

BOSN: Good afternoon, everyone, and welcome to the Judiciary Committee. I'm Senator Carolyn Bosn from Lincoln. I represent District 25. I serve as chair of this committee. We will be taking up bills in the order posted, with one modification. This public hearing is your opportunity to be part of the legislative process and express your position on the proposed legislation. If you're planning to testify, please fill out one of the green testifier sheets on the table at the back of the room. Print clearly, and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets on the back table; these sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone, telling us and spelling your first and last name to ensure we get an accurate record. We will, we will begin each bill hearing today with the introducer's opening statement, followed by proponents, opponents, and neutral testifiers. We will finish with a closing statement by the introducer, if they wish to give one. We are using a three-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. The yellow light comes on and you have one minute remaining, and the red light indicates you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing, but this has nothing to do with the importance of the bills; it's just part of the process, as senators have bills to introduce in other committees. If you have handouts or copies, please bring up 12 when-- and give them to the page when you come. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room; such behavior will be cause for you to be asked to leave. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8:00 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. Also, you may submit a position comment for the record or testify in person, but not both. Now, I'll have the committee members with us today introduce themselves, starting to my left.

HALLSTROM: Welcome. Bob Hallstrom, Legislative District 1, representing the counties of Otoe, Johnson, Richardson, Nemaha and Pawnee in southeast Nebraska.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee March 19, 2025

STORM: Good afternoon. Jared Storm, District 23; Saunders, Butler, and Colfax County.

STORER: Good afternoon. Senator Tanya Storer. Thanks for braving the weather. I represent 11 counties in north-central Nebraska, District 43. Again, Dawes, Sheridan, Cherry, Brown, Rock, Keya Paha, Boyd, Garfield, Loup, Blaine and Custer.

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

McKINNEY: Terrell McKinney, District 11; north Omaha.

ROUNTREE: Victor Rountree, District 3; Bellevue and Papillion.

BOSN: Thank you. Also assisting the committee today, to my left is our legal counsel Denny Vaggalis, and to my far right is our committee clerk, Laurie Vollertsen. If the pages today would please introduce themselves.

ALBERTO DONIS: I'm Alberto Donis. I'm a first-year political science [INAUDIBLE] at UNL.

RUBY KINZIE: Hello. I'm Ruby Kinzie. I'm a third-year political science major at UNL.

TREY QUICK: Hello. I'm Trey Quick. I'm a second-year political science major at UNL.

BOSN: Awesome. Thank you guys. With that, we will begin today's hearing with LB620 and Senator Guereca.

GUERECA: Never been first up before the committee, so I didn't know where to sit. They understood. Good afternoon, members the Judiciary Committee. Thank you, Chairwoman Bosn. My name is Dunixi Guereca, D-u-n-i-x-i G-u-e-r-e-c-a. I represent Legislative District 7 in Omaha. I'm introducing LB620, the Nebraska Neighborhood Revitalization Act, a tool-- a bill that would create a legal mechanism to address public nuisance properties that present health and safety to a community-- health and safety risks to a community. Currently, the state of Nebraska has two code enforcement tools to handle and mitigate nuisance properties. One, condemnation and demolition; two, the tax sale process. These strategies are both lengthy-- up to five years for tax sales-- and costly for municipalities. There are additional tools to these nuisance properties to residents, and local governments, including code inspectors, police, and firefighters responding to various code/building violations, fires, transients

individuals, or squatters. This bill introduces another means to address these properties through a court process known as receivership. As a code enforcement strategy to avoid condemnation, demolition, and strain on-- strain on municipal resources, a qualified petitioner could motion the district court to determine the property is a public nuisance, and order the owner to make necessary repairs to bring the property up to code. When the owner is unwilling or unable, the court may order a third-party court receiver to submit a stabilization plan to abate the public nuisance. The receiver is authorized to take necessary steps to repair or rehabilitate the property, including securing financing of the property's rehab improvement, improvement as indicated in the judge's approved plan. Upon completion of the property's rehabilitation, the receiver is granted a judgment against the property that guarantees full repayment of all court-approved costs associated with the rehabilitation of the property. If the property owner fails to repay these costs, the receiver's lien on the property must be settled before any other claims, and, if sold at public auction, any remaining equity is returned to the property owner. Being passed out to the committee-- do we have [INAUDIBLE]-- we'll be passing out an amendment here soon, an amendment that works out some of the concerns expressed by stakeholders. These revisions include narrowing the definition of public nuisance specific to three unaddressed structurally-based code violations within the preceding 12 months. Removing the "community standards," Section 3 and 4 of the bill, that would have created a civil action for neighboring properties' values impacted by nuisance properties, clarify the act is permissive in nature for local jurisdictions, and adding a requirement to address any impact to tenants or occupants within the stabilization plan, and expanding the time frame for which owners to satisfy the receivership's loan from 30 to 60 days. While considering solutions today about the specific shape of this bill, we must acknowledge that the tolls of the property targeted by this act is paid by the resident to the neighborhoods of these properties that have remained unresolved for years. This is a concern for my district, and I have had communications with the Omaha Municipal Land Bank, the city of Omaha, and Omaha City Council member Ron Hug about his concern for nuisance properties. The intent of this act is to target nuisance properties owned by bad actors that have chosen to ignore local citations. Regardless of the reasons for the conditions of the property, it is impacting other residents and the community. We care about the safety and security of the residents in neighboring properties impacted by these nuisances. The receivership process proposed by this bill is utilized throughout the country, including the states of Iowa, Missouri, Michigan, Tennessee, and

California as a code enforcement strategy with respect to properties that have been deemed to be a public nuisance. The advantage of this approach is that the receivership-- receiver serves a third-party external to the municipality, appointed by the court, and is court-supervised until the nuisance is abated. The process for beginning a receivership action could be initiated by a city code enforcement official, a neighbor, or a party with an interest in the property without the ability to enter the property and take necessary corrective actions. The property owner can participate in every step of the process, and is given an opportunity by the court to make the necessary repairs before a receiver is appointed. Receivers are vetted and approved by the court based on their capacity-- capability and financial capacity to complete a proposed project within a reasonable period. Approved receivers are responsible for submitting to the court a plan for addressing the nuisance. Receivers may elect to abate the nuisance by stabilizing the property with an auction to a qualified buyer, administering demolition, or constructing full rehabilitation. Before any corrective action is taken by the receiver, the court must approve the plan. In many states, the first duty of the receiver is to bring all the liquid property costs current. In addition to being reimbursed for these costs associated with abating the nuisance associated with the property, the receiver is also awarded a fee for their work by the court. These costs are assessed against the property as a lien, which becomes a, a, first lien against the property, much like a, a lien for real estate taxes. Upon completion of the project, the property owner is given an opportunity to pay the lien and retain ownership of the property. If the property owner is unable or unwilling to pay the lien, the property is sold to the highest bidder at a public auction. For the sales proceeds, the receiver is paid first. Because of the property-- because the property would be sold free and clear of any other liens except for ad valorem tax and special assessments, excess sales proceeds must be available for other creditors, such as mortgage holders and current lienholders to claims. Finally, if there are no other legitimate claims to the excess sales proceeds, it would go to the former property owner. You'll hear experts from Tennessee and the Omaha Municipal Land Bank, among other testifiers today. I am grateful for the thoughtful advice and meetings that have taken place around this bill, and I imagine this is something my office will continue to work on with various stakeholders throughout the interim. We may continue to have those conversations to take all those points of view into consideration. And with that, I'm happy to answer any questions.

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BOSN: Thank you. Senator DeBoer.

DeBOER: Thank you. Senator Guereca, I'm sorry I didn't get a chance to talk to you about this bill beforehand.

GUERECA: No worries.

DeBOER: And I understand there's an amendment that's going to be passed out [INAUDIBLE]--

GUERECA: And our printer is down. We'll be getting them to you shortly. When they-- when the network went down, our printer went down here in the office, so.

DeBOER: So, let me, let me ask you, because I wasn't entirely clear, what's in the amendment right now? So, there's no private cause of action anymore against the landowner that--

GUERECA: Correct.

DeBOER: OK. In the amendment-- and in the amendment, what's the standard for when, you know, things have gotten out of hand enough that this would kick into place?

GUERECA: Well, the, the, the [INAUDIBLE] that's, that's up to the, to the courts, right? So, either the, the, the-- there's various people that can bring the cause forward to the courts, and it's up to the courts to deem it a public nuisance.

DeBOER: So, if I'm living next door to Senator Bosn and she has a love of gnomes, and she has many, many, many, many gnomes--

BOSN: Got it.

DeBOER: --in the front yard, and enough so that I thought that that was a nuisance, and-- could I call and try and file a suit against her for excess "gnomage"?

GUERECA: So, it, it would be three unaddressed structure-based code violations. So, gnomes are not structure-based, so it's three structure-based code violations within, within a 12 month period of time.

DeBOER: OK.

GUERECA: So unfortunately, you cannot go after Senator-- the chairwoman for her love of gnomes.

BOSN: [INAUDIBLE]

DeBOER: So currently, is there a process for city ordinances or other ordinances that would enforce those code violations?

GUERECA: Correct. But I believe the, the concern is a, a lot of those processes are currently taking a long period of time. So, this is just another tool in stakeholders' and cities' and municipalities' toolbox to be able to address-- and the community, quite frankly-- to address a lot of these issues. So, it's just one more tool in the toolbox.

DeBOER: OK. Well, I might have some more questions for you as this proceeds.

GUERECA: Great. And again, there's, there's experts behind me that I'm sure could answer a lot of those questions. And like I said, this will be an ongoing conversation, so-- hopefully get you answers to those questions.

DeBOER: Thank you.

BOSN: Any other questions? Senator Storer.

STORER: Thank you, Chairman Bosn. I'm intrigued by this. What-- I mean, I'm familiar with the tax sale, and-- having served as a county commissioner and how, how that process works. So, you would use that or comparison to what you're providing for in this bill. So who would-- how would you qualify to be a receiver, generally? How would you--

GUERECA: So you, so you, you would apply to the court, and you have to show, you know, financial capability and the administrative ability to go through with the, the, the, the what's abatement project-- process. So, you would-- you, you would apply to the court, and the court would take your-- again, your financial capability, your administrative capacity to complete the project into consideration.

STORER: And that would be the, the-- really the only qualifier that you have to prove? Financial--

GUERECA: No, and, and, and administrative capa-- and you can't-- you know, if you just say, hey, I think I could fix that, right? No, you have to show the administrative capacity to go through with every step of the process, to put together the plan, and to have the financial resources to go through with, with that plan.

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STORER: And the, and the process starts by the neighbor, or any, any member of the community? I mean, is there any limit to who can file with the court?

GUERECA: Yeah. So, it, it can't be like, oh, I'm-- I'm a developer and I want to redevelop that project,--

STORER: Right.

GUERECA: --I'm going to file suit against that, that property in court. It would be a neighbor, it would be the county, the city saying--

STORER: But you would have to be a resident of that municipality--

GUERECA: Correct.

STORER: --in most cases it would be the municipality.

GUERECA: Yeah.

STORER: And who determines-- so the, the code violations, or-- there has to be a-- did they have to be a year unmet, two years? And that may be [INAUDIBLE]--

GUERECA: So it's, it's, it's the-- it's three [INAUDIBLE] exactly. It's a three unaddressed structure-based code violations within 12 months. So, the example of Senator Bosn having too many gnomes in the yard and that being-- that's not a public nuisance. It's a structure-based unaddressed code violation.

STORER: That have been filed within 12 months, or that have went un-remedied for 12 months?

GUERECA: That went unaddressed, so un-remedied for 12 months.

STORER: OK. I mean, it's a new-- obviously [INAUDIBLE]--

GUERECA: Oh, absolutely.

STORER: --in terms of the process and, and the qualifying-- you know, what qualifies somebody to be able to take that on. Like Senator DeBoer, I'll probably have some more questions.

GUERECA: No, yeah. And, and again, we have some good folks. I have the, the, the expert from Tennessee has worked several of these projects, so he would be a good person to ask a lot of these questions

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to, because he, again, has gone through the process. And we, we, we modeled our legislation around kind of the process that they use-- they used it for a couple years now successfully. So.

STORER: Thank you.

BOSN: Senator Storm.

STORM: Thank you, Chair Bosn. Thank you, Senator Guereca. So, structure-based. So, we're not talking like paint, paint's flaking off, or something like that? It's just structure-based? Like, you're talking the roof--

GUERECA: That's a good question.

STORM: Let me ask someone else.

GUERECA: Yeah, that's the-- that, that, that actually is a good question. Definitely not gnomes, though. Not gnomes. But paint is a--

BOSN: Senator Hallstrom.

HALLSTROM: Yeah, Senator Guereca. Section 6 of the bill has a procedure for obtaining or filing a petition for judgment in rem, and that gives a superpriority lien to the receiver. I'm probably going to have some concerns with that, and hope that you would be interested in visiting about some other alternatives to providing a priority lien.

GUERECA: Yeah, I would-- I-- definitely open to conversation. Because I was-- again, I've spoken with the bankers, and again, this why this is an ongoing process. We want to make sure that it-- it's something that, that works here well in Nebraska.

HALLSTROM: Yeah. And I, and I think just for your point of reference, we've worked with city of Omaha a number of years ago with a vacant property-- vacant and abandoned property ordinance. We had some legislation in years past where-- looking at making that subordinate, or at least making there be a notice of lien so the people that are checking the records can have an opportunity to know that there is a competing lien out there is something that I would be interested in.

GUERECA: Yeah. And I-- a-- yes. [INAUDIBLE] those conversations.

HALLSTROM: OK. Thank you.

BOSN: All right. Are you staying to close?

GUERECA: I will.

BOSN: Awesome. Thank you.

GUERECA: Thank you.

BOSN: First proponent. Anyone testifying in support of LB620. Good afternoon and welcome.

VINCENT SAWYER: Good afternoon.

BOSN: You can go ahead whenever.

VINCENT SAWYER: Honorable members of the Judiciary Committee of the Nebraska Legislature, my name is Vincent, V-i-n-c-e-n-t; Sawyer, S-a-w-y-e-r, and I stand before you today as an attorney from the great state of Tennessee, where we have witnessed the transformative power of a legal tool designed combat urban decay, revitalize communities, and restore pride in our neighborhoods. I speak of the Tennessee Neighborhood Preservation Act-- or, the NPA for short-- a vital piece of legislation that has empowered municipalities, neighborhood associations, and even individual citizens to hold negligent property owners accountable to restore blighted properties. I commend you for considering LB620, a proposed law similar to Tennessee's Act, as it represents a forward-thinking and practical solution to a persistent challenge of addressing blight and improving communities. How the statute works: the NPA allows municipalities, neighborhood associations, and even affected residents to file lawsuits directly against properties that have fallen into severe disrepair. This is not just about minor code violations; the statute targets properties that pose a serious threat to the health, safety, and welfare of their respective communities. Once a lawsuit is filed, the court evaluates whether the property is indeed a public nuisance. If so determined, the court is empowered to order the owner to correct the conditions, allow banks or other lienholders the opportunity to take corrective action, or allow a court-appointed receiver to take control of the property. This receiver is empowered to make necessary repairs, stabilize the structure, and ensure it no longer poses a threat to the surrounding community. Importantly, the costs of this rehab are typically recovered by replacing a lien on the property, ensuring public funds are protected, and those responsible bear the financial burden. Once the receiver's lien is established, the property owner has the, the right to redeem the property by paying the receiver's lien within 30 days; if not redeemed within that period, the property is sold via public auction. Subsequently, the court

confirms the auction results, and the property is conveyed to the prevailing bidder, and titles-- with a clear title, ultimately, ultimately placing the property back into productive use, generating new property taxes, further benefiting the community. Many statutes have-- the NPA has had several measurable benefits. One, enhancing public safety by reducing criminal hubs and potential injuries due to easy access; restoring property values of the surrounding properties; cost efficiency for local governments due to reduced demand for frequent police visits, emergency responses, and code enforcement efforts, including costly demolitions; increased government revenue by settling back taxes; and generating additional property tax revenue, placing it back on the tax rolls, supplementing local government resources. Also, community pride and quality of life for surrounding residents. The NPA has proven itself to be an effective tool for reversing neighborhood decline and ensuring communities remain vibrant. By placing responsibility squarely on negligent property owners while providing communities with a legal remedy to address severe blight, the statute has empowered cities and municipalities-- citizens, excuse me, and municipalities alike. The success of this approach has been evident in Memphis, as many previously-abandoned properties have been transformed into viable housing, reducing crime rates and creating safer streets.

BOSN: Sir?

VINCENT SAWYER: In areas--

BOSN: Sir, your red light is on. If you can just give us your last thought, there.

VINCENT SAWYER: Absolutely. I appreciate the opportunity to speak with you today and share this important information, and I thank you for your time and consideration.

BOSN: Let's see if there's any questions. Senator DeBoer.

DeBOER: Thank you. Thank you for-- or-- did you fly out yesterday or today?

VINCENT SAWYER: Yesterday.

DeBOER: Well, you saw a beautiful day, and then you saw today.

VINCENT SAWYER: Yes.

DeBOER: So-- yeah.

VINCENT SAWYER: Well, I--

DeBOER: Welcome to Nebraska. We hope you get home safely.

VINCENT SAWYER: Thank you. Well, the, the, the blizzard started for me in Denver. That was my connecting flight. Yeah.

DeBOER: Oh. Well-- so you've had quite a trip.

VINCENT SAWYER: Yes.

DeBOER: Well-- OK. So, you have experience with this project down in Tennessee, or this bill down in Tennessee. Is that right? You know--

VINCENT SAWYER: Yes.

DeBOER: OK. Have you seen instances where this has been used kind of as a sword against folks who maybe the neighborhood doesn't like for some reason, or shares a difference of opinion with? Is that-- has it been used as kind of a weapon against folks that are kind of the outsiders?

VINCENT SAWYER: No, we haven't seen any evidence of that. And also, this statute is primarily used in Tennessee for vacant and abandoned properties. Generally speaking, the surrounding neighborhood has no idea who owns this property. It's generally a defunct corporation, heirs that live on the other side of the country of deceased people who want nothing to do with the property. There's rarely any kind of connection between the owner and the surrounding residents.

DeBOER: OK, I think that would make, probably, rather a large difference on this one. So, it sounds like what you're doing is essentially deputizing the people of the community to enforce rules. And if it's specifically to vacant and abandoned, I can kind of understand that. Thank you.

VINCENT SAWYER: Thank you.

BOSN: Senator McKinney.

McKINNEY: Thank you, and, and thank you for coming. Could you speak to the various ways a property owner could keep their property through this process?

VINCENT SAWYER: Absolutely. If the court determines that a property is indeed a public nuisance, the owner-- the court issues an order of

compliance requiring the owner to abate the nuisance, remove the nuisance either through a rehab or through a demolition of the property. That plan must require a detailed budget, a projected timeline, and proof of financial capacity to complete the rehab or the demo. The owner can comply with that order, submit a plan, and provide periodic, periodic updates to the court until the, the nuisance has been abated, at which point the case is dismissed. Another way is that the owner does not comply, at which point the rec-- the court may determine that the owner is in noncompliance and subsequently appoint a receiver to abate the nuisance on the owner's behalf. The owner can, at that point, satisfy the receiver's lien in full by paying it within 30 days and redeeming the property, and that's another way to resolve the case as well.

McKINNEY: All right. Can you speak to the concerns of possible gentrification?

VINCENT SAWYER: We've seen no evidence of any effects on gentrification in Memphis with this, too. I don't believe there have been any census tracts identified in Memphis--

McKINNEY: OK.

VINCENT SAWYER: --that--

McKINNEY: And--

VINCENT SAWYER: --evidence.

McKINNEY: Last question. Can you speak to concerns of, like, at the end of this process, outside entities or outside investors coming in-- on-- in and purchasing these properties. Because, for instance, in my district, we have a problem with a company that has brought [SIC] up a, a bunch of properties, and they, they are an out-of-state company, and that's a big concern. Can you speak to that concern?

VINCENT SAWYER: Yeah, that is a-- primarily, the properties that end up being receivership-eligible in Tennessee are out-of-state investors, defunct corporations who, who basically have just abandoned their interest. They've "bled" the property for as much rent, rent money as they could obtain, and then leave the city and the neighborhood residents high and dry.

McKINNEY: I know it's the open market, but is there a way to limit or prevent those entities, say, from purchasing? Because this a big issue.

VINCENT SAWYER: I believe that is certainly outside the scope of the statute.

McKINNEY: Yeah.

VINCENT SAWYER: I believe the, the right to, to convey your property to, to, to-- and the right to purchase may have several constitutional implications.

McKINNEY: All right. Thank you.

VINCENT SAWYER: Yes.

BOSN: Senator Hallstrom.

HALLSTROM: Yeah. Mr. Sawyer, I heard you say you're an attorney from Tennessee. Are you representing someone specifically here today, or?

VINCENT SAWYER: I am a staff attorney for The Works, Inc.

HALLSTROM: OK.

VINCENT SAWYER: A citywide community development corporation. I'm also general counsel for a Tennessee receivership group who has conducted around 30 receiverships in the city of Memphis, Tennessee.

HALLSTROM: OK. And I apologize if I didn't catch that in your, in your intro. Help me walk through this. I'm, I'm looking at the timing. The bill sets up a receiver's lien from the time of filing the petition, and would it be correct that we're not going to know if the receiver has anything to attach a lien to until the, the process of allowing the landowner to try and cure or comply, or to allow an interested party to do so?

VINCENT SAWYER: That is correct. The lien that's established at the filing of the initial petition is an inchoate lien in an undetermined amount that is established if and only if a receiver is later appointed, the precise amount established if and only if a receiver is later appointed to step into the owner's shoes.

HALLSTROM: And I would agree that the amount of the lien is not established, but the lien appears to clearly attach to the land from the filing of the petition. Is that correct?

VINCENT SAWYER: That is correct, via a lien [INAUDIBLE]

HALLSTROM: And so, if the owner wants to comply-- and, and I, I guess what-- would you tell me the receiver's lien, in terms of ultimately coming into play-- I'm concerned about whether or not someone's going to finance or, or extend financing in the face of a potential receiver's lien to come into play, if the lien has superpriority status.

VINCENT SAWYER: Correct me if I'm wrong, Senator. You're, you're questioning the finance ability of the--

HALLSTROM: For the owner to comply in the first instance. That's, that's the first tranche, is the owner can go in after getting notice.

VINCENT SAWYER: I could definitely see that being a potential issue. I believe that has happened before in the context of the owner requesting that the bar on transfer be lifted in order to sell to a proposed buyer who plans to comply with the order of compliance. Same thing for a bank wanting to encumber the property with a lien. Be-- it would be the court's discretion to approve any bar on transfer, any lifting of the bar on transfer, which is what you would need.

HALLSTROM: And the individual, then, would incur costs to have to go into court to see if the court was going to lift the bar on transfer? Or, if a lender wanted to go in and foreclose on the property in the normal course of business, this serves as a bar, at least temporarily, for their ability to do so.

VINCENT SAWYER: Yes. But the lienholder, the bank, is an interested party that is served in every step of the way of this lawsuit, and by statute has an opportunity to step into the owner's shoes and take corrective action before any receivership is contemplated.

HALLSTROM: And they may have an opportunity, but they may not have a desire to do so.

VINCENT SAWYER: In, in, in most cases, Senator-- in Memphis, yes, the banks generally release their liens they have. It's the underlying collateral for an interest for, for funds that are likely to not be obtained in the property. Does not represent any type of-- it, it-- it's unlikely that the property will satisfy this.

HALLSTROM: OK. Thank you.

BOSN: I have just a couple of questions here. Thank you very much for coming. Certainly sorry for the weather today. Can you tell me how

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long this has been in effect in Tennessee, how long ago this law passed there?

VINCENT SAWYER: I want to say the original law passed in-- somewhere-- I, I, I can't say for sure, but I think it was 2016.

BOSN: OK.

VINCENT SAWYER: And it was an in personam statute, and we learned all kind of lessons from such a statute. And the main statute that we implemented the policies and procedures with the court was in 2018. That was the statute that we started building the ship.

BOSN: And I assume you've probably made some learning curve adjustments since 2018, then, probably? Even--

VINCENT SAWYER: Absolutely. We amended the statute in 2023 as well.

BOSN: OK. And the-- and does the proposed language in this reflect those updated--

VINCENT SAWYER: Yes.

BOSN: OK. And I know you said the number 30--

VINCENT SAWYER: And-- I'm, I'm sorry.

BOSN: Oh, go ahead.

VINCENT SAWYER: In, in the, in the amended-- in the amendments that are before you--

BOSN: Well, so, I now have two amendments because I-- my office had contacted Senator Guereca's office and got an AM336, but now we've been provided with AM738, so. Are the learning curve changes that you've made in 2023 reflective in either or both of those amendments?

VINCENT SAWYER: I believe so, but I'm not here to speak on the statute; only here as an attorney for Tennessee, telling you how Tennessee law works.

BOSN: That's fair.

VINCENT SAWYER: Yes.

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BOSN: OK. And can you tell me, over the course of since 2016, 2018-ish, how many-- an estimate-- a rough estimate of the number of properties that have been the subject of a receivership?

VINCENT SAWYER: I believe the court has appointed between 75 and 100 receivers since the implement-- implementation of the 2018 amendments.

BOSN: OK. Thank you. Senator Hallstrom, and then Senator Storer.

HALLSTROM: Sir, does Tennessee have municipal land bank authority, like we do here in Nebraska? If, if you know, or if you're--

VINCENT SAWYER: Yes it does. Yes. Tennessee?

HALLSTROM: Yeah.

VINCENT SAWYER: Yes.

HALLSTROM: Thank you.

VINCENT SAWYER: Yes.

BOSN: Senator Storer.

STORER: Thank you. Out of curiosity, of those-- you said 75 to 100 receiverships, right?

VINCENT SAWYER: Yes, Senator.

STORER: --have been-- approximately what percentage of those were returned were, were able to be satisfied by the original owner and-- paid and returned to the original owner? I mean, I'm just--

VINCENT SAWYER: I would, I would imagine a very, very insignificant amount, if any. Again, these properties are generally-- this statute is used primarily for vacant and abandoned properties where the owner cannot be ascertained. It's likely a defunct corporation or heirs who want nothing to do with the property. It's-- in, in, in, in the vast majority of cases, there is no one before the court requesting that a receivership not proceed. Not to say that that hasn't happened, and the court is the ultimate decider on whether to find to the point of noncompliance. I can tell you, as a general rule, our court is very favorable to anybody who stands before it and pleads with the court that it intends to rehab the property, or-- but in general, there-- there's, there's no owner to redeem, as a general rule.

STORER: OK. Interesting. And I guess just for, for some kind of context, you said most of them are abandoned. It has to be a very specific violation, and so, is-- give me some examples. If, if it's a dilapidated-- I'm just envisioning an abandoned warehouse that's-- windows are broke out, and some of the bricks are falling in. I mean, is-- we can talk about any-- it could be anything from the remedy-- demolition, like, clearing the property to rehab in terms of revitalizing the existing structure. I mean, what are-- there has to be this huge range, right? Of-- what I-- part of my concern is, you know, who's determining that violation and then rehab, and at what cost, right? There-- that's determined upfront by the court? Is that what I understand?

VINCENT SAWYER: Initially, it's the, the-- so, this-- the, the municipal corporation, the city, is the one that generally brings the lawsuit.

STORER: OK.

VINCENT SAWYER: And code enforcement, when they bring-- when they file the initial petition, it's generally accompanied by a certificate of public nuisance by code enforcement. So, the code enforcement inspector and ultimately the code enforcement official makes the first determination as to whether that property is indeed a public nuisance at the first setting. At trial, the prop-- excuse me. At the first inning of, of the case, the court determines the issue of public nuisance, if that certificate is indeed attached. As far as the definition of public nuisance, we're talking about severe threats to public self-- health, safety, and welfare of the surrounding community. We're talking about your run-of-the-mill vacant and abandoned properties where all of the wiring has been stolen out of the house, there's-- half the sheet rock's still up, the roof is collapsing, the floor is not safe, and it's open for casual injury, children close by, living around the property. And as you said, Senator, ultimately, yes, the judge is responsible for making that determination as to whether the property is a public nuisance.

STORER: And, and what the remedy is. I mean, the-- I guess that's the range that I'm envisioning, is demolition all the way to rehabilitation, in terms of, you know, fixing the wiring and the drywall and the-- right?

VINCENT SAWYER: Yes, Senator. It's ultimately up to the owner how it wants to address the code violations. The order of compliance that's issued when the court determines that a property is a public nuisance

requires that the owner abate the nuisance, meaning that the property is back into code compliance. However the owner wants to do that, that is-- the only requirement of the owner is to bring the property back into code compliance. And yes, demolition is one way to remove all code violations. Rehab is another, returning the property back to productive use. And it can be used for commercial, as well. I believe you alluded to that earlier.

STORER: So, in the event-- if I understood it correctly-- that there's-- oftentimes they can't find an owner, there's not a person to-- so, then who determines the [INAUDIBLE]--

VINCENT SAWYER: So, if there is no plan produced by the owner, because, for example, there is no owner to produce a plan, the court has the discretion to find that owner in noncompliance. We leave it up to the elected official, the court, to make that determination as to when it is determined that the property owner is either unwilling or unable to address the property-- the problems at the property. At that point, the court will entertain interested-party plans-- banks, lienholders; they give them the opportunity to be heard, to see what they want to do, and-- at which point if, if no plan is produced at that point, then a rec-- the court will consider a receivership, receiver plans-- proposed receiver-- proposed plans from the receivers.

STORER: OK. Thank you.

VINCENT SAWYER: Yes.

BOSN: Senator Storm.

STORM: Thank you. Thank you. So, most cities have a planning department, and there's code enforcement through a planning department. So, does this go around that, or work with them? Or how does that--

VINCENT SAWYER: No, it, it, it works in tandem with the, with the, with the other code enforcement efforts. The condemnation process is an administrative process. This is a-- it, it-- it's often a, a, a less-desirable outcome because there's a big lien on the property; ownership hasn't changed, title is encumbered, it's underwater forever. And, and this is a process that leads to potential rehabilitation, whereas code enforcement-- whereas condemnation, excuse me, does not. It also clears title.

STORM: So, you work for the, The Works. What-- what's your-- who do you work for?

VINCENT SAWYER: The Works, Inc.

STORM: So you'll take, like, a blighted property-- and I'm looking at your website, here-- and they will take [INAUDIBLE] and make affordable housing? Is that kind of the--

VINCENT SAWYER: We are an, an affordable housing provider in the city.

STORM: OK.

VINCENT SAWYER: That is our main focus, but we also have other advocacy efforts, including--

STORM: Right. Sure.

VINCENT SAWYER: --addressing vacant and abandoned properties.

STORM: But that's what they could do with some of this blighted properties? They just turn it into affordable housing?

VINCENT SAWYER: This-- the, the-- that has been contemplated by several municipalities.

STORM: Right.

VINCENT SAWYER: It's not addressed in our Tennessee statute,--

STORM: OK.

VINCENT SAWYER: --but it would be great to bridge those two worlds.

STORM: OK. Thanks.

BOSN: Senator Hallstrom.

HALLSTROM: And maybe you can help me. I'm trying to read the provisions that talk about once a receiver is appointed, that they're not personally liable except for misfeasance, malfeasance, or nonfeasance. Are there any other types of feasance? I mean it almost seems to swallow up, swallow up the exception.

VINCENT SAWYER: Well, misconduct, basically. I mean, all those feasances are misconduct. So, the receiver is not personally liable, it's an arm of the court, it's only following the court's

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instructions, and unless they have some type of misconduct, they would not be held personally liable.

HALLSTROM: But it's covering wrongful, intentional, or non-action. And you're still liable for any one of those three. It seems to me if you want to give the receiver some type of exemption from personal liability, that doesn't really get you there. My reading of the language.

VINCENT SAWYER: And--

HALLSTROM: Would you prefer to give-- make sure that the receiver has an exemption for personal liability to the maximum extent possible?

VINCENT SAWYER: Well, only-- well, for everything except for misconduct. That's-- that--

HALLSTROM: OK.

VINCENT SAWYER: --that was the intent of the statute.

HALLSTROM: OK. Thank you.

VINCENT SAWYER: Yes.

BOSN: All right. Thank you very much for being here. I appreciate your testimony.

VINCENT SAWYER: Thank you.

BOSN: Yes, you bet. Next proponent. Any other proponents? Good afternoon and welcome.

LESLIE SMITH: Good afternoon, Chairwoman Senator Bosn, and members of the Judiciary Committee. My name is Leslie Smith, L-e-s-l-i-e S-m-i-t-h, and I serve as the executive director for the Omaha Municipal Land Bank, and I'm here to speak on LB620 and why we are here to be able to speak passionately about what this act brings to the state of Nebraska. As a land bank, we embed ourselves in conversations locally and nationally to identify proactive policy solutions to address occurrences of vacant and abandoned, as well as how can we also address the housing shortages-- crisis across the state. And what do we have in place and-- to date, as it relates to both of those issues, in terms of the state of Nebraska that the land bank can take advantage of? We have the tax sale and the condemnation, and for some cities, there are vacant property registrations. We-- as

a land bank, we acquire many properties that have undergone those tools, which have seen many years of neglect prior to us acquiring the properties. And all of our properties-- we have a total of 300-- they are all vacant, and some of them previously had a structure. But because the enforcement process was so long, it was demolished by the time we were able to acquire it using our current systems in place. Now, the development of these properties are wholly dependent upon a now-growing pool of emerging developers to fix the issues of vacancy retroactively. If you haven't joined us for a bus tour, on June 4 and 5, our developer symposium, you'll be able to take a bus tour and see for yourself the type of properties that we have to deal with, and why it takes so long to turn them into housing from the point of a vacant lot. To remind you all, we work in distressed communities where there's high levels of vacant properties, and we see issues like this, but we also see issues of vacant and abandoned structures as well. And every time we do a bus tour, community members always ask us what can be done to these deteriorating structures that are in these neighborhoods, and how can I access this? There's sentimental value with these structures, maintaining the pers-- characteristics of these housing that are now-- our only options in place is to wait until a property becomes tax delinquent and is in tax sale, which would take three years before you can even begin to foreclose. We are not-- we had a lot of people here to talk about how this can expand our tools that we can use to address these issues. I just want to take this time to just reframe that this act offers an opportunity to reframe the role if Nebraska seeks to be an innovative-- addressing-- be innovative in addressing nuisance properties without enabling bad-acting property owners to leverage demolition by neglect as a tactic on the city's dime. I want to thank Senator Guereca for his commitment to being proactive and taking actions on how to address abandoned properties, and their bad actors that threatens the safety and stability of neighborhoods throughout Nebraska. Thank you for introducing this very new concept to the state of Nebraska. I know we have a long road ahead. We are committed to staying at the table with stakeholders to continue to how we can explore code enforcement strategies in addressing these very issues. We ask the Judiciary Committee to keep working on this issue, and consider advancing this bill to General File. Thank you.

BOSN: Perfect timing. Any questions for Ms. Smith? Senator Hallstrom.

HALLSTROM: If you don't know the answer to this question-- you, you mentioned the time that you'd have to wait for a tax sale certificate procedure to get resolved, but won't there be a situation where someone has paid the taxes, maybe for multiple years, plus the

interest accrual, and if we provide a, a superpriority lien for the receiver's lien that, as I read this, the party with the tax sale certificate may not get paid?

LESLIE SMITH: The subsequent taxes are addressed by way of the receiver lien. So, if the receiver is actually looking to address the issues, they have to address the, the immediate structural issues that the code violation is looking to remedy. But then, they also are able to abate the other issues, such as subsequent taxes, any kind of back, delinquent taxes that would be such tax liens, so-- and any other kind of issues that are associated on-- from the lien perspective, so that by the time that property goes to public auction and the lien extinguishes all previous things, they are already addressed upfront.

HALLSTROM: So, if they have enough money, they will hopefully be able to pay the abatement costs and a bank lien that may be in existence, and the tax sale certificate. And are those priorities all established by existing statutory law, in terms of who gets paid first out of the proceeds from the receiver's lien and sale of the property?

LESLIE SMITH: That was a long question.

HALLSTROM: I know. [INAUDIBLE]

LESLIE SMITH: OK. If the first part of that question was, is there a process that outlines who gets paid, how it get-- how it get paid, the statute should list that.

HALLSTROM: OK.

LESLIE SMITH: So, the receiver gets all his money back of what he's invested up front. Then, there's a 10% admin fee on top of that, and then the remaining of the other funds are issued out to any of the entities that were involved, such as any court fees or whatnot. So, that is included in your statute.

HALLSTROM: OK. And I appreciate that. That's-- I think in essence, those other folks are going to go to the back of the class.

LESLIE SMITH: Go to the what?

HALLSTROM: Back of the line.

LESLIE SMITH: Oh. Well, the issue is that this is putting a resolution where there is proc-- currently process none. And right now, regardless if there are any liens, our current process will just knock

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down the house. So, if there is an invested interest banker who's got a lien in this property and this property would normally be demolished-- and so, this gives an opportunity for you to get your money back.

HALLSTROM: OK. Thank you.

BOSN: Other questions? Thank you very much for being here.

LESLIE SMITH: Thank you.

BOSN: Next proponent.

KORBY GILBERTSON: Good afternoon, Chairwoman Bosn, members of the committee. For the record, my name is Korby Gilbertson, it's K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of Habitat for Humanity of Omaha. I'm not-- I have not seen the amendment, and I recognize the questions that Senator Hallstrom has brought up, and I know that in other discussions there are a number of things that need to be addressed in the legislation, so I'm going to kind of take a different tact and just talk about the fact that Habitat for Humanity has demolished more than 100 homes, primarily in northeast Omaha, to remove that blighted property and to make way for safe, affordable housing. The current way to acquire the properties for the demolition, it's a complex and time-consuming process, and it can take years to accomplish. Habitat has been able to work with the city of Omaha to try to expedite the process, but sees LB620 as a potential way to open the door to help have some type of process changes that wouldn't affect ownership rights or any of the liens on the property, but to hopefully be able to expedite the process. And so, we would like to continue to work with Senator Guereca on this legislation. And I'd try to answer any questions.

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

KORBY GILBERTSON: Thank you.

BOSN: Oh, I'm sorry. I didn't see your hand. Senator Rountree.

ROUNTREE: I'm sorry. I'm using my military voice, but-- yes, ma'am. Thank you, Chairwoman Bosn. Thank you so much. You say-- and the thanks for the testimony, by the way. To acquire property and so forth, just to get to the point of being able to build a house on it through Habitat, it's years-long process, approximately what, two, three, four years? Or--

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KORBY GILBERTSON: It can-- yeah, it can take over three to four years to get it. And if you're using the tax sale law right now, you have to wait three years, I believe,--

ROUNTREE: Oh, yeah. Yeah.

KORBY GILBERTSON: --is the waiting period before you can do anything. So, that's one of the issues.

ROUNTREE: But you all have been able to [INAUDIBLE] over 100 homes?

KORBY GILBERTSON: Yes, in the, in the last decade alone.

ROUNTREE: That's excellent.

KORBY GILBERTSON: Yeah.

ROUNTREE: All right. Thank you so much.

BOSN: Thank you.

KORBY GILBERTSON: Great, thank you.

BOSN: Next proponent? Opponents; anyone here in opposition to LB620. Neutral testifiers? I knew you were getting ready to get up. I just didn't know when it was.

JERRY STILMOCK: Just itching.

BOSN: Yeah.

JERRY STILMOCK: Madam Chairperson, members. My name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska Bankers Association in a neutral position because we've had the opportunity-- and Senator Guereca was kind enough to share some of his time, we were able to talk with him. We are very interested in caring about the, the mission that we see in the bill in relation to our members, and that is the prioritization of prior liens. It's just important. I could roll up my sleeves and do it this afternoon, but because of Senator Guereca's words in introduction, I feel, I feel the time-- particularly on a day like today-- it's more appropriate to say we-- we're encouraged by Senate Guereca willing to spend time, listen to our concerns. There are several items within the bill. But, as Senator Hallstrom mentioned, previous legislation-- Senator Briesse brought in 2017 the Vacant Property Act, and Senator Mello, at the time, brought the municipal land bank legislation a couple years, and

city of Omaha ordinance, all three of those items. The reason I mention them is because they all started with a prioritization of the lien that was going to be put in place rather than of that that had already been sec-- reported and recorded of record by, by a bank, by financing, in order to purchase the property. Look, we've all seen the nature of what these houses look like, and some of them do not have any finance behind them. I've practiced law long enough that some of them do have financing. And yes, at times the lender is willing to walk away to avert, you know, having to repossess the property or foreclose and so forth. But we just want to make sure that we have that opportunity to work with Senator Guereca, as he's already assured. So I'll withhold any comments and-- further comments. I look forward to working with him. Thank you, members.

BOSN: Awesome. Thank you. Any questions? All right. Thank you for being here.

JERRY STILMOCK: Very good. Thank you all. Good day.

BOSN: Any other neutral testifiers? All right. Well, then, while Senator Guereca makes his way back up here, I will note there were 10 proponent, 14 opponent, and 3 neutral comments submitted for the record. Welcome back, Senator Guereca.

GUERECAS: Thank you, Madam Chair. This is definitely a new and complicated process for folks to wrap their head around, and making sure that we're being thoroughly vetted, which is why I would like to continue conversations over the course of the interim; you know, sit down with everyone, making sure we get to come to a conclusion and create legislation that is beneficial to all Nebraskans. We had several folks that had planned to come to testify, not just from Omaha but from greater Nebraska, but weather just did not permit. So, with that, again, my, my goal is to create another tool for our communities to ensure not just a safe environment and a safe community, but one where our, our Nebraskans could feel proud to be in these neighborhoods. Whether you be in, in south Omaha or in Chadron, right? Our, our, our, our citizens, our constituents deserve to be proud and, and be safe in their communities, and that's what I look forward to over the course of the interim: to create the legislation that, that benefits everyone. And with that, I guess I'll take any questions.

BOSN: Thank you. Any questions? I look forward to hearing how that goes.

GUERECAS: Excellent.

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BOSN: Awesome.

GUERECA: Thank you, Madam Chair and committee.

BOSN: Thank you. That will conclude LB620. Next up, we have Senator Dorn and LB56. Good afternoon.

DORN: Before I start, we are also passing out two additional letters. Our law enforcement from Gage County that were going to be here to testify, both let us know this morning that they weren't, so they sent to us the letters, and, and that's why there's three handouts. One is my discussion, and then also from them. Good afternoon, Chairman-- Chairwoman Bosn and members of the Judiciary, Judiciary Committee. My name is Myron Dorn, M-y-r-o-n D-o-r-n, and I represent District 30. Today, I'm here to introduce LB56. This past summer, I was contacted by the Gage County Sheriff's Office regarding the problems they were having in complying with a provision of the law. In statute 60-6,102, it states when a driver from a motor, motor vehicle accident dies within four hours of such accident, or a pedestrian dies as a result of a motor vehicle accident, the coroner or other official performing the duties of coroner shall examine the body and cause such tests to be made as are necessary to determine the amount of alcohol or drugs in the body of such driver or pedestrian. The easiest solution seemed to be to introduce LB56, which would require a medical facility or a mortuary to comply with a request from a peace officer for a blood draw or a driver or pedestrian described above. The law is clear: this test shall be done. However, when Gage County Sheriff Office requested the blood draw, a mort-- a mortuary and some of-- several of the mortuaries are, are not doing it, they will not do it. I met with a few representatives of the mortuary and their lobbyists. Their concerns were, one, the difficulty in drawing the blood from a deceased person, and two, the potential liability and the chain of custody of the evidence. I can-- I can't speak to the difficulty of collecting a blood sample from a deceased person, but I can address the issue of liability and the change of-- chain of custody. In 60-6,105, which I have provided a copy for you, it reads no report and no statement contained in the report submitted pursuant to the Section 60-6,101 to 60-6,104 or any part thereof shall be made available for any purpose in any trial arising out of the accident involved unless necessary solely to prove compliance with such sesh-- sections. So, I believe the issue of liability and the chain of custody of evidence are addressed in the statute I just mentioned. My office contacted the Department of Transportation, and they confirmed that this information is used solely for statistical purposes for highway safety information, and no transportation funding is tied to this statistical

information. I asked that this bill have a late hearing, and I'm willing to work with-- and we've visited several times with the lobbyists that have-- and several of the mortuary people, and several of the sheriff department in, in-- it's not only Gage County, but it's also other counties. I see two possible outcomes. Under the state statute law, law enforcement is required to have the blood alcohol level tested. So, have mortuary and medical facilities comply with the law enforcement request, or, two, eliminate the statute section altogether. I would be happy to take questions, and-- then we also added some things down here, I call it, more for general information, but it's a, a question from a 2012 report, other states that have this type of testing. It's listed there the number, and why do we need this testing, because the highway-- National Highway Safety Administration compiles this data, puts this together, and uses this type of data for, I call it, that type of things when they happen, and how many people have, I call it, alcohol in their system or not. We visited probably five, six, seven times, and I don't know if there'll be-- there were going to be some mortuary people here, of why they aren't doing this, but they, about two years ago-- and one of the letter states that-- about two years ago, they kind of quit doing it. It's not because of they don't have the equipment there. Every sheriff's car has a box about this big, about two inches thick, and it has a syringe, it has the needles, it has everything in it. So, whenever a-- the sheriff or the, the whatever go to the scene of the accident, they have the box. It's not that. It is very hard to draw blood out of a deceased person; it's not like a live person where you have blood flowing. It's a challenge, more of that, I've been told. But this-- where the issue is, our, our county attorney and our sheriff's department, if we have this statute and they must apply-- comply with it, and yet the coroners-- not the coroners. The mortuary and the hospital in Gage County and Beatrice both have not-- decided not to do it. Where do we go? And that's kind of the question here. Where do we go, or what do we do. And that's why we asked this bill kind of to be heard late. Let's just set it here. We're going to-- we plan on talking more over the summer and everything, see if there's something we can bring back next year to resolve it. Or maybe they will start doing this. I don't know. But that's kind of where we set, and that's why we brought the bill.

BOSN: Thank you.

DORN: Yeah.

BOSN: Questions for Senator Dorn? Senator Rountree, followed by Senator McKinney.

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ROUNTREE: Thank you, Chairman Bosn. And thank you, Senator Dorn, for your introduction of the bill. This was one that really interested me as I read through it, so I took an opportunity to go out and to read every one of the testimonies that the mortuaries, that they submitted online, and they really talked a lot about not being trained in phlebotomy. As you stated, it's kind of difficult, it's a different process. But also, the other part is the respect for the deceased. So, I've worked with funeral homes a lot in just personal capacity and their care. Would you-- would another option be, so that we don't get them out of what they've taken their oath to and their decorum with the deceased, would it be possible, then, to have a phlebotomist on stand-by?

DORN: One, one of--

ROUNTREE: Someone that's trained in that.

DORN: --one of the options-- and maybe-- I don't know if-- I don't know if-- we knew at one time there were going to be three morticians here to testify today.

ROUNTREE: OK.

DORN: I don't know if any of them are coming today. I couldn't tell you that, but probably, hopefully-- I know none were sure. One of the other options is, for this-- and it's been done every now and then-- is to have the coroner when that, because a, a bod-- a person that dies in that type of wreck--

ROUNTREE: Right.

DORN: --generally has an autopsy done. So, there's only one place in the state of Nebraska that does the autopsy; that's in Omaha, and the list right now takes you approximately a month to get there and get one of those done. The statute says in four hours it must be done and stuff, so. We're not questioning whether the statute we need it. I don't know that, or where-- but it's-- our, our sheriff's department, when they visited with me, they go, "We're supposed to be doing this and now we can't get this done; what do we do?" That's why we had the discussions. Been very good to visit with the morticians. Had very good conversations with them. We haven't come to, I call it, an agreement or something like this here that-- OK, instead of in four hours, let's now change that statute that says, OK, done by a coroner and don't put a time in there. That is an option and stuff. So, I don't know where or whatever we would like to-- I call-- like I said,

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visit-- this summer, we'll come up with more options, and then we'll come back.

ROUNTREE: All right. Sounds good. Thank you so much, Senator.

BOSN: Senator McKinney, sorry.

McKINNEY: Thank you, Chair Bosn. Thank you, Senator Dorn. Kind of thinking of-- he asked one of the questions I had, but kind of thinking about, like, this logistical issue that it seems to be, of maybe why-- and so, is the county attorneys requesting these tests, or are, or are they relying on the police to kind of do them?

DORN: No. This-- the, the county attorney or whoever-- it's in state statute, and I read the number off there, I forget-- 60-6,102, that that shall be done within four hours. That's in state statute.

McKINNEY: OK.

DORN: So, there-- it's not, it's not that they're requesting it. We have that in our state statutes that it must be done or whatever. They're-- when they came to me, they go, "We don't have anybody now that will do this. We can't get that procedure done." They are denying do it-- to-- they-- refusing to do it, I guess. They just will not do it anymore. And it wasn't only the morticians; they also had the hospital in Beatrice that several times denied do it-- to do it or whatever. The data-- and as this last paragraph here, the data-- why do we have it? It's-- goes through our Department of Transportation, they compile the data, they give it to the Nebraska-- the National Highway Traffic Safety (Administration), and it's in a bigger database, and this is used for-- it's not used for any direct funding, but it is used in, I call it, how we keep track of how many deaths are alcohol-related, drug-related, and those types of things. That's what it's used for.

McKINNEY: OK.

DORN: So, it's not, it's not used for evidence in a case of maybe why the driver died, insurance company or something like that. It's not. This-- the statute-- some of the other statute says it cannot be used for that, because if that is-- it cannot be used in those types of things. Do we still want-- I guess my question is, do we still want this statute? Is this a-- is this a good, strong statute--

McKINNEY: Right.

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DORN: --that we need to keep doing? Then we need to come up with a, a plan of-- or, not a plan of how do we most likely, I call it, enforce this?

McKINNEY: I get what you're saying. May-- have they ever considered, like, maybe, I don't know, some special-- like any situation, some special request or, like, some special-- I don't-- I'm, I'm just thinking out loud, honestly.

DORN: I hear what you're saying.

McKINNEY: Yeah.

DORN: I don't know. Unfortunately-- and I think the, the letter from our county sheriff, Gus-- Millard "Guffas"-- Gustafson, he put it in there-- and I forget the exact data-- a county the size of Gage County, what, 20-some thousand people-- in the last five years, I think we've had five, six or seven of these type of accidents that require this.

McKINNEY: And you kind of-- kind of what I'm thinking is, is some special-- I don't know if it would come from a county attorney or maybe a judge, or somebody that says per the law, conduct this test. I, I don't know. I was just thinking.

DORN: That, I don't know.

McKINNEY: OK.

DORN: I couldn't tell you. I don't have a good answer for that, either. Yeah, I-- so, it's-- it-- and it hasn't been that we haven't visited with people, because we've had-- several of the meetings, we've had the county attorneys at, we've had the state mortician group; we visited with them several times. We've had some zoom meetings with everybody involved, so we've had a lot of discussion on this. But it simply boils down to we have this statute, we can't get anybody to do it, so now what? Yeah.

McKINNEY: OK. Thank you.

BOSN: I, I think-- just a couple of clarification questions. So, the letter that you provided here from the Gage County Sheriff's Office, I would encourage my colleagues to read it because it does a nice job of explaining that in Nebraska, the county attorney, the elected official, serves as the coroner.

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DORN: Yes.

BOSN: And their training-- I don't want to belittle their work, but they are not trained to do blood draws by virtue of simply being elected as county attorney.

DORN: No, no.

BOSN: I sort of empathize with the hospitals who are saying when the individual arrives and has passed before arriving at the hospital, that their responsibility is to treat someone who has already died are slightly different than if this is a person who arrived alive and maybe passed while in their care and custody.

DORN: Yes. Mm-hmm.

BOSN: You know, I think to the extent that the funeral homes are, are not wanting to do this, I think some of the education needs to come from the fact that there's a four-hour requirement. I don't know that it takes 30 days to get a, an autopsy completed; it may take 30 days to get that result back--

DORN: Yeah.

BOSN: --but I've never seen an autopsy done in less than four hours from the time of death. I mean, that's just not realistic.

DORN: No, no. Never. I'll agree with you. Yes. Agree with you.

BOSN: So, the other thing, while you're working with them-- I mean, I would ask you to consider whether or not this is something that someone from the law enforcement agency or state patrol would have the ability to conduct this test themselves. Or alternatively, that we expand that to more than four hours. I assume the four-hour time frame is because that's when you can determine blood alcohol content within some reasonable degree of scientific certainty, or whatever the standard is.

DORN: Mm-hmm.

BOSN: But I, I agree with the summary. I mean, the summary on the bottom of this page is that this is inhibiting their ability to comply with the law.

DORN: Yes.

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BOSN: And so, I-- we'll happily try and help facilitate whatever communication--

DORN: Part, part of, part of-- and this is from memory of all of our meetings-- part of our-- the-- number one is very few people are trained to, I call it, draw blood from a deceased person, because now you have no blood flowing. So, as you take the blood out, it's not replacing itself. An alive person, it keeps flowing and it replaces the blood; as you draw it out, it replaces it. So, there's a challenge there, and it doesn't always-- they aren't always able to get what I call a good draw or whatever. That-- even, even doctors sometimes aren't. So, there-- that's the challenge there. Had many of those discussions and what all goes on. The sheriff's department, they are, are, are a little bit less familiar with it than a mortician, because a mortician deals with bodies all the time, and yet they don't always do a good job either. For years, this went on; never heard nothing. It was "yes, we'll do it" or they did it. And now, for some reason-- it's not only Gage County. Sheriff Gustafson, he can tell you that there's also other counties that have contacted him, visited with him about this fact. Nobody, nobody really argues the fact that they can do it, or they can't do it, or the liability; we understand all those. The statute says they need to do it within four hours, so do we change the statute? That-- that's one other option that we also would look at or whatever. I don't know if 24 hours-- we didn't specifically discuss that, so I don't know if 24 hours makes a difference enough that, OK, in 24 hours we could get it done. I-- that, I don't know. We didn't specifically discuss that because of what the statute said: four hours.

BOSN: Right. OK.

DORN: Yeah.

BOSN: OK.

DORN: Yeah.

BOSN: Thank you very much for being here.

DORN: You bet.

BOSN: Any proponents? Opponents? Welcome.

CHRIS KLINGLER: Thank you. Thank you. Good afternoon, members of the Judiciary Committee, Committee. My name is Chris Klingler. For the record, my name is spelled C-h-r-i-s K-l-i-n-g-l-e-r. I do happen to

be one of those funeral directors that you have on that letter that signed that letter in Gage County as well. I am actually testifying on behalf of the Nebraska Funeral Directors Association as co-chair of the legislative committee in opposition to LB56. Per state statute 60-6,210, licensed funeral directors and embalmers in the state of Nebraska should not be considered a qualified technician to do a blood draw, and have not been trained to do so. Based on the Nebraska Department of Health and Human Services definition of a funeral director/embalmer, a blood draw is outside of our scope of practice. I have included the scope of practice below for you to read. The blood draw kits used are also ineffective; the majority of the time, the deceased individual-- excuse me-- the majority of the time on a deceased individuals because it relies on suction created from the kit and a beating heart. Many times, these victims have lost a lot of blood, or the blood has begun to go through the process of livor mortis, which is when the blood starts to settle to the lower part of the body and makes this very, very difficult to draw blood. Lastly, this legislation would put funeral homes in today's sue-happy society at risk of liability, potentially in lawsuits, because we are not qualified technicians to perform a blood draw, should it go to a civil case. Thank you for your time, and I will take any questions.

BOSN: Questions for this testifier? I guess I have just a couple of questions. So, you, you were doing these before--

CHRIS KLINGLER: Funeral homes always just kind of did them as a good gesture. But then, we had a case in Gage County that there was a fatalit-- double fatality, and the attorney for one of the families started to call around. They called the funeral home that picked them up; that attorney then said, "Are you even qualified to do this?" And he said, "No, actually I'm not." And so, then that started to worry, you know, where does our liability fall in that? And, and could this, you know, affect us as a business, you know, if they came back and had a civil case against the funeral home?

BOSN: OK, so--

CHRIS KLINGLER: For do-- doing the blood draw when they're not qualified to do it.

BOSN: OK. So, under your scope of practice here, when I look at the last portion, it says preparing a dead human body for barrier-- burial or other final disposal. And I guess-- I think you could probably read that to include having the information for the final preparations for

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the body. And you're telling me that you don't think that that's included?

CHRIS KLINGLER: I guess I'm not understanding the question in that one. Do want me to explain what embalmed-- the preparation is?

BOSN: Nope.

CHRIS KLINGLER: OK.

BOSN: I'm familiar with that.

CHRIS KLINGLER: OK.

BOSN: I guess I read-- my long answer-- question short is I read this scope of practice to include that, and you're telling me you read it to not include that.

CHRIS KLINGLER: We don't, we don't believe so.

BOSN: OK. Can you tell me a little bit about the educational background requirements to become a funeral director? I-- it's not phlebotomist, but what is it?

CHRIS KLINGLER: Yeah, we-- right. We, we have classes in biology, accounting, English. I mean, there's a vera-- vast [INAUDIBLE] it ends up being about 40 hours of continuing-- of, of prerequisites; then, you go to mortuary school. We have a gross anatomy and physiology knowledge. You know, how to raise arteries and veins by making an incision and going through that process. But I feel, and a lot of funeral directors feel that I can't hit that vein to get that blood draw unless I am making an incision, and now I've made an incision on a body that I don't have permission, and can-- that's considered mutilation. And I-- we just don't feel that we should be doing that. We, we, we feel that that should be at our discretion. If the funeral home wants to do that-- again, that become back to the liability, and they if they want to do that, they can. But mandating funeral homes that don't feel comfortable doing it, we don't believe that's fair.

BOSN: OK. Senator Holdcroft.

HOLDCROFT: Thank you, Chairwoman Bosn. I'd like to hear the short course on embalming.

DeBOER: No.

HOLDCROFT: How does that go?

CHRIS KLINGLER: So, we-- what we do is we raise an artery and a vein, and we replace the blood in the body with the embalming solution. And the embalming solution pushes the blood through the body and then comes out the-- excuse me-- it comes out the-- push through the artery, comes out the drain, and then that-- the blood is then contaminated with the embalming solution in it, so we couldn't use that for a blood draw either.

HOLDCROFT: So, does the bod-- do you then start with, like, the aorta or the heart as being-- and then it just [INAUDIBLE]--

CHRIS KLINGLER: The general places for funeral directors is the carotid and the jugular, or the femoral artery and vein. Those are the two recommend places.

HOLDCROFT: And you just start pumping in the embalming fluid, and, and-- where's the other end? Where, where does the blood drain from the body?

CHRIS KLINGLER: It drains down into our-- down the table, into the drain into our sewer systems. Or a septic tank. So.

HOLDCROFT: Thank you.

BOSN: Thank you. Senator Hallstrom.

HALLSTROM: If you had a statutory immunity from liability, would that provide any protection? Or, or would you feel better about the statute if you're obligated to do it?

CHRIS KLINGLER: I don't think as a-- I don't think funeral directors want to be mandated to do this. They don't feel safe within a civil--

HALLSTROM: OK. Thank you.

CHRIS KLINGLER: --civil case, because that-- [INAUDIBLE] can we guarantee in a civil case that we're protected? I don't, I don't know, so.

HALLSTROM: OK. I appreciate that. Thank you.

CHRIS KLINGLER: Yeah.

BOSN: Can you give me an example of what civil liability you're concerned about?

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CHRIS KLINGLER: Well, for that, that case of-- that was in Gage County, where that, that attorney started to check around, that-- just the worry that they would be named in somehow-- a civil case. We-- you know. We're not attorneys, but we just-- we're, we're fearful of that.

BOSN: But I guess what would be the, the-- what would be the harm that you have-- I mean, so you're able to put a needle in to shoot the embalming fluid through, and do all that--

CHRIS KLINGLER: Well, that's not--

BOSN: Well, you're able to pierce the skin for those purposes, but not for these purposes. How would the liability be different and separate for each of those?

CHRIS KLINGLER: Yeah, we don't actually pierce the skin. We make an incision, and we actually have to go dig through muscle and tissue and raise an actual artery and vein to be able to do that.

BOSN: OK, so you're opening the skin. Piercing, opening, OK. So, you're opening the skin there. When you would do a blood draw, would you not also open the skin? I'm just trying to understand and square--

CHRIS KLINGLER: Typically--

BOSN: --why one is civil liability and one is standard practice, and not concerning--

CHRIS KLINGLER: Because we have, we have permission from the family to perform the embalming process. We are required to have that permission.

BOSN: OK. So, if you have the permission from law-- from state statute to do the blood draws, are you-- what would be the difference there, then?

CHRIS KLINGLER: I guess we just feel from a liability standpoint, we just don't want to-- it's not that we don't want to help; we just-- this, this has been something that we don't feel from a liability standard we should be mandated to do as, as well, so.

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

CHRIS KLINGLER: Thanks.

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BOSN: Safe travels home.

CHRIS KLINGLER: Yep.

BOSN: Any other opponents? Neutral testifiers. All right. Senator Dorn, if you'd like to close. I will note for the record there were 2 proponents, 12 opponents, and 1 neutral testifier.

DORN: I, I think Mr. Klingler pointed out, I call it, the fact in, in the one case where a lawyer-- even though in statute-- even though in this statute, different parts of the statute says it's not used-- cannot be used in a court of law, cannot be used in any of those things. Yet, the morticians now have that, I call it, aspect or that worry about can they ever be brought in. And I think that liability is part of the things we're dealing with here, issues we're dealing with. We'll continue to visit with you, or if anybody like Senator Rountree has thoughts, comments, questions, we'll visit with you in the coming days or this summer or something so that we can maybe come up to it with a solution of this. And I don't know if we need to change-- as I set there, I go, maybe the four-hour time limit isn't enough; maybe we need to, I call it, put it farther out there so when they do the embalming they can do that, if this is just for statistical purposes. The way he talked, they-- the blood basically is fleshed out and embalmed-- embalming fluid then is put in there. Now, can they keep it then? I don't know. Those are just thoughts I have, I-- and stuff. So. Take any questions, yeah.

BOSN: Questions from the committee? Thank you very much.

DORN: Thank you for having the hearing, and for hearing this out. Thank you very much.

BOSN: You're welcome. That concludes LB56. We are skipping LB273 for today; hopefully that was made clear. At the request of the introducer, I guess I should say. We will next hear LB66 with Senator DeBoer.

DeBOER: Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent District 10 in beautiful northwest Omaha. I appear today to introduce LB66, the Uniform Health-Care Decisions Act. This is going to be a highly irregular introduction in that first, I will introduce the bill; then, I will tell you all the people who were not here to be proponents because of the weather, then I will tell you all the people who were not going to be here because-- as opponents because of the

weather. So, let us begin. The Uniform Health-Care Decisions Act enables individuals to appoint agents to make health care decisions for them, should they become unable to make those decisions for themselves; to provide their health care professionals and agents with instructions about their values and priorities regarding their health care, and to indicate particular medical treatment they do or do not wish to receive. It also authorizes certain people to make health care decisions for individuals incapable of making their own decisions but who have not appointed agents, thus avoiding the need to appoint a guardian, or otherwise involve a court in most situations. In addition, it sets forth the related duties of powers of agents and health care professionals, and provides protection in the form of immunity to both under specified circumstances. So, simply put, this bill is about simplifying the process for all "invived"-- all involved in these health care decisions. This act makes it easier on individuals to prepare plans for their life, and on practitioners who need to interpret the health care wishes of an individual in a quick and timely manner. Veteran members of this committee may recall this bill being introduced last year. This bill is largely similar, though with AM52, which I filed earlier this session, this bill is getting closer to being ready for prime time, but we are not there quite yet. It's a complex issue, but I'm committed to working towards a better and more streamlined system for all, and will work with the experts in Nebraska to ensure that we achieve that goal. Our very own Joanne Pepperl was going to be here to testify on behalf of the Uniform Law Commission in support of the bill but was unable to be here due to the weather, so-- I guess the bar is here to tell you that they're opposed to the bill, but I sent Mr. Marion Miner home, who was going to oppose the bill because of the weather, and I said that I would note for the record that the Catholic Conference does oppose the bill as it currently stands. So, my intention is not to move the bill this year, but to try to-- this time, I mean it-- really get everyone around a table this summer to see if we can figure it out. A lot of folks say we would just like some certainty in this area of law so that it's clear, you know, who has the power, what's the pecking order, how do health care practitioners know? The bar is not yet happy either. We understand; we're not all here, we're not all on the same page yet, but we'll get that way. But I'll let them-- I guess they're here, so we'll let them tell you. None of my proponents are here, but, you know there are many, many-- half the state. If the weather was not bad, they'd all be flooding this room to be a proponent, so.

BOSN: Thank you, Senator DeBoer. Proponents. Opponents.

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TIM HRUZA: Good afternoon, Chair Bosn, members of the Judiciary Committee. I honestly am just sitting in the chair to thank Senator DeBoer for all of her work over the last year or so. I, I had sent her a text earlier thinking I might get hung up in another hearing, so I appreciate everything that she said. We are, we are committed to working on it. We've been working with the Uniform Law Commission. I think there's been various back-and-forths that have gone on since this last summer from the bill last year, and we'll continue moving forward. Dean Willborn and I are talking on a regular basis about this, and I'm getting lawyers engaged. I do think that we will have a productive working session over the summer, and I appreciate everything that the senator's doing, and her patience with us throughout this process, so. Thank you. With that, I am happy to answer any questions you might have.

BOSN: Seeing none.

TIM HRUZA: Thank you.

BOSN: Next opponent. Neutral testifiers? Do you wish to close? She waives. All right. I will note for the record that LB66 had 3 proponent, 4 opponent, and no neutral comments submitted.

HOLDCROFT: Three? Seven total.

BOSN: That will conclude our hearing on LB66. Next up, our very own Senator Rountree on LB545.

HOLDCROFT: I'll note that the Revenue Committee is still on its first bill.

BOSN: I told you we would be quicker than them.

HOLDCROFT: Yes. They had ten opponents. This is on the--

BOSN: We're, we're familiar with that.

HOLDCROFT: --on the, on the sales tax exemptions.

BOSN: Welcome, and thank you for being here.

ROUNTREE: Well, thank you so much, and good afternoon, Chairwoman Bosn, and members of the Judiciary community-- Committee. As a-- it is a community as well. My name is Victor Rountree, that is V-i-c-t-o-r R-o-u-n-t-r-e-e, and I represent District 3, which is made up of Bellevue and Papillion. Today, I'm here to introduce LB545, which will

provide criminal and civil liability protections for those donating menstrual products, and nonprofit organizations distributing these products. This concept was brought to me by Kristin Lowery with Access Period. They are a nonprofit organization that is dedicated to providing menstrual products to those in need in our state. Two in five women report being unable to secure enough period supplies to meet their needs, and one in four girls have missed activities like school due to insufficient access to period supplies. There is a serious need for the services that these organizations provide, especially as inflation rises and menstrual products become more expensive. We are very fortunate that many manufacturers and other organizations recognize this need, and are willing to donate products to groups like Access Period who then distribute them throughout the community. However, there are certain limitations to what donations are able to be made. Currently, the bulk of donated products are pads, with over 2 million being donated from manufacturers in 2024. Unfortunately, no tampons are able to be donated. Tampons are currently classified as Class II medical devices, which means there are specific tracking requirements and product standards put in place. Manufacturers do not donate these products because these menstrual product banks cannot maintain tracking requirements, and certain challenges our food banks faced prior to federal liability protections in 1996. LB545 would provide immunity from civil and criminal liability for donors and nonprofit organizations distributing products for all types of menstrual products. When similar legislation passed in other states, U by Kotex donated 8 million tampons, or about \$2 million worth of menstrual products, but only the states that had passed similar legislation were able to receive these donations. I've been working with John Lindsay and the Trial Attorney Association on possible amendments, as they have concerns with any immunities for liability. I appreciate their willingness to work on language and get this bill to a place where those in need are able to receive menstrual products. There is a serious need in Nebraska for additional donations of menstrual products. Each individual is different, and has their own needs and preferences, and they deserve to have the opportunity to have their needs met. With millions of dollars of period products being donated nationwide, it is important we make this change to allow Nebraskans access. Now, there are testifiers behind me who can speak to the specifics of the need and access currently available in Nebraska. I appreciate your time, committee, and your attention to this bill. With that being said, I would be happy to answer any questions that I may not defer back to the experts behind me. Thank you so much.

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BOSN: Thank you. Any questions for Senator Rountree? Senator Hallstrom.

HALLSTROM: You mentioned, Senator, some tracking requirements. How, how does this bill address the, the issues with tracking requirements?

ROUNTREE: They will be able to talk to you about prudence in the process as well.

HALLSTROM: Thank you.

ROUNTREE: Thank you, sir.

BOSN: Alrighty. Thank you very much.

ROUNTREE: All right. Thank you so much.

BOSN: We'll take our first proponent.

ROUNTREE: And I'll be here to close.

BOSN: Yes. Oh, sorry, I assumed that. So, yes. You guys braved the weather? Thank you for being here.

BRITTANY PERRY: Yes, we came last night.

BOSN: OK.

BRITTANY PERRY: Nothing like a road trip, you know?

BOSN: There you go.

BRITTANY PERRY: Good afternoon, Chairwoman Bos-- Bosn, and members of the Jud-- oh my gosh. Judiciary Committee. My name is Brittany Perry, B-r-i-t-t-a-n-y; Perry, P-e-r-r-y, and I am from Big Brothers Big Sisters of the Midlands. Our organization serves youth across Omaha and Lincoln through mentoring relationships. I'm here today to share how period, period poverty affects the families we serve, and how our partnership with a period supply bank like Access Period has made a difference. In my work with youth and families, I've witnessed the harsh realities of period poverty first-hand. I've had several large families on my caseload, including one household who has seven people who menstruate. That's approximately \$150 a month just, just for basic period supplies, which is the equivalent to, like, an electric bill, gas for a car, or a week's worth of groceries. For families who are already struggling financially, period supplies often become an unaffordable luxury. The consequences directly impact education. I've

seen young people miss school because of lack of access to supplies. For a middle school student, the embarrassment of navigating adolescence is challenging enough; bleeding through clothing, it becomes absolutely mortifying. Many of our young people are also involved in sports and activities that are not conducive to using only pads. Without access to tampons, they are forced to sit out. The severity of this issue became clear to me when making calls for our annual Adopt-a-Family program. This is a holiday program. I've had young people tell me that their wish is for period supplies. Their needs were soap, food, or toilet paper, but period products are what they wished for. When basic hygiene items become a holiday wish, we must acknowledge the seriousness of the problem. Before our partnership with Access Period, I often purchased supplies with my own money for youth that we serve and their families. I maintain a list of families to contact every month who need supplies; I offer them four pickup times a month and delivery with-- for those without transportation. Since partnering, partnering with Access Period, we've distributed 183 month tampon kits and over 300 pairs of period underwear to youth and their families. These period underwear typically cost between \$25 and \$35 per pair, making them completely inaccessible for someone who cannot afford basic supplies. The population we serve has its unique challenges; multiple menstruators in one household, transportation barriers, and unstable housing that makes storage difficult. LB545 would allow organizations like Access Period to receive donated tampons from manufacturers, expanding the products available to our families, and ensuring that no young person in Nebraska has to miss school sports or other opportunities because they cannot afford period products. I respectfully urge your support of LB545, and thank you for your time and consideration.

BOSN: Questions from the committee? Senator Storm.

STORM: Thank you, Chair Bosn. Thank you. Don't schools offer-- curious-- tampons and products? Or are they not [INAUDIBLE]

BRITTANY PERRY: As far as I'm aware, yes, but that is because of Access Period.

STORM: OK. I wondered about that.

BRITTANY PERRY: Yes.

STORM: I thought most of them did.

BRITTANY PERRY: And, you know, it's kind of embarrassing sometimes--

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STORM: Right.

BRITTANY PERRY: --to take those from schools, so I have them and can deliver them.

STORM: OK.

BOSN: Senator Storer.

STORER: Thank you, Chairman Bosn. It-- so has there been civil cases? The, the [INAUDIBLE] but can you give me an example of where the--

BRITTANY PERRY: I cannot. I know that Kirstin can, though.

STORER: OK. OK.

BRITTANY PERRY: She's the real one in charge.

STORER: Thank you.

BOSN: Can you walk me through your math on the seven girls in one family, \$150? Like, what goes into that?

BRITTANY PERRY: So, we do the math of, like, every period is 20-- about \$20, and supplies. And then-- so, you times that by seven. I, I didn't do the math; Kristin did.

BOSN: OK. OK. And can you tell me what makes up the cost of one period equaling \$20?

BRITTANY PERRY: Oh, yeah. Sure, sure. Sorry. So, like, tampons, pads, liners. Especially for young people who maybe don't understand how to use them correctly, they're going to go through more than probably what they need to. And with seven, you know, they're all different ages. So, that's-- yeah.

BOSN: OK. All right. I don't see any other questions. Thank you for being here.

BRITTANY PERRY: Thank you.

BOSN: Next proponent. Welcome.

CINDY MAXWELL-OSTDIEK: Thank you, Chairperson Bosn, and members of the Judiciary Committee. I'm Cindy Maxwell-Ostdiek. That's C-i-n-d-y M-a-x-w-e-l-l-O-s-t-d-i-e-k, and I'm here today as a member of the Nebraska Menstrual Equity Coalition as a proponent for LB545, and

that's to provide immunity from liability for distribution of donated menstrual products, introduced by Senator Rountree. And I'll share information about how similar legislation has succeeded under-- in other states, and I'm also including a letter of support from Ariana Smith, manager of legislative policy with the National Diaper Bank Network and Alliance for Period Supplies. Five states have already enacted period product donation liability protection laws. Tennessee and Maine passed them in '21, Rhode Island in 2022, Texas in 2023, and Illinois in 2024. Unfortunately, Illinois only passed civil liability protection, and their state will not be eligible for the type of donations we're discussing today. New Jersey is considering this legislation right now; I've included copies of those with your packet. The impact of these laws was immediately evident shortly after Tennessee and Maine passed their legislation. U by Kotex offered to donate 8 million tampons through the National Diaper Bank Network, and that donation mentioned earlier is valued at approximately \$2 million. This donation could only be distributed, though, to Tennessee and Maine, as they were the only states with that liability protection at the time. Millions of tampons that could have helped people in all 50 states went to just those two states because others, including Nebraska, lacked this basic legal protection. A donation of this size could have covered 320,000 complete menstrual cycles, or it could have provided a full year's worth of period products to over 25,000 Nebraskans, and that's approximately half of the population experiencing period poverty in our state. This wasn't an isolated opportunity. Manufacturers periodically have excess inventory they would gladly donate, but liability concerns prevent them from doing so in states without these protections. Regarding safety, modern tampons have an excellent safety record. Recalls are extremely rare, and the last significant one was in 2018, being proactively initiated by the manufacturer. Tampons have a five-and-a-half-- excuse me-- a five-year shelf life when stored properly, making them ideal for donation programs. Every state that has considered this legislation has recognized that the public health benefit far outweighs any theoretical concerns, and when Rhode Island passed their bill, the sponsor specifically noted the legislation was common-sense and cost-free to the state. Nebraska now has the opportunity to join these forward-thinking states, and ensure our residents don't miss out on the next major donation opportunity. And by passing LB555 [SIC], you'll remove unnecessary barriers to generosity, allowing donated products to reach those who need them most. Please advance LB555-- excuse me-- LB545 to General File, and pass this important legislation. I'm happy to answer any questions I can.

BOSN: Questions for this testifier? Senator Storer.

STORER: Thank you. I guess the question that I had for the previous testifier is-- can you give me some examples of cases brought against someone who's donated? I'm just trying to wrap my head a little bit around why we need legislation for that protection [INAUDIBLE].

CINDY MAXWELL-OSTDIEK: So, from what I understand-- and Kristin, who is behind me, will be giving you more information.

STORER: OK. Well-- OK.

CINDY MAXWELL-OSTDIEK: But the difference between pads and period underwear and tampons is that tampons are internal to your body,--

STORER: Right.

CINDY MAXWELL-OSTDIEK: --and so, from what I understand, the civil and criminal liability is something that the manufacturer would need that protection so they can make those donations. And I just think it makes good sense. Like, we do here in our state have protection for donations to food banks and things like that when you're talking about food. And we just would really appreciate being able to have these donations go to the people in Nebraska that need them when they're offered. Mm-hmm.

STORER: Thank you.

CINDY MAXWELL-OSTDIEK: Yeah. I-- she'll be able to answer any specific questions.

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

CINDY MAXWELL-OSTDIEK: Thank you.

BOSN: Yes. Next proponent. Welcome.

KRISTIN LOWREY: Thank you so much. Before I get started, I'll let you know in the packets here, we have a couple of testimonies from people that weren't able to be here today. Chairwoman Bosn and members of the Judiciary Committee, my name is Kristin Lowrey, that's K-r-i-s-t-i-n L-o-w-r-e-y, and I'm the founder and executive director of Access Period. I'm here today to express our strong support for LB545, which would provide liability protection for donated menstrual products. As you heard from Brittany, period poverty affects thousands of

Nebraskans, and has far-reaching consequences for education, employment, and dignity. I'd like to share how this impacts our operations at Access Period, and why this legislation is so urgently needed. Despite tremendous need, period supply banks face a significant barrier: manufacturers cannot donate due to liability concerns. Tampons are classified as Class II medical devices by the FDA, requiring tracking through Julian numbers and the ability to trace products back to suppliers. The distribution model of period supply banks, which serve communities through multiple partners, makes maintaining this tracking system impossible. This has real financial consequences for our organizations, and limits how many people we can help. When surveyed, 40% of menstruators receiving products from period supply banks indicated a preference for tampons, yet these preferred products rarely come through donations, forcing our organizations to purchase them at retail prices. In 2024 alone, Access Period distributed 423,000 tampons at a cost of \$55,000. For just the first quarter of 2025, we've already spent \$26,000 on 200,000 tampons. This represents a significant portion of our operating budget that could be redirected to serve more Nebraskans if manufacturers could donate these products without liability concerns. These donation opportunities aren't theoretical; they happen every couple of years when manufacturers have excess inventory. For example, in 2024, we received 2 million pads from Poise, and 27,000 pairs of period underwear from Thinx. LB545 offers a practical solution modeled after the Bill Emerson Good Samaritan Food Donation Act of 1996, which provides donation liability protection for food banks. This would provide immunity from civil and criminal liability for donor-- donors of menstrual products, while maintaining safeguards against gross negligence. I see that my time is up here, so I'll use the rest to urge your support for LB545. I welcome any questions, and thank you for your consideration.

BOSN: Thank you. Questions for this testifier? Senator DeBoer.

DeBOER: Thank you. So obviously, the reason there's the tracking requirements and things is because of the risk of toxic shock syndrome and all of the potential risks that may happen there, so here's my concern, and, and I'll let you speak to it then.

KRISTIN LOWREY: Sure.

DeBOER: My concern is, if we provide immunity, then if I am a manufacturer of these products and I know that I have some kind of potential faultiness, then I could-- you know, I don't know that it

is, but there's potential, so that's why I don't get to the gross negligence standard.

KRISTIN LOWREY: Sure.

DeBOER: And then, to get the tax write-off and give you all of my product, and now, I have a kid who's 13 years old and doesn't really understand about toxic shock syndrome that ends up very, very sick or worse. So, what do we do with that situation? Because to be honest, that's a pretty severe thing.

KRISTIN LOWREY: Sure. So, I agree with you that that is very severe, and I thank you for your question. I think I kind of-- kind of breaking that down and looking at different parts of it, first, I want to tell you that toxic shock syndrome, while very scary, is extremely rare. There was, in the 1980s, kind of a new type of tampon that was invented that was supposed to be super absorbent and you could-- they said, oh, it's so great, you can wear it all day long. And when that happened, people started experiencing toxic shock syndrome. And that is something that now is very rare; the standards have totally changed. And so, I first want to, want to make that point. And second, I think that going through kind of multiple levels of, of I guess checks for supplies is something that period supply banks like Access Period are able to do. We have purchased tampons in the past that we have thought weren't up to the quality standard-- not necessarily dangerous, but that we have sent back to manufacturers, you know, and so I think that that we would provide that extra level of, of support and care. But there also have been, in recent history--

DeBOER: But wait, let me stop you there. Doesn't that expose you to liability now? Right? Because if you then don't perform that check,--

KRISTIN LOWREY: Mm-hmm.

DeBOER: --now you're going to be liable if you fail to see something that's wrong with the product that you're sort of the safeguard for whether or not it's actually safe. And then, that will expose, potentially, you to liability.

KRISTIN LOWREY: I would not ex-- I would not expect protection from that type of gross negligence. I would consider that gross negligence. That, if there was something that was wrong with a batch of tampons, that was apparent--

DeBOER: But that's the problem, if it's not apparent--

KRISTIN LOWREY: Yeah.

DeBOER: --to you, right? So, if you give an immunity to the manufacturer,--

KRISTIN LOWREY: Mm-hmm.

DeBOER: --the manufacturer says, uh, the cotton that we got there, there was maybe some-- something wrong with it. We don't know for sure. Let's just donate this whole thing.

KRISTIN LOWREY: Mm-hmm.

DeBOER: And then, you then don't see it, and distribute to someone. Now, if it's suspicious how they gave it to you, you might expose yourself to liability because now, you're saying I'm going to sue you because my daughter dies. And toxic shock syndrome was not just limited to the '80s because I know of cases in the '60s and '70s, so, you know, it is a thing.

KRISTIN LOWREY: Yeah.

DeBOER: And so-- I'm, I'm not trying to be argumentative; I'm just--

KRISTIN LOWREY: No.

DeBOER: I just want to think through this, because--

KRISTIN LOWREY: Yeah.

DeBOER: --I would love for there to be a way to be able to do this safely. But I-- there's a reason why they're concerned about liability, is because it really could happen that someone could get very, very sick.

KRISTIN LOWREY: And I haven't ever heard of any cases where someone got sick or was harmed because of what was in a tampon, or because of the ingredients or the cotton or the way it was made. If they-- if someone did experience toxic shock syndrome or was harmed by that, it would typically be because they wore it for too long.

DeBOER: And that's the-- so-- this is entirely more graphic than I am comfortable being.

KRISTIN LOWREY: That's OK.

DeBOER: But if the tampon were to be made in such a way that it maybe was forgotten about and not discovered, or moved further than was expected-- which is the case that I knew about from before-- then, you know-- and there could be a-- OK. I can't do it, so let's just agree-- let's just agree that, that maybe we would want to look into whether or not there could be potential design defects, or other defects which might lead to this. If there is no criminal liability but there is still civil liability, you're saying that they will not donate, is what you're saying?

KRISTIN LOWREY: That is correct. That is what-- well, that's what, what our experience has been, and what we've seen.

DeBOER: Your experience has been that folks won't donate--

KRISTIN LOWREY: Correct.

DeBOER: OK.

BOSN: Can you tell me how you get your donated products now, then?

KRISTIN LOWREY: Sure. So, through a variety of ways, we get them through individuals, but our big "dulk bonate"-- our donations, bulk donations come from manufacturers. We're a member of the Alliance for Period Supplies, and they have a partnership with U by Kotex, which-- or, excuse me, it's Kimberly-Clark, which owns U by Kotex and Poise and Thinx, and they donate kind of through the alliance to members like Access Period and the Lincoln Hygiene Network that then distribute them to our partner networks.

BOSN: So, your-- the-- your support for this bill is because you think you would increase the number of manufacturers willing to participate in programs like that because they would feel more comfortable with less of a threat of liability, I guess I would say.

KRISTIN LOWREY: That is correct. And I'm not sure that they feel-- I don't want to speak for them, but if I can give my opinion. I'm not sure that they necessarily feel threatened. There was a question about how they are tracked. Senator Hallstrom, was it you that asked that? So, because they're Class II medical devices, they are tracked like a syringe would be tracked, through Julian numbers. And so, you know, if there was ever to be a recall, they would want to be able to find those products. And through period supply banks, it is harder to do that. Not impossible; we would absolutely be able to track down product that we had distributed. But with that, they are not following the exact protocol of a Class II medical device, which then opens them

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up to liability. So, that kind of-- I hope that helps it make more sense that it maybe isn't in danger; it's that they're going outside of the norm.

BOSN: Senator Hallstrom.

HALLSTROM: And that was the basis of my question. I-- if the tracking requirements are designed to allow the manufacturer to be able to notify someone that there's a potential hazard or a danger, we release them from liability, you basically have distributed those donated products. Are you obligated in any fashion to track where those products go?

KRISTIN LOWREY: We do track where every product goes.

HALLSTROM: And, and are you obligated to do something?

KRISTIN LOWREY: I don't, I don't, I don't believe so.

HALLSTROM: OK.

KRISTIN LOWREY: But with, with tampon donations, I think that that could open up a new way of donating, where we would have-- it could be possible that we would be able to do that.

HALLSTROM: And do you have the capacity to notify people if you discover that those are defective, hazardous?

KRISTIN LOWREY: We do, yes.

HALLSTROM: Thank you.

BOSN: All right. Well, thank you very much for being here and enduring our weather.

KRISTIN LOWREY: Thank you so much.

BOSN: All right. Any other proponents? Opponents. Neutral testifiers. All right, well, then, while-- Senator Rountree, are you-- makes his way up to close, I will note for the record there were 68 proponent comments submitted, 1 opponent, and no neutral comments submitted. Welcome back.

ROUNTREE: Thank you so much, Chair Bosn, and thank you to all our testifiers that have come to testify today, and for all the great questions that have been asked. As with everything that we do, safety and protection of life is always number one. I see the light

flickering, so I'm not going to [INAUDIBLE] with that. I was having lunch yesterday with the president over in our ESU, and we were talking about this particular bill, and I think-- for you senior senators-- not citizens, but senators-- do you remember last year, I think Senator Conrad brought a bill forward, LB1050; AM3-- AM3061 got merged into LB1284, and that was for menstrual products in the schools and so forth. And we were talking about that yesterday, and the \$250,000 that were allocated for that particular bill should not go far enough, so she was interested in this bill that we're talking about today, opportunity to get more. Oh, and just for reference, I grew up with seven sisters in my home and a brother, I'm the father of two daughters, I'm a substitute teacher; in the military as a first sergeant, dealt with a lot of my female airmen, the comfort level, understanding what needs are. So, if there is anything that we can do-- and as I said, we talked with John Lindsay, some of the language that was in the bill, so we'll continue to talk about that. But we'd like to be able to iron that out so that protection is kept at the forefront, and we'll make one of amendments that need it, and as we can move the bill forward so we can take care of our individuals who need the products that we want to volunteer and donate. Thank you so much.

BOSN: Perfect. Thank you. Are there any questions from Senator Rountree? Seeing none. Thank you very much.

ROUNTREE: All right. Thank you so much.

BOSN: That will conclude our hearing on LB545, and our hearings for today.