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Rough Draft

Business and Labor Committee  
October 21, 2016

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[LR512 LR533]

The Committee on Business and Labor met at 1:30 p.m. on Friday, October 21, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR533 and LR512. Senators present: Burke Harr, Chairperson; Dave Bloomfield, Vice Chairperson; Sue Crawford; Laura Ebke; and Jerry Johnson. Senators absent: Ernie Chambers and Sara Howard.

SENATOR HARR: I think we're ready to begin. Thank you very much, everyone, for being here. I see a lot of fresh faces. So I will just kind of go over the ground rules, what's going on today, and what to expect. This is an interim hearing. We have two bills...or two resolutions, excuse me. We will start with Senator Bolz's, which is LR533, which is an interim study to examine promoting career education and training that can lead to job readiness for middle-skill jobs. Then we have LR512 which was brought by the Business and Labor Committee to which Senator Ebke will be leading the charge for us. And that's an interim study to examine the Commission on Industrial Relations. If you have a cell phone, I would ask that you please turn it off. If you need to take a call, please step outside. We would ask that those who come up to testify, there will be some sheets over to my left, your right, with...Mr. Wyatt, they are where?

JAMISON WYATT: They're at both places.

SENATOR HARR: They're what?

JAMISON WYATT: Sheets are at both places.

SENATOR HARR: Okay. You heard him. (Laughter) I didn't. So they're...bring it up and just if you fill out your name and what other information is required we'd appreciate it. That's for recordkeeping so we make sure everyone is properly recognized who speaks today. I want to thank everyone for coming today and I will start on my right with Senator Crawford who will introduce herself.

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SENATOR CRAWFORD: Thank you. Good afternoon. Senator Sue Crawford, District 45 which is eastern Sarpy County, Bellevue, and Offutt.

SENATOR BLOOMFIELD: Senator Dave Bloomfield, District 17, the northeast part of the state. I am term limited. I won't be here to affect any decision that takes place next year. This may be my last official act, I don't know. (Laughter)

SENATOR HARR: That's sad. You.

SENATOR JOHNSON: Senator Jerry Johnson. District 23, Butler County, Saunders County, and most of Colfax County.

SENATOR EBKE: Senator Laura Ebke, District 32, Jefferson, Thayer, Fillmore, Saline, and the southwest portion of Lancaster County.

SENATOR HARR: And to my left I referenced Mr. Wyatt who was our former committee clerk who has been promoted long ago, but he is training our new committee clerk Kaylie Hogan...

KAYLIE HOGAN-SCHNITTKER: Schnittker.

SENATOR HARR: Shinsheus (phonetically). (Laughter) And to my right is Meghan Chaffee and she is legal counsel and so she will be doing...giving me advice. We do have the light system today. So when the light is green, speak away. When it turns yellow, that means wrap up your thought, you have about a minute left. And when it turns red, that means finish that sentence. We may cut you off, we may not depending on how interested we are. (Laughter) But we would ask...there are a lot of people here today and we want to make sure everyone gets a chance to testify and still be rested for the game tomorrow. So with that, I would call up Senator Bolz.

SENATOR BOLZ: (Exhibit 1) Good afternoon. I want to start by welcoming the young people who are here today with Nebraskans for Civic Reform. We're glad you're here. And our goal, Business and Labor Committee, is to make you all feel like rock stars today. So I hope you feel appropriately appreciated. I want to just give a quick overview of the LR533 which is an

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initiative to try to discuss policy change that could promote middle-skilled jobs in the state and this is inspired by the fact that work force quality and availability has been the number one challenge of the State Chamber survey...illustrated in the State Chamber survey for the last four years. So we have some work to do in terms of making sure that we have the right people with the right skills for the jobs that are available in our state. By 2020, 70 percent of Nebraska's jobs will require postsecondary education. However, our current labor force only has 36 percent of our population that has an associate degree or higher. So we have a mismatch in terms of filling job needs. Some of the factors that have been identified by Accelerate Nebraska, which is a career education nonprofit, that have been identified include that Nebraska has high graduation rates but a significant number of students are not graduating college or career ready. Academic rigor and standards are not aligned to college and career readiness which leads to a significant demand on developmental or remedial education at the community college level. And so according to Accelerate Nebraska, we need to align our supply of talent to our labor market to ensure that graduates match industry needs and have the requisite hard and soft skills to succeed. So based on this information we pulled together a number of stakeholders and you'll hear from some of them today. But the bottom line in terms of the stakeholders and put in terms of responding to this demand is that we need both short-term and long-term solutions. When we think about something like road construction, we know that given the investments that we've made as a body, we have both short-term needs for that work force and we can plan for longer term needs. In addition to that we have demographic changes that include an aging population which will affect our work force as well as demographic changes that illustrate we have an influx of minority and young people who are coming into the state that will benefit from career education. So one of the strategies nationwide that's getting a lot of attention is an approach called career pathways and career pathways look a little bit different from state to state. But the identifying factors of a career pathway include integrated basic skills education and training, for example, remedial math education in the context of an introduction to construction course; bridges between credit and noncredit programs; using accelerated or stackable credentials, meaning that you can get a certificate in a shorter period of time and that a series of certificates could lead up to an associate degree, could stack up to a higher credential; intensive wraparound services such as transportation and childcare assistance; and a real clear focus on ensuring that the programs lead to a certificate or credential that has industry recognition and demand in the work force so that there's a job at the end of the career pathway. So there are multiple models

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that have different home bases and different ways of putting together these concepts, but the concept I'd like to bring to the Business and Labor Committee is a nationally recognized model called I-BEST in Washington State and I-BEST integrates literacy, work, and college readiness skills so that students can work their way into an in-demand job. And they do focus on industries and jobs that are in the greatest demand and have the greatest wage benefits at the end of the day. The I-BEST model also is used in academic transfer classes to make sure that those credentials and certifications could lead to a higher degree if the individual chose to do so. One of the most important ideas behind career pathways is the idea that an individual doesn't necessarily have to complete all of his or her remedial courses in order to start getting training in their industry or field of choice. So I will let the other testifiers today talk more about not only the demands in their industries but also the need for more career education and training and quicker career education and training but I will leave you with a description of the I-BEST program as well as some other statistical information if I can get the page to hand these out. And I'd be happy to answer any questions about the interim or the information we've shared today. [LR533]

SENATOR HARR: Any questions for Senator Bolz? I have a couple questions for you. [LR533]

SENATOR BOLZ: Sure. [LR533]

SENATOR HARR: So you say we need more mid-skill jobs. [LR533]

SENATOR BOLZ: Sure. [LR533]

SENATOR HARR: What is a mid-skill job? [LR533]

SENATOR BOLZ: A mid-skilled job is a job that requires more than a postsecondary education but less than a bachelor's degree and the report that's being passed out to you, there is a chart from the Georgetown Center on Education in the Workforce that illustrates some of our industry demands and you'll see that the numbers as they're projected into 2020 illustrate that those jobs that require either a short-term credential or an associate degree are in the highest demand in our state. [LR533]

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SENATOR HARR: And I think you're probably familiar with the Accelerate Nebraska study that says 70 percent of our jobs are going to require...that we're going to create in the next 20 years require less than a college degree. So with that, my question is, are you familiar with...first of all, are you familiar with WIOA? [LR533]

SENATOR BOLZ: Um-hum. [LR533]

SENATOR HARR: Okay. These gaps that we seem to have right now, we seem to have a misalignment between our education--I think you'd agree with me--and the jobs available. Do you think WIOA, let's say WIOA takes you to X, right? Here's the finish line of how far it will take you. Is the problem with WIOA? Do we need to have a WIOA-plus meaning more services than WIOA takes us? Do we need to fill gaps within WIOA that doesn't get enough people to that finish line? Or do we just need more money for WIOA to help align between our education and our work force? Or is WIOA even the answer? Is it working? [LR533]

SENATOR BOLZ: I think that all of those things have merit. But what I think we've kind of learned and come to a consensus to with this interim study is that we need a complementary approach probably housed in our community college system to make sure that individuals that are seeking those education and skills training opportunities through WIOA have an educational curriculum and pathway that matches up to the resources that they're able to get through WIOA. And you, as the Chair of this committee, I'm sure you're more familiar with WIOA than I am but I know that WIOA is focused on career pathways and making sure that the resources that individuals access when they're walking into the job training centers and seeking jobs that it's not just getting a job, any job, it's getting on a pathway to a career. And so I think it's a both/and. [LR533]

SENATOR HARR: So what is your ask out of this interim study, or what would you like to see? [LR533]

SENATOR BOLZ: So my plan at this point in time is to introduce some legislation that's based on the Washington I-BEST model. There are career pathways that start in adult education, there are career pathways that start in community colleges, and there are career pathways that start

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through the industry through partnerships with the industry. And after doing research through the summer, my argument would be that our community college system is the best system to house our career pathway approach. So they would need additional resources to build that curriculum, build that alignment, and make sure that students have tuition assistance and that sort of thing. To maybe come to a point about why this is relevant to the Business and Labor Committee, the first is that we could use your help and in recognizing the demand and the need for career education. And second, we need to make sure that the way that we design this kind of pathway or approach is clearly connected to business and industry, that we're connecting real work force needs to certifications that have real meaning in the economy. [LR533]

SENATOR HARR: Do you expect this I-BEST program...or how do you expect to fund this I-BEST program? [LR533]

SENATOR BOLZ: Most states have had the greatest success with braided funding. So some dollars might come from the community college system itself. There is some...there are some discretionary dollars in WIOA that states can use with some flexibility that would apply. We may need to add some additional dollars through General Fund investments. But at the end of the day I think that reenvisioning the way that we're putting together our career and technical education is probably the most important piece at this stage in the game. [LR533]

SENATOR HARR: Okay. And you're familiar with our budget (laughter) as a member of Appropriations. [LR533]

SENATOR BOLZ: Sure. [LR533]

SENATOR HARR: Are there...will there be additional monies for new programs in General Funds this year? [LR533]

SENATOR BOLZ: Sure. That's a fair question and the question as it relates to this interim study and the question overall are two different things in my mind. I think this interim study could put us on a path towards doing some planning grants, doing some collaborative initiatives. It may bring us back to building the P-16 collaborative. So I think there are some incremental steps in

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terms of the broader vision of a career pathway that can be done for low cost. To your question about whether or not there will be dollars for big, exciting, new initiatives, I think we're all realists in this room and recognize that it's going to be a difficult budget year. But I don't think that means that we turn a blind eye to some of the challenges that we see in our state. [LR533]

SENATOR HARR: So you're saying there's a chance there's money for the floor? [LR533]

SENATOR BOLZ: Say again? [LR533]

SENATOR HARR: You're saying there's a chance there may be money for the floor? [LR533]

SENATOR BOLZ: There's always a chance, Senator Harr. (Laughter) [LR533]

SENATOR HARR: Okay. All right. Well, thank you very much. Any other questions based on mine? Yes, Senator Johnson. [LR533]

SENATOR JOHNSON: Thank you. I attended the Planning Committee meeting this morning and they were talking about the alignment between Nebraska work force and labor market. And not to go through all the details, but the work force seeking jobs less than a high school career, a diploma, 96,000 seeking 280,000 jobs; a high school diploma or equivalent, 277,000 seeking 373,000 jobs available. Then it starts to turn around with some college with no degree: 233,000 seeking 82,000 jobs. Then it goes to associate degree, 92,000 seeking 43,000 jobs; bachelor's degree, 185,000 seeking 113,000 jobs available; and then master's degree, 89,000 seeking 29,000. It appears right in the area of some college with no degree, now is this where a certification, is that where this would fit so it fills that middle gap? [LR533]

SENATOR BOLZ: Exactly. The example I like to use is that you can get a certificate in welding. Welding jobs are in great demand and are very well paying. And so those are probably some of the jobs reflected in the statistics you mentioned. [LR533]

SENATOR JOHNSON: So the category of some college, so but could that be accomplished at the high school level? [LR533]

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SENATOR BOLZ: I think that high school programs could get creative and figure out how to develop partnerships with community colleges so that a high school student with a real passion for, say, welding either leaves with some credits that would contribute to the achievement of a credential or maybe even the completion of a credential by the time of high school graduation. [LR533]

SENATOR JOHNSON: Okay. Thank you. [LR533]

SENATOR HARR: Senator Crawford. [LR533]

SENATOR CRAWFORD: Thank you, Chairman Harr, and thank you, Senator Bolz. I wondered if you could speak to the vision or the discussion with stakeholders about the connection to adult basic education. I think I heard you say that's one of the models but then we're going with a different model. Do you have a sense of how it would connect with adult basic education? [LR533]

SENATOR BOLZ: Sure. The Washington State I-BEST program does a nice job of making sure that individuals who need some remedial or developmental education can get engaged in a program and get those technical skills while they're getting that basic math course completed... [LR533]

SENATOR CRAWFORD: Right. [LR533]

SENATOR BOLZ: ...or while they're getting that basic English course completed. So I think in a best-case scenario we'll have more of a continuum where the adult education programs, once an individual reaches a certain attainment level, they can be transferred into a career pipeline program, an I-BEST type of program, but that the stairsteps are a little bit more incremental than they look today. [LR533]

SENATOR CRAWFORD: Great. I think that's great. It's good to allow them to start that career path and start on the career training that they are so interested in while they're still finishing that. So I appreciate your work on that. [LR533]



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SENATOR BOLZ: And the value of putting it at the community college level is that the adult education programs could really focus on that basic skill development and then when they're ready to make a career choice, that's when the transition to community college would happen. [LR533]

SENATOR CRAWFORD: Okay. Thanks. [LR533]

SENATOR HARR: Thank you, Senator Crawford. Any other questions? Seeing none, thank you. We are going to do things a little...because it's an interim hearing, it's going to be a little bit more informal, we're going to do things a little differently. We have...Senator Bolz has four invited testifiers. And so those are Ms. Shannon Anderson, Ms. Alexis Bromley, Mr. Brad Wegner, and Mr. Brian Hanson. And then after they are done testifying we will open the floor if anyone else chooses to testify. On the next interim we'll go back to the traditional way of those having proponents first and then opponents and then in the neutral. But with that, I would begin with Ms. Anderson. Thanks for coming. [LR533]

SHANNON ANDERSON: (Exhibit 2) Good afternoon, Senator Harr, members of the Business and Labor Committee. My name is Shannon Anderson, S-h-a-n-n-o-n A-n-d-e-r-s-o-n, and I'm the director of government relations for the Nebraska Health Care Association. Thank you for the opportunity to testify regarding LR533. The Nebraska Health Care Association greatly appreciates and supports Senator Bolz's continued interest and commitment in growing Nebraska's work force. The Nebraska Health Care Association serves as the umbrella organization for the following: Nebraska Nursing Facility Association, Nebraska Assisted Living Association, Nebraska Hospice and Palliative Care Association, and Licensed Practical Nurse Association of Nebraska. Additionally, we administer an accredited postsecondary college focused on caregiver education through our Nebraska Health Care Learning Center. The Nebraska Health Care Association's 430-plus skilled nursing and assisted living facility members, almost equally divided between nonprofit and proprietary, employ more than 28,000 caregivers. These individuals are the very heart and soul of our long-term care and we appreciate their service. The problem is there are not enough of them. There are not enough to care for individuals now, especially in Nebraska's rural areas, and definitely not enough to meet the future needs. The U.S. Census Bureau is projecting the number of Nebraskans aged 85 years or

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older will double by 2040. In the same time period, those of traditional caregiver age which we figure at 25-44 years of age are projected to increase by only 14 percent. The Nebraska Department of Labor reports that, from 2007-2012, the employment growth for healthcare and social assistance jobs grew by 17.5 percent compared to 5 percent growth overall for all industries. The department further projects employment growth for the next decade will increase by a similar 18 percent for healthcare and social assistance jobs, compared to 10 percent overall projected growth for all jobs. In addition to basic nursing assistants and medication aides, our members have a need for registered nurses and licensed practical nurses, which are middle-skill jobs which require some postsecondary education but less than a bachelor's degree. Our members support initiatives, like LR533 and that of Washington State's Integrated Basic Education and Skills Training mentioned in Senator Bolz's opening, that look at creating an awareness of career opportunities in healthcare. The Nebraska Health Care Learning Center, our postsecondary accredited school, offers multiple nursing assistant and medication aide classes across the state and is working to partner with member facilities and their local schools and that's to create these career pathways that allow interested students an opportunity to learn more about their options in long-term care, including the possibility of becoming an LPN and an RN. We have confidence that by working together we can find a way to support Nebraskans interested in a healthcare career, particularly in long-term care, and help them achieve their career goals while at the same time building a quality work force to take care of older Nebraskans. The Nebraska Health Care Association asks you as committee members to continue to include healthcare, specifically long-term care, in consideration as we together create these work force strategies and develop career pathways now and in the future. That concludes my remarks; and if there's any questions, I'll be happy to try to answer them for you. [LR533]

SENATOR HARR: Any questions for Ms. Shannon? I have a couple. [LR533]

SHANNON ANDERSON: (Laugh) Thank you, Senator. [LR533]

SENATOR HARR: Yeah, well, you came a long ways. Because this is an area of interest to me and I don't have the answers and maybe you do and maybe you don't so I just want to dig down a little bit, let's talk about nurses for a second. So nursing 20 years ago, we had a great need for nurses and then there was a glut of nurses and now we're headed into another shortage. I was

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talking to a president of a hospital who said their nurses' salaries have gone up 23 percent in the last year--23 percent. How do we, as we make policy, avoid the boom and bust because I see a steady growth in nursing continuing and I think we need to encourage people into nursing because it is, as you say, a good mid-skill job? But how do we ensure that we do align it and we don't oversupply that network and then we suppress prices and then again we chase people out and we have that constant roller coaster? [LR533]

SHANNON ANDERSON: I think that's an excellent series of questions, Senator, and it includes a lot of different dynamics. The profession and not...from the perspective of the long-term care, the dynamics of what is required to take care of the residents has changed significantly in the last 20 years. Many of you are familiar with the (inaudible) comorbidities are much higher. People who are living at home, living in our facilities now would never be able to live at home, things like that. So right there drives a different kind of healthcare need. We have basically 75 percent of the operating costs of a nursing facility is labor. Of that, 70 percent is nursing. Of that nursing breakdown, 60 percent are nurse aides, LPNs are 17 percent, RNs are 8 percent. So to project out what you need for a glut or to fill the need now, I think it's safe to say by the data that we're looking at that you will have a need based on just the aging population of Nebraska, that you shouldn't see those spikes in values. The second thing that you consider by a program that Senator Bolz is suggesting is that nursing is a wonderful profession to put on a career pathway because, as she described previously, you could have an opportunity to learn basic skills and become...you start out as a home health aide, you start as...and it's less than high school, you do a nursing aide position. Once you get some more practice you can get...continue to take more education and you go into the associate degree registered nurse or licensed practical nurse. And then we have people who have ultimately...not ultimately, but have continued their pathway into becoming physicians. And so...and that is a great definition, an example of a pathway as they have continued to learn real-life skills, practical applications in the classroom. And so in that sense we will be better able to predict those gluts and valleys. [LR533]

SENATOR HARR: Okay. Let me follow up with that then. And I'm glad you're here and I don't mean to pick on nursing because it is a great career but it's just something that I've actually looked into a little bit more because it is such a good career. [LR533]

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SHANNON ANDERSON: Okay. [LR533]

SENATOR HARR: And one of the things we see is...and I'm not positive on the numbers. I believe it's 19 percent of nurses leave after...who have received training leave after a year. And 12 percent of the industry leaves a year overall. What can we do or what should we be doing to ensure people stay in their chosen career so that they don't leave because that rate is higher than the industry norm for other careers? [LR533]

SHANNON ANDERSON: Well, from the perspective of long-term care which doesn't...which has a more limited role for registered nurses, for example, and a higher dependence upon the nurse aides and LPNs, it's what we're trying to do today. If you look at...put yourself in the perspective of a facility administrator, you're looking at a couple of different commitments, if you will, at all times. One is that there is...it's a competitive marketplace that requires you to have a passion for quality. You also have an environment of where you are very much community based and you're taking care of people you know. What this leads up to then is that your desire to become an employer of choice. An employer of choice does provide continued opportunity to grow professionally. And then if you double back and look at our association, that's what we're doing. We have whole segments devoted to quality education and how to maintain a quality program. We have the school that we train nurse aides, med aides; we do continuing education for RNs, LPNs, as well as administrators. And so I think you have to look at it, at a package for what is driving a profession for happiness or not. And that doesn't...I did not answer, Senator, the question about acute care. I'm just doing the post-acute care which is what we represent. So I would imagine that your research also touched upon experiences in the hospital community, for example. [LR533]

SENATOR HARR: Okay. Thank you. Any questions? Seeing none, thanks for coming today. [LR533]

SHANNON ANDERSON: All right. Thank you. [LR533]

SENATOR HARR: Next up we'll have Alexis Bromley from the Omaha Chamber. [LR533]

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ALEXIS BROMLEY: Senator Harr, members of the Business and Labor Committee, for the record, my name is Alexis Bromley, A-l-e-x-i-s B-r-o-m-l-e-y. I am a manager of talent at the Greater Omaha Chamber. I am also here today appearing on behalf of the Nebraska Chamber of Commerce and Industry and the Lincoln Chamber of Commerce. Thank you, Senator Bolz, for introducing the interim study addressing one of Nebraska's most critical needs: our work force. Within the greater Omaha region, the Census Bureau estimates nearly 94 percent of civilian labor force is employed and around 6 percent is unemployed; these are for individuals aged 16 and older. The projected growth of industry prompts a demand for more workers. The largest growing sectors of the greater Omaha economy are healthcare, professional, scientific and technical services, and manufacturing. Additional areas of focus that include manufacturing along with finance and insurance account for 28 billion export dollars outside of the region. In a 2014 study completed by Economic Modeling Specialists International, or Emsi, and the Greater Omaha Chamber found there is no bad work force investment in greater Omaha. The investment of 1,000 new workers within any existing industry cluster would result in at least 1,870 new jobs. In summary, the infusion of new talent consistently spurs the creation of new jobs in every industry. This drives our economy. Within any work force conversation, there are different pools of talent that need to be considered. One area where the state and local communities can place more focus and continue improving programs and services is to develop existing talent including youth, mid-, and later-career professionals and everything in between. According to the 2015 Nebraska Department of Labor labor availability report, 26.3 percent of potential job seekers who answered the survey reported an education level of high school graduate or equivalent. In addition, in the before-mentioned 2014 Emsi study it was found that greater Omaha compared to the nation has a higher number of individuals with a high school diploma but no postsecondary experience. On the other hand, 22 percent of greater Omaha's population has a bachelor's degree or higher which is 8 percent higher than the national average. What this amounts to is an education gap in our existing work force. Our education attainment is increasing at both ends of the spectrum with those less educated at a high school level and those very educated with a bachelor's degree and higher. This is a huge area of opportunity to focus on increasing the number of individuals with certifications, some college, and associate degrees. Additionally, according to the same 2015 Nebraska Department of Labor labor availability report, 14.2 percent of respondents in the survey held two or more positions. Most of these individuals reported having a primary employer and a secondary employer of which they worked between 1 to 20

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hours in addition to their primary job. This group of hardworking individuals is referred to as underemployed. They are not working at a level they are capable of, and this is another area of opportunity where a boost to skills and training can help move them into hopefully one position that provides sustainable, family-supporting wages. This is another reason to focus on certificates and associate degrees. Both the underemployed work force as well as the workers with a low level of education are prime targets for supplemental training and support. These individuals can boost our regional and state economies by receiving additional career training, certificates, and degrees in order to obtain higher levels of employment and improve their quality of life. Thank you and I'd be happy to answer any questions you might have. [LR533]

SENATOR HARR: Thank you. Any questions for Ms. Bromley? Senator Johnson. [LR533]

SENATOR JOHNSON: Thank you. Thanks for coming in. Do we do an ample job in our high schools, at what level I'm not sure, whether it's sophomore or that, to start people that maybe are thinking, hey, I'll probably never go to college, I'm stuck in a certain culture or whatever it might be. Do we need to start, at what level in order to help some of these students into a career that would bring them into this middle-class job? [LR533]

ALEXIS BROMLEY: We could start as young as kindergarten. [LR533]

SENATOR JOHNSON: (Laugh) Okay. Are we doing that? [LR533]

ALEXIS BROMLEY: There are some instances where we have programs around the community that do these efforts. However, as a whole within our education system, that's not always the factor. [LR533]

SENATOR JOHNSON: Okay. Thank you. [LR533]

SENATOR HARR: Any other questions? Last chance. Is this your first time here? [LR533]

ALEXIS BROMLEY: It is. [LR533]

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SENATOR HARR: I've never seen you. Well, you did a very nice job. Thank you very much.  
[LR533]

ALEXIS BROMLEY: Well, thank you. Thank you. [LR533]

SENATOR HARR: Next we will call up Mr. Brad Wegner from the Nebraska Utility Contractors Association of Nebraska. [LR533]

BRAD WEGNER: (Exhibit 3) Good afternoon, Senator Harr and fellow members of the Business and Labor Committee. We do appreciate your time and effort you spent on LR533. My name is Brad Wegner, B-r-a-d W-e-g-n-e-r, and I'm the vice president of Midlands Contracting in Kearney, Nebraska. I am testifying today as Vice President and a member of NUCA of Nebraska. NUCA stands for National Utility Contractors Association and we are the leading trade organization and voice for the underground utility construction industry in our state. Our members install sewer, water, and storm sewers as well as cables and conduits for cable TV, electrical, and phone systems. I have a few members, fellow members of NUCA in the audience with me. The purpose of LR533 is to study ways to fill the middle-skill jobs gap that exists in our state and we are here to say that we are behind this resolution, as our industry has an abundance of these kinds of jobs and we cannot find the people to fill them. As an example of this effect on our state, I'll talk about my company's particular situation. We currently have five job openings and those job openings have been around for almost two years. So based on our normal hours and the overtime that we work, these missing five employees are not working about 12,000 hours a year. For a company like ours, this equates to us not completing four to five normal size sewer or water projects around the state. So what is happening in the real world is a discussion between engineers, owners, and ourselves to ask if we have the capacity to bid the projects that they want done now. And often because of this personnel shortage, the answer is, no, we cannot bid the normal amount of work that we would in a year and that is available. So engineers will have to push their projects back, and they've done this on many occasions, to the next year. Obviously what this does is we're not replacing the failing bridges, highways, and water mains and other infrastructure that our state needs replaced. So what did our industry do? We decided, as a group, we got together in the last year and a half with NUCA, AGC heavy/highway, and the Nebraska Land Improvement Contractors Association which is the grading, dirt

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work contractors, and we've teamed up to raise nearly \$1 million to start a heavy equipment operator program at Central Community College in Hastings. This program uses a nationally recognized curriculum and hands-on equipment training for them to get an associate degree, a one-year associate degree in heavy equipment operations. As we speak, the inaugural class of nine students are working toward that first degree. Additionally, NUCA joined with other construction trade organizations and formed the Nebraska Construction Industry Council. I have a little trouble with that one. The purpose of the council is to promote construction as a career and also knock down some of the stereotypes that exist with our kind of work. We've created a brand called Build Our Nebraska; includes a Web site that targets the parents and high school students that are looking for maybe a way not to go to college and to make a good living. We've also started Nebraska construction career days and those happen at all six community colleges. Now at these career days we have high school students show up and we actually have hands-on experiences for them to look and learn about a construction career. However, one of the common issues we face with both of these efforts was how to connect with the people in government and education that want to help promote this middle skills gap issue and to help us grow our work force. And that's what...I guess what we've done to date is not enough to close the gap. It's a start and that's why we strongly support LR533 and its purpose. Thank you for your time and I encourage you to contact NUCA of Nebraska if you need any additional information from us. Any questions? [LR533]

SENATOR HARR: Thank you. Any questions? Senator Bloomfield. [LR533]

SENATOR BLOOMFIELD: It had to happen. Thank you, Senator. Eons ago when I graduated high school, I could go to any construction outfit in the state and they would teach me how to run a piece of heavy equipment if they needed an operator for that. Why can't we do that anymore? Are there state requirements or federal requirements that say you have to have a degree before you can get on that Euclid and move dirt? [LR533]

BRAD WEGNER: No, there's no certification requirements around equipment and that's actually the way that it's still done most of the time to this day, is you show up, you may have no experience, you start out as a laborer, you move your way up. We're always looking at the new employees to see if they have the hand-eye coordination, the tenacity, the level of detail that



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they've got to watch, and the safety aspect of it. But that's how it's mostly done. There's not a lot of formal...this is the only equipment training program that gives you any kind of hands-on learning in Nebraska, the one at Hastings that we're talking about. [LR533]

SENATOR BLOOMFIELD: Well, I appreciate what you've done there but it appears to me that our bigger problem is getting people who are willing to show up for work and show up not being on drugs or drunk or anything else more than it is the education degree for these middle-level jobs. Am I mistaken in that? [LR533]

BRAD WEGNER: No, it's a huge problem. I mean, you know, of course we're doing federal work and most of the contractors that are in NUCA will not hire someone without a preemployment drug testing. I can't say that's 100 percent, but I believe it's pretty close. So, yeah, that's an issue. Yeah, people have a hard time figuring out how to run an alarm clock. That's one of the jokes that we like to say. As part of this curriculum, and I know I keep going back to Hastings, they are talking about life skills in that. They're teaching these kids...and you can't show up late to class. You do it I think two or three times and you're gone. So they're holding to that standard, but how do you get...how do we affect high school kids in that way? I don't know. We go to the high schools and we have them doing life skills classes. I know they're doing it. My kids are in high school. They are learning about being on time and not being on their phones while they're working and things like that. So maybe it's just we need time for that to trickle through. I don't know. I don't know what the answer is to that. [LR533]

SENATOR BLOOMFIELD: Okay. Sometimes hunger is a good teacher. [LR533]

BRAD WEGNER: That's very true. [LR533]

SENATOR BLOOMFIELD: Thank you. [LR533]

BRAD WEGNER: That's very true. [LR533]

SENATOR HARR: Any other questions? First of all, you mentioned AGC and we have a green folder from them we'll make part of the record. [LR533]

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BRAD WEGNER: Right. [LR533]

SENATOR HARR: I guess I have a question for you. These life skills...well, first of all, are you familiar with the I-BEST program? [LR533]

BRAD WEGNER: No, I've read up on it a little bit as I talked to Senator Bolz. [LR533]

SENATOR HARR: Okay. So is our problem that...what would you like to see done? Do you see that we need to teach more life skill courses, or do you see we need to provide more technical training in our schools? Or where do you see the deficiency that we as a state can help alleviate? [LR533]

BRAD WEGNER: I think the big one is we need to stop beating the drum that everyone needs a four-year degree because a lot of...we need those middle kids that are being told they have to go get a four year degree that don't want to but they're trying to make their family happy. And they're also hearing that that's the only way they can make a living. We need that effort at the high school level. And it's starting. The trades are coming back to the high school. I mean to us in the industry, that's what we talk about and that's why our Nebraska Construction Council is marketing to high school kids. We looked around and said we can't go get the adults that don't want to work in Nebraska. Kearney has a 2.2 percent, at one time, unemployment rate. It was the lowest in the country. So we said we have go after high school kids and get those middle kids that are ending up working in fast food or all that to come work construction. You know, our starting wage is \$13 an hour if you just show up. You don't have to have any experience, just a pulse. But we also have this middle skill gap. Of those five jobs that I talked about, those are all operators or carpenters. Those kids can get that training now at Hastings for the equipment, but at carpentry they can actually get it at a high school level. And I'll go back to your question about a synergy between high schools, what they can teach and what colleges can teach. Right now in Grand Island there's a Career Pathways Institute. You go through that you can go into IT, you can go into carpentry, computer-aided drafting. And you come out of there with the skills that you can actually go to work, and credentials. And Kearney just started their new high school this year. They built an institute for trades and that institute is across the street from the brand-new what is now being built for Central Community College, the Kearney campus. And they're going

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to share. There is a sidewalk between those two buildings and those kids are going, from the high school, are going to be able to go over there and do some of the accredited classes and they'll walk out of high school with a certain number of hours that they can continue on with. So that does exist. I just wanted to follow up with you on that. But for us it's getting these kids or getting even the adults that are out in the work force and are unhappy into our industry. That's our biggest effort. [LR533]

SENATOR HARR: All right. Thank you very much. We have a follow-up from Senator Bloomfield. [LR533]

SENATOR BLOOMFIELD: Thank you. You mentioned high school. In a couple of the high schools, I think one here in Lincoln and now South Sioux City is working on it, working with industry to give the high school youth some experience in industry. I've realized that would be a little tough in construction with some of our federal regulations that say... [LR533]

BRAD WEGNER: Absolutely, yeah. [LR533]

SENATOR BLOOMFIELD: ...if you're not 18, you can't be anywhere near that thing. [LR533]

BRAD WEGNER: Eighteen, right. [LR533]

SENATOR BLOOMFIELD: But is there anything you could do there by reaching in, maybe giving them some paper training their junior, senior years to... [LR533]

BRAD WEGNER: We've talked about apprenticeship programs and how that works, and that's the problem is, you know, the federal regulations allow nobody to work in any kind of a construction capacity under the age of 18. And in fact I think there is you can't be off the ground a certain amount. So, you know, there is on the maybe more of the management side, project management, project assistant type work. But it's just never been a clear-cut path because, what, again what we're looking for is those middle-skill people. We're not looking necessarily for engineers and project managers. So it's being looked at, Senator, I just know that it's a difficult situation because of the age restriction. [LR533]

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SENATOR BLOOMFIELD: It looks again like we maybe governed ourselves right into a hole.  
[LR533]

BRAD WEGNER: Yeah, that could be. [LR533]

SENATOR HARR: Any other questions? The answer is math, math, math so they're ready to go.  
[LR533]

SENATOR BLOOMFIELD: The answer is reducing government. [LR533]

SENATOR HARR: Math and teaching work ethic so they're ready to roll. [LR533]

BRAD WEGNER: Amen. [LR533]

SENATOR HARR: Any others? Seeing none, thank you for coming today. [LR533]

BRAD WEGNER: Thank you. [LR533]

SENATOR HARR: Very informative. I appreciate it. And last of the formal testifiers, we have Brian Hanson from the Center for Rural Affairs. I shouldn't say formal, I should say preordained.  
[LR533]

BRIAN HANSON: (Exhibit 4) Thank you, Senator Harr. Thank you, members of the Business and Labor Committee. My name is Brian Hanson, B-r-i-a-n H-a-n-s-o-n, and I'm senior policy associate with the Center for Rural Affairs. Middle-skilled jobs are very important to rural Nebraska. They represent a significantly greater share of the jobs within that part of the state. But as has been previously mentioned today, there's a bit of a mismatch or a gap between the available jobs and the available workers with the skills that the employers in rural Nebraska desire. So these employers, they struggle to find qualified applicants in positions--in particular the health services, nursing, the trades, and construction, people you've already heard from. I'm going to repeat it anyway. These jobs are important to rural communities because they provide income that can support a family, provide stability for those families, and they represent an

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opportunity for young people who want to live in rural Nebraska communities and be able to make a living and stay within those communities. Not everybody has to go to a four-year college and not come back, as the popular narrative goes. This proposed bill would help not just high school kids get into the work force more quickly if they chose to do so but also those already in the work force looking to improve their career prospects make a better income. So we would encourage the building and facilitating of relationships between high schools, community colleges, and industry to make sure that we're creating workers that meet the demand. Research finds that these types of programs, investments in career training education programs return greater benefits than the initial investment. Just for an example based in Nebraska, we find that in rural communities they tend to have older populations. And so going into the future we're going to be more dependent on health services and nursing to be able to have those types of jobs to provide the services that our aging rural population will need. But this greater aging population in rural areas cuts both ways. The University of Nebraska Medical Center estimates that half of nurses in Nebraska will retire over the next decade. So we're more dependent on these middle-skill jobs in a couple of ways in rural communities. One example of where our community colleges have partnered with industry would be renewable energy. Northeast Community College started a wind energy program almost a decade ago and they are building a work force for Nebraska's future because, as you probably know, Nebraska is fourth in wind resources. The wind never ceases to blow in many parts of the state. So that is another opportunity to build. Thank you for your time. Do you have any questions? [LR533]

SENATOR HARR: Thank you. Any questions? Seeing none, thank you, Mr. Hanson, for testifying. [LR533]

BRIAN HANSON: Thank you for your time. [LR533]

SENATOR HARR: With that, we will open the floor. Is there anyone else who would like to come up and testify on LR533? Excellent. [LR533]

DEB ANDREWS: Thank you. My name is Deb Andrews, D-e-b A-n-d-r-e-w-s, 1235 A Street in Lincoln. I oppose this study. It ignores the elephant in the room. Our K-12 system is failing to properly educate Nebraska's students in reading and math. Just about a third of Nebraska

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students are proficient at reading and math. A large employer in Lincoln stated simply, competency is retiring with the baby boomers. That needs to be addressed. I dropped off a sample of a worksheet, a reading worksheet used at LPS to all senators' offices this week and it's a clear description of how children are being crippled for reading proficiency. I'd really like to see the Legislature address our failures in K-12 education preparing our students with a sound foundation so they have the option to choose a variety of careers and be better prepared to pursue those careers. I'm all for education, but I'm really for preparing our young people in reading and math so that they have more options. Questions? [LR533]

SENATOR HARR: Excellent. Thank you. Any questions for Ms. Andrews? Seeing none, thank you for coming today. Appreciate your testimony. Any other testifiers regarding LR533? Seeing none, Senator Bolz, would you like to present a closing? [LR533]

SENATOR BOLZ: Very briefly I'll state that Nebraska has one of the highest high school graduation rates in the country. And I think we have a lot to be proud of in terms of our public education programs. What we see in terms of national statistics and as well as state statistics, that this is about matching up career skills with in-demand jobs and the students with a passion for those careers. And I think an approach like a career pathway could be one way to get that job done. In reference to some of the questions that came up, I'll just mention quickly that career pathways do help with job retention because you have experience at a lower level of the career before you're investing those additional dollars in tuition or other...or time without recognizing that when you practice the career, it's not the right fit for you. And the other piece I'll add is that while your point is well taken, Senator Bloomfield, about careers in industries that do or don't require certain credentials and making sure that we don't require them if they're not necessary, other careers that are in high demand job in the state, like the healthcare careers that Shannon spoke about, do require a license or certification just for the health and safety of the individuals who will be the end recipients of that person's expertise. And so I think career pathways are well suited for some of those positions. I'll leave it there. [LR533]

SENATOR HARR: Excellent. Thank you. And thank you for bringing this resolution. Any questions? Senator Johnson. [LR533]

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SENATOR JOHNSON: Thank you. You asked the question of Senator Bolz earlier about the budget. I'll... [LR533]

SENATOR HARR: She's leaving money for the floor. [LR533]

SENATOR JOHNSON: That's good. [LR533]

SENATOR HARR: Yeah. [LR533]

SENATOR JOHNSON: I appreciate that. Again, going back to the meeting I attended this morning, and I don't have a breakdown of jobs or anything, but their estimate is if we matched up the education and the job force we would have \$11 billion more in income to work with. That's the answer. [LR533]

SENATOR BOLZ: Right. So there's definitely an economic benefit to addressing our skills gap. And I guess I'll say that we invest in multiple ways in education and job training, everything from how we reinvest our unemployment insurance dollars to the Job Training Cash Fund to the way that our community college funding formula looks. And so in my mind if we can identify the policies that make the difference not only in people's ability to get jobs and get careers but also to grow our economy, then we can figure out how to use the resources within the budget, or in addition to the budget, to try to make those changes. [LR533]

SENATOR HARR: Excellent. Thank you. All about investing in our work force. That will close LR...well, do we have any other items? Yes. [LR533]

KAYLIE HOGAN-SCHNITTKER: (Exhibits 5 and 6) Senator Harr, I have items for the record. Okay. The following individuals and associations provided comment on LR533: Susan Martin, Nebraska State AFL-CIO; and Katie Wilson, Nebraska Chapter, AGC. [LR533]

SENATOR HARR: Great. Thank you very much. And with that, we will officially close LR533 and we will move on to the committee resolution, LR512, and we will ask Senator Ebke to step up and if you... [LR533]

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SENATOR EBKE: Sit down. (Laughter) [LR533]

SENATOR HARR: What's that? [LR533]

SENATOR EBKE: And sit down. [LR533]

SENATOR HARR: And sit down, right? Yeah. The floor is yours. [LR512]

SENATOR EBKE: (Exhibits 1 and 2) Thank you, Chairman Harr, fellow members of the Business and Labor Committee. For the record, my name is Senator Laura Ebke, L-a-u-r-a E-b-k-e. I represent District 32 which consists of Jefferson, Thayer, Fillmore, and Saline Counties as well as the southwest portion of Lancaster County. I've been asked to provide an introduction for this interim study. LR512 was introduced by the Business and Labor Committee as an interim study. Since the CIR is a sometimes controversial subject, let me just make a few comments and give you a brief background of the CIR and outline the goals of this study. As a study, I hope that we can treat this as an honest exploration of the issues and avoid the proponent-opponent dichotomy. I think we are all proponents of good government policy. The first target for this study is to examine the implementation, experience, and practice of the CIR. We also want to look at the effectiveness of this legislation in providing greater predictability and consistency of the CIR process of resolving labor disputes. A brief overview of the history of the CIR might be appropriate here. The creation of the Commission of Industrial Relations, as it is now known, was authorized, although not mandated, under Article XV, Section 9 of the Nebraska Constitution--although there was one Supreme Court case back in the '70s which held that Article XV, Section 9 was not necessary for the creation of a CIR but rather that those powers could be derived from the general legislative authority under Article III, Section 1 of the constitution. Regardless, the existence of the CIR is not constitutionally mandated but merely allowed and so it rests with the Legislature to continuously assess the wisdom, structure, and depth of its existence. I think that that's what this study is intended to do. The Commission of Industrial Relations was created in part to avoid the loss of critical public services in the case of strikes and to assure a fair way of resolving labor disputes without strikes. Another element of this study is to look at similar laws, programs, or institutions in other states addressing public sector labor controversies. As a precursor to this study, the most recent numbers I could find



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show that 39 states have some mechanism to ban public sector union strikes while 11 states do not. Even in states where public sector employees can strike, those strikes are quite rare. The fourth element of this study and perhaps the most important is that we intend to look at the costs and benefits to employers, employees, and taxpayers as a result of the Industrial Relations Act. To that end, I have a letter from Governor Ricketts which I've been asked to read into the record. I also have copies if the pages are here. And I have a copy of a letter from City Councilman Roy Christensen who would...I'm not going to read that letter in. Here is Governor Ricketts' letter. "Dear Members of the Business and Labor Committee: I am pleased to have this opportunity to share my thoughts on your committee's study of the Commission of Industrial Relations. As I travel our state, I frequently hear complaints by mayors, city councils, county commissioners, and school board members that the current rules surrounding the CIR and the Industrial Relations Act cause adverse impacts on operational..." [LR512]

SENATOR HARR: May I interrupt for just a second? [LR512]

SENATOR EBKE: Yeah. [LR512]

SENATOR HARR: We have a copy of it and we can just read it. If they... [LR512]

SENATOR EBKE: I think... [LR512]

SENATOR HARR: If they don't want to come, that's fine, but I think we have a lot of people here to testify. [LR512]

SENATOR EBKE: No, I think it's useful to get the context and for the...for those who are coming behind to understand that this is not suppose to be an adversarial...it's a true study. He's not... [LR512]

SENATOR HARR: Okay. [LR512]

SENATOR EBKE: Okay? [LR512]

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SENATOR HARR: Okay. [LR512]

SENATOR EBKE: Okay. "I share those concerns. Spending by local governments is a major factor in the property taxes that each entity must levy. To the extent that our statutes and governing practices contained within the Industrial Relations Act mandate local governments to increase personnel costs, that will greatly impair their ability to control or limit overall spending. Working together, the Legislature and I have made property tax relief a priority of state government. Local government spending constraint must be an important part of ongoing property tax relief decisions. The ability of our mayors, city councils, county commissioners, school board members and other local elected officials to predict and control their labor costs will continue to be a driving factor in sustainable property tax relief. I especially appreciate that your committee is reviewing, among other items, the costs imposed upon taxpayers as a result of the Industrial Relations Act and options that may be available for positive change in our laws based upon the practices found in other states. I look forward to working with the committee in the upcoming legislative session to make important changes to our collective bargaining statutes. Sincerely, Pete Ricketts." To that end, let me just note that I, as well, as I go out in my district, often hear the most about property taxes. I suspect that anybody who has rural constituents hears a lot about property taxes. And my answer to them most of the time is there's a limited amount that the state can do with respect to property taxes; go to your local school boards, go to your city councils. As a 12-year member of a school board, I can say that sometimes CIR, the Commission of Industrial Relations, in our current framework makes it very difficult to truly control costs. And so that's one of the things that we need to consider and the impact that the Commission of Industrial Relations and its framework has on taxpayers. So with that, thank you, Senator Harr. [LR512]

SENATOR HARR: Thank you, Senator Ebke. Any questions for Senator Ebke? I have...is anyone here from the Governor's Office? Anybody here from the Governor's Office? I'll ask a third time. Anyone from the Governor's Office? Okay. Well, I will ask you then, Senator Ebke,... [LR512]

SENATOR EBKE: Okay. [LR512]

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SENATOR HARR: ...since no one from the Governor's Office is here and they asked you to read this letter. I can't really cross them or ask them questions. But in the last paragraph it states, "...the costs imposed on taxpayers as a result of the Industrial Relations Act..." What is that cost? [LR512]

SENATOR EBKE: Well, I can't speak for the Governor, obviously. But my interpretation of that is that the costs imposed are...as a school board member, for instance, we had little control over the increase in our labor costs because of the nature of the arrays. And so if one school in the array increases their pay rate significantly, it automatically spirals everyone else in the array up. [LR512]

SENATOR HARR: Okay. Do we know what that cost is? [LR512]

SENATOR EBKE: Well, I think that's what this study is for. [LR512]

SENATOR HARR: Okay. I appreciate you coming and being a good platform Business and Labor person and testifying for us. [LR512]

SENATOR EBKE: Okay. [LR512]

SENATOR HARR: Any other questions? Senator Crawford. [LR512]

SENATOR CRAWFORD: So, Senator Ebke, you said that's what the study is for. So do you have people following you who are going to report on those costs or is that something you're still doing in the future? [LR512]

SENATOR EBKE: There are...yes, Senator Crawford, there are a number of people who are testifying behind us...behind me that I'm sure will address that question in significant detail. [LR512]

SENATOR CRAWFORD: Okay. All right. [LR512]

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SENATOR HARR: Thank you. In order to make this less adversarial, I will...and more informal, I will go ahead and say let's not do this in proponent and opponent manner, listening to Senator Ebke's opening, in response to it. So whoever would like to testify, please come forward.

[LR512]

SCOTT NORBY: Mr. Chairman, members of the committee, my name is Scott Norby. I represent the Nebraska State Education Association. The Nebraska State Education Association has over... [LR512]

SENATOR HARR: Can you spell your last name for the record. Sorry. [LR512]

SCOTT NORBY: Excuse me. N-o-r-b-y. [LR512]

SENATOR HARR: Thank you. [LR512]

SCOTT NORBY: The NSEA has over 250 local affiliates that serve as bargaining agents that represent educational employees to bargain terms and conditions of employment with their employers under the Nebraska Industrial Relations Act. I've had the privilege of representing the NSEA for approximately 35 years. The amendments made to our Industrial Relations Act in 2011, represented by LB397, in my judgment represent the most significant change to our collective bargaining law that has occurred during the course of my career. And I would characterize that change to be a fundamental change in bargaining culture within at least the educational instructional employee field from a culture of bargaining to the CIR, to bargaining to settlement. And I think that that change in culture is perhaps best represented by the fact that since the operative date of the amendments made effective by LB397, there has not been a single wage case adjudicated by the CIR involving instructional employees. That is, I believe, a significant fact relevant to your study. I will repeat it. Since the amendments to the Industrial Relations Act by LB397, there has not been a single wage case adjudicated by the CIR involving instructional employees. Notwithstanding that fact, real and dynamic collective bargaining continues to take place involving instructional employees which we believe supports the continuous, uninterrupted, and proper functioning of an essential public service--our educational system. And I think the amendments to LB397 do that in a number of ways and I think there's

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principally three. One of the major amendments to the law that was made applicable to instructional employees, and I'll limit my comment to instructional employees, is the imposition of a bargaining calendar. Prior to LB397, bargaining would often go into the school year for which bargaining was taking place and what would happen is the parties would look to other school district peer schools to see, well, what are their settlements going to be, and we're going to wait this out. And it really came down to a process of who blinks first. And what would happen is you'd end up towards the end of the school year and in fact you would not have wages in place for the school year in which you're teaching, which is not a healthy situation, and it would end up in the CIR. That has been remedied through the bargaining calendar. The bargaining calendar provides a meaningful and structured approach to bargaining whereby there are clear dates by which certain tasks must be completed moving forward, all of which are certainly in advance of the contract year for which collective bargaining is taking place. A second component made applicable by LB397, which in my experience has made a huge difference, is the imposition of a mediation process as part of this bargaining calendar. And so if you end up not getting an agreement during a certain point in the bargaining calendar, the parties may be subject to a mandatory mediation process or a proceeding before which an individual that is characterized by the act as a resolution officer. I am aware, and I believe I'm aware of all of them, there have been five or six requests for appointment of a resolution officer made since the adoption of LB397 and I could represent to you that every single one of those matters resulted in a settlement. In fact, only one actual proceeding or mediation has taken place before a resolution officer and it resulted in a settlement. Based on my experience, I think there is a reasonable likelihood that, but for that process, but for those amendments to our act, a number of those cases would have gone to the CIR. Last but not least, of course, is what I'll characterize as the 4 percent window or the amendments provision associated with the limitation of the CIR's jurisdiction to enter a wage order where current wages fall within a window 2 percent above or 2 percent below what is determined to be midpoint. [LR512]

SENATOR HARR: Okay. Thank you, Mr. Norby. Any questions for Mr. Norby? Senator Ebke. [LR512]

SENATOR EBKE: I just have a comment. I want to thank you for coming today and I appreciate...I think one of the problems that we've got when we have term limits is that we have

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a lot of loss of institutional knowledge, a loss of perspective perhaps. And it's good to hear from all parties involved to see whether we're on task with where we wanted to be. So thank you. [LR512]

SENATOR HARR: Questions? Senator Crawford. [LR512]

SENATOR CRAWFORD: Thank you, Chairman Harr, and thank you for being here. And since you do say you have 35 years of experience and I am in this term-limited environment, I'm going to ask you just an information question and that's from one of our letters. So one of our letters refers to the change that we made in removing the special master process. So I wonder if you just would tell us what that is. [LR512]

SCOTT NORBY: You know, that's interesting because the special master process was involved in the State Employees Collective Bargaining Act which involves the state of Nebraska employees. The Industrial Relations Act involves political subdivision employees or school districts. [LR512]

SENATOR CRAWFORD: Okay. Okay. [LR512]

SCOTT NORBY: And really what LB397 did, I'll call it flip-flop because the special master process, which is mandatory mediation as a condition to going to the CIR, was made a part of the Industrial Relations Act and applicable to political subdivision employees--teachers. But interestingly, it removed it from the State Employees Collective Bargaining Act, okay? And I...the impact on removing it from the State Employees (Collective Bargaining) Act I'm not sure I can speak to, but I can tell you by...but including that component for our political subdivisions, principally school districts, in my experience has made a huge difference. [LR512]

SENATOR CRAWFORD: A positive or negative difference? [LR512]

SCOTT NORBY: Positive. Positive. [LR512]

SENATOR CRAWFORD: Okay. And that being...? [LR512]

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SCOTT NORBY: Cases just don't go to the...there aren't any wage cases in the CIR anymore. The process is structured in a way that the parties are forced to deal with their issues outside of a true adversarial environment controlled by lawyers. I mean the RO process, the resolution officer process, there's no strict rules of evidence; it's just mediation. And the mere triggering of that process in five of the six cases I think have occurred have resolved it before you even get there. [LR512]

SENATOR CRAWFORD: And this is the cultural settlement that you're talking about. [LR512]

SCOTT NORBY: Yes, this is what I...this is the foundation of what I perceive to be a fundamental change in culture of how labor relations is actually administered at the local level under our Industrial Relations Act. And I really think it's a healthy thing for Nebraska and it's been good for both employee groups and our political subdivisions. [LR512]

SENATOR HARR: Senator Crawford. [LR512]

SENATOR CRAWFORD: Thank you. So if I can ask you another question, on that shift in terms of costs, do you have any sense of the cost changes in terms of reduced cost spent in litigation since we've seen this shift? [LR512]

SCOTT NORBY: Well, one thing I can speak to is political subdivisions aren't spending hundreds of thousands of dollars on lawyers anymore. (Laugh) Meaningful collective bargaining is still taking place. You know, that 4 percent window would permit an employer to pay its employees less than what is determined to be a comparable wage because you could literally pay 98 percent of midpoint and not go to the CIR. I mean it's...on the other hand, you know, are public employers doing that? I don't see that. I think most of them are enlightened and understand that paying a comparable wage is a good thing in terms of the delivery of essential public services but it has unwound the process and made it less legalistic and actually empowers resolution of these issues at the local level. [LR512]

SENATOR CRAWFORD: Thank you. [LR512]

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SENATOR HARR: Any other questions for Mr. Norby? Seeing none, thank you for coming to testify here today. Good afternoon. [LR512]

JOHN SPATZ: Good afternoon. Senator Harr and members of the committee, my name is John Spatz. It's spelled S-p-a-t-z, but believe it or not it is pronounced "Spots" (phonetically). I'm the executive director of the Nebraska Association of School Boards and I appreciate being here today. And my testimony today will revolve around what's happened since LB397 in 2011 with respect to the education world. And I'm happy to say I'm a little rusty on CIR issues because since 2011, as Mr. Norby said, there has not been a wage benefit case before the CIR. And before LB397 it seemed like the CIR was a constant thorn in the side. And I actually had to go back and look at what was in that bill. And at the beginning of the session the School Boards Association essentially proposed four changes, one being that 4 percent window. So the concept of that would be, if we see a downturn in the economy where money really is tight, it would provide just a little bit of wiggle room for the political subdivision to go down to 98 percent if necessary. Now that's not a long-term solution to the issue but in a session or in a year when money is really tight, as opposed to jumping right into the RIF process, you would have a little bit of wiggle room in that range. So that was one of the proposals. Another proposal was to enable a school to count FICA and retirement in the total comparability. And I think that was a good change because for schools who bargained things like cash in lieu or cash in lieu of insurance, they were able to get the benefit of that bargain because when you pay a salary you also have to pay FICA and retirement on top of that. So that was a true cost and prior to that bill it wasn't calculated in total compensation, so I thought that was a good change. And then the third item that we proposed at the beginning of the session was one I was very cautiously optimistic it would work and it was the time line that Mr. Norby talked about. And I think that eliminated a lot of uncertainty for school districts and political subdivisions and I was very hopeful it would result in a good outcome for school districts and I think it has because since 2011 I think we have added certainty to the process. And I think prior to 2011 one of the big problems that I heard in the education world was a lack of certainty and I think the time line that was really worked out by some of the practitioners in the CIR really has added certainty. So another thing that has resulted since then, not as a direct result but an indirect result, that I think has contributed to the positive situation is that the NSEA and the School Boards Association now collaborate on collecting data. A lot of fights that were happening prior to 2011 were on data. So



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the position both of the NSEA and NASB is that the data is the data. The facts are the facts. So we have been working together on what we call a contract settlement form where both the teachers and the school district will put data into a common area on a Web site and it shows up in red if they put in different data so they can work prior to the bargaining process on fixing any data that is different. So I think that's contributed. As a state organization collaborating, working on collecting the data, I think that filters down and adds to that culture at the local level. So when you eliminate any discrepancies in data. I think it makes it a lot easier because when you have the accurate data, bargaining then becomes math. If you're within that 4 percent range, I don't know why you would end up in the CIR. So I think that's been a very positive step. And as a result of that, School Boards Association has produced software to enable school districts to compute where they would be in an array and I think that really has leveled the playing field in a lot of ways. So all those things combined since 2011 have made for a better process I believe. [LR512]

SENATOR HARR: All right. Any questions for Mr. Spatz? I just have one. It sounds like what you're saying is that CIR provides certainty and structure for the negotiation, is that correct? [LR512]

JOHN SPATZ: I think since 2011 the certainty and structure has improved greatly. And I think while that process, started in 2011, it got very chaotic and difficult, the end result with those three issues that I addressed I think have been a positive result on the bargaining process and I like how Mr. Norby talked about the culture. I think certainty in that process adds a degree of ease to that. [LR512]

SENATOR HARR: So you represent the School Boards Association. [LR512]

JOHN SPATZ: Yep. [LR512]

SENATOR HARR: School board members are not paid. [LR512]

JOHN SPATZ: That's right. [LR512]

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SENATOR HARR: But they take a very important role in our communities. They educate our kids. Would you prefer a situation where each school district was allowed to negotiate on their own, without a CIR; and to allow the teachers, the workers within a school district to be able to strike? Or do you prefer the structure and certainty of CIR? [LR512]

JOHN SPATZ: Well, we don't have a position on something like that. [LR512]

SENATOR HARR: Okay. [LR512]

JOHN SPATZ: But the structure...I am here to say, since 2011, the certainty has improved. And I think by virtue of that, the process has improved, the culture has improved. And a lot of it I think is to do...as a result of that time line. That, like I said, I was a little nervous going into that and agreeing to it but it really has worked better than I expected and it's...I think it's been a positive result for both sides. [LR512]

SENATOR HARR: And I think you should be commended for working with the NSEA on your numbers and working together collaboratively to, again, enhance that certainty. So thank you for all that you do as well. [LR512]

JOHN SPATZ: I agree. And I can't say this with certainty, but I don't know that there's a lot of states that see that type of collaboration at the state level. [LR512]

SENATOR HARR: Yeah. [LR512]

JOHN SPATZ: So I think that's a benefit to those at the bargaining level. [LR512]

SENATOR HARR: Great. I guess one last question I have is, do you think teachers are overpaid? [LR512]

JOHN SPATZ: No. [LR512]

SENATOR HARR: Okay. [LR512]

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JOHN SPATZ: No. [LR512]

SENATOR HARR: Thank you. Any other questions or follow-ups? Thank you very much. Appreciate it. [LR512]

JOHN SPATZ: Appreciate it. [LR512]

MIKE DOWD: Good afternoon. Senator Harr, members and Business and Labor Committee, my name is Mike Dowd, D-o-w-d. I'm here in representation of the AFL-CIO, the Omaha Police Officers Association actually, and an attorney that is handling a wage case--the first wage case that actually has been filed since the time of the change in the CIR. Since 2011, as it's been indicated, there has been little litigation before the commission. I was also part of the steering committee that ultimately resulted in the adoption of what we have now as 48-818. The concerns that were voiced to us at the time of the grand compromise that we entered into was that there was a lack of predictability. There was a question regarding what are the rules? And the reason that is, is because the decisions over many decades were decisions that were made by the commission based upon some somewhat vague language within the original statute. So codification of that case law over time was necessary and there was compromise made. We looked at a lot of the language and we decided what the rules were and those rules were entered by compromise and that agreement was reached so that people had predictability as to what the rules were. And then if you want to play the game, you can play that game. Well, as we sit here today, game hasn't even been played yet. We're somewhere halfway between the beginning and end of a wage case. We've been successful in terms of going through the array selection which is the first half of the statute. And now we're going to go ahead and move on to what's called the hourly rate value and the defining of what the benefits are so that there can be a comparison made and a wage and benefit schedule established. So what are we talking about when we talk about the establishment of benefits for public sector union? We're talking about trying to compare ourselves with other communities which are competitive for our employees and making sure that we're on a fair wage scale--not better, not worse, but fair. And there was an establishment of that range of 2 percent above, 2 percent below, so we're not even to get the median level necessarily. But we felt that there would be a range that would allow for reasonableness, a range that would allow for some wiggle room. But if you were so far below or

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so far above, then there would be an ability to move towards that middle ground. So when we talk about predictability, predictability has come to the CIR. The rules have been established, they've been agreed upon, and they've been codified. When we talk about usage, we can look at the fact that this is the first case that's been tried in five years. So whether it's predictability or usage, I think the same response is that we can't say that the CIR itself or the rules regarding the CIR are broken because the full application of that law hasn't even been seen at this point. So when we go ahead and talk about interim study and maybe there are suggestions that we tweak this or push here or push there, we have to understand that the law itself has to be seen as a whole. We talk about array selection. We talk about what is necessary to select that particular array member because we want it to be fair, we want it to be comparable, we want it to be competitive to allow for employees to stay within Nebraska. But sometimes, just as in our case, there raises situations where, you know, the negotiations have yet, doesn't mean that they won't, but negotiations have yet to go ahead and allow for the parties to come to a resolution of the matter. So we have the CIR who's going to allow for us to do that. And we're going to have a finding because we don't want to be in a situation where they're striking--public sector employees. We want there to be a calm environment, a workable environment, and fair environment. And I believe that the law as it exists right now is going to allow for us to achieve that. [LR512]

SENATOR HARR: Thank you, Mr. Dowd. Any...Senator Ebke. [LR512]

SENATOR EBKE: Thanks. You mentioned array selection which is always an important part of any wage dispute case before the CIR as I understand it. [LR512]

MIKE DOWD: Correct. [LR512]

SENATOR EBKE: And I'm curious, you represent the Omaha... [LR512]

MIKE DOWD: Police Officers Association. [LR512]

SENATOR EBKE: ...Police Officers Association. So when you have a wage dispute case, how do you go about selecting? In school parlance we always did, you know, 50 percent smaller, 50

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percent larger. How do you go about selecting an array or how do you agree on an array when it comes to the Omaha Police? [LR512]

MIKE DOWD: Well, again there were certain rules that were established. We looked back at past case law and there was things that were discussed concerning the size of the comparator. [LR512]

SENATOR EBKE: Right. [LR512]

MIKE DOWD: How big was a city? We also were asked to go ahead and consider and integrate into the law this concept of MSA, metropolitan statistical area, because if you're a city and you're involved in an MSA such as Omaha-Council Bluffs, Omaha-Sarpy County, you start to have a bigger group of people and the effect can be different than if you were isolated in a rural area. So the MSA was incorporated. And again, understand that these were rules that were being advanced by the League of Municipalities that they felt would be most reasonable in defining what comparability would be. So in terms of the Omaha Police Officers Association we have to look at the size of the city--not more than...not less than half nor more than double the size. [LR512]

SENATOR EBKE: Right. [LR512]

MIKE DOWD: Then we have to look at their inclusion within an MSA--not less than half, not more than double in size. But also very important to that consideration is working conditions. And as we stressed in this case and as the commissioners rightfully decided, working conditions for a police officer include their exposure to violence. We had a proposal for a comparison to Memphis. Memphis, their murder rate is astronomical. Officers asked to go ahead and respond to a homicide requires a huge drain in manpower and it takes away from services in other areas of the city, whether it's to report on a burglary or some other event. We saw those cities as being reactive, as opposed to proactive, in terms of trying to eliminate crime. So there are distinctions that exist in terms of working conditions. And we talk about the firefighters. Are you going to go ahead and fight a fire in the middle of the winter like in downtown Omaha? Or are you going to be in the sunny South where it really doesn't matter? So there are distinctions in terms of

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working conditions that have to be considered aside from just the size of the city that you live in and the size of the metropolitan area that you find yourself within. So we look at those particular factors and we try to find that the cities that are most proximate to Omaha in our instance. So we don't want to go to Hawaii or Alaska. We want to keep within the proximity. But there has to be that similarity. Why? Because if we're not going to pay a fair wage, they're not going to stay here. [LR512]

SENATOR EBKE: So what kind of cities fall into the array? There's obviously nothing in Nebraska, right (inaudible)? [LR512]

MIKE DOWD: Sure. Well, for our particular array the commissions selected Denver, Oklahoma City, Tulsa, St. Paul, Milwaukee, Kansas City; they also chose Louisville, Kentucky. So you see that there's obviously some reaching out that is going on, but Omaha is a big city. We live in a big MSA. So again, we're looking at comparators that are comparable. [LR512]

SENATOR EBKE: Okay. Thank you. [LR512]

SENATOR HARR: Senator Crawford. [LR512]

SENATOR CRAWFORD: Thank you, Chair Harr. So just for the record, you said the commission picked that array. [LR512]

MIKE DOWD: Yes. [LR512]

SENATOR CRAWFORD: Do you propose array options and the city proposes array options? [LR512]

MIKE DOWD: Exactly, exactly. And we... [LR512]

SENATOR CRAWFORD: And then it is their choice to pick out of the recommendations you make and the recommendations that the city makes, they choose an array, is that...? [LR512]

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MIKE DOWD: Exactly. The commissioners have rules. They have parameters. And then they make a decision, based upon the arguments, who's right. Obviously we all see the world through different lenses. [LR512]

SENATOR CRAWFORD: Sure. [LR512]

MIKE DOWD: And they basically are the fact finders and make that decision. So we did have a different array from the city in part. We did have some similarities. And they went ahead and considered the factors set forth by the statute and make the decision based upon those factors. Do we agree with all the selections? No, but that's something that we'll have to talk about in future times. [LR512]

SENATOR CRAWFORD: Okay. I have a different question. [LR512]

SENATOR HARR: Senator Crawford. [LR512]

SENATOR CRAWFORD: A different topic. [LR512]

MIKE DOWD: Sure. [LR512]

SENATOR CRAWFORD: So I think I heard that you said you agree that for the most part we've shifted to more of a culture of settlement. [LR512]

MIKE DOWD: I would agree. [LR512]

SENATOR CRAWFORD: This is your first case that's going through this part of the process. So in that culture of settlement, have you seen the case...the wage resolution tend to gravitate toward the 2 percent above? Like is it the case that we have a culture of settlement where the wages are generally always hitting at the upper end of that array? Is that part of what's been happening or do you see it ranging in that range, in your experience? [LR512]

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MIKE DOWD: Well, at least with respect to our surveys right now, we're not on the upper end of the array. We're actually far behind. And so I don't see that...I mean one of the things that was put forth by the League of Municipalities was a feeling. And the feeling was that there really wasn't a valuation that was being given to the full wage and benefit package. There was never really a value placed on healthcare. There was really never a value placed on the pension system that they felt really accurately reflected what was being given. So you have wages here, but what about all this? So this new process that we're involved in requires us to look very closely and try to be as accurate as we can as to what really is being provided. And it's an eyeopener for both sides. So I think when we talk about the valuations, it's not necessarily there we're always hitting the top because that's not what this is revealing, at least in this particular case. And I think it's going to reveal that we're substantially behind. But what it will do is bring the parties to a point of fairness. Again, there's a 4 percent fudge factor here in that...I think that's more than reasonable and it gives some flexibility for those hard times when you can't go ahead and meet that perfect middle line. But it needs to go ahead and always gravitate towards fairness. Otherwise we're just going to have an employment drain from this state. [LR512]

SENATOR CRAWFORD: Thank you. [LR512]

SENATOR HARR: Any other questions? Seeing none, thank you, Mr. Dowd, for your testimony. [LR512]

MIKE DOWD: Thank you. [LR512]

COBY MACH: (Exhibit 3) Good afternoon, Mr. Chairman, members of the committee. My name is Coby Mach, C-o-b-y M-a-c-h. I'm the president of the Lincoln Independent Business Association. Last year, Lancaster County Board of Commissioners submitted written comments for a study that outlines some of the issues that they have faced under the new CIR structure and opined that more changes perhaps should be made. I've distributed a copy of that letter from the Lancaster County Commissioners for your consideration. Also to talk just quickly about a couple of examples of recent CIR decisions that have had an impact a decision of the CIR from December of 2015 left the city of Lincoln with limited flexibility in managing snow emergencies. In that case, the CIR held that the city could not adjust public work employees and



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their hours to address snow emergencies unless they reopen negotiations. Although the CIR had previously held that staffing issues were a management decision reserved for municipalities, the commission applied the new standard that was not included in state statute. Secondly, a decision of the CIR in May of 2015 left Gage County taxpayers paying for the costs of allowing sheriff deputies to drive county-owned patrol cars to and from their personal residence. Even though such a privilege was not negotiated, the bargaining agreement had given the municipality control over office property but the CIR rejected that argument that vehicles were office property. And the case is an example of how a sheriff was trying to reduce costs on taxpayers for fuel and maintenance on patrol vehicles and had his hands tied by the CIR. And we just heard about the June 2016 decision, the first case to apply the wage comparability provisions in the 2011 changes. In that decision, the CIR has held that the city of Omaha will compare wages to cities like St. Paul, Minnesota; also Denver, Colorado. The metropolitan statistical areas in which those cities are located are more than three times as large as the Omaha Metro. In fact, St. Paul has a metro area of 3.5 million; Omaha is 900,000. A review of how other states handle this area of law makes it clear that there are a lot of different approaches out there. Five states prohibit collective bargaining altogether. There are states that require arbitration or mediation between the parties. I will be the first to say that I do not have the answers and LIBA does not have the answers. We don't know the best way to adjust the system. What we know though as we visit with elected officials about property taxes and holding the line on taxes is that they say that there should be some tweaks certainly to the CIR, some changes to be made that would help it to work better. With that, I will conclude my remarks and thank you for your time. [LR512]

SENATOR HARR: Thank you, Mr. Mach. Any questions? I have a couple. So the sheriff and the snow removal incidents you gave, were those pre-LB397 or post-LB397? [LR512]

COBY MACH: The decisions were issued after, but based on pre... [LR512]

SENATOR HARR: Previous law, right. [LR512]

COBY MACH: Yes. [LR512]

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SENATOR HARR: Okay. Based on that, any questions? I look forward to seeing...property taxes are a major concern in the state and I look forward to seeing if there are some tweaks that we could look to improve CIR. So thank you for coming today. I appreciate it. [LR512]

COBY MACH: Thank you. [LR512]

DEB ANDREWS: My name is Deb Andrews, D-e-b A-n-d-r-e-w-s. I support reform of the CIR. I support removing the union from all levels of government. Wherever the union has a seat at the table or mere presence in the room, the union rules. They wield too much power over every aspect of our lives. The union influences legislation and corresponding services and taxation. Education is a great example of this. In education legislation, I was on a drafting committee. The union was in the room, opposed the legislation because it would allow a poor youth to be absent a time or two during the week and attend a college class. The union didn't want the seat empty for one or two hours a week. They introduced a subsection that gutted the bill. It passed that way and it was detrimental for youth. The union talked today about wages and negotiations. They control much more than that. At LPS, they actually author curriculum. The sexuality curriculum is authored by the National Education Association. Failure pays in our schools. It promotes more staffing, more programs, and increases the bureaucracy. Just about a third of Nebraska students are proficient at reading and math. Nebraska citizens don't elect the union to represent them. Nebraska citizens don't pay union dues and, thus, citizens are not represented by the union. Here today we did not hear anything about public services or services to taxpayers. I urge you to return government power to the people. Remove the union from government at all levels. Take this opportunity to initiate that, particularly our schools. Thank you. [LR512]

SENATOR HARR: Okay. Thank you, Ms. Andrews. Let me see...wait, let's see if anyone has any questions for you. All right. Seeing none, thank you again for coming to testify. I appreciate it. [LR512]

JOHN CORRIGAN: (Exhibit 4) Good afternoon, Mr. Chairman, members of the committee. My name is John Corrigan, C-o-r-r-i-g-a-n, and I have been before this committee before. I'm testifying today on behalf of the Nebraska Professional Fire Fighters Association. I also work with Mike Dowd who is a partner of mine with the Nebraska AFL-CIO. And I just wanted to

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respond to a couple of comments that were made. I have provided comments regarding the study in writing to the committee. But the...some of the comments about the cases that are in front of the commission recently, I think Mike did an excellent job of describing the status of the Omaha Police case. There was one other case that went to wage...went to term...decision all the way and that was Crete versus...city of Crete Police officers case. That's the first time that we had a decision since 2011 on a wage case. And it was an easy case in the sense that there was only five comparators and they were all in Nebraska. And the only reason that that case really went, as far as I've been able to tell, is because they wanted to see what would happen and particularly with healthcare and that gives us...you know, whether you like that case you don't, we have a road map and that has helped get a lot of other cases settled because now we know how the commission is going to interpret the statute with respect to valuing healthcare. And the Omaha case is a little different only because that's the first case that will...the Crete case didn't involve an MSA issue and the Omaha case did. And so...but we're getting a decision from the commission. I think it's important to remember the commissioners are appointed by the Governor. These are not people that, you know, come out of the woodwork to do the bidding of an employer or of the employee. They are umpires; they call balls and strikes and LB397 created the strike zone. And that's what happens. It has reduced wages cases, obviously, but there are still issues dealing with duty to bargain. And those cases that Mr. Mach described, I will tell you, I don't agree with his assertion about the facts of those cases at all. But those are concerning disputes on whether the employer can unilaterally change terms and conditions of employment when there is either an existing contract or there is a bargaining agent. And it is a longstanding labor law that essentially equalizes the power between management and employer when there's a collective bargaining agent that's been certified. So with that, there's no way you can say with any legitimacy that the Commission of Industrial Relations is doing anything other than what the Legislature has told it to do. The CIR...the Industrial Relations Act, the changes that we've seen have resulted in drastic...and I think we have some statistics that Sue will provide to you if she hasn't already. You can see how many cases were filed prior to October 1 of 2011 and how many have been filed since. And the cases that are being filed now are generally disputes over bargaining like (inaudible) practice dispute or there's elections or certifications. The wage issues are getting resolved. And that can't be understated in the sense that we have had several contracts in Lincoln, several contracts in Omaha, and particularly in Omaha with regard to pension, where those parties negotiated in good faith to resolve the long-term sustainability of those pension plans and

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it's working. They are contributing now more than their actuarially required contribution amount and the pension system in Omaha, both civilian and fire, is becoming a better-funded, healthier system because the union and the employer agreed to fashion a resolution. With that, I thank you for your time and would submit to any questions you may have. [LR512]

SENATOR HARR: Thank you, Mr. Corrigan. Any questions for Mr. Corrigan? Senator Crawford. [LR512]

SENATOR CRAWFORD: Thank you. I'll ask you the same question I asked for police and that is, in this new environment do you find that your wages tend to gravitate toward the upper end of that array regularly? I mean have you seen that pattern or is it more spread across the array? [LR512]

JOHN CORRIGAN: The reality is that going to the CIR is very expensive for the unions as well as, you know, the employer sometimes spends a lot of money. We oftentimes see how much money they spend because it's a matter of public record. But we know how much it costs us as well. And so what Mike has described to you is that they're behind on their array and that's not uncommon because you might take less in negotiations to not have to go to the CIR and deal with that expense. But in my...you know, I represent firefighters from Scottsbluff to Omaha and to Bellevue and we are seeing people settling these contracts really more tied to cost-of-living adjustments. And you know, you're not seeing a 5 percent year anymore. Those days are not going to come back for a while if ever. But those...as long as the big issues are resolved in terms of safety and employment security, wages have been the easier items to resolve. [LR512]

SENATOR CRAWFORD: Thank you. [LR512]

SENATOR HARR: Thank you. Any other questions for Mr. John Corrigan? Seeing none, thank you for coming down. [LR512]

SUSAN MARTIN: (Exhibits 5 and 6) Good afternoon, Senator Harr and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n. I am the president of the Nebraska State AFL-CIO representing 23,000 union members across the state of

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Nebraska. Today I'm testifying in opposition of LR512. We all agree that the Commission of Industrial Relations was designed to resolve public sector labor controversies with jurisdiction over state and local government employees including public utilities. The purpose is to provide a way for public sector organizations to dispute claims over wages, representation cases, and other such items such as bargaining orders, mediation fact finding, or other similar issues. The system is working after much effort and revisions made as a result of LB397 during the 2010-2011 Legislative Session. For several months, a working group consisting of labor and management met under the leadership of Senator Steve Lathrop on concerns raised about the CIR and its process for resolving contract disputes between public sector employees and public sector employers. The group went to great lengths to reach a compromise on how the CIR works and I do not feel, at this point, an interim study would be of any further benefit. I didn't...I just got these statistics before we came today. I got these statistics from the clerk of the CIR. And it shows...and I wish I had a copy for everyone. [LR512]

JAMISON WYATT: We're making copies right now. [LR512]

SUSAN MARTIN: Yeah... [LR512]

JAMISON WYATT: We're making copies. [LR512]

SUSAN MARTIN: Oh, you are? Okay. But it shows in 2011 and '12, and that's the year after implementation, there were 65 cases handled but that was probably carryover from the previous term. But since then, in 2015-16 there's only been 30 cases handled, so that's cutting it in half pretty much. Representation cases this last year there were zero, and wage cases there was one. So I think it's...this history should show that it's working. So that ends my testimony unless you have any questions. I do ask that you oppose the interim study and I thank you for your consideration. [LR512]

SENATOR HARR: Thank you, Ms. Martin. Senator Crawford. [LR512]

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SENATOR CRAWFORD: Thank you, Chairman Harr, and thank you, Ms. Martin, for being here. I wondered if you have an idea of the change in litigation costs for AFL-CIO or any of your affiliated unions in this time shift. [LR512]

SUSAN MARTIN: Yeah, I cannot...I do not have that information for you today. [LR512]

SENATOR CRAWFORD: Okay. Is that something you'd be willing to share with us (inaudible)? [LR512]

SUSAN MARTIN: I could...sure. I can try and find that out for you. Absolutely. [LR512]

SENATOR CRAWFORD: Thank you. [LR512]

SENATOR HARR: Senator Ebke. [LR512]

SENATOR EBKE: Thanks. I just want a little clarification. I assume that you are opposed to any changes in the CIR. Now are you also opposed to us studying it which is what the interim study is doing? [LR512]

SUSAN MARTIN: I just don't feel that this study is necessary after all the study that happened previously and we went to a lot of compromise and concessions on both sides. And so that's why I don't feel that the interim study is necessary. [LR512]

SENATOR EBKE: Okay. Thanks. [LR512]

SENATOR HARR: Any other questions? Senator Bloomfield. The sands are quickly disappearing. [LR512]

SENATOR BLOOMFIELD: (Inaudible). [LR512]

SENATOR HARR: All right. Seeing none, thank you, Ms. Martin. [LR512]

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SUSAN MARTIN: Thank you. [LR512]

SENATOR HARR: Anyone else to testify? [LR512]

BERNARD in den BOSCH: Good afternoon. My name is Bernard in den Bosch; first name B-e-r-n-a-r-d; last name, three words, i-n d-e-n B-o-s-c-h. I'm a deputy city attorney with the city of Omaha law department. Frankly I had no intention of testifying, but I think I felt compelled based on some of the previous testimony. I do think it's fair to say that, at least in the experience of the city of Omaha and I think probably true with many of the political subdivisions, the experience that the city is seeing is different than education--the certainty and the predictability that I heard both the president of the NSEA and the president of the School Boards Association say has led to an ability to resolve their contracts. Now most of their contracts are annual so there's a lot of...potentially a lot of history. Our contracts tend to be for three or four years. We've had contracts that we've entered into, I would submit to, that I don't know that LB397 had much to do with the conclusion. We had some very severe pension problems. We attempted to address those through both our civilian, our police and fire. The police one was prior to LB397. Fire in many ways mirrored it and much of the framework was done prior to LB397 and there were moderate pay increases and those particular things. But having now had a case that's in the process...and Mr. Dowd is obviously represents the police union; I obviously represent the city of Omaha. And I hate to say this. I think the city of Omaha, perhaps the city of Lincoln, array selection becomes a much bigger, much more complicated, much harder thing to accomplish. We have...we had an order entered in June that did select an array. That array was two cities the parties agreed upon, three of the seven cities the city submitted, three of the seven cities the union submitted, I believe. Those two/three/three is how it was decided. Now I would submit to you that I think there's a lot of question and it may very well be an issue that goes before the Supreme Court as to how the CIR interpreted those issues. Now, and I think it's fair for some people to say we haven't had enough experience with LB397 to see how it's going to work, but I think it's also fair to say, based on how it was applied even in the one...in the city of Omaha case which is the first time we've had a case where we're talking about cities that go outside the borders of a city as to what the term "presumption" means, as to what half and double the MSA size because a number of the cities, as were pointed out previously, are outside that. What in evidence has to be done? Now someone...I think it's easy for somebody to say, and I assume Mr.

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Harr as a lawyer would say the Supreme Court will make, ultimately make, that decision and they will ultimately make that decision. But I think it also means it's fair for this committee and others to look and say, hey, should they be the ones making that decision? I don't know. I'm not proposing a solution, but the question is, do we have enough to really be able to ask some questions? I think the answer is yes. The new CIR doesn't also address some of the questions, and there are going to be difficulties in determining comparability. There's also tremendous difficulties, and I think Mr. Corrigan and Mr. Dowd who deal with cases where you're trying to get information from cities outside the state of Nebraska, there's a horrible difficulty in getting data. I know there's a provision in the law that requires everybody in Nebraska to comply with giving that data. When we provide that to the city of Denver they say that's really nice, but we don't really care unfortunately because there is no...that law does not force them to do anything. What I would ask...and I think Mr. Dowd talked and I think Mr. Corrigan also were part of a group that negotiated things in 2011. There was nobody from the city of Omaha, nobody that represented the city of Omaha that was included in those discussions, nor was any input sought from the city of "O." And I appreciate we're just one of many cities but we're different in that the rules apply to us differently because there's no comparable city in the city of Omaha. So I think we need to be at the table, to the extent that there's any discussion. And I think there's also, still, process questions about how the HRV and pension are going to be calculated. The Crete case addresses that a little bit but not certainly to the extent that it needs to be. So I appreciate the opportunity to speak. As I said, I wasn't necessarily intending on speaking but felt compelled to. [LR512]

SENATOR HARR: Well, thank you for coming. We appreciate your testimony. Any questions? I have one question. [LR512]

BERNARD in den BOSCH: Sure. [LR512]

SENATOR HARR: Are you familiar with the League of Municipalities? [LR512]

BERNARD in den BOSCH: Absolutely. [LR512]



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SENATOR HARR: Okay. And do you know if the city of Omaha belongs to the League of Municipalities? [LR512]

BERNARD in den BOSCH: The city of Omaha does. [LR512]

SENATOR HARR: Okay. And do you know if the League of Municipalities was involved in the negotiations on LB397? [LR512]

BERNARD in den BOSCH: I believe they certainly were involved, and one of many people. [LR512]

SENATOR HARR: Okay, okay. [LR512]

BERNARD in den BOSCH: I also note, and that's my point, I guess, is that, you know, there's certainly other people who had very direct input. Mr. Dowd and Mr. Corrigan both referenced...and I appreciate your point. I understand your point. [LR512]

SENATOR HARR: Okay. So the city did have representation at the table. [LR512]

BERNARD in den BOSCH: I think...as...with a group that was looking at a lot of different issues, absolutely. [LR512]

SENATOR HARR: Okay. That's all I wanted to know. I wanted to clarify the record. [LR512]

BERNARD in den BOSCH: Thank you. [LR512]

SENATOR HARR: Appreciate you coming down here. [LR512]

BERNARD in den BOSCH: Thank you. [LR512]

SENATOR HARR: Thanks for your time. Any follow-ups? Okay. Seeing none, thank you. Any other testifiers? Good afternoon. [LR512]

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LYNN REX: (Exhibit 7) Senator Harr, members of the committee, name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We do appreciate the opportunity to discuss LR512. We think it's important that this committee always review any type of major legislation like LB397. We are very proud to be involved with LB397. We think it was very significant, meaningful CIR reform. That being said, we think it's always important to see what kind of improvements can be made along the way. We think it took a huge step forward in trying to resolve many issues along the way. For example, and this has been mentioned already today, under LB397, passed in 2011, this is the first time municipalities will be given credit for the amount of funds that are basically given to employees or negotiated with them dealing with healthcare benefits and pension benefits because, prior to that, essentially take-home pay was sort of the name of the game. And so from a public sector standpoint, city manager administrators and others across the state looked at basically negotiating on the take-home pay side because it was apparent that they were not going to get dollar-for-dollar credit, if you will, for those types of benefits for healthcare and pensions. That being said, it's also come to our attention, and I think the Crete case was one example, where we need to do something and our group is looking at what can we do to clarify, make more simple...simplify, if you will, the calculation for HRV for healthcare. And one of the ideas that we have talked about is basically using COBRA minus 2 percent, something that simple. And the reason for that is similar to what the testifier before me mentioned which is that when you're in a municipality that goes outside the state of Nebraska, they really don't care, they have no incentive to go through lots of...and spend lots of time, if you will, walking through a complicated formula and one that may cost them money to do so, if you will. So coming up with something that is easy to do, that's fair to do, and we've not had a chance to talk to our colleagues in the unions and discuss this issue with them, but to come up with something that is fundamentally basically COBRA minus 2 percent. What is that for, on the healthcare side, for family plan; what is it for a single plan? Something that's easier to calculate because the more predictability that one brings to the process, the more likely it is that you can get a negotiated agreement at the table. And that was the foundation of LB397 and the work that Senator Lathrop I think put in with all the parties involved trying to come to that. That being said, it doesn't mean it's a perfect bill by any means. [LR512]

SENATOR HARR: (Inaudible.) [LR512]

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LYNN REX: But I just can't tell you I think how much we think that it has moved the ball forward. We continue looking at ways to continue to improve that. I've submitted for your consideration a letter from Mayor Beutler. And just one example of an issue that's outstanding, if you will, I'm just going to read the last couple paragraphs. This is from Mayor Chris Beutler dated today, October 21, 2016, and I'm reading the last couple paragraphs: "...Lincoln currently has a case on appeal with the Public Association of Government Employees (PAGE)," is the union involved, "concerning stand-by assignments for snow removal during snow related events. The city cannot control the weather; snow events can happen at any time of the day, and when it is predicted to occur in the middle of the night, the public expects that snow crews will be working through the night to clear the streets. Objecting to the mandatory nature of the assignments, PAGE," which is the union employees, "filed a Prohibited Practice Petition alleging the city violated the collective bargaining agreement and did not bargain to impasse over the disputed stand-by assignment plan. Citing case law, the city argued that the CIR," which is "an administrative agency only empowered with deciding industrial disputes not breach of contract claims, did not have jurisdiction, because stand-by assignments were covered by the collective bargaining agreement. Alternatively, the city argued that scheduling of work was a management prerogative not subject to mandatory bargaining. Depending on the case's outcome, further legislative clarity may be needed..." And they go on to talk about that issue in terms of defining mandatory subjects of bargaining. In other words, can the mayor and the executive branch of government say to those employees that are responsible for snow removal, it's snowing, it's 1:00 a.m., we need you to remove the snow? So in any event, those are some of the things that I think in any major reform you're going to have things that need to be addressed. So that's why we do appreciate having the opportunity to do that today and talk about some of these issues. We've got a group that's going to continue looking at ways, and we've been doing that since it passed, ways that it can be improved because that's what I think everybody in this room wants to do is figure out ways to improve the current process and lend predictability. I do want to underscore something that the testifier before me said, and I can never pronounce his last name so I'm just going to say Bernard (laughter) representing the city of Omaha, which is that I do think that his point that school cases are different in determining comparability in school cases, fundamentally different than determining comparability in any other type of case. And that was I think one of my first lessons I learned years ago from Mark McGuire who represented NSEA at that time, which is basically as Mark...I'm paraphrasing: A teacher is a teacher is a teacher. And I don't

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mean that in a pejorative way. I've got a teaching degree myself. I mean that in a complimentary way. So a fifth grade teacher, to oversimplify this, a fifth grade teacher in Scottsbluff fundamentally does the same sort of things a fifth grade teacher in Gering, in Chadron, in Alliance, for the most part--I mean there could be some other things along the way--whereas, okay, a police officer I in Scottsbluff does not--that's a line in a budget for example--does not do the same thing as a police officer I necessarily in Norfolk or Gering or another city. So it's a different thing in terms of doing job analysis. [LR512]

SENATOR HARR: Okay. [LR512]

LYNN REX: But again, we absolutely appreciated Senator Lathrop working with us and negotiating with us in 2011. And I said this to several groups at the time, some of which were not excited about the possibility of coming up with CIR reform: that he is the first Chair of this committee, and I've been involved since 1978, Republican or Democrat, Libertarian or Independent, your party or mine, ever to be willing to sit down and discuss about comprehensive CIR reform. So we absolutely appreciated it then. We spent countless hours working with Senator Utter who was also involved in this. And the League did have Bill Harding who has negotiated more and worked on more CIR cases for municipalities than probably any other... [LR512]

SENATOR HARR: Thank you. Or Bull Moose. [LR512]

LYNN REX: I'm sorry? [LR512]

SENATOR HARR: You always forget the Bull Moose Party. [LR512]

LYNN REX: I'm sorry? [LR512]

SENATOR HARR: The Bull Moose Party. Everyone forgets it. [LR512]

LYNN REX: Oh, there you go. I always forget that. You're right. [LR512]

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SENATOR EBKE: Have you become a Bull Moose? [LR512]

SENATOR HARR: Getting there (laughter). [LR512]

LYNN REX: So in any event, we appreciate you looking at this. We think there can always be improvements. We're going to continue as an organization looking at those. [LR512]

SENATOR HARR: Yep, thank you. Any questions for Ms. Rex? I have a couple for you. [LR512]

LYNN REX: Okay. [LR512]

SENATOR HARR: You're with the League of Municipalities? [LR512]

LYNN REX: Yes, I am. [LR512]

SENATOR HARR: Do you represent the city of Omaha? [LR512]

LYNN REX: Yes, we do. [LR512]

SENATOR HARR: Okay. Do you think you do a good job representing the city of Omaha? [LR512]

LYNN REX: We do our best and we try and keep them informed of what we're doing through the negotiations. [LR512]

SENATOR HARR: Okay. And you took their concerns when the negotiations were occurring. You made their concerns known to the rest of the negotiators, is that correct? [LR512]

LYNN REX: We were in contact with folks from various cities throughout the process. [LR512]

SENATOR HARR: Okay. [LR512]

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LYNN REX: That doesn't mean everybody got everything they wanted. I will assure you that is not the case. No one got everything they wanted on either side. [LR512]

SENATOR HARR: Okay. Thank you. I just wanted to stand up for the League. I also want to ask you, property taxes are major concern in this state now more than ever. And there was an implication that CIR leads to higher property taxes. And I think, drawn to its conclusion, it's because the CIR leads to higher wages. Do you believe city employees are overpaid? [LR512]

LYNN REX: First of all, that determination overall is something that is on a case-by-case basis, but my personal view: no. [LR512]

SENATOR HARR: Okay. [LR512]

LYNN REX: That's my personal view. But in terms of, for example, is a public works director in a city of the first class, let's say Bellevue for example, what is that wage compared to a comparable city, that's why the CIR is there. [LR512]

SENATOR HARR: Okay. [LR512]

LYNN REX: The purpose of the CIR in our view, Senator, is to make sure that the parties sit together to come up with fair wages, what's comparable for same and similar work. [LR512]

SENATOR HARR: Okay. Great. Thank you very much. I appreciate your testimony here today. [LR512]

LYNN REX: You're welcome. [LR512]

SENATOR HARR: Any follow-up questions? Senator Crawford. [LR512]

SENATOR CRAWFORD: All right. Thank you. Thank you, Chairman Harr, because that raised another question. Do you have any evidence from the League of acceleration of wages since LB397 that's greater or different than the growth in wages before that? [LR512]

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LYNN REX: You know, I don't have any evidence of that. An individual who probably could be most helpful in that might be Sheila Schukei for municipalities that are a member of the League except for Lincoln and Omaha simply because of the complexity of their types of cases. For municipalities that are members of the League--and that's most of them, obviously, except the very, very small villages, and we still represent them--they can get comparability information. They've got to provide the information to get the comparability information; in other words, Crete gets that information as long as they give their information. And then it goes into a database for cities to determine same or similar work, and again, the whole purpose of which is foundational to LB397 to foster bargaining at the table locally. The whole idea is to not go to the CIR; the whole idea is to not put money into the wages of attorneys on either side, not that that's...I'm opposed to doing that. I'm just saying that was not what this was about. [LR512]

SENATOR CRAWFORD: So as a follow-up, that data is available because you use it to help cities go through this process and figure out their data, is that correct? [LR512]

LYNN REX: I don't, but I'm telling you that their experts do. [LR512]

SENATOR CRAWFORD: But that...okay. Yeah. Yes, yes, yes. [LR512]

LYNN REX: Cities can have access to that information. The League does not have that database. That is owned by the individuals involved in it and it's proprietary in terms of what they do with it at the table for bargaining. But I think that everybody tries to get to yes. Nobody wants to...nobody in my view wants to go to the CIR. Everybody wants to bargain and get it done locally. [LR512]

SENATOR CRAWFORD: Do you have any sense or evidence about changes in litigation costs since these changes for cities? [LR512]

LYNN REX: Well, by definition of the fact you've got fewer cases going, that in and of itself means you're going to have less litigation costs. And I also don't want to undercut the very legitimate issues that Bernard brought forward for the city of Omaha. Those issues he's bringing

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forward are legitimate. I'm just submitting to you this is a case of first impression. So there will be, as in any case like that, you're going to have issues that come forward... [LR512]

SENATOR CRAWFORD: Thank you. [LR512]

LYNN REX: ...that this committee at some point may need to address. [LR512]

SENATOR HARR: Excellent. [LR512]

SENATOR CRAWFORD: Thank you. [LR512]

SENATOR HARR: I would just in summary say thank you for coming and testifying today. You're right, no bill is perfect. And I look forward to...and this committee working with, if we need to, to bring some tweaks to improve it for all the parties involved. So thank you for coming today. [LR512]

LYNN REX: Thank you. [LR512]

SENATOR HARR: Appreciate it. [LR512]

LYNN REX: Thanks for the hearing. [LR512]

SENATOR HARR: Anybody else here to testify so Senator Bloomfield can ask questions? [LR512]

SENATOR BLOOMFIELD: One question all day and you're still on that. [LR512]

SENATOR HARR: Well, I just want you to get a chance before...this is your last formal. Anybody else? Once, twice. Senator Ebke. [LR512]

SENATOR EBKE: I just want to thank the Chair and the committee and those who testified today. [LR512]



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SENATOR HARR: Well, thank you very much. And I just want to say thank you to this committee. It's been a pleasure to work with you guys these last two years. We have some handouts...some items for the record. [LR512]

KAYLIE HOGAN-SCHNITTKER: (Exhibits 8-11) Chairman Harr, I have some items for the record. The following individuals and associations provided comment on LR512: Stacey Ruzicka, Hall County Board of Supervisors; Jay Irwin, UNO Chapter of the American Association of University Professors; Kim Quick, Teamsters Local 554; and 119 other public and private sector labor interests. [LR512]

SENATOR HARR: Excellent. Thank you very much. With that, we will end the LR and close the session. Thanks, everyone, for coming today. Appreciate it. Thank you. [LR512]