

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Urban Affairs Committee January 28, 2020

**WAYNE:** Urban Affairs Committee, my name is Senator Justin Wayne. I represent Legislative District 13, which is north Omaha and northeast Douglas County. I serve as Chair of Urban Affairs Committee. We will start off having members of the committee introduce themselves and staff do self-introduction, starting with my right, Senator Arch.

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

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

**HUNT:** I'm Megan Hunt and I represent District 8 in midtown Omaha.

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

**CRAWFORD:** Good afternoon, Sue Crawford from District 45, which is eastern Sarpy County.

**LOWE:** John Lowe, District 37, southeast half of Buffalo County.

**CONNER KOZISEK:** Conner Kozisek, committee clerk.

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

**WAYNE:** Also assisting in the committee are committee pages, Hallett Moomey, from Kearney and-- who is in-- agricultural education major at UNL; and Angie Perry-Louis-- Pierre-Louis from Florida, who is a social work major at Union College. This afternoon we will be hearing seven bills and we will be taking them up in the order listed outside of the room. On each of the tables in the back room, you will find blue testifier sheets. If you are planning on testifying today, please fill out and hand one to Conner when you come up. This will help make sure that the records are accurate. Please note if you wish to have your position listed on the committee statement for a particular bill, you must testify in that position during the bill's hearing. If you do not wish to testify but would like to record your position on a bill, please fill out the gold sheet in the back. Also, I will note that the Legislature policy is that the-- all letters must be recorded or received-- to be recorded must be received to the committee 5:00 p.m. the prior day of the hearing. Any handout submitted by testifiers will also be included as part of the record as exhibits. We ask that if-- if you have any handouts, please bring 10 copies. If you do not have additional copies, the pages will make sure we get additional copies. Testimony for each bill will begin with the introducers opening

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statement. After their opening statement, you will hear from the supporters of the bill and then those in oppositions, followed by those speaking in a neutral capacity. The introducer of the bill will be given the opportunity to make closing remarks if they wish to do so. We ask that you begin your testimony by stating and spelling your first and last name for the record. We will be using the four-minute line system. When your testimony begins, you will have a green light. A yellow light means there is one minute left, and the red light, we ask you to wrap your thing-- your final thoughts up. I remind everyone, including senators, to please turn off your cell phone or put them on vibrate. Conner, are we on? I forgot to tell you that.

**CONNER KOZISEK:** Yeah.

**WAYNE:** Thank you. With that, we will begin today's hearing with LB870. Senator Crawford.

**CRAWFORD:** Good afternoon, Chairman Wayne, and members of the Urban Affairs Committee. My name is Senator Sue Crawford, S-u-e C-r-a-w-f-o-r-d and I represent the 45th Legislative District of Bellevue, Offutt and eastern Sarpy County. I'm here today to introduce LB870 for your consideration. LB870 is a bill about allowing municipalities to borrow loans directly from banks to finance repairs or provide essential services following a natural disaster. In the aftermath of the devastating of flooding last spring, a number of communities in northeast Nebraska had water supply systems damaged or destroyed. When several miles-- when several miles of the Missouri River levee systems were breached, water flooded the lands stretching from the river into the northern part of the city of Peru, disrupting the city's drinking water system. City officials relied on tanker trucks to replenish the drinking water supply, and a mobile water treatment plant would eventually be connected to a pumping station to fill the city's water tower. In response to the city's dilemma and recognizing that the city would likely incur additional costs in replenishing the water supply, a local banker reviewed options at his disposal to assist the city. In researching the issue and consulting with the Nebraska Department of Banking and Finance, he discovered that Nebraska law does not allow fiscal institutions to provide direct financing to cities or villages in this specific type of situation to address emergency needs. Given the unfortunate likelihood that flooding or other natural disasters could give rise to the need for direct borrowing by cities and villages that is not currently authorized, LB870 is designed to address the emergency need for

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financing that can result from damages to infrastructure and disruptions to provision of services by cities and villages resulting from natural disasters. LB870 would clarify provisions related to direct borrowing from financial institutions by cities and villages to allow loans for financing of (a) the repair or construction of real or personal property improvements or infrastructure damaged, and (b) the provision of service-- of public service is temporarily disrupted or suspended as a result of a calamity. A calamity is defined as a disastrous event including, but not limited to, a fire, earthquake, a flood or tornado or other natural event which damages real or personal property improvements or infrastructure of a city or village which results in temporary disruption, or is a suspension of public services provided by the city or village. While the types of direct borrowing activities are authorized would be expanded under LB870 to address emergency needs, the safeguards from the original statute are retained. These include requirements that for all types of direct borrowing, cities-- cities and villages must be able to show that, one, the use of traditional bond financing would be impractical; two, that financing through traditional bond financing could not be completed within the time constraints facing the city or village; or, three, that financing through direct borrowing would generate taxpayer savings over traditional bond financing. Due to the likely urgency to obtain financing and the numerous reasons that financing may be required in the wake of a natural disaster, the limitations on the amount of direct borrowing by cities and villages would not apply to the additional types of financing authorized under LB870. Simply put, LB870 gives cities and villages the authority to-- the authority to direct borrow funds to make repairs and provide services, if needed, following a natural disaster, if the situation meets the criteria outlined by the guardrails already in statute. Following me, the Nebraska bankers will testify as to the need for this bill. And also I pass out to you a letter from the Nebraska Independent Community Bankers, a letter in support of the bill as well. And I'm happy to answer questions now and/or at closing.

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

**CRAWFORD:** Thank you.

**WAYNE:** Next up, we'll have proponents. Welcome to your Urban Affairs Committee.

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**ROBERT HALLSTROM:** Chairman Wayne, members of the committee, my name is Robert J. Hallstrom, and I appear before you today as registered lobbyist for the Nebraska Bankers Association to testify in support of LB870. I'm also having passed out a letter from Mr. Justin Douglas, the President and CEO of Mainstreet Bank, who is the banker that Senator Crawford referred to in her testimony regarding the issues arising with the water supply for citizens in the city of Peru in the aftermath of the flooding. I think it might be helpful for the committee to kind of go through the chronology of why we are where we are today. A number of years ago, the Nebraska League of Municipalities brought legislation to clarify that direct borrowing from financial institutions was a permissible activity for cities and villages. So that was in the form of LB121 a few years back. Once we had put the law into place, we put some specific restrictions on the types of direct borrowing that were authorized. And we also put some limitations on the amount of direct borrowing. As you might imagine, once we put into statute the authority but it was restricted, you may inevitably find that there are other areas that are worthy of direct borrowing by these cities and villages that weren't in the initial statute, and that's where we have arrived today. The flooding last year brought front and center to our attention that there were many cities in northeast Nebraska, and then in southeast Nebraska, the city of Peru, that had damage to their water supply infrastructure. When we initially looked at this issue, looking at the cities in northeast Nebraska where they had had their infrastructure damaged or destroyed, we were looking at simply adding to the list of permissible authorized direct borrowing to allow for the repair or reconstruction of that type of infrastructure. Then we caught wind to the fact that if the city of Peru, while they had had their infrastructure damage, they also had a more immediate pressing need, which was to transport water in for the very drinking supplies on a short term or maybe longer than a short-term basis for its citizens. And they were going to have to incur funding needs or they would have funding needs to take care of transporting that water, as I understand it, from the city of Auburn. The banker, Mr. Douglas, down with Mainstreet Bank was proactive in trying to determine if he would need to try and help his community out. In looking at the statute, he found out that the current law does not authorize either the repair or reconstruction of infrastructure, or for the more immediate needs where services or you're suspended or disrupted. So therefore, we have the bill that's before you that would add those two particular aspects of direct borrowing authority to the statute. Again, as Senator Crawford pointed out, we do have

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limitations based on the annual budget that are for other types of lending because of the emergency nature of these. We have taken the-- the limitations off of these, particularly these two new types of direct borrowing authority. With that, I'd be happy to address any questions that the committee may have.

**WAYNE:** Any questions from the committee? Senator Lowe.

**LOWE:** Thank you, Chairman Wayne. Thank you, Mr. Hallstrom, for testifying today. What-- what are some of the things that the cities borrow from banks for right now?

**ROBERT HALLSTROM:** Well, the ones that I think we identified initially when we came into this under LB121 were the purchase of real or personal property. There may be, you know, pickup trucks, smaller dollar items. There may be some fire trucks that could potentially be involved. I think the fire trucks are probably into that category where they may or may not qualify under the criteria that Senator Crawford noted that are still in the statute, that the ordinance or the resolution has to have a finding that it's because of the timing or the cost of bonded indebtedness, that these are the more practical and effective ways to go. Those-- those requirements are still set in stone, set in statute. So for-- for a larger dollar type of issue, it may be that the bonded indebtedness may be the-- the way that the city would ultimately decide to go. I think in this case, for example, the city of Peru, I would think that had they been able to borrow money on a short-term basis to fulfill the transporting of water needs, and that might have been a direct borrowing activity that they would have undertaken, but ultimately, repairing and reconstructing their infrastructure may have been something that bonded indebtedness would have been more appropriate for and something that would have been a little longer term accommodation for bonded indebtedness as opposed to direct bond.

**LOWE:** OK. Would insurance cover some of these things, do you know?

**ROBERT HALLSTROM:** I--I haven't heard whether there would be insurance. I would-- I would assume that they would have insurance for the physical structures or facilities that might have to be repaired. I just don't know off the top of my head, Senator, whether that insurance would float to the consequences, which are if you lose your water supply, you have to find water from an alternative source. I don't know if those types of incidentals might be covered. And again,

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in this type of situation, at least on a short-term basis until the insurance gets resolved and paid, there may be a short-term notice for the immediacy of, we need the water and we need the water yesterday.

**LOWE:** Thank you very much.

**WAYNE:** Any other questions from the committee? Senator Briese.

**BRIESE:** Thank you, Chairman. And thank you for your testimony here today. And I notice the language here in the bill exempts these categories from the limits in paragraph 4, and you feel it's necessary and appropriate to keep this without of the re-- without of the reach of limits.

**ROBERT HALLSTROM:** I think we could certainly talk about that, Senator. Without knowing the magnitude, I mean, there could be some-- some fairly large short-term borrowing requirements. And we-- we were just in here last year because we corrected a glitch in the original LB121. The way that the legislation is structured, it's based on 10 percent of the cities of metropolitan primary class's annual budget and 20 percent of the village. And after the bill was drafted and passed, we discovered that that was, even though you had a five-year loan, you could only look at one year's budget. And so we changed that to provide a little greater flexibility as was originally intended to allow that to say one-fifth of that total budget is what you have to pay in that year, and as long as the payment for that one-fifth amount on a five-year loan is under the annual budget, that it would be permissible. So I think-- it's just the unknown of, you know, the type of funding that the city of Peru was going to need over whatever extended period of time they were going to have to continue to transport water in from an outside source is just the unknown as to why we thought the flexibility, and hopefully the committee and the Legislature and the public are adequately protected by those criteria that remain in the statute. And if I had my druthers, Senator, if I was just looking at this, I know there's other policy issues, but I would say, don't limit the sources of-- of-- or the types of borrowing that you can have as long as you've got the protection that you're not even going to be able to make the direct borrowing activity unless these criteria in the statute are satisfied.

**BRIESE:** OK. OK. Thank you.

**ROBERT HALLSTROM:** Thank you.

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**WAYNE:** Are there any other questions? Senator Arch.

**ARCH:** Thank you. Thanks for coming. So questions, you use the term short term. I see limit-- I see limitations on the-- on how much indebtedness you can have in a year. Are there limitations on how long that indebtedness can last?

**ROBERT HALLSTROM:** There's a seven-year-- last year when we came in, initially there was no limitation on the length of borrowing. And there's now a seven-year limitation. I only used the short-term reference in that context, Senator, to-- to describe what the borrowing needs in that particular situation might be. I'm hopeful that they can get their infrastructure back in place within a fairly limited period of time. But the-- the outside source of water is probably going to be a short-term type of issue, but it may be an expensive undertaking.

**ARCH:** Thank you.

**ROBERT HALLSTROM:** Thank you.

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

**ROBERT HALLSTROM:** Thank you.

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

**LYNN REX:** Thank you. Senator Wayne, members of the committee, my name is Lynn Rex representing the League of Nebraska Municipalities, L-y-n-n R-e-x, and we want to thank Senator Crawford for introducing this measure. We do think because of what's happened within the state of Nebraska, since May-- actually March, that this is really important because we've heard from our communities that have suffered. Matter of fact, I was with the mayor of Gibbon, Nebraska last night and she was talking about how they're still recovering. And just when folks were recovering in March, as you well know, they got hit again. So, I mean, there are issues that come into play here and Senator Lowe, in addition to the kinds of things that might be purchased, you know, chemicals and other things that cities need to try to make sure that things are sanitary for their-- for their residents and also for their workers, their municipal workers. So, again, I just want to underscore the fact that this is limited to calamity. So if you look on page 4, line 4, calamity, means disastrous events including but not limited to

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fire, earthquake, flood, tornado or other natural event which damages real or personal property improvements or infrastructure of a city or village which results in a temporary disruption or suspension of public services provided by a city or village. So it's extremely limited in terms of that provision. To basically say that the app is one of the protections here would not apply, one that you pointed out, but all the rest of them are here. The seven-year payback and so forth. And to your point in terms of insurance, my guess is, as soon as the folks do receive insurance, if it is a coverable event, then they are going to pay that back. I mean, they want to get that off their books too. But we appreciate your consideration of this. We think it is an important bill. We hope it's a consent calendar bill. If you have consent, we're hoping you do. So again, really appreciate Senator Crawford putting this measure in. And again, just all the work that this committee has done to make it expressly clear that municipalities do have authority for direct borrowing, because that was the original reason, as Bob Hallstrom pointed out, that this legislation began. There are city attorneys across the state that thought municipalities already had that authority, other city attorneys did not, and so we're dealing with state and we thought we'd make it express. So we appreciate all the work of this committee in that regard. I'm happy to answer any questions that you might have.

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

**LYNN REX:** Thank you so very much.

**WAYNE:** Any other proponents? Seeing none, any opponents? Seeing none, anybody testifying in the neutral capacity? Senator Crawford, you are here to close, so step on up.

**CRAWFORD:** I just want to thank the people who have come to testify and explain the bill and why it matters in our communities across Nebraska. And thank you for your great questions and just be available in case there are other questions that you want to ask.

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

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

**WAYNE:** Let the record reflect, there's no letters of support, opposition, or neutral testimony on LB870 and this will close the



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hearing on LB870. Now we turn to LB797. Senator Hansen, welcome to your Urban Affairs Committee.

**M. HANSEN:** Thank you, and good afternoon, Chairman Wayne, and fellow members of the Urban Affairs Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB797, a bill that would change the current restriction on annexation of new territory by cities of the first- and second-class and villages prior to a city or village elections. I'm bringing this bill at the request of the Nebraska Association of County Officials. Currently, Chapter 19 of our statutes outlines a period of 80 days prior to elections where these cities and villages must wait to annex any territory that would bring in enough new residents that would cause the city or village to redraw city or village board districts-- city council or village board districts, excuse me. The intent of this short-term ban annexation is so the counties have sufficient time to prepare for the upcoming election. In working on this bill, it appears there's confusion over when the actual deadline is. As I said, Chapter 19 that we are amending here says there is an 80-day cutoff, but in the Election Act in Chapter 32, they use as a 5-month cutoff. I will point out that the committee should have received a letter in support from Michelle Andahl, the Sarpy County election commissioner, pointing out this confusion among governing bodies. This bill harmonizes those two sections to the same time frame. The bill that would also require that redistricting after annexation would need to be completed at least five months prior to the primary election rather than eight days. I will note that this change would only affect cities of the first- and second-class and villages that elect their city councils and village boards by district and not those that elect them on an at-large basis. I know someone from NACO was-- will be here to testify behind me and elaborate more, but I'd be happy to take any questions at this time.

**WAYNE:** Any questions from the committee? I do have one question. Would this stop the city from ann-- the smaller city from annexing an additional city? So right now, metropolitan and you can't annex anything over 5,000 residents.

**M. HANSEN:** Uh-huh.

**WAYNE:** So I remember there was a race for, I think it was Elkhorn, it was thinking about annexing something else.

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**M. HANSEN:** Uh-huh.

**WAYNE:** So that if we have to wait after the election, and they can theoretically annex a smaller city and then that other city wouldn't be able to annex them. Do you follow me?

**M. HANSEN:** Uh--

**WAYNE:** How do they stop that?

**M. HANSEN:** I guess I am following you, so I don't believe my bill wades into that issue. This is just kind of consolidating the 5-month deadline across acts. I will say the Supreme Court case over the annexation of Elkhorn got into some very interesting open meetings laws, is that-- what it ended up hinging upon.

**WAYNE:** Uh-huh.

**M. HANSEN:** So but that's a separate issue rather than what I'm trying to solve here.

**WAYNE:** It is. I was just trying to muddy the waters. Any other questions-- [LAUGHTER] --from the committee? Seeing none, thank you.

**M. HANSEN:** Thank you.

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

**JON CANNON:** Thank you, Chairman Wayne, distinguished members of the Urban Affairs Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the deputy director of the Nebraska Association of County Officials, here to testify today in support of LB797. As Senator Hansen so ably presented, this is really just to clarify what looks to be a gap in the-- between the election law and municipal annexation law. Currently, it mirrors-- this would mirror the base from the Election Act. And the reason is that having the redistricting occurring out of step with our annexation can lead to some peculiar results. And so, for instance, you could have a person that files to be the representative from District 1 in their municipality, and by the time that the redistricting occurs, they're no longer a resident of District 1. Little bit of a problem, perhaps. There's-- there's a letter, as you know, from Michelle Andahl from Sarpy County, that kind of notes the confusion this creates for her and her other fellow

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election commissioners. With that, I would be happy to take any questions you might have. Thank you.

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

**JON CANNON:** Thank you, sir.

**WAYNE:** I do want to note for the record, he said distinguished. He doesn't usually say that in Government, so we're doing better than Government Committee. Come on up. Welcome to Urban Affairs.

**WAYNE BENA:** Senator Wayne, members of the Urban Affairs Committee, a rare treat for me not being in the Government Committee. For the record, my name is Wayne Bena, W-a-y-n-e B-e-n-a. I serve as deputy secretary of state for elections, here on behalf of Nebraska Secretary of State, Robert Evnen. And even though that I'm not, I'll probably a few more years I can't say this anymore, but I was also prior the Sarpy County election commissioner, for those senators that don't know. So I see both sides of this on the state and on the county level. This came on to my desk when Sarpy County came to me with an issue in the city of Bellevue. I had-- election commissioners have been kind of hammered down with the Election Act in regards to the 5-months deadline and have communicated that to their subdivisions to make sure there is nothing that could give-- that could go wrong in that. I had two instances in my first year as election commissioner where this wasn't followed, one that I worked it out. The other one I got sued and I won because of a missed deadline. And so I think what happened was a new-- a new city attorney looked at that statute, turned the Bellevue annexations and tried to figure out which one was-- should apply. From an Election Act standpoint, we'd like to see it to be consistent to all political subdivisions. The 80 days in this election year would fall on February 22, roughly, thus past the incumbent filing deadline. So a county commissioner in a county that maybe wanted to run for city council, wouldn't be able to do it based upon when the annexation occurred. So we're just-- we just are supportive of the consistency among all political subdivisions to play by the same rules in regards to their political boundaries. And with that, I can take any questions.

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here today. Any other proponents? Seeing none, any opponents?

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**CHRISTY ABRAHAM:** Senator Wayne, and members of the Urban Affairs Committee, my name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m. I'm here representing the League of Nebraska Municipalities and I want to start by saying it gives the League absolutely no pleasure to be on the opposite side of Senator Hansen, but here we are. We certainly appreciate both NACO's and the Secretary of State's testimony about consistency. They want Chapter 19 to reflect what is in the Election Act, and we certainly appreciate that and understand it. When you look back on when these acts were passed, the Chapter 19 language came into effect in 1994 and it was a whole new section that was written, and at that time, the Election Act said 90 days. It was later in 1997 when the 5-month provision came into the Election Act and for whatever reason, the Chapter 19 language regarding municipalities was not changed at that time. And we understand there's been-- we-- we-- Bellevue has been-- used the 80-day deadline and not the 5-month deadline and that potentially maybe caused some problems. But other than that, in the 15 or 16 years that this law has been on the books, there has been little or no concern about this. So, again, an awkward situation to be in, but the League can't exactly go back to its members and say, look, friends, we got you less authority and less flexibility, aren't you happy? So we did need to oppose this bill. We are happy to work with this committee, and Senator Hansen, to come up with a date that maybe can change the Election Act and this to be more flexible for both. Certainly we don't want to have the situation, I believe Senator Crawford had a bill that said if you're going to do annexations or change things, you have to have three readings on the ordinances to make sure that candidates who have filed are in the same district in which they file, and we certainly understand and are sympathetic to that problem, and we're happy to work with you to find a date. But at this point, at green copy, we just can't support the bill. So I'm happy to take any questions you might have.

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

**CHRISTY ABRAHAM:** Great. Thank you.

**WAYNE:** Any other opponents? Anybody testifying in a neutral capacity? Seeing none, Senator Hansen.

**M. HANSEN:** Thank you. Thank you, fellow members. In closing just to say, I understand this hasn't necessarily been a big issue, but kind of the proponents, I believe, highlighted the big issue that it could

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become. I think frankly, without rectifying this in some manner we're, you know, potentially at risk of having a very messy Supreme Court case during an election year, that it would just be easier to find some sort of consistency and standardized date. And with that, would close and be happy to take any questions.

**HUNT:** Thank you, Senator Hansen. Any questions from the committee? Seeing none. We have one letter of support for the record for LB797 from the Sarpy County election commissioner, and no letters in opposition. So with that, I'll close the hearing on LB797. We're going to wait for Senator Walz to begin LB957, so you can take a quick break. Welcome, Senator Walz to your Urban Affairs Committee.

**WALZ:** Thank you. It's nice to be here.

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

**WALZ:** All right, thanks. Good afternoon. Chairwoman Hunt-- Co-chairwomen, Hunt.

**HUNT:** Vice Chair.

**WALZ:** Vice Chairwoman Hunt--

**HUNT:** Thank you.

**WALZ:** -- and members of the Urban Affairs Committee. For the record my name is Lynne Walz, L-y-n-n-e W-a-l-z, and I proudly represent District 15. Today, I am introducing LB957. Through this bill the establishment of a quorum is more clearly defined, providing a standard for first- and second-class cities. A situation arose recently in a small municipality with a four-person council. Two city council members resigned, which left two remaining members and the city's mayor to conduct the business. Since a quorum is usually a simple majority and the law is somewhat vague in this area, the mayor-- the mayor decided her presence could count toward the quorum in order for the municipality to hold meetings and continue to conduct business. A local of this community asked for an opinion on the issue from the Attorney General, who then determined that a majority of the four member city council was necessary for the transaction of any business. The Attorney General then declared that any business conducted on that day was void because they did not meet the necessary meeting requirements. Through this bill we are clarifying that the mayor of the city may be deemed a member of the city council for the

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purposes of meeting quorum requirements if the city council consists of four members, and if the mayor's presence is necessary to meet quorum. This would allow smaller cities to continue to conduct business in cases where members were absent. This is a simple change to allow for an unusual circumstance. There are times when making an expedient decision is necessary and in the best interests of the citizens, it is important that we give our local governments the ability to do so without waiting around until the next to next election. Thank you. And if there are any questions, I can try to answer them.

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

**WALZ:** Oh, waiting for you.

**HUNT:** Seeing none, thank you. Will you be staying to close?

**WALZ:** Sure [LAUGHTER].

**HUNT:** OK, thank you. All right. First proponent of LB957. Welcome back.

**CHRISTY ABRAHAM:** Thank you, Senator Hunt, and members of the Urban Affairs Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, here representing the League of Nebraska Municipalities and happily supporting bills again. I feel so much better. We just want to first of all, thank Senator Walz for introducing this bill for us. This issue came through the legislative committee process. We were actually having a really difficult time on the issue of when mayors could vote and it cornt-- it sort of transformed into can mayors even count toward the quorum. And the A.G. had recently opined to a small city in Nebraska that, no, the mayor can't count toward a quorum. And although state law allows first-class cities to have four members, there isn't any first-class city that we know of that is a four member council. But there are lots and lots of cities of the second class that have four member councils, and more often than you would think would be the case, there are vacancies on those councils and there's often two vacancies. And so you have this situation where these city councils can't even start the meeting because they don't have a quorum. And so what this bill is trying to do is to say, for the purpose of starting that meeting to ensure that you have a quorum, that the mayor can step in in those situations so at least that

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municipality can conduct business, they can pay their bills and do all the necessary business that they can do, even if they have two vacancies on their council. So we are, again, very grateful for Senator Walz to introduce this. It's-- it's a simple bill, but it surprisingly has been a big problem for our communities out there so we're very grateful for this solution. And I'm happy to answer any questions.

**HUNT:** Thank you, Ms. Abraham. Senator Arch.

**ARCH:** Thank you. You-- you identified cities of the second class--.

**CHRISTY ABRAHAM:** Yes.

**ARCH:** --so is that-- that's really what this bill is directed to is that because they have four members?

**CHRISTY ABRAHAM:** Right. Now they're-- the state law does allow a city of the first class to have four, but there aren't any that we're aware of that currently have four. So right now this will affect only cities of the second class because we know of many of them that have four-person councils.

**ARCH:** But you chose not to identify it as cities of the second class, but rather four members, right?

**CHRISTY ABRAHAM:** As we-- I'm going to get out my green copy, these are good questions.

**ARCH:** I may have missed it, I--

**CHRISTY ABRAHAM:** No, you're doing a great job. Section 1 of your bill deals with cities of the first class, that's Chapter 16, and then Section 2, Chapter 17, those are cities of the second class. So, again, you could have a city of the first class. You could have Beatrice say, you know what? We're sick of having six council members. We're gonna go down to four and they could do that. They're legally allowed to do that.

**ARCH:** OK.

**CHRISTY ABRAHAM:** And then this provision would apply.

**ARCH:** Would cover both.

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**CHRISTY ABRAHAM:** Yes.

**ARCH:** Both first- and second-class cities.

**CHRISTY ABRAHAM:** Exactly. Yep.

**ARCH:** Thank you.

**CHRISTY ABRAHAM:** Sure.

**HUNT:** Any other questions? Ms. Abraham, I've an ignorant question that I'm sure our committee counsel could answer, but why not include villages?

**CHRISTY ABRAHAM:** That's a great question. And here's the answer. Village boards consist of five village board members and they don't have a mayor. They elect a village board chair that sort of takes care of those administrative duties that a mayor would sort of take care of, but they're all equal. They're all village board members and they're all the same, and there's no mayor, so that's why.

**HUNT:** Thank you. That's one of those embarrassing questions that I'm just going to ask anyway.

**CHRISTY ABRAHAM:** I worked at the League for years and I probably learned that two weeks ago. So, no, no, no, no shame there at all.

**HUNT:** Thank you.

**CHRISTY ABRAHAM:** Thank you.

**HUNT:** Any other questions? Seeing none, thank you.

**CHRISTY ABRAHAM:** Thank you.

**HUNT:** I'll turn it back over to Senator Wayne.

**WAYNE:** Any other proponents? Seeing none, any opponents? Anybody testifying in the neutral capacity? Seeing none, Senator Walz to close.

**WALZ:** In that case, I'll waive.



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**WAYNE:** OK. Senator Walz waives closing. With that, that will close the hearing on LB957. Next, we have Senator Lowe, LB993. We'll open the hearing on LB993, Senator Lowe. Welcome, Senator Lowe.

**LOWE:** Thank you, Chairman Wayne, and fellow members of the Urban Affairs Committee. My name is John Lowe, J-o-h-n L-o-w-e, and I represent 37th District. I'm here to introduce the third bill that should be easy today. LB993 which gives municipalities who have adopted a city manager plan of government added flexibility regarding the number of city council members they may have. The League of Municipalities brought me this bill because Kearney is one of ten cities in Nebraska that operate under the city manager plan. The change that LB993 makes it-- makes is to lower the population threshold for cities were given the option of having five or seven city council members. The change here simply gives the cities more options. It does not require the cities to expand their boards.. And with that simple opening, I'm done.

**WAYNE:** Any questions for Senator Lowe? Seeing none, thank you. Next, we'll turn to proponents.

**LYNN REX:** Senator Wayne, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities, L-y-n-n R-e-x. We really appreciate Senator Lowe introducing this measure. And in terms of the bill itself, I know committee counsel has drafted an amendment to it, and that amendment is AM2138 and that amendment accomplishes the same purpose. So switching the actual language that you see in LB993, switching that into a Section 19-612 as opposed to 32-538. With that, as indicated by Senator Lowe, we think this is very important because it would allow two cities-- Scottsbluff and Lexington, are the ones that would be affected right now-- there are eight cities of the-- of the first class that have a city manager plan, and there are two cities of the second class that have a city manager plan. And so, Gordon and Valentine are those two cities. Other cities of the first class include McCook, Ogallala, Alliance, Chadron, Kearney, others, and a city manager plan, just to make the distinction, is different than what most of us know because they're-- the terms are honestly with the city administrator. So for example, in Grand Island, Norfolk, other cities, Hastings, Holdrege, they have a city-- and Bellevue, a city administrator. And by ordinance, some of those cities have basically delegated to the city administrator as much authority as a city manager has under Chapter 19, Article 6. But a city manager plan to have a city manager in the state of Nebraska,

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you have a city wide election to do that, it is a form of government. There are five classes of cities in the state of Nebraska and five forms of government. A city manager plan is one of those forms of government. Whereas, a city administrator is in a mayor council form of government with a city administrator by ordinance. So in any event, we think this is really important. There are 380 villages in the-- in the state of Nebraska and they have five, as indicated in the prior hearing, five representatives. So you have cities like Scottsbluff, Kearney, other cities that basically would have-- right now we're limited to five. And so this is something that we think would be very helpful. Again, one of the things that I think is important just to name those cities again, Alliance, Chadron, Kearney, McCook, Ogallala, Sidney. The second-class cities are Gordon and Valentine. This would enable Scottsbluff and Lexington because of population thresholds, the option-- it's just an option, not a mandate-- to go to seven members because you have villages with only-- with only five representatives. And that works OK when you have a population of 100 to 800 and in many, many villages now even below 100 because they are diminishing in population. Then you have these large cities of the first-class population, 5,000 and up that also only have five with the city manager plan. So we just think this adds more representation if they choose to do it and it's an option. Be happy to respond to any questions you might have. We support the bill and the amendment.

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

**LYNN REX:** Thank you. And thanks again to Senator Lowe for introducing it. We really do appreciate it. Thank you.

**WAYNE:** Any other proponents? Any-- OK, moving on to opponents. Any opponents? Seeing no opponents, anybody testify in the neutral capacity? Seeing none, Senator Lowe, you're welcome to close. Senator Lowe waives closing. We have no letters for the record and that closes the hearing on LB993, and we will open the hearing on LB809. Senator Wayne.

**LOWE:** Welcome to your committee.

**HUNT:** Welcome, Senator Wayne.

**WAYNE:** Thank you. Good-- good afternoon, Vice Chairwoman Hunt, and members of the Urban Affairs Committee. My name is Justin Wayne,

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J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. Since 1996, state law has allowed individual municipalities and counties to adopt their own plumbing code, but provides for a default code in-- in the event the jurisdiction has not adopted a plumbing code. LB809 would update the default code to the 2018 Uniform Plumbing Code, UPC. Our current default code is-- default code is 2012, was adopted in 2000-- was adopted in 2012 and is actually currently the 2009 UPC. UPC is promulgated by the International Association of Plumber and Mechanical Officials, mechanical officials and has been designated by the American National Standards Institute as the American National Standard Code. Similar to other codes, we have adopted the state building code, the state energy code, the UPC is updated every three years. All members may recall this fall the committee collected a interim study on LR-- on the plumbing codes, LR132. The primary purpose of that interim study was to solicit input on whether there-- whether to update the default building code, and if so, which version of the code should we adopt. At the interim study, we had seven individuals testify and all seven individuals indicated their support for updating the default building code to 2018 UPC. There are a number of individuals behind me who will probably speak to some of the changes, but I'll be happy to answer any questions at this time.

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

**ARCH:** Thank you. Thank you. Senator Wayne, so do you-- do I understand it correctly that this is the de-- this is the default code, right?

**WAYNE:** Correct.

**ARCH:** So if a city decides 212 is where we're going to stay, 2012 is where-- do they have the ability to do that?

**WAYNE:** Yes.

**ARCH:** OK. So if you don't adopt, then-- then this is the code that you'll would be under.

**WAYNE:** Correct.

**ARCH:** OK. Thank you.

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**HUNT:** Thank you, Senator Arch. Any other questions? Seeing none, thank you, Senator Wayne. First proponent for LB809. Welcome, sir.

**DAVID TINIUS:** Thank you. Good afternoon, my name is David Tinius, T-i-n-i-u-s. I'm President of the Nebraska Plumbing, Heating and Cooling Contractors Association. I'm here today on behalf of our sup-organization to speak in support of updating Nebraska state plumbing code-- code to the 2018 Uniform Plumbing Code. The UPC code as published utilizes a proven turnkey philosophy of IAPMO places much of the necessary information on safe and sanitary ins-- installations as possible in one code book. The UPC code book does not require the purchase of additional codes for the installation. It maintains the necessary balance between prospective requirements and allowable performance standards. It tells exactly how systems need to go together. The Uniform Plumbing Code is easily to enforce than other codes because there are few area-- there are fewer areas of field interpretation, which helps eliminate conflict between contractors and inspectors. Conflicts which only lead to construction delays and cost overruns. We ask that you pass LB809. I'd like to also add that this morning I was the guest speaker at Southeast Community College Plumbing Class out of Milford, Bill Reitmeier. He had our company come out and they are using UPC 2018 in their curriculum, as is Metro College in Omaha, ABC Builders in Lincoln, and Central College in Kearney. They all use the UPC as their curriculum. So what an advantage to us as employers that the students come out into the field and they already know that. So-- and we also-- our border state of Iowa uses UPC and that's kind of a recruiting advantage for us as employers that they already know the code. So that's all I have. Do you have any questions for me?

**HUNT:** Thank you, Mr. Tinius. Any questions from the committee? Senator Lowe.

**LOWE:** Thank you, Vice Chair. I know-- I know you're not an educator. What-- how long does it take for a student to go through these classes to become a--

**DAVID TINIUS:** What we do is, we have a five-year apprenticeship program and they have to work under a journeyman plumber. And then you qual-- and then you test for your journeyman. And if you're a journeyman, you can run a project yourself, but you can only have three apprentices underneath you, and then you'll have to continue as a journeyman for another two years. And if you-- at that time, you can

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test in for a master's license, but a master's license is only necessary if you want to start your own business. So, but the apprenticeship program is a five-year program.

**LOWE:** OK. So classes in the colleges, does that count for the time period?

**DAVID TINIUS:** Yes, it does. Yes, it does. They'll count that. They'll actually have-- they'll do-- go to Milford for two years and that'll actually count as one year towards their license.

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

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

**BRIESE:** Thank you, Vice Chairman Hunt. Thank you for being here today.

**DAVID TINIUS:** Thank you very much. Appreciate it.

**BRIESE:** Oh, quick question.

**HUNT:** I'm running this hearing.

**BRIESE:** Is it more costly to adhere to the 2018 code than the 2009 code?

**DAVID TINIUS:** No, it's not. The reason we're asked for a code update is because since 2009, we have a directional-boring heat pump, well fields, some of the materials have been developed that aren't in the 2009. So I guess it's keeping up with technology.

**BRIESE:** OK.

**DAVID TINIUS:** So that-- that's our main concern about updating to 2018.

**BRIESE:** OK. So when-- so when a skeptic said, it's just going to cost more for new construction, you would say, no, it's not--

**DAVID TINIUS:** No, it's not.

**BRIESE:** --according to this code.

**DAVID TINIUS:** No, it's not.

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**BRIESE:** Very good. Thank you.

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

**DAVID TINIUS:** All right, thanks.

**HUNT:** Next proponent for LB809. Welcome to your Urban Affairs Committee.

**CARL MAU:** Good afternoon, Senators and staff. My name is Carl Mau, C-a-r-l M-a-u, and I'm here today to speak on behalf of our 1,200 members at the United Association of Steam Fitters, Plumbers, Service Technicians, Local Union 464 in support of updating the Nebraska State Plumbing Code to the 2018 UPC. As the Local 464 business representative for the Lincoln, Nebraska area, I've seen the city prosper for the last ten years. With many construction projects completed and many underway, the UPC has been the gold standard in protecting the health and safety of our citizens and residential, commercial and industrial building products-- projects, excuse me. One element that proves such high standard is the ability of all UPC codes to harmonize with all codes in the construction process, whether it's ICC building codes or NFPA fire codes. The UPC maintains proven health and safety standards while remaining current with technology being cost-effective and consistent and easy to use. If you have any questions, I'd be glad to answer them or pass them on.

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

**LOWE:** Thank you. And thank you for coming here today, Mr. Mau.

**CARL MAU:** Yes, Sir.

**LOWE:** This is a 2018 plumbing code that we'd be adhering to. Have you been using the 2018 since 2018 or were you--

**CARL MAU:** Yeah.

**LOWE:** --and actually prior to that were you--

**CARL MAU:** Yes, we have been running that with our-- through our apprenticeship classes. Yes, sir.

**LOWE:** OK.

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**CARL MAU:** And that's-- that's one of the reasons that we're here.

**LOWE:** Okay. Thank you.

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

**CARL MAU:** Thank you.

**HUNT:** Thanks. Next proponent for LB809. Welcome.

**KELSEY JOHNSON:** Thank you. Good afternoon, committee members, my name is Kelsey Johnson, K-e-l-s-e-y J-o-h-n-s-o-n, and I'm here today-- I'm the executive vice president of the Mechanical Contractors Association, Omaha, and I'm here today on behalf of our 30 members who employ over 400 people in support of LB809. Not to sound redundant, but I will keep mine brief because I'm basically just echoing what Mr. Tinius and Mr. Mau have said already. The '09 UPC was adopted here in Nebraska in 2012 and there's been no upgrade since then or updates since then. And while that does provide safe and sanitary plumbing systems for consumers, I think it's time to keep up with technology innovation, safety standards to update to the 2018. In addition to what both gentlemen said, the community colleges, the locals, they all use the 2018, that's what their instructors are teaching. I know in September of 2019, Iowa also updated to the 2018 UPC. We have quite a few contractors that work over in Iowa, so the consistency all throughout Nebraska is great for consumers, for our contractors, for everyone. So I would just echo the sentiments of the two gentlemen who testified before me.

**HUNT:** Thank you, Ms. Johnson. Senator Lowe.

**LOWE:** Thank you, Vice Chair, and thank you for coming here today, Ms. Johnson.

**KELSEY JOHNSON:** Sure.

**LOWE:** I'm going to echo what Senator Briese said. If you have a plumber and a-- a water heater guy, air conditioning guy who's been using the 2009 code and doing things the way it has been and he moves up to this 2018, are there practices in this 2018 code that will change that may raise the cost of him doing business, which passes it on to the customer?

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**KELSEY JOHNSON:** I would say it would actually be the opposite. We've had advances in technology, in parts and materials and those are actually going to be more beneficial, more efficient for our consumers, and so I don't think there's going to be any cost increase here. I do have Brian Rogers, who's going to be testifying after me, who is actually part of IAPMO, and he could probably better answer that. But I know on behalf of our contractors, I don't see any costs being passed on to consumers.

**LOWE:** Thank you very much.

**HUNT:** Thank you, Senator Lowe. Any other questions from the committee? Seeing none, thank you, Ms. Johnson.

**KELSEY JOHNSON:** Thank you.

**HUNT:** Next proponent for LB809. Welcome, sir.

**BRIAN ROGERS:** Good afternoon, Vice Chair Hunt, and committee members. I appreciate the opportunity to speak with you today. My name is Brian Rogers, B-r-i-a-n R-o-g-e-r-s. I am representing the International Association of Plumbing and Mechanical Officials, which your state has graciously adopted and used our codes to protect the health and safety of the public of Nebraskans since to use-- utilizing the 2009 code. We do publish the Uniform Plumbing Code and we were established over 90 years ago with the specific focus on plumbing and mechanical applications. Today that focus is unchanged and since 1945, IAPMO has published the most comprehensive plumbing code that not only protects the health and safety of Nebraskans, but individuals all over the world. It has served the industry longer than any other plumbing code in the USA. Nebraska, as we had said, utilized the plumbing code for many years and with at most diverse level of expertise, can serve as Nebraska's plumbing code for many years to come. As was stated earlier, the UPC is a designated American national standard and is the only plumbing code with that designation. It is a true consensus document. Experts come from all segments of the industry, not just the regulators or a few segments, and everyone is assured a due process, openness, balance and a voice and a vote in the UPC adoption process. The Uniform Plumbing Code is adopted statewide or used as the basis for plumbing code in 21 states, twelve nations internationally. In addition, the UPC predominantly is used where no state plumbing code exists. It's adopted throughout Kansas, Nebraska, Missouri, and is the only plumbing code utilized by your neighbors in Iowa. Again, I thank



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you for the opportunity to speak with you today and happy to answer any questions.

**HUNT:** Thank you, Mr. Rogers. Any questions from the committee? Senator Lowe.

**LOWE:** Sorry, this seems to be redundant-- redundant? What are the major changes between the 2009 and 2018 code?

**BRIAN ROGERS:** Really the major changes are the materials and the manufacturers that have brought these new materials to market. What happens is every three years the codes are updated. During that three-year process, manufacturers go to code committee hearings and work with the code organization to get their products and their techniques and everything approved through the code adoption process. So-- so the biggest-- the biggest thing is, is the products and the techniques used are ever evolving every three years. That's why the codes are adopted every three years.

**LOWE:** We were operating in 2009 and now we're moving up to the 2018. We've gone past that three-year time period.

**BRIAN ROGERS:** Uh-huh.

**LOWE:** Is that a big jump for some of these operators to adopt to this?

**BRIAN ROGERS:** I don't believe so, because I think what you will find is a lot of jurisdictions probably have already moved on so they can take advantage of those new techniques and new-- new products in-- in jurisdictions. The jurisdictions that have not adopted plumbing codes would be required to use the updated 2018, and I think they'll just see a benefit of being able to utilize the new technology and products.

**LOWE:** Thank you.

**HUNT:** Thank you, Senator Lowe. Any other questions? Thank you, Mr. Rogers. I appreciate you explaining the adoption process and the process that they go through to create the UPC, so thanks for coming today.

**BRIAN ROGERS:** Thank you very much.

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**HUNT:** Any other proponents of LB809? Seeing none, anybody here in opposition? Seeing none, is there anyone here to testify in the neutral capacity? Seeing none, Senator Wayne, you're invited to close.

**WAYNE:** I'm smiling because I don't always get bills that don't have opposition. Most them I don't, so not sure what to say. Guess I'll answer any questions.

**HUNT:** Any questions for Senator Wayne? I've got just five or six. Just kidding. Thank you, sir. We have no letters for the record on LB809, and with that, I will close the hearing on LB809 and open the hearing on LB824, introduced by me, Senator Hunt.

**WAYNE:** Welcome to your Urban Affairs, Senator Hunt.

**HUNT:** Good afternoon, Chairman Wayne, and colleagues. My name is Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I represent the 8th District in midtown Omaha, Nebraska. I'm here today to present LB824. If you take a look at the language in the bill, you'll see that this is a genuine cleanup bill that removes redundant language in the Building Construction Act and corrects a reference to the Department of Environment and Energy in Section 71-6406. The current state building code generally consists of three different codes. The 2018 International Building Code, the 2018 International Residential Code and the 2012 International Existing Building Code. Last year, the Legislature passed three bills that amended Section 71-6403, which adopts the state building code. Two of the bills that we passed last year were not correlated as part of the normal legislative process. So this required the Revisor of Statutes to make necessary changes to reflect all the amendments to the relevant building code systems, or sections, I should say. The end result was that this section of statute contains duplicative and redundant language, and so this bill simply cleans up that statute to avoid these redundancies. Finally, I want to note that we will probably need an amendment to add an emergency clause to this bill because the effective date for one of the relevant bills that we passed last session, LB405, is July 1, 2020. So in order to avoid any issues with implementation, we should amend an emergency clause on to that. Yeah, that's the gist of it. And with that, I'd take any questions.

**WAYNE:** Any questions from the committee? Senator Crawford.

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**CRAWFORD:** Thank you. And thank you, Chairman Wayne, and thank you, Senator Hunt. Is there-- is there a reason why this didn't go through this Revisor Amendments at the beginning-- bills at the beginning of the session?

**HUNT:** I'm not sure.

**CRAWFORD:** OK.

**HUNT:** It looks like Trevor knows, so maybe we can talk about that later [LAUGHTER].

**WAYNE:** Any other questions? Well, Trevor, you want to say it for the record?

**TREVOR FITZGERALD:** Well, just as a general matter, typically Revisor Bills, when the Revisor's Office brings them, they tend to be things that have been out of date for a number of years like-- something like a 10-year-old reference that's still in statute, so.

**CRAWFORD:** OK, thank you.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for being here. At first we'll take proponents, any proponents? Any-- are you a proponent? OK. Welcome to your Urban Affairs Committee.

**BRYAN ADAMS:** Senator Wayne, members of committee, thank you for having me. My name is Bryan Adams, B-r-y-a-n A-d-a-m-s. I am a commercial project manager for McKinnis Roofing and Sheet Metal, a residential and commercial contractor located in Blair, Nebraska. I'm speaking today in support of this bill as commercial roofing project manager for McKinnis. One of my primary responsibilities is to manage repair projects for buildings and structures that were damaged by severe storms that produce high levels of wind and hail, and oftentimes in these situations, we'll work directly with insurance carriers to develop a scope of work and a fair market value of the necessary repairs. When a new roof is required, local building codes often dictate that upgrades are required to the existing structure to conform to current building techniques and industry standards. Most insurance policies include an ordinance in law provision which is designed to provide coverage to the insured in the event that building code upgrades are required. However, it's becoming more prevalent that

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insurance carriers are denying this coverage in situations where the local municipalities are not--

**WAYNE:** Excuse me, I think you are here for the next bill. Just wanted to double-check with you. Were you here for the energy bill or are you here for the update on the building code. Because you've been in contact with my-- with my office about the next bill, and I just want to make sure.

**BRYAN ADAMS:** I might have grabbed the wrong one.

**WAYNE:** That's OK. That's OK. I just wanted to make sure that we were on the right bill because you started going into insurance and stuff, I knew that was on the next bill.

**BRYAN ADAMS:** I apologize.

**WAYNE:** No, you're fine. So would you like to end your testimony on this bill right now and come back to the next one.

**BRYAN ADAMS:** Let's do that.

**WAYNE:** All right. Sounds good. [LAUGHTER]

**BRYAN ADAMS:** I was just going to warm up.

**WAYNE:** No problem. Trust me, I've read the wrong introduction to bills before, so you're OK. Moving on to other proponents of LB824. Any opponents on LB824? Anybody testifying in a neutral capacity? Seeing none, Senator Hunt, would you like to close?

**HUNT:** Thank you, Senator Wayne, and my colleagues. I was going to say I don't think this bill does what you think it does, but I appreciate you speaking up and clarifying in this-- it's a-- it's a simple mistake to make. Once again, just to clarify for the record, this is a cleanup bill. And I also misspoke in my introduction about the energy codes that-- or the-- the building code that we have. I said the 2012 international existing building code, and it's actually the 2018 code. So I just want to clarify that for the record. Add that to the things to clarify for the record, and with that, I'd take any questions.

**WAYNE:** Any questions from the committee? Seeing none.

**HUNT:** Thank you.

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**WAYNE:** There's no letters of support-- letters for the record. With that, we close the hearing on LB824. Now turning to the committee amendment, LB800, Trevor will-- legal counsel will do the introduction on that because it's more of a technical bill which covers the issue he's going to testify about. Go ahead, Mr.-- Mr. Fiitzgerald.

**TREVOR FITZGERALD:** Good afternoon, Chairman Wayne, and members of the Urban Affairs Committee. For the record, my name is Trevor Fitzgerald. That's T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, and I'm introducing LB800 on behalf of the committee. As committee members know, the primary statute that governs state and local building codes in Nebraska is the Building Construction Act, which adopts-- which both adopts the state building code and provides procedures for the adoption of local building and construction codes. Under the act, the state building code applies to state-owned buildings in each political subdivision, which elects to adopt the state building code as its local building code. And now in each political subdivision which has not adopted a local building code, within two years after an update to the state building code, and political subdivisions that adopt the local building code as provided under the act, the local code is the applicable code. And the purpose of LB800 quite simply is to clarify that either the state building code or the local building code is the legally required building code regardless of whether the state or political subdivision has specifically provided for enforcement of the code. By way of background, the Urban Affairs Committee regularly receives calls from code officials, property owners, homebuilders and other construction companies and contractors with questions about which code is applicable under the Building Construction Act and the provisions and procedures for the adoption of local building codes in Nebraska. Recently, the committee has received an increasing number of calls from property owners and contractors presenting something of an interesting fact pattern. In these cases, an insurance company, at least initially refuses to pay claims for repairing storm damage, claiming that since the political subdivision, quote, does not enforce its building code, that it doesn't have to reimburse for repairs to meet the current code. These instances have occurred despite clear evidence that the political subdivision has adopted either the state building code or a local building code, as provided under the Building Construction Act. And in at least one case an insurance company initially refused to pay a claim for storm damage to a state-owned building. Currently, nothing in the provisions of the Building Construction Act actually requires that political subdivisions employ

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code inspectors or otherwise provide enforced-- enforcement of local building codes. And many smaller municipalities do not do so, as it would be financially impractical for communities to employ code officials to handle a small number of building permits on an annual basis. LB800 attempts to address this issue by stating in very clear language that the state building code or the local building code is the legally applicable code, regardless of whether the state, state agency, county, city or village has provided for the administration or enforcement of the code. There are hopefully individuals here to testify behind me, at least one, but I would be happy to answer any questions the committee may have at this time.

**WAYNE:** Any questions from the committee? Seeing none, thank you. Proponents. Welcome back to your Urban Affairs Committee.

**BRYAN ADAMS:** Thank you for having me. Chairman, members of the committee, I apologize, if I was going to go over this again, I just want to start afresh. Again, my name is Bryan Adams, B-r-y-a-n A-d-a-m-s. As I stated before, I'm a commercial project manager for McKinnis Roofing and Sheet Metal located out of Blair, Nebraska. Again, as commercial project manager for McKinnis, one of my primary responsibilities is to deal with repairs in storm situations. And oftentimes in these situations, we work directly with the insurance company to build a scope of work and create a fair market value for the necessary repairs. When a new roof is required, local building codes often dictate that upgrades are required to the existing structure to conform to the current building techniques and industry standards. As I stated before, most insurance policies include an ordinance law provision which is designed to cover the insured in the event that code upgrades are required. And however, it was becoming more prevalent that insurance carriers are denying this coverage in situations where their local municipality does not or is unable to actively enforce the adopted code. This not only adversely affects the building owner who would have to come out of pocket for something that they thought they were insured for, but it also affects the entire community by creating a condition where buildings do not receive the necessary upgrades required by the code, causing properties to become outdated over time and lose value at an accelerated rate. And based on my experience, this disproportionately affects smaller rural communities that do not have the means or resources available to employ an individual to actively enforce the adopted building codes. This situation also adversely affects contractors such as myself with McKinnis who pride themselves on installing roofing systems that meet

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or exceed adopted codes or industry standards. It's often the case that when a community is devastated by a severe weather event or a natural disaster, less reputable contractors will flood the area looking to make a quick profit with no concern for the individual property owner or the safety and long-term viability of the community. They currently operate with impunity using inferior or substandard building techniques, something that McKinnis and other prominent locally owned businesses are unwilling to do. It is my hope that this bill will be enacted and require building codes to be enforced throughout the state of Nebraska, allowing building owners to receive full coverage available to them through their insurance policies, as well as requiring that contractors adhere to the regulations and standards detailed in the international residential and commercial building codes. And with that, if you have any questions--

**WAYNE:** Any questions from the committee? Senator Arch.

**ARCH:** Thank you. Just practical matter. So if there isn't-- if there isn't anybody to enforce, then how-- how is it enforced?

**BRYAN ADAMS:** Generally in those instances, it's not.

**ARCH:** So even if we pass something like this that says, this is the code, if there is nobody to enforce, it would be kind of on the back end of it where it's already constructed, didn't pass code, that type of thing?

**BRYAN ADAMS:** That would presumably be correct. The primary benefit I'm seeing in that instance is if it's an insurance situation, again, like in a-- in a natural disaster or a severe weather situation, the insurance carrier would be required to cover it under the ordinance of law provision. Whereas, now without that technical designation of being enforced code, they're able to skirt around that and not provide coverage to the insured.

**ARCH:** But as far as-- as far as enforcing the code, in other words, the contractor has to come back and if they did it incorrectly, they would have to come back and do it correctly. How-- do you happen to know how that enforcement would occur?

**BRYAN ADAMS:** If there was somebody employed to enforce it in that area and they were to do an inspection and find that it was not installed

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to code, then, yes, my understanding is they would have to go back and correct the issue.

**ARCH:** OK. Thank you.

**WAYNE:** Any other questions? To clarify that, Senator Arch, typically this allows the homeowner to sue for a breach of contract. And there is a code that can specifically point to to say this is a standard, otherwise, you have to go through what's a reasonable workmanlike standard. And if you don't have a code, it can vary. Any other questions? Seeing none, thank you for being here today.

**BRYAN ADAMS:** Thanks for having me.

**WAYNE:** Any other proponents? Any opponents? Anybody testifying in neutral capacity? Seeing none, this will close the hearing on LB800. And that will conclude today's hearings in Urban Affairs Committee. I would ask the committee to stay around and briefly, go into Exec--

**CRAWFORD:** OK.

**WAYNE:** --to see if we have any more questions.