

**Urban Affairs Committee February 12, 2019**

**HUNT:** [RECORDER MALFUNCTION] --and welcome to your Urban Affairs Committee. I'm the Vice Chair of this committee, Megan Hunt. And our Chairman, Justin Wayne, is introducing a bill an Agriculture today, so I'm going to kick us off. I represent the 8th Legislative District in Nebraska here, which is in Omaha. And that includes the neighborhoods of Dundee and Benson in midtown. So let's have the members that are here introduce themselves, starting on my right with Senator Arch.

**ARCH:** John Arch, and I am with Legislative District 14, which is Papillion, La Vista.

**M. HANSEN:** Matt Hansen, Legislative District 26 in northeast Lincoln.

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

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

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

**MANDY MIZERSKI:** Mandy Mizerski, committee clerk.

**HUNT:** Thank you. Also assisting our committee here are our 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 six bills, and we'll be taking them in the order listed outside the room. Once we're done with the bill, it will be crossed off. And so you can follow along if you have other places to go. On each of the tables in the back of the room you'll find blue testifier sheets. So if you're planning to testify, please fill one out and hand it to our committee clerk when you come up, and that will help us keep an accurate record of the hearing. Please note that if you'd like to have your position listed on our 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 go on record your position on the bill, just 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 5:00 p.m. the day before the hearing. Any handouts that are submitted by testifiers will also be clued-- will also be included as part of our 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 to distribute. If you need more 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 those in opposition, and then anybody who is here to testify in the neutral capacity. The introducer of the bill will then give their closing remarks and we'll ask them any questions that we have. We ask that when you begin your testimony you give us your first and last name and spell those for the record. We'll be using a four-minute light system today. So when you begin your testimony the light on the table will be green and then it will turn yellow, which means you have a one-minute warning; and then red, which means you need to wrap up and share your final thoughts. I'd also remind everybody, including senators, to please turn off your phones or set them to silent. And with that, we'll begin our hearing on LB348. Welcome, Senator Quick. I'd also like to invite Senator Crawford to introduce herself since she joined us.

**CRAWFORD:** Thank you. Good afternoon. Senator Crawford, Sarpy County. Thank you.

**QUICK:** Thank you, Vice Chair Hunt. And thank you, members of the Urban Affairs Committee. My name is Dan Quick, D-a-n Q-u-i-c-k, and I represent District 35 in Grand Island. I'm here today to introduce LB348. LB348 provides for updating the State Building Code. Currently, the International Building Code, the

International Residential Code, and the International Existing Building Code operate under 2012 additions as published by the International Code Council. This bill would bring our State Building Code up to the 2018 code while maintaining the three current exemptions. The State Building Code only applies to buildings owned by the state and buildings in political subdivisions which have adopted State Building Code. But we do require that, but we do require that local building codes conform generally to the State Building Code. So if we were to pass this bill, it would trigger a two-year period after which all the local building codes would have to generally conform to the 2018 codes. So the local codes could be more strict or they could be slightly less strict, as long as they conform generally. LB348 would retain the three current exemptions contained in the State Building Code as well. LB348 would retain an exemption in current statute to not adopt Chapter 13 of the 2018 IBC and not to adopt Chapter 11 of the 2018 IRC as these chapters correspond to the 2018 International Energy Conservation Code or IECC. LB348 also retains the exemption to not adopt Section R313 of the 2018 IRC. That section requires that new and one, one and two-family dwellings and townhouses include a fire sprinkler system. Under this bill, the State Building Code would continue to exclude the residential fire

sprinkler mandate but political subdivisions would still have the, still have the ability to adopt-- adopt in the fire sprinkler mandate. Finally, LB348 would change the chan-- would keep the change to occupancy classifications in the 2018 IBC which relate to in-home daycares and in-home care facilities. Under the bill, the occupancy provisions would continue to apply to facilities for or having 12 or fewer occupants. I think it's important that we had this conversation and advance this bill so that we can have, so we can stay on top of the code updates instead of falling behind every year as we can't automatically adopt the new codes every three years. This is not a new concept, but I do appreciate your support and I'll do my best to answer any questions you may have.

**HUNT:** Thank you very much, Senator Quick. Are there any questions from the committee? I have a quick question. Would anything in this bill updating the building code be applied retroactively or this is just going forward?

**QUICK:** This is just going forward.

**HUNT:** OK. Seeing no other questions, thank you very much. Are you going to stay to close?

**QUICK:** Yeah, I'll stay.

**HUNT:** All right, are there any proponents for LB348?

**JAMES HARPER:** Good morning. Good afternoon, I'm sorry. My name is Jim Harper. It's James, J-a-m-e-s H-a-r-p-e-r, 4203 Springview Drive, Grand Island, Nebraska, 68803. And I'm testifying just for myself. Going back a little bit in history, some of you may probably heard me say this before. But in 1987, Senator Don Wesely at that time introduced the Building Construction Act for the state of Nebraska. And that's when we started using, mandating model codes in cities. And at that time we had a mandate to update every three years automatically. We didn't come back to the Legislature. Well, that worked very well for a long time and our cities went along. It was hard work but we kept with it. And but now we don't have that option anymore. I think it was unconstitutional, I'm not sure. So we have to come back to you every time there's a code update that needs to be done. So that's a little bit of a history on this, why we're, we're here. I think the intent of the Legislature at that time was to update the codes every three years. Of course you're certainly not bound by that Legislature in any way, but that was what went on in those discussions at that time. So we're here updating the codes, trying to stay current, if you will. We're on 2012 right now. There has been one addition, 2015, generated in the interim, and now the 2018 is available. We are currently

working on the 2021 codes. One of the things that we do in this state, and I think it's great, is we update our electrical code every three years. And I would like to think that we could do the same with our building and residential codes too. One of the big, another big change that has occurred in my opinion is we removed Chapter 34 from the building code. Now it's a separate code, it's for existing buildings, and it really sets out a systematic way of dealing with existing buildings so that you're-- the building department and the applicant for a building permit are working from the same set of rules. And there should be better understanding there on existing buildings, which really is the large share of our building stock. When you're a code official, you're dealing with existing buildings far more than new buildings. So with that said, I probably ran my four minutes. Are there any questions?

**HUNT:** Any questions from the committee? Seeing none, thank you very much, Mr. Harper.

**JAMES HARPER:** Sure.

**HUNT:** And thank you for coming all the way here to speak with us. Any other proponents for LB348? And if you're gonna come test, come testify on a bill, feel free to come sit in the front so we can see how the queue is looking.

**DAVE JOHNSON:** Good afternoon, Vice Chair and senators. I'm Dave Johnson, D-a-v-e J-o-h-n-s-o-n. My address is 800 P Street, Suite 203, Lincoln, Nebraska, 68506. I'm a licensed architect in the state of Nebraska. I'm here representing the American Institute of Architects Nebraska Chapter. We are here in support of this bill. We feel as architects in the community it's important that we keep the bills current and up to date. And we feel that they are updated for good reasons. We understand that there are several of the larger municipalities that amend those. I've sat on that task force in Lincoln for five, five different codes now. So they are sort of adoptable and amendable and things. So we would be here to show support for adopting the 2018 code.

**HUNT:** Thank you so much. Senator Arch.

**ARCH:** Thank you. What, what are the, what are the consequences of not staying current, of not adopting this?

**DAVE JOHNSON:** In my personal opinion I can't, I don't know if I can speak for AIE at this point now, so sorry, Sarah. But having served on the, the Building Code Task Force for the city of Lincoln since basically 2003, so all the adoptions through then, we have found if you, if you adopt them at least every three years-- sometimes we've gone six years-- but if you do them in



those smaller chunks then the effects of any changes are relatively minor. When you wait and you go from like '12 to '18 or if you went from '12 to '21. Or like Omaha right now is still on '06, so if they ever make the big jump I think that the people that use the code on a regular basis, the contractors, the architects, the engineers are going to see a lot more change at one time rather than just kind of small incremental change. So we feel that the ICC does a nice job of researching the codes around the country. Again, it's an international building code, it's adopted pretty much across the country. So obviously what's right in Florida is what's right in, you know, Nebraska, which isn't what's right in California. But that's why they make them amendable.

**ARCH:** Thank you.

**DAVE JOHNSON:** Thank you.

**HUNT:** Any other questions. Seeing none, thank you so much for coming today. Next proponent. Welcome to your Urban Affairs Committee.

**STEVE NORDHUES:** Thank you. My name is Steve Nordhues, and it's spelled S-t-e-v-e, Nordhues, N-o-r-d-h-u-e-s. I am the billing official for the city of Norfolk, Nebraska, and I'm here today

representing the Nebraska Code Officials Association in support of LB348. You may recall some of this testimony from last year if you were here. So, senators, this is the bill you have been waiting for. LB348 is the easiest yes that you will review this entire legislative session. Quite honestly, there is not a logical or legitimate reason to oppose LB348. A 2018 International Residential Code and 2018 International Building Code adoption is supported by the National Home Builders Association, Nebraska Code Officials Association, International Code Council, American Institute of Architects, National Fire Protection Association, Underwriters Laboratory, State Farm Insurance, and numerous other organizations that recognize the value of safe and resilient construction methods. Currently, the state of Nebraska is using an obsolete code for which there is limited technical support in continuing education for contractors as well as code officials. While you may hear from some who are opposed to adopting the 2018 code cycle, I would suspect their ill-founded rationale will be that they do not know what is in it. That is an easy concern to allay. Ninety percent of the 2018 international codes are made up of the 2012 international code. In fact, that percentage would most likely apply to comparisons of the 2000 international codes and the 2018 international codes. There are several items this committee

should keep in mind. That the state of Nebraska rarely makes amendments to either the IRC or the IBC. In fact, the only occurrence that I am aware of is when the state of Nebraska amended residential fire sprinklers out of the 2009 IRC and the 2012 IBC. That amendment was made at the urging of the Nebraska State Home Builders, as well as the Nebraska Code Officials Association and has been continued for the adoption of the 2018 IRC. Once the state of Nebraska adopts the 2018 codes, each jurisdiction has two years to adopt it locally and can amend it as they see fit. So this is not a case where some surprise code change can be sprung on unsuspecting contractors or code officials. The National Home Builders Association is very adept and vocal about opposing new bad code amendments. If there were at all, if they were at all unhappy about the 2018 IRC content, local homebuilder associations and code officials would have learned about them a long time ago. In closing, I want to reemphasize that moving LB348 forward is the best solution for the construction industry across Nebraska. There is nothing sinister here and nothing to fear. This is merely the first step in getting the state of Nebraska current with today's building codes. This is something that could be done every three years. But realistically, the adoption of every other code cycle is more practical and affordable for local jurisdictions due to

budget constraints. If 2012 was our last adopt a code, let's take the responsible course of action and adopt the 2018 IRC and the 2018 IBC in 2018-- in 2019. If there's any questions, I'd be happy to ask them for you-- answer them.

**HUNT:** Any questions from the committee? Senator Briese.

**BRIESE:** Thank you, Chairman Hunt. And thank you for being here today. In your position you have knowledge of what other states do with these codes or what they adopt and what they don't and what they except out?

**STEVE NORDHUES:** Some limited. You know, a lot of states allow communities to adopt. In Nebraska, Kearney has actually adopted the 2018 already, I believe. So it's not that it is not recognized even in the state of Nebraska by other jurisdictions.

**BRIESE:** But in a state, at a state level do other states typically exempt out, for example, the fire safety?

**STEVE NORDHUES:** Yeah, that, that's pretty widespread across the country is to exempt that out.

**BRIESE:** OK.

**STEVE NORDHUES:** In fact, some states went as far as to make it illegal for any jurisdictions within their state to put it back in.

**BRIESE:** OK. OK, thank you.

**HUNT:** Thank you, Senator Briese. Any other questions? Seeing none, thank you, Mr. Nordhues, for coming today.

**STEVE NORDHUES:** Thank you.

**HUNT:** Next proponent. Welcome to your Urban Affairs Committee.

**TYLER GLESNE:** Hello. My name is Tyler Glesne, T-y-l-e-r G-l-e-s-n-e. I reside at 12716 Morrison Drive, Omaha, Nebraska. I'm representing ASHRAE Nebraska Chapter. ASHRAE is an acronym for the American Society of Heating, Refrigeration and Air-Conditioning Engineers of which I am a regional officer and the government outreach committee chair. A little bit on ASHRAE, it's a large organization. It's 56,000 people worldwide, almost 400 of us here in Nebraska, a very strong chapter. We're all very excited both at a local and nationwide level that this is on the, on the agenda here today and we're able to speak on it. The codes are outdated. I think that's been stated over and over. The value of updating building codes we think is just tremendous. I'm glad to see a pretty well general consensus of

all the organizations we've talked to that are also supporting this bill. And have yet to hear any resistance, to be honest. So hopefully it continues like that today. Excuse me. And then the last question, we're kind of on the forefront of step, of starting a nationwide sweep to update building codes. With a lot of success, even getting this point in many other states, including a lot of our neighboring states. The fact that we have the energy bill separated out is a little unusual. But we're hoping to rectify that as well. The statement I am sending around, just so you know, does support the first four bills we're talking about today, so you can carry those conferences over. But I'll be paraphrasing from it. It says it's applicable to each code, or to each bill, excuse me. The Coalition for Safety Codes, of which ASHRAE is a participant, has a lot of different advantages to updating a building code, which I'll paraphrase here. But having consistent codes across all jurisdictions to provide a common language to both business, hospitals, and other needs to efficiently build our communities. We also see it as a good job creator as well. And new products are appearing all the time. The rate of technology is very, very fast. So that three-year cycles seem to support that kind of innovation. Right now we're in a position where some of the latest innovations aren't recognized by the state, so they can't

be utilized in our engineering and building communities. And lastly, 70 percent of electricity is what buildings represent in this nation. It's a huge aspect of it. Energy reductions are reduction on foreign interests and everything. These building codes represent the quickest, cheapest, and cleanest way to lower energy usage and our demand on our utility systems. It also provides a building safety and resiliency. It increases the hazard mitigation and helps with disaster recovery as well. I'll quote FEMA administrator Long back in October. He said: Until we get building codes passed at a local and state level that are meaningful, then we're going to continue to see a lot of damage and destruction. End of quote. In closing, yeah, we hope this goes well through. We hope these actually get combined with the energy bill, and we look forward to seeing what impact it will have in Nebraska. Thank you.

**HUNT:** Thank you very much, sir. Any questions from the committee? Seeing none, thank you for your testimony today. Next proponent for LB348. Welcome, sir.

**RICHARD HAUFFE:** Welcome-- or thank you very much. My name is Richard, R-i-c-h-a-r-d, last name Hauffe, H-a-u-f-f-e. My address, 48043 Snowbird Circle, Sioux Falls, South Dakota. Nonresident. And I am senior regional manager for the

International Code Council. I work in five states. They're both Dakotas, Nebraska, Minnesota, and Iowa. And Senator Briese had the question about what your neighboring states are doing. I hope we can cover that real quickly. I have for you-- well, a cover letter with a couple of articles on it, and I just wanted to just quickly walk you through the code development process. How they-- where they come from and why they come from. I represent the International Code Council, which is a member-driven, 64,000 member organization nonprofit that produces these international codes. We have 15 different code books, they are updated every three years through a process we call the governmental consensus process. And why do we change these codes every three years? It's been long-established that that is the time limit that you should probably give your code books to be able to account for, take into consideration new technologies that develop in infrastructure, you know, in the built environment, as well as new techniques that hopefully they go through the testing and test time. Also, of evaluations to make sure that they are safe and they have integrity. So, ultimately, you are building communities that where the houses are safe and they are sellable or commercial buildings are safe and sellable. I'm here to support LB348. The-- I'm going to skip down just a little bit. I did have written testimony but I want to spare you



that. But I've been to a number of your meetings in the past when Senator McGill was the chair of the committee. It was my first one back in 2011. And I know this committee has worked very diligently on trying to develop a streamline code development process that engages the Legislature at the right time. I know that, that Nebraska, according to Mr. Harper back there, your resident historian on codes, has prided itself in the past and staying current with building and safety codes. I know that that there was an intention last year with Senator Quick's legislation to update the code to, the consideration was for 2015 or 2018. And I am very, very happy that this bill has come forward here. I think it's definitely time. I think you've hit the sweet spot of waiting to see what the 2018s look like in other states but also not to fall so far behind. The code development-- oh boy, am I ever out of time so--

**HUNT:** You have a minute.

**RICHARD HAUFFE:** But I want to be able to invite questions. Let me get to Senator Briese was asking about and what your neighboring states are doing. Code development process and everything is pretty well spelled out in here. I would ask that you do take a chance to review it. Minnesota is, is going through the rulemaking process, having gone through its review

and everything of the 2018. And we expect that in the next six months we'll be publishing those as a custom code for the state of Minnesota. South Dakota last year approved a 2018 IBC and exists-- a property maintenance code. Which is kind of surprise. Why would a state like South Dakota come up with property maintenance code? Something I'd recommend that you all try thinking about sometime in the near future. North Dakota is going through a review process right, right now. The 2018s go into effect on January 1 in 2019-- or 2020. And Iowa is going through review process to come up to advance up to the 2018. Does that mean I stop? OK. Any questions?

**HUNT:** Thank you so much for your testimony and thank you for this information, because I'm sure we'll all look through it and we can reach out if we have any other questions. But are there any questions today from the committee members here? Seeing none, thank you for coming here. Thank you for sharing your expertise.

**RICHARD HAUFFE:** Thank you so much. Appreciate it.

**HUNT:** Next proponent for LB348. Welcome to your Urban Affairs Committee.

**DAVID HOLTZCLAW:** Thank you, ma'am. And thank you for allowing me to speak today. My name is David Holtzclaw, D-a-v-i-d, last name is Holtzclaw, H-o-l-t-z-c-l-a-w; 5005 Chicago Street in Omaha, Nebraska. Thank you for letting me speak. And thank you to Senator Quick for sponsoring this bill. I am a licensed Nebraska engineer that specializes in building science and building forensics. Currently, Nebraska is behind most other Midwest states in upgrading current, to the current building code. To use a sports analogy, we're in about the bottom quarter of the Big Ten. For Nebraskans, there are numerous advantages to updating the building codes. First, the modern codes actually keep construction costs down by helping establish more uniformity in the construction industry. According to the Insurance Institute for Business and Home Safety, for each dollar spent on increasing building code-related construction costs leaves, results in a long-term cost savings of \$3 to \$16. Secondly, building codes create a level playing field for designers, builders, and suppliers. They promote an increase in level of comfort for occupants and for real estate buyers who can be sure that their homes or their commercial buildings meet at least the minimum standards of health and safety as relative to the rest of the country. Thirdly, and perhaps most importantly, current building codes have been designed to

minimize property damage resulting from natural disasters and reduce the need for public disaster aid. This is new to the 2018 code and has not been as well-designed into the 2015 and previous codes. The National Institute of Building Science is a multi-year study on benefits in investigating hazard mitigation. The study looked at the benefits of designing buildings to meet to 2018 IRC and the 2018 IBC compared to previous versions of the ICC. Their finding was as follows. For flood resistance, for every dollar invested in upgrading to the 2018 code resulted in a \$6 savings for the community. For wind resistance, for hurricanes or tornados, for every dollar invested in upgrading to the 2018 code resulted in a \$10 savings for the community. Overall, across the country they found for every dollar spent in upgrading to the 2018 code resulted in an \$11 cost mitigation. This report determined that these benefits carried an overall to the building-- not just the building owners, but stakeholders, from developers, title holders, lenders, tenants in the community. The report highlights significant savings that results from implementing mitigation strategies in terms of safety and prevention of property loss and distribution of day-to-day life. Over a long time making buildings more resistant to damage and to-- damage, damages, a property owner will have fewer insurance claims. Less property damages followed natural

disasters, speed up the recovery process, and causes less distribution for property-- guess less disruption for property owners. This aids, this also helps put less pressure on the insurance market which can have lower premiums and will have greater availability for insurance. Upgrading Nebraska building codes is the single best way to improve the building community and resistance in the face of more frequent and intense weather events. Furthermore, updating building codes also is the most undervalued decarbonization policy. Homeowners and building owners benefit from updating the building codes as a well-documented annual and lifecycle cost savings. Health and safety of buildings and energy codes play a role in building costs and lessening greenhouse emissions. These buildings will be around for 60 to 100 years. We need to start building as best as we can. Thank you for your time, and I'll answer any of your questions.

**HUNT:** Thank you very much. Are there any questions from the committee? Thank you, Dr. Holtzclaw. I'll just add that you forgot to mention that you're from the best district in Nebraska.

**DAVID HOLTZCLAW:** Yes, I am. Yes, that's right.

**HUNT:** Thank you for coming today. Welcome.

**LASH CHAFFIN:** Thank you. Good afternoon. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, I'm a staff member of the League of Nebraska Municipalities. I had a little outline of issues and points I wanted to make on, on this bill and go through a history of code enforcement controversies in Nebraska. But that would be 100 percent repetitive at this point. So I am going to, to, to scrap that plan. And I would like to thank Senator Quick for doing the heavy lifting in bringing this forward. And I do agree, having sat through numerous code, legislative code hearings over the years, that Nebraska appear, appears to have hit the sweet spot in, in balancing the subtle differences between the code enforcement and the progress in, in adopting a new code and working in local, local standards within the code. These, these, these issues used to be a lot more controversial and I appreciate the fact that they moved so quickly and well as they, as they do at this point. Thank you. I would certainly answer any questions.

**HUNT:** Thank you, Mr. Chaffin. Any questions from the committee? Seeing none, I thank you for your testimony today. Are there any more proponents for LB348? Seeing none, we can move on to opponents. Seeing none, is anyone here to testify in the neutral capacity? All right, Senator Quick, you're invited to close. We do have a couple letters for the record for LB348. We have a

letter of support from the Nebraska Code Officials Association. A letter in opposition from the American Chemistry Council. And two neutral letters from the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association, and a neutral letter from the Nebraska State Home Builders Association. Senator Quick.

**QUICK:** Thank you, Vice Chair Hunt. And I just want to make a point that not only will this help the people who are homebuilders keeping up with the codes, but it will make the homes safer for people who live in those homes and for people who maybe reside in some of the apartments and residents like-- and things like that. So I just wanted to make a point that, that we should pass this on and get our codes up to date. So thank you very much.

**HUNT:** Thank you, Senator Quick. Any other questions from the committee? I appreciate it. With that, I'll close the hearing on LB348. And I will pass the metaphorical gavel to Senator Hansen because my bill is next.

**M. HANSEN:** Thank you, Senator Hunt. Just for the record, the Government, Military and Veterans Affairs Committee has a literal gavel. So we should maybe look into that.

**HUNT:** Ours is just metaphorical.

**M. HANSEN:** All right. Well, welcome, Senator Hunt, to your committee on Urban Affairs. And please, when you're ready.

**HUNT:** Good afternoon, Senators. I'm Megan Hunt, M-e-g-a-n H-u-n-t, and I represent District 8, which includes the neighborhoods of Dundee and Benson in midtown Omaha. Today I'm presenting LB405. This bill would update the State Energy Codes from the 2009 edition of the International Energy Conservation Code or the IECC to the 2018 edition. The bill would also require counties and cities to notify the State Energy Office upon modifying local building or construction codes. Building energy codes define the minimum requirements for the insulation, mechanical equipment, and lighting of a building in terms of energy efficiency for new construction or major renovations. Model energy codes are updated every three years at the national level in a collaborative, transparent process by a diverse group of stakeholders. When we fall behind in adopting updated energy codes, we fall behind in securing the best interests of Nebraska homeowners. Building codes play a critical role in reducing energy consumption, lowering energy bills, and reducing the nation's carbon footprint. Nearly 115 million residential households and 5 million commercial buildings consume 40 percent



of the energy in the U.S. A study commissioned by the Nebraska Energy Office found that updating the statewide energy code to the 2018 IECC, which is what this bill would do, could significantly reduce the energy use in Nebraska homes and save residents a lot of money on their energy bills. If we adopt this new code, new homeowners in Nebraska could expect to reduce their energy use by an average of 15 percent and save an average of \$191 on their energy bills annually compared to homes built today. The adoption of the 2018 IECC will ensure that prospective homeowners will be able to afford to stay warm in the winter, cool in the summer, and it will improve the health and safety of Nebraska families by increasing air quality as a result of lower demand on power generators and a reduction of greenhouse gas emissions. Building energy codes play a key role in reducing our energy costs, our nation's reliance on fossil fuels and carbon emissions, and increase the comfort of Nebraskans in their homes. It's in the interest of Nebraska taxpayers that we finally acknowledge that the benefits of improving energy efficiency to generate energy savings for homeowners outweigh the costs of building in compliance with these updated standards. Our current energy standards are 10 years older than those recommended by the International Code Council. I think that's enough time to let pass before we update

our codes again. And I think we all understand, even those who may be in opposition, that the longer we kick the can on this the more work and the more costly it's going to be for us later. So it's time to move this bill forward. Representatives from various groups that have expertise in this area are here discuss the technicalities of the energy code and some of the savings that we could enjoy by adopting it. But I'm happy to take any questions and I will do my best to answer. Thank you.

**M. HANSEN:** Thank you, Senator Hunt. Are there questions from committee members? All right, seeing none, thank you for your opening.

**HUNT:** Thank you.

**M. HANSEN:** And we will move to proponents on LB405. Welcome.

**STEVE NORDHUES:** Pardon.

**M. HANSEN:** I said welcome.

**STEVE NORDHUES:** Oh, thank you. Again, my name is Steve Nordhues, S-t-e-v-e N-o-r-d-h-u-e-s, and I am the building official for the city of Norfolk, Nebraska. And I'm also a member of the Nebraska Code Officials Association and I'm here to testify in favor of LB405. The most important element of LB405 is the, is a

continued ability of local jurisdictions to make amendments to the 2018 energy code in much the same way that they have been able to amend the other building codes that are adopted by the state of Nebraska. Not all jurisdictions throughout the state of Nebraska have reasonable access to testing methods are required by the 2018 International Energy Code. With the ability to amend these requirements out, local jurisdictions can make amendments that are a bit more restrictive than the base energy code and enhance energy conservation. As long as the ability to make amendments is retained as written in the code in 2003, I and other code officials across the state Nebraska enthusiastically support LB405. I would answer any questions.

**M. HANSEN:** Thank you. Are there questions from the committee?  
Senator Crawford.

**CRAWFORD:** Thank you, Senator Hansen. And thank you, Mr. Nord-- Nordhues. The letter from the Nebraska Code Officials Association for this talks about amending out the blower door test and amending out the duct blasting tests. Is it your-- if I understand your testimony correctly-- you are, you're OK with leaving those in as long as localities can amend them out. Is that your stance?

**STEVE NORDHUES:** Personally, yes. That would be-- and because in our, in our area we don't have access to that, those testing methods, without having someone drive a long distance. And then that increases the cost of those dramatically to have those tests done. And so that is a burden on our contractors and on the homeowners in our area. So what we've done is we did heavily amend the 2018-- or the 2009 energy code, but we enhanced it in other areas so that to accommodate energy conservation. One of the things that we don't require that others do is that a basement be insulated at the time of new construction. But when that basement is finished off we require that to be insulated to a minimum of an R18. And if, if using REScheck that could be as low-- I've seen them come in as low as an R2. That is the last time, typically, that you're going to have to insulate that basement, is when it's initially finished off. You're not going to get another opportunity for an awfully long time. So what we look for is to get that to a number that mitigates some of the other things that we don't have access to.

**CRAWFORD:** Thank you.

**M. HANSEN:** Thank you, Senator Crawford. Any other questions from committee members? Seeing none, thank you for your testimony.

**STEVE NORDHUES:** Thank you.

**MARK LOSCUTOFF:** Good afternoon, senators. My name is Mark Loscutoff, 6323 North 115th Circle, Omaha, Nebraska, 68164.

**M. HANSEN:** And could we have you spell your name too?

**MARK LOSCUTOFF:** Sure. M-a-r-k L-o-s-c-u-t-o-f-f.

**M. HANSEN:** Thank you.

**MARK LOSCUTOFF:** And I'm representing myself and my sole proprietorship company. I've been a resident certified energy rater for the past 10 years, testing and analyzing homes in eastern Nebraska and western Iowa. During that time, Nebraska adopted the 2009 energy code and Iowa adopted the 2012 energy code. As a result of Nebraska's adoption of the 2009 code, duct leakage testing is required when ducts are installed in attics or other unconditioned spaces. Omaha and other jurisdictions authorized contractors to hire me and other energy raters to test the ducts installed in new or remodeled homes. At first, some duct installers were skeptical of the need to test their work. They were confident in their ability to build tight duct systems. But when the new standard was first adopted contractors usually failed their duct leakage tests. The high initial failure rate was evidence of the need for testing. Without testing, quality is difficult to assure or measure. When a

failure occurred, I worked with the contractor to find the source of the problem, correct it, and achieve a passing result. Thus, the testing process became a learning opportunity and a quality assurance service for the contractor. Today, the initial failure rate is around 10 percent. Failures are due to human error and the learning curve of new workers. Contractors do better quality work when they know that their quality will be verified with an objective testing process. Since Iowa adopted the 2012 code, I have tested the tightness of ducts and building envelopes of many new homes in Pottawattamie County. The failure rate on the first try is around 20 percent. I believe this relatively higher failure rate is because the 2012 code is still relatively new to those contractors. Contractors are learning what they have to do to achieve passing scores. I support LB405 because it will update Nebraska's energy code the latest standard. It will improve the quality of the homes that will be lived in for generations. It will reduce the export of dollars that currently leave the state to pay for energy. It will reduce air pollution and it will provide healthier, more comfortable, and cost-effective indoor living environments for Nebraskans. I'd be happy to answer any questions.

**M. HANSEN:** Thank you for your testimony. Are there any questions from the committee? All right, seeing none, thank you.

**TYLER GLESNE:** Hello again. My name is Tyler Glesne, T-y-l-e-r G-l-e-s-n-e. I'm here representing ASHRAE, the American Society for Heating, Refrigeration and Air-Conditioning Engineers, specifically the Nebraska Chapter. One thing I might point out about ASHRAE is our past society president is actually our own Tim Wentz here from University of Nebraska. He wishes he could be here as well, but he's doing international work still with ASHRAE. LB405 is much more near and dear to our heart because it updates the energy code, which is actually based on a national standard, 90.1, first created in 1975. This code is also updated every three years, and actually there's a U.S. federal law that mandates at the most recent, recent version of standard 90.1 as a basis for a commercial energy codes. They also want to enforce that that is updated in all states, municipalities, and codes for every three years. So we're a little behind on that. But I would like to point out kind of the, the benefits of the energy code as well. The Vandermusser study which has been done evaluates the energy usage residentially and has showed a 15 percent increase in energy. I'm sorry-- an increase in energy savings when these are being actually enforced. I will point out that, because I knew that blower door might be kind of a sticking point with this code, but really you're talking about enforcement there. You're talking about things that are done

once behind the wall very quickly that you'll never see again. This blower door actually proves that this codes and these standards are being enforced when, you know, 90 percent of time the building inspector is not going to be there. So I really do encourage to not overlook that step as an easy way to pass this bill because it is very important. There are so, so very few ways to enforce codes with these and actually be accountable for it. I could say that reputable builders are already doing these advanced things to their buildings because they represent the value it adds. The most detrimental thing will be a further delay of this energy code. It would be much too much of a shock to this industry if we waited another three years and then another strange version of this code comes out. It should be noted that really there's only been one major change update and that was for 2012. All the other updates since then have been very minimal. So it only takes every decade or so for another one to just come out to try to do some kind of large and meaningful energy reduction. So I really encourage us to be on the boat now. Otherwise it would be much more difficult later on. What can our building owners anticipate with these energy code updates? They can experience reduced energy and operating costs. That should be pretty clear. But they could also experience lower utility costs on a wholesale energy prices due



to peak energy or demand reduction. Right now, Omaha is talking about closing a bunch of power plants. You only build power plants based on your peak production need, not your average. So the more efficient these buildings are, the more they can manage these peaks and the less power plants we have to build overall. Like I said in the last testimony, the biggest and cheapest way and cleanest way to reduce our energy production is to reduce our usage. And a consistent, simplified code system makes all of our jobs easier. I'm a professional engineering and building energy assessment professional. Making these things consistent and match along with the building codes is very important. I'll end there, if there's any questions.

**M. HANSEN:** All right, thank you for your testimony. Are there any questions? Senator Brieese.

**BRIESE:** Thank you, Chairman Hansen. Thank you for being here. Couple of questions. This code we're talking about, if it's hard copy, how, how big is it?

**TYLER GLESNE:** Sorry?

**BRIESE:** How voluminous is this code.

**TYLER GLESNE:** How voluminous is the energy code?

**TREVOR FITZGERALD:** It's actually this one, Senator.

**TYLER GLESNE:** Yeah, there you go.

**BRIESE:** OK. Very good, thank you.

**TYLER GLESNE:** I can tell you the standard that builds that code is about actually the same size. I have to deal with it regularly.

**BRIESE:** And the changes from the '09 code to the '18 code, how significant are they?

**TYLER GLESNE:** In the grand scheme of things, I would say not. Luckily you've had the resources. That Vandermusser study I recommended is for Nebraska. So the study has been done. The results are in if you really want to see, and that's just on the residential sector. You can see why I think almost all commercial builders organizations and professionals will support this code reduction because it makes sense and it allows them to utilize those new opportunities. There is a give and take on the energy code as far as energy as well. There is a lot of things that actually reduce energy usage by, say, reducing ventilation rates. Old ventilation rates were just based on old standards and found to be way too high. So they've reduced those. So it's

a lot of common sense that comes with this new energy code as well.

**BRIESE:** OK, thank you.

**M. HANSEN:** Thank you, Senator Briese. Any other questions?

Seeing none, thank you for your testimony.

**GENE KNAGGS:** OK, my name is Gene Knaggs, I've from the Kearny area. That's G-e-n-e K-n-a-g-g-s. The information I bring is really a long talk, so that's why I put everything in in paperwork. But I'm gonna hit the brief points. Last summer, the Department of Energy gave a grant to do a field study for the 2009 Energy Code. And what they did is they went out to Nebraska, they did several hundred homes. They did blower doors, duct blasters, insulation inspections, they just do the whole general overlook to see how we're doing. And then they put all this information into a, like a PowerPoint slide, and stuff like that. And in my paperwork there I do have reference to where you guys could get this PowerPoint slide. And I'm sure the Energy Office would more than gladly explain what's in there. But two slides pull up red flags. And that's on page 8 and page 9. One is the building envelope test, that's the blower door. And the other one is the duct leakage test. And I'm trying to do a building science point of view of this. So if we look at the old

code, the 2009, it says that building envelopes can leak up to not seven air exchanges an hour at 50 Pascals. Basically, just stick a fan in the door and see what reading they got. The 2003 code, which is substantially tighter, is three air exchanges an hour at 50 Pascals. Well, then if you look at what required for a continuous ventilation, anything tighter than five air exchanges an hour requires some kind of fresh air to come into your home. Well, let's look at where we're at for 2000, where we are building. That study showed, which is page 8, that slide shows we are building houses at 2.4 air changes an hour. That is way beyond even the '18 code. So we're building our houses extremely tight by yet we're still ventilating them on the 2000-2009 standards, which does not require ventilation strategies. And this year's with the flags it brought up: Number one, moisture. When you build tight houses, the way you get moisture out is of course you bring fresh air into your house and dilute that, dilute that moisture down. Well, we build tight houses. Guess what? We don't bring in the fresh air, our moisture slowly builds up. You know, it comes from, you know, cooking, bathing, whatever, but it also comes through the slab floor, the walls. So we have to get rid of this moisture or what do we got? Mold. That's a good start of mold. OK? And the next issue, even though this is the other bill, radon. We build these tight homes, just

like moisture coming from a slab, radon is coming in the same way. Well, we're not getting in the fresh air to dilute this radon that's coming in. Older houses do a better job of this because they leak more and they have higher energy bills. But with proper ventilation being brought into these homes, that also is another piece of the puzzle of the radon issue that we need to solve. And then the last main concern, the red flag, carbon monoxide poisoning. Nebraska ranks one of the top states for carbon monoxide poisoning per capita. Well, if you look at our numbers that they did, blower door and stuff like that, you can see why. You got these tight envelopes in these houses. We have, a lot of them have atmospheric vent appliances, which use - heat rises, the stack effect, to take heat up the chimney, which is not a very strong force. But then we have all these things putting negative pressures in the house. We have like three bathroom exhaust fans, we have the dryer, 150 cubic feet a minute. We have exhaust hoods, we even-- I even seen a house with power vent on the roof backdraft appliance. So we got all these negative pressures in the house and then it comes to that next slide, slide nine on page nine. It talks about the duct leakage. In Nebraska, our duct leakages are twice as high as what they recommended. So what this high duct leakage does is cause pressure differences in the house. Most likely negative

pressures around the furnace room, that's basically where our water heaters are at. And then you have all these exhaust fans activity going in the house, creating more negative pressure. Well, you can see why we could have a carbon monoxide issue. And we're setting ourselves up for a potential disaster somewhere. OK. So if, if you look at how we're building our houses, we're building houses very tight. We really need to align our ventilation codes with these strategies. And you can see in there--

**M. HANSEN:** Sir, I will see your red light is on. So if you can give us your final thought.

**GENE KNAGGS:** All right, final thought. You can see in there, aligning our, our ventilation code which is in the 2018, because they're designed for a tight envelope. Our 2009 are not. So if we align our codes up appropriately, we'll solve a lot of these issues.

**M. HANSEN:** All right. Thank you for your testimony. Let's see if there's questions from the committee. All right, I see none. Thank you for your time.

**RICHARD HAUFFE:** Richard Hauffe, R-i-c-h-a-r-d H-a-u-f-f-e, Sioux Falls, South Dakota, representing the International Code

Council. I just wanted to sort of follow up on what Gene was just talking about, and that is the correlation of codes. Earlier, I said ICC is responsible for 15 different codebooks. They're really one code. They talk to each other. A big part of the process of building these codes that they all make references throughout. It's a technically boring document but they, they, they, they talk to each other. And when they get, and when you have a code that's 10 years old-- and actually it's older than that because the steps to building the 2009 code actually started in 2006, 2007. It was published in 2008. Just like right now we're in the 2021 books. And we're in the second half of the codes coming out in 2021. They're going to be published next summer. So it's, it's, you know, that this is a code that really needs to be updated. And it's really for the benefit of builders and for homeowners and building owners everywhere. There is a criticism about initial costs with the energy code. Compared to the cost of the overall structure, it's a minimal cost. But just wanted to also say that the experts in debating energy code over the years will say that those are costs that pay, get paid back in energy savings over a period of about, anywhere from five or even seven years. But you're looking at a 30-year mortgage. That's money back in the pocket of your constituents, the homeowner and or the commercial

building owner. And so it's, you know, you're, you're producing savings when, when you update the code and make it competent with the other codes that are, that are going to be on your books. Final thought is the reflection on infrastructure. You know, somebody had asked what's, I think Senator Arch had asked what happens if you don't update your codes. What's, what's bad about that? And what it, what it says. I think what it says if you're a prospective employer, you're coming to Nebraska to locate Lincoln or Omaha or Papillion, what code are you at? You know, if you're bringing in employees, you know, what are the codes you're gonna build churches and schools to and homes that your employees are going to be making lifetime investments in? And if you're building according to codes that are antique or out of date, that, I think that says something about infrastructure in general in a community. So I think Nebraska with its shining light, the Unicameral, which I think is the best set up for a Legislature anywhere, is, is, you know, it has, has a chance here to get back into the fold and continue to being that guiding light. Last thought, curb appeal used to be the thing that people watched out for in home construction. These days-- and I'm working with a lot of millennials because we're trying to get them incorporated to become code officials someday-- they look to the International Green Construction Code



and they look to the energy code because it's about sustainability and it's about performance. That has equal importance, if not more importance in their mind. So when you build for the future, you're building according to what they can afford, what makes them a good credit risk with the bank. And the energy code goes a long way to preserving that affordability but also the integrity of the structure. Any questions? I beat the red light.

**M. HANSEN:** Perfect. All right, are there questions from the committee?

**RICHARD HAUFFE:** Thank you.

**M. HANSEN:** Seeing none, thank you.

**DAVID HOLTZCLAW:** Dave--

**M. HANSEN:** I just said welcome.

**DAVID HOLTZCLAW:** Thank you. Thank you. David Holtzclaw, D-a-v-i-d H-o-l-t-z-c-l-a-w, 5005 Chicago Street-- still in the best district in Nebraska-- Omaha, Nebraska. Thank you for allowing me speak today. And thank you to Senator Hunt for sponsoring this bill. Again, I'm licensed Nebraska engineer that's specializes in building science and building forensics. I have

done testing on over a thousand residential properties and over 100 commercial properties, both in Nebraska and across the country. I am hired by building owners for three primary issues: comfort issues, moisture issues, and high utility bills. From my experience, from my experience, 70 percent of the time, when one of these issues is properly solved, all three of them are solved because these issues are interrelated and intertwined. Same size as a piece of paper. Allow you to flip over that first page to look at first figure 1. This is a recent residential single-family house that I visited in western, western Omaha that was having moisture concerns. They were getting spots on their ceiling on a second floor and around their duct vents. What you see in the first picture is condensation on the vents. You go up in the attic, you see moisture and frost on the roof sheeting. So what's happened is air leakage through the main conditioned space leaks into the attic space, it condenses, turns to liquid, turns to frost, where it drops down on the drywall, where it starts to degrade the drywall and turn the mold. And this is a very common problem. And so far, in 2019 alone, I've been to eight residence like this. All eight had a similar problem. Six of those eight were built to the 2009 energy code. This isn't just common, this is epidemic. And this doesn't just happen in residential sector. This happens in the commercial sector, but

typically with buildings with large storefront windows. I've done testing on two commercial buildings so far in the last three months. Same issues: water leakage through storefront windows. What's key for you understand is that the energy codes are not just made for natural resources and lower utility bills. They're also built integrating with the other codes for building safety, healthy, and more resilient. More recently I've been called by building owners and homeowners on new construction. These are performance issues that have not been seen in the past. What's, what is seen-- what I am seeing in the marketplace is though our building codes are a decade, our energy codes and some of our building codes are a decade old now, our designers and contractors are using state of the art construction materials and which are more sophisticated and designed to meet the more current codes. Sometimes this leads to confusion and very improper building science. Look at figure 2. This is a wall segment of an outpatient medical building that is currently under construction in Nebraska. Where the architect and the contractor miscommunicated and this wall assembly has two vapor barriers. I'm not gonna go into details of what that means, but that's bad. OK? And had I not been on-site doing commissioning in this building, that would have not been found and this outpatient medical building would have potential for biological

growth in those walls. Buildings today are complex. Our materials are more complex, they're interconnected; their systems, controls, everything is integrated, high-technical machines. Our building codes and energy codes needs to keep up for the general welfare, the safe-- for the general welfare and public safety. Thank you for your time.

**M. HANSEN:** All right, thank you for your testimony. Any questions from committee members? Seeing none, thank you.

**JAMES HARPER:** My name is Jim Harper. James Harper, J-a-m-e-s H-a-r-p-e-r, 4203 Springview Drive, Grand Island. And I'm testifying in support. I am a certified energy, commercial energy plans examiner. I certify building, built-- building inspector, building official, and a professional engineer. Doing, as I mentioned in my previous testimony, we do a lot of work with the existing buildings. I'm speaking from the position of a code enforcement person now, although I am retired. So probably 80 percent of what comes through is an existing building. And what I want to point out is the energy code has provisions for dealing with alterations, additions, repairs, change in occupancy, things of this nature without requiring the entire existing building come up to current code. Obviously, that's recognized as being impractical. You can make, just for

instance, an addition. You can just do an addition that complies with the energy code and not make the existing building comply with the energy code. Another approach mentioned in the codes is you can evaluate the whole building with the addition and the existing building, and if it complies with the code that's also a way of complying. Kind of makes sense. And there's a number of those scenarios mentioned in the energy code that don't force us to go back and, and completely revamp our existing building stock. So I wanted to make note of that since it is about 80 percent of the work we do when we enforce codes is on existing buildings. One comment on the blower door test. I think it's probably appropriate. I don't see it necessarily as a problem. There, there's a provision in the code that says you don't have to use a, a certified agency to perform the test. And there's probably some work-arounds that can be done at the local level to, to work around on that. Another thought I had us on manufactured housing. I could see where if you're in a factory environment where there's quality control manuals in place and procedures, maybe you run a blower door test on maybe when one of the units or two and establish that you are meeting the, the leakage testing for the building envelope. And that's good enough. You don't do it on every unit that gets shipped out the door, or maybe you do it intermittently. But that might be a

work-around, something that kind of gets down in the weeds on how do you handle the blower door test. But I know there is concern about the blower door test within the enforcement and regulatory industry. But I think it would be OK. That's my testimony. Any questions please?

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

**DAVE JOHNSON:** Afternoon, senators. Dave Johnson, D-a-v-e J-o-h-n-s-o-n, 800 P Street, Suite 203, Lincoln. I'm here representing AIA Nebraska. We are in support of this bill. In 2006, AIA National kicked off the 2030 commitment, which is a carbon neutral commitment by 2030. Meaning that all buildings designed by AIA architects would be carbon neutral by 2030. We are halfway there. And statistics have shown in the latest thing I just looked at on my phone that by 2018 AIA is estimating that we're about 70 percent there actually. But we're only 50 percent there in time, so we're making great strides. We feel it's important that codes be updated, like I said before, but also that the code in its entirety be updated and not to pull out specific sections. I'll point out really in all four of the building code bills, item three in all four of them talk about a nonconforming building code as one that a local building or

construction code, which includes a prior addition of any component or combination of components. So that right there is saying that a municipality cannot do that and have a compliant building code. But what we're really saying by not doing this bill is we're going to adopt '18 if that goes through, but you can still use 2009. And I agree that, you know, that is a 10-year-old code now, there are some changes. It is going to hurt in some regards. I get that. But I think it's the right thing to do for the environment and the community and to further the health, safety, and welfare of our community. Thank you.

**M. HANSEN:** All right, thank you for your testimony. Any questions?

**ARCH:** I have a question.

**M. HANSEN:** Senator Arch.

**ARCH:** Please help me understand, what is carbon neutral?

**DAVE JOHNSON:** That's a, that's basically, that would basically be where you're putting off less greenhouse gas. So 70-- carbon neutral is being defined by AIA in 2006 as a 70 percent reduction in the greenhouse gases that a build, building puts off. So from where it started in 2006 to where--

**ARCH:** Oh, there's the neutral.

**DAVE JOHNSON:** We're hoping to be in 2030.

**ARCH:** 2006 is the neutral.

**DAVE JOHNSON:** Yeah, 20-- a 70 percent reduction by 2030.

**ARCH:** OK. Thank you.

**M. HANSEN:** Thank you, Senator. Any other questions? All right, seeing none, thank you for your testimony.

**DAVE JOHNSON:** Thank you.

**LASH CHAFFIN:** Good afternoon. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, staff member at the League of Nebraska Municipalities. And on behalf of the League I'd like to offer my support to on LB405. And it doesn't deal with the content of the bill but I'd like the committee to understand, first under Senator Brock-- or not senator, but Director Bracht, and under Director Macy, how immersive the stakeholder process has been with the Department of Energy on building code enforcement issues in general and kind of leading up to, to building code adoption. And it's been very-- it's, it's been very fascinatingly interesting, but I don't think there's any possible stakeholder out there who can say that they haven't



been invited to participate in energy code discussions in Nebraska at this point. And the, the process has been very persistent. And I think what it, what it shows us today that the process has been a productive process. And I think the League members do appreciate the outreach from the Energy Office in trying to bring our members up to speed on how important the energy codes are and then also, you know, their side issues, and I think that the issues being discussed about how the codes interrelate, I'm not sure five years ago people understood that as well. And it's a very, you know, vital issue that, that really needs to, to be-- the codes need to-- they sync together and that's something that's very important. And I don't know that the League members understood that. And increasingly through stakeholder outreach we're starting to understand the importance of the energy code and how it relates to the other building codes as well. So I'll certainly answer any questions. Thank you.

**M. HANSEN:** Thank you. Are there questions? Seeing none, thank you for your testimony. All right, are there any further proponents on LB405? Seeing none, are there any opponents to LB405?

**DENNY VAN MOORLEGHEM:** Well, good afternoon. My name is Denny Van Moorleghem, V-a-n M-o-o-r-l-e-g-h-e-m. I am here representing the ENDC, the Eastern Nebraska Development Corporation, which is a group of land developers, homebuilders, and some commercial contractors in Omaha. We're thinking-- most of the Omaha building jurisdictions are still on the 2009 code, and they've adopted and amended the different code upgrades, building code upgrades, to stay on the 2009 code for a reason. It makes sense, it represents the wishes of our homeowners. In reality, that's what we have to do is speak for our homeowners. Excuse my voice today. The standards of the 2009 code are accepted, they're affordable, and rarely do we have a homeowner who upgrades when they look at return on investment and where their dollar is going. As we, as we go through the process on the code, on the code level, the next step, the blower door test and all the other things, would take the price of the house up to the point that it would make, make them less affordable. With new housing costs going up about 8 percent a year, that's roughly \$20,000 a year on every house. This, this impact, whether it's \$500 or \$2,000 for the cost of this code would, would take away some of the affordability and force more and more buyers not to be able to own a new home. The payback over time, sure that happens. I understand that. But they have to move into the house first. And

so based on that fact, and the fact that we have very few warranty concerns, we do have-- we build about 60 houses a year, the company I work for-- and we have problems primarily with the houses being too tight. Which develops, as some of the other people have testified, issues with, with drywall and the ceilings and that. Usually those issues are caused by the homeowner or some oversight in the construction process, so but we go in and we fix those. So we don't have any problems with it, the homeowners are happy with it. Every house in the Omaha area has to, has to submit program-- has to conform to the REScheck building program. And so we go through a set of numbers and a set of standards and we design each house based on glazing area, based on where we want to spend our money for insulation. But that house has to, and that program and has to pass or we don't get a building permit. So we're controlled on the number side for what we're developing to building to our, building to our buyers. So basically this is this a common-sense approach. It's, as I said, there's, there's reasons why we stayed with the 2009 code. Do you have any questions?

**M. HANSEN:** All right, thank you. Are there questions? Senator Briese.

**BRIESE:** Thank you, Chairman Hansen. Thank you for being here. You talked about this increased cost to construct on account of what the new code would create. You mentioned \$500 to \$2,000. What price point houses are we talking about here?

**DENNY VAN MOORLEGHEM:** OK, so good-- to give you an example. Our standard 1,700 square foot ranch five years ago was about \$280,000 and today it's \$350,000. That's what's happening with the price increases. So we can't deliver, and most builders in Omaha-- unless you're production builder-- can't deliver a house under \$300,000 today no matter what we try and what we take out.

**BRIESE:** But you suggested adoption of the '18 code would increase your cost, or would increase the cost versus the '09 code, correct?

**DENNY VAN MOORLEGHEM:** Yes, it will. So unless it's amen--

**BRIESE:** On that typical home, what would that increase be?

**DENNY VAN MOORLEGHEM:** I don't exactly know. It depends if the blower doors-- the blower door test as I know it is about \$500. And if we get the houses too tight we have to go to air-to-air to air heat exchangers. We're about at that point right now. All of our furnaces are vented to the outside and so the houses are

getting tighter and tighter. As, as I said, if we have a warranty issues, it's on the houses being too tight today.

**BRIESE:** OK.

**DENNY VAN MOORLEGHEM:** OK.

**BRIESE:** So there might not be an increase on every house we're talking about here?

**DENNY VAN MOORLEGHEM:** No, well the blower door test would be-- we're blower door, were test-- duct testing two story attic. Anything that's not in a conditioned space right now.

**BRIESE:** OK.

**DENNY VAN MOORLEGHEM:** We know all the houses. So my, I have no idea really, would it be it depends what-- how it would, how it would be amended it. My guess is it would be \$500 to \$1,500 but I don't know that.

**BRIESE:** You think a minimum of \$500 on every home?

**DENNY VAN MOORLEGHEM:** Yeah, I'm sure.

**BRIESE:** And on up from there. OK, thank you.

**M. HANSEN:** Thank you, Senator Briese. Are there other questions?  
Senator Crawford.

**CRAWFORD:** Thank you, Chairman Hansen. And thank you for being here. You mentioned the blower test as one difference between '19 [SIC] and '18. Is there any, are there any other specific changes that you see that add cost or is that the main one that you're concerned about?

**DENNY VAN MOORLEGHEM:** Well, that's, that was, that's what's talked about the most even today. But also back in Omaha that's what's talked about. There aren't enough people to do the work for one thing, and then anything that's going to tighten the houses up more will probably lead to air-to-air heat exchangers. OK? Which take the outside air and condition it and bring it back in. So those two items there. As I know it, an air-to-air heat exchanger is \$1,000. You might be able to do it cheaper than that. OK? So but there's also an increase in other standards.

**CRAWFORD:** Thank you.

**M. HANSEN:** Thank you, Senator Crawford. Any other questions?

**DENNY VAN MOORLEGHEM:** OK, thank you.

**M. HANSEN:** Thank you for your testimony.

**JERRY STANDERFORD:** Good afternoon, Senator Hansen, members of the Urban Affairs Committee. My name is Jerry Standerford, J-e-r-r-y S-t-a-n-d-e-r-f-o-r-d, 14711 Industrial Road, Omaha, Nebraska, 68144. I'm a longtime Omaha homebuilder. I've been building single-family houses in Omaha for over 40 years. Like Mr. Van Moorlegem, our companies build between 60 and 80 houses a year. I have, am here in front of you today on behalf of the Metropolitan Omaha Builders Association and our coalition with the Home Builders Association of Lincoln. Together, our two organizations represent over 1,000 members. And the majority of our members build single-family homes. They're single-family area lot developers and they represent the houses that you and I and everyone else that buys a single-family residence. So I really am not going to speak, or I'm not qualified to speak as to the commercial of the IBC, how it's affected. The IRC, the I codes, I can give you a little history of the-- the I codes, if you're not familiar, came out initially in 2000. When they came out, the ICC sent out a packet of out to, to each jurisdiction how to adopt the codes. That the I codes they stated in there, that the I codes were meant to be adopted with amendments locally. And to my knowledge, every time, at least in Omaha, that a new code has been adopted, we've met and amended that.

I've been part of the adoption committee since 2000 with the city of Omaha. We've worked with various other jurisdictions. In Omaha we work with the-- in Douglas and Sarpy County there are seven different jurisdictions that we work with. Omaha, like has been said here before, their building code is in 2006, or the 2015 in Bellevue, we're the 2012 in Papillion. But we're all on the 2009 energy code. We often hear a lot, and you would think-- if you think back about how progressive the state of California is and how they often claim and people acknowledge that they lead the way in energy codes, there's been several studies done about the energy codes and how much energy they actually have saved in the state of California. I didn't bring the 40-page document, but it's-- there was this paper that was provided from Professor Andrew-- Arik Levinson from Georgetown about the, maybe, and he shows in single-family houses the energy code has not produced all of the grand savings overall. That it is not responsible for any reduction in electricity in the state of California. This paper was written in 2014. I'm sure that we were-- and I don't know what energy goes, and I'm not much more familiar with the California than, than just these papers. But I would say to you our experience has been that as we keep adopting codes, we keep moving up, we didn't, we didn't oppose the 2018 building code. We're very familiar with how to adopt



that. And I know that this code can be adopted. But I can tell you that it takes a lot of work to amend and adopt the amendments of a building code. This is not just to sit down and we'll do like somebody else did. And I would say to you that there are many jurisdictions in the state in Nebraska that don't have the ability, don't have the financial ability, the technical ability to adopt these codes. So whatever we put out here is what they're going to have to live by and the costs that go along with that. I would also say that for single-family housing, I read the introduction of the bill or maybe even the intent of the bill, and I think that I wouldn't disagree that people should have a reasonable expectation of what their energy usage should be in a house. But that's really, really readily attainable by the HERS rating. A HERS rating is a rating that many of these energy raters put, put on a house. Oftentimes it's advertised with the house. And I would remind you that the energy code, as well as the other building codes, are the minimum requirement. There is nothing stopping anyone in a 2009 jurisdiction, and many people do, many guys do go way beyond the 2009 energy code. They build it, they market it, they include it in the price of their house. I can just tell you that our houses are getting more and more and more expensive. If you notice the article in the Omaha World-Herald a few weeks ago, about for the

first time in history way more houses have-- or way more single-family residences have been provided in east Omaha than in west Omaha. Those are apartments. There's a reason, and it's, it's not always people move into those apartments because they want to live in downtown Omaha or next to the river or-- it's because it costs. And as we keep pushing up the cost, we can figure out a way to work that. We can figure out a way to design it and work with the 2015 energy code where the '19 or the '18 or whatever you want to put in front of us.

**M. HANSEN:** All right, sir.

**JERRY STANDERFORD:** It's just how much it costs.

**M. HANSEN:** You're at your red light.

**JERRY STANDERFORD:** Thank you. Darn red light gets me every time.

**M. HANSEN:** All right. Any questions from committee members?

Senator Briese.

**BRIESE:** Thank you, Chairman Hansen. Thank you for being here. Are you suggesting that there aren't going to be any returns to the homeowner from these additional costs that we're talking about from these upgrades? From these, from the new code?

**JERRY STANDERFORD:** I can't say there will be no returns to the homeowner. It's just that at what length the payback is there and how much additional costs, per the additional costs that it takes.

**BRIESE:** You're not in a position to speculate on the length of the payback?

**JERRY STANDERFORD:** I think it's all speculation.

**BRIESE:** And we are talking about, based on what the last testifier said, we're talking about additional costs of a fraction of 1 percent of the total value of the home, correct?

**JERRY STANDERFORD:** Possibly. I think it's more than the \$500 or the \$1,500 when it comes down to putting it out there. You know, it isn't just the code, isn't just the higher cost of the, of the blower door tests. You know, we add the extra days of construction on top of that. It doesn't cost nothing for those houses to not be moving forward. We talk about the extra, the soft costs, the overhead, the sales commission that's added onto that. We talk about increased costs, I mean, increased taxes to the homeowner. Often those things are overlooked. And not always are these costs associated with the appraisal. So now we have

the appraisal part because the house across the street didn't cost as much.

**BRIESE:** OK, thank you.

**JERRY STANDERFORD:** Thanks for your time.

**M. HANSEN:** Thank you for your testimony. All right, are there any other opponents? Seeing none, is there anybody that wishes to testify in neutral?

**NICOLE WESTFALL:** Good afternoon. My name is Nicole Westfall, N-i-c-o-l-e W-e-s-t-f-a-l-l, and I am a building policy associate at the Midwest Energy Efficiency Alliance, also known as MEEA. MEEA is a member-based nonprofit organization that has worked in a number of states in the Midwest to provide, among other things, technical assistance to policymakers on the benefits of an efficient, efficient building energy policies. We have worked in Nebraska since helping to launch the Nebraska Energy Code Compliance Collaborative in 2013. I would like to take some time to share with the committee our experience and expertise regarding the benefits states in the Midwest have seen as a result of updating their energy codes, and demonstrate the potential benefits for Nebraska builders and residents. So first, the 2018 IECC has proven to be cost-effective, save

residents money, and reduce energy use over the life of a building. And this is true for both commercial and residential buildings. Additionally, insulation and window efficiency improvements in the 2018 IECC will result in the construction of more resilient buildings that improve occupant comfort.

Efficiency improvements will allow buildings to maintain comfortable temperatures for longer periods of time. And the importance of this is increasingly clear, particularly in the wake of extreme temperatures brought on by the polar vortex recently. And the most cost-effective time to install these measures is at the initial construction of the building.

Additionally, performance tests of the building envelope like blower door tests included in the 2018 IECC will allow builders to know the tightness of their homes and help address the potential of health and indoor air quality issues arising from homes being underventilated. And removing these requirements makes it increasingly difficult to realize the health benefits and the energy benefits of these tests. The 2018 also provides more flexibility in terms of compliance pathways, so additions like the energy, the ERI pathway allow for a HERS rating equivalent to be used as, as a pathway to code compliance. So that makes, it allows for builders to make some tradeoffs and not sacrifice efficiency of the building. Residential builders

additionally have also demonstrated the ability to meet key requirements in the 2018 IECC. Results from a completely-- or a recently completed residential baseline study demonstrated that Nebraskan builders are already meeting many of the requirements in the 2018 code, including those for air leakage and windows. And this shows that these major efficiency updates are well within the capabilities of Nebraskan builders. So to wrap up, the 2018 IECC builds on the 2009 IECC code by including key provisions that will help ensure all residential and commercial buildings are constructed to meet current standards for building efficiency, occupant health, safety, and comfort. The handouts that I've handed out to you have some more information about energy codes broadly and some benefits for our codes in Nebraska, and kind of more details about what I've just shared with you today. And if you have any questions, that would be great. Thanks again for your time.

**CRAWFORD:** Thank you. Any questions? Yes, Senator Lowe.

**LOWE:** Thank you. And thank you for testifying today. In your sheet you handed out it says that it would be saving Nebraska households an average of \$191 per month. What's the size of that house?

**NICOLE WESTFALL:** I'm not exactly sure. That's from the Vanderusser study that a couple of people have mentioned. That was commissioned by the Nebraska Energy Office. I can definitely find that information for you. But the link to that, or the-- it should be referenced in that testimony as well.

**LOWE:** OK, and--

**NICOLE WESTFALL:** I think it's just an average, the average size home in Nebraska.

**LOWE:** And can you tell me what the cost would be if this was not implemented? How much more implementing this energy provision would be than just the normal house that would be built according to the 2009 codes?

**NICOLE WESTFALL:** I guess, the cost to homeowners is that, is that the question?

**LOWE:** The final cost to the homeowner.

**NICOLE WESTFALL:** Well, I would imagine that would result in homes being built to the same efficiency standards that we have today. So there probably wouldn't be a cost increase to homeowners. It would depend on the fluctuations in energy costs. And improving the efficiency of the home definitely would help

stabilize the energy use in the home, so their less vulnerable to changes in energy costs. I couldn't say how much exactly it would cost or save.

**LOWE:** OK, thank you.

**CRAWFORD:** Other questions?

**TREVOR FITZGERALD:** Sorry, I was just finding the page.

**CRAWFORD:** Sorry about that. Any other questions? You mentioned it has added flexibility. Is there a particular part of the flexibility that you think will be valuable?

**NICOLE WESTFALL:** I think the energy rating index pathway allows for, I think, a couple of people had mentioned a HERS index, which is the measurement of the overall energy use of the home. And that this pathway allows for builders to receive this score and that's how they can comply with the requirements. There are backstop requirements that have baseline efficiency for the home, but that's their minimum compared to, yeah.

**CRAWFORD:** OK. Any other questions? Thank you for your testimony.

**NICOLE WESTFALL:** Thank you.

**CRAWFORD:** Anyone else testifying in a neutral capacity?



**CHRIS BURGESS:** Good afternoon. My name is Chris Burgess, I am with the Midwest Energy Efficiency Alliance as well. I just wanted to pass around some information and perhaps answer a couple of questions that have been raised here. To Senator Lowe's question of the size of the homes that were in the Vandermusser study, there were four homes included in the study and the models that they ran, ranging from 1,453 square feet to 2,932 square feet. That's on page 14 of the study if you look it up. The other point I wanted to address was some of the costs and paybacks that have been discussed. I've sent around the Pacific National Laboratory study specifically for Nebraska on cost for between 2009 to the 2015. But 2018 hasn't been, the analysis hasn't been completed, but there are, as people have testified, very slight changes between the '15 to the '18. So I will point to page 2 which lays out the lifecycle costs and simple payback periods homeowners can expect, as well as some other things. I will note that they say that it is cash flow positive in the first year for the homeowner. The increased cost that's rolled into the mortgage, the increase of the mortgage cost compared to the energy savings, it's net positive in the first year for the homeowner by the amount of \$362.

**CRAWFORD:** I hate to interrupt you. Could I just have you spell your name for us please?

**CHRIS BURGESS:** I'm sorry, Burgess, B-u-r-g-e-s-s. The other thing I'd like to point out on that lifecycle cost, it's almost \$6,500 to the homeowner over the course of a 30-year mortgage on that. The last thing I wanted to point out is on page 9 which were some assumptions that were made. The Pacific Northwest National Lab has estimated what the increased cost in capital costs of the energy code would be for different types of homes. But for a single-family prototype home and those homes they look at are 2,400 square foot homes, is hovers around \$1,400, \$1,500 in the increased capital cost. So that's what's rolled into that mortgage analysis that I talked about earlier. That's it.

**CRAWFORD:** Thank you.

**CHRIS BURGESS:** Okay.

**CRAWFORD:** Any questions? Thank you for your testimony.

**CHRIS BURGESS:** Thank you.

**CRAWFORD:** Anyone else wishing to testify in a neutral capacity? Do we have any letters?

**TREVOR FITZGERALD:** Yes, we do.

**CRAWFORD:** Sorry, one minute. OK. Just reading letters into the record. We have letters of support from American Chemistry

Council; the poly, Polyisocyanurate Insulation Manufacturers Association; Mark Loscutoff; and support also from Mary Ruth Stegman; the Nebraska Code Officials Association; Lifetime Home Services; Tim Fickenture [PHONETIC], the city of Lincoln. And neutral, we have a letter from the Nebraska State Home Builders Association. With that, we'll close-- we'll allow you to close is what we'll do now.

**HUNT:** Thank you. I want to say I'm so happy to see that there's as much passion for energy codes and the testifiers that I have. And I think that we heard some really good points today, and I learned a lot too, here. I think that it would be useful to highlight for all of you senators the delayed operative date in this bill. It's July 1, 2020, which you see on page 9. And so there is some flexibility in this bill, and I think it's a great bill. It's important for us to know that outdated and unenforced energy codes can lead to buildings with poor air quality, dangerous mold growth, and rotting structures. And we heard extensive testimony about that today, so we know that's actually happening. And these things not only cost the owner more money but it leads to higher operating costs. And to me, this bill is about protecting property values, it's about protecting people's investments in their homes. It's a work force bill. It's something we can use to, to grow our state and make sure that

people know this is a place where they can have a future because they're going to be able to live in a good home. These laws exist and these codes exist to protect buildings and communities, and we're still on the 2009 version. So the point of this bill is not to make no work for, for building construction companies, for homebuilding companies. The point of the bill isn't to say, this is really easy, smooth sailing going forward, you're not going to have anything hard happening to build these houses. But it's really time for us to update our codes. It's been 10 years. And I would ask for the committee to move this bill forward. Thank you very much.

**CRAWFORD:** Thank you. Any last questions? Thank you. With that, we will close the hearing for LB405. Is LB130 next? Is LB130 next?

**TREVOR FITZGERALD:** Yes.

**CRAWFORD:** And we'll open the hearing on LB130. Senator DeBoer. Senator Hunt will be back as Vice Chair.

**HUNT:** Welcome, Senator DeBoer. I'd like to open the hearing for LB130. You may begin when you're ready.

**DeBOER:** Thank you very much. Good afternoon, Vice Chairwoman Hunt and members of the Urban Affairs Committee. My name is

Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent Legislative District 10, which includes northwest Omaha and Bennington.

Today I'm introducing LB130, which would adopt the radon resistant new construction standards. In 2017, the Legislature passed LB9, which created the Radon Resistant New Construction Task Force. The task force unanimously voted to create the recommendations included in this bill. You should already have a copy of the task force's recommendations and a list of the members of the task force in your binder. LB130 incorporates those minimum standards into the State Building Code and requires local building codes to adopt the minimum standards in order to conform generally to the State Building Code. At this point, I would like to offer an amendment which would strike language relating to local building or construction codes with minimum standards that exceed, exceed the standards adopted under Section 7 of the bill and instead replaces "exceed" with "meets." There is another technical amendment which apparently I had called an engineer by the wrong title, and that changes that title. And so thank you to Senator Bostelman, and I believe his wife, who found that and pointed that out. So with the amendment, a county, city, or village may adopt alternative minimum standards for radon resistant construction. However, a local building or construction code that does not include

minimum standards for radon resistant construction that meet the standards adopted under some, subsection 7 of the bill would not conform generally with the State Building Codes. So they have to meet them but they don't need to exceed them. The amendment also includes. The language that clarifies the licensing requirements for engineers and architects in accordance with the Engineers and Architects Registration Act. And I've passed out copies to you of AM290. We know that exposure to radon has detrimental effects on an individual's health. Section 76-3502 of the Nebraska Statutes list the following statute-- following findings, among others, on the dangers of radon. Radon is the leading cause of lung cancer among nonsmokers. The United States Environmental Protection Agency estimates more than 20,000 Americans die of radon-related lung cancer every year. And according to the World Health Organization, there is no known threshold concentration below which radon exposure presents no risk. Adopting standards that resist radon entry is vital to ensure the health of our citizens. Thank you for your consideration of this letter-- legislation, and I would be happy to answer any questions that you have. Although, if they get very technical, I will ask that you address those questions additionally to those who come after me.

**HUNT:** Thank you, Senator DeBoer. Any questions from the committee? Seeing none, thank you so much. We'll now move on to proponents for LB130. And feel free to come sit up in the front row here so we see the queue. Welcome back.

**STEVE NORDHUES:** Thank you. Again, my name is still Steve Nordhues, spelled S-t-e-v-e, Nordhues, N-o-r-d-h-u-e-s, and I am the building official for the city of Norfolk, Nebraska, and a member of the Nebraska Code Officials Association. And I'm here to testify in support of LB130. Approximately 10 years ago it was brought to the city of Norfolk's attention that the radon levels in our area were very high and that the state of Nebraska was strongly encouraging us to take steps to mitigate the problem. We immediately started to educate ourselves on what radon was and what it does. After attending several educational opportunities concerning radon, we recognized that we indeed did have a problem and that steps needed to be taken to remedy the problem. The biggest single issue we encountered was the initial cost to mitigate radon at the time of new construction. Estimates range from \$2,500 to \$5,000. Having learned that, my question was, how much does it cost resolve radon issues after a home has been constructed? The answer was \$1,000 to \$1,500. Well, that certainly did not make much sense to me. Why not just build them, build and mitigate later and potentially save

thousands of dollars? Or why not build an approved mitigation system into new construction? The last scenario is what the city of Norfolk chose. We have used the system described in LB130 and testing has demonstrate, demonstrated that it works. Not only does it work, but the installation cost without a fan is \$250 to \$300. It is so inexpensive that there is no logical reason to not install a system at the time of new construction. As an example, I know of one Lincoln, Nebraska builder that started installing the system several years ago because almost every home he was building was having to be mitigated after it was constructed. It was, as his realtor, indicated-- realtor indicated, cheap insurance. This really is an easy decision, LB130 needs to be moved forward. And I can answer any questions.

**BRIESE:** All right.

**HUNT:** Any questions from the committee? Seeing none, thank you so much for being here, Mr. Nordhues. Next proponent for LB130. Welcome to your Urban Affairs Committee.

**JENNY STEVENTON:** Thank you. My name is Jenny Steventon, J-e-n-n-y S-t-e-v-e-n-t-o-n, 15810 Timberlane Drive in Omaha, 68136. I am with the Sarpy/Cass Health Department. I'm the assistant health director and their registered environmental health specialist in Nebraska, and I am here speaking on behalf of



Friends of Public Health and the Local Health Directors. Public health has long recognized radon as the leading cause of lung cancer in nonsmokers. It has also been proven that low to moderate concentrations of radon are usually responsible for these cancers. This bill provides minimum standards for radon resistant new construction to prevent or reduce radon gas from entering indoor air and occupied buildings. In Nebraska, 18 of the local public health departments are providing radon education, testing kits, and ensuring that radon testing is available in rural areas. We have been the boots on the ground in our communities with recognition of this preventable disease for many years. An example. My health department, the Sarpy/Cass Health Department, has been educating the community about radon gas and methods to reduce exposure since 2005. We encourage measuring homes for radon gas levels and seek financial opportunities to provide homeowners with testing kits at no charge. We have tracked the results of radon testing in Sarpy and Cass County for 13 years and use this data to provide additional education and testing opportunities to communities with high average radon concentrations. Nebraska's fertile soils emit radon, resulting in Nebraska having one of the highest average levels of radon homes in the United States. One out of every two radon tests conducted in our state is elevated, which

poses health risks. Homes with an annual average radon concentration of, of or at four picocuries per liter should be mitigated to reduce radon levels. Statewide there have been over 90,000 thousand homes tested for radon. Of these, 60 percent, or 54,000 have test results suggesting mitigation based on the EPA recommendations. For the 12-month period of October 1, 2017, to September 30, 2018, there have been approximately 7,300 homes tested for radon. This resulted in 70 percent or 5,100 mitigation systems installed. LB9, passed by the Nebraska Unicameral in 2017, created a broad-based task force including large and small contractors, code officials, realtors, engineers, architects, public health officials, cancer researchers, and medical professionals. The Governor-appointed task force was charged with developing minimum standards for radon resistant new construction. The task force considered the public health risks posed by radon, feasibility of radon resistant new construction, building codes from other states, and cost and benefits of implementing various options to reduce the health risks posed by radon. The task force recommended simple, inexpensive radon resistant construction practices for new construction that would significantly reduce radon exposure and risk of lung cancer. Unfortunately, one task force recommendation was not included in this bill, allocating a

portion of fees already paid to the state for radon registration as well as additional funds be allocated to local health departments for educating the public, realtors, and builders on behalf of radon testing and mitigation. In summary, LB130 is good public health policy and would reduce the risk of lung cancer from radon gas in Nebraska. However, ideally, we would seek additional funding for radon education. Thank you for this opportunity to share information on radon prevention.

**HUNT:** Thank you very much, Ms. Steventon. Are there any questions from the committee? Seeing none, thank you for your testimony today. Next proponent. Welcome back.

**DAVE JOHNSON:** Thank you. Good afternoon, senators. Dave Johnson, Dave Johnson, 800 P Street, Suite 203, Lincoln. I'm a licensed architect. I was also one of the task force members on the radon task force. I'm here representing American Institute Architects Nebraska Chapter. We're in support of this bill. We feel that this is a great bill to be passed through. It's something that needs to be done. Radon is a very real risk to health, safety, and welfare of the people that occupy our buildings. This bill really does just affect how, pretty much houses or where people sleep. As an architect, we are building radon-- passive radon systems into most of the buildings we do with the idea that

after the building is built, which you really won't know what the radon concentration in the building is until after it's built and enclosed, that then if the passive system does not mitigate it as it needs to be, you can easily add a fan to the system and make it into an active system. We did quite a few apartments. We do quite a few HUD-financed apartments. All HUD-financed apartments across the nation have to have a passive radon system built into it in order to comply with the HUD financing requirements. So we support the bill and would encourage you to move it forward.

**HUNT:** Thank you very much, sir. Any questions from the committee? Seeing none, thank you.

**DAVE JOHNSON:** Thank you.

**HUNT:** Next proponent for LB130. Welcome back, sir.

**TYLER GLESNE:** Hello again. Tyler Glesne, Tyler Glesne, speaking in favor of this legislative bill on behalf of ASHRAE, the American Society for Heating, Refrigeration and Air-Conditioning Engineers. I just want to point out simply that ASHRAE has identified radon as an indoor air quality issue. Ongoing researches is, that it's exponential. It keeps going more and more and more. But we have put it on the danger levels same as

Legionnaires disease and Legionella. So this is an issue that I think prior building codes in general are behind on addressing, and I'm glad to see this issue bringing forward. But that's it, thank you.

**HUNT:** Thank you for your testimony. Any questions from the committee? Seeing none, thank you for being here today. Welcome, sir.

**MARK VERSCH:** Yes. My name is Mark Versch, M-a-r-k V-e-r-s-c-h. In January I retired from the Department of Health and Human Services. For 14 and three-quarters years I've been the technical specialist for the state of Nebraska as a radon, in the radon program office. Yeah, a lot of good things have been said, so I'm going to try to just add a few new and different things. And as Jenny Steventon pointed out, way more than half of the homes in Nebraska have an elevated radon level. If you have a humidity problem in your basement in Nebraska, you inadvertently-- you, you have a radon problem. OK? When we control radon with a passive system or with an active system that has a fan attached at a later time, but if you have a radon system it pulls the soil air from under the floor and vents it outside. And controls moisture vapor entry and radon. Both of those things decrease the comfort of the home for the occupants

and they, and their health problems. Whether, whether it comes in terms of mold in basements or, or the radon that we breathe. So let me let me mention that of course this was a Governor's task force. And I would assume that he was sincere about proceeding with that based on the action of the Unicameral to advance the legislation two years ago. We, we have several ways in Nebraska that we have demonstrated the need for this piece of legislation. Over 200,000 radon tests in Nebraska have demonstrated the elevated radon level. Now, what you pray probably do not know is that in the Omaha and Lincoln MLS clouds, OK, where the, where real estate professionals in the Omaha, Bellevue, Ralston, La Vista, Gretna area, in the Lincoln area with outlying communities, every time four homes are bought and sold in Nebraska in those areas one of them is mitigated. That's, that-- what that tells us is of course that this is something that homebuyers have high on their list as something that they're concerned about when they purchase a home. They're wanting to make sure that they're going to have a healthy environment for their families. The neat thing is, as Jenny pointed out in the legislation, it's only going to cost \$200 to \$250 to make this improvement. And of course what we'll get from that is a much more healthy and comfortable housing stock in the future. OK? This isn't going to solve problems in existing homes

today but it's going to give us better housing stock in the future. Nebraska has the third-highest indoor radon levels in the nation. Now, one of the groups that's going to adversely be impacted here are those niche builders who may build between 14 and 20, 22 houses a year. Many of these builders, when they consult with their buyers and they, they make plans to build those homes, this is something they want to talk about. This is something that a lot of buyers are talking to them about. They want it built in. Now one of those niche builders was on the committee. He was a member of the green council in Nebraska. He's been building this passive system into new homes for probably 20 years now. But again, there's a small group of niche builders that differentiate themselves and they'll, they'll advertise it and they'll talk about this with their clients because they know this is on people's minds. Thank you very much for the opportunity.

**HUNT:** Thank you very much. Thank you. Are there any questions from the committee? Seeing none, thank you for sharing your experience with us today. Anyone else testifying on LB130 as a proponent? Are there any opponents? Seeing none, does anybody wish to testify in the neutral capacity?

**JUSTIN BRADY:** Senator Hunt and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I'm appearing before you today as the registered lobbyist for the Home Builders Association of Lincoln and the Metro Omaha Builders Association in a neutral capacity, only because your sheet doesn't have the, the fourth deal of [INAUDIBLE]. So we started when the bill was introduced opposed. As Senator DeBoer introduced in her, in her opening, she had an amendment. With that amendment, that opposition goes away. So that's kind of where I, we kind of can mark all the boxes if you wanted me to. But I figured at some point I wanted to come up and at least acknowledge and thank her for it and explain that with that change our opposition goes away. So--

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

**JUSTIN BRADY:** --with that, I'll try to answer any questions.

**HUNT:** Any questions from the committee. Seeing none, thank you.

**JUSTIN BRADY:** Thank you.

**HUNT:** Welcome, sir.

**JERRY STANDERFORD:** Hello again. Senator Hunt, members of the Urban Affairs Committee, my name is Jerry Standerford, J-e-r-r-y



S-t-a-n-d-e-r-f-o-r-d, 14711 Industrial Road, Omaha, Nebraska.  
I'm here on behalf of myself, I guess, in this, since Justin appeared for the MOBA and HBAL coalition. I too was a member of the Governor's task force. We've worked on, I've worked on radon for years. We've done radon mitigation, our houses would not [INAUDIBLE] radon mitigation. One thing that-- I too was disappointed to see that a recommendation that came from this committee for funding for education not only to, to buyers but to the builders, the guys who put these things in, and to code officials I can tell you that within two weeks of when that, that committee adjourned last summer a building official in one of our jurisdictions tagged one of our houses because it didn't have radon mitigation. His impression was that the, the law had passed and we had to mitigate radon. If a building official isn't familiar with what constitutes radon mitigation, how is a buyer going to know that? I would also speak to Mark's comments about what buyers want and what buyers don't want. As we were doing the committee, I went back and pulled 50 houses that we closed in the year 2017. Just the first 50 that we closed. And it's important for you to know that the standard Board of Realtors contract in Omaha, Nebraska has a box that you have to check: Do you want to radon test? Do you not want to radon test? And I can tell you of those 50, those 50 houses that we closed,

18 buyers checked the box that they wanted a radon test. The rest of them did not want a radon test, did not want to move forward and it was of no consequence to them. So to eliminate or not include education in this bill, in my opinion, defeats a major part of the recommendation of the task force. And with that, I'll answer any questions you might have.

**HUNT:** Thank you, Mr. Standerford. Any questions from the committee? Seeing none, thank you for being here. Anybody else in the neutral capacity? Seeing none, Senator DeBoer, you're invited to close on LB130.

**DeBOER:** Thank you very much. I want to say thank you to everyone for the discussion today. And I want to acknowledge that I am open to a discussion about that final recommendation which was not included at this time. And maybe we can figure that out as we're moving forward. But otherwise, I urge you to pass this legislation onto the floor. Thank you.

**HUNT:** Thank you, Senator. Any questions from the committee? Seeing none, thank you very much. We have a couple letters to read into the record on LB130. We have letters of support from the Associated General Contractors Nebraska Building Chapter; support from the American Cancer Society Cancer Action Network; and support from the Nebraska State Home Builders Association.

And with that, I'll close our hearing on LB130. Thank you everybody. Next up, we have LB409, introduced by Senator Kolowski. Welcome to your Urban Affairs Committee.

**KOLOWSKI:** Thank you.

**HUNT:** You're invited to open whenever you're ready.

**KOLOWSKI:** Thank you very much. Well, good afternoon to all members of the committee. It's a pleasure to be here this afternoon to have this opportunity to talk to you about an important issue on our minds. LB409 is seeking the adoption of the 2018 design and construction codes for a variety of healthcare facilities including hospitals, outpatient facilities, and nursing facilities. The organization that produces this set of codes is the Facility Guidelines Institute in St. Louis, Missouri. Following me will be Patrick Leahy to give you more information on the organization and the process they use to compile these standards. Excuse me. I believe you've been given some of this information in your committee briefing, including a map showing which states have which version of this code by the year the code was published. I'm going to address an obvious question right off the bat. Why place this code in the statute when regulation addresses it? The regulation by the department that adopted an earlier version of the standard has

not been updated in 17 years. There are only three states that have not updated these codes to more recent versions. Why am I asking it to be placed in statute? Because architects in the state have been requesting this regulation update for five years or so, but it has not been done. We see hospital expansions and new outpatient facilities like surgical centers being built or expanded constantly. There is a problem created when the regulations do not keep up with current code, especially in a field where technology and best practices change as quickly as they do in healthcare. When the regulation is so far out of step with current building codes, it creates potential for a violation of law. It certainly presents a great deal of uncertainty for the architects and facility administrators expanding hospitals and building new healthcare facilities. LB409 would address this uncertainty and provide clarification, making it easier to plan and develop healthcare facilities. Since the introduction of the bill, we've had a good deal of discussion on the effect this bill would have on nursing facilities, particularly nursing facilities in rural areas that are barely hanging on anyway. Therefore, I am offering an amendment that makes this update apply only to the construction of a brand new nursing facility. I would not apply, it would not apply to renovations of existing nursing facilities. I would

like to think-- thank the Nebraska Health Care Association for bringing their concerns to us and working with us to reach this amendment. With that, I ask your support of LB409 and AM221. Any questions, please?

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

**CRAWFORD:** Thank you, Vice Chair Hunt. And thank you, Senator Kolowski. I just want to clarify on that last point. I'm just trying to read it quickly, the amendment. Is it just applying to one type of building or is it applying to all the, all the kinds of buildings that you're covering? The provision that you said you added in your amendment.

**KOLOWSKI:** I think I'm, I don't want to step out of my boundaries here. But I think one of the people following me would be able to answer that best because he is an architect and that, if it's a clarification question between two of these, he will have that.

**CRAWFORD:** Thank you.

**KOLOWSKI:** Thank you.

**HUNT:** Any other questions for the committee? Thank you, Senator.  
Will you be staying to close?

**KOLOWSKI:** Yes, I will. Thank you.

**HUNT:** First proponent for LB409. Welcome to your Urban Affairs  
Committee.

**PATRICK LEAHY:** Thank you. Thank you for having me, members of  
the committee. My name is Patrick Leahy, Patrick Leahy. Do you  
want my address?

**HUNT:** Yeah, let's hear it.

**PATRICK LEAHY:** OK. It's 5723 South 173rd, Omaha, Nebraska. I  
work across the state. I'm an architect and a healthcare  
planner, and I'm representing both the facility guidelines to--  
I'm a member of the review committee that develops the bill for  
the last one and the next one and also a member of the American  
Institute of Architects. So each of you have one of these maps,  
I believe, in your binder. It was handed to you some, a few days  
ago. That shows how far we're behind. Indiana is one of the one,  
of the three that currently on 20-- 2001 still, like us. But in  
2019 they're moving to 2018, so it will just be us and Alaska.  
So what we're asking is just that a change of date from 2001 to  
2018 to go with the more updated code. That's felt, that's

focused on patient care and patient safety. So that's the short of it. We spend hundreds of millions dollars a year and why are we building to an outdated code? And then there's a confusion of two other organizations, both the CMS, Centers for Medicaid and Medicare Services, but if they fund your facility you have to meet at least the 2014 or newer. And if you're joint commission accredited, which many hospitals are, they require 2014 or the newer code. I've got a few things here I'm going to mention until you don't look excited anymore, then I'm gonna stop. And you can always ask questions for more. Who is the FTI instilling guidelines to? And they're, they really see themselves as the consumer reports for healthcare physical environments. This code only applies to healthcare environments, and to Senator Crawford's question, it's going to apply for renovations and additions and new construction of hospitals, acute care hospitals, as well as outpatient facilities. But when it comes to all the words that describe retirement centers, from independent care to assisted living to long-term skilled care, there might another word that goes by, those it's only going to apply to new facilities. That's, that was the amendment that we were able to come to agreement on, which was very nice there. The FTI is independent, nonprofit expert-- made up of experts. They all volunteer their time. They cover their own expenses, or

their companies do. [INAUDIBLE]. They're focused on patient and staff safety as their guiding principles. They have a public process, they involve comment each period and review. They focus on clinical and evidence-based research, continuous improvement. They address National Patient Safety Goals. They're really a minimum standard baseline and fundamental for minimum standards. They've actually have a variety of sizes, say, for an OR. From 400, if you're doing the square foot of an OR for a simple procedure, up to 1,000 if you're doing heart surgery and you've got a da Vinci machine. And it's all based on the amount of anesthesia equipment you have in there and how far the person is, you know, knocked out. So it's the requirements of what's going on in the room that does it. If you want to achieve beyond fundamentals, they have a separate publication you can subscribe to on-line, and that one is for more, if you want to go further. There's a whole list of states, about 10 that are already gone to '18, and another 15 that are going to '18 next year. And then if you have questions, I have what changed for '18, what changed with the '14. And I have some information on who is on the committee and some of the cost implications. That's it.

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

**PATRICK LEAHY:** You're welcome.



**HUNT:** Any questions from the committee? Senator Briese.

**BRIESE:** Yeah, thank you, Chairwoman Hunt. And thank you for being here, Mr. Leahy. Why the exception for renovation of nursing homes, etcetera?

**PATRICK LEAHY:** The Nebraska Health Association asked for it. They're concerned of those, those retirement centers that are struggling financially stay in business, that any added costs whatsoever would be difficult. So through-- we first thought it would just be major additions and new, and they said it would be better if it was just new.

**BRIESE:** OK. And so that kind of leads me into the next question regarding cost. What, what does the adoption of this-- what's, what's just going to do to the cost of new construction, new renovation? And backing up a second, you said something about now we have to adhere to 2014 standards on what?

**PATRICK LEAHY:** The Facility Guidelines Institute's 2004 edition, those come out every four years, is already we required through CMS. And CMS will come out and visit your facility and, and certify you if you want to receive any funds through Medicaid or Medicare, the federal government's reimbursement for healthcare. So we're going to have to do that anyway. What happens is--

**BRIESE:** So that would encompass basically any facility?

**PATRICK LEAHY:** Any facility. And also the, the joint commission is a certifying that every hospital wants be certified by an organization. There's two of them. The joint commission does most of them, they require 2014 and newer. They just haven't got to get into the '18. I'm sure they will soon. Since it took us so long to even bring up updating this since 2001, we thought, let's go to the most current right now, instead of going to '14 and next year coming right back and going to '18.

**BRIESE:** And those requirements you just spoke of about adhering to 2014 standards, that's for new construction and renovation?

**PATRICK LEAHY:** Yes, new construction and renovation of hospitals and outpatient facilities.

**BRIESE:** So we're kind of looking at the difference between the 2014 standards and what we're talking about adopting here?

**PATRICK LEAHY:** Yeah. Well, what we're looking at is right now we're at 2000, the state of Nebraska is on 2001. Their 17-year-old standard, it's kind of, it's kind of embarrassing when they ask which one you are. It's also tough when the owner says, hey, can you look up the standard we're on, and why can't we do that? I said, because the, your accrediting organization and your, the

reimbursement organization, CMS, they require a newer one. And plus it's better for your patient safety and a number of other producers. Things that happen in healthcare we didn't even know about four years ago. And they get in the code and once, once they can. And you asked about cost. Just for general hospitals moving from '14 to '18, the percent increase that was calculated on our cost impact report was 0.1 percent. For critical access hospitals, 0.7 percent, so still under 1 percent. And for outpatient facilities, those multispecialty and primary health care facilities, 0.4 percent increase.

**BRIESE:** And that's for new construction?

**PATRICK LEAHY:** Yeah, that's for, that's for new construction or applying the codes to a building and then, you know, inflation.

**BRIESE:** And renovation also might be similar?

**PATRICK LEAHY:** Yeah, it might be similar depending on how, you know, how involved they get.

**BRIESE:** OK, thank you.

**PATRICK LEAHY:** You're welcome.

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

**CRAWFORD:** Yes. Thank you, Vice Chair Hunt. And thank you, Mr. Leahy. You said you have a short list of what's different for '18.

**PATRICK LEAHY:** Yes, I do. It's, I'll give you a top five.

**CRAWFORD:** Just a top five.

**PATRICK LEAHY:** The list gets longer than that, but I don't think you want to have to bear through all that. The first one: emergency preparedness. There is a lot more emergencies and situations that have come up with, in recent years. Number two is pre and post-procedure patient care areas. Flexibility of combining areas in the correct ratios of the number of prep for, for procedure room. And also sharing toilets versus one for each one. Getting that actually reduced so we're not overbuilding. Procedure and operating room sizes reflect the space requirements of the anesthesia team and equipment. We talked about that one already. And then sexual assault forensic exam rooms. It doesn't require one for every facility, but if you're going to offer that service make sure you have the right facility. Same with geriatric treatment rooms. If you're gonna offer it, just tells you what's the, what the minimal things you want to have in that room. And then technology rooms. That's the, those are the major, some of the major improvements for

2018. It's a lot of code-related stuff. The people who read this are architects, some engineers, and facility directors you're going to hear from next.

**CRAWFORD:** Thanks.

**HUNT:** Thank you, Senator. Senator Brieese.

**BRIESE:** Thank you, Chairman, again. And thank you once again. And going to the nursing home situation, new construction on that. So there we're talking about '01 versus '18.

**PATRICK LEAHY:** Yes, yes.

**BRIESE:** And what would the cost differential be there in any--

**PATRICK LEAHY:** You know, I asked the president of FTI if he had one of those. They had not done a cost impact. I would think that because a, a retirement center is hospital-light, they don't have operating rooms, they don't have procedure rooms, they don't have med gases, it would be less than what it is for aging care hospital.

**BRIESE:** So those percentages you quoted earlier would be less even than this?

**PATRICK LEAHY:** Yeah. I think they would be less overall. The only thing is residential care became its own volume four year, four years ago. So there was a major, there's a major improvement of having all the amenities that most retirement centers wanted. In '18 it was a minor improvement over '14. But 2001 to '14, major, it became its own book. We've got a copy of the books here, they're each about an inch thick. And there's some things that are common, they're in every book. So you can just buy the book you need for your facility.

**BRIESE:** OK.

**PATRICK LEAHY:** Does that answer your question?

**BRIESE:** Yes, but I'm a little unclear why we exempted renovation then of nursing facilities if the cost differential is that slight and that minimal.

**PATRICK LEAHY:** Well, because there is no, there's not a written, you know, developed cost implication report that we've done. I don't think anybody would have the time to read the inch book and compare construction costs and have the contractor estimate it. They're just afraid it might so.

**BRIESE:** Thank you.

**HUNT:** Any other questions from the committee? Seeing none, thank you, Mr. Leahy.

**PATRICK LEAHY:** again.

**HUNT:** And I'm going to turn it over back to our Chairman, Senator Wayne, for the next proponent.

**WAYNE:** Thank you. Welcome to your Urban Affairs Committee.

**HEATH BODDY:** Good afternoon, Senator Wayne.

**WAYNE:** I think I've seen you all day today.

**HEATH BODDY:** I think we started off pretty early this morning, didn't we? On the snowy streets. Good afternoon, Senators. My name is Heath Boddy, it's H-e-a-t-h B-o-d-d-y. I'm the president and CEO of the Nebraska Health Care Association. We're a family of healthcare associations representing proprietary and nonproprietary providers across the state. And today I'm here on behalf of our nearly 400 not-for-profit and for-profit skilled nursing and assisted living facilities across the entire state in support of LB, LB409 with AM221. And as we've already discussed, AM221 removes the requirements from the bill that would cause financial hardship for our members, especially those members that surge-- serve a large number of Nebraskans that

rely on Medicaid to pay for their care. These members are already challenged just to cover the daily operational costs of a healthcare facility, let alone funds, extra funds that would be needed to cover repairs and improvements in the physical plan. While LB409 adopts design and construction guidelines that may create a more beneficial physical environment for patients, applying these same guidelines to repairs and renovations of nursing and assisted living facilities would be financially burdensome and could serve as barriers for members needing to make those improvements. And much of that has been highlighted over the last year in the, in the news around the pressures in the long-term care space. So AM221 would ensure these guidelines would apply to new construction only for those facilities. We appreciate the efforts of Senator Kolowski and his team to work with us on an amendment. And on behalf of the members of the Nebraska Health Care Association family and those Nebraskans they serve out across the state, we support LB409 with AM221. And I'd be happy to answer any questions.

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



**DAVID KOZAK:** Thank you, Senator Wayne. Thank you, committee for allowing me to testify this afternoon. My name is David Kozak, D-a-v-i-d K-o-z-a-k. I am here this afternoon to testify in favor of LB409. I am a facility manager for CHI Health St. Francis in Grand Island, Nebraska. And this afternoon I am representing the Nebraska Society of Healthcare Engineers, who I am currently the president-elect of that association. The current design guidelines used by the Department of Health and Human Services were revised and put into place in 2001. In the ensuing 18 years we have had tremendous change in how we design and build healthcare facilities. These changes are based on best practices developed throughout the United States and come from a variety of professionals in the healthcare community. And as they pertain to design and construction of healthcare buildings and systems, they are introduced into the FGI guidelines. Adopting the 2018 FGI guidelines would allow us to build our new facilities using design philosophies that are current in providing environments that are best they can be for those who need to heal and recover. In my observation and opinion, allowing the 2001 AIA guidelines for design and construction of health, hospital and healthcare facilities to remain as our guiding design document for new healthcare facilities creates an awkward situations for design professionals and regulatory

agencies who have to review the design documents. Design professionals want to produce healthcare facilities that are the best they can be for patients and promote better healing and overall environment. The regulators who review, inspect, and ultimately approve those designs also want the best for the patient, but they are faced with trying to reconcile new advanced designs with older, outdated criteria. I believe this puts both parties in situations where they have to make subject, subjective decisions or are forced to choose a less than desirable outcome. The example that sticks in my mind is air changes per hour in operating rooms. This factor is linked directly to infections in the surgery suite. Currently, the 2001 AIA guidelines allow 15 air changes per hour in an operating room. Experts in the industry have concluded that 20 air changes per hour should be the minimum, and in some cases more air changes than that are needed to maintain patient safety. Technical, technically, the design professional could choose to design an operating room at 15 air changes per hour, which costs less but provides a less quality environment for patients. The regulatory agency that reviews this design is obligated to accept the less adequate design because our statute allows it. And I, in saying that, I work with many, many design professionals and I've not found that would suggest-- one that

would suggest we stick with the 15 air changes per hour. But I use this as an example of how everyone trying to build better healthcare facilities can be caught in an awkward situation with the old and outdated 2001 AIA guidelines. In ending, I want to reiterate my support for my chapter, and my chapter's support of LB409.

**WAYNE:** Thank you. Any questions from the committee. Senator Arch.

**ARCH:** I have a question about why. Why, why have we been 17, 18 years with, with 2001? What has prevented us updating between then and now?

**DAVID KOZAK:** I can't--

**ARCH:** Maybe that's a subjective question.

**DAVID KOZAK:** I can't answer that. I really, you know, I've been in this business now starting my thirty-fifth year in healthcare as a facility manager. And I don't understand why it has not, this issue has not been pushed harder and past. Again, like was, what was stated before, there are a number of accrediting agencies that referenced newer guidelines. And so that puts us facility managers in that "quandrum" of we've got a lot of different people looking at us and just a lot of different

guidelines that are out there. And where do we land, how do we try to satisfy everybody? And I do feel that it puts our state folks in a bad situation too because, because they, they're not sure how to respond. They know what the statute says, but how do we move forward?

**ARCH:** I guess it would surprise me if there was a new hospital that was being designed at this point that isn't, that isn't looking at those latest standards now. So I guess we can just--

**DAVID KOZAK:** I would agree with that. But, but what I, what I would suggest is when my administrator comes up to me and, and we try to include some of these newer designs which ultimately cost a little more money, do we have to do it? Well, I have to be honest with him. I can pull out the 2001 guidelines and say, not according to the state of Nebraska. Now, you know, what, how do you want-- and that's why I say it, it puts people in an awkward position because, again, the checkbook for any institution is limited. And so when they try to find ways to be conservative with their money, these are the kinds of conversations that go on and they become difficult.

**ARCH:** Thank you.

**WAYNE:** Any other questions from the committee?

**DAVID KOZAK:** Thank you.

**WAYNE:** Thank you for coming today.

**DAVID KOZAK:** Thank you, Senator Kolowski, for introducing the bill.

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

**DON SHEETS:** Thank you very much. My name is Don Sheets, D-o-n S-h-e-e-t-s, I'm the director facilities and construction at Bryan Medical Center here in Lincoln, Nebraska, and I've been at Brian for 17 years in the facilities management. I'm also here to speak on behalf of the Nebraska Hospital Association. And just like with David, I'm an officer at the Nebraska Society for Healthcare Engineers. I support LB409 for several reasons. As you can imagine, a lot has changed in healthcare since the 2001 guidelines were put together and created. The development of the FGI guidelines has been possible through the involvement of many individuals and organizations that are acutely involved in the healthcare planning, design, construction, and operation. Each iteration of the guidelines has helped the architects, engineers, contractors, and the facilities people like myself to create a built environment that positively contributes to the

healing environment. David spoke fairly well about that. Working towards a common goal in healthcare to, towards a common code in healthcare is a goal I believe is worth pursuing. We work with firms that are not solely based in Nebraska. And so we have been using most guidelines, the most recent guidelines whenever possible. Just like with David's facilities, we don't look to the minimum, we look to what's best for our patients to do. The use of evidence-based design helps us to get things right without reinventing the wheel. The FGI guidelines use historical information and new research to continue to improve each version. One of the other things in the, in the existing waiver provisions that are in LB409 provide for flexibility for any unintended consequences that might arise for a specific facility in those new guidelines. So I think moving to the 2018 FGI guidelines is a step in the right direction to help improve healthcare delivery in Nebraska. I'd take any questions if you have any.

**WAYNE:** Any questions from the committee? Seeing none, thank you for coming today. Thank you for your testimony. Any other proponents? Any proponents? Anyone, any opponents? Anyone testifying in the neutral capacity? With that, Senator Kolowski, you can close.

**KOLOWSKI:** Thank you, Mr. Chairman. I want to thank the committee for their patience today to hear us out on this very important aspect. In my own life, I'm, I'm, I know a lot about building schools, having built a high school in the Omaha area and being on site for two straight years before we opened it. Every day it's a thrill to put something together that meets the standards of the time and what you're, what you're looking for. I don't think we want, would want anything less in the healthcare facilities that we're looking at building and renovating to meet standards like these that are professed today. I think it's very important that we step forward and have a standard agreed upon by the books that give us the guidelines at this point in time to meet those standards and provide the very best patient care and recovery for anyone coming to our medical facilities. And I thank you very much for your time today and would take any questions.

**WAYNE:** Any questions from the committee? Seeing none, thank you. And for the record, there is neutral letter from the Associated General Contractors Nebraska Building Chapter. With that, I will close the hearing on LB409 and turn it over to Senator Hansen.

**M. HANSEN:** All right, thank you, Senator Wayne. Welcome, Senator Wayne, to your committee on Urban Affairs.

**WAYNE:** Thank you. It's been a long day. I was testifying in the other room, so I do appreciate rearranging these bills to go at the end. Good afternoon, members of the Urban Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. LB96 would make the State Building Code a default code. Under current statute, the State Building Code only applies to state-owned buildings and buildings in political subdivisions which adopt a State Building Code. Under LB96, the State Building Code would be applicable in any county, city, or village that does not adopt a local building code within two years after an update to the State Building Code. This provision is similar to our current plumbing statutes which provide a default plumbing code in places where local plumbing code has not been adopted. Because most smaller municipalities and many counties don't currently adopt a local building code of any kind, large portions of the state literally have no applicable building code. This issue cropped up several times in the last few years. Last year, in 2017, there was a hailstorm. My office began receiving phone calls from home, homeowners when roofing companies were having a hard time with their insurance companies. In places where there is no local adopted code, several insurance companies were refusing to pay roofs that met



building, that met current building code requirements. Because the county or city didn't technically have a code, they couldn't meet that requirement, so they were denying them some of their insurance coverage. During the 2016 interim study, the Urban Affairs Committee heard from numerous of how homeowners who had homes, new homes built in areas that had not adopted local building codes. These homeowners had contracts with their builders that claimed to be builder and would follow applicable state and local building codes. Since there was no applicable building code, the homeowners were left with no recourse when their building was either deficient or their home had code violations, complaints with any codes. Importantly, nothing contained in LB96 would require a county, city, or village to employ code officials to enforce the default code. The bill simply makes it clear that the State Building Code is applicable, is the applicable code. In fact, under current law, even if a political subdivision adopts a local code, there's no requirement right now for them to employ an official. Many smaller municipalities currently adopt the State Building Code but elect not to employ code officials. Primarily-- yeah, the goal of LB96 is to provide homeowners with the potential recourse in the event that they choose to build a new home in part of the state that has not currently adopted a code. If the

local government doesn't employ code officials, homeowners wouldn't be, would be able to sue their builder in the event that their home did not meet code expectations. I expect a number of people behind me to testify on this bill, and I'll be happy to answer any questions.

**M. HANSEN:** Thank you, Senator Wayne. Are there questions from the committee? Seeing none, thank you for your opening. All right, with that, we will take our first proponent on this bill.

**STEVE NORDHUES:** Hello, my name is Steve Nordhues, S-t-e-v-e N-o-r-d-h-u-e-s, and I am the building official for the city of Norfolk, Nebraska, and also a member of the Nebraska Code Official Association. I am here to testify in favor of LB96. I recognize it. LB96 lacks an enforcement element across the state of Nebraska, but it is still important for what it does do. It establishes a minimum standard by which homes can be constructed. It gives homeowners a standard by which the single largest investment of their lifetime should be constructed to. It gives homeowners a legal document recognized by the state of Nebraska that they can present to a judge and jury and unequivocally demonstrate that they have been the victims of ignorant or unscrupulous builders. Does LB96 go far enough? No, absolutely not. But it is a logical and measured first step in a

much-needed effort to protect the health, safety, welfare, and financial resources of this state's citizens.

**M. HANSEN:** All right, thank you for your testimony. Any questions from the committee?

**ARCH:** I got a question.

**M. HANSEN:** Yes, Senator Arch.

**ARCH:** Do I understand it correctly then that if, if, if this bill passes the, the state codes then are enforced whether, whether the local adopts them or doesn't adopt them?

**STEVE NORDHUES:** They are-- I wouldn't say that they're enforced, but they're, they're, they establish a minimum standard by which homes should be constructed. And since many of these communities aren't going to have an enforcement element, anyone to do the inspections, so that, that isn't gonna-- that element won't be there. But what, what it does do, it gives them a legal document that they can take to their attorney if they find something that's wrong with their home and say, look at this, this guy didn't build it right. And we need to get something done. We need to have this corrected. I have myself been in, we do inspections for the communities around us. We go about 30 miles out in any direction to do inspections. I've been in brand new

homes, and this is before we were doing the inspections there, but they called us in later, that the bedrooms didn't even have egress windows. I mean, this is a, this is a basic thing that you do in a brand new home is put in egress windows. And because that community didn't have a building code established at that time, there was no recourse because, because the state doesn't have a thing that applies statewide either.

**ARCH:** So all contractors then would be required, whether it's enforced or not, but all contractors would be required to build according to state code and could face some legal jeopardy if they don't do that?

**STEVE NORDHUES:** Absolutely. As they should.

**ARCH:** So with, with rural housing, the disparity in cost of rural housing, do you see this dramatically or significantly increasing the cost of rural housing because of this?

**STEVE NORDHUES:** No, it shouldn't change it one bit. Because these homes should already be being built to this standard. If they're not being built to a minimum standard that's in the, the IRC, we got a big problem there. We as citizens are not getting that minimum standard for what they're, what they think they're paying for.

**ARCH:** OK, thank you.

**M. HANSEN:** Thank you, Senator Arch. Senator Lowe.

**LOWE:** Thank you. And thank you for testifying again today.

**STEVE NORDHUES:** Yes.

**LOWE:** Does this part of the code, does this just deal with housing or is it also dealing with outbuildings, barns, chicken coops, everything else?

**STEVE NORDHUES:** The IRC deals primarily with new construction of single-family and two-family dwellings. I am-- I did not see that this applies to the IBC, which would involve the commercial buildings. Typically throughout the state those are handled by the State Fire Marshal's Office. But the State Fire Marshal's Office handles some aspects of commercial buildings.

**LOWE:** I'm just thinking if a guy goes out and builds a barn, does he now have to build it to code even though he's 75 miles out away from any civilized person?

**STEVE NORDHUES:** There are exemptions in the building code for agriculture. If it is a unoccupied building, I think, the state of Nebraska has an exemption for those buildings. So in the instance of a barn, a garage, a chicken coop, I think those

would be exempt if it's an agricultural purpose. If it is in a community, say it's Ewing, Nebraska, then I believe those buildings would have to meet a minimum code requirement.

**LOWE:** Thank you.

**M. HANSEN:** All right, thank you, Senator Lowe. Any other questions? Seeing none, thank you for your testimony. I'll turn it back over to our Vice Chair Senator Hunt.

**HUNT:** Thank you, Senator Hansen. On to the next proponent for LB96. Welcome back.

**DAVE JOHNSON:** Thank you. Afternoon again, senators. Dave Johnson, D-a-v-e J-o-h-n-s-o-n. 800 P Street, Suite 203, Lincoln, Nebraska. Here representing AIA Nebraska again, and we are in support of LB96. We feel it's important that there is a building code that can be referenced in various situations that might arise. My reading of the code is that it, it is adopted the State Building Code. If a jurisdiction does not adopt a code within two years it would be, it would become their code. And that would be both for commercial and residential projects. I think it probably has a little more effect on the residential projects because throughout most of the state most anything that's being built under the IBC does have some level of

inspection through the State Electrical Inspectors and the State Fire Marshal's Office. There are a lot of smaller communities that do not have their own in-house plan review or inspections or anything like that. I know that there is a lot of building inspectors like Steve that go, you know, 20 or 30 miles around their jurisdiction and do that. I know there's a lot of communities that have a retired code official from Lincoln or Omaha that is retired there or was originally from there that will do that function. But commercially, I don't know it has as much of an effect because most commercial buildings that don't fall under the exempt level would have a design professional involved to begin with. And we feel that most design professionals would follow the code. So we're in support of this, of this bill.

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

**DAVE JOHNSON:** Thank you.

**HUNT:** Seeing none, thank you for being here today. Any other proponents for LB96? Welcome, sir.

**RICHARD HAUFFE:** Thank you very much. I'm Richard Hauffe again. R-i-c-h-a-r-d H-a-u-f-f-e, Sioux Falls, South Dakota, senior regional manager for International Code Council. Having watched

this committee since 2011 go through all kinds of measures to get to a point where you're directly addressing the issue of what do you do about outstate, what you do about rural communities? I think this is a big step in the right direction. I applaud Senator Wayne for his vision for this committee and for, for the Unicameral as a whole. And I just encourage it's, that it's supported and that your good work continues. Any questions?

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

**RICHARD HAUFFE:** Thank you.

**HUNT:** Next proponent for LB96. Welcome back.

**JENNIFER TAYLOR:** Good afternoon. Good afternoon, Senator Hunt, members of the Urban Affairs Committee. My name is Jennifer Taylor, Jennifer Taylor, and I am an assistant city attorney for the city of Omaha. I'm here to speak in support of LB96. Oh, I forgot, I'm also a resident and one of the greatest districts in the state of Nebraska.

**HUNT:** It's very important to say. Thank you for including that.



**JENNIFER TAYLOR:** I'm here, we're here in support of LB96.

Senator Wayne articulated, I think, what is probably the most important need for this bill. And so I think many of you would probably wonder why the city of Omaha is here to actually speak about what has been addressed as mainly a rural issue. First and foremost, you know, there is state code that requires those municipalities that adopt a building code to update their building code to meet the State Building Code within two years of the state adoption. So, for example, should the Legislature adopt the 2018 building codes that were before you today, the city of Omaha would have two years to meet the 2018 building codes and adopt them themselves. We have been somewhat remiss in complying with this requirement over the last couple of years. And so I wanted to come down to, one, say that we are in support of this bill. It will, at the very least, hold our feet to the fire, but it will make sure that we kind of stay where we need to be. And if we don't, or if some oversight of ours manage to adopt in a timely fashion, well, then the state code will become our default and we're fine with that. What we generally do is oftentimes with the IBC and the IRC-- which I think has been mentioned to you a couple of times today that the city of Omaha is on the 2006 IRC-- we adopt the, those standard codes with some amendments. We are currently working through with our local

contractors and our local tradesmen to determine what amendments, if any, we want to add to the 2018 IRC as far as the city of Omaha's adoption of that code. We are working through that now. We have kind of created an ad hoc committee of local tradesmen and contractors and engineers that will help us, that will assist us with that. And it is our intent to have the 2018 IRC go in our city council by July. So in, in essence, we would be in compliance with this law should it pass. We did come to the 2012 IBC last year. So should the state adopt the 2018 IBC, we would then be required to adopt that within two years. Our current intent is actually at present we are sending the 20-- for the 2012 mechanical code will go to city council in two weeks, the 2017 electrical code will go to city council in two weeks, and then we'll proceed to work on the IRC. So although we have not been as timely in our code adoption is as we should have been in the past, we are setting in place processes and ad hoc committees to review those code changes and those code updates in a more regular fashion so that the default requirements of LB96 wouldn't be necessary. But I'm happy to answer any questions you might have.

**HUNT:** Thank you, Ms. Taylor. Any questions from the committee? I did catch the fact a couple times that Omaha is on the 2006 IRC.

**JENNIFER TAYLOR:** Yes, it is. It has been on the list of-- Jay Davis was our previous superintendent of permits and inspections, and J, as we found out when he retired last year, I think was probably doing the job of about three people because we have three people now doing his job. So in all due respect to Jay, I think it was something he, he and I had been working on. And it was on a list and it just kind of never, one of those things that just never quite got up there. Although we were reminded last year that it was something that we needed to do. So, but obviously we've got-- this is kind of housed in our planning department. We put in place some processes to make sure that this doesn't happen again.

**HUNT:** How long, how long do you think Omaha has been aware that the state adopted the 2012 code?

**JENNIFER TAYLOR:** You'd have to ask Jay, but I'm sure Jay has been aware. There, there is, and I understand just from talking to him and going through the process now. There, we-- and, and we end with a lot of input because we do tend to amend the International Building Code and the International Residential Code. We take some amendments to those codes when we adopt them through the city. So we like to, or we're often asked to, solicit a significant amount of input. The city of Lincoln, I

think, acknowledged earlier they have a standing kind of code committee. And Anna, who is serving as our interim, interim building inspections superintendent has determined that she would like to create the same type of committee in Omaha. Again, so that we're not trying to put together an ad hoc committee to figure out what those amendments are, but that we have a standing operation so that when it comes time to adopt a new code we're not scrambling.

**HUNT:** Thank you very much. Any other questions from the committee? Thank you Ms. Taylor. Appreciate it. Any other proponents for LB96? Welcome to your Urban Affairs Committee.

**JAMES HARPER:** Thank you. James Harper, J-a-m-e-s H-a-r-p-e-r, 4203 Springview Drive, Grand Island. And I'm testifying just for myself. I did used to be a, a plans examiner for the city of Omaha. So I've seen plenty of hospitals and everything else. And I'm glad to see Omaha is moving along with their coded options. That's terrific. I also served for about 24 years in Hastings as the building official. I just want to say one comment, I guess. As recently as last week I had a call from a lady that lived in a community north of Omaha, and she was having trouble with the new house that had been constructed for her. And she was really quite upset. There were code issues, framing issues, energy

issues. She was very distraught and she wanted some direction on what to do. And one of the questions she asked me was, what is the State Building Code there? And I had to tell her, well, the only places like municipalities and counties that adopt have a code, otherwise there is no code. So this really fills a vacuum if LB96 passes. I think there is a demand for this, probably a need for it. And that's really about all I have to say. But there, it's not just that once. I get calls routinely from time to time, people wanting to know what the code is. And I have to tell them, there is no code where you're at. And sometimes it maybe becomes a civil issue then, what is the standard of duty that you would construct to in an absence of a building code? And it's a little bit harder to prove. But if you've got a code in place, you can point right to the document and make the argument. So that's all I have.

**HUNT:** Thank you very much.

**JAMES HARPER:** Sure.

**HUNT:** Any questions from the committee? Seeing none, thank you so much for being here. Are there any other proponents for LB96? Seeing none, is anyone here as an opponent of LB96. Seeing none, is there anyone who wishes to testify in the neutral capacity? Welcome back, sir.

**JERRY STANDERFORD:** Hello, again, Senator Hunt and members of the committee. Jerry Standerford, J-e-r-r-y S-t-a-n-d-e-r-f-o-r-d, 14711 Industrial Road, Omaha, Nebraska. A couple of things I wanted to, I can shed some light on the Omaha situation since we heard a little bit about that. I can tell you that the 2006 was amended there extensively. After that, the 2012, a similar set of amendments was, was worked on with all the other code enforcement people in Omaha and Sarpy County, Bellevue and Papillion, La Vista. Those amendments were set up for the 2012, although they were never, never adopted. Two years ago I worked with Jay Davis for a similar set of amendments to the 2015. So it isn't like the amendments are too far out or going, or going to be hard to catch up. It's not like amendment-wise and knowledge-wise we're going from the 2006 to the '18. We also work in 2015 in Bellevue, and they have mentioned before the 2012 in Papillion. So most everybody that's familiar with codes, that isn't going to be a big jump. But I did want to talk about what the, what this bill, is we're put in a statewide, statewide code. And I would question, why do we not have a state building agency to oversee those codes? Why do we not have statewide testing, as we do in Omaha for contractors? You know, Omaha went to contractor, cut to contractor licensing several years ago. It made all the difference in the world is how houses were

constructed. The knowledge and the depth the knowledge of the contractors where maybe before many of the contractors didn't even have a clue. And I'm talking about-- I'm not talking about guys who do a huge volume, I'm talking about the guys who do one to five houses a year. It makes a huge difference in their knowledge and the depth of that code. So I would encourage you, and I know it's not even part of this bill, but I always wondered about when we've seen proposals for a State Building Code come forward again, why do we not have a state building department and why did we not have state licensing which would educate these guys who maybe they know they're not going to be inspected. But just to have to study and obtain that builder licensing gives them that knowledge that they may need to stay out of court. It may give them a-- I know that it will give them a huge appreciation for the code and knowledge that they didn't have before. And with that, I'm happy to answer any questions.

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

**JERRY STANDERFORD:** Thanks for your time.

**HUNT:** Thanks for that perspective, I appreciate it. Anyone else here wishing to testify in the neutral capacity on LB96? Seeing none, I invite Senator Wayne back up to close. Welcome to your Urban Affairs Committee.

**WAYNE:** I was trying to remember-- based off that last testimony I was trying to remember did we, did we draft a bill, and I forgot which bill it was, but we had talked about doing an advisory committee and we were having difficulties bringing everybody together on what that would look like before we created or if we created any other additional steps around that. So getting all the state agencies-- and not just state agencies but all the builders and everybody around the table to figure out what does that advisory committee look like was difficult last year. And so that's why we didn't bring that forward this year. But it's a simple bill in the sense of we have to have some foundation across the state. And again, we ran into it, and as insurance companies continue to look in their insurance licenses - and in their insurance agreements use code as a default of what the standard should be, many of our rural areas or people who live in the county will not be able to or have to fight through the insurance companies claiming whether they are going to replace their roof or not. And that's kind of was the spark for it and why it's here today. So I'll answer any questions.

**HUNT:** Any questions from the committee? Seeing none, I have a couple letters to read into the record. A letter of support from the American Chemistry Council; a letter of support from the Associated General Contractors Nebraska Building Chapter. And a



neutral letter from the Nebraska State Home Builders Association. Thank you all for being here on LB96. And with that, I'll close this hearing and invite Senator Wayne to open on his next bill, LB95.

**WAYNE:** Good afternoon, Vice Chairmanwoman-- Vice Chairmanwoman-- Vice Chairwoman Hunt and members of the Urban Affairs Committee. As you can see, I'm starting to drag a little bit. It's been a long day. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. LB95 make simple changes to the building code statues and will require that state agencies comply with local building codes to the extent that such code meets or exceeds the standard, standards of the State Building Code. Currently, state agencies only require to comply with State Building Code even in cases where political subdivisions have adopted a code that are stricter than the state code. The first issue came to my attention during the discussions with local code officials who regularly get calls from state-owned buildings within the city who are unable to address their building's safety concerns because of lack of jurisdiction over state-owned buildings. Three main reasons to require state agencies to file local building codes. First, local political subdivisions generally employ inspectors to ensure compliance

with building codes. In the cases the-- in the case of state buildings, the only inspection, only inspection done in many cases are done by the agencies themselves and there's no third, third party to check the building to ensure safety. While we trust our agencies, we always to believe in the trust and verify option that most of us operate in the Legislature on. Second, the current statute potentially gives an unfair advantage to state buildings over other buildings built by other political subdivisions as well as the private sector. When a county, school district, or any political subdivision builds a new building in Omaha, for example, they have to follow the Omaha stricter code. If the state decides to build one, they don't not have to follow the local Omaha code but the state code. So again, resulting in unfair, unfair advantage or, one could say, not compliant with the local jurisdiction. Third, not requiring state building codes to meet local code goes against the principle of local control. State law allows political subdivisions to adopt their own local code so that local codes should apply regardless of its own building code. I introduced a bill last year similar to this. What should be noted is that this clearly, even though the department, I believe, read it wrong, does not apply to the Capitol HVAC system that's going on. And they, they did apply it, so they put a number in there

that was really high that should not apply. If I need to add some clarifying language of when the bill actually kicks in, but this only kicks in in 2020 and this project is already ongoing. So it shouldn't apply to that. Second, LB95 provides that any fees related to enforcement of local building code at the state-owned buildings would be treated similarly to how other political subdivisions' buildings are currently treated. For example, if Lincoln Public School builds a new building in the city of Lincoln, inspection fees are negotiable between the city and the school district, and it cannot exceed the actual expense incurred by the city. LB95 would similarly provide that fees are negotiable between the city and the state and cannot exceed the actual expense incurred. So let's talk a little bit more about the fiscal note and Department of Administrative Services. As I stated, it doesn't apply, start until 2020. Because the Capitol project has already started, I don't understand the fiscal note at all. We tried to figure that out before the hearing, but it clearly doesn't make sense because it's not 3 percent because it already started. So I'll give you a real example in Omaha. A simple example in Omaha. You have two arenas. You have CHI Health Center, now it's called; and you have the Ralston-- you have the Baxter Arena. One was built by the university, one was built by Omaha in Mecca and other people. One meets local code,

one doesn't. That is a huge impact and a huge disparity that shouldn't exist just because it's a state building. And with that, I'll answer any questions.

**HUNT:** Thank you, Senator Wayne. Any questions from the committee? All right, thanks. Great. Is there anyone here wishing to testify as a proponent of LB95? Welcome, sir.

**DAVE JOHNSON:** Last time you got to see me. My voice is going anyway, so good we're towards the end. Senators, I'm Dave Johnson, D-a-v-e J-o-h-n-s-o-n. Address, 800 P Street, Suite 203, Lincoln, Nebraska. Here representing the American Institute of Architects Nebraska Chapter, we're in support of this bill. We completely agree with Senator Wayne that there should be-- it's not as much of a level playing field as it is that most state buildings should be considered as safe or safer than any other buildings that anyone might utilize. I'm not saying that the buildings are not safe, but if there's not a governing code that you can back it up to or you have to design to or has to be considered, we feel that things could be overlooked if there's not good oversight through construction, design and construction. So we're in support of this bill.

**HUNT:** Thank you very much. Any questions from the committee? Seeing none, thank you for coming here today to testify.

**DAVE JOHNSON:** Thanks for listening to me today.

**HUNT:** Thanks for hanging in there. Next proponent for LB95.

Seeing none, are there any opponents? Welcome, sir.

**DOUG HANSON:** Thank you. We've had a long day. Good afternoon, my name is-- good afternoon, Senator Wayne and Senator Hunt and members of the committee. My name is Doug Hanson, that's D-o-u-g H-a-n-s-o-n, Task Force for Building and Renewal administrator for the Department of Administrative Services. I'm here today to testify in opposition to LB95. LB95 would require all state agencies, boards, and commissions, including state colleges and the university to comply with local building and construction codes when the local code meets or exceeds the standard, standards of the State Building Code. LB95 would have a tremendous impact on the state and result in higher construction costs. There would be additional costs and time required at the design level to apply local codes. Construction costs would increase to cover costs associated with permit fees, inspections, and other regulatory expenses imposed by local governments. Design and construction costs could also increase due to local code requirements that exceed the State Building Code, such as the requirement to have a brick facade, specific landscaping or lighting, or other local requirements. Local

government permit fees are typically assessed on a base fee plus a factor dollar amount in relation to the costs of the project. In addition to building permit fees, each construction project would require plan reviews and building code inspections by local building code officials. Local code officials typically inspect foundations, framing, plumbing, HVAC and, and also conduct final inspections prior to occupancy. Fees for each type of inspection are assessed by the local government, which would add to the cost of construction. These plan reviews and inspections would be duplicative of efforts that the state already uses for state buildings and projects. Building permit and inspection fees imposed by local governments vary widely throughout the state. Some municipalities impose very high building permit and inspection fees, while some do not impose any. Since there are approximately 530 municipalities and 93 counties, determining an accurate cost for LB95 would be difficult, if not impossible. For some guidance we looked at RSMMeans building construction cost data, which is an industry standard, that estimates a range from half a percent to 2 percent for permit fees. Local government permit and inspection fees could range from 2 to 4 percent for state of Nebraska construction projects. The fee would of course depend on the size, complexity, and cost of each project. The Task Force for

Building Renewal estimates that imposing local government building permit and inspection fees could add an average of 3 percent to each project or approximately \$475,000 in FY '19-20 and \$409-- approximately \$493,000 for FY '20-21. The Office of the Capital Commission, or OCC, does not routinely administer projects that would be affected by this potential change in legislation. However, the OCC is currently in the process of admin, administering the largest renovation in the Capitol's nearly 100 year history. Using the remaining construction-specific project cost of \$65 million, OCC estimates LB95 would increase, would have an increase in project cost of \$1.95 million. Since this is a multi-year project, the fiscal impact would be spread out over the life of the project. The project would also incur additional design costs over the life of the project to address potential local code changes. These additional costs cannot be determined at this time without knowing what the local code, local code changes might be implemented in the future. The State Building Division is already governed by it in its construction projects by numerous building codes pursuant to state statutes. These codes include the State Building Code, the International Building Code, the International Energy Conservation Code, the Uniform Plumbing Code, National Electrical Code, and other building and

construction codes. The Building Division estimates that imposing local government building permit and inspection fees could add an average of 3 percent to each project, which is estimated approximately \$21,000 each fiscal year. LB95 also provides for the negotiation of fees between state agencies and the county, city, or village. These, the addition of multiple building codes, will require research and review and negotiation of each project's plans and specs to verify compliance, thereby increasing each project's time line as well as additional internal staff time. In 2018, the State Building Division worked on 112 major projects and estimates that at least one FTE would be required if comparable projects are implemented in future years. This new position would be a professional architect with substantial construction and local building code compliance, training, and experience. The annual costs including salary benefits and ongoing operational expenses for this additional FTE is estimated at approximately \$100,000 in each fiscal year. Finally, the bill--

**HUNT:** Sir, you've got a red light. You want to wrap up some final thoughts?

**DOUG HANSON:** Yes, I've got half a paragraph left, if I may.



**HUNT:** We've got the testimony here, but are there any just final wrap up?

**DOUG HANSON:** OK. Again, this would result in construction slowdowns and potential change orders and added cost. We do believe that under the current and successful Nebraska State Building Code these additional and unneeded cost delays and bureaucracy is currently being avoided. And thank you for your time, and I would be happy to answer your questions.

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

**LOWE:** Thank you. And thank you for being here today, Mr. Hanson. This, the State Building Code, it makes safe buildings, right?

**DOUG HANSON:** Yeah.

**LOWE:** There's no, no doubt that the university, the state builds safe buildings. It's where most storm shelters are located. And bringing them up to the city code, it seems like it would just be tweaking the building a little bit. Maybe for architecturally beautiful thing, something like that. But I, I can't see where it would improve one of the state buildings, say something the university builds or-- I don't think the state builds many

buildings right now, but something along that fair. What, what's your thought on that?

**DOUG HANSON:** Correct. I think the State Building Code, it's-- it would be a situation where a municipality may have, again, something that would exceed the State Building Code. Overlay districts are an example where certain brick facade may be required, something that would not be in the State Building Code. Certain landscaping, certain elements that would be in there would be in addition at a higher cost. So it would increase the cost of construction. The big issue, though, I believe, is, is the permit fees and the inspection time and costs for each one of those inspections.

**LOWE:** OK, thank you. Appreciate that.

**HUNT:** Thank you, Senator Lowe. Any other questions? Thank you, Mr. Hanson, for being here.

**DOUG HANSON:** Thank you.

**HUNT:** Appreciate it. Are there any other opponents to LB95? Seeing none, is anyone here wishing to testify in the neutral capacity? Seeing none, I'll invite Senator Wayne back up. And I have a couple letters to read into the record on LB95. We have a letter of support from the Associated General Contractors

Nebraska Building Chapter; a letter of support from the city of Lincoln. And we have no letters in opposition or neutral.

**WAYNE:** Thank you. Thank you, Chairwoman Hunt. So we're not asking you, and I just want to clarify, we're not asking current buildings to be tweaked to meet local code. We're saying any new construction would meet local code. And typically as a licensed general contractor the facades and those things are typically zoning codes not building codes. So I'm not sure that would fall underneath that issue. But there's one reason why this is really important to the Legislature. This was brought up over the interim study. Senator Stinner's interim study, and Pansing Brooks, sorry. And the big issue was, how come this Capitol doesn't have the proper parking that is needed? They don't have to file local, local codes. So I think we should kick this bill just for to make our staff happy, to start maybe getting some better parking around here. But I do want to mention real quick the ironic, for those who might not have been in favor of LB85, I don't understand how you can't be in favor of this. You can't say it's a local control issue to make sure that their rental housing is done at the local level but their building code shouldn't be at the local level. With that, I will ask for your support to move it to you General Final.

**HUNT:** Thank you, Senator Wayne. Any questions from committee?  
Seeing none, I will close the hearing on LB95 and close the  
hearing for today. Thank you.