach us for approval of PACE financing. But it's, that, that is what the city of Omaha has done. As far as nationwide, I think Mr. Peterson may be more well-versed in the programs than I am, but I have done some research. I have contacted, actually, the Department of Energy Commercial PACE Working Group, which I'm, the city of Omaha is actually applying to be a participant in. It's a nationwide working group of local and state municipalities, and inquired as to whether or not this was something that, that occurred anywhere else. They were aware of a similar amendment to the

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Baltimore city code, which was a limited kind of one time only retroactivity, and the fact that the city of Detroit uses it for refinancing, but was unaware of any other, any other states or local municipalities that utilized retroactive-- specifically authorized retroactivity. I do know that the state of Texas specifically prohibits retroactivity. But that's, that's all I know at this point.

**HUNT:** Thank you for sharing your experience. Senator Arch.

**ARCH:** I've got a question, because I'm not familiar with that PACE program at all. So was this originally a federal-- was this, was this allowed under some federal regulation. Why has this become a multi-state program.

**JENNIFER TAYLOR:** And no, I don't think it's, it's not [INAUDIBLE] federal program, but it has been rolled out nationwide. And the Department of Energy has therefore created a commercial working group to allow municipalities in different states to get together to learn more about how to implement--

**ARCH:** Best practices.

**JENNIFER TAYLOR:** And run best practices, etcetera.

**ARCH:** Thank you.

**HUNT:** Any other questions from the committee? Thank you, Ms. Taylor.

**JENNIFER TAYLOR:** Thank you very much.

**HUNT:** Thanks for being here. Anybody else testifying in support of LB124? Welcome back.

**CHRIS PETERSON:** Glad to be back. Madam Vice Chair, members of the committee, my name is Chris Peterson, C-h-r-i-s P-e-t-e-r-s-o-n, and I'm testifying today in support of LB124 on behalf of PACE Sage Capital. We, we very much appreciate the city of Omaha approaching the committee about this bill and approaching Senator Crawford to bring this bill. As PACE becomes more prevalent in Nebraska, and as more cities adopt PACE ordinances and establish PACE districts, we would encourage and we will, we will encourage those, those cities and counties-- if counties were to adopt as well-- to come together for joint PACE administration. It will be much more efficient if there are just a few sets of program manuals, rate schedules for fees, and applications, as opposed to 10 or 20 or 50 or 100 of those existing

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across the state. So we are a big proponent of joint PACE districts. And I'd be happy to answer any questions about retroactivity or other activity in other states, if anybody would care to ask.

**HUNT:** Thank you, Mr. Peterson. Any questions from the committee?  
Senator Briese.

**BRIESE:** Thank you, Vice Chair. And thank you, Mr. Peterson, for being here. And I would like to ask about retroactivity in other states. Are you aware, aware of other states that allow that or utilize that in their PACE program?

**CHRIS PETERSON:** Senator Briese, Nebraska's statute in large part was fashioned after Missouri statute. And Missouri statute, similar to the law that was passed in Nebraska, was silent on this question, is silent on this question. In Missouri, that has been interpreted to allow PACE loans to be applied for and to be funded after a project has been completed. And in Nebraska, the view on that, the fact that statute is silent, the view taken by the Omaha Law Department had questioned whether or not after a project is completed that you could in fact do that, since the statute is silent. And so that's why we believe the clarity will help to address that question. I would also suggest, in my remarks on the prior bill I did not use the term retroactivity and instead focused on the fact that PACE's long-term financing, and oftentimes with the commercial real estate project, long-term financing comes together during construction or even after construction. And so having that flexibility to, to apply for and to transact a PACE loan after a project has been completed is only sensible as that's where long-term financing sometimes will actually occur.

**HUNT:** Thank you, sir. Any other questions from the committee? Seeing none. Thank you for your testimony. I'd like to welcome our Chair, Senator Justin Wayne. Thank you for joining us, king of the road.

**WAYNE:** Thank you. I had a run back to Omaha for a court hearing and then come back down here. So we still on proponents?

**HUNT:** Yep.

**WAYNE:** Any more proponents? Welcome to your Urban Affairs Committee.

**MATT GREGORY:** Good afternoon, Chair Wayne, members of the Urban Affairs Committee. My name is Matt Gregory, M-a-t-t G-r-e-g-o-r-y. I'm

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a clean energy advocate and environmental consultant for a couple of organizations, but today I'm representing myself. I'd like to thank Senator Crawford for introducing LB124 that would clarify the ability of municipalities to form joint districts and facilitate sharing of administrative costs and pooling of resources. I don't work on any PACE projects, but I'm also looking to promote and support programs and initiatives that progress energy efficiency. And PACE has been underutilized in Nebraska, but nationwide it's had an important fin-- it's been an important financing tool for energy efficiency upgrades and renewable energy projects. And I hope this will lead to increased use, because upgrades in energy efficiency, for heating, cooling, lighting, water pumps, insulation, and even solar panels fall under the purview of PACE. So there are many different avenues for projects. And after all, the cheapest megawatt is the one that we don't use. And you have many contentious and political issues before you every day here in the Legislature, but PACE is not one of them because saving money and energy while improving buildings in Nebraska is something we all want, regardless of political affiliation. So I strongly urge you to vote for LB124 out of committee to the full Legislature. Thanks for the opportunity to comment.

**WAYNE:** Thank you. Any questions from the committee? Seeing none, thank you for coming today. Any more proponents? Welcome.

**KEN WINSTON:** Good afternoon, Chairman Wayne and members of the Urban Affairs Committee. My name's Ken Winston, K-e-n W-i-n-s-t-o-n, I'm appearing on behalf of the Nebraska Interfaith Power and Light in support of LB124. I will be very brief. LB124 represents a commonsense change to the PACE Act to allow municipalities to work together and, as was previously indicated, the original statute was probably intended to allow this to take place. And so this is basically just fulfilling the intent of the original statute. Nebraska Interfaith Power and Light supports PACE as a financing tool to support renewable energy and energy efficiency projects. And if I can offer just a personal note, at the time the original PACE Act was passed in 2016, I worked for Senator Ken Haar, and the original PACE Act was his priority bill. And so, so it's, I know that Senator Haar is very, very pleased to see that, that, that there are PACE projects that are being developed in the state of Nebraska now and, and, and he's-- and we look forward to seeing it become a more commonplace tool. And also the fact that there's a lot more interest in PACE and that there's a

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diversity of folks that are, that are talking about PACE as a financing tool. So with that, I'd be glad to answer questions.

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

**KEN WINSTON:** Thank you, Senator.

**WAYNE:** Any other proponents? Is there any other proponents out there that-- OK.

**EDISON McDONALD:** Hi. Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, back up here again, mainly because I just want to talk about PACE more. I think that this bill is tremendously beneficial. I do want to address one of the other aspects that I think hasn't been talked about as much. One of the things I really want to see with PACE is starting to have a better fit and mold for mid-size and smaller cities. So, you know, your Kearneys, your Hastings, your Scottsbluffs, and figuring out how we can go make sure that that structure will make more sense. I think that this bill is tremendously beneficial in that sense, ensuring that we can go and have a model where we can reach that peak efficiency and work to expand the expertise hopefully within that office. I know Missouri PACE is where our PACE model came from. Last fall, I went down to visit the Missouri PACE office, and I really thought that that was important for me to understand part of how PACE operates. And it seems that the more people you have, the more staff that you're able to accrue that have a wider variety of expertise, the better. And for folks who, you know, are spending more time working on PACE, you're able to recruit better benefits for the cities and for the state and for the individuals who are using it. And I think that you should definitely pass this, and I hope that it will continue onto the floor and pass there. Thank you very much for your time. Any questions?

**WAYNE:** Any questions from the committee? Seeing none, thank you for coming. Any other proponents? Any opponents? Seeing none, anyone testifying in a neutral capacity? Seeing none, Senator Crawford, you are welcome to close.

**CRAWFORD:** Thank you. Thank you, committee members. I just want to thank those who came to testify and provide support and recommendations. And we will, I will talk to the legal counsel about 13-3204. And it sounds like there are other-- sounds like otherwise

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the bill looks ready to go. So I look forward to working with the committee to get it out. Thank you.

**WAYNE:** Thank you. Any question from the committee? Seeing none, thank you. This will close the hearing on LB124. Next will be LB107, Senator Dorn. Welcome to your Urban Affairs Committee.

**DORN:** Thank you. Thank you, Chairman Wayne and the rest of the Urban Affairs Committee. I look forward to presenting LB107. My name is Senator Myron Dorn. M-y-r-o-n D-o-r-n, representing District 30. I'm here to introduce LB107. This bill was brought to me by the Beatrice city administrator, and is meant to update the statutes as it relates to plumbing boards. The bill was introduced last year by my predecessor, Senator Baker, but ran out of time last session. The bill does the following: One, it lengthens the term of the office for plumbers on the board from three years to four years; two, it eliminates a requirement that the plumbing board be appointed in August of each year; three, it eliminates the requirement that the plumbing board meets every two weeks and allows it to meet at least once a year, and more often at the call of the chair; four, it permits the cities and the villages to apply other applicable regulations, such as continuing education, as part of the plumbing licensing; five, it strikes the old language, which has license fees remitted to the treasurers of a school district and now remits these fees to the city or village treasurer per the Nebraska Constitution Article VII, Section 5; six, the fee for the plumbing license will now be set by the council, the city council. The current state law sets the fees at \$1 for an annual license. It establishes-- seven, it establishes the penalty as a misdemeanor of not more than \$500 and not less than \$50; eight, it inserts the plumbing, the word "plumbing" before the word "board", strikes "outside the corporate-- outside the corporate limits" and inserts "extraterritorial jurisdiction" as it relates to that zoning jurisdiction and harmonizing language. I'd be glad to try and answer any questions. There also will be a representative from the Beatrice, city of Beatrice here who also could answer more questions later.

**WAYNE:** Any questions from the committee? Seeing none, thank you. Next we'll have proponents. Any proponents? Welcome to your Urban Affairs Committee.

**CHRISTY ABRAHAM:** Thank you, Senator Wayne and members of the Urban Affairs Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, I'm here representing the League of Nebraska

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Municipalities. And I first want to thank Senator Dorn for introducing this bill. We certainly appreciate it. This has been sort of a two-year project with the league and its legislative committees. We started out, as Senator Dorn said, the city administrator from Beatrice said, you know, I think we maybe need to clean up these plumbing statutes. And so we started with sort of the low-hanging fruit of, hey, there's a requirement that they have to meet every two weeks. I'm not sure anyone is doing that. The renewal fee is a dollar, that seems a bit low. So again, we started with sort of these really low-hanging fruit and as some-- I certainly hope that's not my phone. But it might be.

**LOWE:** Great tune.

**CHRISTY ABRAHAM:** Yeah, it's a lovely ringtone. So anyway, as we have progressed through this, Senator Baker was kind enough to introduce this last year. I think additional changes were made by this committee at that time, and now we really feel like this bill is in really good shape. It really has updated these plumbing statutes, and I think it's a great piece of legislation. So I'm happy to answer any questions you might have.

**WAYNE:** Any questions from the committee? Seeing-- yes, Senator Lowe.

**LOWE:** Thank you, Ms. Abraham.

**CHRISTY ABRAHAM:** Sure.

**LOWE:** It goes from a dollar to maybe unlimited, according to the city as far as the fees. Is there, is there any concern there that it may be too much? Maybe some way?

**CHRISTY ABRAHAM:** And I appreciate you raising that. I think generally cities and villages try to set their fees at what it's going to cost them to process that application. If you feel more comfortable putting in something to that effect, I don't know that we would be concerned about it. We do know that a dollar is too low. I mean, it's costing more than that for us to process these licenses and, and examinations, et cetera. But like I said, I don't think we're looking at it as a money-making issue, it's just sort of a we want to at least break even on issuing these, these licenses.

**LOWE:** OK, thank you.

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**WAYNE:** Any other questions? Seeing none, thank you for coming.

**CHRISTY ABRAHAM:** Thank you, Senator.

**WAYNE:** Any other proponents? Welcome to your Urban Affairs Committee.

**ABBY STARK:** Thank you very much. My name is Abby Stark, A-b-b-y S-t-a-r-k, I'm the city attorney for Beatrice. We were, we asked Senator Dorn to introduce LB107 to both kind of clarify and clean up some stuff, and also to make the requirements a little bit more realistic for smaller communities. Part of the clarification that we thought was needed was just to refer to just the plumbing board. The current statute mentions the plumbing board, also mentions the board for the examination of plumbers. And it's unclear whether the, the terms are being used interchangeably or there's actually supposed to be two different boards. In talking with other cities, it seems like the majority opinion is that they're used interchangeably. But there is at least one other city that I know of that actually does interpret it to mean they need to board, so they have two boards. So this would just stick to the one term to kind of eliminate that confusion. Another issue that it cleans up is the terms of the, terms and appointments of the members. The current statute says that the term of office for the members is three years, but it also says that they need to be appointed in August of each year. So I think the bill proposes to just change it to a four-year term just to make it more coincide with the term of the mayor. And it also takes out that they need to be appointed each year in August. One of the bigger changes that we talked about, Christy touched on this a little bit, is this, that the board meeting every two weeks, as the current statute requires for them to meet every two weeks. All the cities that we've spoken with, with the exception of Lincoln or Omaha, think that is way too often. We don't, there's just nowhere near enough business for the board to meet about every two weeks. So the change requires them to meet at least annually but more often when needed. Also, Christy touched on this too, the proposal to change the fees. It's a dollar for a year and 50 cents a year for a renewal. Just kind of pointless to collect fees that are that small. So like Christy said, I think it's cities at least want to break even on this. And then the one other thing that it changes is the penalty for violating the state statute regarding the plumbing board. It changes it to a fine of \$50 to \$500. The current statute labels a violation a misdemeanor, but sets the penalty at \$5 to \$50. So the higher penalty just kind of coincides more with a

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typical penalty for a misdemeanor. So be happy to try and answer any questions.

**WAYNE:** Any questions from the committee? Seeing none, thank you for coming today. Any other proponents? Any opponents? Welcome to your Urban Affairs Committee.

**GREG C. LAUBY:** Thank you, Chairman Wayne. Chairman, members of the committee, my name is Gregory C. Laube, G-r-e-g C., Lauby, L-a-u-b-y. I'm here today to express the concerns and opposition of my brother Roy Lauby, who owns and operates Lauby Plumbing, Heating and Air in Wymore, Gage County, Nebraska. He has built his business over 20 years and now serves residential and community-- and commercial customers located north as far as Lancaster County and south down into Kansas, as well as east and west for miles both in and outside of Gage County. This gives him a somewhat unique perspective when looking at the proposed changes to the state law in that he has to, would have to comply with all the regulations that would be set arising out of these changes in the various cities and villages whose customers he serves when he goes within their jurisdictions. The, his business employs seven individuals, and was named Gage County favorite plumber in 2016 and favorite HVAC installer in 2018 by the readers of the local newspaper, the Beatrice Daily Sun. He has several concerns and objections. One is that the bill removes the examination of plumbers from the plumbing board without giving him the authority to anyone else to conduct the examination. In smaller cities, the board members are the most, and in many instances, maybe the only knowledgeable and neutral body competent to formulate and conduct an examination. At present, the board member is required, board is required to meet every two weeks. This bill would only require one annual meeting. All other annual meetings would have to be called by the chairperson. So if an individual or business would require an examination in order to qualify to work in the jurisdiction, or to dispute an unfair rule or regulation, an annual meeting might be the earliest that he could get a review by the board itself, unless he was given mercy by the chairperson. That's not sufficient to meet construction or job deadlines. The Section 18-1903 is altered to eliminate the requirement that the plumbing board is appointed annually. In his perspective, annual appoint, appointment allows for the timely replacement of members who don't participate for some reason. And that requirement also sets a specific term of office, despite the other language that indicates it might be a three-year term. Deleting the maximum fee for a variance application allows the city council or Village Board to set

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any amount, even a prohibitive one, which is then payable to their general fund, which gives them a self-interest in higher fees. In Section 18-1911, the, the city board would be allowed to set an unlimited fee for licenses, which again are paid into the city treasury, rather than paid to the school district in the school district, in the city. Past legislation understood the need to fund education from many sources and keep the fees of local government affordable. A set limit on fees prevents higher fees from becoming used to exclude competition which may only do occasional work within a city. A license fee of Wymore for example is set at \$10 and does seem sufficient to cover their administrative costs. Fines for violation are increased from a maximum of \$50 dollars up to \$500 for each and every instance. That can quickly equal business bankruptcy when a failure to use a colored glue, which may be required by local record recommendations on every pipe joint, can be a separate offense, and as can each day of noncompliance, even if the regulation is being contested. Present fine amounts are enough to encourage compliance since a conviction shall also cause a loss of license for one year and jeopardize further business activity in that jurisdiction. The expansion to include extraterritorial limits is also a concern, just trying to identify where those limits end outside of the city limits. And in summary, in its present form, it appears the bill gives an unchecked discretion to local authorities which can exclude competition and over-regulate and penalize existing license holders. If there are no questions, I thank you for your attention.

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

**GREG C. LAUBY:** Thank you.

**WAYNE:** Any other opponents? Welcome to your Urban Affairs Committee.

**NICOLE FOX:** Thank you, Chairman Wayne. Members of the Urban Affairs Committee, my name is Nicole Fox, director of government relations at the Platte Institute. N-i-c-o-l-e F-o-x. The Platte Institute is dedicated to help Nebraskans achieve economic freedom. Our goal is to lessen the burdens imposed on workers that interfere with their ability to earn an honest living. A couple of individuals have reached out to us to voice their concerns about LB107, a bill to update statutes regarding plumbing boards and licensing. After review, we feel it imposes burdens to workers in our state. Section 4 changes the requirement that the board meet every two weeks and instead requires just one annual meeting. An additional meeting would have to be

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requested and called by the chairperson. Sometimes projects can be on a tight or shorter time line and need more, immediate approval. Sometimes a rule or regulation may be affecting an individual's or business's ability to operate. If an individual or business is in need of more urgent action by the board, an annual meeting may not be sufficient, resulting in having to turn down business opportunities or delay potential work. Therefore, this could result in the loss of potential income. Section 5 deletes the maximum fee of \$25 for variance applications and would allow the city council or village board to set this fee at any amount. And we're concerned that the fee could potentially be burdensome if significantly increased beyond the current \$25. Section 7 allows the city governing body to set any fee they choose for licenses, replacing the present limit of \$1 for a one-year license and \$2 for a two-year license. Fees for licensing are essentially taxes one must pay in order to work. Again, we are concerned that the fees could be significantly increased. Section 8 raises the fine for a violation tenfold. It would raise the current minimum fine of \$5 to \$50 and it would raise the current maximum fine of \$50 to \$500. This tenfold proposal is steep. Due to the burdens that would be imposed on Nebraska workers, we ask that you hold LB107 in committee. And we understand that, you know, they're trying to bring some things up to date and cover costs. But we are just concerned the way the bill is written that there's no system of check and balance. Thank you for the opportunity to voice Platte's concerns. And with that, I'm happy to answer any questions.

**WAYNE:** Any questions from the committee? I have a question. Would you be amenable to some language around the fees being set at no more than the actual cost to complete the, process that application?

**NICOLE FOX:** Yeah, I mean, we'd be happy to entertain some sort of limit. I think the way it's written right now it's just concerning that they could potentially raise them exorbitantly high.

**WAYNE:** Would you agree that keeping it at the 1960s level is probably not sufficient?

**NICOLE FOX:** Yeah. But like I said, there's just no-- I mean, yeah, we would just like to see something so it's--

**WAYNE:** Our office, Senator Dorn's office and you, you could figure out and see if we can come to some kind of agreement. Get it taken care of. Any questions? Senator Lowe.

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**LOWE:** Along those same lines, if the board could meet at the request of a plumber, something, something along--

**NICOLE FOX:** Yeah, or something. I mean, you know, and again, we understand that two weeks may be a lot, especially for some smaller boards. But once a year probably may not be sufficient. So, yeah, if we, we'd be happy to talk about what might be easier to work with.

**WAYNE:** Any other questions? Thank you for coming today.

**NICOLE FOX:** All right, thank you.

**WAYNE:** Any other opponents? Anybody testifying in the neutral? Seeing none, Senator Dorn. You don't have to close.

**DORN:** Chairman Wayne, thank you for that. This is my first time ever as a state senator doing this, so I appreciate those comments. I've heard that some senators after they've been up here for--- or not up here, that they, the hearings have gone on for so long they maybe kind of wanted to leave too or whatever. So I appreciate those comments. I thank you very much for hearing this bill, and I appreciate some of the questions. I just want you to know that I will be willing to work with you or work with this committee to help improve this bill as we need to. I am open to suggestions and open to working with this committee or whoever has thoughts on how to improve the bill and make it better. There are some concerns, I know, from the city of Beatrice with some of the issues in the current bill that they don't address enough things also. So that's why we brought this forward for them, so that maybe there's an opportunity to get something done that helps everybody.

**WAYNE:** Any questions? Seeing none, thank you.

**DORN:** Thank you.

**WAYNE:** This closes the hearing on LB107, and next is LB195, Urban Affairs Committee.

**TREVOR FITZGERALD:** Looks like we're clearing out here.

**ARCH:** We're still here.

**TREVOR FITZGERALD:** Yeah.

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**LOWE:** We've been waiting all day.

**TREVOR FITZGERALD:** Good afternoon, Chairman Wayne and members of the Urban Affairs Committee. For the record, my name is Trevor Fitzgerald, that's T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, and I'm introducing LB195 on behalf of the committee. Unlike the other building codes under the jurisdiction of the Urban Affairs Committee, the State Fire Code has historically not been adopted by statute but instead adopted by the State Fire Marshal through the rules and regulations process. Last session, the Legislature passed LB889, which required that the rules and regulations constituting the State Fire Code be updated no later than July 1, 2019. The current State Fire Code conforms generally to the 2000 edition of The Life Safety Code, which is promulgated by the National Fire Protection Association or NAFPA. The Life Safety Code is commonly referred to as either pamphlet 101 or NFPA 1, 101. As provided in LB889 last session, the Fire Marshal's Office must update the State Fire Code to conform generally to the 2012 editions of NFPA pamphlet 1, commonly referred to as the Fire Code; NF, NFPA pamphlet 101, commonly referred to as the Life Safety Code; and associated pamphlets no later than July 1, 2019. In the process of updating the fire code statutes last session, language referencing the State Fire Code was moved from Section 81-502 into a new section of statute, but several references to the State Fire Code were not updated to reflect that change. LB195 simply update those references and several sections that were not amended last year. I will note I did not see someone from the Fire Marshal's Office behind me, but I will note that we communicated with them. Well--

**WAYNE:** No.

**TREVOR FITZGERALD:** No. I will note that we shared a draft of this bill with the Fire Marshal's Office, and I believe the exact wording they used: They had no objections to the bill.

**WAYNE:** Any questions for the committee? Seeing none, thank you. Any proponents? Any opponents? Anybody testifying in the neutral? Are you waiving closing?

**TREVOR FITZGERALD:** I am waiving closing.

**WAYNE:** All right, that concludes LB195. And that concludes the hearings for February 5, 2019.