

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee March 1, 2021

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B. HANSEN: Good morning and welcome to the Business and Labor Committee. My name is Senator Ben Hansen. I represent the 6th-- 16th Legislative District in Washington, Burt, and Cuming Counties and I serve as Chair of the Business and Labor Committee. I would like to invite the members of the committee to introduce themselves, starting on my right with Senator Matt Hansen.

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

BLOOD: Good morning. Senator Carol Blood, District 3, which is western Bellevue and southeastern Papillion, Nebraska.

GRAGERT: Good morning. Senator Tim Gragert from northeast Nebraska, District 40.

B. HANSEN: Also assist-- also assisting the committee is our legal counsel, Benson Wallace, our committee clerk, Ellie Stangl, and our committee pages, Mason and Erin. So first of all, I like to kind of talk a little bit about COVID-19 hearing procedures. For the safety of our committee members, staff, pages, and the public, we ask those attending our hearing to abide by the following procedures. Due to social-distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by a sergeant at arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing while waiting in the hallway or outside the building and we please ask that you could-- if you could, please limit or eliminate handouts as best as you can. And a few notes about our policy procedures as a committee: please turn off or silence your cell phones. On each of the

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tab-- tables near the doors of the hearing room, you will find green testifier sheets. If you were planning to testify today, please fill out-- please fill one out and hand it to Ellie when you come up to testify. This will help us keep an accurate record of the hearing. If you are not testifying at the microphone, but want to go on record as having a position on a bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. Also, I would note if you are not testifying, but have a position letter to submit, the Legislature's policy is that all letters for the record must be received by the committee by noon, the day or-- the day prior to a hearing. Any handouts submitted by testifiers will also be included as part of the, part of the record as exhibits. We would ask if you do have any handouts that you please bring ten copies and give them to the page. We do use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony and we will ask that you wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last name. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introduce-- introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. And we do have a strict, no-prop policy in this committee. So with that, we will begin this morning's hearing with LB172. Welcome, Senator Matt Hansen.

M. HANSEN: Thank you. All right, good morning, Chairman Hansen and fellow members of the Business and Labor Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent Legislative District 26 in northeast Lincoln. I'm here today to introduce LB172, a bill that would increase the amount someone receiving unemployment benefits could earn through part-time or lower-paying work without affecting their overall benefit amount. Currently, people can receive unemployment benefits while working based on a formula comparing their wages to the benefit amount. The classic example for this is someone laid off from a full-time job was able to find part-time employment with either fewer hours or lower pay. All states have some mechanism in the unemployment system that recognizes this and discounts a

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certain amount of earnings when determining if a worker qualifies for partial unemployment benefits. This is to give workers an incentive to take part-time or short-term work while they continue to search for a permanent job. For all unemployment recipients, a person's weekly benefit amount is determined by taking half of their previous average weekly wage, not to exceed half of the state average weekly wage. Under current law then, Nebraska excludes one-quarter or 25 percent of a worker's weekly benefit amount from earnings in calculating whether or not they are below the earnings threshold to qualify for partial unemployment. So in other words, Nebraskans qualify for partial unemployment benefits as long as they are making less than 125 percent of their weekly benefit amount. This bill, LB172, would increase that amount by another 25 percent. Allowing those receiving benefit amounts to earn more through part-time work will both incentivize work while searching for full-time employment and help boost the economy during hard times. This amount of 50 percent is already policy in a number of states, including Vermont, Wyoming, Illinois, Delaware, and Idaho. Increasing this disregard amount would also be an effective way to put people-- more money in people's pockets and recognize people working hard to find employment. With that, I'll close and be happy to take any questions from the committee.

B. HANSEN: Thank you, Senator Hansen. Are there any questions from the committee? All right, thank you. So with that, we will move to any potential testifiers in support of LB172. Good morning.

ALEX SERRURIER: Good morning, Chairman Hansen, members of the Business and Labor Committee. My name is Alex Serrurier. That's A-l-e-x S-e-r-r-u-r-i-e-r and I'm a policy analyst for OpenSky Policy Institute, testifying today in support of LB70-- LB172, which is a bill that would aid Nebraska workers by increasing the amount an individual receiving UI can earn in wages without decreasing their UI benefits. Therefore, LB172 would provide greater incentives for Nebraskans to take temporary or part-time work while they search for full-time employment, helping address Nebraska's workforce shortages. In Nebraska, unemployment insurance replaces 50 percent of a worker's average weekly wage, capped at one-half of the state's average weekly wage, which is \$456 for 2021. I put this into context on table one of the handout that you're receiving. A 40-hour per week minimum-wage worker would receive \$180 per week in UI benefits, the equivalent of \$9,360 per year. The maximum weekly benefit equates to an \$11.40 per hour wage, which is \$23,712 per year. There's also a six-month maximum

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on receiving benefits, which means these annualized amounts that you're seeing are never realized by recipients. Table two on the handout you received shows how LB172 would change the amount that UI recipients at various income levels can earn without decreasing their benefits. LB172's fiscal note suggests that this policy change would cost Nebraska's UI trust fund \$7.9 million annually. The fiscal note does not include methodology, but it does note that the estimate is based on 2020 calendar year claims. The amount of claimants in 2020 was almost six times higher than the number of claimants in 2019 and five times higher than the average number-- average annual number of claimants from 2015 to 2019. Assuming 2020 was indeed an abnormal year for claims, calculating the fiscal impact of this bill based on the average annual number of claimants from 2015 to 2019 would reduce the fiscal note by a factor of five, putting it at roughly \$1.6 million per year, which is less than .04 percent of the trust fund's balance at the start of this year. Nebraska's current law allowing UI claimants to earn up to 25 percent of their UI benefit and wages before their benefits are reduced is relatively low compared to other states. While many states exclude a flat dollar amount rather than a percentage of weekly benefit amount, states that base it on a percentage of benefits are generally more generous than Nebraska. As Senator Matt Hansen mentioned, North Dakota excludes earnings equal to 60 percent of an individual's weekly benefit amount. Delaware, Idaho, Illinois, Vermont, and Wyoming exclude 50 percent. Arkansas, Alabama, Connecticut, D.C., Oregon, and Wisconsin all exclude at least 33 percent of weekly benefit amount. Providing an additional incentive for unemployed workers to take temporary or full-time jobs could help alleviate some of Nebraska's struggles with maintaining an adequate workforce. Business leaders in Nebraska report that many employers are struggling to find the workers they need. Furthermore, the number of Nebraskans between ages 25 and 64 is projected to decline in the coming years, potentially exacerbating this problem. LB172 can be a step in the right direction to address this workforce shortage. Finally, I want to stress that UI payments not only support our labor force, but benefit state and local economies. A study by the Maine Department of Labor found that \$235 million in unemployment benefits paid during a single year of the Great Recession created an economic ripple effect that resulted in 3,200 hundred jobs, \$8 billion in earnings, and contributed \$178 million to Maine's GDP. This demonstrates the positive economic effects of UI recipients spending their benefits in order to support themselves and their families. For

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these reasons, we hope the Business and Labor Committee will consider supporting Nebraska's workforce by advancing LB172 to the floor. Thank you so much for your consideration. I'd be happy to answer any questions if you have them.

B. HANSEN: Thank you. Are there any questions from the committee? All right, seeing none-- oh, yep. Senator Halloran.

HALLORAN: Quick question. Thank you, Chairman Hansen. Thanks for your testimony. Run through the math for me a little bit, if you would, seven-- \$7.9 million is the fiscal note.

ALEX SERRURIER: Yeah.

HALLORAN: And you were suggesting-- and it's probably some-- arguably true, that 2020 was kind of an anomaly for claims.

ALEX SERRURIER: Um-hum.

HALLORAN: Maybe I misunderstood. Run, run through that again for me.

ALEX SERRURIER: Sure. Yeah, so 2020 had about five times the number of claims that was averaged from 2015 to 2019 and so again, the fiscal note doesn't really show a methodology, so I had trouble replicating it, but I just reduced that seven point million-- \$7.9 million by a factor of five, assuming it would be a flat decrease. Of course that could vary a little bit, but that's how I ended up at that \$1.6 million.

HALLORAN: All right, thank you.

B. HANSEN: Any other questions? Seeing none, thank you.

ALEX SERRURIER: Thank you all.

***TIFFANY JOEKEL:** Chairperson Hansen and members of the Business and Labor Committee, my name is Tiffany Seibert Joekel, and I am the Policy and Research Director for the Women's Fund of Omaha. The Women's Fund testifies in support of LB172, allowing for increased partial employment before Unemployment Insurance benefits are reduced. As an organization promoting the economic security of women and girls, we recognize Unemployment Insurance as a critical investment in our communities during times of economic difficulty. Current Nebraska

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statute limits partial employment wages earned under Unemployment Insurance to 25 percent of one's weekly benefit amount (WBA) before having one's benefits reduced. This amounts to only one-eighth of the wages someone previously earned before losing their employment. After this point, someone will experience a dollar for dollar decline in benefits for each additional dollar earned. LB172 would instead expand this employment cap to half one's weekly benefit amount, allowing individuals to earn 25 percent of previous wages before experiencing such benefit reduction. In doing so, this bill incentivizes greater partial employment while searching for a new job, allowing Nebraskans to take on greater part time work in the meantime. For a Nebraskan earning the state per capita income before loss of employment (\$32,302) who is receiving Unemployment Insurance and working the maximum part-time amount eligible, LB172 would mean an additional \$77.65 in benefits each week. This benefit increase over one month for a single adult would equate to almost half of monthly rent for a one bed-room apartment, roughly 5 weeks-worth of groceries, or nearly 3 months of gas utility costs. Unemployment insurance is critical in curbing the economic devastation that sudden loss of employment can create, and LB172 works to maximize that investment. As a matter of supporting the economic security of Nebraskans and promoting one's ability to earn their way off benefits, the Women's Fund urges the committee to support LB172 and advance this bill to General File.

B. HANSEN: We'll take our next testifier in support of LB172. All right, seeing none, is there anybody wishing to testify in opposition to LB172? Welcome, Commissioner.

JOHN ALBIN: Thank you. Chairman Hansen, members of the Business and Labor Committee, for the record, my name is John Albin, J-o-h-n A-l-b-i-n, and I am the Commissioner of Labor. I'm appearing here today in opposition to LB172. LB172 would increase the wage disregard used in determining the weekly benefit payment to a claimant from 25 percent of wages earned during the-- a week to 50 percent of wages earned. The 25 percent disregard-- disregard was part of the grand bargain adopted by the Legislature with the support of both business groups and labor organizations when LB739 was passed in 2005. At that time, the Unemployment Trust Fund was in serious jeopardy and business and labor worked together to ensure the future solvency of the trust fund. Under LB739, employers agreed to accept a \$2,000 increase in the maximum taxable wage base in return for reducing the wage disregard from 50 percent to 25 percent. LB7-- LB172 would walk back part of

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that compromise. LB172 would result in Nebraska having the second-highest wage disregard percentage in the nation. And I'm going to go back and depart from my remarks and double-check because my study didn't match up with what Senator Hansen had reported and so I want to double-check my data. But according to the USDOL publication that I looked at, only North Dakota has a wage disregard of more than 50 percent and only one other state, Vermont, has the 50 percent disregard level. The most common wage disregard percentages utilized by the states are 33 and one-third percent and 25 percent. Iowa, Kansas, and Colorado all use a 25 percent wage disregard in determining weekly benefit offsets. And if memory serves, it was the Colorado law that LB739 was patterned after. Based upon a review of NDOL data by our research staff, if LB172 had been in effect in calendar year 2020, it would have increased the amount of regular state unemployment insurance benefits paid by \$7.9 million. Additionally, federal unemployment insurance benefits paid would have increased by approximately \$500,000. Because the tax rate is determined by the amount of unemployment insurance benefits paid, a \$7.9 million increase in benefits paid would result in a \$7.9 million tax increase to Nebraska employers. Additionally, LB7-- LB172 creates a technical concern in the administration of unemployment benefits. It's critical to the administration of the program to have changes tied to the start of a benefit week. Unemployment claims are effective either the Sunday the claim is filed or the Sunday immediately preceding the date the claim is filed. As currently drafted, LB7-- LB172 does not have an operative date and this would create significant IT complications for the department. That concludes my testimony and I am happy to try and answer any questions you might have.

B. HANSEN: Thank you. Is there any questions from the committee at all? All right, seeing none, thank you. Anybody else wishing to testify in opposition?

RON SEDLACEK: Good morning, Chair Hansen and members of the Business and Labor Committee. Glad I said good morning. I almost said good afternoon and that's so old school here, but-- today. My name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k, and I'm here on behalf of the Nebraska Chamber of Commerce, as well as I've been authorized to submit testimony on behalf of the National Federation of Independent Business in Nebraska in opposition to LB172. I'd like to begin my testimony just briefly to remind the committee that Nebraska, like all

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other states, finances unemployment compensation through taxes that are exclusively paid by employers. Quite often, there's a misconception that employees contribute to the system. They do not. Only employers pay and finance the system and it's based on wages of all covered employees. In the law, these taxes are called contributions, just another name for taxes. Those are generally for for-profit companies. There are a cata-- there is a category called reimbursable employees, generally governmental units, and so they reimburse the system as opposed to paying taxes to the system, so just to set that into context. And also a little bit of legislative history, Commissioner Albin did mention legislation that was passed. It was LB739. It was a bill that-- and I believe Senator Lathrop was, was present at that time. It was kind of the grand compromise unemployment compensation reform bill and what we were trying to do is better equalize the tax system to shore up the solvency of our Unemployment Compensation Trust Fund and to make sure that the money's there when it's needed, so-- and, and preserving the integrity of the trust fund was the major, major objective of that legislation at that time and it was a compromise between a number of business interests among and between as well as labor interests. Now as a trade-off, as the Commissioner mentioned, we did increase the taxable wage base so employers would pay additional taxes on each employee. However, to offset that, it, it was decided that Nebraska would go from its then 50 percent rule-- we had that rule in the past-- down to 25 percent and that's the prevailing-- that was what we considered the prevailing rule among the states. Several states only have dollar amounts. Some states would not allow offsets at that time. Dollar amounts can be as low as \$60 in additional income in some states. So we felt that 25 percent, that's kind of the state of the art of looking at unemployment comp systems throughout the, throughout the country. So I realize that one legislature isn't buying the other and I'm not asking that, but I'm just giving you the context as to how we got to where we are today. The next point that I'd like to make is that along with other business interests, the Nebraska Chamber did support a-- another concept as a follow-up and that was after a two-year study and it was legislation that was championed by then Senator Heath Mello dealing with the Short-Time Compensation program in Nebraska. And that really came in handy, particularly last year, but that program will allow employers to unif-- uniformly reduce, say, work units, and-- well, there's an economic necessity to do so and that permits then the employees to receive a pro rata share of unemployment compensation

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benefits and keep their jobs. In 2020, this Short-Time Compensation program was utilized quite a bit. There were-- like, a little over 450 employers applied and-- for the program and just about a little over 6,000 employees averted layoffs due to, to that program, so that was also a stopgap measure in order to, to preserve employment and, and to avert those layoffs. As mentioned, LB172 does have a fiscal note of \$8 million and it's based on 2020, which is-- obviously, we all know it's a-- it was a different kind of year, but this is the time-- the-- that's the kind of year that we're preparing for because in those other years, it will not be as high. But in the very time when there's an economic downturn or there's some national event or state event that would cause a drain on that trust fund, then that's when the-- that drain-- you'll see the fiscal impact at that point. That's when we want to be sure that the trust fund remains solvent, that it's shored up so there are benefits available to employees that are laid off and to provide interim-- some interim financing for them as they look for another job or hopefully return to work later on. So in sum, we do advocate the solvency and the integrity of our trust fund. We want to make sure money is there when needed and not to levy tax increases when there are these economic downturns at the very time when employers can least afford it. So right now, what we'd like to do is build up our trust fund to make sure we're prepared for the next economic downturn. That will conclude my testimony.

B. HANSEN: All right, thank you. Any questions from the committee at all? All right, seeing none, thank you.

RON SEDLACEK: Thank you.

B. HANSEN: Anybody else wish to testify in opposition? All right, seeing none, anybody wish to testify in a neutral capacity? All right, seeing none, Senator Hansen, you're welcome to close whenever you're ready.

M. HANSEN: Thank you, Chairman Hansen, and thank you, members of the committee. A couple of things, I guess, working at this is I appreciate that-- the history and the knowledge that, you know, an idea might have been-- as a part of the compromise of the past and I think that's important context for us to consider, but just because it was a compromise in the past, doesn't mean it's necessarily set in stone. We see that all sorts of times throughout this legislation-- throughout this Legislature, so that could be something we could

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factor in, but, you know, to me, doesn't necessarily bind our hands as a future, future legislature, especially when we're talking-- you know, we're 16 years down the line, two recessions, a pandemic. You know how much of Nebraska has changed since 2005. Another thing I did want to address in terms of the sustainability of the trust fund, I appreciate the concerns about making sure the unemployment trust fund is, is well maintained and is sustainable. I will note that just a couple of years ago, we actually gave-- our trust fund was getting to the point where it was overfunded and we actually gave the authority to the Department of Labor to adjust some of the formulas in levying those unemployment taxes so we could actually lower those taxes. I think that was good policy. I still stand by that as good policy, but it would kind of break my heart if, you know, a bill we worked on in good faith in Business and Labor to give more flexibility to employers then took money out of the trust fund and lowered taxes. It's now being argued that we can't do minor, minor, you know, half a percent changes to the trust fund just a couple of years later. Again, you know, we talk about focusing on work. We talk about encouraging people to go back to work. What we really saw in this pandemic is, is-- we use this term elsewhere-- is a bit of a cliff effect where, you know, you're already, at best-- getting half your wages for unemployment at best. That's the cap. And we were seeing places where people were in partial unemployment benefits and because of all of the different layers the federal government put on, people really hit a cliff effect such that, you know, an extra hour of work was costing them several hundred dollars in unemployment benefits for the week and that's something I think we need to address and make sure it isn't kind of a recurring policy in our state. With that, I'll be happy to close and take any questions.

B. HANSEN: Thank you, Senator Hansen. Is there any questions from the committee at all? All right, seeing none, thank you very much.

M. HANSEN: All right.

B. HANSEN: All right. Well, that closes the hearing for LB172 and now we will move onto opening the hearing for LB207. Welcome, Senator McDonnell. Back again.

McDONNELL: Thank you, Senator Hansen, and members of the committee. I apologize. Last time, we were in quarantine when I was supposed to appear in front of you guys, but I know Tim Pendrell did a, did a

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great job and I appreciate you assisting him. My name is Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l. I represent LD 5, south Omaha. I'm introducing LB207 for the committee's consideration today. I'm sorry-- here, can you guys please hand this over? That's my testimony. It is truly unfortunate circumstance when a worker endures an injury in the workplace. It is even more unfortunate when the injury renders a worker disabled and unable to perform workplace assignments. This scenario becomes increasingly devastating when the injured party is the sole financial supporter to their family. I introduced LB207 in an effort to narrow current gaps in Nebraska's workers' compensation policies as it relates to the date when compensation begins under the Nebraska Workers' Compensation Act. There are two waiting periods under workers' compensation law. Currently, an injured party would not receive compensation for the first seven calendar days of disability. LB207 changes the number of days from seven to three, thereby, thereby allowing the injured party to receive compensation up to two-thirds of the employee's wages on day four instead of day eight during this difficult time of need. Additionally, LB207 changes the long-term disability exemption from six weeks to two weeks. Currently, a disability would need to continue for six weeks or longer for compensation to be computed from the date the disability began. LB207 proposes to narrow that gap for four weeks-- by four weeks in an effort to provide the injured worker with due compensation or comparable reimbursement for those initial days of injury during this stressful time. LB207 would also put Nebraska in line with surrounding states such as Colorado, Iowa, and Missouri, who use the two-week retroactive waiting period and South Dakota, Wyoming, and Minnesota, who use even fewer days. In a world where families struggle to make ends meet, these minor changes in the law will make a significant difference to workers' financial livelihood and ability to provide for their loved ones during their time of injury and decreased compensation. I appreciate your consideration on this bill. I am here to answer your questions and I will be here for closing.

B. HANSEN: Thank you, Senator. Any questions from the committee so far? Seeing none, thank you.

McDONNELL: Thank you.

B. HANSEN: One thing before I kind of mention the testifiers here pretty soon, I, I left out on the last, LB172, that there was one written testimony in support from Tiffany Joekel from the Women's Fund

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of Omaha and one letter for the record in support and two in
opposition. I just want to mention that for the record, just to make
sure. So with that now, I will take any testifiers in support of
LB207.

JAMES GODDARD: Good morning. My name is James Goddard, that's
J-a-m-e-s G-o-d-d-a-r-d and I'm the senior director of programs at
Nebraska Appleseed, here today to support LB207. Every year, Appleseed
has the opportunity to speak with hundreds of workers across the state
through some of our worker safety trainings and I can say for more
than a decade, what we've been hearing are issues from injured workers
that this bill would help to remedy. Workers are deterred from
utilizing workers' comp by that seven-day wait period that Senator
McDonnell just mentioned. For some folks, it's just simply out of
reach financially to say, well, I am injured, but I have to wait a
full seven days before I get any benefits and so it can incentivize
folks to continue to work, even though they're injured because they
can't miss a week of work. Moreover, bad apple employers will use the
long waiting periods to discourage workers from using workers' comp,
highlighting that very same week without pay and encouraging folks to
just use health insurance or, or health instead of taking time to try
to mend their injuries. I included a couple letters in the testimony
to give you a couple examples of what I mean by that, that we've heard
directly from workers in the state. I would like to spend a little bit
of my time giving you one example here. One worker we spoke with had
her hand clamped in a machine that seared the flesh right off of her
fingers. Her injury happened on a Friday and her employer demanded she
report to work on a Monday despite her injuries. As she described it,
quote, the doctor told me to stay home and rest, but when I returned
to the plant to turn in my restrictions, the nurse told me if I wanted
to stay home, workers' compensation would not be paying me. The nurse
told me if you're not here at work, you will not be getting paid. That
same day, they put me to work with my other hand, end quote. So what
that meant was she was back at work using the-- with one injured hand,
using the other hand on medications that she said made her dizzy. So
that's not helping to recover from the injuries she sustained and, and
can end up putting someone like her in a worse position. This bill
would instate more reasonable waiting periods for workplace injuries.
I also included a fact sheet with some information related to
surrounding states, but currently, a worker has to be out of work for
an injury for a full seven days before benefits kick in, so only on

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day eight. That's a long time and out of reach for low-paid employees. We also then have a six-week retroactive waiting period, which is the longest in the country and a lot longer than our neighboring states. So we see this legislation as a commonsense update to these long waiting periods. It alleviates pressure on workers to return to work injured and fulfills the purpose of the workers' compensation system to provide wages and medical support for those injured on the job, giving them time to recover and ultimately is going to result in a longer-term healthier workforce. With that, I'll conclude and urge the committee to advance LB207.

B. HANSEN: All right, thank you. Anybody-- any questions from the committee at all? Seeing none--

JAMES GODDARD: Thank you.

B. HANSEN: --thank you very much, appreciate it. All right, we'll take our next testifier in support of LB207. Welcome back.

SUSAN MARTIN: Good morning, Chair Hansen and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, submitting this testimony on behalf of the Nebraska State AFL-CIO and all working families in the state of Nebraska in support of LB207. As Senator McDonnell said, it's truly an unfortunate circumstances where a worker faces an injury in the workplace. I'm going to give you a, a scenario of a worker who is the main supporter of their four-person family. The worker is employed full time, making \$15 an hour. Their basic gross pay per week is \$600 and monthly gross income is \$2,400. Keep in mind, this is the sole supporter of their four-person family. Now they get injured on the job and file for workers' compensation. Currently, the workers' compensation law states that you must wait seven calendar days before worker compensation insurance begins and benefits start on day eight. Typically by the time you get your first workers' compensation insurance check, about three weeks go by. This is three weeks with no income to support your family of four. When the, when the check does come, it's only 66 and two-thirds percent of your wage, which is-- which in this case would be \$397.38 per week. You take this times four weeks and that's a total monthly income of \$1,589.52 to support a family of four. They file workers' compensation claims because they are injured on the job. They file workers' compensation claims because workers' compensation was created to help injured workers in exchange for the employee not coming back on the

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our COVID-19 response protocol

employer and suing them. Because of the loss of income, many workers may feel they must go back to work before their injuries have healed or they may feel that they cannot afford to file a workers' compensation claim at all. A six-week waiting period to collect the first week's wages they lost is a long time to lose that initial \$600 for the first week during the seven-calendar-day waiting period on top of losing that extra \$810.48 loss per month while not working, as in the scenario given in this testimony. For these reasons, we ask that you support changing the waiting period to three days, as introduced in this legislation, and the waiting period of two weeks, putting Nebraska more in line with our surrounding states and helping to ensure that workers seek compensation for their injuries. We thank Senator McDonnell for introducing this legislation and thank you for your consideration in passing LB207 to General File.

B. HANSEN: Thank you. Any questions from the committee? All right, thank you very much.

***RANDI SCOTT:** Good morning Senator Hansen and members of the Business and Labor Committee. My name is Randi Scott and I am here this morning on behalf of the Nebraska Association of Trial Attorneys in support of LB207. The Nebraska Association of Trial Attorneys is an organization made up of attorneys from across the state dedicated to the preservation of the civil justice system and the 7th Amendment. Many of our attorneys represent workers in employment claims, and we would like to thank Senator McDonnell for introducing this bill to support workers who have been injured on the job. When an employee gets injured on the job, it immediately puts multiple points of stress on the employee and their family not only for the well-being of a loved one, but also the reality of loss of income. Waiting for compensation to arrive should not be another hardship these families have to bear. Currently, there is a seven-day waiting period, but it takes six weeks to get paid for the first week, and this is not in line with surrounding states. Kansas, Iowa, Missouri, and Colorado all have shorter waiting times for compensation to begin. The Workers' Compensation system was created out of a grand bargain. Workers gave up the right to sue the employer for negligence in civil court for injuries that occur on the job and employers agree to pay for certain benefits. Nebraska's workforce is touted as one of the hardest working in the country. We should continue to support our workforce by passing legislation that helps to ease the burden caused by injuries resulting in total disability and an inability to work. The Nebraska Association

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

of Trial Attorneys urges this committee to vote LB207 to General File.
Thank you for your time.

***JASON HAYES:** Good morning, Senator Ben Hansen, and members of the Business and Labor Committee. For the record, I am Jason, Director of Government Relations the Nebraska State Education Association. NSEA supports LB207. The bill would change the waiting periods under workers' compensation law to begin receiving benefits after a workplace injury or illness from seven days to three days. It would also reduce the number of days to start receiving retroactive benefits for those initial days away from work from six weeks to two weeks. The overall purpose of the current seven-day waiting period is to eliminate the administrative work involved for the claims handler in paying an employee for a very short period of time. The purpose of the current six-week retroactive period is to pay an employee indemnity benefits for all time missed from work when the claim is significant enough to cause the employee to be off work a greater period of time. Every employee injured on the job knows workers' compensation pays the medical bills and pays indemnity benefits. However, when an employee is injured and talks to the work comp adjuster for the first time, the employee is often dismayed to hear there is a waiting period before indemnity benefits are paid for time missed from work. However, there is no waiting period to receive medical benefits. There are a very few Nebraska school districts that allow for injury leave in their contract language. We believe that no Nebraska teacher should have to use a full seven days of personal leave for injuries sustained while on the job. A change to three days is a step in the right direction. Further, current practice leaves open questions about options for teachers who are injured late in the school year, perhaps when they have exhausted their personal leave. The NSEA offers this testimony on behalf of our 28,000 public school teachers, higher education faculty and other education professionals across the state. We urge the committee to support LB207 and advance it to General File for debate.

B. HANSEN: We'll take our next testifier in support. All right, seeing none, is there anybody that wishes to testify in opposition to LB207?

TOM CHAMPOUX: Good morning, Chairman Hansen and the Business and Labor Committee. My name is Tom Champoux, T-o-m C-h-a-m-p-o-u-x. I'm testifying in opposition of LB207 and represent Nebraskans for Work Comp Equity and Fairness and the Nebraska Chamber of Commerce. Thank you for your time and, and considering testimony on LB207. I'm a

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property and casualty insurance broker from Lincoln, Nebraska, and workers' compensation is one area of focus for me. I am opposed to LB207 in its current form, as it will undoubtedly increase workers' compensation costs for employers. This bill, should it become law, would also likely have a negative impact on the effectiveness of an employer return-to-work or light-duty programs in that that eases injured employees back into the workforce and also allows employers to minimize the impact on their workers' compensation costs. Workers' compensation is what we call experience rated for premium development. This simply means that employer pays future premiums based on three-year claims lookback periods. The National Council of Compensation Insurance, or NCCI, performs these individual employer calculations for Nebraska and many other states. After receiving loss information from their insurance companies, each employer is then provided with an annual experience mod calculation, which largely determines what the workers' compensation premium will be for that year, that policy year. Nebraska is also an experience rating adjustment state, which means that all workers' compensation claims that employer is able to keep quote, unquote medical only and which include no quote, unquote indemnity payments, which includes lost wages, are reduced by 70 percent as they impact the experience mod calculation. This fact creates a terrific opportunity for employers to be financially rewarded for getting injured employees back to work quickly and follow any work-related restrictions directed by the employee's treating physician. Reducing that wait-- waiting period for lost wages to be paid from seven to three days will mean that many more work comp claims in Nebraska will include indemnity payments, which are calculated at 100 percent in the experience moderating calculation instead of 30 percent. You see, once \$1 of indemnity has been paid, which includes lost wages, the claim is-- no longer has medical-only status. It concerns me that this change will not only drive up workers' compensation costs for Nebraska employers, but will also have a detrimental impact on the incentive for employers to create and maintain vibrant return-to-work programs. We have many Nebraska employers who are doing very good things in their return-to-work programs to the benefit of everyone involved. If this bill were to become law, premiums for employers will undoubtedly increase shortly after enactment. Premiums will increase for virtually all employers in anticipation of the additional indemnity payments that will follow. The increase of workers' compensation insurance and the financial impact on-- it has on our employers may overall have a

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negative impact on providing overall compensation and benefits to employees. Though it is-- that is clear that's not this bill's intent, reducing the retroactive benefits waiting period from 42 days to 14 days will also likely increase workers' compensation premiums for Nebraska employers. However, this change will likely not be as financially damaging as the reductions from seven to three days for lost wages being paid. The ability for an employer to effectively keep as many workers' compensation claims as they have medical only is substantial. This allows them to control their future costs better while having a great incentive to get injured workers treated quickly and back to work in some capacity. With many claims, it takes a few days to have the injured worker seen by a physician and then also hear from a medical provider on what their work, work restrictions are. This will result in many more workers' compensation claims in Nebraska being settled with indemnity payments and increasing premiums for all employers. Thank you and I'm happy to answer any questions you may have.

B. HANSEN: Any questions from the committee? I have one question. So in other states that have enacted similar legislation such as this, have, have you-- have they seen workers' comp insurance go up for employers, do you know?

TOM CHAMPOUX: The--

B. HANSEN: In general?

TOM CHAMPOUX: They do if-- that happens almost instantly. I can't-- I think Iowa was the last state that maybe went from seven to three. I don't have any figures on what the financial impact was on that. But as you can imagine, if lost wages are being paid faster, you're going to see an instant response from the insurance carriers. No question about that.

B. HANSEN: OK. Yeah, I was just curious-- more like a percentage wise that we've seen them kind of typically go up 5 percent or 50 percent or-- and I didn't know for sure and so just does-- mainly the reason for my question, so--

TOM CHAMPOUX: Great question.

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B. HANSEN: Thanks. All right, seeing no other questions. Thank you
very much.

TOM CHAMPOUX: Thank you.

B. HANSEN: Next testifier in opposition.

BOB HALLSTROM: Chairman Hansen, members of the committee, my name is
Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m, and I appear before you today
as registered lobbyist for the National Federation of Independent
Business to testify in opposition to LB207. I'm also appearing as
registered lobbyist for NWCEF in that same capacity. Mr. Champoux has
fully covered the field regarding employer concerns and so most of my
message today is as a messenger, that I've also been asked to appear
on behalf of the Nebraska Retail Federation, the Nebraska Restaurant
Association, the Nebraska Grocery Industry Association, and if Mr.
Champoux did not indicate as well, the Nebraska Chamber of Commerce
and Industry. Just to save the committee some time, just to reiterate
and summarize, LB207 will result in increased employer WC, workers'
compensation cost by driving up the employer's experience modifier
calculation in the manner that Mr. Champoux conveyed to the committee.
With that, I'd be happy to address any questions that you might have.

B. HANSEN: Are there any questions from the committee at all? Yes,
Senator Blood.

BLOOD: Thank you, Chair Hansen. Thank you for your very short
testimony. I'll try and make my question very short as well. What
industries, again, are you representing? You said grocery and
restaurant--

BOB HALLSTROM: Yes, I'm signing in and authorized on their behalf. I'm
registered lobbyist for NFIB and NWCEF, Senator.

BLOOD: To your knowledge, do they have a high rate of people that are
injured on the job?

BOB HALLSTROM: I don't have any statistics to show whether or not any
of those particular clients have higher or lower rates by, by
comparison to one another.

BLOOD: So one of the concerns-- and I'm sitting here quietly trying to
listen to everybody-- that I have is it seems like a lot of the people

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that are coming out in opposition are really the voice of, of demographics that tend to have a lot of workplace injury and so I'm finding that kind of concerning, so I'm-- I think I'll just continue to just sit here and listen quietly, but I'd be really interested in those statistics.

BOB HALLSTROM: Thank you, Senator.

B. HANSEN: Any other questions? All right, thank you very much.

BOB HALLSTROM: Thank you.

B. HANSEN: Anybody else wishing to testify in opposition?

BUD SYNHORST: Good morning, Senator Hansen and members of the Business and Labor Committee. Thank you for the opportunity to be here today. My name is Bud Synhorst, president and CEO of the Lincoln Independent Business Association, representing over 1,000 businesses primarily located here in Lincoln and Lancaster County. I'd like to echo the testimony from Tom Champoux of decreasing waiting period by more than likely than half may significantly increase the number of claims that need to be processed by workers' compensation courts and the number of workers' comp insurance claims. Both of these consequences will hurt businesses who use the existing waiting periods to work through and settle many workers' comp cases. The price of workers' comp insurance will indefinitely go up and will cause businesses already impacted by the coronavirus to continue to suffer. I asked the page to circulate this map, just shows the current waiting periods of workers' comp benefits in states by days. As you can see, the waiting period varies from three to eight days. Nebraska is in line with 18 other states from across the country with having a seven-day waiting period. Our current waiting period is fair for both employees and employers in Nebraska and as I said, you know, during this pandemic, the, the impact on small businesses has been pretty immense and so I'd ask you to take that into consideration and we would be opposed to the passage of LB207. Thank you.

B. HANSEN: All right, thank you for your testimony. Is there any questions from the committee at all? All right, seeing none, thanks. Anybody else wish to testify in opposition? All right, seeing none, anybody wish to testify in a neutral capacity? All right, seeing none, we'll welcome back Senator McDonnell for closing.

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McDONNELL: Thank you, Chairperson Hansen. So the, the costs we're talking about right now for, for the state through general funds, cash funds revolving, and federal money is \$56,883 and if you look at the fiscal note, Department of-- DAS has calculated that based on 119 then 109, depending on if you're looking at the reducing from the seven to three or the, the six to two. We're looking at comparability. We always look at comparability and we should if we're, we're talking about taxes. How do we become more competitive? How do we make sure we retain and recruit people to work here? Well, part of that is there is going to be a certain percent that are going to be injured while they're doing that work. So how do we fairly then take care of them when they're, they're injured? And if we, we look at the other states, as I mentioned about Missouri and, and Iowa and as Senator Hansen asked, let's look at some of those states and see what kind of percent. When they reduced the number of wait days for these injured employees, how did that affect those states? And I think that's fair and I, I will, I'll work on getting that information. As Senator Blood asked, so what areas-- what workers are being injured? And let's break that down. Let's go back to DAS and let's look at that 119, 109 number and let's see what areas where most of the workers are. Of course, I think part of our job is always to try to make-- take dangerous jobs and, and make them safer and reduce that. So the concerns from the, the business community based on the idea of, of the amount of dollars, I, I don't know if those are legitimate until we look at actually that fiscal impact. But we do know one thing, that for those individuals-- and when they calculate this and you look at a \$15-- an average, an hourly employee, this is going to make a difference in their lives. This is going to make a difference on how they're going to take care of their families and how it's going to affect our economy because they're going to be in a situation to where because of that injury-- no one wants to be injured, but because they were injured, be able to have that sustainable lifestyle that they've had prior to the injury and not perfectly, of course. We're talking about two-thirds of wages. We're not talking about the first moment. We're not talking about the first week, but we are talking about treating them fairly, making sure that they don't have to make further sacrifices based on, on those injuries. At the same time, we have, I, I think, an opportunity here to have a discussion and say is it-- is it perfect to go from seven to three and from six to two? Maybe not. Maybe within this committee, there's an idea to say well, if we reduced it by one day, two days and based on looking at the surrounding states, what they've done and

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learned from, from their experience-- and, and again, I don't-- I believe there's an old saying, don't be too proud to steal a good idea. If it's working in other states, let's, let's, let's look at that and get the numbers and I'll, I'll work on that. But I, I do think there's definitely room and, and the responsibility for us to try to improve the, the idea of these people being injured and, and what kind of compensation they're, they're receiving and what-- at what time.

B. HANSEN: All right, thank you, Senator. Any questions from the committee? Yes, Senator Blood.

BLOOD: Thank you, Chair. Senator McDonnell, two questions. Do you know what the average time off is for a workplace injury?

McDONNELL: I just went off of the fiscal note based on how they calculated the time off with the number of people on the average, which was that 119, that 109, but I can get-- I'll, I'll try to get the exact number. I just did-- I just saw their average.

BLOOD: OK, I noted in restaurants-- I did a little research since there were no answers for me from previous people-- that the average time off for a restaurant worker is only 30 days because, of course, we know that people that are in those income levels tend to have to go back to work, don't have a lot of things they can depend on. In Nebraska-- we'll just use Nebraska as an example-- we don't seem to have enough employees for the jobs that we have. Would you say that an understaffed business would-- that there could potentially be an increase in workplace injuries because of that fact as well?

McDONNELL: Well, never being involved in all businesses, of course--

BLOOD: Right.

McDONNELL: --but I can, I can, I can tell you that if we're looking at a, a construction job site and if you're trying to do less with more, which I don't think you can do less with more, then you do less with less, but the idea of enhancing the potential for an injury? Sure, I think that's, that's part of the equation.

BLOOD: OK, fair enough. Thank you.

B. HANSEN: Any other questions? Thank you very much.

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McDONNELL: I'm willing to work with you guys on any thoughts or ideas you have or ways to improve this bill. Thank you for your time.

B. HANSEN: All right, thank you and that will close the hearing for LB207, but I also want to mention that we did have some written testimony for LB207, two in support from Jason Hayes from the NSEA and Randi Scott from the Nebraska Association of Trial Attorneys. And we did have one letter for the record in opposition. So with that, we will move on to LB441 and welcome back Senator Matt Hansen.

M. HANSEN: Thank you. All right, good morning, Chairman Hansen and fellow members of the Business and Labor Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent Legislative District 26 in northeast Lincoln. I'm here today to introduce LB441, a bill that would ensure workers' compensation, workers' compensation coverage for essential workers impacted by COVID-19. LB441 provides that essential workers who test positive for COVID-19, who have COVID-19 listed as the cause of death on their death certificate, or who are quarantined at the direction of their employer are presumed to have been exposed to the virus in the course of their employment for purposes of workers' compensation claims. An employer may rebut the presumption by affirmatively proving the employee contracted COVID-19 outside of the workplace. In turn, employers would be protected from workplace lawsuits and COVID-19 claims by employees would not affect workers' compensation insurance premiums. To pay for past claims, the bill would create a fund with the intent that it would be funded primarily through federal money available for COVID-19 recovery. In working on this legislation, I requested data from the Workers' Compensation Court for COVID-19 claims already filed. So far, there have been 2,579 total claims, with over 1,000 of those coming from those employed in healthcare and social assistance industries. Through discussions with the city of Omaha, they have also let me know that they've been processing a large number of claims for firefighters and police officers and have already set up their own set of presumptions for their employees. While it is good to know that some employees have already been approved for workers' comp for COVID-19-related injuries, I think it is vital to make sure that all essential workers across the state have access to this type of relief and to make sure that all essential employees exposed to COVID-19 have similar access to help. I believe it is our duty to ensure that all Nebraskans working on the front lines have access to basic coverage and protections through workers' compensation. We've all praised essential workers for close

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to a year now for protecting the community while working through a pandemic. The thought of them not being covered under these same workers' compensation and leaving Nebraska families to shoulder the burden themselves is unacceptable. This bill represents an attempt to do just that, but I'm open to examining how best to achieve these goals. With that, I'll close and be happy to answer any questions.

B. HANSEN: All right, thank you, Senator Hansen. Is there any questions from the committee? All right, seeing none, thank you.

M. HANSEN: Thank you.

B. HANSEN: All right, we'll take our first testifier in support of LB441. Welcome.

MICHAEL CHIPMAN: Thank you. Hello, my name is Michael Chipman. I'm president of FOP 88, M-i-c-h-a-e-l C-h-i-p-m-a-n. FOP 88 is the union that represents the Corrections workers, the security specialists at the regional centers, and also the security workers at the YRTC's. I'm happy to support this bill because we need to do something about-- with what's going on with COVID. Last year, we had 80 hours of COVID leave that we were able to negotiate with the Governor's Office to help pay for any, for, for any COVID-related illness. The issue that we ran into, of course, because it was a new virus and there wasn't a lot of information on it, is that there was a lot of initial quarantines that were unnecessary. An example would be that I got quarantined because-- and I was in full PPE, an N-95 mask, gowns, and just because it's so new, they didn't know if-- they quarantined me for two weeks, even though I was in proper gear. So I lost all that COVID leave and then any close contacts after that I had, I had to then go on quarantine and use my sick time. Fortunately, I've been working for the state for eight years, so I have a decent sick leave balance. For new employees, they don't have that opportunity. They're down-- they come in with usually, by the time STA is over with, 20 hours. So what that does is, is that-- and we currently have no 80 hours at-- that expired December 31, 2020. So that's caused us some issues with we have a new employees coming in, you know, our concern is that if they have to choose between paying directly or going to work, it, it, it incentivizes people to go to work even if they're not feeling well and so this would make it so that people would be covered and by-- if they got COVID-related illness. And it's, it's clear from, you know, everything we've seen that almost all the cases of COVID-19

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that are happening to our staff, it's, it's coming from work because of how close we work with the inmate population and with our fellow coworkers. So with that, we are happy to support this bill because it would help alleviate some of our issues with COVID.

B. HANSEN: Thank you for your testimony. Is there any questions from the committee? Seeing none, thanks for coming, appreciate it.

MICHAEL CHIPMAN: Thank you.

B. HANSEN: Anybody else, anybody else wishing to testify in support of LB441? Welcome.

ROBBIE McEWEN: Hello. Dear Chair Hansen and committee members, my name is Robbie McEwen, R-o-b-b-i-e M-c-E-w-e-n, and I'm the legal director at Nebraska Appleseed and I'm here to testify in support of LB441 today. So Nebraskans have risked everything performing essential work during the pandemic. It's critical to ensure the basic workers' compensation support for Nebraskans who provided these services during the pandemic. But unfortunately, under our current workers' compensation system, it's difficult for essential workers to receive insurance coverage for missed work, hospitalization, or even death. LB441 creates an injury framework that protects employees and employers in life-sustaining businesses such as first responders, healthcare workers, food processing workers, and Nebraskans working in schools. Employers will be protected from workplace lawsuits and their insurance premiums will not be increased due to COVID-19 claims. At the same time, the bill would simplify and ensure coverage for Nebraskans working these essential jobs because of the presumed eligibility or the rebuttable presumption that Senator Hansen mentioned in his opening. Nebraskans required to-- that have contact with people in the public to perform essential work are covered by this system in medical bills and days out of work. Retroactive coverage is necessary-- is a necessary component of this bill to help Nebraskans during the pandemic. It's simple enough to cover essential employees going forward and many states did that during the beginning of the pandemic in passing similar legislation. However, we're a little bit later and so we need to provide retroactive coverage to the impacted Nebraskans starting back in the spring of 2020. However, the state likely cannot interfere with past contracts and expectations in the case between employers and insurance companies while relying on the work-- current workers' compensation law. So in order to address

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this, the legislation creates a fund supported by state and/or federal dollars to cover any claims. The Nebraska Department of Insurance will contract with workers' comp insurers to provide retroactive coverage and if NDOI is unable to contract out, NDOI would process those claims similar to how NDOL, Department of Labor, processes unemployment insurance. The cost of not covering these essential workers during the pandemic and leaving Nebraska families to shoulder the burden of COVID-19 is unacceptable. We need to ensure that Nebraskans performing these essential services and work have access to basic coverage and protection. Under this bill, an employer's insurance premiums will not be negatively impacted and workers' compensation insurers further have seen a sharp lowering in workers' compensation costs overall during the pandemic and the workers' comp industry is coming off a decade of healthy profits. Additionally, COVID-19 workers' comp claims have been much lower than other workers' comp claims on average. Insurance companies reported, for example, that 96 percent of COVID-19 claims are less than \$3,500 on average. We're attaching some of-- handouts and frequently-asked questions during-- in addition to the testimony and we would honor the work of Nebraskans working on the front lines during the pandemic by ensuring that they are covered by workers' compensation and to protect Nebraskans working in these essential jobs by supporting LB441. So if there are any questions from the committee, I'd be happy to answer them.

B. HANSEN: Thank you for your testimony. Are there any questions? There are none. Thank you very much.

ROBBIE McEWEN: Thank you.

B. HANSEN: Anybody else wishing to testify in support?

RHONDA L. MEYER: Good morning, Senator Hansen and the Business and Labor Committee. My name is Rhonda L. Meyer, R-h-o-n-d-a L M-e-y-e-r. I am representing the Nebraska State Volunteer Firefighters Association as-- for the state of Nebraska. I come today because I am one of the first responders for EMS and firefighters working within the state, which it has directly impacted our communities in regards to how we respond to calls. One of the issues that we have identified with this is that-- members' response to the calls. There are certain departments, not only my own, but others where they have-- had been told that thou shall not respond to calls because of the risk of being exposed to COVID and how it will impact the employment of those

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members and that does affect us and our ability to attend with adequate members. There have been many changes that have occurred within not only our department, but other departments within the state. And one of the changes that we've made within our department is working with our mutual aid community in regards to if we aren't responding with the first page, that we have subsequent pages to our mutual aid departments. Our facility currently has around 900 responses per year. The neighboring departments have many-- less members to be able to respond to these calls, yet as we continue with this COVID response, these members have had the responsibilities of responding to our community of Blair because our members are not responding. They hear the call that it's a difficulty breathing or that it's an identification of a hot spot area being a nursing home, an assisted living, or they're short of breath or they're running a fever. Then all of a sudden, they, they don't respond, which impacts the support to our communities because they feel if I get COVID, I'm going to be off of work for two weeks, potentially, as we know that quarantine period changes depending on the situation. There are expectations that we put on the appropriate PPE, but as with-- recently with a couple of calls within the past year, one was a motor vehicle accident. When you're responding to a motor vehicle accident, you get the members. The firefighters have their gear on, but you think put a mask on, your PPE, but this person then came down with COVID and there was a member that came down with COVID because of that. They were-- there's other members that they had-- were exposed and didn't realize that it was an exposure, off work for two weeks. And then with the ability to pay their bills, it was definitely a compromise on their ability to function as a member within the community and it also decreases the ability of our membership on our departments. Recently, there was a patient that had a back pain call. You wouldn't suspect COVID with the back pain call, yet there were four members that responded to that call and next day, they get a call from the medical director at the hospital. They were positive for COVID. What happens? A couple of the members say I don't need to quarantine, I had the shot, and a couple of members are quarantining, so what does that do for our protection of our communities? It really limits us, but if they had the ability to know that they were going to get these workmen's comp benefits and that they were immediately available to them, it may provide a different look at how they are responding to these calls. If they get a call that's a turn to Channel A7, which means, hey, this is a potential COVID call that's been

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our COVID-19 response protocol

screened by our EMS, they-- then all of a sudden, we don't have the responders. It's a second call to Kennard or it's a second call to Fort Calhoun. There was one call that it was five calls before somebody actually responded and another one, no one responded. That's disheartening to me and that's partly because they're scared to respond. They don't want to come down with the disease and it's not that they don't want to just come down with the disease because they have the PPE and the protection there, but it also is because it impacts their livelihood. It impacts their ability to financially support their families, especially when they are the sole caregiver for that person that they came in contact. So how is this going to benefit us? It's going to tell us that we support our first responders. It's going to tell us that we respond, those people that are in those high-risk populations that are the essential workers. So I am speaking for firefighter and EMS, but there are many of us within our lives and they are lower income that really depend upon that financial income and this will be able to help support them and show that we as a state are supporting them as individuals for our EMS and firefighters. Thank you.

B. HANSEN: Thank you. Are there any questions from the committee at all? Yes, Senator Gragert.

GRAGERT: I have a quick-- thank you for your testimony. Thank you, Chairman Hansen. Do you have any members that have turned down the vaccination?

RHONDA L. MEYER: We do have members that have turned down the vaccination, yes, and I think that that would be something to be looking into as our workmen's comp carries have the ability to investigate in regards to what's happening. The vaccinations are new, so there's even healthcare providers that-- some of them have turned down the vaccinations because they don't see how it impacts these patients and how it can impact them. They feel I'm young. It doesn't impact me. I put on my mask. I put on my PPE. I'm going to ride out the course and see what happens. So yes, there are members that have refused it, but a lot of those that are the ones that respond to the calls on a regular basis, regardless of COVID, they have received their vaccinations.

GRAGERT: Thank you.

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RHONDA L. MEYER: Thank you.

B. HANSEN: Any other questions? All right, I just want to say thank
you for all you're doing during these times and thanks for coming from
the great town of Blair. I hadn't mentioned that since you're here, so
thanks--

RHONDA L. MEYER: Thank you, committee.

B. HANSEN: --for your testimony, appreciate it.

RHONDA L. MEYER: And thank you, Matt, for presenting this bill.

B. HANSEN: All right, anybody else wishing to testify in support of
LB441? Welcome.

MICHELLE DEVITT: Good morning, everyone. My name is Michelle Devitt,
M-i-c-h-e-l-l-e D-e-v-i-t-t, and I'm here on behalf of the Heartland
Workers Center, a nonprofit and nonpartisan worker center in Omaha,
but with membership and organizers across rural Nebraska. This bill,
we believe, ensures that workers' comp will be available for essential
workers who we've all depended on to keep working in critical, but
high-risk jobs throughout this crisis. We think it's really important
that they be able to access this for lost wages, medical care, and in
the worst case scenarios, death benefits. The Heartland Workers Center
has been working throughout this pandemic with meatpacking workers,
predominantly from Nebraska's immigrant and refugee communities--
excuse me-- who have shown up every day of this pandemic to maintain
our food supply. They worked shoulder to shoulder, changed in crowded
locker rooms, and then eaten their lunch in cars to try to limit
exposure. Some have slept in their cars to avoid infecting their
families, but still one in four were sickened, over 205-- 255 have
been hospitalized, and 26 have died. Others are suffering with
long-haul respiratory or fatigue that have made it difficult to return
to work. Coworkers have had to be quarantined, often without pay, and
these last paychecks, medical bills, and funeral costs are being borne
by the workers and their families. We think these essential workers in
these frontline, high-risk jobs deserve better. In the February 18th
Judiciary Committee hearing-- hearings on LB52 and LB139, both of
which would provide liability protections to businesses-- in the
hearing, there was agreement that those bills would not impact
employees because the workers' comp system would be the avenue for

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those claims. We agree that the workers' comp is a more cost effective, efficient, and fitting avenue. It also provides employers-- I'm sorry-- with indemnity from expensive litigation and exposure to punitive damages, but this only works if we ensure that the avenue is actually available to workers. Unfortunately, workers' compensation only covers accidents or occupational disease arising out of employment. Employers have-- employees normally have the burden of proof that their injury or disabling condition arose in the course of employment. If you have an obvious injury like a knife cut or a chemical burn, that's fairly straightforward, but it's less straightforward now. Also, the other limitation on workers' comp is that in Nebraska, it doesn't cover what we call ordinary diseases of life, like when an employee gets a cold or flu from their coworkers or if they have a heart attack on the job that's not particularly related to a job reduce-- or job-induced risk or, or stress. These are both normally totally reasonable legal restrictions, but these are not normal times and COVID is not a normal disease. Last March, it forced millions of Americans into working from home, shuttered public venues, and sent kids home from school, but the meatpacking plants and grocery stores were critical to maintain food supply. Hospitals, nursing homes, first responders were crucial to managing the crisis itself and schools had to open to meet critical educational and emotional demands of our kids. For these essential workers, the risk of contacting COVID-19 at work were a known and substantial hazard of going back to work. Consequently, many were quarantined, infection-- infected, and hospitalized at rates higher than the general public. Meanwhile, their employers were the ones in possession of information like positivity data and coworker test result data that would be necessary to affirmatively prove transmission at work. JBS, for example, one of the country's biggest meatpackers, has been routinely denying COVID claims on the base that illnesses are not work related, even as epidemiological and genetic research is showing that these were indeed hotspots. Under this bill, JBS and other employers will still have the opportunity to rebut a presumption. We think that's fair. And since I have a couple of more minutes, I'm going to just quickly address the fiscal note, which is very large, I understand, but I also took a close look at it and it presumes the entire-- it's based on the entire infection, 200,000. This is a fraction of that, so I think it's fair to say that it's a slightly inflated number. But in any event, the, the critical thing is that whatever that number is, it's going to be borne by somebody and we think it's imperative that we step up and

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make sure it's not the workers. Thank you. Happy to address any
questions and we encourage you to advance LB440-- LB441 to General
File. Thank you.

B. HANSEN: Any questions from the committee at all? OK, seeing none, I
got one question, something you mentioned-- it might-- it would be
like a slight fraction of the amount that they were talking about. Can
you expound on that just a little bit?

MICHELLE DEVITT: OK.

B. HANSEN: Because that's a question I had of the fiscal note too,
about, like, the amount-- if it was accurate or wasn't, but then you
mentioned it's only just going to be a fraction of the amount that
they said.

MICHELLE DEVITT: Yeah, so I was looking at the, the basis of the
computation. The \$92 million fiscal note is based on the 200,000 COVID
cases that have-- total has happened within Nebraska, so-- and they
basically sort of looked at if we extrapolate what's happened so far
based on the likely work-eligible range of people in that 200,000,
this is what we're going to pay out. But we know that not everyone who
contracted COVID was in one of these critical infrastructure jobs, so
this-- I think it's fair to say this is inflated. They haven't really
taken a look at how many of those people would be emp-- would be
actually employed in an eligible position. There's an enumerated list
in here and this is, you know-- certainly more, more than just the
people in critical infrastructure have been sickened by this, so--

B. HANSEN: Thank you, appreciate it. All right, thank you for your
testimony, appreciate it.

MICHELLE DEVITT: All right, thank you.

B. HANSEN: We'll take our next testifier in support of LB441.

SUSAN MARTIN: Good morning again, Chairman Hansen and members of the
Business and Labor Committee. My name is Susan Martin, S-u-s-a-n
M-a-r-t-i-n, testifying on behalf of the Nebraska State AFL-CIO and
our members throughout the state of Nebraska in support of LB441.
Under most circumstances, workers-- under most workers' compensation
statutes, a worker typically has to prove that an illness is work
related for it to be compensable. Since the beginning of the COVID-19

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our COVID-19 response protocol

pandemic, many states have recognized the infection risk workers face and have extended workers' compensation benefits. Most of the states did this by adding a presumption, such as what was previously done for selected diseases in certain worker groups. The presumption, as in this legislation, is a rebuttable presumption, which means that the employer or insurance company must prove that a sick worker didn't get the disease through work. I've included a document that outlines legislative and policy actions taken nationally regarding burden of proof in COVID-19 workers' compensation cases. The toll of workplace disease on an individual worker and their family is enormous. Medical bills and lost time for work-related illnesses can be a massive burden on workers and their families. Losing a family member to a work-related death can have enormous emotional and financial consequences. As a result, injured or ill workers are often at great risk of falling into poverty. Workers' compensation provides a crucial source of healthcare coverage and income support for sick workers, but it is often difficult for workers to obtain workers' compensation for occupational disease. Nebraska must join these other states who have taken action and make sure our essential workers can access workers' compensation benefits for COVID-19. These workers have been risking their health and life to take care of sick patients, make sure workers get to their jobs, make sure we have food, and make sure we have all our essential services so we can stay at home. We must be there for them if they get sick. Thank you for listening to my views and I appreciate your support in passing this legislation out of committee to General File.

B. HANSEN: Thank you. Any questions from the committee? Thank you very much. We will take our next testifier in support. Welcome.

ALEXIS STEELE: Good morning, honorable members of the committee. My name is Alexis Steele, that is A-l-e-x-i-s S-t-e-e-l-e, and I'm the policy staff attorney at the Immigrant Legal Center, whose mission is to provide free, high-quality legal services to immigrants throughout Nebraska. Sixty-six percent of meat and poultry processing facility workers in our state are immigrants and infections as such facilities-- at such facilities disproportionately impact minority workers. Families across Nebraska are suffering due to COVID-19 pandemic. And I would like to very strongly apologize because it appears that I'm, I'm before you today on two different bills and I believe that the testimony you just received is for LB241, not for LB441. How would you like me to proceed?

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B. HANSEN: You can keep testifying as you so wish. I mean--

ALEXIS STEELE: All right, thank you. In that case, may I retrieve the
correct testimony--

B. HANSEN: Yeah, sure.

ALEXIS STEELE: --to distribute? I sincerely apologize. Thank you for
your patience.

B. HANSEN: That's all right. So you're testifying on LB241 and LB441.
That's easy to make a mistake--

ALEXIS STEELE: Yes and I grabbed the wrong sheet.

B. HANSEN: --and we restarted the clock for you too, so you're good to
go.

ALEXIS STEELE: Thank you. Thank you for your, your patience and
understanding. My name is still Alexis Steele, A-l-e-x-i-s
S-t-e-e-l-e, and I am equally honored to join you today on behalf of
the Immigrant Legal Center to testify in support of this bill, LB441.
The mission of the ILC is to welcome immigrants into our communities
by providing high-quality legal services, education, and advocacy
throughout the state. We are sensitive to the pandemic's impact, which
disproportionately afflicts immigrants and other people who work on
the front lines at workplaces like meatpacking facilities. As an
advocacy organization embedded in the community, ILC supports the
legislation that provides critically needed and justified workers'
compensation to essential workers who suffer because of COVID-19.
LB441 would enable most essential workers whose employment is impacted
by COVID-19, including by infection or death, to access workers'
compensation. I emphasize most essential workers because LB441, of
course, provides employers the opportunity to establish that an
employee did not contract COVID-19 at the workplace. In that case, as
with any other claim for an injury not arising from work, the
applicant would be ineligible for workers' compensation. LB441 is
abundantly reasonable. It adapts our workers' compensation to our
pandemic reality. LB441 is also justified by real essential worker
community need. In my position as policy staff attorney for ILC, I
have learned from individual essential worker community members
details of their suffering from the coronavirus. Every week, I hear

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our COVID-19 response protocol

stories of people losing their jobs because of the virus and their struggles to provide for their families. Tragically, when one member of a household has COVID-19, the whole family often gets infected. Essential workers in our community are getting sick and looking at their workplaces, it is not difficult to see why. Before Nebraskan meatpacking plants ceased sharing critical public health information, plants were reporting infections by the hundreds. Essential workers need and merit access to workers' compensation for injuries suffered due to contracting COVID-19 in the workplace. ILC urges the Business and Labor Committee to vote in support of LB441. Whether this Unicameral rises to the challenge to pass LB441 and other bills that respond to the pandemic will serve as testimony to this Legislature's fitness to serve Nebraskans in effectuating legislation to adapt our laws to our communities' urgent needs. We appeal to this committee to take the first step in responding to the needs of those Nebraskans and we extend special thanks to Senators Hansen and Hunt for their leadership in introducing this bill and to all concerned community members who have worked passionately to help those suffering from COVID-19. I welcome any questions and again, thank you for your patience.

B. HANSEN: Yep, thank you for your testimony. Is there any questions from the committee? All right, seeing none, thank you very much.

ALEXIS STEELE: Thank you very much.

***JASON HAYES:** Good morning, Senator Ben Hansen, and members of the Business and Labor Committee. For the record, I am Jason, Director of Government Relations the Nebraska State Education Association. NSEA supports LB441. Currently, claims related to COVID-19 are not compensable under Nebraska Workers' Compensation Law because COVID-19 does not qualify as an "accident" or "occupational disease" under current law. If passed, LB441 would make COVID-19 claims by essential employees, which include public and private school employees, compensable. As designated essential employees, classroom teachers in closed rooms with many students, are in a position to receive multiple exposures of the deadly COVID-19 virus on a daily basis. A number of these classroom teachers are particularly vulnerable by being over the age of 60. LB441 creates the legal presumption that a compensable "accident" occurs when an essential worker is either: confirmed COVID-19 positive, died from COVID-19 or was quarantined at the direction of their employer. This presumption can be rebutted if the

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our COVID-19 response protocol

employer affirmatively proves that the employee contracted COVID-19 outside of the workplace. Additionally, LB441 makes it possible to claim workers' compensation benefits retroactively. The bill permits claims from March 13, 2020, forward. The bill then creates a state fund for the payment of retroactive claims made from March 13, 2020, to the effective date of the bill. Thereafter, workers' compensation insurance carriers will be responsible for payment of claims. To that end, LB441 prohibits workers' compensation insurance companies from altering premiums because of COVID-19 claims. Clearly, LB441 would benefit educators and other essential employees in seeking compensation for claims related to COVID-19 arising out of and in the course of their educational employment. The NSEA offers this testimony on behalf of our 28,000 public school teachers, higher education faculty and other education professionals across the state. We urge the committee to support LB441 and advance it to General File for debate.

***MAGGIE BALLARD:** Dear Chairperson Hansen and members of the Business & Labor Committee: My name is Maggie Ballard and I work at Heartland Family Service (not to be confused with Heartland Workers Center). I am testifying in support of LB441 and want to thank Senator Hansen for bringing this bill forward, including declaring an emergency. The mission of Heartland Family Service is to strengthen individuals and families in our community through education, counseling, and support services. Our programs provide critical human services to the individuals and families who ultimately shape the future of our community in the focus areas of: Child & Family Well-Being, Counseling & Prevention, and Housing, Safety, & Financial Stability. Last year, Heartland Family Service served 60,000 individuals and families in east central Nebraska and southwest Iowa. We have 20 locations and 50 programs, including Refugee Advocacy. We are sharing testimony today on behalf of many refugees we serve, because they have found themselves in an emergency. Many of our refugee families work in the meatpacking industry and are therefore "essential workers." We treat them as essential when require them to come to work, but have thus far left it up to their employers to provide safe working conditions and the ability to avoid what our governor calls "the three C's: close contact, confined spaces, and crowds." With LB441, employers will become financially if not ethically motivated to do the right thing, by providing and enforcing safe work conditions. As Heartland Family Service strongly values safety, we would not ask you to hold any

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our COVID-19 response protocol

employer to a standard higher than what we would follow ourselves. No program within our agency is run in conditions similar to a meat packing plant, but we do implement policies and procedures to keep our employees and clients as safe as we reasonably can in this pandemic. We believe all Nebraskans should be afforded the same priority. Please vote LB441 out of committee and help make the backbone of our state become protected and safe.

***RANDI SCOTT:** Good morning, Chairman Hansen and members of the Business and Labor Committee. My name is Randi Scott and I am here this morning on behalf of the Nebraska Association of Trial Attorneys in support of LB441. The Nebraska Association of Trial Attorneys is an organization made up of attorneys from across the state dedicated to the preservation of the civil justice system and the 7th Amendment. Many of our attorneys represent workers in employment claims, and we would like to thank Senator Hansen for introducing this bill to protect workers in our COVID-19 environment. While we are supportive of the goals of LB441, we have some issues with the bill that we would like to see addressed. We are committed to working with Senator Hansen and other supporters to ensure this bill accomplishes its goals. Thank you for your time.

***SCOUT RICHTERS:** Thank you, Chairman Ben Hansen and members of the Business and Labor Committee. My name is Scout Richters and I am Legal & Policy Counsel at the ACLU of Nebraska. The ACLU offers its support of LB441 and we would like to thank Senator Matt Hansen for introducing this legislation. The ACLU works to end discrimination in the workplace and ensure that all workers-regardless of gender, race, national origin, age, or disability-are able to bring home every dollar they rightfully earn. We support this bill because workers' rights are about gender justice, racial justice, and economic justice. It is clear that among those suffering most during the COVID-19 pandemic are those who typically get paid the least: the "essential workers" that grow our food, stock our supermarket shelves, work in our meatpacking plants the workers necessary to ensure we all have food on our tables. These mostly Black and Latinx workers, also disproportionately women, already live in a state of economic precariousness. For months now, they have been asked to literally risk their lives for their paychecks. In this way, the pandemic has further exposed and deepened our state and nation's fault lines of racial and gender inequality. This bill is a commonsense piece of legislation to ensure that essential workers who have contracted COVID-19 on the job,

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our COVID-19 response protocol

can file worker's compensation claims. As such, we urge the
advancement of this bill.

B. HANSEN: Are there any other testifiers in support? Seeing none, is
there anybody wishing to testify in opposition to LB441? Welcome.

BRUCE RAMGE: Good morning or good morning, Chairperson Hansen and
members of the Business and Labor Committee. My name is Bruce Range,
spelled B-r-u-c-e R-a-m-g-e, and I'm the Director of Insurance for the
state of Nebraska. I'm here today representing the Nebraska Department
of Insurance in opposition to LB441. LB441 creates a presumption that
certain workers that acquired COVID-19 contracted it in the course and
scope of their employment-- excuse me-- allowing for payment of
workers' compensation benefits. The bill is retroactive to March 13,
2020, and assigns the administration of all claims to the Department
of Insurance or a third party selected by the Department of Insurance.
At the present time, the department does not handle administration of
any types of claims. It does not have any staff members that are
trained to do so. As a result, the Department of Insurance would have
to hire several brand new staffers to handle the workload and provide
them with the necessary training, equipment, and supplies to perform
the tasks. Further, because the DOI does not presently perform any
sort of claims administration whatsoever, we'll have to acquire a
claims management software system and corresponding employee training
to use that system. It will likely take a significant period of time
to hire, train, and equip the new employees and acquire the
appropriate software system, creating a substantial delay in the
amount of time before any benefit payments could even be sent out to
the claimants. The bill does not allow the DOI to select a third party
to perform claims administration, but lack of specifics in the bill
has frustrated the DOI's efforts to determine what a third party would
charge to perform the role. For example, does the DOI or the third
party selected by the DOI make a determination as to whether a claim
is compensable and then turn the entire matter over to the appropriate
employer's workers' compensation insurance carrier? Is the DOI to
handle the payment of any benefits that would be due to claimants? If
so, where would the funds for the benefit payments originate from?
Because the bill does not provide the DOI with access to employer
records, the DOI or its designee would be unable to confirm a
claimant's employment, wage rate, or the amount of time missed from
work, all of which are necessary to determine the amount of workers'
compensation claimants under the Nebraska Workers' Compensation Act.

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our COVID-19 response protocol

The bill also fails to provide a mechanism for the DOI to determine if a worker has already filed a claim with an employer's workers' compensation insurance company and received any benefits. Does the bill require reimbursement to any health insurance carriers that paid the cost to have COVID-19 tests performed if the employee was exposed to someone with COVID-19? The bill also contains several additional provisions, which will also present implementation issues. The language indicating that the bill cannot cause or increase or adversely affect workers' compensation premiums, experience ratings, remodification figures is especially troublesome. What if an insurer raises their rates when the existing workers' compensation policy expires? Will the DOI have to conduct a thorough investigation to make sure that nothing paid under this bill is leading to the rate increase? How are claims in which workers already receiving workers' compensation benefits before this bill was even introduced to be handled? A discussion with the Workers' Compensation Court has indicated that there are several claims arising out of COVID vaccinations. Are those claims to be handled under the provisions set forth in this act as well? What about situations in which an employee collected sick pay while they were off work due to COVID-19? Because workers' compensation disability benefits are usually only two-thirds of an employee's salary while sick pay is equal to 100 percent, will this bill require the employee to pay back the extra amount they received as a result of taking sick pay? Respectfully, LB441 presents too many unanswered questions that need to be addressed before a successful, entirely new system can be operationalized. Due to this situation, I must oppose LB441 and thank you for this opportunity to testify.

B. HANSEN: Thank you very much. Are there any questions from the committee? Yes, Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. Thank you for your testimony. I was just wondering, would you still be opposed to this bill if retroactive was taken out of it?

BRUCE RAMGE: I can't say. I'm not prepared to discuss the bill. I would-- we would have to see it. I think it would also be very prudent to have a better understanding of exactly where the funds to pay these claims would be coming from.

GRAGERT: Thank you.

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our COVID-19 response protocol

B. HANSEN: Any other questions? I have one question.

BRUCE RAMGE: Sure.

B. HANSEN: Maybe you can answer it or maybe a testifier afterwards could. How would an employer establish that an employee did not contract COVID-19 at the workplace? Because that's one of the provisions of the bill-- I mean, I-- what's the process?

BRUCE RAMGE: Yes, it would be very, very difficult either direction to-- because they, they would not know if an employee, you know, attended a wedding during the weekend and received it there or likewise-- you know, it's, it's invisible. It's, it's not like a physical injury, so very, very difficult presumption.

B. HANSEN: Just curious. Thank you.

BRUCE RAMGE: Yes.

B. HANSEN: All right-- and thank you for your testimony.

BRUCE RAMGE: Thank you.

B. HANSEN: We'll take our next testifier in opposition to LB441.
Welcome.

KORBY GILBERTSON: Good morning, Chairman Hansen, members of the committee. For the record, my name is Korby Gilbertson, that's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the American Property Casualty Insurers Association of America. APCI represents approximately 60 percent of the U.S. property casualty insurance market and a broad cross-section of home, auto, and business insurance insurers, which includes about 76 percent of the workers' compensation carriers in Nebraska. As you know, LB441 would create a rebuttable presumption that certain employees who contract COVID-19 did so as a result of their work for purposes of the Workers' Compensation Act. This provision would remove the one element that provides the basis for the grand bargain for workers' compensation coverage. Workers' compensation law is liberally construed already in a way that favors the employee. The one requirement that must be met by the employee is to show that their occupational injury or illness arose out of and in the course of their employment. APCI opposes this shift of proof in this process. Giving

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our COVID-19 response protocol

the employer the ability to affirmatively prove that the employee contracted COVID-19 outside of the workplace, especially if the claim was made significantly later than the onset of the virus, which is allowed under LB441, is a hollow offer. Further, the bill would prohibit insurers from underwriting for risk and collecting premiums in line with that risk. This could add millions in costs for insurers with no ability to recoup those costs or appropriately assess policyholders, regardless of whether they provide the very best or the worst workplace safety. Although the bill would allow for some federal funds to be used to offset costs, there's absolutely no guarantee of funding or that it would be used for these purposes. Under the bill, it states federal money which is available to the State of Nebraska and is related to the COVID-19 emergency response may be used to offset the state's costs under this section, to fund retroactive COVID-19 workers' compensation claims, or to provide relief for affected insurance, if applicable. What happens if the funding-- if the-- for the claims that aren't retroactive? How would this help employers that are self-insured like municipalities or schools? Finally, we also-- we question whether or not the retroactivity would make the legislation constitutionally suspect. And furthermore, Senator Hansen in his opening stated that there are claims currently going through the workers' compensation process, which shows that there are-- that it is working the way it should right now. We would maintain that if the state wants to provide COVID liability or disability or healthcare-related benefits, especially on a retroactive basis, that it-- fund and use federal money or any other types of funds, than perhaps the best way to do it would be to set up a completely independent benefit fund to provide these coverages for the employees. I wanted to point out two other things. In a review of what other states have done, it appears as though there are two states-- and this is as of the 28th or the 26th of February-- Virginia and Vermont both have passed legislation. D-- the District of Columbia has passed-- not, not legislation, but a rule. And in Virginia, it requires that the-- proof of the COVID-19 be proven by a test, not just, not just a diagnosis from a doctor and then furthermore, disqualifies any employees who refuse to have the vaccine. With that, I'd be happy to answer any questions.

B. HANSEN: All right, thank you. Are there any questions from the committee at all? Seeing none, thank you.

KORBY GILBERTSON: Thank you.

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our COVID-19 response protocol

B. HANSEN: We'll take our next testifier in opposition. Welcome.

DALLAS JONES SR.: Good morning, Senator Hansen, members of the Business and Labor Committee. My name is Dallas Jones Sr., D-a-l-l-a-s J-o-n-e-s. I am appearing this morning in opposition to LB441 on behalf of Nebraskans for Workers' Compensation Equity and Fairness, the Nebraska Defense Counsel of-- excuse me-- Nebraska Defense Counsel Association, the Nebraska Chamber of Commerce and Industry, the Independent Insurance Agents in Nebraska, the Nebraska Association of School Boards. LB441, in its present form, is unworkable within the workers' compensation system as we know it and I respectfully submit that it represents not very good public policy. Let me first start speaking to the rebuttable presumption. Rebuttable presumption basically means, as other speakers have mentioned, that COVID-19 is going to be compensable unless the employer proves that the disease was contracted away from work. It is important to understand that that is inconsistent with the very premise of the workers' compensation system. That premise is that employers assume the responsibility of risks that its employees take on the job and it pays for those diseases and injuries that arise out of those risks. LB441 turns that on its head and provides that employers must assume the risks that workers face outside of the job as well as on it or in it. Several speakers have seemed to imply what I would submit is an incorrect assumption that most people who are-- most workers who are contracting COVID are contracting that on the job. I have not seen the data that supports that. I would like to see that data. I will tell you from my anecdotal perspective representing employers across the state in workers' compensation matters, they take reports of COVID very seriously. They perform contact tracing and the vast majority of the answers that they get from the employees-- and they find out when they do the work-- is that those employees are bringing it to work. They're not getting it at work. Employers, as I mentioned, have the obligation to assume the risk of injury that their employees face on the job. Employers can control that risk and they do control that risk because when you go into any employer, what do you see? You see the protective equipment that all employees are taking. You see measures taken like screens. You see social distancing. What's the ability of-- the employers have to control that risk when that employee leaves? None. That's where the guards go down and that's where, at least from an anecdotal perspective, the vast majority of the contractions of COVID-19 are occurring. Some speakers have talked about what other

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states are doing. As of February 12, there were 36 states that do not, do not have a presumption, as is included in LB441. Let me speak to what essential workers means. Many speakers have been here telling you about firefighters, police officers, correction officers, that class of employees who obviously are very important to society. LB441 is not limited to that. Make no question about it. I will submit to you I cannot think of an employee that I could not successfully argue in court is not covered by LB441. LB441 provides a very long list of industries and specific jobs that are identified as those that put people to work called essential workers. But it goes on from there and the two catch-all phrases that it provides are so broadly drafted that I defy anybody to convince me that any employee is not an essential worker as that term is defined. So when the Department of Insurance came up with a \$90 million fiscal note, that's real and it's real because I can't think of an employee that's not going to be covered. Of the 14 states that do have presumptions, let me tell you a little bit about what they do. There is one, one which provides broadly-- or a definition of essential worker as broadly as LB441 does. Wyoming covers essentially every employee, which I submit is what LB441 proposes to do. Most of those states with presumptions, the 14, limit those presumptions to first responders and healthcare workers, law enforcement, a variety of characterizations. A few also will add to that list transportation workers, food industry, childcare, funeral industry, and essential workers that are defined in a number of different ways, but none nearly as broadly as ours. Let me speak to the rebutting of the presumption for a moment. In any workers' compensation case, an employee has the obligation to provide notice as soon as practicable after that employee has suffered an injury or comes down with a disease the employee thinks is work related. LB441 says that's not going to apply. What it does is it provides the employee up to two years after the effective date of the act to make that report. There will be a speaker who's going to tell you about what she does with contact tracing and the difficulty of identifying where that exposure actually came from when they get notice immediately after the diagnosis. Imagine what that's going to be like up to two years after the effective date when the employer is trying to look back and find out where were all these gatherings with family, friends, stores, wherever the employee may have been other than work that may have contracted-- caused that employee to contract the disease?

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our COVID-19 response protocol

B. HANSEN: Mr. Jones, your red light did come on, so I'll have you wrap up your thoughts for me if you could.

DALLAS JONES SR.: Very good. That essentially wraps up my thoughts. I will tell you the one other thing that I will mention. If you're not doing a look back from two years where the data is not going to exist, it's also important to understand that Section 75-503.01 [SIC] specifically prevents an employer from using any data reported by public health agencies or data regarding exposure mandatorily required to be reported by healthcare providers. The point is it effectively eliminates an employer from rebutting the presumption. Thank you. I'd be happy to answer any questions.

B. HANSEN: All right, thank you. Are there any questions from the committee? All right, thank you very much, appreciate it.

DALLAS JONES SR.: Thank you.

B. HANSEN: We will take our next testifier in opposition. Welcome.

CHERI LENHOFF: Good morning, Chairman Hansen and members of the Business and Labor Committee. My name is Cheri Lenhoff, C-h-e-r-i L-e-n-h-o-f-f. I am testifying on behalf of RAS and NWCEF. I'm here in opposition of LB441. I work for Risk Administration Services, a mono line carrier, and provide workers' compensation and care-- insurance for schools, hospitals, and trucking companies. A quick background: I have been leading our COVID team for almost a year now. We put this team together when the pandemic began and we've seen a lot of changes during the year. I cannot give you a legal opinion about LB441, but I can provide insight from a perspective of someone who's been spending my days and nights focused on COVID-19 and workers' compensation. With the proposed bill, that burden changes and the employer will need to prove that the employee contracted COVID-19 outside of the workplace. Employees are usually at their highest level of protection from the disease while at work. Masks are required, they socially distance, and they have personal protection equipment. As a carrier, we investigate every claim-- every claimed exposure by beginning with an average lengthy one-hour recorded statement. We ask questions regarding the potential exposure at work, travel, gatherings, family members' activities, personal protection usage during work and outside of work, etcetera. We gather information on the positivity rate in the local area and local requirements at the time of the claim. This

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investigation is extensive, but currently occurs shortly after they have symptoms. In the investigation, we learned most people have had an exposure outside of work. They've gone to a restaurant, gotten groceries, kids have been in daycare, a spouse or roommate works outside of the home, they've traveled to see family, attended a wedding, etcetera. The employees we interview have a difficult time remembering those details two or three weeks prior. Under this bill, which includes no immediate deadline for reporting a claim, we may not even learn about a claim until six months or even two years after the employee has contracted the disease. If an employee has difficulty remembering their activities from a week earlier, they clearly will have trouble remembering what they did a particular week more than two years later. It will be nearly impossible to conduct a productive investigation about the employee's activities and other areas of exposure a year or more down the road. And if the employee is unable to remember, we have no ability to meet the burden imposed by this bill. I believe the bill also puts a burden on employers and insurers to go back in time and try to recreate information concerning the COVID-19 positivity rate, CDC guidelines, the status of the Families First Coronavirus Response Act, the nature of any wages paid to the employee, short-term disability benefits paid, vacation/sick leave used, health insurance payments, etcetera. Employers have also had to modify their process of handling situations during the pandemic. Some health insurance carriers have paid for the initial treatment for COVID-19, wages may have been paid or continued by the employer, or other times, they've been paid by other sources. Again, it will be nearly impossible for the state to determine what has or has not been paid already and what source has paid it and when we are attempting to locate or recreate information from two years earlier, it's simply not a workable situation. My point is that COVID-19 claims have been some of the lengthiest factual investigations and some of the most complex compensability decisions. If you're trying to make those decisions even six months later, the process will be very difficult. An example of a situation we investigated was five nurses that worked at a hospital. Under the presumption, you would assume that they would be covered and have work comp benefits based on the proposed bill. At work, each of the nurses wore the proper PPE. As we conducted the investigation in this case, we found out one of the nurses' spouses diagnosed with COVID-19 prior to her-- prior to her diagnosis. That led to a denial to her claim. While you may think that the other four nurses could still have coverage, when we investigated further, we

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our COVID-19 response protocol

learned the five nurses had a happy hour together. They each admitted that they did not wear a mask and they did not social distance. The spouse was diagnosed the day after their gathering. The likelihood that they would remember a Friday night happy hour six months or two years later is slim. This bill eliminates the typical notice requirements and takes away the employer's ability to properly investigate a claim on a timely basis. There are numerous examples like this. COVID-19 is not a disease limited to workplace exposures and our investigations generally reveal that employees have many different areas of potential exposure. In fact, most acknowledge that work is where they have the most exposure-- they're the most responsible and use the best PPE. We believe that the proposed legislation-- legislation eliminates notification requirements and unfairly shifts the burden to the employer and insurer to try to prove a negative without having a timely access to the information to do so. I ask that the committee vote to not move this bill forward.

B. HANSEN: All right, thank you. You timed that out of-- just, like, five seconds off. That was good. All right, any questions from the committee at all?

LATHROP: Can I ask--

B. HANSEN: Yes, Senator Lathrop.

LATHROP: Do you think it's possible for an employee to, to establish that they got COVID at work or are, or are there so many places they can contract this condition from asymptomatic people that it is virtually impossible to prove where they contracted the exposure--

CHERI LENHOFF: I think--

LATHROP: --or the disease?

CHERI LENHOFF: I think it's very difficult to determine that they did not contract it elsewhere or that they did contract it at work. I think it's very difficult to determine that. There has been a few cases that we have felt that there was enough exposure that we maybe did a compromise settlement on the case, but we did not-- there's still always an outside exposure. People still live. They still get their groceries, they still pump gas, they still have to live their lives.

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our COVID-19 response protocol

LATHROP: That's the challenge with showing the relationship between an
alleged exposure and the fact that somebody got it.

CHERI LENHOFF: Yes.

LATHROP: That's all I have. Thank you.

B. HANSEN: Any other questions? All right, thank you very much.

CHERI LENHOFF: Thank you.

B. HANSEN: We'll take our next testifier.

BOB HALLSTROM: Chairman Hansen, members of the committee, my name is
Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m. I appear before you today as
registered lobbyist for the National Federation of Independent
Business, Nebraskans for Workers' Compensation Equity and Fairness to
testify in opposition to LB441. I've also signed in with authority on
behalf of the Nebraska Retail Federation, the Nebraska Restaurant
Association, and the Nebraska Grocery Industry Association. In the
interest of time, I would submit obviously my written testimony, which
covers many of the items that have been discussed by witnesses before
me. I just would want to note a few things for the record. Senator
Hansen, in his opening, said that LB441 will ensure workers'
compensation coverage for essential workers. Now obviously, that's not
what the bill provides. It does provide a rebuttable presumption, but
I think the practical effect of the bill, if it were to be adopted,
would be that it would ensure workers' compensation coverage,
particularly with respect to the retroactive claims where there's a
March 13, 2020, beginning date and the ability to delay reporting
those claims for up to two years after the effective date of the act.
Mr. Jones referenced the breadth of essential workers. I think
specifically if you key in on page 6, lines 2 and 3, it specifically
includes "any other individual employed by an essential or
life-sustaining business or occupation." So I think that underscores
the breadth of the coverage. Just note the fiscal note is, is
extremely high and would be costly. The federal funding, according to
the fiscal note, even though it's provided in the bill, is not
guaranteed. And to echo Ms. Gilbertson's comments, I think there would
be some potential constitutional issues with regard to the retroactive
impact of the, the bill. I'd also suggest it violates the grand
bargain by shifting the burden of proof, as others have suggested. And

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our COVID-19 response protocol

oftentimes when we're before the Judiciary Committee talking about statutes of repose or statutes of limitation, we discuss the fact that memories do indeed fade over time and determining the who, what, where, and when, when an employee may have otherwise contracted coronavirus will be significantly adversely impacted by the two-year delay in the reporting of claims. With that, I'd be happy to address any questions that the committee may have.

B. HANSEN: Are there any questions from the committee? Seeing none--

BOB HALLSTROM: Thank you.

B. HANSEN: --thank you.

***COLEEN NIELSEN:** Chairman Hansen and Members of the Business and Labor Committee, My name is Coleen Nielsen and I am testifying on behalf of the Nebraska Insurance Information Service. NIIS is a local trade association of property casualty insurers. I am testifying in opposition to LB441. LB441 provides that an essential worker who contracts Covid-19 is presumed to have suffered from an accident arising out of and in the course of his or her employment. An employer may rebut the presumption by affirmatively proving that the employee contracted COVID-19 outside of the workplace. This bill essentially removes the requirement that a causal connection between the covered injury or illness must be shown by the employee. This upsets the compromise and balance that has been struck in workers' compensation cases. The workers' compensation system provides injured workers and their dependents timely compensation regardless of fault for a workplace accident and in exchange, the employee surrenders the right to sue the employer. Less litigation, less cost. Under this bill, the employee has no obligation to show that the "accident" was in any way related to the workplace and requires that the employer must prove that the accident did not occur at the workplace. This rebuttable presumption will only serve to increase litigation and cost to the system. Other provisions of this bill are perplexing. -It is unclear whether Section 4 intends to preclude coverage by a private carrier when an "accident" involves Covid-19. Instead, insurers could be required to pay all costs for these benefits with no chance of appropriately assessing their insured employers to cover the cost of the benefits. -There is also some question as to whether a state may constitutionally use federal allocations to fund a state workers' compensation program for Covid-19 cases. Finally, there is a question

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our COVID-19 response protocol

as to the constitutionality of the retroactive provisions in this bill. We respectfully request that the Committee not advance LB441. We appreciate your time and consideration.

***LYNN REX:** Senator Hansen and Members of the Business and Labor Committee, my name is Lynn Rex and I represent the League of Nebraska Municipalities. The League respectfully opposes LB441. The League has several concerns about LB441. The first is the different ways this bill may treat municipalities who have handled COVID-19 claims. Some municipalities have paid out COVID-19 workers' compensation claims, while other municipalities have not. If this committee decides to advance this measure, we would appreciate working with the committee on allowing those municipalities who have paid COVID-19 workers' compensation claims to recover those costs. Also, the League has concerns about the definition of an essential worker. Certainly, many of the workers listed in the bill have an increased chance of contracting the COVID-19 virus, but some employees listed, such as public works or utility workers, may or may not have a great deal of interaction with the public while some other workers, such as a library employee, may. Finally, the notice period is too long for retroactive claims. LB441 allows the worker to notify his or her employer of the injury no later than two years after the effective date of this legislation. This length of time makes it more difficult to investigate those claims. Thank you for your time and consideration on this matter.

B. HANSEN: Anybody else wish to testify in opposition? All right, is there anybody wishing to testify in a neutral capacity?

JEFFREY BLOOM: Good morning, Mr. Chairman and members of the committee. My name is Jeffrey Bloom. It's J-e-f-f-r-e-y B-l-o-o-m and I am an assistant city attorney with the city of Omaha. I come here today on behalf of the city of Omaha to testify in a neutral capacity on LB441. I have provided written testimony on this bill. Given this, I will simply summarize my testimony and that certainly goes into more detail. While we do take a neutral capacity, I want to be clear. The city of Omaha does agree with the spirit of this bill. With changes, we may be able to support this bill. I'd like to talk about our experience, though, and why we feel some changes are needed, but this certainly does fill a need. Now the city of Omaha currently has two presumptions in place, one for firefighters and one for police officers. The firefighters presumption has been in effect since June

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of 2020 and the police officers just recently took effect in February 2021. We have limited the presumption to these two groups of first responders because of their essential nature and their high level of contact with COVID ID-- COVID-19-- excuse me-- infected members of the public. We feel this relationship between the positions and COVID-19 infections most closely match the current definition of occupational disease under the Nebraska Workers' Compensation Act. However, if an employee did provide us evidence that COVID-19 infection was in fact work related, we have accepted those claims as well. A prime example of that would be a cluster of employees who caught COVID-19 six days after having a meeting together. Now the city has had a total of 428 COVID-19 workers' compensation claims or about 13 percent of the city's 3,395 employees have filed COVID-19 workers' compensation claims. Of those, we have approved 402, with six cases that are currently pending or about 96 percent of those claims. Now the city has taken the position after considering several policy considerations. First of all, we want to support our employees. Second of all, we want to encourage people to report COVID-19 infections. Third, we want to encourage people to stay home when they are sick, especially with COVID-19. And fourth, we wanted to discourage group sickouts or a large number of people calling in sick out of fear of catching the virus. Now, the cost to the city has been so far about \$79,000 in medical costs. We've had \$21,000 in administrative expenses and we estimate that injured on duty payments, which is basically temporary total disability plus additional pay based on the respective bargaining agreement to be about \$1.16 million. That does-- not necessarily an additional cost for the city because not everybody was replaced with somebody else. It is simply continuing their normal pay during that time. Now with this, given our current policy, we agree with the spirit of this bill. However, we would like to see some changes potentially that could go more in line with our thought process, process on this. First of all, we would like to see for this bill, if it continues similar to as it is right now, to provide reimbursement for employers that have previously paid COVID-19 workers' compensation claims. By paying for retroactive claims with potentially state or federal money, but excluding previously paid and accepted claims, this penalizes employers who have acted within the spirit of this bill, while it rewards employers who have simply denied every claim or said that simply because somebody ate out, they clearly got it from eating out and not from getting it at work. Second of all, we would like this bill to encourage vaccination, specifically by not

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our COVID-19 response protocol

giving the benefit of a presumption when employees choose not to be vaccinated. This was one of the city of Omaha's considerations with our current presumption and that is why our current police presumption went into place with the vaccination requirement to get that presumption. We would like people afforded with a presumption to be more narrowly tailored as well. This bill, as currently written, could potentially include all city employees, with some having limited exposure to the virus. Police and fire, certainly, they have a large amount of exposure to the virus. However, an employee who, say, works for public works, who works three days a week at home out of COVID-19 precautions, I would say probably not in their situation. We would also like to have the committee consider the employer's ability to overcome the presumption and to clearly define that ability. This would include the standard of what would-- we would need to overcome that presumption, whether it's a preponderance of the evidence or something similar, as well as considering outside factors because we don't want to encourage at-risk behavior, including things like failing to wear a mask in public places or going to large parties or group settings immediately prior to testing positive for COVID-19. Finally, we would like that-- for the notice period to be shortened. Our thought would be at most, six months and that it is basically based on the fact that, as others have testified, it is difficult to come up with information that far after the claim, whether it be two years and that-- and there would also be a question of whether the statute of limitations for other workers' compensation claims would apply to the retroactive COVID-19 claims. We certainly appreciate this committee's work on this difficult and complex situation and I'm certainly open to any questions.

B. HANSEN: Any questions? Seeing none from the committee, thank you very much.

JEFFREY BLOOM: Thank you.

B. HANSEN: We'll take our next testifier in a neutral capacity.

JILL SCHROEDER: Good morning, members of the Business and Labor Committee. I'm Jill Schroeder, J-i-l-l S-c-h-r-o-e-d-e-r. I'm the administrator of the Nebraska Workers' Compensation Court. This-- the court will leave policy decisions about LB441 to this body, the Legislature, but we do want to provide information to you in particular about the data that is already being collected in response

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our COVID-19 response protocol

to the notice requirement that employers or their insurers report claims to us. I want to tell you a bit. Senator Hansen gave you the-- some figures. I can update that information. I want you to understand a bit about that. But we also will ask that if the legislation moves forward, that it be amended to clarify that first reports of injury shall be filed with the court, as they currently are for all other claims. So let's turn first to the data. The court receives almost all of the first reports of injury electronically and there is an association called the WCIO that mandates a certain format for those electronic reports. So there are categories of information, essentially data fields, that are included on the report format. Then there are standardize-- there's a standardized overall format and there are definitions to terms provided within that. Effective April 1, 2020, the WCIO adopted a new code for the cause of injury data field that was specifically directed at the pandemic and then for the nature of injury data field that was for COVID-19. Those changes were adopted by the International Association of Industrial Accident Boards and Commissions that we're a member of and we in turn adopted those changes effective April 1, 2020. Fast forward to this year, effective next Monday, March 8, that same system will now be updated to include a data field for cause of-- for nature of injury that is adverse reaction to a vaccination or inoculation. This will allow the court to more easily track injuries that are reported to have occurred during a vaccination for COVID-19. Senator Hansen was close. He, he submitted a public information request. I have updated information. As of Friday, February 26, 2021, there are 2,587 first reports that have been filed with the court in which an exposure to COVID-19 is claimed. Of those, 39 described the injury as related to a vaccination due to COVID-19. So that's the data. We would like to continue to receive the first reports of injury and be able to collect the data such as I've described to you. When you look at the current bill at page 3, lines 20 to 21, it says the "essential worker shall request that his or her employer complete a report of the injury pursuant to section 48-144.01." Currently, that is the statute that provides that an employer or its workers' compensation insurer shall file a first report of injury within ten days after they've been given notice or have knowledge of an injury. We would ask that that language be tightened up a bit to confirm that the Workers' Compensation Court should continue-- the employer or its insurer should continue to have an obligation to report these injuries to us. If you read on after the part that I just cited to you-- so if you start at page 3, lines 22

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through 26, it says "the employer shall subsequently submit all applicable documents directly to the Department of Insurance or a workers' compensation insurer," but we believe that there's a gap in that language concerning making it mandatory that the first report of injury be filed. So those are the comments that we have with respect to LB441. Does anybody have any questions?

B. HANSEN: Thank you for your testimony. Are there questions from the committee? All right--

JILL SCHROEDER: Thank you.

B. HANSEN: --seeing none, thank you. Is there anybody else wishing to testify in a neutral capacity? All right, seeing none, we'll welcome back Senator Matt Hansen to close. And while he's waiting to close, we do-- we did have some written testimony in support from Jason Hayes, NSEA; Maggie Ballard from the Heartland Family Service; Scout Richters from the ACLU of Nebraska; and Randi Scott from Nebraska Association of Trial Attorneys. And we did have two in opposition from Coleen Nielsen from the Nebraska Insurance Information Service and Lynn Rex from the League of Nebraska Municipalities. And we did have eight letters for the record in support and zero in opposition.

M. HANSEN: All right, thank you, Chair Hansen and thank you, fellow members of the committee. Addressing kind of a number of things at this point-- just for this moment, I'm going to put aside kind of some of the technical issues-- some of the testimony we heard from the Director of Insurance, I see where he's coming from, happy to work through the technical sides. Overall, the policy goal is what I want to focus on in my close. And my policy goal here is just like we talked, talked about is the access to workers' compensation for COVID-19. Regardless of how you want to spin the fiscal note and regardless of how you want to look at it, we know and there's good faith estimates that there are tens of millions, hundreds of millions of medical expenses, insurance, all sorts of things hanging out there. And we as a Legislature can try and figure out how best to handle that, whether we're going to kind of leave it up to the court system to figure out what policies and what norms they want to have in terms of, you know, is COVID-19 an occupational disease? In most instances, all instances, very few instances or so on or we could try and provide a statutory framework going forward. You know, as you've heard today, some of the things that are kind of still new and still around the

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our COVID-19 response protocol

edges is, you know, the-- a number of employers, a number of insurance groups are working to have a different standard for those who accept a vaccine versus those who don't. That was not something I necessarily even was considering or interested in wading into, but is now kind of going to be seen as probably some of the next wave of-- I don't have a better term for this, but fights or discussions on whether that's in the Legislature or whether that's in the courtrooms. Similarly, you know, as we've seen, it is really tough to prove where COVID-19-- where an individual caught it. Obviously, we have contact tracers. We have public health departments. We have experts who do that, but, you know, even on any given case, you know, at best it's-- you're proving what's likely, what they think happened. It's very hard to kind of prove it beyond a shadow of a doubt. Just like you heard, for example, that currently in work comp defense against COVID-19 claims, you know, the sheer fact that your spouse has a job outside of the house is used against you to even if you have pretty good evidence that you caught it at your own workplace if not from your spouse. That's just kind of a standard that-- it makes me uncomfortable and I think we as a legislature probably need to step in and provide some, provide some more, more clarity for. The retroactivity portion, that was my intent to not pull the rug out underneath employers and try and have the state step up and between the state and feds provide their fair share of oversight and at that point, actual financial support so as to not change the rules midway through the game. You know, the question was asked about the retroactivity part, you know, if that's too big and too cumbersome. I think this is something we're still going to have to look at and so maybe looking at perspective, maybe putting some guidelines, some other things to handle, handle claims would be something we should look at. At the end of the day, I'd just remind you to think back to the proponents, think back of some industry, some groups, some professions, including some in the public sector, you know, and how much we've asked people to kind of give and how little kind of certainty and clarity they got back from us. So with that, happy to work with the committee and stakeholders and I'd be open to any questions.

B. HANSEN: All right, thank you. Are there any final questions from the committee? Seeing none, thank you very much.

M. HANSEN: Thank you.

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our COVID-19 response protocol

B. HANSEN: That will close our hearing for LB441. We will now open up the hearing for LB480. You're welcome, Senator McKinney, to open. Welcome.

McKINNEY: Welcome. Oh, thank you, Senator Hansen and members of the Business Labor Committee. LB480 acknowledges that the cost of living in Nebraska is juxtaposed to the salary of a full-time minimum wage earner. It's not sufficient to support, to support working-class individuals and fails to meet the estimated cost of living for individuals. To address this issue, LB480 would raise Nebraska's minimum wage on a gradual ten-year scale, with a raise of \$1 each year. I decided to bring this bill because it's become, it has become astonishingly clear, especially during a global pandemic, that Nebraskans are not paid adequately. We rave about a low unemployment rate, but we forget that many Nebraskans are working multiple jobs and still are struggling to support themselves and their families. We have received numerous concerns that businesses will be affected financially. However, based on our research and consul-- consultation with numerous organizations, raising the minimum wage will have numerous positive effects on the economy, especially for small-business owners. Like with every new bill, I recognize that adjustments must be made to accommodate for new policies. For this reason, I elected to allow the raise to take place over time instead of in one fell swoop. My rationale is to allow businesses room to adjust while providing more income for Nebraskans. The truth of the matter is that we cannot continue to underpay individuals who continue to keep Nebraska and its economy afloat. Over this past year, we have witnessed those who we deem as essential workers risk their lives and well-being as well as that of their family and loved ones to check out groceries, serve as custodial staff to our hospitals, and we rationalize paying them \$9 an hour as sufficient. This is insulting. This also dispels the myth that raising the minimum wage is only to benefit teenagers. Increasingly, educated adults are working low-wage jobs. Studies from as far back as 2011 showed that 88 percent of Americans-- low-wage workers were over the age of 20. Also, over 40 percent of these workers had at least some college education. We're losing many Nebraskans to other states because of a lack of opportunities and attractiveness compared to other states. In an effort to innovate our economy and retain talent, we must do that all-- we must do all we can to ensure that our kids continue to see that there's value in staying home. In addition to a higher minimum

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our COVID-19 response protocol

wage, addressing socioeconomic issues as well. It's-- it addresses racial and gender disparities, as well as the intersection of both. We've addressed that, we've addressed that over 80 percent of minimum-wage earners are adults, but we recognize that almost two-thirds of that population are women and most are working to support their families. Black women and other women of color specifically are over represented in the minimum-wage jobs. Though they make up 17 percent of the population, they are almost one-quarter of minimum-wage workers. So it's no surprise that black women and other women of color experience higher poverty rates and higher wage gaps than their white counterparts. We have spent a great deal of time discussing in the Legislature, especially this year, prison rates and whether to invest \$230 million into a new prison. What we do know is that crime is correlated to poverty. Raising the minimum wage will go a long way in addressing prison population and helping decrease recidivism. A study conducted by Rutgers and Clemson Universities analyzed the effect of state and federal minimum-wage increases on 6 million people released from prison between 2000 and 2014. What was found that-- what was found was that minimum wage increase of only 15 percent reduced the chance-- an increase of 50 cent reduced the chance that a person will end up incarcerated within a year by 3 percent. This shouldn't be too surprising to any of us. The first thing a person may need after being released from prison is a place to live, a job, and a way to meet their need-- their most basic needs. Some things can be particularly difficult to come by for ex offenders. Lack of work experience and institutional barriers form significant barriers to, to, to successful reentry. Around two-thirds of people released from prison end up back there within three years. Without housing and jobs, formerly incarcerated people may become homeless or seek illegal work to make ends meet, kicking off a self-perpetuating, but preventable cycle between the street and the prison. According to the Economic Policy Institute, American wages have lagged further and further behind productivity gains since the late 1970s, but it wasn't always this way. After World War II, our payrolls were productivity. The more we made, the more we were paid. Today, the gap between American workers' product-- productivity and their wages is at an all-time high. How much better off would our residents be if we paid them what-- if what we paid them was congruent to productivity? For example, an individual being paid the current minimum wage, \$9 an hour, working a 40-- 40-hour work week would annually make \$18,720. But according to statistics, this individual should, should be making

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our COVID-19 response protocol

\$31,926, which is a \$13,206 gap. Furthermore, let's break this down by the legislative-- median income versus our minimum wage, according to data from the 2019 districts at a glance. Senator Ben Hansen, the median income in your district from 2019 was \$58,000-- \$58,015. The minimum wage, \$9, individual making \$18,720, that is a \$39,295 gap. Senator Carol Blood, the median income in your district is \$73,158. Same person making minimum wage, the difference is \$54,438. Senator Gragert, median income in your district: \$52,400. Individual making that same minimum wage, the difference is \$33,680. Senator Halloran, median income in your district: \$54,093. Same minimum wage difference, \$35,300-- \$35,373. Senator Matt Hansen, median income in your district: \$51,217. The difference in your district is \$32,497. Senator Megan Hunt, median income in your district: \$49,365. That difference is \$30,645. Senator Steve Lathrop, median income in your district is \$56,168. The difference is \$37,448. My district, for example, has the worst median income in the state, which is-- according to this data, is \$26,864. The difference is \$8,144. Why does the district that has the highest poverty rate have the lowest diff-- difference? I think that's a problem. From the state at a glance, the median income in our state is \$63,229. That is a \$44,509 difference. There is no way to close the wealth gap if we're not willing to help Nebraskans meet the most menial of their needs by paying them adequately. Folks should be able to work one job and support themselves and their families. It is abundantly clear that this is not happening and I think we need to do something to change that. I encourage you to vote this bill out of committee and I'm open to any questions.

B. HANSEN: All right, thank you. Are there any questions from the committee? I don't see any right now. Thank you very much. All right, so we'll take our first testifier in support of LB480.

KAREN BELL-DANCY: Good afternoon.

B. HANSEN: Welcome.

KAREN BELL-DANCY: Chairperson Hansen and members of the committee, my name is Karen Bell-Dancy, that's K-a-r-e-n B-e-l-l-D-a-n-c-y, and I am the executive director of the YWCA of Lincoln. The YWCA is dedicated to serving this community by working toward the elimination of racism and the empowerment of women. We seek to promote peace, justice, freedom, and dignity for all. Our programs touch the lives of many women, children, men, and families. Our efforts strive to affect the

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lives of Lincolmites and all of our fellow Nebraskans. I am testifying today to express our support for LB480 to raise the minimum wage in Nebraska and close racial income gaps. Cost of living continues to increase, but the minimum wage does not follow suit, continuously putting more individuals and family into poverty and living paycheck to paycheck for multiple jobs. Currently, the salary of a full-time minimum-wage earner is not sufficient to support many Nebraskans-- Nebraskans, I'm sorry, and fails to meet estimated cost of living. By raising the minimum wage in yearly increments starting in 2022 to reach the ultimate amount of \$22 a hour by January of 2032, LB480 could dramatically decrease poverty, close to racial income gap and disparities which have continuously remained. Currently, nearly half of all black and Latino workers nationwide make less than \$15 an hour. Raising the minimum wage can raise the wage for historically marginalized workers and close racial income gaps. This legislation can benefit many of the YWCA clients that we serve daily, which all too often are driven to choose between putting food on the table, pay-- or paying utilities. For many, working 40 hours a week is just not enough. Raising the minimum wage, lifting more families out of poverty, and closing the racial income disparities is long overdue. We thank Senator McKinney for introducing this bill, as well as the Business and Labor Services Committee for this consideration. Personally, this bill means a lot to me because recently we lost a wonderful Nebraskan and her two children to a nearby state because of the cost of living and her having to make decisions on providing transportation and food and working in an industry that does not seek to pay an adequate wage, a childcare teacher, early childcare teacher and wonderful teacher, but chose to move to where she could have a higher wage so that she can provide for her children. Recently she had received a small increment-- wage increment and what that did was made her unqualified for Medicaid assistance. So families are having to make these devastating decisions and we as the Lincoln community, the state of Nebraska, we need to do all we can to retain talented workers and dedicated individuals in our community. And that young lady was my daughter and I am really sad to see her leave and my grandchildren leave this community. They were born and raised in Nebraska, but because of issues like this, this minimum wage type situation and that industry not having an individual to meet basic needs, we lose individuals like that and we need to really work toward this income equity and equality for all. So I thank you for this opportunity and I will entertain any questions that you may have for me.

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B. HANSEN: All right, thank you. Is there any questions from the
committee at all?

HALLORAN: Chairman?

B. HANSEN: Yes, Senator Halloran.

HALLORAN: Thank you, Chairman Hansen. May I ask you where she moved
to?

KAREN BELL-DANCY: She moved to Missouri.

HALLORAN: Missouri?

KAREN BELL-DANCY: Yes.

HALLORAN: OK, just looking here real quickly, Missouri does have a
higher-- it's \$10.30 for minimum wage. This bill is looking at raising
us to-- in ten short years to what is it-- \$20-- \$21?

KAREN BELL-DANCY: Yes.

HALLORAN: Surrounding states-- and this is just for the record--
surrounding states in Nebraska-- to Nebraska, Iowa is \$7.25. Kansas is
\$7.25. Colorado, Colorado is \$12.32.

KAREN BELL-DANCY: Um-hum.

HALLORAN: Wyoming is \$7.25 and South Dakota is \$9.45. If we escalate
at the rate that this bill proposals-- proposes, do we run the risk of
a lot of jobs folding because they can't afford the, the wages?

KAREN BELL-DANCY: I don't think so. I think that the industry would
seek to find ways to support the dedicated workers. We need to put
more toward workers that want to be with the company. I think you
would find that the more you bring on new workers into the
organization, you're finding higher costs with that turnover. This
way, you would have more retention and I think that it would, it would
find a coordination with the wage increase would-- also supporting the
organization as well.

HALLORAN: OK, well, 3 percent unemployment, which makes the employment
of-- hiring employees very competitive, right? It's very-- it's

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difficult to find employees right now and when it's, when it's
difficult, I would subscribe that the, the best way-- the quickest way
to get employees is to raise the wage for a business to do that,
right, to attract business-- attract employees.

KAREN BELL-DANCY: Um-hum.

HALLORAN: I know-- I don't know that many personally--

KAREN BELL-DANCY: Um-hum.

HALLORAN: --small businesses that are, say, the restaurant business.
They pay well above because they can't get employees. They pay well
above the current minimum wage. I don't know, in the particular
instance that you gave where the young lady--

KAREN BELL-DANCY: Um-hum.

HALLORAN: --decided she had to move for \$1.30 more an hour--

KAREN BELL-DANCY: Um-hum.

HALLORAN: --but, but I think there are a few people-- do you think
there are a lot of people in this state-- apparently you do, but I
can't speak for you-- a lot of people that will work for the minimum
wage right now?

KAREN BELL-DANCY: Yes, I do. And Senator Halloran, I do appreciate
your inquiry into this because a lot of the clients that we work with,
those jobs that you're saying are out there and these employers are
saying that they cannot find qualified applicants, there are a lot of
individuals that would want to take those jobs. They come into our
agency, you know, and for the services that we deliver, but they have
transportation issues. They may not have the childcare or they can't
afford the childcare. We know childcare is a huge challenge in our
community as well, so paying a higher rate probably-- and I believe
totally-- would enable more applicants to move into the workforce. But
having such a lower wage, you also force a lot of individuals to try
to work two jobs so that they can meet the basic needs for their
families when they're only making \$9 or \$10 an hour.

HALLORAN: I think a good focus for us to focus on to, to improve the
well-being for wage earners in the state of Nebraska is to work on

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improving the skills. It's my understanding minimum wage was basically
designed for minimum skills.

KAREN BELL-DANCY: Um-hum.

HALLORAN: And the more we can raise skills, right, the more we can
raise skills, the more in demand they'll be. So I think that-- I'm
just throwing that out there. I think that's something that--

KAREN BELL-DANCY: I appreciate that. We have a workforce development
program where we are enabling applicants to build skills in to enter
the workforce--

HALLORAN: OK.

KAREN BELL-DANCY: --but they need to enter the workforce at a wage
that is conducive to them to be able to provide for their families--

HALLORAN: Thank you.

KAREN BELL-DANCY: --and that's why I support this bill.

B. HANSEN: Yes, Senator Gragert.

GRAGERT: Thank you, Chairman Hansen, and thank you for your testimony.
I'm just interested in-- where I come from-- in most of the small
towns up in northeast Nebraska, about-- you know, and I'm-- I'll take
a guess at it, but it's relatively about 65 percent of the population
is over 65 years old, a lot of retired people. Where is that fine
line, you know, of-- they're on fixed incomes and-- like, my brother
owns a grocery store. He's going to pass this on. I mean, where do you
see the retired people coming out in this, minimum wage going up
almost double what it is now in the next ten years, for retired
people?

KAREN BELL-DANCY: I think there are a lot of people that are pushing
retirement back because they can't afford to live without any kind of
income and the retirement income is not enough.

GRAGERT: OK, thank you.

B. HANSEN: Any other questions? All right, thank you for your
testimony, appreciate it.

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KAREN BELL-DANCY: Thank you. Thank you for your questions.

B. HANSEN: We'll take our next testifier in support of LB480.

SCOUT RICHTERS: Hello. My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s. I'm legal and policy counsel at the ACLU of Nebraska and ACLU would offer its full support for LB480 and we'd like to thank Senator McKinney for bringing this legislation. The ACLU of Nebraska supports LB480 for I would say three primary reasons. One, economic justice is critical to gender equity and combating sexual harassment. As Senator McKinney mentioned, 56 percent of minimum-wage workers are women and as he also touched on, a common misconception is that the majority of minimum-wage workers are part-time teenage workers, but it's simply not the case. The average age of a minimum-wage worker is 35 years old and 55 percent of minimum-wage workers actually work full time. The second reason is that-- the ACLU supports LB480 is because economic justice is critical to advancing racial justice, as Ms. Bell-Dancy and Senator McKinney have touched on. And finally, the ACLU supports LB122 [SIC] because raising the minimum wage is a smart justice strategy to help actually lower mass incarceration rates. Higher wages for low-skilled workers reduce both property and violent crimes as well as crime among adolescents. The impact, the impact of wages on crime is very substantial. A 10 percent increase in wages for non college-educated men actually resulted in approximately 10 to 20 percent reduction in crime rates. So for these reasons, the ACLU offers our full support and I would be happy to answer any questions.

B. HANSEN: Are there any questions from the committee? Seeing none, thank you.

SCOUT RICHTERS: Thank you.

***JASON HAYES:** Good morning, Senator Hansen, and members of the Business and Labor Committee. For the record, I am Jason Hayes, Director of Government Relations for the Nebraska State Education Association. NSEA supports LB480. The NSEA supports Senator McKinney's bill, which raises the minimum wage in yearly increments starting January 2022 to eventually reaching twenty-five dollars an hour by January 2032. Adjusting the minimum wage is of special concern to educators because we know it will help our students whose parents work hard to support their families. We know it will help many of our fellow educators - cafeteria employees, custodians, paraeducators and

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other education support professionals, as well as some college instructors who do not earn a living wage. Nebraskans who dedicate their lives to driving, nourishing, counseling, or teaching our students should not be forced to live at or below the poverty line. But all too often, teachers and education support professionals who choose a life of public service must trade away their right to a decent standard of living. Additionally, many college adjunct or contingent faculty are drastically underpaid, despite their doctoral degrees and other experiences, some earn less than the average sales clerk at Walmart and often have no healthcare benefits. We believe that adjusting the minimum wage will help address these concerns. On behalf of our 28,000 members statewide, we urge the committee to support LB480 and advance it to General File for debate.

***JULIE ERICKSON:** Thank you, Senator Hansen and members of the committee. My name is Julie Erickson and I am representing Voices for Children in Nebraska in support of LB480. Nebraska parents are working hard, but more and more, hard work isn't enough to make ends meet. Nebraska is a state that values hard work and we should ensure that hard work pays. As wages stagnate and the cost of living rises, Nebraska families are falling behind despite working full time. Voices for Children in Nebraska supports LB480 because it ensures that the state minimum wage is adequate to support a family. It is estimated that one-fourth of Nebraska workers who would be affected by a minimum wage increase are parents. Nebraska's current minimum wage of \$9.00 per hour is still insufficient for many families. For example, a single mother with a toddler working full-time for minimum wage would still be far from being able to pay for typical living expenses in Nebraska without any form of assistance. Her annual child care costs would amount to two-thirds of her gross income. When wages aren't enough to make ends meet, parents have no choice but to turn to public assistance programs. One recent study estimated that even a \$12.00 federal minimum wage would reduce federal public assistance spending by \$17 billion annually. Research shows that boosting the minimum wage also has positive indirect effects for other lower-wage workers earning just above the minimum wage. It is estimated that a 10% boost to the minimum wage would result in a 5% decrease in child poverty and would also reduce the share of people living below and just above the federal poverty level. The economic impact of the pandemic has increased the urgency of addressing the insufficiency in our current minimum wage. LB480 would ensure that hard work pays and that workers

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our COVID-19 response protocol

are able to support a family. We thank Senator McKinney for his leadership and respectfully urge the committee to advance the bill. Thank you.

***TIFFANY JOEKEL:** Chairperson Hansen and members of the Business and Labor Committee, my name is Tiffany Seibert Joekel, and I am the Policy and Research Director for the Women's Fund of Omaha. The Women's Fund testifies in full support of LB480, annually increasing Nebraska's minimum wage and making the state minimum wage reflective of increases in the Consumer Price Index. As an organization promoting the economic security of Nebraska women and girls, we recognize hard working Nebraskans need a living wage. Despite nationally low levels of unemployment, this past year 185,761 Nebraskans were living in poverty. A single adult working full time, year round and earning minimum wage would make roughly \$18,720 annually. For a single adult in Nebraska, average annual rent of a one-bedroom apartment totals \$8,040, average transport costs equate to \$10,181, average healthcare costs total \$5,556 and average food costs amount to \$3,024 annually. For housing, food, transportation, and healthcare alone, a single Nebraska adult's average annual costs of living amount to \$26,801 a year, over \$8,000 more than a minimum wage annual salary. The numbers simply do not add up, rendering our current \$9 per hour minimum wage as an unlivable wage. A Nebraskan single parent with one child and earning minimum wage would qualify for income eligibility requirements of Supplemental Nutrition Assistance Plan (SNAP), Low Income Home Energy Assistance Program (LiHEAP), Child Care Subsidies (Title XX), Medicaid, and Section 8 housing subsidies. LB480 would ensure all Nebraskans can earn a living wage, promoting economic self-sufficiency and allowing Nebraskans to earn their way off public assistance programs. Nebraska women would be particularly impacted by LB480. Nationally, women constitute nearly two-thirds of minimum wage earners. This discrepancy contributes to persistent gender and racial wage gaps, where for every \$1 earned by a white man in Nebraska, a Black woman earns 60.8 cents, a Native woman earns 59.9 cents, an Asian earns 68.9 cents and a Latina woman earns 55.5 cents. LB480 would level the playing field, addressing inequities by ensuring Nebraskans can earn a living wage. The successful 2015 Nebraska ballot initiative raising the minimum wage demonstrated overwhelming public support, with 3 out of every 5 Nebraskans supporting a raise of the state minimum wage. 23 states hold higher minimum wages than Nebraska, including neighboring states of South Dakota, Missouri,

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Colorado, Arkansas, Minnesota, and Illinois. LB480 is a matter of promoting the economic security and quality of living for hardworking Nebraskan. The Women's Fund respectfully urges this committee to support LB480 and advance this bill to General File.

B. HANSEN: We'll take our next testifier in support. All right, seeing none, we'll take our first testifier in opposition to LB480.

DALLAS JONES JR.: Good morning, Chair Hansen, members of the Business and Labor Committee. My name is Dallas Jones Jr. Usually I leave out the Jr., but in the case that senior is here today, I wanted to make that description for the record. D-a-l-l-a-s J-o-n-e-s J-r. I am the policy and research coordinator for the Lincoln Independent Business Association and I'm testifying today on behalf of LIBA in opposition to LB480. LB480 would raise the minimum wage to \$20 by 2032. Proponents of this bill have already raised arguments that sound caring, compassionate, concerned, but they create a false dichotomy between employees and employers. In reality, many business owners already pay their employees what they can afford. Finding and keeping good people is the hardest part of any employer's job. It costs an incredible amount of money to find, hire, and train employees, which is why employers are incentivized to retain good people, often by paying them more. If we adopt a statewide minimum wage of ultimately \$20 an hour, here's what will happen. One, a lot of people will lose their jobs. A 2021 Congressional Budget Office study found that even just a \$15 minimum wage would reduce unemployment by almost 1 percent, meaning more than 10,000 Nebraskans would lose their jobs. Obviously, far more jobs would be lost at \$20 an hour. Those that manage to keep their jobs will see reduced hours. In other words, a pay cut. Two, many businesses will close and the very jobs that proponents of this bill hoped would drive people out of poverty will vanish. A 2018 report from the Harvard Business School estimates that every \$1 increase in the minimum, minimum wage leads to a 14 percent increase in the, in the many-- in, in the-- increase in the likelihood for many restaurants to close. An \$11 ultimate increase in the minimum wage under this bill would be devastating for not only restaurants, but for all small businesses and their employees. Three, young people will lose that entry-level job opportunity or an experience-building paid internship position. My first job was frying chicken at Raising Cane's just five years ago. I began working for \$9 an hour, but it taught me valuable lessons, such as showing up on time, teamwork, and delivering a quality product and service to our customers. A \$20 minimum wage

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would price out many of those people like myself who are looking for that first job so they can get a better job later on. Four, fewer people will open businesses, new businesses. An ultimate \$20 an hour is a very expensive hill to climb. When would-be entrepreneurs do the math of labor cost, they will realize it's just not worth the financial risk. It is impossible to estimate the cost that this will have on Nebraska's economy from businesses never starting in the first place. Five, prices for everything will go up as businesses pass higher labor costs onto customers. If LB480 is passed, one of two things will happen. Either consumers refuse to pay the higher prices and businesses shut their doors or consumers do pay the higher prices and have less money to spend elsewhere. Either way, LB480 would cause a dangerous drag on Nebraska's economy. Now this may all sound like scare tactics, but the principles are rooted in simple economic policy. The charts passed out display the relationship between wage rate and quantity of labor. On the graph at the top, there is demand for labor and the supply for labor. Where they intersect is the equilibrium where the demand for labor meets the supply for labor and a wage is determined. Normally, this wage rate is determined by free-market forces. LB480 would raise the minimum wage and create a price-- price floor located on the second graph. Setting a price for labor at \$20 an hour establishes a new forced equilibrium higher than what the market is willing to pay. The result is that the supply of labor now exceeds the demand for labor, which causes unemployment and a loss in productivity from businesses. LIBA is in opposition to LB480 because, to put it simply, it will cripple Nebraska's economy. To the proponents of this bill, sounding caring, compassionate, and concerned is all well and good, but having a job is better. Thank you for your time. I'll be happy to answer any questions.

B. HANSEN: All right, thank you for your testimony. Is there anybody on the committee have any questions? OK, seeing none, thank you.

DALLAS JONES JR.: Thank you.

B. HANSEN: Anybody else wishing to testify in opposition to LB480?

LOREEN REYNANTE: Good afternoon, I believe-- I have 12:05ish. My name is Loreen, L-o-r-e-e-n, last name Reynante, R-e-y-n-a-n-t-e. I don't represent anybody but myself. So in reading this bill, I saw it was very interesting to put law wages through 2032. No one will know what will be happening in ten years and we should not be legislating wages

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into the future. I haven't heard of any proponents that actually would benefit from the wages. We've heard from a group. I don't know if we're going to hear from someone else. There is a trade-off of higher wages for some against job losses for others. The people you want to protect, the low-income, low-skilled person, would be the biggest loser. When an employer hires someone, they are looking at will this hire add to my revenue or to my cost? Minimum-wage laws do not make employers pay above the estimate of worker productivity. All they do is outlaw the hiring of workers who lack the skills to generate enough value to cover the cost of hiring them. These would include younger workers who have yet to acquire skills and workers with less education. We all want higher wages, but that will only come from higher productivity, better training, education, friendly tax policies, and increased quantity and quality of capital. It means pro-growth policies. Changing the minimum wage will affect the worst-- workforce as a whole. Employees will either lose benefits such as healthcare or lose hours that will ultimately make them less profit in the end. There will be fewer hours or more work stress due to the lack of employees. Ultimately, this will result in higher prices for consumers. It is basic supply and demand. Higher wages reduce the labor demand so a higher wage ultimately leads to unemployment. Smaller companies will deteriorate, but large corporations will continue to thrive. The competition-- or there would be less competition. That will affect the local communities. This is not a solution to help pull workers out of poverty. Thank you.

B. HANSEN: Thank you. Is there any questions from the committee at all? Seeing none, thank you.

***JOSEPH KOHOUT:** Good afternoon, Chairman Hansen and Members of the Business & Labor Committee. My name is Joseph D. Kohout and I am the registered lobbyist for the Nebraska Golf Alliance. I appear before you today in opposition to LB480 on their behalf. I ask that this testimony be made part of the record on this bill. The Nebraska Golf Alliance is a coalition of golf related industries from throughout Nebraska including the Nebraska Section of the Professional Golfers Association, the Nebraska Club Managers Association and the Nebraska Golf Course Superintendents Association. Together, we work to ensure that legislation and executive actions within the state of Nebraska enhance the player experience. We speak with one voice on issues affecting the golf industry. First, a little information about the golf industry in Nebraska: Our industry has seen a golf renaissance in

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our COVID-19 response protocol

this state in the last 25 years. More Nebraskans are playing our sport per capita than any other time in our history. According to Golf Datatech, LLC, the golf industry's leading independent market research company, rounds soared 13.9% in the U.S. in 2020 with the north central region of Nebraska and Kansas reporting a 20-4% increase. Our courses saw record setting rounds during the Pandemic due to the need for individuals to stay and play sports outside. Second, we appear in opposition to LB480 because we believe the bill will put an undue financial burden on the many different components of the golf industry. The members of our aligned organizations hire individuals - in many cases - on a seasonal basis to assist golf courses with player amenities. Those who assist on a seasonal basis run the gamut from high school students to retirees who want to enjoy the outdoors. Under LB480, the state minimum wage would be raised to \$10 per hour on and after January 1, 2022, through December 31, 2022, and increase by \$1 per hour every year until it reaches \$20 per hour on and after January 1, 2032, through December 31, 2032. The adjusted hourly rate after this would be determined by the Commission of Labor and would be equal to the minimum wage from the previous calendar year increased by the percentage increase, if any, in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics, for the 12 months ending on June 30th of such previous calendar year. In reviewing the legislation, our aligned members expressed the enormous contribution our employees bring to golf courses around the state. We could not keep our courses and clubs open and operational around the state without them. However, such a dramatic increase over the next 10 years would put undue pressure on the finances of our clubs and courses, public and private. Such an increase would obviously be felt throughout all members of our alliance and we fear that this may increase the cost of golf rounds significantly over the next 10 years. This could, in some cases, put the cost of golf out of range for some players. For this reason, we cannot support and must oppose LB480. In sum, we would ask the committee to indefinitely postpone LB480.

***TIM KEIGHER:** Chairman Hansen and members of the Business & Labor Committee, my name is Tim Keigher. My last name is spelled K-E-I-G-H-E-R. I appear before you today on behalf of the members of the Nebraska Petroleum Marketers and Convenience Store Association (NPCA). NPCA represents over 100 independent petroleum marketers, convenience store and truck stop operators throughout the state of Nebraska operating more than 1,000 retail motor fuel facilities. NPCA

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is in opposition of the advancement of LB480 as we feel that the marketplace should set the minimum wage. While our members may pay minimum wage as a training wage, the marketplace is what ultimately should set the wage of experienced employees and not the Legislature. In addition, we feel that Nebraska should not set a minimum wage that is different than that of the Federal Government. In conclusion, we as independent petroleum marketers, convenience store and truck stop operators doing business in the State of Nebraska feel that the advancement of LB480 is not needed and ask that the committee not advance the bill to the floor of the Legislature. Thank you for your time and I would be happy to answer any questions.

***BOB HALLSTROM:** Chairman Hansen, members of the Business & Labor Committee, my name is Robert J. Hallstrom and I submit this testimony as registered lobbyist for the National Federation of Independent Business (NFIB) in opposition to LB480. LB480 would provide for annual increases in the state's minimum wage until it reaches the level of \$20 per hour in 2032, after which it would continue to be automatically increased based on the Consumer Price Index. An increase in the minimum wage hurts small businesses who are struggling to survive the COVID-19 pandemic. Small businesses are the economic engine of the country and the glue that holds communities together. They employ nearly half of the private sector workforce and are responsible for half of the country's gross domestic product. More than doubling the minimum wage, even in small increments over time, will make it even harder for small businesses, which have borne the lion's share of the pain from the pandemic, to compete and survive. Small firms tend to employ a greater percentage of workers who are more likely to be in the minimum wage population, (i.e., those who are young or who have weaker educational credentials.) Many small firms have employees who will be directly affected by an increase in the minimum wage. Increasing the cost of workers in marginally profitable firms can serve to price some workers right out of a job or result in a reduction in hours worked for the employee. In instances where the legal hourly wage is higher than would have occurred pursuant to free market forces, the minimum wage law effectively requires employers to pay some employees a wage which exceeds their productivity. In these cases, employers will predictably make adjustments in their use of labor. Such adjustments will produce gains for some workers at the expense of others. Those workers who keep their jobs and receive higher wages clearly gain. The losers are those workers who may be

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our COVID-19 response protocol

disadvantaged in terms of marketable skills who will lose their jobs and those who will not be hired in the first place. We are also concerned that an increased minimum wage adversely impacts small employers beyond the direct costs associated with the revised minimum wage. Increases in the minimum wage have traditionally been coupled with a "ripple effect" under which workers earning above the minimum levels also experience a wage increase in conjunction with a minimum wage increase. While the Legislature is free to establish the price at which a labor transaction may occur, it cannot mandate that the transaction will ultimately be made. Increases in the minimum wage do not result in corresponding increases in worker productivity and therefore jobs are placed at risk when increases in the minimum wage are considered. The increases proposed in LB480 will have the effect over time of pricing some low-skilled workers out of the market. Increasing the minimum wage will lead to increased labor costs and tough choices. Small business owners will either have to increase the cost of their product or service - which in many cases is not feasible - or reduce labor costs. Any reduction in labor costs would result from reducing jobs, reducing hours, or reducing benefits. None of these responses benefit employees. For these reasons, we would respectfully request that the Committee indefinitely postpone LB480.

***KRISTEN HASSEBROOK:** Chairman Hansen and Members of the Business and Labor Committee, my name is Kristen Hassebrook, registered lobbyist for the Nebraska Chamber, and here today in opposition to LB480. LB480, would, over time, increase the minimum wage in Nebraska to \$20 per hour. Thereafter, the minimum wage would be annually increased by the percentage as published via the Consumer Price Index from the U.S. Department of Labor. While the Nebraska Chamber has supported minimum wage adjustments in the past to conform with federal law changes and promote a level playing field for all employers across the state, we cannot support the formulaic proposal contained in LB480. The proposed increases consider no account for future adverse economic climates, such as a recession, a depression or a deflationary economic condition. The COVID-19 pandemic has been devastating for many retail, hospitality, service, and main street small businesses. While businesses are reopening, many are struggling, and it is small business owners who are most disproportionately impacted by government mandated increases in the minimum wage because they operate generally on thin profit margins. In the face of higher labor costs due to minimum wage increases, jobs may be jeopardized, hours cut or hiring

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our COVID-19 response protocol

plans abandoned. Now is the time to help jobless Nebraskans move back into employment, rather than limit their options by adopting policies that discourage small business hiring. There is a vital need to support our families, workers, businesses, and communities through this crisis. State investment to support work reentry with quality childcare, training and upskilling, and broadband deployment are bold policy decisions that can help Nebraska emerge with the type of necessary growth agenda and higher wages that fuel our economic recovery and ensure the well-being of all Nebraskans. Finally, a minimum wage increase is being seriously considered at the federal level by legislation in the Congress. We believe that it is most appropriate to let that conversation play out federally prior to initiating any minimum wage increase proposals in Nebraska. We would encourage the committee to not advance LB480.

***ANSLEY FELLERS:** My name is Ansley Fellers. I am the Executive Director of the Nebraska Grocery Industry Association. I am testifying in opposition to LB480 on behalf of the Nebraska Grocery Industry Association, the Nebraska Retail Federation, and the Nebraska Restaurant Association. As a result of the pandemic, employment nationwide is down 10 million jobs since February 2020, which is more jobs lost than in the Recession. Obviously, the pandemic has businesses, large and small, very hard. Raising the minimum wage disproportionately impacts small business, and it could hurt the very people it is intended to help. New data from the National Bureau of Economic Research shows that increasing the minimum wage could actually result in an increase in unemployment, especially among young adults and low-skilled workers. More than doubling the minimum wage when the economy is still recovering amounts to gambling with the livelihoods of Nebraska workers, consumers, and business owners. On behalf of all three associations, I urge you not to advance LB480. Thank you for your consideration.

B. HANSEN: Anybody else wishing to testify in opposition? All right, seeing none, is there anybody wishing to testify in a neutral capacity? Seeing none, Senator McKinney, you're welcome to close.

McKINNEY: Thank you. First, just want to point out that if LIBA wants poor people to stay poor, they should just say it. Also, \$9 in 2011 isn't the same \$9 in 2021 because of the time value of money and we need to recognize that. Businesses didn't just close because we raised our minimum wage to \$9. This increase would allow more individuals to

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have more disposable income to invest back into our economy, which would be great for our state. We could-- we would also be able to attract and retain more talent as well because, as you all know, we have a brain drain going on in our state and we need to do something about it. We could just sit around and say no to things like this and then all our young Nebraskans leave other states and we'll just be an aging state, but who am I? There are too many people with college degrees and education that have skill that are working low-wage jobs. Just because somebody is working a low wage doesn't mean they, they are not educated or they lack the skills. That's a false statement. It's not true. There's many people out here that have the skill and have the education, but are working a low-wage job. How will businesses survive if all these people just leave our state since businesses don't want to pay individuals more? What if everybody just decided to leave? Those businesses would not survive. Entry level shouldn't mean you have to live in poverty. It, it just shouldn't. We need to close these gaps because they're going to continue to increase and there are going to be many more people seeking assistance from our state because of this. We can lower the amount of individuals needing assistance from the state if we raise the minimum wage and provide them opportunity. An increase has nothing to do with your characteristics or whether you could show up to work or not. Do all-- I'm just curious, do everyone that makes \$9 an hour just show up to work late? Are they lazy? If so, if all of these people were showing up to work late, lazy, didn't care about the job, how would we have survived during a pandemic when all these individuals were still showing up to work and giving us food, making sure the shelves were stocked, making sure hospitals were clean, that this building was clean? We, we have to show that we care more about these people and less about business owners. Business owners, since they're so smart, they'll find a way to survive, but we have to take care of Nebraskans and I'll be happy to answer any questions.

B. HANSEN: Yes, Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. Thank you for your testimony and, and bringing the bill. You know, I, I just did some real quick calculations, so it's-- but I'm still going to try to ask my question of you that I asked earlier. A retired person, not a person that can't retire, but a retired person, say that they're living on their Social Security, \$1,300 a month maybe, OK? That's \$15,600 annual salary for that, for that retired individual. Now if we do the \$9, the \$9 of pay

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and I-- you know, comparing them-- but my, my big-- biggest question
is if we raise this minimum wage and these individuals are on fixed
incomes, what are we, what are we doing to the retired? I mean, I just
see the retired people really getting smacked with this, Senator
McKinney.

McKINNEY: When you say getting smacked, can, can you explain further?
What do you mean by--

GRAGERT: Well, the, the price-- like I said, my brother owns a grocery
store. All the prices of groceries are going to go up as the minimum
wage goes up. And, and I have a-- I may have an opportunity to go make
some more money, but we're getting to that age that they-- living on
fixed incomes, are they going to be able to stand that price of
groceries going up that, you know, that they need, you know, to--

McKINNEY: I would, I would make a strong argument that those that are
receiving retirement income should have an increase as well. I'm
curious to know that when the increase-- when we raised our minimum
wage to \$9, did, did the prices in our-- all our grocery stores just
blow up and get out of control?

GRAGERT: Well, you know, that's happened over a, a number of years,
but I think Social Security--

McKINNEY: This year?

GRAGERT: --like, like Social Security, it goes up, cost of living goes
up, but that isn't-- I don't--I would, I would be interested too.
Would that be a-- the equivalent to \$1 an hour of minimum wage? I
don't, I don't know. I-- just a question I would ask.

McKINNEY: All right, thank you.

GRAGERT: Thanks.

B. HANSEN: Any other questions? Seeing none, thank you very much.

McKINNEY: Thanks.

B. HANSEN: And just to-- for the record, we did have some written
testimony. We have three in support from Jason Hayes from the NSEA,
Julie Erickson from Voices of Children, and Tiffany Joekel from the

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Business and Labor Committee March 1, 2021

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Women's Fund of Omaha. And we did have some opposition, five, from Joseph Kohout, Nebraska Golf Alliance; Tim Keigher from Nebraska Petroleum Marketers and Convenience Store Association; Bob Hallstrom from the National Federation of Independent Businesses; Kristen Hassebrook from the Nebraska Chamber; and Ansley Fellers from the Nebraska Grocery Association, Nebraska Business Federation, and the Nebraska Restaurant Association. And we did have five letters for the record in support and 13 in opposition and that will close our hearing for this morning.

B. HANSEN: All right. Good afternoon and welcome to the Business and Labor Committee. My name is Senator Ben Hansen. I represent the 16th Legislative District in Washington, Burt, and Cuming Counties, and I serve as Chair of the Business and Labor Committee. I'd like to invite the members of the committee to introduce themselves, starting on my right with Senator Matt Hansen.

M. HANSEN: Thank you. Matt Hansen, District 26, northeast Lincoln.

LATHROP: Steve Lathrop, District 12.

GRAGERT: Tim Gragert, District 40, northeast Nebraska.

B. HANSEN: Also assisting the committee is our legal counsel, Benson Wallace; and our committee clerk, Ellie Stangl. And our committee pages for this afternoon are Emily and Kennedy. So just a couple notes about our COVID-19 hearing procedures. For the safety of our committee members, staff, pages, and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors in the hearing room, which are so marked. Testifiers may remove their face covering during testimony to assist the committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the

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Business and Labor Committee March 1, 2021

*Indicates written testimony submitted prior to the public hearing per
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entrance door will be monitored by a Sergeant at Arms to allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing while waiting in the hallway or outside the building. And if you could, please limit or eliminate handouts best you can. And a few notes about our policy and procedures as a committee, please turn off or silence your cell phones. This afternoon, we will be hearing five bills and will be taking them in the order listed on the agenda outside the room. On each of the tables near the doors of the hearing room, you'll find green testifier sheets. If you're planning to testify today, please fill out one and hand it to Ellie when you come up to testify. This will help, help us keep an accurate record of the hearing. If you're not testifying at the microphone and want to go on record as having a position on a bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. Also, I would note, if you are not testifying but have a position letter to submit, the legislator's policy is that all letters for the record must be received by the committee by noon the day of prior to hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask if you do have any handout-- handouts that you please bring ten copies and give them to the page. We do use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will turn green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony and we ask that you wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last names. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. And we do have a strict no prop policy in this committee. With that, we will begin this afternoon's hearing with LB667, and we welcome Senator Halloran to open. Thank you.

HALLORAN: Thank you. Good afternoon, Chairman Ben Hansen and members of Business and Labor Committee. Thank you for this hearing. For the record, my name is Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. LB667 is a bill to provide a

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measure of confidentiality for first injury reports on private citizens filed with the Nebraska Workers' Compensation Court. It accomplishes this purpose by requiring that workers' compensation first reports of injury to be withheld from the public with certain designated exceptions for a period of 60 days from the date of its filing. Restricting access to workers' compensation records does not appear to be unique or unprecedented. At least 37 states have some form of restriction on access to workers' compensation court reports, including the neighboring states of Iowa, Kansas, Missouri, and South Dakota. Nebraska currently grants confidentiality protection to unemployment insurance records similar to those proposed for workers' compensation records under LB667. There would appear to be no justification for providing confidentiality to unemployment insurance records and not to workers' compensation records. LB667 is designated-- is designed to delay the avalanche of solicitations which injured employees receive from attorneys once a report first injury is filed with the Workers' Compensation Court. Protecting injured workers from this invasion of privacy should cause no harm to employees in need of legal representation. There can be little doubt that injured employees have adequate access to information regarding potential legal representation for their claims. Many lawyers advertise on TV and radio, and a host of lawyers pop up in a virtually-- any Google search of a workman-- workers' compensation related issue. Employee's rights and access to information are further protected by the fact that the Workers' Compensation Court has an 800 number, which employees may call to obtain information regarding court procedures and their rights under the workers' compensation system. In addition, the Workers' Compensation Court publishes a pamphlet which explains the rights and obligations of both employers and employees. It appears that the vast majority of work-related injuries are handled between the injured employee and their employer or insurance carrier without the need for litigation or legal intervention. The communications by lawyers pursuant to information contained within the first injury reports produces unnecessary conflicts and needless litigation, thereby increasing the cost of workers' compensation system and reducing the net benefits received by an injured employee. The first reports of injury often contain sensitive medical information relating to an injured employee. While workers' compensation is exempted from the provisions of Health Insurance Portability and Accountability Act, it is safe to assume that most individuals have a greater expectation of privacy with regard to records relating to their medical condition and

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state law can and should protect-- offer protection for the confidentiality of these records. In addition, employers typically bear the brunt of the slew of attorney solicitations as employees question why the employer is releasing information regarding their injuries resulting in these unwanted communications. Employees retaining counsel purely as a result of the solicitations in the-- and upon sharing a portion of the benefits to which they would otherwise be entitled to with their attorney whose services in many cases is not needed. LB667 contains a number of exceptions to the 60-day delay and release of first injury reports. The exceptions address situations in which the court is required to allow for the copying and inspection of first injury reports. The reports would be required to: (a) be released to parties to litigation whether employer or employee; (b) be given to a state or fed-- and federal authorities for research or investigation purposes; (c) allow redacted information to be made available to third parties for the purpose of determining the nature of injuries sustained within the workplace without identifying any specific individuals; and (d) be released to a nonprofit organization for the purpose of sending convalescents to providing memorials for and offering grief counseling to family members of employees whose death was caused by a workplace incident. The bill addresses both needs for the disclosure of the first injury reports to the specific instances described and to ensure that the first injury reports will be withheld in all other cases for a period of 60 days. This ends my testimony on LB667. I would be happy to answer any questions to the best of my ability, any questions the committee may have. But I will say, I believe Bob Hallstrom will be representing the business community and he may be far more capable of addressing specific questions. Thank you, Mr. Chair.

B. HANSEN: All right, thank you, Senator Halloran. Are there any questions from the committee? Seeing none, we'll see you at close. Take our first testi-- testifier in support of LB667.

BOB HALLSTROM: Senator Hansen, members of the committee, my name is Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m, and I appear before you today as registered lobbyist for the National Federation of Independent Business and the Nebraskans for Workers' Compensation Equity and Fairness to testify in support of LB667. I've also been authorized to state on the record the support of the Nebraska Retail Federation, the Nebraska Restaurant Association, and the Nebraska Grocery Industry Association and have signed in on their behalf. Senator Halloran has

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covered most of my written testimony, so I'll just comment in a little bit different direction. Obviously, the issue that we have here is, as Miss Schroeder noted this morning, every workplace injury is accompanied by a, a first injury report or report of first injury. That is under current law, a public record. Attorneys access those records when there's an injury. They contact the employee suggesting that they may need to be represented. Some of those letters may not be the most complimentary in terms of whether the employer will represent their interests fairly. And people end up, in some cases, getting representation that perhaps they would not need. If they do get representation that they do not need, some of their benefits will go to the attorney as opposed to going to their bottom line and into their pocket. With regard to the, the hearing and the arguments that you'll hear today, it kind of reminds me of an old story about a longtime county attorney, defense attorney and judge where the county attorney came in on a criminal matter, said same motion. The defense attorney says same objection and the judge says same ruling. We're hoping that's not going to be the case today or this year. In years past, and even Senator Lathrop will remember from his prior du-- tour of duty here that this bill has been before this committee on many occasions. Since we initially introduced this bill some eons ago, it seems like there have been about 40 states that have some measure and in many cases full confidentiality of workers' compensation records similar to the unemployment insurance statute that is attached to my materials. So this is not our first rodeo with regard to confidentiality bills. I would note the difference this year as we've taken a little bit different approach. We have provided instead of unlimited duration of confidentiality, that the confidentiality would only extend for a period of 60 days. Once that 60-day time period had elapsed, the records would be fully accessible by anyone for whatever purpose. So you might look at it as a cooling off period for 60 days not to have any solicitations during that period of time, allow the claim to be processed. Again, my testimony and Senator Halloran's testimony both indicated that there are any number of ways that individuals that want to be represented or need to be represented can independently access attorneys without having to be solicited because the first injury reports are available from day one. The exceptions, I think, are all things through the years that when we heard the opponents come up and say, well, what about this? What about that? We have those exceptions fully covered, even with respect to nonprofits that do nice things and good things with regard to contacting family

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members after there's been a workplace death involved. Final thing that I'd say and bring to the consideration of the committee, if the usual suspects come up and testify or have submitted letters in opposition, some of those very parties were here this morning suggesting that the mere fact that there were a majority of the states that did something different than Nebraska gave the committee reason to pass those particular bills out onto the floor of the Legislature. I'm certainly not suggesting just because 40 states have confidentiality provisions that this committee ought to act in that similar fashion, but perhaps some consistency from the other side would be appreciated. With that, I'd be happy to address any questions.

B. HANSEN: Are there any questions from the committee? Yes, Senator Hansen.

M. HANSEN: Thank you, Senator Hansen. And thank you for being here. Can you just to summarize your testimony, what is the public policy goal you think the state is doing with this bill if we adopted it?

BOB HALLSTROM: Senator, I think what other states have looked at in terms of having confidentiality provisions for years and years and years are probably twofold. The one from the employer's perspective, you look at it, and in, in, in my testimony and Senator Halloran's comments as well, the employers generally get contacted by employees saying, why are you releasing my information? It has to do with an injury that I sustained in the workplace. And that may very well be something that they don't want people to know if it's a particularly egregious type of injury, personal type of injury that they don't want them to know about. So you look at it from that perspective. And the second, the second issue is that in terms of creating confidentiality-- I've lost my train of thought. Excuse me. Well, that's, that's the primary issue from the, from the employer's perspective, and I think just the fact that the secondary issue would be that if the employees are represented, as I indicated earlier, if they are represented in a case where they don't need to be represented, they are going to lose some of their benefits to the percentage attorney fee that goes out the, the front door.

M. HANSEN: What do you mean when they don't need to be represented?

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BOB HALLSTROM: Senator, years ago, Jeanne Combs was a senator that was on this very committee. She was a nurse at Farmland Foods and she was inclined to support the bill because in her profession, she had seen cases where the employee simply at the end of the day, did not need to be represented. The case was going to be taken up in the normal course. The employer was going to do everything that they possibly needed to do. The individual would be paid all of their temporary total disability and all the benefits to which they're entitled, the medical bills would be paid on time and so forth. And if they had been represented in those cases because they got a solicitation letter, decided to hire an attorney and, and then the attorney took-- I don't know what the percentage is, probably a third out of the award of indemnity benefits than they would have lost that money that they wouldn't have lost if they had not been represented and, in fact, maybe didn't need to be represented from the get go.

M. HANSEN: All right, I guess I was just trying to figure out, you mentioned consistency across bills, and so I was trying to figure out how your advocacy for the employees here squared with the opposition this morning. So I'll keep thinking on that.

BOB HALLSTROM: Thank you, Senator.

B. HANSEN: Senator Lathrop.

LATHROP: Yeah, it just-- I'm struck by the same thing, which is I suppose if you start paying them on day two, they probably wouldn't go get a lawyer, right? They'd say, well, they're going to pay me. I don't need, I don't need a lawyer because I'm getting paid. It might be that seven-day delay that, that makes these people go look for a lawyer. This is more of a comment. You can, you can respond when I get done. I do-- here's my experience, and by the way, I don't, and my firm does not go rifling through the first reports of occupational injury. But I do know that a lot of lawyers that do that kind of work also provide information. And at the same time, the employee who doesn't know they have a right to choose their own position, has an opportunity to talk to somebody about that process. And I have talked to people who have been misled by their employers. It's like get on over there to work comp, you know, resources and see doctor, whoever it is. And pretty soon they're caught up in the employer's, in the employer's doctors, when they had a choice of choosing their own physician. And that isn't clear to them. And that's just one example.

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And yeah, I'm, I'm struggling with your consistent opposition. And today your, your position is I'm trying to help the employees not have there's stuff on blast.

BOB HALLSTROM: And, and Senator, I appreciate, we've had that discussion that you do not do that. And certainly for the record, I'm not suggesting in any form or fashion that there's good or bad attorneys that are doing it. But at the same time, I think if, if we look at this and if the employees-- we've had employees in here before to testify and they've explained to the committee what their concerns are about having this information released. You know, we've had some committee members who have said it's always the employers that come in. We've had years where we've brought employees in and, and here we are back at the trough again. So appreciate that.

B. HANSEN: Any other questions? I have maybe a couple of questions.

BOB HALLSTROM: Sure.

B. HANSEN: And I apologize for my ignorance when it comes to, like, legal matters or legal analysis. So when somebody gets injured, then their name and their injury is released to the public after--

BOB HALLSTROM: What, what happens, Senator, is the, the first injury report is a public record under our public records statutes. Unless there's a specific exception to the public records, they, they are free game. And the, the attorneys will-- my term, comb the records. They'll go down there and look at the, the records to see who's been injured. We've had first aid injury type of things before where somebody cut their finger and they put a Band-Aid on it. But the employer filed an, an inj-- first report of injury and that same person notwithstanding how, how little they were injured, received a dozen solicitations or, or letters from attorneys.

B. HANSEN: OK, and that is not protected with HIPAA?

BOB HALLSTROM: No, there's-- I assume that the trial lawyers were effective on the federal level when HIPAA was, was established to provide a specific exemption for workers' compensation records. Most people would think that it's protected, but it is not.

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B. HANSEN: Yes, and as you know, most healthcare professionals, like, drill it into our head that all information has to be explicitly private, hidden from everybody,--

BOB HALLSTROM: Yep.

B. HANSEN: --and, you know, no name can be released, what their condition is. And then just strikes me as kind of interesting that this section of law is allowed a kind of a different, kind of, I guess, avenue.

BOB HALLSTROM: Yep. And that, that was an exception from the federal level, which in effect, we're trying to get an exception to the public records law to make them confidential at the state level.

B. HANSEN: I'm sure it's not so black and white. I'm sure there's a lot of gray areas when it comes to this kind of stuff that maybe I'm missing that I don't understand. And is there any kind of informed consent to the employee, the injured employee? So they get injured, kind of what Senator Lathrop was saying, so somebody gets injured, do they get some kind of informed consent from the physician or the employer that says, look, you do have a choice which what physician you go to, if you are ever injured and you have any concerns, this is a number you can contact instead of somebody kind of getting their records, giving the injured employee the, the ability to maybe look elsewhere if they so choose with informed consent?

BOB HALLSTROM: Senator, and Senator Lathrop made the point of going to an attorney to get that information. In my testimony, I've, I've referenced, and it's my understanding that the Workers' Compensation Court provides certain information, which I suspect has all of those types of issues. You have a right to, to be represented if you so decide. You have a right to choose your own physician. There's a form that the employers are supposed to provide. And in fact, with respect specifically to Senator Lathrop's question, I believe the law is if you don't provide them with the employee physician form, then they have not lost any of their rights and they can come back in. So in the case that Senator Lathrop indicated that maybe the employer had, had misled them, I don't know what the particular circumstances would have been. But if they had not provided them with the form, I think it might be a Form 50, than the employee continues to have the right to choose their own physician, is my understanding.

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B. HANSEN: OK. All right, thank you. Any other questions from the
committee? All right, thank you.

BOB HALLSTROM: Thank you, Senator.

B. HANSEN: Is there anybody else wishing to testify in support of
LB667? All right, seeing none, is there any that wish to testify in
opposition? Welcome.

MIKE DYER: Thank you. Should I leave this on?

B. HANSEN: You can leave it on or take it off, it's your choice.

MIKE DYER: Thank you, OK. My name is Mike Dyer, M-i-k-e D-y-e-r. I'm
here on behalf of NATA, Nebraska Association of Trial Attorneys. The
LB667, the first question you want to ask is, how does this help an
injured worker? There was a case that was handled last year, May 22,
Sellers v. Reefer Systems, Inc. And the Supreme Court held that
Workers' Compensation Act should be construed liberally to carry out
its spirit of benefits-- beneficent purpose of providing compensation
to employees injured on the job. It seems that by holding back for 60
days, there's a clear advantage to a workers' compensation carrier if
you want to make sure people don't know what their rights are. The
60-day waiting period is enough for a case to get-- you know, the
cooling off period creates the case to become irrevocably cold and the
person hasn't been to a doctor in two months or so, doesn't know they
can go to their own doctor, and they're relying on somebody helping
them, that they have no obligation, there's no forced obligation by
the workers' comp carrier to tell them what their rights are. I'm an
attorney, and before I began practicing law, I was a police officer in
New York and I'm retired on a permanent total disability. So I sit
down with clients more with an empathy than a sympathy of what they're
going through. And for about the last 15 years, I've been asked to
come up and testify to this committee on various versions of this bill
and they've been rejected every year. This latest swing at, at what's
going on to try and limit this-- the access to, to people getting
information from attorneys. There's a lot of hardworking attorney--
Nebraskans who do physical construction, clean bedpans. They wash
dishes. They're, they're not in possession of computers. How many
parents now are trying to educate their kids and don't have a computer
at home? You know, they're going weeks without school. Well, those are
the parents. They lack the technical skills to know even where to look

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for information. Workers' comp rules, Section 48, is not something that a laborer or a truck driver would, would know about it. You know, in a normal course of, normal course of business, they're doing a job that they know of. They wouldn't know to select their own physician, that they would get the mileage reimbursement, that compensation for temporary or permanent disability is even available to them. That if they can't go back to their job, they'd have vocational rehabilitation benefits and other benefits that legislatures have, have given to injured workers. There's no obligation for the workers' comp carrier to advise an injured worker of what their rights are. In fact, if the workers' comp communicates-- fails to communicate pertinent information or does something almost dishonestly, you can't sue in bad faith. The Supreme Court has ruled you can't sue a workers' comp carrier in bad faith in the state of Nebraska. If the worker looks to the Workers' Compensation Court, which was mentioned earlier, the court has a website and you can give them a call and they can tell you this is what the law is, but they can't answer any questions. They're specifically prohibited from answering any questions that an injured worker might have. They can say, here's what the law is. They can tell you where to find it. They can tell you what it says, but they can't interpret it. So an injured worker asks, how does that rule affect me? How does the fact-- my fact scenario plug into those rules? That person calls Workers' Compensation Court, they're prohibitive from answering. When the injury occurs, the injured worker might just be embarrassed. They might realize that they're, they're not hurt as bad as they, they thought they were. They may be perceived as a whiner or a complainer or be made a big deal of. And that illusion of fraud and that overhanging sense of, of not being honest is, is a question of their own integrity. And, and to at least know what your rights are so that you're not-- you know, instead of the injured worker treating with their own doctor and getting maybe the information that their own doctor would, would tell them about, they're relying basically upon people in their locker room or, or other information they can get on their own. Kind of running out of time here, saw the yellow light come on. When, when people are injured and they, they contact an attorney who might have sent them something, there's a consultation. And, you know, today everything's recorded. So anybody who calls me and says, hey, I was injured, and this is what's going on. You have to have integrity. You don't want to lose your license to practice law. So you're not going to try and fish out something that people don't need an attorney for. Why, why would you do that? Here's what the law is.

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In fact, I sent out a booklet that kind of lays out rights at websites just like a lot of other attorneys. But if people don't know where to look or don't know it's available, there's no obligation for anybody to tell them that. So to delay it 60 days, it, it just-- you're still permitting the information to be released. But by the time it gets to somebody two, two and a half months later, because you get ten days to, to serve it, it's, it's too late that-- for the person to get the truth they should have gotten on time.

B. HANSEN: Thank you. We'll see if anybody from the committee has any questions.

MIKE DYER: OK.

B. HANSEN: Are there any questions from the committee at all? Seeing none, thank you for your testimony. Appreciate it.

MIKE DYER: Thank you.

B. HANSEN: Is there anyone else wishing to testify in opposition? Welcome.

TONYA FORD: Thank you very much. Thank you for this opportunity to testify before you today on LB667. My name is Tonya Ford, T-o-n-y-a F-o-r-d. I'm the executive director and a family member of the national organization United Support and Memorial for Workplace Fatalities. And a resident of District 21. USMWF is a nonprofit organization that offers support, guidance, and resources to families that have been directly affected by work-related incidences, illnesses, or diseases. I've had the opportunity to meet and hear frustrations of injured workers and their families with the current Nebraska workers' compensation system that many times penalizes the injured worker, all because he or she went to work that day. We sit here yet another year finding ways to hinder the rights of our injured workers and family member victims. And this is wrong of us. I was directly affected by a work-related incident in 2009 after my uncle Robert Fitch fell approximately 80 feet off of a belt-operated man lift device at a local grain elevator company. I can honestly say that unless you stand in our shoes, you do not have the true understanding of what one goes through emotionally and physically after an injury or a loss. As we sat in the funeral home, we did not have an understanding of workers' compensation. Many like us, are uneducated

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when it comes to the workers' compensation, and we believed many of the myths and misunderstandings of the system. Sadly, I still hear these myths and misunderstandings from the public. I cannot say this enough, our injured workers and family members are victims, and many live each day with the everlasting pain, suffering, and inconvenience all because they or their loved one went to work that day to help build and develop our state of Nebraska. Each injured worker, family member victim has the right for an adequate representation from a workers' compensation or a personal injury expert directly after their work-related incident. It is important to remember not every worker or family has the time or comprehension to know and understand their rights, and it can be detrimental to find the right attorney in a timely manner after such an incident. Yes, most people hold a little computer in their hands, but I will be the first to admit that although one may know how to successfully find their way around social media, many are not aware that they-- there was an issue and that he, she, or they should search for a representative to protect their rights. I guess my question and answers are who is out of the money to research and to connect with their target audience? The law firms. Is there truly an inconvenience when you receive information from attorneys in the mail? We as family members say, no, we can throw them away if they're not needed. And many collect mail in a pile to review at a time that is convenient to them. My biggest question is why is it OK for attorneys to send flyers and information to those who were in a motor vehicle collision versus a work-related incident? Why are we stopping injured workers, family member victims connecting with possible representation that specializes in workers' compensation, personal injury for someone to protect their rights? I have listened to the frustrations of injured workers, family member victims, and sadly many times hear that after such an unexpected, tragic loss, many do not have the ability to mourn their loss because they must worry about the unforeseen burdens that will follow for such-- from such a loss. The question is of who to assist us in handling the matter? Family member victims, injured workers may never choose to connect with the attorney that has sent information to them. However, it is a needed guide to those that do not know where to go next to find the help they need and hopefully the closure they deserve. I cannot say it enough, this-- not everyone in Nebraska has the education background to search and find their rights or even the representation they need after a work-related incident. We as a state of Nebraska should not have the right to stop or hinder anyone from receiving the needed

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knowledge about their rights because they went to work and were injured and never came home. I am asking you all to oppose the amendment of LB667 as no worker and his or her family member should continue to feel like victims after a work-related incident. It is important that we continue to help those that are victims of work-related incidences, assisting our hardworking men and women to receive all the rights that they deserve. Thank you for your time and I'm happy to answer any questions you may have.

B. HANSEN: All right, thank you for your testimony. Are there any questions from the committee at all? All right, seeing none, thank you.

TONYA FORD: Thank you.

B. HANSEN: We'll take our next, next testifier in opposition.

SUSAN MARTIN: Good afternoon,--

B. HANSEN: Good afternoon.

SUSAN MARTIN: --Senator Hansen and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n. Today, I'm not only testifying on behalf of the Nebraska State AFL-CIO, but I'm also testifying on behalf of my husband, Denny, in opposition to LB667. My husband worked part time as a transportation driver for a rehabilitation center in Lincoln. Three years ago on February 14, he went to work like normal and went to get in the company van out of his employer's garage and slipped and fell on the black ice in the parking lot. He ended up hyper extending his arm and tearing the muscle from the bone in two places. A first report of injury was filed with his employer, and he was placed on workers' compensation as he went through surgery and recovery. Upon being put on workers' compensation, my husband's employer also put him on FMLA leave to run at the same time he is on workers' compensation, which at the time we did not know that they could do. FMLA is for a 12-week period and he was told by his employer that he needed to be back to work in some capacity by the end of that period. Unfortunately, his doctor did not release him to go back to work until four weeks after the 12-week date. Needless to say, they did not offer work accommodations and they fired him from his job. We dealt with this for over one and a half years. During this entire ordeal, as you may or may not imagine, this was an upsetting

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and frustrating time for him. Unless you have actually been through a workers' compensation situation, you have no clue as to the employer's responsibility, the insurance company's responsibility, the employee's responsibility, or most importantly, knowledge about workers' compensation laws. Workers' compensation is extremely complicated to, to comprehend, and the typical average worker can't begin to understand their rights and instead they get lulled into thinking that their employer will lead them through the oftentimes nightmarish situation. Realistically, not all employers look out for the employee. The employer looks at how it is going to affect them. Workers' compensation was created to help the injured workers in exchange for the employee not coming back on the employer and suing them. That's the trade off. But does the average worker really know this? This bill, as presented, will remove the names of the employees on a first report of injury from the public record for the first 60 days, which is the most crucial time to get information from someone that can help navigate the system. Several concerns that the Nebraska State AFL-CIO has had in the past introductions of this bill have been addressed by both Senator Briese during last session and Senator Halloran this session. And we thank them for including these changes in this version. But the main intent of the bill will actually hurt the employee by not providing access to others who, who are knowledgeable about workers' compensation laws, who can provide real assistance to these injured workers, which we see as a benefit to the employee. Bottom line, the true intent of the bill seems to me to present workers from having access to the people that can truly help them and this is not in the best interest of the employee. There is an immediate need to help them and waiting 60 days to release the names of these injured workers further delays access to help. If one of the concerns is that the injured employee is objectionable to receiving mail as a result of their incident being public record, I'd like to state that my husband received five pieces of mail from those seeking to assist him with his injury. These pieces of mail were tossed just like we toss other mail, such as grocery ads and other advertisements. It was not an extremely burdensome-- it was not extremely burdensome, and he was grateful that there was those out there offering their assistance. Had I not known the little knowledge I had about workers' compensation and how to seek assistance, my husband would have been fired from his job with no option set forth, benefits stopped, and he would not have known his rights under workers' compensation laws. It really makes me wonder just how many others have been in this

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situation or how many others have relied on their employers to get them through this extremely difficult time. For these reasons, I respectfully ask that you indefinitely postpone LB667. I would be happy to answer any questions.

B. HANSEN: Are there any questions from the committee? Seeing none, thank you very much. Take our next testifier in opposition to LB667 if there are any. All right, anyone wishing to come in a neutral capacity?

JILL SCHROEDER: Good afternoon, members of the Business and Labor Committee, I'm Jill Schroeder, J-i-l-l S-c-h-r-o-e-d-e-r. I'm the administrator of the Nebraska Workers' Compensation Court. There are two main things that I want to talk to you about today. One is the public records requests that we fulfill and what the type of information is that we provide. And then I also want to clarify the role that we play in answering questions that we receive from injured workers as well as employers. So turning first to fulfilling the public records requests. We receive over 10,000 requests for information each year public-- for first reports each year. So I ask you to carefully consider what you're asking us to do if in 10,000 records requests each year, we're going to have to identify those to see whether they're within 60 days to look at the purposes for which they've been filed and send denial letters out to individuals who have requested records that don't meet the specific requirements of the public record statutes. LB667 would add administrative steps to the process of fulfilling public records that would require us to track that timing of the request. It would also require us to inquire as to the reasons why public records requests are being made. Generally as a public entity, we, we don't request reasons why public records requests are made, so that would be a change. We also try to seek efficiencies in the operations of our business. So we would ask you to carefully consider before you ask us to create something that is not streamlining our processes. We'd ask you to carefully consider that before you do so. The role of the court in answering questions, Mr. Dyer summarized it for you. We can provide public information. We can tell people what the statutes say, but we don't have the ability to explain to people how those statutes or court rules may apply to them. And when you think about it, we're, we're a court. We have an administrative branch. We have a judicial branch. The judicial branch is established for the purpose of resolving disputes between employers and employees as to claimed workplace accidents. So we can't have

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people on the administrative side guessing how our judges might answer questions. So we are not able to provide legal advice to anybody. If they say, should I file a petition in this case? We have to say you have the option to file a petition if you choose to do that. But we can't go farther than that. So please understand that. With respect to the information itself that is provided as part of the public records requests, there has been a comment made about how attorneys do seek public records from us as to first report information. There are not medical records that are produced by us. There are in most of the cases in which attorneys are making the requests, they're either receiving a copy of the first report or they're receiving a spreadsheet with certain data fields that they have requested. And most of them, approximately 50 attorneys per week, request date report was filed with the court, employee first and last name, employee address, date of injury, employer name, employer address, insurer name, claim administrator name, part of body, which might say something like multiple or it might say low back, fingers, lower leg, abdomen, or the like. Nature of injury. Again, it may say multiple or it may say something like laceration, contusion, fracture. Cause of injury. It may say something like slipped, motor vehicle accident, tool, repetitive motion, something like that. And then there's a narrative field for a description of the accident, which is filled in to various levels by those who report information to us, various levels of detail. Occupation, county of injury and zip code of injury. So that's the type of information that is generally provided, either a copy of the full first report. But in terms of medical information, the data fields that I just read to you are the information that they would receive even if they requested the full report. So with that, I would ask if you have any questions, but would just comment that we as a court do not provide legal advice to people. We can make resources available. We do send letters to each person for whom a first report is filed, directing them to our website if they want general information. But we can't go beyond that. Any questions?

B. HANSEN: Thank you. Are there any questions on the committee? All right,--

JILL SCHROEDER: All right, thank you.

B. HANSEN: --seeing none, thank you. Anyone else wishing to testify in a neutral capacity? All right, seeing none, we'll welcome back, Senator Halloran, for closing.

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HALLORAN: Thank you, Mr. Chairman. Again, I'd like to ask the committee to consider a question of why Nebraska currently grants confidentiality protection to unemployment insurance records and why we shouldn't do the same for first injury reports? It seems like, it seems like there should be a, a parallel there with being able to offer a period of time where there's some protection from or allowing those insurance records to have a waiting period before access. I think in my, in my initial statement, it was kind of indicative to me that some efforts have been made to amend. There's been a long track record, as Mr. Hallstrom pointed out, and Senator Lathrop can attest to, a long track record of this, this being proposed to this body. And, and those, those exceptions that I pointed out, I think are kind of an indication of, in, in effect, amending some of those more original efforts to do this. In other words, we have exceptions: reports would be required to be released to parties for litigation whether employer or employee; (b) be given to state and federal authorities for research and investigation purposes; (c) allow redacted information be made available to third parties for the purpose of determining the nature of injuries sustained within a workplace without identifying any specific individuals; and (d) be released to a nonprofit organization for the purpose of sending convalescents to providing a memorial for in offering grief counseling to family members of employees whose death has been caused by a workplace incident. I guess in closing, I'd like to say that I, I have hardly ever seen or known anyone who doesn't own a cell phone and most, most are Androids or Apples, very capable piece of equipment that have browsers on them. And unlike, unlike some, I will give the Nebraskan workers a little more credit that they can understand how to search for an attorney if they wish. And in a society that's bent towards more litigation than not, it would seem that, that would be the common thing that would happen, that they would search for their own attorney to help them if they felt they needed some help and assistance in this process. So I would encourage the committee to advance LB667 to the floor. I think it would, would deserve to have some floor conversation on this subject. Thank you, Mr. Chair.

B. HANSEN: All right, thank you, Senator Halloran. Is there any questions from the committee? Seeing none, thank you. And that closes the hearing for LB667. And we'll move on to LB-- oh, yes, I did have one, actually. And there is one letter for the record in support of

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LB667 and no written testimony. So with that, now we'll welcome,
Senator Slama, to introduce LB594.

SLAMA: All right, good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Julie Slama, J-u-l-i-e S-l-a-m-a, and I represent District 1 in southeast Nebraska. Today, I'm introducing LB594 to help address workforce issues that hinder major economic development projects from coming to rural Nebraska. While communities in our states such as Lincoln, Omaha, and Grand Island are growing, most rural areas in our state are not. Some rural areas are shrinking to the point that it's becoming difficult to staff needed services like law enforcement and emergency response services. Businesses are struggling to find needed help, which leads to stagnation and inevitably migration out of our rural areas. A statutory framework to spur rural economic development is imperative to pull rural Nebraska back from the brink. I hope that LB594 will begin the important discussion of how we can reduce barriers to economic development in rural areas and help rural Nebraska find the footing it needs to catch up with other communities in our state that are seeing growth. LB594 takes a creative approach to workforce shortages that often stall or burden large economic development projects in rural areas. These projects could be agricultural development, like we saw with the Lincoln Premium Poultry, Costco project a couple of years ago. It could also be for other businesses that may want to locate in rural areas, but have found it difficult to find a substantial workforce of qualified laborers to complete projects both on time and at a reasonable cost. Under LB594, an economic development project may petition the Department of Economic Development for waivers or modifications of certain regulatory provisions necessary to safely overcome workforce shortage challenges. However, the project may only petition the department if they are eligible for tax credit incentives from the state through programs like ImagiNE Nebraska and can demonstrate a shortage of qualified workers within a 50-mile radius. The director of Economic Development would have the authority to determine what waivers or modifications are appropriate in conjunction with the state agency overseeing the industry. Our rural areas need the help of the Legislature. LB594 is a solid step toward spurring rural economic growth. Growing our rural economies is critical to maintaining the small- and medium- sized communities at the heart of our state. We are still working with the Department of Economic Development and interested stakeholders to fine

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tune this legislation. So it's still a work in progress. A representative testifying after me will be able to go in greater detail about these conversations and the technical details of the bill. Our state has prioritized growing Nebraska's economy through economic incentives. LB594 is a step towards ensuring that growth can be spread across the state. I urge you to advance LB594 to General File, and I would be happy to answer any questions you may have.

B. HANSEN: All right, thank you. Are there any questions from the committee? All right,--

SLAMA: All right.

B. HANSEN: --seeing none, thank you.

SLAMA: Thank you.

B. HANSEN: We will welcome our first testifier in support of LB594. Is anyone wishing to testify in support of LB594? All right, seeing none, is there anybody wishing to testify in opposition to LB594? With that, is there anybody wishing to testify in a neutral capacity to LB594? All right, Senator Slama, we'll welcome you back to close.

SLAMA: I think you'll find in your record a lot of written testimony in support of this bill. And up until now, I thought I had a couple of proponents. But again, I look forward to continuing to work and get this bill across the finish line.

B. HANSEN: OK, is there any questions from the committee at all? I just have one quick question just pertaining to the bill.

SLAMA: Yes, sir.

B. HANSEN: So with something like this, would this-- so if they change some kind of regulations, would that, would that at all maybe supersede any kind of local authority? So would the, you know, building code would still to be met and also that kind of stuff?

SLAMA: Um-hum. So I'm not an attorney, attorney, so I'm not sure on that front. But I can follow up with you afterwards.

B. HANSEN: That's good. That's the only question I had, so. OK, thank you. I appreciate it.

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SLAMA: Thank you.

B. HANSEN: All right. And with that, there was some letters for the record. There was two letters for the record in support, and there was one in opposition, so. And there was no written testimony, so. With that, we will close LB594, and we will open up for LB512. Welcome.

MICHAEL FERGUSON: Thank you, Senator Hansen, members of the, of the Business and Labor Committee, my name is Michael Ferguson, M-i-c-h-a-e-l F-e-r-g-u-s-o-n. I am Senator Brewer's administrative aide. He is unable to be here today for medical reasons, so he asked me to sit in for him. Senator Brewer represents the 43rd District of 13 counties of northwestern Nebraska. I'm here to introduce LB512. Critical infrastructure employees work to protect our communities while ensuring continuity of functions critical to public health and safety, as well as economic and national security. Critical infrastructure employees need to be afforded every privilege and prioritized during a, a declared emergency. While state legislators play a key role in emergency management, that rule is primarily exercised long before an emergency is declared, often by passing laws to shape how an executive branch and state agencies are to respond to emergencies. It enables a coordinated response and recovery when an emergency strikes. That being said, Nebraska needs to update the way we manage declared emergencies. That is what LB512 aims to do. It is a step to protecting critical infrastructure utility workers. These legislative foundation utilities not only power and heat our homes and businesses, they fuel our vehicles and power hospitals and public safety institutions. [INAUDIBLE] to key critical utility infrastructure and workers have the potential to threaten the health, safety, and well-being of all Nebraskans. These critical energy workers support and preserve the infrastructure and operation centers critical to maintaining the backbone of our society. By prioritizing their health and safety for vaccine distribution alongside other frontline workers, we assure continuous distribution of energy and utilities to Nebraska's rural and urban communities. Now please understand, this is for a limited pool of highly skilled workers whose expertise have been deemed necessary to be continued-- to the continued reliable operation of utilities. If one member of that team is compromised, the whole team could be compromised. Given the specialized knowledge and required-- the specialized knowledge required to perform these functions, it is critical that they are protected. This issue is not unique to Nebraska and all states are

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dealing with this problem. The federal government has weighed in on this as well. In March of 2020, the U.S. Department of Homeland Security issued guidance on the essential critical infrastructure workforce to be prioritized. The Secretary of Energy advocated for critical infrastructure workforce, as did the U.S. Federal Energy Regulatory Commission. That's a lot of words. I'm sorry. Nebraska needs to address this sooner rather than later. I will do my best to answer any questions you may have, but I do believe there are some testifiers following me that would be far greater and more knowledgeable to answer any questions you have.

B. HANSEN: All right. And actually, typically with anybody introducing besides the senator, we'll just kind of hold off on questions for now and see what other testifiers [INAUDIBLE].

MICHAEL FERGUSON: That makes me even more excited, Senator Hansen.

B. HANSEN: All right, thank you.

MICHAEL FERGUSON: Thank you very much.

B. HANSEN: All right, with that, we'll take our first testifier in support of LB512. Welcome.

JAVIER FERNANDEZ: Thank you. Good afternoon. Chairman Hansen, members of the Business and Labor Committee, my name is Javier Fernandez. That is J-a-v-i-e-r F-e-r-n-a-n-d-e-z. I am the vice president and chief financial officer of the Omaha Public Power District, OPPD. And I am testifying on behalf of OPPD. Thank you for the community-- for the opportunity to testify in front of the committee on this important legislation. I want to express OPPD's support of LB512, a bill to adopt a Critical Infrastructure Utility Worker Protection Act. And I would also like to, like to thank Senator Brewer for introducing this commonsense bill. I am also testifying in support of-- on behalf of the Nebraska Power Association, which is a voluntary association, association representing all of Nebraska's approximately 165 consumer-owned public power systems, including municipalities, public power districts, public power and irrigation districts, rural public power districts and rural electric cooperatives engaged in the generation, transmission, or distribution of electricity within Nebraska. OPPD is a political subdivision of the state. It is a publicly owned electric utility engaged in the generation,

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transmission, and distribution of electricity. We serve an estimated population of about 855,000 in a 13-county, 5,000-square-mile service area in southeast Nebraska. Our critical infrastructure employees, mission essential employees work to protect our communities while ensuring continuity of functions critical to the public health and safety, as well as economic and national security. OPPD critical infrastructure employees need to be afforded every privilege and prioritization during a declared emergency based upon their job function and exposure to risk to best ensure continuity of the essential goods and services they support. As we all saw a couple of weeks ago that was very, very important for the electrical industry to, to support. OPPD workers conduct a range of operations and services that are essential to continued critical infrastructure viability, including staffing operation centers, maintaining and repairing critical infrastructure, operating call centers, working construction, and performing operational functions, among, among others. OPPD workers support crucial supply chains and enable functions for critical infrastructure. The industries OPPD supports represent, but are not limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement, and public works. Virtually everything needs electricity. We understand that not all declared emergencies are the same. They may involve different areas and individuals, different circumstances and challenges. But the one thing that is the same in all of these emergencies, addressing any emergency is exponentially, exponentially more difficult without utilities. We just want to make sure that our workers that are critical infrastructure employees can continue to do their job safely so that other first responders can do their job, too. We want to make sure that our customer owners have reliable utilities to deal with the emergency that they are experiencing. Now we have also heard concerns with including utility workers with first responders and in no way does this hinder police, healthcare, fire, EMS, etcetera, from their prioritization of personal protective equipment, vaccines, or other safety measures first. This is a safety measure that will allow critical infrastructure employees to continue to perform their job duties that approximately balance public safety, the health and safety of the workforce, workforce, and the continued delivery of essential critical infrastructure services and functions. We have also heard that the critical infrastructure utility worker definition is too broad. It is my, my understanding

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that General Bohac has expressed his concern with this legislation as well. We will work with Senator Brewer, the committee, and General Bohac quickly to narrow the classifications/numbers of critical infrastructure employees to only the truly essential and any other issues that-- to only the truly essential employees and any other issues that need addressing so the bill can move forward. OPPD supports the inclusion of critical infrastructure employees in the state designation of critical infrastructure workers as it pertains to prioritization of personal protective equipment, vaccines, or other safety measures in response to a pandemic or other state emergency declaration. Thank you for your consideration of my testimony and I will answer any questions that the committee may have.

B. HANSEN: All right, thank you. Are there any questions of the committee? Yes, Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. And thank you for your testimony. How many employees does OPPD have?

JAVIER FERNANDEZ: Approximately, 1,800.

GRAGERT: So with this bill, would you be looking at all 1,800 to be prioritized?

JAVIER FERNANDEZ: No, Senator. With this bill, what we would be looking at is, is those critical employees, those critical functions, somewhere around between 50 and 60 percent of our employees. The other portion of our employees, are employees like myself, who can perform my job at home from a computer at home where I don't have to go into a facility. I would not be part of that, of that group. But our linemen, our, our operators in our plants, our operators in, in our transmission centers, those are the operators who have to be in facilities where essential to keeping the, the grid operating.

GRAGERT: Thank you.

JAVIER FERNANDEZ: That's the group of employees.

GRAGERT: Thank you.

B. HANSEN: Any other questions? OK, seeing none, thank you very much.

JAVIER FERNANDEZ: Thank you very much.

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B. HANSEN: We'll take our next testifier in support of LB512.

MARY JACOBSON: Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Mary Jacobson, M-a-r-y J-a-c-o-b-s-o-n, and I'm a registered lobbyist appearing today on behalf of USIC, the largest utilities locating company in North America in support of LB512. Timely and accurate locating and marketing of underground facilities is a key tenet of Nebraska's One-Call Notification System Act and helps prevent damage to underground facilities and potential safety hazards for communities and facilitates disaster response efforts. Locates are required every time excavation is performed near an underground facility. USIC provides locates for utilities including gas, telecommunications, electric, sewer, water, and fiber, as well as for municipalities. Their core business is protecting underground infrastructure from damage, protecting communities from dangers associated with excavation, and providing essential services for the repair and maintenance of utilities' critical infrastructure in response to disasters. The pandemic and our recent winter weather event have highlighted the importance of maintaining a stable utility network to ensure Nebraskans have access to reliable electricity, water, gas, and telecommunications. We thank Senator Brewer for introducing LB512 to prioritize protection of utility workers during an emergency event. And we appreciate his willingness to amend LB512 to include locators as part of the essential critical infrastructure workforce. We would ask that the Business and Labor Committee support amending LB512 accordingly, if this bill is advanced. If USIC workers are unable to perform their jobs, there is a risk of loss of utility service and a viable threat is presented to the life, health, and property of our communities. Thank you for the opportunity to testify and I'm happy to answer any questions.

B. HANSEN: All right, thank you. Is there anybody-- any questions from the committee at all? All right, seeing none, thank you.

MARY JACOBSON: Thank you.

B. HANSEN: Is there anybody else wishing to testify in support of LB512? Welcome back.

SUSAN MARTIN: Good afternoon, Chair Hansen and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n,

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testifying on behalf of Nebraska State AFL-CIO and our over 20,000 union members in the state of Nebraska in support of LB512. Nebraska has been through a lot over the past couple of years dealing with natural disasters such as flooding and the current health crisis. We recognize the risk to our healthcare providers and our first responders, as well as essential workers such as grocery store workers and the employees in the meat and food processing industry. But there's other heroes of natural disasters. These are critical employees. These are the men and women working in the utility industry. These are critical employees to our infrastructure and put their lives on the line to continuously help the consumer weather the emergencies that we face. During this pandemic and natural disasters such as the flooding two years ago, these heroes are somehow forgotten. These are critical jobs that must go on during a health crisis or a natural disaster to keep our water clean and flowing, our lights and laptops on. Many shelter in place to keep our infrastructure running and many have the contingency plans to make sure that there are no disrupt-- disruptions in utilities. It just makes sense to further solidify the need to protect these workers so that they have the necessary protections during any civil defense emergency, disaster, or health crisis. We think this is a good bill and would ask for your support in passing out a committee for full floor debate. And we thank Senator Brewer for recognizing these workers who are such a critical part of our infrastructure.

B. HANSEN: All right, thank you for your testimony. Is there any questions from the committee? All right, seeing none, thank you again.

***TIP O'NEILL:** My name is Tip O'Neill, and I am President of the Nebraska Telecommunications Association. The NTA is a trade association that represents a majority of companies that provide landline voice and broadband Telecommunications Services to Nebraskans across the state. We support LB512. The deployment and maintenance of telecommunications infrastructure and service are critical to Nebraska residents in times of crisis. The ability to call 911 for emergencies, the ability to work from home, and the ability to receive educational services when schools are operating virtually are imperative, and our front-line telecommunications workers need to be available to ensure that reliable and dependable services are available to Nebraskans. We believe the provisions of the Critical Infrastructure Utility Worker Protection Act, in providing priority access to essential utility workers, is integral to the preservation of services that our citizens

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our COVID-19 response protocol

will need when the next disaster, emergency, or pandemic inevitably arises. This bill should allow the state to be better prepared to face those challenges. Please support LB512. Thank you for your consideration.

B. HANSEN: Anybody else wishing to testify in support of LB512? All right, seeing none, is there anybody that wishes to testify in opposition to LB512? Welcome, General.

DARYL BOHAC: Well, good afternoon, Chairman Hansen and members of the Business and Labor Committee. I am Major General Daryl Bohac, D-a-r-y-l B-o-h-a-c, and I serve as the adjutant general for the Nebraska Military Department and the director of Emergency Management Agency. I'm here today to testify in opposition to LB512. LB512 circumvents the authority of emergency management for other government agencies to provide services or resources based on science or data. As in all responses to any disaster or public emergency, managing or identifying resources is not cut and dried. Decisions have to be made regarding access to resources based on availability, need, life, health, and safety issues. In August of 2020, the Department of Homeland Security did indeed publish an advisory memorandum regarding critical infrastructure workers. It identified 18 different service sectors, of which utility workers are part of one of those sectors. Nowhere else in Nebraska statutes or policy are other categories addressed. This bill would compel decision points based on statutory definitions and limit the discretion of elected or appointed officials to manage resources and provide guidance. LB512 would also expand eligible entities for reimbursement of costs to preclude private sector providers as well as public utilities. The bill would require public and private utility providers to receive up to 100 percent reimbursement from the Governor's Emergency Program for disaster response and recovery costs, including costs not currently eligible for federal or state reimbursement. This is concerning because not all disasters or emergencies will qualify for a federal major disaster declaration. As written, LB512 would qualify private sector providers of utility and telecommunication services for compensation in the event of any emergency proclamation issued by the Governor. Many emergencies present a significant threat to the health and safety of Nebraskans. So there are many times that the mandates in the bill are triggered or could be triggered. Also, LB512 identifies a critical infrastructure utility worker as anyone employed in the state who addresses either public or private sector utility infrastructure

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activities such as construction, repair, maintenance, management, or operation of these systems. Under a federal disaster declaration, the FEMA Public Assistance Program requires the applicant to demonstrate any employee cost and the type of work performed by the employee to have a direct nexus to the disaster response or recovery activities. In addition, LB512 would shift the costs associated with the number of worker safety or worker compensation requirements away from the employer and to the state of Nebraska. In closing, LB512 would require significant additional costs to be paid from the Governor's Emergency Program, increasing the amount that would be annually requested to ensure the ability to timely respond to all disasters, provide preferential treatment of utility and telecommunication entities with 100 percent guarantee of state payment of claims, and limit the discretion of elected or appointed officials to manage resources and provide guidance. I'm available to answer any questions you may have, and I thank you for your attention. Thanks.

B. HANSEN: All right, thank you for your testimony. Are there any questions from the committee? Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. General, thank you. Thank you for your testimony. You know, I've had the opportunity to work with you guys a lot during the flood and spent a lot of years on the fire department, volunteer fire department. And I think electricity is a, is a need right at the top. And I'm sure you probably agree with that. Is the, is the whole bill about some of the wording in here and that you could work, you know, with this bill to get it to prime time?

DARYL BOHAC: Well, Senator, thank you for the question. Let me say this to start for an answer. There's not a debate for me about whether utility workers are critical infrastructure workers, they are. That-- that's not the question. The question is how should they be treated and should we be mandating priorities if we're not considering the other service sector workers? And then secondly, you know, the, the costs that's incurred by the way the bill is written now, we can't even ride a fiscal note because you can't predict against something that hasn't happened. So I guess the long answer is yes, Senator, we're always willing to have discussions and work with others.

GRAGERT: Is-- do you see where there is a possibility of with getting this in, in line for getting a utility and specifically the electricity individuals, where, I guess, I'm at the opinion that

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they're needed in a emergency declared by the President and/or the
Governor?

DARYL BOHAC: Well, I, I think that's worthy of discussion, Senator. But how do they-- and, and I appreciated the gentle-- earlier gentleman's testimony about recognizing we're not trying to create a competition, but this bill does that. That's the problem with the bill. And, and so how do you, how do you legislate priorities if we're not considering anybody else, any of the other critical infrastructure workers? Let me, let me point out a couple of things that if, if we elevate them beyond where perhaps they were considered in the current pandemic response, then who, who should-- and nobody is making this argument, but this is where this could lead potentially, is that they receive a priority of somebody who's more at risk from dying from, from pandemic issues than they are-- than the utility worker, because there's other measures as were identified by the earlier testimony that can be taken to protect those workers.

GRAGERT: Thanks a lot.

DARYL BOHAC: Thank you, Senator.

B. HANSEN: Any other questions from the committee? All right, seeing none, thank you for testifying.

DARYL BOHAC: Thank you, Senator.

B. HANSEN: Anybody else wishing to testify in opposition to LB512?

ANGELA LING: Good afternoon, Chairman Hansen and boards-- or members of the Business and Labor Committee. My name is Angela Ling, A-n-g-e-l-a L-i-n-g, and I am the incident commander within the Department of Health and Human Services, DHHS. I'm here to testify in opposition to LB512. If enacted, LB512 will hinder emergency response planning in current and all future events. Each emergency situation is unique, and many involve extreme threats to human health. This may range from flooding and wildfires to chemical spills, mass violence, and pandemic-- or pandemics. As a result, each response and plan must be designed to confront the specific situation. Mandating that critical infrastructure workers are given the same priority as hospital medical personnel, law enforcement personnel, and other emergency responders may not be the best decision in all situations

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our COVID-19 response protocol

and could leave populations most at risk without critical services and equipment. In public service, we must carefully balance the risks and benefits of each situation ensuring equitable decision-making, recognizing that each day our decisions have life or death consequences, especially in emergencies. Eliminating some of that flexibility would prevent our professionals from doing this effectively. Specifically regarding COVID-19 vaccination distribution, the current measures are determined based on guidance from the U.S. Centers for Disease Control and Prevention, the CDC, and ACIP, the Advisory Committee of Immunization Practices. Nebraska is in Phase 1B of our rollout of vaccinations, which includes prioritizing persons who are 65 or older and critical infrastructure workers. Many utility workers have already received vaccination and if they have not, they will be scheduled in the next one to two weeks. We respectfully request that the committee not advance this legislation. Thank you for the opportunity to testify today and I'm happy to answer any questions.

B. HANSEN: All right, thank you. Is there any questions from the committee at all? Yes, Senator Halloran.

HALLORAN: Thank you, Mr. Chairman. Thank you, Miss Ling for being here. So I'm, I'm curious if-- can you give me an example of an emergency situation where lacking electricity or utilities would facilitate, facilitate any of the-- any, any law enforcement, first responders, whatever the case may be, can you, can you name an example of some, some disaster that without electricity we'd be better off?

ANGELA LING: Sure. Thank you, Senator, for that question. I, I agree that there is none. Right? Electricity is by far important. The most important. However, what I think this is, is saying that every situation is different and the categories are broad and, therefore, it's going to be difficult to, to make those determinations. I think just based on the 1B prioritization for vaccinations, the, the power is right up by first responders and that's how important it is. So I think it's just the fact that it's mandating information versus allowing us to make those decisions.

HALLORAN: OK, thanks.

B. HANSEN: Any other questions? Seeing none, thank you very much.

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our COVID-19 response protocol

ANGELA LING: Thank you.

B. HANSEN: All right, anybody else wishing to testify in opposition to LB512? All right, seeing none, is there any that wish to testify in a neutral capacity to LB512? Seeing none, that will close our hearing for LB512. And we did have-- forget about it. We did have one written testimony in support of LB512 from Tip O'Neill from the Nebraska Telecommunications Association; and two letters of-- letters for the record in support. Now with that, we'll move on to LB632 and welcome, Senator Bostar, to his Business and Labor Committee. All yours.

BOSTAR: Good afternoon, Chairman Hansen and members of the Business and Labor Committee. I'm Senator Eliot Bostar. That's E-l-i-o-t B-o-s-t-a-r. I represent Legislative District 29. I'm here to present LB632, a bill designed to increase the accessibility of the InternNE Grant Program for low-income and first-generation college students and address needs in the grant program, and address needs in the grant program so that it may meet its full potential it serves-- as it serves the young people of our state. The need for talented, qualified workers in Nebraska is clear. Research initiatives ranging from Blueprint Nebraska to Nebraska Department of Labor reports to the Aksarben Foundation stakeholders meeting annual report have all identified a lack of qualified workers as a priority for economic growth in our state. Blueprint Nebraska points out that Nebraska has difficulty retaining and attracting young talent. Ranked 39th among all states, Nebraska recorded one of the lowest growth rates of 25 to 29 year olds at 0.5 percent from 2013 to 2018. Nebraska is losing people in the competition for talent to other states. The Aksarben Foundation workforce development report argues that we must create a culture that attracts and retains talent and that failing to advance the talent of our student population is another form of brain drain that has adversely impacted the economic well-being of Nebraska. The justification for internships leading to full-time employment is also clear. Here in Lincoln, the Department of Labor 2019 hiring and training report identified a lack of applicants, lack of occupational skills, and lack of work experiences as the major barriers to business expansion and hiring. The potential for student talent meeting employer needs is clear when you review the positions listed. You can see quality opportunities posted in high-demand, high-wage areas like manufacturing, technology, and finance in businesses all across the state. Here is just a few examples that I found during a cursory search: Data Science Intern at CATCH Intelligence in Omaha, First

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our COVID-19 response protocol

National Bank Intern in Chadron, Drafting Intern at Orthman Manufacturing in Lexington. The InternNE program has been successful and well received, but has not yet achieved its full potential in meeting demand. It is my understanding that historically the committee has expressed concern as to whether InternNE funds were appropriately targeted. LB632 addresses this by focusing additional internship funding to businesses partnering with first-generation and low-income college students. We know that these students already suffer from an opportunity and achievement gap. LB632 and InternNE will put these students on a career and wage earning track during their university careers that will give them meaningful chances at employment and economic mobility. Other testifiers today will discuss the value of this program and the technical details. So I will close with one final point, Blueprint Nebraska has set a goal of attracting new residents to our state by leading peer states and building the population of 18 to 34 year olds. This legislation is a tool to achieve that goal. This legislation will not only open doors to new opportunities for students, it will also help Nebraska achieve our long-term goal of attracting and retaining the best and brightest students to grow our agriculture, manufacturing, tech, healthcare, and other industries. And of equal importance, grow our communities as well. I would encourage you to advance LB632. Thank you for your consideration and your time and I'd be happy to answer any questions.

B. HANSEN: Thank you for your testimony. Is there anybody from the committee that wishes-- has any questions? Yes, Senator Hunt.

HUNT: Thank you. This is, this is a little ignorant and basic, but can you explain to me how this would work? I was trying to listen to your opening, and I, I don't know if I caught it. So this helps first-generation students, but how does it work?

BOSTAR: So one thing I'll say is that behind me, there will be individuals with far more focused technical expertise of the specifics of the program that have-- spend more time around the program specifically. But I'll say that the internship program itself certainly already exists and receives funding out of the, the job training cash fund or at this point, the customized job training cash fund. And specifically what the bill aims to do is to focus the dollars on, on funding for low-income and first-generation college students in order to assist in economic mobility development. The mechanics of applying-- and, and that, that sort of-- if that's what

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our COVID-19 response protocol

your question is geared towards, I might-- I have some idea, idea, but
I think that others might have a much more clear answer for you.

HUNT: OK, I've used InternNE for years and years and years to, to get
workers for my company. And I've hired almost everybody who ended up
coming to me from InternNE. So I know some things about the program.
And I'm just wondering how this incentivizes business owners to
utilize these, these workers? So.

BOSTAR: Well, I think--

HUNT: Like, what, what is the incentive, is it more, more funding,
additional funds?

BOSTAR: Yes,--

HUNT: OK.

BOSTAR: --it, it certainly is funding. Absolutely. And in this, this
bill-- and of course, you know, the committee can, can choose to do
with it what it pleases, but as written, it would be an allocation of
\$10 million.

HUNT: OK, thank you.

BOSTAR: Thank you.

B. HANSEN: Any other questions from the committee? I, I got one just
quick question,--

BOSTAR: Yes, sir.

B. HANSEN: --and maybe somebody else after you can answer it. Does the
current InternNE Grant Program have a set-- a wage they have to pay?
Like, so much per hour or is that something new with this one?

BOSTAR: You know what, I'm going to-- so, yes.

B. HANSEN: OK.

BOSTAR: So all right, the break down, it has to do with the population
of counties since, since not every area of the state is, is the same,
obviously. So for counties with less than 100,000 people, it would be

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our COVID-19 response protocol

\$9 to \$13 an hour. For counties with more than 100,000 people, \$9 to
\$15 an hour.

B. HANSEN: OK. All right, thank you.

BOSTAR: Thank you.

B. HANSEN: All right, and then since there are no other questions,
we'll look forward to your closing then here.

BOSTAR: Thank you, sir.

B. HANSEN: All right, and so we'll move on to any testifiers in
support of LB632. Welcome.

CRAIG BECK: Good afternoon, Chairperson Hansen and members of the
Business and Labor Committee. My name is Craig Beck, that's C-r-a-i-g
B-e-c-k, and I'm the fiscal analyst at OpenSky Policy Institute. We're
here to testify in support of LB632 because we believe a stronger
InternNE program would go far in supporting the state's economic
development goals. Three recent economic development reports,
including one from SRI International, one from the Center for Regional
Economic Development-- excuse me, Center for Regional Economic
Competitiveness, and one from Blueprint Nebraska have recommended
apprenticeship and internship programs as a means to better connect
students and underemployed people with jobs and career opportunities.
The CREC report focused extensively on a chronic shortage of qualified
workers many Nebraska employers face. It recommended a series of
changes to the InternNE program, specifically, in order to help
address both long-term and short-term shortages, including an increase
in funding to help it meet demand. The CREC report also recommended
providing interns with wraparound services, financial assistance for
childcare, transportation for low-income students, and legal help
with sponsoring international students. It also advocated for matching
funds for low-income and first-generation college students
participating in internships. LB632 would provide for all of these
recommendations in the program, and we believe that such provisions
will ultimately help the state retain the vital 18- to 34-year-old
demographic. A connection to a job or training after high school or
college is critical to keeping them here. Employers also view the
program as effective, and so we believe it is a good use of state
funds In its 2015 SR-- 2015 report, SRI International described the

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our COVID-19 response protocol

program as, quote, widely praised as a very effective way to secure a college to workplace pipeline, end quote, which has been a goal of each economic development report since 2010. Because we believe increasing access to the InternNE program will help mitigate the state's labor shortage and work to retain key residents to Nebraska's economic development success, we support LB632 and would urge the committee to advance the bill. Just really quickly to address Senator Hunt's question. So this bill would provide additional matching funds for low-income students in the amount of 50 percent of the grant not to exceed \$2,500 and 25 percent for first-generation college students, not to exceed an additional \$1,000 on top of the grant. And to answer your question, Senator Hansen. The, the wage is, is currently \$9 an hour in the InternNE program, and it would go to \$13 under this bill in counties of less than 100,000, and in counties of more than 100,000, it would go to \$15 an hour. So with that, I'm happy to answer any questions.

B. HANSEN: All right, any questions from the committee at all? Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. Thank you for your testimony. First-generation college students, can you first identify that-- or definition of that?

CRAIG BECK: Yeah, there is a definition in the bill. I can get it for you here, "means a student whose parent or parents did not complete a four-year college or university degree or who did not complete a two-year college or associate's degree."

GRAGERT: So they necessarily don't have to come from a low-income family then?

CRAIG BECK: Not under that specific provision. They, they would qualify for additional matching funds as a first-generation college student, but that-- those matching funds would be less then for the low- income student.

GRAGERT: OK, thank you.

B. HANSEN: All right, any other questions from the committee? Seeing none, thank you very much.

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our COVID-19 response protocol

***JASON HAYES:** Good afternoon, Senator Hansen, and members of the Business and Labor Committee. For the record, I am Jason Hayes, Director of Government Relations for the Nebraska State Education Association. NSEA supports LB632 and thanks Senator Bostar for introducing this bill. NSEA supports paid internship programs. Students with the experience of paid internships receive more job offers, can expect an increased earning power, and are more prepared to enter the workforce than those who do not have the same opportunity. This program would help students to work on their craft and complete their education without incurring a mountain of debt. There are elements of this bill that could provide opportunities for low-income and first-generation college students that would otherwise not be available. LB632 outlines support from financial assistance for childcare to wrap-around job coaching. The bill can be a foundational block in Nebraska's efforts to retain a skilled workforce and work toward economic justice. NSEA especially recognizes the many benefits of this program for people looking to create a better opportunity for themselves, their families, and their communities. This program would be an important program to grow Nebraska and to support individuals to realize their potential and remain as productive citizens in our state. We also hope future legislative bills would extend this same paid experience opportunity to student teachers who are preparing for a career in the classroom. The NSEA offers this testimony on behalf of our 28,000 public school teachers, higher education faculty and other education professionals across the state. We urge advancement and passage of LB632.

***SPIKE EICKHOLT:** Thank you, Chairperson Hansen and members of the Business and Labor Committee. My name is Spike Eickholt and I am a Lobbyist for the ACLU of Nebraska. The ACLU offers its full support of LB632 and we would like to extend our gratitude to Senator Bostar. The ACLU works with teachers, parents, students, community members, and legislators to ensure equality and dignity for all students in Nebraska schools. In pursuit of a world free of discrimination and a Nebraska that is true to the state motto of "Equality Before the Law," the ACLU of Nebraska works in coalition with other civil rights groups and advocates in Nebraska to lobby in local and state legislature and support grassroots movements. LB632 will provide better accessibility to the Intern Nebraska grant program to low-income and first-generation college students. First-generation and low-income college students have already accomplished so much just by stepping

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onto campus, but this step also marks the beginning of several challenges including finding well-paid internships or summer jobs to begin building up their resume. LB632 allocates specified funding for low-income and first-generation college students thereby ensuring all Nebraska students have an equal opportunity to internships in their desired field. We thank Senator Bostar for introducing LB632 and urge the committee to advance the bill to General File.

***JUSTIN BRADY:** Chairman Hansen and members of the Business and Labor Committee; My Name is Justin Brady, I am testifying as the registered lobbyist for the Homebuilders Association of Lincoln and Metro Omaha Homebuilders Association in support of LB632 and would ask that this testimony and support be made part of the committee statement. LB632 would establish a subaccount within the Job Training Cash Fund and provide other provisions to increase accessibility of the Intern Nebraska grant program for low-income and first-generation college students. One of the major contributing factors for the lack of affordable workforce housing in the state is the shortage of skilled labors in the building trades. The increased funding from LB632 would aid current companies in encouraging and educating students in the trades and should help alleviate some of that labor shortage. We would respectfully ask for this committee to advance LB632. If you have any questions, please do not hesitate to reach out to the Homebuilders Association of Lincoln, The Metro Omaha Homebuilders Association or myself. Thank you.

B. HANSEN: All right, we'll take our next testifier in support of LB632. All right, anybody wishing to testify in opposition to LB632? Anybody wishing to testify in a neutral capacity? All right, with that, we'll welcome back, Senator Bostar, to close.

BOSTAR: Thank you, Chairman Hansen and members of the Business and Labor Committee. LB632 is designed to increase the accessibility of the InternNE Grant Program for low-income and first-generation college students and address needs in the grant program so that it may meet its full potential as it serves the young people of our state. I would encourage you to make a meaningful investment in a talented, qualified workforce for Nebraska by supporting LB630 [SIC]. Thank you again for your time and I'd be happy to answer any final questions.

B. HANSEN: All right, any questions from the committee? All right, seeing none, thank you very much. Appreciate it.

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our COVID-19 response protocol

BOSTAR: Thank you very much.

B. HANSEN: With that-- before I forget, we did have some written testimony in support from: Justin Brady, from the Home Builders Association of Lincoln; Spike Eickholt, from the ACLU; and Jason Hayes, from the NSEA. And we did have three letters for the record in support. And that will close our hearing for LB632. And with that, we'll take a very short five-minute break before we hear our next hearing for LB241.

[BREAK]

B. HANSEN: All right, well, I think we're ready to resume, so we will open it up to LB241. And welcome, Senator Vargas, to open.

VARGAS: Thank you, Kennedy. Good afternoon, Chairman Hansen, members of the Business and Labor Community-- Committee. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s, and I have the honor of representing District 7, communities of downtown and south Omaha here in our Nebraska Legislature. Now I'm handing out a one pager just for your information. Over the last year, I've been working closely with workers at meatpacking plants across the state, their families, and other grassroots advocacy groups that represent the interests of these workers and their families. What I have heard about what is happening in these plants, the treatment of workers, the lack of follow-through on implementing safety and health measures, the misinformation spreading across our state that everything is fine, and the failure of the Legislature and our Governor to act to address all this is what brings us here today to this hearing. This is not the first action that I have taken to address this issue. Many of you have joined the calls and meatpacking workers so you can hear from them directly, so you can hear from them directly regarding their experiences at work. Now last summer, 23 fellow senators joined me in cosigning a letter to Governor Ricketts, asking him to take action on these issues. But nothing happened. I renewed our call to action before we resumed the paused legislative session in the summer. But still nothing happened. And when we reconvened in July, I attempted to suspend the rules and introduce new legislation and that motion failed. So I introduced AM3238, LB241 is what-- so I introduced AM3238. LB241 is the same as AM3238. This bill will enact the necessary provisions that we need to have in place for health and safety protections for meatpacking plant workers during the COVID-19 pandemic. The result of these provisions

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our COVID-19 response protocol

not making it into law months ago is seen in the increase in the number of cases and the number of hospitalizations and deaths related to COVID-19 in our meatpacking plants. Now since August, 2,000 more workers have tested positive for COVID-19, 22 more workers were hospitalized from complications related to COVID-19, and 5 more workers lost their lives. I do not take this lightly and you should not take this lightly either. As of the most recent numbers that I can get from DHHS, 7,072 meatpacking plant workers have tested positive for COVID-19, 7,072 meatpacking plant workers tested positive for COVID-19; 225 [SIC] of those were hospitalized and 27 have died. And those are just the numbers for the workers themselves. They do not account for community spread, bringing it back to their home. And I'm sure many of you have heard from meatpacking plant workers, their families, and other advocates over the past several months. I know they have communicated with the Governor and with employers about these concerns and issues, but their concerns and cries for help have not been acknowledged or addressed in the way that they should be. Here is the context that I'm viewing all of this through. It's based on data and it's based on what I've heard from countless meatpacking plant workers across the state. The vast majority of meatpacking workers are not white. Most are Latino. Many are refugees or immigrants from other countries around the world. Eleven percent of the population in Nebraska is Latino. But at one time they represented nearly 60 percent of our COVID-19 cases across the state and more than 25 percent of all deaths. I just want you to think about that. Consider the impacts that COVID in these meatpacking plants has had, not just on these workers, but in all of our communities it has spread to from those plants. I want you to think about the people who have died, not just the workers, but others who have contracted COVID-19 after catching it as it spread out from those plants. And I think about what those deaths mean to those families' financial stability and well-being. You all know this issue of COVID-19 is incredibly personal to me. It's not just because I'm a son of Peruvian immigrants, and it's not just because I represent a district that has more people of color in it than white people, more people in poverty than in the middle class, more renters than homeowners, and more people without access to health insurance than do have health insurance. It's because these stories of these workers and their families relate very closely to mine. My parents immigrated here in the '70s and they worked in factories on the line, just like meatpacking plant workers do. I know how hard they work under these

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our COVID-19 response protocol

relatively normal conditions. And we're not talking about normal conditions, we're talking about COVID-19 pandemic. As a child, it was hard to see them experience the physical pain that they endured during these jobs. And knowing that, I cannot imagine what it would be like right now in these plants to be a child of a factory worker in the middle of a global pandemic, to know that your mom or dad leave home every day to work at a place where the virus is spreading, to watch as they go to work and contract the virus and continue to be sick or in the hospital, and that they can't work, to wait months for something-- for somebody to do something, for somebody to help your parents. But to not see that help come. Now, as you know, I lost my own father to COVID-19 about a year ago. And like these meatpacking plant workers, he was also considered an essential worker. After contracting COVID-19, he was hospitalized and spent 29 days on a ventilator before passing away. And it's almost been a year. I don't want any other family members to go through what I've gone through. I have said that before. We should be doing everything we can to prevent that from happening. Now while we are incredibly grateful for a vaccine, we are by no means out of the woods yet. And we have the opportunity to do something about it. And the we is senators. And that's why we're here today. The situation is urgent and it demands action from all of us. Actually, demanded action from us months ago, even more so now. And before I end my opening on LB241, I want to take a moment and recognize and thank the employees and family members of all those that are here to testify today. They are risking a lot to be here. And I want them to know that I understand and I appreciate you and I'm thankful for your courage in being here to share experiences with us in a public setting. I do want to thank this committee because I don't think you've-- I think you've taken this and you've been listening. But I'm also my wit's end. I think we should have taken action last year and we haven't yet. It is-- I had another bill earlier today that I was very much reminded again, that being a voice that is not a typical voice in the Legislature, being a person of color is a heavy, heavy burden. But I took on that burden. It is something that I know is a responsibility that I have. Seeing the number of individuals that have tested positive in these plants that come from low-income backgrounds, that are people of color, that are immigrants, that are refugees, and seeing that there are not enough people standing up for them, but we have the ability to do something about it amidst the pandemic in a very narrow way is the reason why we're here. And I'm asking for your support to do just that. Because I really-- I put on a

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good face, I really do. But every time I have to talk about this, I think about my dad. And it is infuriating to me that we have to lose loved ones and we can do something about it. With that, I'm happy to answer any questions.

B. HANSEN: All right, thank you, Senator Vargas. Are there any questions from the committee? Yes, Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. Thank you, Senator Vargas, for being here today and bringing this bill. Initially, you said initial was 25 percent positive rates from the, from the meatpacking plants, 25 percent positive rate. Is that what you, is that what you said?

VARGAS: It's depending on what point of time we look at last year. At any given time, probably in the late, early fall, we were seeing between 20 and 25 percent of the cases of COVID-19 across the state were meatpacking plant workers.

GRAGERT: Do you have any related, related-- like the latest data, is that still 20, 25 percent?

VARGAS: So we have some data that I have shared and others will reference more data. I'll give you some-- one, one point and then I'll make another. In the bill, it very specifically asks for data sharing with our public health departments and more transparency, because what we've seen is it's been piecemeal. It hasn't been transparent, especially as of recent at the end of last year. But what we continue to see from the data that we did have from public health departments is that there were hotspots even as recent as just this last week. This Friday, February 26, we had a case cluster of positive cases in JBS and, and the Central Health Department District had been analyzing all these cases and, and wanted to address it. And now they're speeding up vaccines to this community because they're seeing the spread of 50 more cases. So we're still seeing it.

GRAGERT: And with the vaccine, what percent are taking the vaccine already? Turning it down in the meatpacking plants, I'm sure there's probably some.

VARGAS: I can't speak to that, but I do think, in general, we have a responsibility and more to do to make sure people know that the

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our COVID-19 response protocol

vaccine is safe and accessible and one, one part of a larger solution
to this issue. It doesn't solve everything.

GRAGERT: Got you. Thank you.

VARGAS: Thank you.

B. HANSEN: Are there any other questions from the committee? I just
have one quick question first and I can always ask another one later,
but if this bill did go through, when would it take effect? Like, when
would the businesses have to start addressing these rules?

VARGAS: It's emergency clause. So it would take effect--

B. HANSEN: OK, I figured. I just didn't know for sure. That was one of
them, so. OK, thanks.

VARGAS: Thank you.

B. HANSEN: All right, seeing no other questions, I'm assuming you're
going to stay to close. OK. So with that, we'll start taking our
testifiers in support of LB241. And just to remind everybody that we
do use a light system for testifying. Each testifier will have five
minutes to testify. I'm not going to limit time for testifiers because
I know some of you have traveled a ways to kind of get here to make
sure that your guys' voices are heard. And so to just to kind of let
everyone know about the light system, it turns green and then once it
turns yellow, you have one minute left. And once it turns red, we ask
that you end your testimony so we can at least be expedient with
everybody else's time. So thank you. And with that, we'll take our
first testifier in support of LB241.

TONYA WARD: It's OK to take this off here?

B. HANSEN: Yeah, you can leave it on or take it off, whichever you
prefer.

TONYA WARD: Thank you. Good morning, Business and Labor Committee
members. My name is Tonya Ward, T-o-n-y-a W-a-r-d. I live at 4826
South 19th Street in Omaha, Nebraska. Thank you for allowing us all to
speak today. I'm speaking today as a member of LULAC Nebraska, which
is in Lincoln, the League of Latin American Citizens. I've been a
member of this council for the past three years. I'm also an elected

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member of the Learning Community of Douglas, Sarpy Counties, as well as wearing another hat as president and founder of Energy Rescue, Inc., a nonprofit 501(c)(3), where we serve as advocates for public utility justice and justice for all. We as LULAC support LB241 because this Legislature should show Nebraskans that you do really, truly care about the health, job safety, and well-being of every employee working in our meatpacking industries across our state of Nebraska. I don't want to repeat the comments that others who are in support of this bill are going to state. I just like you to know that I support them all. Our senators' support for this basic, enforceable protections for meatpacking plant workers as stated in LB241 is not just to protect those workers because what happens to these workers also affects the entire communities in Nebraska where these industries operate. By failing to protect them from COVID, especially, contributes to the spread of this deadly virus, because what happens to these important employees affects the entire community, including their families, their friends, and their neighbors. As our elected senators, each of you have the power to make sure these protections happen, as Senator Vargas has laid out in his bill. Please show us, Senators, please show us that you do truly care about all Nebraskans by supporting this bill. For way too long, the plight of our important meatpacking industry workers and their families has been ignored and their issues never properly corrected by people in power continuing to look the other way instead of seriously addressing all of their issues and needs and securing the safety, health, and well-being of each and every worker. We are confident today after you have heard all the testimonies presented to you on this issue, that you will please vote to do your part to protect our meatpacking plant workers, their families, and the communities they live in. We also support Senator Vargas' bill, LB258. And if you have any questions for me. I thank you for your time.

B. HANSEN: All right, thank you for your testimony.

TONYA WARD: Thank you.

B. HANSEN: Are there any questions from the committee? All right, seeing none, thanks again.

TONYA WARD: Thank you. That's the first time I didn't go to red.

B. HANSEN: You didn't get to the yellow.

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TONYA WARD: I didn't even get to yellow. Wow. Thank you.

B. HANSEN: All right, with that, we'll take our next testifier in
support. Welcome.

BELINDA ACOSTA: Good afternoon, my name is Belinda Acosta,
B-e-l-i-n-d-a A-c-o-s-t-a. I am here as a citizen of Lincoln,
Nebraska. I live in District 28. First, I'd like to acknowledge that
we come together today on the ancestral lands of the Pawnee people. My
roots are working class. I'm a first-generation Mexican-American
college graduate with a PhD. I stand on the shoulders of working
people like those in the meatpacking industry that both LB241 and its
sister bill, LB258, specifically seek to protect workers who are less
likely to be here to speak for themselves, not because of fear of you
or coming into this building, but because unlike those of us who have
jobs where we can earn sick and vacation time, missing a day of work
can be catastrophic. It could mean not being able to pay rent, buy a
child's prescription, or a tank of gas to get to work. In this
country, essential workers are called heroes. But when it comes to
workers in the meatpacking industry, the fact that we have to gather
here today to discuss the basic, the very basic health and safety
protections LB241 recommends during a pandemic is simply outrageous.
Blue-collar employees are often doing the work that helps the rest of
us do ours. They clean our workplaces, they pick our vegetables, they
drive school busses, care for our elderly, provide childcare, stock
grocery shelves. They slaughter and prepare the meat we eat and
provide the countless other jobs that keep communities functioning.
When a person without sick leave gets sick, the logical option is not
to stay home, it's to power through. Working while ill is not noble,
especially during a pandemic. It not only puts the worker at further
risk, it puts their coworkers at risk and ultimately undermines our
civic structures by overwhelming our healthcare system. And for whose
benefit? Certainly not the meatpacker threatened with losing their job
if they don't report to work while still sick or still recovering.
Creating COVID health and safety protections, as well as providing
sick leave proposed in LB241 and LB258 is not a luxury. It's a human
right that makes economic sense. I urge the Business and Labor
Committee to support and advance LB241. Thank you.

B. HANSEN: Thank you for your testimony. Are there any questions from
the committee? Yes, Senator Hunt.

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HUNT: I don't have a question. I just want to thank you and thank you
for your land acknowledgment.

B. HANSEN: Any other questions from the committee? All right, seeing
none, thank you very much. We'll take our next testifier.

SALVADOR HERNANDEZ: You know, I just want to say good afternoon to
everyone who is present today. My name is Salvador Hernandez,
S-a-l-v-a-d-o-r H-e-r-n-a-n-d-e-z. I want to say that I stand here
before you as a concerned citizen today. I come here today as a social
worker, as a mental health provider. I come here today, most
importantly though, as the son of a meatpacker, a man who has worked
for 40 years, 40 years in the meatpacking industry, and he's never had
one paid sick day. So I come here today as the grandson of a
meatpacker, as the nephew, cousin, friend of many meatpackers.
Meatpackers are the foundation of my community, south Omaha. Because
of a meatpacker, I was able to go and get a master's degree. I was
able to work on Capitol Hill. I'm able to be here today. And because
when I was a little kid, my father would speak up for me. But you see
when it comes to speaking up for himself at a place like JBS, Tyson,
Greater Omaha, places where they threaten that if people speak up,
they could lose their job, they could lose their wages. And these are
stories that we hear. These are stories that I've heard that I've
seen. I've seen the tears. This is my community. The fact that we're
even having this conversation, it's like, what a disgrace. How are we
not going to stand up for our community members during a pandemic? We
should be embarrassed. We should be embarrassed. And these companies
that I mentioned earlier that pick profits over people when people are
afraid to call in sick. Because if they call in sick, they're
threatened and they are told that if you don't come to work, you might
lose your job, you might lose your wages. When people are told that if
you quarantine, you're not going to get paid. I can go to work. I got
the vaccine. I got to stay home, my father didn't. My father is barely
getting the chance to get the vaccine. And so I sit here, I sit here
as COVID-19 has ravaged through meatpacking communities. And you know
what they do when all this was happening, they started to, after 40
years to give my dad a packet of meat to say, I appreciate you, thank
you. What a slap in the face. As the family member of a meatpacker, I
don't want a pack of meat. I want my father to be safe. He's so close
from retiring. Don't give me a packet of meat, give him COVID sick
leave. Make sure people have the proper safety guidelines in place and
make sure that there's accountability because we know the people from

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our COVID-19 response protocol

the community, how they are, how they've always been. And I'm talking about these corporations. So today, I ask you to vote in favor of LB241. For those of you that choose to vote against it, for those of you that choose to vote against human dignity, I say this, you're cowards. Unlike my father, who for 40 years has sacrificed himself without one single paid sick day, even during a pandemic, when many around him were sick and some even died, he still keeps going.

B. HANSEN: All right, thank you. Any questions from the committee at all? All right, thank you for your testimony. With that, we'll take our next testifier in support of LB241. Welcome.

ROMULO VEGA JR.: Thank you. Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Romulo Vega Jr., that's from R-o-m-u-l-o V-e-g-a J-r-. I live at 1601 South 20th Street, number 5, Lincoln, Nebraska, testifying as a concerned Nebraskan who is in support of LB241. And, you know, while I and many of us are grateful for your time and attention, you know, make no mistake, this, this is urgent, as, as the gentleman before me expressed and as others will, will soon share their remarks, because this should have passed last year. This should have passed last year, because as it stands right now, meat processing plants, they're given suggestions and guidelines to keep workers safe. Yet, there is no transparency specific to plants, number of infections and deaths at a plant. There's not an enforcement mechanism to ensure that the level of worker safety is where it needs to be. And let's let that sink in for a second, because we as Nebraskans, we pride ourselves on our sense of integrity. OK? We value work ethic. For whatever reason, we labeled meatpacking plant workers as essential workers, but we did not implement the basic transparent protections against COVID-19 during the year 2020. And now we're on to '21. So I can't put into words the look of fear in the faces of the workers in our communities, not only the Latino community, but also the Somali community, the South Sudanese, the Vietnamese, Nebraskans of all walks of life. So them not knowing whether they'll make it through their shift risk catching something or spreading something to their own families, their kids or even their older parents. So I, I just can't put into words the look of fear and frustration in the eyes of the, the sons and daughters of these packing plant workers. Nebraska teenagers to young adults from areas like Crete, Grand Island, Omaha, Lexington, Dakota City, many other communities across the state. So, Senators, I implore you, the time is now. It's 2021. What are we going to do? What are we

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collectively going to do? Because if we fail to stand behind these essential workers, as we failed, all of us failed to stand behind them in 2020, then history will judge us and that judgment will not be very kind. So in my view, LB241 provides a commonsense set of protections that would provide dignity and respect to the packing plant workforce. So I ask the committee to support and advance LB241, and I thank you for your time.

B. HANSEN: Thank you. Any questions from the committee? Seeing none, thank you for your testimony. We will take the next testifier in support of LB241. Welcome.

GUILLERMO ENRIQUE PENNA VALLADARES: Hello, my name is Guillermo Pena, Guillermo Enrique Pena Valladares, G-u-i-l-l-e-r-m-o, Enrique, E-n-r-i-q-u-e, Pena, P-e-n-a, Valladares, V-a-l-l-a-d-a-r-e-s. I live in Grand Island Nebraska, 311 East 3rd, 68801. I'm here to support LB241 and to ask the Business and Labor Committee to vote to advance it. Where do you start when there's so much pain and it can't make, you can't make it go away? Let's start with some numbers, 100 percent. That was the number of meatpacking, the number of meatpacking plants were running back in March of 2020 backed by the current administration of the federal government, the state and local government. Hear these words, essential not disposable. Hear them again, much needed but not disposable. You heard many say you're the hands that feed America all through the state of Nebraska, possibly the whole country. That line is used to make workers feel important, but nobody saw those hands, those meatpacker hands that were bruised, battered, hurt, cut, tired, sore. You ask yourselves as a packer, is this animal blood or is it my own from my own breathing lungs? We, the people in my family, are a small percent of the labor force that feeds America. When your family is sick and all you can do is watch as your family slowly gets sicker and sicker and they tell you the conditions. How they treat you no more than less than a disposable item, throw away. Make no assumption this happened in real life and it's still in March of 2020: crowded work areas, everyone eating lunch side by side, no mask, no PPE. All these-- all this on the Ides of March, people are being-- by why people are being airlifted out to hospitals in the bigger cities, workers unable to speak in fear of losing jobs, families and coworkers not seen again due to death. Not every family is lucky as my family. Where are those working hands now that give so much love, that voice that tells you that it's going to be all right? Where are those bruised hands, those battered hands? I tell you, still

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working for America, for Nebraska, for the good life. But where is the good life if you can't even acknowledge what has happened to the meatpacker families. This is not the first time the American worker has been excluded from life, liberty, and the pursuit of happiness. I speak for those who cannot speak for themselves. I stand on the shoulders of those workers from past and present. Fear must not deter this committee for equal rights represent the height of the American ideal, recognition, and value of each individual. This testimony is for my family, especially the women, my mom, my grandma, my sisters, all my cousin, my brothers, every packer family. All we ask is for it to be treated how you would want to be treated. How much is your family worth? Because my family is not disposable. Packer families are not disposable. All we ask from this committee is to be true to what's on paper "Equality Before the Law." Thank you.

B. HANSEN: All right, thank you. Are there any questions from the committee? Seeing none, thank you. All right, we'll take our next testifier in support of LB241. Welcome.

GLADYS GODINEZ: Thank you. Buenas tardes, my name is Gladys Godinez, spelled G-l-a-d-y-s G-o-d-i-n-e-z. I'm here representing Solidarity with Packing Plant Workers. And I'm also part of the Governor's Health Equity Task Force. I've met some of you before. We've met virtually. Thanks to Senator Tony Vargas, I have been able to explain to you how this continues to be an urgent matter. And yet we're still here, right? We can't sit here and continue to say that there is no urgency. Senator Vargas talked about this at the Central Health District in Grand Island. They talked about a cluster of 50 individuals within the past week in JBS. They have talked about requesting the Department of Health and Human Services to come in an emergency response capacity to vaccinate those packing plant workers. You have asked, have packing plant workers been vaccinated? The answer is no. They have not, unless they have registered, unless they're 65 and older or unless they are critical. But again, 65 or older. So are they urgent? Have they been in the lines? They were, and now we're passing them along. According to the Department of Health and Human Services, more than 7,000 individuals have tested positive for COVID-19. You've already heard that fact. Let's talk about the 27 individuals that have passed away, shall we? One of them was a grandfather, another a grandmother, another a mother, another a father, another an uncle, an aunt, a brother, a sister, a cousin, a neighbor, a best friend, a coworker. One of them was somebody's only financial support. One of them

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our COVID-19 response protocol

volunteered at their children's school system. One of them was the only parent in the household. One of them donated food at their local food pantry. One of them had to carry an oxygen tank before they died. One of them was supporting their child through college. One of them wasn't able to see their family during their last minute of their life. All of them, all of them couldn't afford the food, even though they worked to provide food for others. All of them, all 26 [SIC] of them were somebody's hero. All of them were feeding the nation and other nations through essential work. All of them truly believed that their work was essential and put their life in danger. One of them asked for help in Somalia, but didn't get it. One of them, more than one, couldn't afford their own funeral. And because of transparency, all of them, they didn't know their coworker had COVID-19. This is a reminder from 27 individuals that you have done nothing about since last year. We are too late for those 27 individuals. How many more lives are you willing to risk due to inaction? I can take questions if you'd like.

B. HANSEN: All right, thank you for your testimony. Are there any questions from the committee? All right, seeing none, thank you. And just a reminder, due to COVID policies and procedures we do have-- we typically clean-- keep a Kleenex up here, but Senator Hunt mentioned to me that she is keeping some out by the entrance door if anybody wants any. So with that, we'll take our next testifier in support of LB241. Welcome.

RENEE SANS SOUCI: Good afternoon. [speaking in Native language] All my relations, [speaking in Native language] Renee Sans Souci. [speaking in Native language] I'm an Omaha woman. And I said, All my relations, let me introduce myself. My Omaha name is Sacred Horsewoman. My English name is Renee Sans Souci. I'm an Omaha woman. I'm a member of the Omaha Tribe of Nebraska. And you are on our homelands here. This is indigenous land, "Nebraska." It's what we call this place. We've been here for hundreds of years, if not thousands. I come here today to testify before you, before this committee, and I wanted to say, [speaking in Native language], how are you? I'm sure each one of you are very comfortable, unlike many of the relatives that I'm here to speak on behalf of. I serve as the chairwoman of the Nebraska Turtle Heart Society. We formed in the past year, not too long after the murder of George Floyd and also in response to what was happening with our relatives from the south, the meatpackers, COVID-19 killing them, killing my relatives as well. I know that a lot of my relatives from

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our COVID-19 response protocol

the Winnebago Tribe of Nebraska, the Omaha Tribe of Nebraska, work in Dakota City for what was formerly known as Iowa Beef Packing, now called Tyson. Huge Corporation, as you know, providing meat and food to, well, all of this country, as far as I can tell. What has been happening is a travesty, it's a travesty. And as my nephew had testified earlier, it's shameful. How is it that there is no protection for our relatives from the south and for all the people who work at these meatpacking plants? I am here to support LB241, Senator Tony Vargas' bill, which is to protect meatpackers here in Nebraska, "Nebraska." As an Omaha woman, I acknowledge relationship with our relations, our relatives from the south, and I'm talking about the Latino people, the Mexican people, however, they wish to identify themselves, they are still indigenous to this continent. They are indigenous to this continent, as are the native people here in Nebraska. This bill provides much needed protection for them, for the meatpackers and their families. It's vital that you pass this bill. I do not personally, I do not want to see any more of my own relatives get sick from COVID-19 because they are working at the meatpacking plant in Dakota City, as an example, and bringing that home to our families on the reservations because I've lost a number of relatives in the past year from COVID-19, a number of valuable elders, elders who maintain our history, our language, our culture. This is very important to me, but to all our relatives who are testifying today. Vital, as I said. Open your hearts, open your minds, your spirits to see we are human beings just like you. But we don't have the comforts that you have. Pass this bill, be a good human being. As another relative said, integrity. Stand on your integrity as servants to the people of Nebraska, "Nebraska." This is how you come to be here through election. Remember that. You have number of constituents, constituents in here who probably helped you get into these positions. You serve here, do the right thing, pass this bill. Wi'Bthu Ho. Thank you.

B. HANSEN: Thank you.

RENEE SANS SOUCI: [speaking in Native language] All my relations.

B. HANSEN: Before I open it up to questions, is Renee, I believe, right?

RENEE SANS SOUCI: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee March 1, 2021

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B. HANSEN: Can you spell your first and last name for me?

RENEE SANS SOUCI: Yes.

B. HANSEN: Thank you.

RENEE SANS SOUCI: R-e-n-e-e S-a-n-s S-o-u-c-i.

B. HANSEN: Thank you. It's more for the record than anything else so I
appreciate it. Are there any questions from the committee at all?

RENEE SANS SOUCI: All right. Thank you.

B. HANSEN: Thank you. Appreciate it. All right, we'll take our next
testifier in support of LB241.

DENISE BOWYER: My name is Denise Bowyer, D-e-n-i-s-e B-o-w-y-e-r. And
my apologies because I printed my statement on some nice stationery
and it apparently does copy well. So if that's the worst that happens
to me today, I am very, very lucky. I retired-- I'm here representing
OTOC, Omaha Together One Community, as well as a volunteer with UFCW
Local 293. I moved to Omaha a year ago after 35 years as a vice
president of a large life insurance company that did in-home sales.
We're also a union company with a 100 percent unionized workforce. And
the reason that is-- I share that is because our business model
changed completely from an in-home model to COVID to an online
platform. So I know what it's like to have businesses need to shift
their paradigm in terms of being able to protect their most essential
assets, which are their workers. We did it and continue to do it. And
I want to see-- want to share with you, I see that there's no
opposition here, so you may as well just go ahead and pass it out of
committee now. But you probably will get letters like you did after
the last session from the companies touting the millions of dollars in
fixes that they did on their plants and saying all is good. Well, I
will tell you, after I retired, I needed something to do. And so I
thought, what is fulfilling? And I'm at home in a union hall. So I
decided I was going to volunteer for a Local 293 of United Food and
Commercial Workers. And that is given me access to multiple plants. I
have seen the full operations in several packing plants from killing
and cutting, deboning, trimming to packaging operations. And it is
painstaking, backbreaking, maiming, and debilitating work. These
workers do a job that most of us, and I would assume all of us in this

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room, could not do and would not want to do. They deserve respect and, and the protections to keep them safe. And I would question and challenge any of you who may be thinking we may not need these fixes to go and do a full tour of a plant. And I will guarantee that you may feel differently when it's done. This bill is long overdue. And so what I wanted to do is share with you some stories that have been shared with me. And the overarching theme across the state and the plants that I have been in and talked to is that workers are afraid. They're not only afraid of getting COVID-19, but they're afraid of speaking out. They're afraid that they're going to be in trouble, that they're going to lose their job, they're going to be-- face retribution because they have. And so I want to share some of the stories they've shared with me in real time now, not last summer. Last-- the conditions might vary from plant to plant, but the compelling argument is this: companies can do more. Basic PPE, like a regular mask, doesn't even meet all basic jobs. They don't protect them in every job. For example, Bernardo drives a forklift and move from ovens to cooling areas. Well, if you move from heat to cold, your mask is going to fog up your glasses. And so he had to choose to put his mask down below his mouth line so that he could see so that he wasn't running into other workers. He shouldn't have to choose between his safety and his worker safety. He should be able to have both. So one mask doesn't fit all. These are not expensive fixes. Enrique tells a story of how face shields and partitions don't always protect workers on the production line. Imagine if the two of you reach forward to grab something off a line in between your partitions, you're going to be exposed to each other. That happens every single day on a production line at a packing plant. Close proximity is what this work is about, shoulder to shoulder, even with these millions of dollars of fixes with partitions in between and masks that gets soiled and not always replaced. In the slaughter floor, employees work with soaking wet masks and face shields that fog up due to the heat and humidity of 180 to 200 degrees of water. And as Ci Ci says, replacing soiled and broken masks relies on the responsiveness of an immediate supervisor. And many times supervisors do not take the time to go get a, a mask replaced for a worker. And isn't it sad that a new worker has to be informed that they get a bathroom break? It's in their orientation that the union has to give them because they weren't getting bathroom breaks. So you talk about sanitary conditions and unsanitary conditions, the bathrooms are a mess. Toilets and urinals and faucets are broken. They're not cleaned after use. And in one

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our COVID-19 response protocol

facility that has over 400 workers, there is one cleaner for a whole facility. Now I don't know about you all, but I have a hard time keeping my house clean some weeks. So Bernardo also tell stories of workers in crammed-in spaces and he talks about workers are crammed in, in break rooms waiting in line for microwaves. There are seven microwaves and only four of them work. Wow. Just think of the money that would take to replace that to make some safe distancing. So you know what? These are enforceable guidelines. Because you know what, when supervisors and managers have been approached, they say we've done as best as we can because these are suggested guidelines. And you know what? That's the problem. They're right, they're suggested. And these are the things that we're getting in these plants today. I've witnessed it. I've been in them. I talk to the business agents. I talk to the workers. And these are the realities. And you know what, we can do something about these fixes. We can fix the ventilation systems. And you know what, people don't have to be heartbroken because they see that when workers go into the cafeteria, that the lines continue to operate at breakneck speed and that workers continue to get injured in vast more numbers than they did pre-COVID because there are fewer workers on the lines, they're getting more wrist injuries. And these are all a result of COVID. Some of the things that you see in some of the things that you don't see, you can say they're COVID or they're not. But these are problems. And LB241 offers practical and immediate ways to fix it in a way that waiting for a vaccine isn't going to. We could do something now.

B. HANSEN: Thank you.

DENISE BOWYER: Thank you.

B. HANSEN: Yes. Any questions from the committee at all? Seeing none, thank you. We'll take our next testifier in support LB241. Welcome.

ALEXIS STEELE: Hello. Dear members of the committee, my name is Alexis Steele, A-l-e-x-i-s S-t-e-e-l-e. And I'm the policy staff attorney at the Immigrant Legal Center whose mission is to provide free, high-quality legal services to immigrants throughout Nebraska. Sixty-six percent of meat and poultry processing facility workers in our state are immigrants, and infections at such facilities disproportionately impact minority workers. Families across Nebraska are suffering due to COVID-19 pandemic. But immigrant essential workers are suffering at dramatic rates, which is both tragic and

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our COVID-19 response protocol

unnecessary. ILC supports LB241 as an abundantly reasonable measure to support our essential workers on the front lines of the meatpacking industry with proven safety standards. This bill calls for reasonable, expert, and federal government recommended safety measures to lower infection rates for meat and poultry processing workers at those facilities. Specifically, LB241 includes requirements that meatpacking employers with greater than 100 employees will: (1) maintain six-foot distancing in production and common areas; (2) provide free face masks and shields to all workers; (3) conduct reporting regarding infection; (4) implement contact tracing of infection; and (5) to provide disinfection and ventilation; (6) hand sanitization; (7) prework screening; and (8) testing for infection. Finally and crucially, LB241 also requires communication alerting workers of these measures, providing that in the language that they speak. Each of LB241's measures either directly lowers the spread of infection or facilitates compliance with infection-lowering measures that meet the CDC and OSHA standards research- substantiated recommendations. Please support this across-the-aisle, science-based bill to protect Nebraskan meat and poultry processing workers. Nebraskans depend on health and the labor of meat and poultry plant workers for our communities and economies to thrive, which really should be aside from the point. I just have to pause and acknowledge that. This bill is not controversial. It is common sense. LB241 is so abundantly reasonable that many meat and poultry processing employers have already taken steps to implement some of its standards independent of a mandate. But some employers taking some of these important steps is not enough. It is not enough for the workers and their families who will indubitably get sick due to the fact that only some of these steps were taken and implemented appropriately. For these measures to be fully effective, they must be consistently applied in a way that only legislation can ensure. We know that not all meat and poultry processing employers are taking these basic steps to create a reasonably safe work environment currently because the University of Nebraska Medical Center conducted a survey of safety measures at processing plants and the results of their survey reported: only 87.3 percent of employers conducted temperature checks, only 82.8 percent required masks, and perhaps most disconcertingly, only 56.5 percent of employers conducted more frequent cleaning of facilities than they did before the outbreak. With more than 3,900 meat and poultry processing workers testing positive for the virus in Nebraska, making up nearly one-quarter of the state's confirmed cases, it is clear that existing informal and

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our COVID-19 response protocol

highly variable measures are not enough. That is why Nebraska needs LB241. Please cast your votes in support of LB241. If any of the bill's safety measures appeals to you as unreasonable, I implore you to imagine meat and poultry processing workers as members of your family. Consider them individually, each walking-- waking in the morning, either afraid for their health and lives, or assured by our laws of their safety and worthiness of protection. These workers are mothers, fathers, grandfathers, grandmothers, sons, and daughters. And workplace safety should not be haphazard in Nebraska, but an expectation for all. Please advance this bill so that workplace safety for meat and poultry workers is a reality, not a mere pretense, as unsubstantial as the assurance of I care without a vote to show for it. We thank Senator Vargas for his consistent leadership on meatpacking plant worker safety, and we strongly urge each member of this committee to join in the fight to protect some of Nebraska's most vulnerable essential workers. Thank you.

B. HANSEN: Thank you. Any questions? Yes, Senator Lathrop.

LATHROP: Can I ask you a question? And maybe you know the answer and maybe if you don't, somebody will come up here after you. The bill includes requirements for social distancing, masks, PPE. Are those currently found in the CDC guidelines for meatpackers, if you know?

ALEXIS STEELE: I know that up until the last time that I checked, they had been. I cannot say that I know about this present moment, though. Thank you.

LATHROP: So you don't know if the, the requirements in the bill are more stringent than whatever the CDC guidelines may be for that industry?

ALEXIS STEELE: I know that they mirrored those guidelines up until recently. My only-- I, I hesitate because I won't-- I can't commit to saying, yes, right now because I haven't checked it as of like within a week or so. So I'm not sure.

LATHROP: Thank you.

ALEXIS STEELE: Um-hum.

LATHROP: My second question is, do you know, are meatpackers being-- a year ago, when, when we all became aware of the pandemic and the

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problems that it caused and the people that were getting sick, a lot of the attention was focused on meatpackers in Sioux Falls, Dakota City, Crete, Grand Island was another spot where we saw an awful lot of people that were stricken with this condition. Do they continue to be infected at the same rate or is that-- is it at the same rate we're just not seeing it on the television? Or has it diminished or can you tell us what the current state of this pandemic is inside the meatpacking facilities?

ALEXIS STEELE: Yeah, thank you so much for that specific question. You might note that-- so last year we had numbers in terms of the number of infections coming from individual facilities through the beginning of May. After that, we ceased having information to evaluate. So this is a very-- I'm seeing this with other testifiers and it's a pretty frustrating process to be genuinely at a disadvantage with being able to explain these things because we don't have the numbers. And that's why LB241 is so important. Really, worst case scenario, we pass LB241, numbers get tracked and we discover there is no, no concern. But I don't think anyone here thinks that's going to happen. So let's get those numbers. Let's pass this bill and let's come up with something appropriate if we want to improve next session as well.

LATHROP: Where were those numbers coming from early on? You, you make, you make-- I, I take from what you just told me is there was some process for reporting illnesses in the meatpacking industry and whatever that process is, is no longer available.

ALEXIS STEELE: Yes. So I would like to acknowledge that there was not a uniform process, at least of which we were aware. Instead, these numbers were individually reported by the meatpacking plants themselves. And then when those numbers-- it became quite apparent, those numbers weren't pretty. They were incredibly high and then they ceased. And that's not-- that in no way deters my curiosity, nor do I think it should any member of this committee. That's a red flag in my book.

LATHROP: OK. I appreciate your answers to my questions.

B. HANSEN: Any other questions? Seeing none, thank you for your testimony.

ALEXIS STEELE: Thank you so much.

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our COVID-19 response protocol

B. HANSEN: And we'll take our next testifier.

JOHN HANSEN: Chairman Hansen, members of the committee, for the record, my name is John Hansen, J-o-h-n H-a-n-s-e-n. I am the president of Nebraska Farmers Union and appear before you today as our organization's president and also their lobbyist. What a difference a year makes, as I was reflecting on that. This is National Farmers Union convention week. So a year ago next week, we were finishing up our convention in Savannah and we came home. And that was really the, the real emergence of the COVID. And so from the time that I got home a year ago to within a month, we were already in trouble. And by the time we went another month, we were in major trouble. And here we were talking about the crisis that was created when meatpackers were so sick and that meatpacker lines were slowing down, in some cases stopping, that here we were contemplating having to kill our own livestock and bury. And so we saw this massive system come to a grinding halt. So we know how big the, the crisis was. And so Farmers Union, along with the other ag organizations, along with a lot of state leaders, we were, you know, contemplating all the different kinds of options and things we could do. And so part of that whole process was to work with the meatpacking workers and say, we really need you to go back to work, but we want you to go back to work in a safe environment. And we made a commitment that we're going to do everything we can to try to make sure that you guys have a safe environment. And so as a result of that, we joined the meatpacking worker coalition. And we've been going to meetings for a year and we have got an education on how it is that meatpackers treat their workers. I have had a lifetime education on how meatpackers treat their customers. Surprisingly, they're remarkably the same. And so when we, we have struggles with meatpacking workers being able to come up and testify in person because they're afraid of retaliation, well, I'm here to tell you that that same fear is with my producers. And I've done service work for 30 years of meat producers who experienced retaliation at the hands of meatpackers. And what did they do? They spoke out and talked about unfair, competitive-- noncompetitive marketing conditions. And for that, the meatpackers stopped going to their feedlot. And in some cases, it put them out of business. And so why would they treat their, their workers any better or any different, really, than they treat their customers? So what is it that the meatpackers are inclined to do? Well, they're not all the same. We have some that are more responsible than others. We saw some that

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our COVID-19 response protocol

stepped right up and, and did things immediately to-- in order to try to provide worker safety. We saw some who dragged their feet and we see some that are still dragging their feet. So, you know, we don't pass speed limit laws for folks who drive reasonably. We, we pass laws for folks who don't follow good sense. And so do we need something? Yes, we do. We need-- we-- you know, we're Nebraska. We are either the top first, second, or third meatpacking state in America. This is a huge economic driver. We need to be more proactive. And so I look at this as a commonsense bill. But I also see this as the state of Nebraska stepping up and saying that thing that we told you a year ago when there was a crisis that was really, really, you know, had everyone's attention and we made promises and said, we want you to have a safe workplace. This is our opportunity to follow through on our word and say, are we going to follow through and do what we promised that we're going to do? And I think that this is a good faith effort. I go through this list of things. There isn't anything in here that I think is unreasonable in terms of workplace safety. I thank Senator Vargas for bringing this bill, and I thank him, thank him for his tenacity. But I have learned a long, long time ago being on the other side of meatpackers and a whole pile of different opportunities, that they will do as little as possible and as much as is necessary, which makes this bill necessary. And with that, I'd end my comments, be glad to answer any questions if you have any.

B. HANSEN: All right, thank you. Any questions at all? Seeing none, thank you.

JOHN HANSEN: Thank you very much.

B. HANSEN: Take our next testifier in support of LB241.

JAMES GODDARD: Good afternoon. My name is James Goddard, that's J-a-m-e-s G-o-d-d-a-r-d, and I am the senior director of programs at Nebraska Appleseed here today to testify in support of LB241. As many of you may know, Appleseed has worked for over 20 years on meatpacking worker safety. Through these conversations and discussions directly with workers and with partners, I can say that we continue to hear directly from workers recent and widespread examples of dangerous COVID-19 conditions in meat and poultry plants, including dangerous crowding, pressure to work while sick, poor quality, insufficient masks, and failure to screen and quarantine. These are, and I want to emphasize, recent examples and recent discussions. And they come from

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our COVID-19 response protocol

across the state, across different companies, Tyson, Smithfield, JBS, Costco, Cargill, WholeStone, and others. And so I'd like to just share a, a couple of those conversations briefly with you that we've heard from some of those recent examples. One of them, quote, It's not safe to walk in the lobby. In the cafeteria, we stand elbow to elbow because there's no room. At the break time, we have just 15 minutes. We take five to take off our work clothes and run. We come together, 200 people at the same time. There's no distancing. And we don't have a chance to wash our hands. I've been affected. I've been sick. And the worst part, a coworker friend of mine, he died from Coronavirus. At the beginning, the company tried to do something, but now it's different. They really don't care at all. The people are crowded together all the time in groups coming into work and out, and in the areas where we're working. A lot of people are sick. And our bosses, they try all the time to intimidate us. I want the company to do something. They have to separate the groups and use better masks. The kind of masks we use, they're not very good. So please, Senators, help us do something. From a second worker: We've lost six people. One gentleman had COVID symptoms, they made him come to work and tested him. They have the quick 15-minute test, which is completely unreliable. He tested negative. They made him go to work. Two days later, he died of COVID. That was right before Thanksgiving. They've put up the plastic dividers, which do nothing because the way the lines are set up, you're right against the line, so when you breathe, the breath is in front of the dividers anyway. The blowers blow it right up and down the line in front of everybody else. So that's just to make them look better. It doesn't do anything to protect us. We're still shoulder to shoulder, elbow to elbow, and the breath is still going on in front of all of us. Workers in multiple plants have also reported recently management require them to come back to work immediately after they test positive to be retested by the company putting everyone at risk in the process. I've included a handout that has a few more of those stories that you can take a look at. But where, where I want to conclude is the, the meatpacking and poultry industry has a decades long record of alarmingly, alarmingly high injury rates, dangerous work speeds that cause permanent disability injuries for Nebraskans who are our friends and our neighbors. The work-- this work design is already causing problems over the course of years from hazards of crippling injuries for workers and food safety. And now it's even worse with COVID-19 putting our food system in jeopardy. And again, I want to emphasize this is-- these are recent

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our COVID-19 response protocol

stories. The pandemic is not over. The need for this legislation remains. As one worker put it, "The COVID problem is now." Even as the vaccine rollout proceeds, public health experts are cautioning we'll need to continue protections for some time. Governor Ricketts said this morning at his weekly COVID-19 press conference that we need to continue to use tools to slow the spread of COVID-19. The tools that he is referencing are the types of things that are contemplated under this piece of legislation. Lastly, to Senator Lathrop's question, the CDC guidance does largely mirror the components of this piece of legislation for employers, including in meatpacking plants. But as, as I describe, it is guidance. So it's unenforceable, not enforceable law. It's guidance from the federal government. And that's, that's the problem here, that it's not enforceable and it's not necessarily followed in a uniform manner. And with that, I'll conclude and answer any questions if I can.

B. HANSEN: Thank you for your testimony. Are there any questions from the committee? OK, I just have one quick question. One of the descriptions, the second description you gave, somebody talking about their experience working in a meatpacking plant. It said they, they, they have blowers along the line so the dividers may not do anything. Would that still be true if they were six feet apart? So would that matter a whole lot if they're six feet apart from the blowers blowing air?

JAMES GODDARD: I, I would probably have to defer to some of the workers here to, to answer that more specifically than I can, but I think, I think the, the point is you have some things like dividers that are being put into place, and if you're standing right next to each other with those blowers, it's going to make it worse. I would have to think if the blowers are continuing to blow, it's still circulating, but it's-- it'd be better if you were six feet apart than six inches.

B. HANSEN: OK. I know in parts-- sections of the bill it talks about having unilateral air-- airflow as required in the bill. And so I was just kind of curious looking and when you just brought that to my attention, so if it's unilateral airflow blowing down a line, you know, I don't think that probably would be very good. I wouldn't think even if six feet apart probably wouldn't matter at all. I know when I worked-- I worked at the meatpacking plant in Schuyler years ago, and I don't remember a whole lot of air-- a lot of blowers that were

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our COVID-19 response protocol

blowing in there, but that might be different for different kinds of
facilities. And so, so it was kind of brought to my attention after
you said that, so.

JAMES GODDARD: And I imagine it depends where in the facility you're
working and the, the particular job you're doing on that day.

B. HANSEN: Sure. OK, thanks. Appreciate it. All right, thank you.

JAMES GODDARD: Thank you.

B. HANSEN: We'll move on to our next testifier in support of LB241.

SUSAN MARTIN: I'll give you a different mask this time. Good
afternoon, Chair Hansen and members of the Business and Labor
Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n. And today
I'm testifying on behalf of the Nebraska State AFL-CIO and also as a
citizen of the state of Nebraska supporting LB241 introduced by
Senator Vargas. There's over 20,000 workers employed by over 11
meatpacking plants in Nebraska. These workers are critical to the food
supply chain and it's incumbent upon the state to make sure that they
are protected and healthy during this health crisis. We look
nationally to OSHA, who has produced guidelines for these companies to
follow. But unless complaints are filed by employees, nothing is done
about enforcement. Our national leaders have failed to pass an
emergency OSHA standard specifically dealing with the pandemic. So we
are urging something to be done by our state leaders. This legislation
is just asking for basic protections and enforcement to ensure that
these workers are safe. If companies are already following these
practices, they should be the last ones opposing this legislation.
Many opponents, if there are any today, are from probably from
industry owners or their lobbyists who will testify that they have
complied with OSHA, CDC, and Nebraska Medical Center guidelines. I
appreciate those businesses who are doing the right thing. I
appreciate their willingness to comply with guidelines. But what I
don't appreciate is big money approach to increase their profits by
treating the humans-- human beings who produce their product as
disposable. How many of these facilities have asked their employees to
sign voluntary waivers to give up all their rights, claims, and causes
of action before the company will provide them with medical care? How
many are fired for failure to sign? How many are being threatened
about speaking out about conditions in their plant? How many are being

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our COVID-19 response protocol

offered a bonus to show up to work? And how many do show up to receive the incentive even if they're sick? Governor Ricketts has refused to interfere in following through on implementing any meaningful, meaningful guidance and enforcement to protect these workers. Why? Put yourself in a worker's shoes. Many of these workers are immigrant workers, may have a language barrier, do not understand what's happening, have a strong work ethic, are scared about retaliation. Listen to their stories. Our senators who have these food processing and packing plants in their district should be having conversations with them rather than just listening to the companies. As advocates of these workers, we are doing nothing different than the corporations when it comes to recognizing that these workers are working every day to provide food to the nation. We are just raising up the issue of protections and ensuring that companies provide them. We still have a crisis. What about the next health crisis? We need our state legislators' support to keep ourselves and our families safe. Nebraska needs to take matters into their own hands and pass meaningful legislation to protect our workers in the meatpacking industry. And by protecting these workers, we stop the spread of COVID-19 or any future diseases. I thank Senator Vargas for taking a stand, for finding a way for these voices to be heard, and for his relentless effort and advocacy on behalf of these workers. I thank you for your time today and I urge you to pass this bill to General File. Thank you.

B. HANSEN: Thank you. Any questions from the committee? I got one question. I'm going to ask you and then maybe somebody else who might testify in opposition, might answer the same question. But when you say how many of these facilities have asked their employees to sign voluntary waivers to give up their rights. What does that mean? Like, is it just like so they can't report if they get sick or--

SUSAN MARTIN: Well, some, some companies may-- and you would probably need to talk to them on, but some employers may require them to sign medical waivers to give up their rights. And so--

B. HANSEN: Have, have there been any just that you know of?

SUSAN MARTIN: Nationally, I believe, there has. I'm not sure about in Nebraska.

B. HANSEN: OK, just curious--

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our COVID-19 response protocol

SUSAN MARTIN: Yes.

B. HANSEN: --to get your take on it before--

SUSAN MARTIN: Yep.

B. HANSEN: --somebody else answered it. All right, thank you.

SUSAN MARTIN: Um-hum.

B. HANSEN: All right, seeing no other questions, appreciate your
testimony.

SUSAN MARTIN: Um-hum.

B. HANSEN: Anybody else wishing to testify in favor of LB241?

MICHELLE DEVITT: Good afternoon,--

B. HANSEN: Welcome.

MICHELLE DEVITT: --Chairman Hansen and members of the committee. My name is Mickey Devitt-- Michelle Devitt, M-i-c-h-e-l-l-e D-e-v-i-t-t, and I'm the legal and policy coordinator of the nonprofit, nonpartisan Heartland Workers Center in Omaha. But we have organizers and community leaders across rural Nebraska as well. We're here today on-- in behalf-- on behalf of LB241 in support of it. And we want to start by expressing gratitude for Senator Vargas' unrelenting championship of this issue. These are essentially-- so you know, if you seen the, the amendment from last summer, these are essentially the same protections introduced then. But as you heard, they are no less critical now. Since last summer, there has been some improved OSHA oversight of these packing plants under the general duty clause of OSHA. But there have been no citations or enforcement within the state of Nebraska. And OSHA still has yet to issue enforceable COVID-19 safety standards. President Biden's executive order has asked OSHA to consider issuing regulations and review that issue. They have yet to do so and have only updated the voluntary guidance in some minor respects. A note on that. I know that the Department of Labor is very concerned about a, a conflict between this bill and, and OSHA. And I can assure you that preemption, a federal preemption is not an issue where OSHA has failed to act. So since they have not passed any COVID-19 infection control standards, we are free to act in this

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our COVID-19 response protocol

space. So that's just a little, little caveat there. So as of February 18, the-- there have been over 7,000 workers ill, 255 hospitalized, and 26 had died. Since that time, another has died and 29 more have been sickened. And that's just a week. If these cases were community spread, we could expect the infections to roughly mirror the community rates. But that's not what's happening. One in four meatpackers, one in four has become ill in this pandemic compared to one in ten Nebraskans. And these figures don't begin to count the collateral impacts of family members, housemates, and communities. Further, although Nebraska is now vaccinating these, these workers under priority 1B, Dr. Fauci and the CDC caution that ongoing safety measures remain as critical as ever as the, as the vaccine and research proceed. This is heightened especially by the fact that now the U.K. and South African variants are now here in the U.S. So now is not the time to let up. And I'm, I'm not going to bore you to death of the hierarchy of controls which I have brought to you before, which is-- and it's in your handout if you want to take a look at it. But essentially the, the long and short of it is that the hierarchy of controls tough-- has the most important and the most structural advantages at the top or infection control measures at the top, the least effective at the bottom. And those roughly correspond with how costly they are, as you can imagine. One of the, for example, structural things that you could do is ventilation. I'm glad Senator Hansen brought that up. Ventilation, for example, in the bill would require uni-- when we say unidirectional, it's about-- like, if you think about the little switch in your car that either circulates the air or sucks it out and gives you fresh air, unidirectional is about whether the air is being sucked out the space, not like the flow of the space internally. So, so anyway, so what we see happening over and over in these plants, as you've heard, is that there are some minor improvements in the masking and the things at the bottom of the V, the PPE, but there's virtually nothing being done at those more effective structural levels. And so that's what we're hoping to see improve with this bill. So LB241 prioritizes the most effective recommended-- recommendations from CDC and OSHA and requires them only through the end of the year. This bill focuses on ventilation, air filtration, physical changes to work in common spaces to allow distances, including sliding-- slowing line speeds and moving people around. It also focuses on administration-- administrative changes like cohorting and staggering. But one improvement in the bill from last summer is the enforcement mechanism. So there was some concern last year that it

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our COVID-19 response protocol

would just sort of be a feel-good measure that wouldn't have an impact. We've-- this, this bill now has addressed, addressed that by adding fines and requiring abatement within, within a certain period of time at the risk of further fines. So I want to stress, because we get this comment a lot, that these are not outlandish requirements. Every one of them is in the CDC and OSHA's recommendations, to your question, for meatpacking operations and the UNMC, the UNMC playbook also makes these same recommendations. For-- further-- and not everyone knows this, other states have already adopted some or all of these, including six-foot distancing without disrupting the food supply. Virginia passed the first enforceable six-- six-foot rule last July without any reported decrease in profitability or productivity. If there had been, I'm confident we would hear about it. It stands to reason that Nebraska's operations can similarly adapt. Notably, the Cargill plant in Schuyler did adapt by slowing line speeds early on, spacing out workers, moving workers, and their infection rates were correspondingly lower for a good part of this pandemic. The issue is not that as we see it sort of to round it out, no doubt there are plants that have done the right thing. No doubt many of them will testify to exactly that. And they've done-- taken good-faith measures. But the best case scenarios aren't the problem. The issue is as long as there is no floor, there's downward pressure and there's competitive advantage to doing not the right thing. So we suggest that this is the appropriate floor. And I'm happy to answer questions.

B. HANSEN: Thank you. Are there any questions from the committee? All right, seeing none, thank you for your testimony. Anybody else wishing to testify in favor of LB241?

ANNA HERNANDEZ: Good afternoon, honorable Senators, my fellow Nebraskans, my name is Anna Hernandez, A-n-n-a H-e-r-n-a-n-d-e-z. I'm from south Omaha and I'm also the proud daughter of Mexican immigrants who were meatpackers. I stand here in front of you to tell you that we do stand on the backs of our parents. Because of the hard work of my, of my father and of my grandparents, I had the opportunity to work on the Hill in Washington, D.C., and also to be a Schedule C for-- appointee for the Bush administration. That being said, I am also an avid reader and one of the most-- one of my favorite books is one by Upton Sinclair, The Jungle. And as many of you know, The Jungle is-- was published in 1906. And that book was about immigrants who came to the United States and worked in Chicago in the meatpacking industries there. And that story is about many of your past ancestors and about

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our COVID-19 response protocol

your-- well, you worked in the meatpacking industry, you, you know how it's like and it's just so ironic that we are here 100 years later. You know, we're here 100 years later and, and it's still many of the same issues. And that leads me to say, you know, please, I'm asking you to pass LB241. And I thank Senator Vargas, for, for putting this together and realizing the importance of this. You know, that story, that story of The Jungle eventually led to the Pure Food and the Meat Inspection Act of 1906. OK. So we are in 2021. I know, I know that, that this will lead to something that will help this generation of meatpackers because that's the right thing to do. That's the ethical thing to do is to help, because we as Nebraskans help our fellow Nebraskans. And I ask you to please pass LB241. You know, and in the future, you know, whatever other group is here who's working in the meatpacking industries, you know, I know their children will stand in front and ask whatever senators, you know, are-- you know, will be in front of us to pass the same thing. Hopefully we don't have to do that again. I mean, because as, as, as the years have gone, gone on, it seems like we're here again and again and again. But I'm here to please ask-- please pass LB241. Thank you very much.

B. HANSEN: Thank you. Was there any questions from the committee? Thank you very much for your testimony. Anybody else wishing to testify in favor of LB241? Welcome.

JUDY KING: Hi, my name's Judy King, and it's spelled J-u-d-y K-i-n-g, and I'm here as a proponent of LB241 and please make this part of the record. It's really disturbing listening to the testifiers here today. This should of-- this bill should have been passed or this whole situation should have been taken care of last year with Senator Vargas' bill, and I don't know how these people can be so patient and, and just not be at this, at this building every day when their parents and their families are being pretty much murdered from these corporations, meatpacking plants and, and Governor Ricketts not, not getting the, the vaccine for these people. Anyway, I want to thank Senator Vargas for these bills that he's put out and, and, and brought forward for the meatpackers and, and like I said, it should have been taken care of last year. A lot of lives have been wasted. I thought that we, we were all created equal in the eyes of God, but apparently not meatpackers and their families, they're expendable. Can you imagine the wrath of God now that is going to come because of the treatment that our brothers and sisters that are working at these plants, you know, just for our benefit, for our food. They're being

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our COVID-19 response protocol

demeaned by greedy racists, they're having their employers bet on how many workers will die from COVID all while working for years providing our food without the protections like LB241 or without paid sick leave, all while our corporate employers and their state legislators were worshipping a golden calf or a golden replica of the former president at the CPAC meeting. Can you imagine the wrath of God on these "Trumpers" and the for-- formerly GOP or state legislatures and these meatpacking corporate employers after their mistreatment of our brothers and sisters in the meatpacking plants? God told me to give our brothers and sisters at the meatpacking plants, the, the respect and the protection that LB241 would provide and deserve or prepare for the wrath of God and my God is a woman and my God is a mother. This should have been taken care of last year, and I'm sure it will be taken care of now because I'm going to be-- because of these testimonies from all of these people today and because I'm going to be sitting in Ricketts' office every day until this passes. I'm going to be going up there and visiting him every day and all of the senator-- all of the senators involved in this until it passes. Thank you.

B. HANSEN: Thank you. Any questions from the committee? Seeing none, thank you. Anybody else wishing to testify in favor of LB241?

ROSE GODINEZ: Good afternoon.

B. HANSEN: Welcome.

ROSE GODINEZ: My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I'm legal and policy counsel with the ACLU of Nebraska here in favor of LB241. This bill-- first, I want to express my sincerest gratitude, not only from the ACLU, but me personally to Senator Vargas and the cosponsors for reintroducing this legislation. This bill will help us as a state address many of the issues you have already heard today, the lack of COVID-19 protections our meatpacking plant workers are enduring every single day during this pandemic. And a piece of legislation that you're handling is literally one that will save lives. I am clearly not exaggerating, as you've heard the statistics. Seven thousand people--7,000 meatpacking plant workers have contracted COVID, 27 deaths, 255 hospitalizations. I only repeat it because it, it bears repeating all due to the failure of the state to abide by what we have, the Nebraska Meatpacking Bill of Rights. This clearly isn't something that us, advocates, or relatives are inventing or coming up with out of the air. It's literally in our statutes. It

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

provides for the-- although, without any teeth, of course, which will now be implemented if passed through LB241. But it provides workers and promises workers a right to a safe workplace, a right to complete information. Yet as you've heard today, it's an empty promise. And as we continue to hear through our intakes today at the ACLU, meatpacking plant workers are neither working in a safe workplace, nor receiving the complete information that they need and are promised. Additionally, as reported by the reader, the Department of Labor had the Meatpacking Bill of Rights coordinators spend nine-- and I know you have this, but in case the public hasn't read it, spent 97 percent of our time on processing unemployment claims instead of advocating for meatpacking plant workers. And as of very recently, we know how-- we no longer have a Meatpacking Bill of Rights coordinator. The application was recently posted. So as you can see how much our state is prioritizing our families, our workers, and why advocates are here and they're rightly infuriated because this bill was introduced as an amendment last year and this body refused to debate it. This is and has always been a racial justice issue. From the latest data released from DHHS, it is quite apparent that people of color are the most at risk, not only because they make up the majority of the workers in meatpacking plants, but also because we are less likely to be able to work from home. We are more vulnerable to contracting and dying from COVID because of preexisting-- actually, not even preexisting, because of existing conditions. At the end of the day, we, we are dying. And when I say we, I mean us as people of color. I mean us as in immigrants, us as in our family members. And at the end of the day, us as in Nebraskans. As you may recall from our testimony last year for Senator Vargas' amendment, we at the ACLU reached out to the Commissioner, Commissioner Albin at the Department of Labor. We reached out to the Governor with thousands of petition signatures. We filed OSHA complaints. We have filed a lawsuit that's still pending. Workers and advocates have tried every possible recourse to try to get protections for our families. But now you have it right here, right in front of you and can easily be advanced through the committee and passed through the push of a green button. The decision to save more Nebraskan lives is completely in your hands. Lastly, I just want to address some of the questions that were made earlier and maybe weren't addressed completely. To Senator Gragert's question about vaccines, to this day, we haven't heard of one single meatpacking plant that has vaccinated all of their workers. And also, just to add to that, I know a couple of testifiers mentioned that Dr. Fauci and other medical

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our COVID-19 response protocol

experts in the-- at the federal level have all mentioned that we won't be out of this until 2022. So we're looking at another year. Then to Senator Hansen's question about waivers, we did-- we received an intake of a particular individual that received a waiver from a company asking them basically to sign that they wouldn't sue them as long as they gave them a couple thousand dollars. And then lastly, to Senator Lathrop's question. I know you asked about the numbers and why they stopped all of a sudden, that was at Governor Ricketts' request. He asked local health departments to stop reporting those numbers. And that's why we're all left in the dark. With that, we urge the committee to advance this bill to General File.

B. HANSEN: All right, thank you. Any questions from the committee? Seeing none, thank you for your testimony.

ROSE GODINEZ: Thank you.

***MAGGIE BALLARD:** Dear Chairperson Hansen and members of the Business & Labor Committee: My name is Maggie Ballard and I work at Heartland Family Service (not to be confused with Heartland Workers Center). I am testifying in support of LB241 and want to thank Senator Vargas for his countless efforts on this issue. Most of you are aware of the work we do at Heartland Family Service, serving 60,000 individuals and families in east central Nebraska and southwest Iowa. We have 20 locations and 50 programs, including Refugee Advocacy. Many of our Refugee families work in the meatpacking industry. I understand that senators are interested in hearing from people that work in this industry. While I understand wanting to hear from constituents that can attest to the conditions of where they work or the personal desire to see things that are proposed in this bill, it is important to keep in mind why it is me and not one of them sitting in front of you today to share these experiences. Aside from the fact that they cannot afford to take off work to come here, many of them are afraid of the backlash that they will get from their employer if it is discovered that they are speaking out against their work conditions. Some of them assume that their employer is already taking the necessary precautions to keep them safe. (Remember back to what happened in the Yale Apartment Complex in Omaha a couple of years ago? Their living conditions were unacceptable but they didn't know that anything could be done about it.) Most of them are more focused on keeping food on the table and paying their bills than on changing the system that employs them. But I want you to hear what we hear from them, which is

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our COVID-19 response protocol

"I'm scared." We hear things like, "I have to go to work, where I might get COVID, where I might get sick and then make my family sick, and I might die, or they might die, but I don't have a choice." "Where else will I find work when I speak limited English and have limited education?" They are in the position where they must choose between having a job and making money, and their health. Frankly, it is abhorrent that we would not put in common-sense protections that would help make that choice easier. Keep in mind that as refugees, our clients have already experienced trauma that most people can hardly fathom. The southeast Asian refugees are facing horrible racism because they're being blamed for bringing the virus here. Many live in multi-generational households, where if they get sick, they will be exposing children, parents, and grandparents to the virus. Perhaps this is why one funeral home in Omaha noted that they had a Karen funeral every single weekend last spring and summer. The Karen Community financially contributes to the Karen Society of Nebraska. This pool of money is used when someone in the Karen community dies, to pay for the funeral. Those funds have been dried up since last summer. There have been more funerals than the community can pay for. This bill is not asking you to pay for their funerals-it's asking you to prevent them. In 2019, Governor Ricketts made Nebraska a state that welcomes refugees. Heartland Family Service was in strong support of that decision, given that refugees enrich our culture and are 33% more likely to participate in the workforce than non-refugees. How are we welcoming them into our state, happy to see them saturating the work in the meat packing industry, reaping the benefits of their hard labor, receiving their tax dollars, and yet unwilling to protect them? Imagine being seated next to colleagues that are coughing or sneezing or complaining of fever-like symptoms, as they sit just a couple feet away from you and wear nothing to cover their face. Imagine your requests going nowhere, and taking your concerns to your committee chair or Speaker Hilgers and being told to get back to work. We are talking about saving people's lives, and all it requires is making sure that employers take some extra precautions. Please vote LB241 out of committee and help make the backbone of our state become protected and safe.

***TIFFANY JOEKEL:** Chairperson Hansen and members of the Business and Labor Committee, my name is Tiffany Seibert Joekel, and I am the Policy and Research Director for the Women's Fund of Omaha. The Women's Fund testifies in full support of LB241, providing protections

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our COVID-19 response protocol

for meatpacking workers and creating safer and healthier workplaces across Nebraska. During the greatest public health crisis know to us, the Women's Fund recognizes Nebraska workers need safe work environments, and our community and economy will remain healthier with these workplace protections. A critical component of LB241, paid sick time with protections from employer retaliation for employees with positive COVID-19 tests, is essential to curbing the spread of this pandemic and saving Nebraskan lives. Throughout this pandemic, over 420,000 Nebraskans have remained exempt from federal emergency sick leave protections and continue to lack any legal protection to miss a single day of work when sick. This reflects those who work for employers with over 500 employees, including many of the meatpacking plants across Nebraska. Asking people to "stay home" when they are sick, without a promise of paid leave, is a privilege many simply cannot afford. We must do better than forcing Nebraskans to choose between their job, their health, and the health of their coworkers. Likewise, we cannot ask someone with COVID-19 to stay home and prevent the spread of contagion if we do not also ensure they have a job to which to return. Nearly 1 in 4 workers report that they have lost a job or were threatened with job loss for taking time off due to personal or family illness. Meatpacking plant workers, among those in our community most impacted by the virus, have cited a lack of paid sick time as a primary concern and reason for experiencing such devastating impacts from this pandemic. Despite accounting for less than 1.5 percent of Nebraska's population, meatpacking workers accounted for 1 in 6 Nebraska COVID-19 cases in May. Concurrently, 70 percent of Nebraska meatpacking workers have reported receiving no additional paid sick time during this pandemic. We have seen particularly high rates of COVID-19 cases and deaths in Black, Indigenous and Brown communities, at least in part due to disproportionately limited access to paid sick time among workers of color as 54 percent of Latinx workers, 38 percent of Black workers and nearly half of Native workers lack access to even a single day of paid leave. The Centers for Disease Control and Prevention (CDC) has cited this lack of paid leave as a primary reason for such disproportionate health impact of COVID-19 on BIPOC communities. By ensuring access to paid sick time, LB241 would dramatically improve the safety of meatpacking plants and would also provide benefits to employers. A universal paid sick day policy is estimated to reduce workplace transmissions of the flu by 6%, ensuring that other employees remain healthy when one worker is ill. A study of the 2009 outbreak of the H1

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our COVID-19 response protocol

N1 flu pandemic, when an estimated 8 million employees took no time off from work while infected, found that outbreaks lasted longer in workplaces that did not have paid sick days. Those infected employees who showed up to work were estimated to have infected as many as 7 million coworkers. COVID-19 holds the same dangers to spread the virus in workplaces across Nebraska. LB241 is critical to ensure safe and healthy workplaces for all Nebraskans and rebuild stronger communities. The Women's Fund respectfully urges this committee to support LB241 and advance this bill to General File.

***AL DAVIS:** Good afternoon, Senator Hansen and members of the Business and Labor Committee: My name is Al Davis (A L D A V I S) submitting this letter as the registered lobbyist for the 3000 members of the Nebraska Chapter of the Sierra Club in support of LB241. LB241 provides needed protections for workers employed in the meat-packing industry which have been so hard hit by the Covid 19 pandemic. The protections outlined in the bill are largely already being implemented but are necessary to protect the health of meatpacking workers who work in extremely tight quarters. The lack of good safety protocols during the early stages of the pandemic resulted in massive outbreaks of the disease across the country, compounded by corporate policies, but also by the nature of the work itself and the large immigrant community who work in the business. When dozens of languages are spoken in one plant it is extremely difficult to circulate guidelines needed to protect the employees. Covid 19 has disrupted business all across the nation, but no other industry has been impacted as heavily as the meatpacking industry. Initial ignorance about the disease, coupled with urgency to keep the plants operating at peak capacity and a lack of focus on prevention resulted in thousands of sick individuals and many deaths. Every life is precious and LB241 offers basic guidelines for business to follow to protect the health of the employees. Everyone benefits when sensible protocols are put in place. The plant generates more revenue, the employees remain healthy and able to work, and the public health system is not stressed to the breaking point with multiple hospitalizations and patients who have no ability to pay the staggering costs of hospitalization. We want to thank Senator Vargas for introducing the bill and urge the committee to move the bill to the floor for full discussion with the committee. Thank you.

***JUSTIN CARTER:** Dear Chairman Hansen and members of the Business & Labor Committee, The Nebraska Food Council (NFC) is a statewide food

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our COVID-19 response protocol

policy council composed of volunteers working to strengthen Nebraska's food system. The NFC membership includes representation from numerous food sectors including but not limited to farmers, livestock producers, processors, culinary educators, health care workers, and extension agents. The NFC was established in 2017 and is coordinated under the leadership of the Center for Rural Affairs. The NFC supports a vibrant local food system, including stable food supply chains and safe conditions for our food system workers. The NFC supports LB241 and believes the COVID-19 protections it details will provide a safer environment for meatpacking facility employees, therefore, leading to a more stable meat supply chain. Essential Workers and COVID-19 The COVID-19 pandemic has brought untold suffering to families across Nebraska, but meatpacking employees have carried a disproportionate amount of that suffering. As of January 2021, 6,700 positive cases had been found amongst facility workers with 249 hospitalizations and 26 deaths. The protections outlined in LB241 are common-sense regulations related to, among other conditions, social distancing, personal protective equipment, and paid time off for those contracting COVID-19. The protective measures are not out of the ordinary and should be present in any environment requiring workers to be in close proximity. This should be apparent for the simple reason that essential workers deserve to have a workplace that values their health and does not present fear of engaging in employment. Supply Instability and the Meat Industry In the spring of 2020, meatpacking facilities became an ideal environment for the spread of COVID-19. Employees working in close proximity without sufficient protection were able to pass the respiratory virus to each other with ease. In late May, one quarter of all COVID-19 cases in Nebraska were attributed to the meatpacking industry. Outbreaks across the country led to the closure of numerous meatpacking facilities. Due to our country'S high dependence on the industrialized meat industry, these closures threatened our meat supply chains. Idle facilities led to reduced product supply which led to price increases. In May of 2020, beef prices were 18% higher than the previous year and increased 11% from April to May, the largest monthly increase on record. In addition, many livestock producers were left without a market to sell their animals. Faced with the costs of holding inventory, many farmers were forced to consider euthanizing livestock. It's estimated that the total beef cattle industry loss from COVID-19 is \$13.6 billion over 63 million animals. Much of this loss is due to a concentrated industry, 98% of processed meat is handled in just 50 facilities, that is

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our COVID-19 response protocol

dependent on its essential workers. Conclusion The NFC supports this legislation and would like to thank Senator Tony Vargas for its introduction. The stability of our country's meat supply chain is dependent on these facilities and, in turn, the employees who operate them. There is no excuse for not protecting workers, no less workers that are required to produce food. The Nebraska Food Council believes that our state should set the example by requiring these protections in meatpacking facilities; championing safety and food security for Nebraskans.

B. HANSEN: Anyone else wishing to testify in support? All right, seeing none, is there any that wish to testify in opposition to LB241? Seeing none, is there any that wish to testify in a neutral capacity?

JESSICA KOLTERMAN: I'm in opposition.

B. HANSEN: OK.

JESSICA KOLTERMAN: [INAUDIBLE].

B. HANSEN: Yep.

JESSICA KOLTERMAN: Senators,--

B. HANSEN: Welcome.

JESSICA KOLTERMAN: --members of the committee, my name is Jessica Kolterman. I also brought with me Jon Panipinto. He's our safety director. So if there's any more specific questions and I'm not able to answer, he is here as well. J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I serve as the director of administration for Lincoln Premium Poultry. We are Costco's food processing facility located in Fremont, Nebraska. Just wanted to basically take this opportunity to tell you our story about our company through the pandemic. We've been obviously dealing with this for about a year. And, you know, our goal through this entire thing has been to do right by our people. We have worked very hard to come up with every way imaginable to support them. We had three fundamental principles that we built our entire response upon. The first one was do right by our people. The second one was transparency, both within our organization and with the public, and then to communicate often with both of those groups as well. We put together a COVID task force that was made up of leaders of our company. And we have always, as a company, had an open door policy

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

asking team members to come to us with anything that they think we can do to do better. We worked with policy and public health experts, including Three Rivers Public Health, located there in Fremont, the University of Nebraska Medical Center, Global Center for Health Security, and then also DHHS. Our communication has always been very widespread. We have put out communications to our team members constantly throughout this entire year, related specifically to COVID. We've utilized press releases to communicate information about what we're doing to the public. We've had an open door policy with any members of the public, any public health people, anybody who wants to come in and visit. To communicate with our people internally, we've utilized town halls, small group meetings, huddles, anything that can help them understand what we're doing and how we can hear their concerns and try to improve upon that. Our interventions have been everything that you've seen in the CDC, everything from hiring full-time people, that the only job they have is to sanitize everything in the building, touch spaces, cafeteria tables, anything like that. We have all the PPE available. And I will say we've been very fortunate in our partnership with Costco that we have not had problems getting that PPE because of their access to some supply chains, the temp scanners, you know, the distancing, the barriers. We've done that. I want to go over just some specific things, all the CDC recommendations. But Senator Lathrop, if I did want to answer your specific question about whether or not this bill maybe goes a little further than the CDC. The answer, and this is the reason we're opposing it, is one main area specifically that would affect, I think, everyone dramatically. And that is the six-foot requirement, the six-foot radius. So the CDC says that you can do that where feasible and they encourage you to do that. And we have implemented that. But where it's not feasible, they allow those barriers. And that would include, as they put it, in the CDC guidelines, adopting a combination of measures to limit the spread, which we have done through shields, barriers, face masks, and so forth. There are a few very specific areas that it would actually be more harmful for our people to have a barrier or to have like they could get with the way the lines are. We don't want the barrier to become something that would harm them, if that makes sense. So there's a few specific places we weren't able to do that full six feet, but everywhere else where we could, we did. And then we did put barriers in, in the places we couldn't if it was safe. And otherwise it was a shield and a mask combination. So the, the other language they, they add is installing barriers where physical

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

distance cannot be maintained. So that was language also from the CDC. So I think that's the main concern for us. I think everything else in this bill we've, we've tried to adopt. Specifically, I do want to talk about the waiver. I guess I'm not familiar with that. We don't have a waiver. I will also say that we don't have a restriction on the amount of time people, when they get COVID that they can be out. We work with them on their individual COVID situation. So some of our people have been out, you know, I think the majority of people have been all past the two weeks and that is all paid. We also, at the beginning of the pandemic, did a 12-week paid period for anyone over the age of 65 where they could quarantine at home paid to protect themselves until we got all of our interventions in place. We also did that for people who had a known medical condition. We have a handout I'm going to share with you. It is, and I know I'm up against time, but I want you to see these numbers. We've been very transparent about our numbers, and, and Jon has it there and he'll, he'll pass it out, but it shows you the data of when the cases occurred at our facility, and those are cases, yes, you know, you kind of have like ongoing cases here and there but our, our curve has been flat the entire time. What you have is specific dates of holidays, and that's where the cases go up. You have Mother's Day, Memorial Day, fall activities back to school, Halloween, Thanksgiving, and Christmas, and they are specific little-- I call them blips where that occurs. And so I wanted you to see that data. And then also our, our curve is, is completely flat and that is there as well. Senator Gragert, you asked specifically about the incidents now. I have one active COVID case at this time, so it is dropped dramatically from where we were. I'm going to say maybe early May, and it's continually gone down, except for those blips that I talked about. Also, the percent of vaccinations. I've had 40 people vaccinated. I would love to do more. And I think if there's something we could have the committee do, it would be to encourage more vaccinations available for us in our facilities. I'll open for questions.

B. HANSEN: Thank you. Are there any questions from the committee? Yes, Senator Lathrop.

LATHROP: You have the newest plant in the state when it comes to meat processing. Right?

JESSICA KOLTERMAN: Um-hum.

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LATHROP: Tell me, if you're already complying with the CDC guidelines, your, your workers are six feet apart?

JESSICA KOLTERMAN: For the most part. I mean, where we can physically do that.

LATHROP: So tell me because-- I'm just going to say this, I see this a lot where they bring the, the person with the-- that who is closest to complying with the act in to testify and be the face of the meatpacking industry.

JESSICA KOLTERMAN: Well, I'm just, I'm just here for our company.

LATHROP: No, I know, I know, I know. But you're the, you're the-- it sounds like closest to complying with the terms of this. And then we don't hear from everybody else who isn't. And my question for you is, if this became law, what changes would it necessitate at Lincoln Poultry?

JESSICA KOLTERMAN: There are--

LATHROP: Because it sounds like you're pretty close to that.

JESSICA KOLTERMAN: Yeah, I think that the biggest concern for us is there are a couple of specific areas of our plant where there is just no way that I can physically distance them at--

LATHROP: Can you describe that for us or tell us what you're talking about?

JESSICA KOLTERMAN: Sure. Yeah, absolutely. There's two places that come to mind specifically in my head. The first one is there's a, there's a place-- it's a-- and, and Senator Hansen has been through, you might remember this, there's a place where we truss the birds.

LATHROP: Where you what?

JESSICA KOLTERMAN: Truss the birds. The, the chickens that are sold as rotisserie, there is a, there is a way that you wrap their wings and their legs together with like it's like an elastic band. That line moves and there is no way to move those people so they're a full six-feet apart. Now, we have distanced them and they have face shields and they have masks. But that is one specific area of the plant where

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our COVID-19 response protocol

I just can't figure out a way we could do it with, with that full
six-foot apart without dramatically reducing production. And I, I mean
dramatically. And that's a, that's a part of our company--

LATHROP: So how far apart are they now?

JESSICA KOLTERMAN: I'm going to say probably about two to three feet,
depending on where, where we are in the line. So it depends, they kind
of stagger. We ask them to stagger and we, we enforce that staggering.
We move them around if they get too close.

LATHROP: Do you have special ventilation in your plant?

JESSICA KOLTERMAN: The whole plant-- we did talk to a ventilation
specialist when this bill was introduced and they felt that our
ventilation systems would be adequate to comply with the bill.

LATHROP: So it's drawing the air away from the workers.

JESSICA KOLTERMAN: Um-hum.

LATHROP: This bill also requires a certain amount of reporting. Are
you already doing that or do you have a problem with that?

JESSICA KOLTERMAN: I don't-- we, we were reporting to the public for
all of our cases from the very beginning. We have the whole time. I
mean, eventually, I'll be honest with you, we were putting out press
releases in the beginning and we-- we've kind of stopped when things
really tapered off because there wasn't-- you know, why say something
that's not going on? Like no new cases today. We didn't feel like we
needed to put out a report on that. But the other thing that was
unfortunate about us being so transparent is OSHA decided because they
knew what was going on in our plant, that they wanted to come visit us
very frequently. And so instead of spending the time actually
protecting my people, I spent a lot of time trying to show OSHA all
the things we were doing as opposed to actually doing them, if that
makes sense. So in the beginning, every time I put out a press
release, OSHA would come in and would say, we need to do another
inspection. You had a case or you had X number of cases. So I mean,
they've been in multiple times. We've never been cited. We've never
been fined.

LATHROP: Does OSHA have guidance on meatpacking plants for COVID?

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our COVID-19 response protocol

JESSICA KOLTERMAN: Yes, and, and I would say that their guidance is enforceable because they're coming out and enforcing it. And if they see things that, that they think are not meeting their guidance, I've been through two very thorough, I'll call them investigations of, of COVID, and we have not been cited and we have not been fined.

LATHROP: Does-- do the OSHA guidelines mirror the CDC guidelines for COVID?

JESSICA KOLTERMAN: They-- they're-- yes, it is-- they're, they're joint together. Like they talk-- they refer to each other through the whole-- all the language that you find online.

LATHROP: How many times have you had OSHA out to Lincoln Poultry in the last year for COVID-related [INAUDIBLE]?

JESSICA KOLTERMAN: For COVID specifically, two.

LATHROP: Pardon me?

JESSICA KOLTERMAN: Two.

LATHROP: How many times have you seen anybody from the Department of Labor come out to do any kind of inspection?

JESSICA KOLTERMAN: When we first opened, we had the food processing meat advocate-- meat processing advocate. She was out in, I want to say it was October, November.

LATHROP: '19.

JESSICA KOLTERMAN: Of '19, yes.

LATHROP: How about since COVID?

JESSICA KOLTERMAN: No, I have not.

LATHROP: I think that's all the questions I have for you. Thank you so much.

JESSICA KOLTERMAN: All right, thank you.

B. HANSEN: Any other questions from the committee? Yes, Senator Gragert.

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our COVID-19 response protocol

GRAGERT: Thank you, Chairman Hansen. And thank you for your testimony. Let me just clarify. I don't know if you, if you received one of these from Senator Vargas, the eight, eight bullet points or, you know, the six-foot spacing, the masks, you know, you know. Right now, so what I'm hearing is that CDC and OSHA, these are all just recommendations or, or we go further than reco--

JESSICA KOLTERMAN: We, we view the OSHA guidance as enforceable because we-- when we reported two of our deaths, we've had two. And, you know, we had OSHA come out and do investigations on those, even though in both cases there was no link to our facility with those people getting COVID. OSHA came out under the-- as they explained it to us, it is possible that they could have gotten it here. So they came out, they did their inspections. They, they-- the inspections went on for quite some time. There was a lot of back and forth where they'd ask more questions and we'd answer the questions and went on for almost the full 180 days that they have to complete their investigation. And then they issued us a list of improvements that they would recommend. But they were not-- there were no citations and there were no fines. And the improvements were-- I'll give you an example of one that comes to mind. We had a lot of these all over the facility because in the beginning, that's what is available. We were not able to get the touch free where you just put your hand under it. They wanted in their recommendations all of our hand sanitizer dispensers to be touch free. So that's an example of something they recommended and, and we were able to implement ultimately all their recommendations from their letter that they sent as they closed our cases.

GRAGERT: So, again, I'm hearing recommendations, they're not, they're not regulations.

JESSICA KOLTERMAN: Well, in my mind, if OSHA would come out tomorrow and look and make sure-- do a-- I'll call it a COVID investigation or a COVID check, they-- because they made those they could fine us for not having met those. Now, like I said, we have met them. We've been able to implement those things because as an example of this one, we were able to finally get our hands on touch-free hand sanitizer stations. It took a long time, though, as you know, with supply and demand on those types of things right now.

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our COVID-19 response protocol

GRAGERT: So the six-foot spacing isn't one of their recommendations
and/or regulations?

JESSICA KOLTERMAN: They specifically say-- the words they use, adopt a
combination of measures to limit the spread, including installing
barriers where physical distancing cannot be maintained. So they have
the alternative, like you could do the six-foot, if you can, which we
have where we can. And then if we can't, we've done physical barriers.
And if we can't do a physical barrier, they also allow for the
mask-shield combination. So there's some flexibility in that specific
case. If that-- does that answer your question?

GRAGERT: Yep, yep, thank you. Appreciate it.

B. HANSEN: Any other questions? All right, seeing none, thank you.

JESSICA KOLTERMAN: All right, thank you.

B. HANSEN: Anybody else wishing to testify in opposition? Welcome.

GARY WALTERS: Thank you, Chairman Hansen, and also the-- all the
members of the Business and Labor Committee. My name is Gary Walters.
I am the senior director of corporate safety at Smithfield Foods. We
are a U.S. company that produces pork products for tens of millions of
people, many of them Nebraskans. Here in Nebraska, we operate multiple
food production facilities, including Crete, Lincoln, and Omaha. We
employ more than 3,000 people in the state and we support many family
farmers in our supplier network. I am pleased to speak with you in a
hearing like this once again and I am speaking with you on behalf of
our incredible employees here in Nebraska. Let me begin by repeating
an invitation, we will work with you to accommodate a safe visit to
our facilities, just as we have done with health agencies and experts
throughout the pandemic. Included in those people that visit our
plants and work with us on the controls and measures, we have taken
our researchers from the University of Nebraska Medical Center, as
well as the League of United Latin American Citizens, who is the
largest and oldest Hispanic organization in the U.S. We all know the
impact of the virus, it has touched every part of our society, every
corner of our nation, we have shared the same level of concern, a lot
that you've heard here today in this room. And that is why that we
have worked with industry experts, medical experts, and everyone else
on our plants. As the senior safety director of Smithfield, my role is

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

to work with all of these teams, anyone that is available to assist us and work with us, including healthcare experts and providers to ensure our employees remain safe. A safe workplace and healthy employees is the only way we can carry out our critical duty of protecting safe, affordable, and providing-- excuse me, affordable, nutritious food to so many. Throughout the pandemic, we have had two priorities. First, keep our people healthy and safe. And second, keep food on your table. Unfortunately, falsehoods continue to be portrayed about food producers, including our employees. As policymakers, we want you to have the facts. And so we thank you for this opportunity to share factual information about the extraordinary measures we have taken during these extraordinary times. We have acted swiftly and responsibly, working with health experts in a multifaceted response to the virus. It is critical for you to know these actions have been successful month after month after month for a sustained period. As I speak here today, we have one employee in the state who is positive with COVID-19 over the past 10 days among our 3,000 employees in the state. However, we are, like so many, still eagerly awaiting widespread distributions of vaccines. Because of our on-site medical provider capabilities, we remain a willing partner with the state and local health agencies to assist in vaccine distribution to food production workers. We are ready to help. We respectfully request that at this time, you use every effort to make sure that food production workers are given the highest priority for the vaccines. We do not believe that our success should lower the priority for vaccinating our employees. Time, attention, and resources should be on vaccine distribution. It is the best way for all working together to fight this virus. I want to share some details about the actions we have taken because so many people here today simply do not understand what has happened on the ground in response to the pandemic. We've implemented all recommendations in the joint guidance of the meat and poultry processing workers and employees from the Center of Disease Control and OSHA, which a lot has been mentioned here today. And we have adhered to those requirements of all state and local agencies. We have in place extensive COVID-19 screening for all individuals before entering our facilities, including temperature scans and temper-- and excuse me, symptom checks. That is, anyone reporting or exhibiting COVID-19 symptoms is prohibited from entering a Smithfield facility. We require all individuals to wear face masks that we provide while inside our facilities. We require wearing company provided face masks and face shields while in production areas. And we have upgraded

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our COVID-19 response protocol

existing modern air systems and installed air purification systems, installed thousands of hand sanitizing stations and mandated frequent hand sanitizing for employees. We've mandated social distancing where possible by reconfiguring workstations, construct-- excuse me, constructing additional space and welfare areas and spreading out workers. Here in Nebraska, we have constructed a new multimillion dollar facility on our campus in Crete to ensure that distancing can be maintained among employees that we have done elsewhere. Where social distancing is not possible, we have implemented other effective safety measures, including installing physical barriers between workers.

B. HANSEN: Mr. Walters, your red light went off.

GARY WALTERS: Oh, I'm sorry.

B. HANSEN: Yeah, and so--

GARY WALTERS: Can I finish up with one last statement?

B. HANSEN: If it's quick, yes.

GARY WALTERS: Real quick. Four things real quick. Provide free on-site demand testing for all employees. We've been a leader in identifying asymptomatic cases. We've created flexible attendance policies to provide paid leave for employees who miss work for COVID-19 reasons. And we removed all punitive consequences for missing work due to COVID-19. We have allowed employees at higher risk for serious complications from COVID-19 to stay at home on paid leave. And we have established paid and responsibility bonuses to our frontline essential workers, even if they missed work due to COVID-19 or on other types of paid leave. So I know my time is up and I'll close with that.

B. HANSEN: Thank you. Any questions from the committee? Yes, Senator Hansen.

LATHROP: Oh, go ahead.

M. HANSEN: Thank you. Thank you for being here, Mr. Walters. Just so I guess I get at some context. And let me say I both do appreciate both you and Lincoln Premium and Miss Kolterman coming in to this hearing. What percentage, what percentage of the meatpacking in Nebraska do you represent?

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our COVID-19 response protocol

GARY WALTERS: I'm not sure what percentage. I heard earlier, a number of meatpacking employees. We have 3,000 in the state, so whatever that would represent, I'm not sure of what the percentage would be.

M. HANSEN: OK. I appreciate this and it's probably going to go out to the line of questioning Senator Lathrop was, and that's what I'm trying to wrap my head around is appreciate you coming by, appreciate Miss Kolterman coming by. You know, some of the packers that I think we heard by name from the testifiers earlier on, so the ones that aren't coming to the hearing. And so that's us as policymakers trying to figure out who's doing what. So at minimum, I appreciate yourself being available to the committee.

B. HANSEN: Senator Lathrop.

LATHROP: So I'll ask you the same question I had for Ms. Kolterman, which is when you sat down and you talked about we're doing this, we're complying with CDC, OSHA, we're doing everything. So if this passes, what-- what's different for you? If you're already doing this stuff and you're here in opposition, that, that doesn't seem to make sense to me because you tell me, we're complying with CDC, we're complying with OSHA, and-- but we're here in opposition to a bill that essentially says do what OSHA says unless you think it's more.

GARY WALTERS: No, I, I think there's a lot of mirror in there between what OSHA has with CDC guidelines from the standpoint of a lot that you've already heard, like the six-foot social distancing, the barrier, the same thing there as, as Jessica mentioned. There's a couple of jobs that I can, I can visually see right now where we have trouble with that, with six-foot social distancing. Now, we have done some distancing. We have put barriers in and things like that. But there's a few jobs there. As far as other things and look at this and we talked today about OSHA, whether the difference, I believe you brought up the difference between recommendation or guidelines or regulatory is that OSHA does give recommendations. But if you don't follow up on those recommendations, they do become regulatory under the general duty clause. So there could be citations issued there from that standpoint. So I think that's, that's some of the things that if you have that out there and you're doing those things, why have the regulation on that to follow that up?

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our COVID-19 response protocol

LATHROP: So let me be more specific. What is it, Senator Vargas' bill
is requiring of you that you're not doing right now?

GARY WALTERS: I think a lot of it has been in place and been in place
a lot of time. It's covered by the CDC guidelines and it's--

LATHROP: Hang on a minute because that's not an answer to my question.

GARY WALTERS: Yes.

LATHROP: And I'll ask it again and I'll have you listen very
carefully. What does this bill require of you that you're not already
doing?

GARY WALTERS: I don't think there is a lot in there that we're not
doing. I, I will go back again.

LATHROP: OK, then there's something you're not doing. What is it?

GARY WALTERS: Nothing that I can think of.

LATHROP: OK, thank you.

B. HANSEN: Any other questions? Yes, Senator Gragert.

GRAGERT: I have a question because I'm going to ask Senator Vargas
when he comes and closes, but let me be just a little more specific
then, because I'm hearing, you know, you're doing the six-foot radius
up to as far as you can, but there's some areas you can't do it in.
And this, this one bullet statement here doesn't give-- and it doesn't
look like to me it's giving you the option to do barriers and, and
wear a mask.

GARY WALTERS: That is correct.

GRAGERT: So would that be-- is that one of your hangups versus--

GARY WALTERS: Yeah, that's the one that I was just talking about.
There are a couple of areas in some of the plants that where based on
the way the operation is run, it's very hard to get a six-foot radius.
And back to your point, that would be-- like I said, we can do it as
it is today with the barriers and the other options that are out there
including the mask and the face shield, which is required for every

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our COVID-19 response protocol

job in production areas in our plants today, the mask and the face shield. We have that option. If this here is written to the standpoint as it stands that it is a hard six-foot, then that would be very, very difficult and very hard to accomplish, if at all.

GRAGERT: Another question, you know, you, you made mention you spent multimillion dollars upgrading your plant. Is that just one plant or that all your plants? Are all your plants to what you'd say is pretty much equal as far as protection wise?

GARY WALTERS: Yeah, what I referenced to there in my statement was just the facility at Crete, a multimillion dollar facility there. In terms of all facilities we have spent-- Smithfield has spent over \$800 million on COVID since the pandemic began. And that's, you know, that covers the PPE. You know, you're talking about PPE, you're talking about barriers, guards, upgrades to ventilation systems. And I could go on and on. A lot of that is detailed in the written report that, that I provided.

GRAGERT: OK, thank you.

GARY WALTERS: You bet.

B. HANSEN: Any other questions? I just have maybe one, maybe two questions. And it's kind of what's in the bill and Senator Vargas may be able to answer this as well. There's a certain section, Section 4 on page 3, that says: employer shall remain six-foot distance and between each worker in all areas of the employer's facility. So would you consider the parking lot part of the facility or is it just indoors?

GARY WALTERS: We consider the parking lot as part of the facility.

B. HANSEN: That's what I was wondering because, again, from my previous experience, most usually you kind of travel within a 30-mile radius typically, and travel and they carpool together.

GARY WALTERS: Yes.

B. HANSEN: And so if there are four or five per car, would that be feasible for you to enact six-foot distancing in vehicles?

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our COVID-19 response protocol

GARY WALTERS: We-- yes, to answer your question, we have communications about carpooling. We have had for quite some time. When we look at in terms of responsibility of social distancing and keeping six-foot barriers, once they get out of their car in the parking lot, we have barriers. We have walkways. We have different ways to enter the plant and come in for separation, including markers and physical barriers.

B. HANSEN: OK, just curious about the language in that part. OK, thank you.

GARY WALTERS: Yeah.

B. HANSEN: Yes, Senator Hunt.

HUNT: Thank you, Chairman Hansen. What about the tracking and reporting requirement? How would, how would this bill change what you're already doing in terms of that?

GARY WALTERS: Anything we have right now, we report directly to the Department of, Department of Health and to the state as required. If there are situations that meets the regulations or requirements from OSHA from reporting standpoint, we do that. I don't think from a reporting standpoint, we see a lot of change other than what we're doing now to the local departments of Health and to OSHA, if it's required.

HUNT: OK, thank you.

B. HANSEN: All right, any other questions?

LATHROP: Yeah, I got, I got one more.

B. HANSEN: Yes, Senator Lathrop.

LATHROP: Somebody comes to you that works in your plant and says that I have contracted COVID, are you filing a first report of occupational injury? For each of those employees that come in to you and notify you that they have COVID,--

GARY WALTERS: Yes.

LATHROP: --do you have to file a first report of occupational injury?

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our COVID-19 response protocol

GARY WALTERS: We encourage all of our employees if they're having symptoms of COVID, first of all, to not even come in to the facility. So--

LATHROP: OK, but this question is about the first report of occupational injury.

GARY WALTERS: Right.

LATHROP: Are you filing those on your employees that inform you that they have contracted? Because you and I both know that starts the statute of limitations on a work comp claim, doesn't it?

GARY WALTERS: That-- that's exactly right.

LATHROP: OK, so are you filing first report of occupational injuries on each of those employees that notify you that they have COVID or they think they got it at work?

GARY WALTERS: Well, the first thing would be an investigation, as required by OSHA to make a determination of whether it's work related or not. If it is determined it is a work-related case, then yes, absolutely.

LATHROP: But you don't do it on every employee. You just do it on those that you-- your investigation identifies as work related?

GARY WALTERS: Yes. If it's identified as work related, you would, you would do that, yes. You would not do that for something that is not work related.

LATHROP: I get that. I get that. But are you erring, are you erring on the side of filing a first report of occupational injury?

GARY WALTERS: Not sure I understand the question. If we do the investigation as required by OSHA, and if a determination is made it is work related, then we file it. If it is found--

LATHROP: How long does that investigation take?

GARY WALTERS: Yes, if the, yes, if the investigation finds it's not work related, then we do not.

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our COVID-19 response protocol

LATHROP: Let me ask another question.

GARY WALTERS: OK.

LATHROP: Because I don't feel like I'm getting an answer that I'm
looking for. How many first report of occupational injuries related to
COVID exposures and illnesses have you filed at Smithfield?

GARY WALTERS: You know, I don't have that information with me. I
couldn't answer that here today.

LATHROP: More than 25?

GARY WALTERS: I think I would guess-- I, I really couldn't answer
that. I don't have that information with me today.

LATHROP: OK, well, we know this morning that we can go look it up, so.

GARY WALTERS: Yeah, absolutely.

LATHROP: Right?

GARY WALTERS: I encourage you to do so. Yes.

LATHROP: OK, thank you.

B. HANSEN: All right, any other questions? All right, thank you for
your testimony.

GARY WALTERS: Thank you.

***JUSTIN BRADY:** Senator Hansen and members of the Business and Labor
Committee my name is Justin Brady, and I am appearing before you today
as the registered lobbyist for Tyson Foods, in opposition to LB241.
Unfortunately, Dan Turton Senior Vice President for Global Government
Affairs, Tyson Foods, Inc. is unable to be here today but had he been
here, here are the thoughts he would have liked to have shared. As a
representative of Tyson Foods is unable to attend the meeting in
person, I request that the contents of this letter be made part of the
record. Given the measures we have taken in response to the COVID-19
pandemic, we are opposed to LB241 as drafted because, as set out
below, Tyson has undertaken significant action to address team member
safety and the spread of COVID-19 in our facilities. Tyson is an

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essential part of America's food system, supporting farms and providing food for the country's population. Tyson employs approximately 120,000 team members at operations in 28 states throughout the United States. In Nebraska specifically, we are proud to employ almost 11,000 Nebraskans across our plants in Dakota City, Lexington, Madison, Omaha, Tecumseh, and Waverly. In addition to commodity chicken, beef, and pork products, Tyson also produces some of America's most iconic brands, including Jimmy Dean, Hillshire Farms, Ball Park, and Tyson chicken products, as well as a growing line of alternative proteins. The health and safety of our team members is and remains our top priority. Since the very beginning of the pandemic, we have invested hundreds of millions of dollars in team member safety and benefits, implementing extensive protective measures to ensure the wellbeing of our team. Tyson has followed, and in some cases gone beyond, guidance from both the CDC and the federal Occupational Safety & Health Administration (OSHA) on which we believe the standards proposed in LB241 are based. Tyson first convened a company-wide coronavirus task force in mid-January 2020 and, in late February, based on the information available at the time, issued its initial COVID-19 Mitigation Plan to Tyson plants to initiate viral spread prevention measures. From that point forward, Tyson frequently issued and continues to update policies to protect team members, while simultaneously adjusting the company's processes, implementing new practices, and providing a consistent food supply for millions of families across the nation. Tyson also put into place significant protective measures and further enhanced resources for its team members to help protect them inside and outside of its facilities. This included procuring walk-through temperature scanners, erecting workstation dividers, implementing a data-driven three-pronged testing approach, creating a chief medical officer position and adding almost 200 nurses and administrative support personnel to the company's health services team bringing it now to 600 strong. Given the fluid, unprecedented nature of the pandemic and Tyson's commitment to a proactive response, Tyson continuously reviews and updates its policies in response to changing scientific data and evolving federal and state guidance. In so doing, Tyson has worked to keep team members healthy and safe. Its policy has been to focus on encouraging sick or symptomatic team members to self-identify and stay home, identifying and isolating positive team members, protecting team members while at work, and educating team members on ways to remain safe at home and in their communities. Further, Tyson has and continues to frequently

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

collaborate with federal, state, and local officials, many of whom have visited the company's facilities to help design innovative, industry-leading coronavirus mitigation strategies that often went beyond regulatory requirements. For example, in April and May 2020, we provided tours for the University of Nebraska Medical Center team of our Dakota City, Lexington and Madison plants to see firsthand the measures we had taken. We received positive feedback from the team who stated they were appreciative that Tyson had already implemented several of the measures they considered best practices. We continue to work with local authorities and health care officials to regularly share data and insights to help tackle the community spread of the virus. In some locations, we are conducting regular calls with health departments. We have also partnered with experts in health and safety, including retaining Matrix Medical to advise on and implement strategies to keep our team members safe and healthy. Looking ahead, as the supply of the COVID-19 vaccine starts to increase, Tyson is currently working tirelessly with trusted medical partners and health officials to ensure our frontline team members can have access to a vaccination when local regulations and availability permit. The vaccine will be available through our partnership with Matrix Medical Network - a trusted Tyson partner and medical leader in clinical services that has supported Tyson's testing strategy. Tyson and Matrix are working closely with local, state and federal health officials. Matrix is deploying mobile health clinics and expert clinical staff to support vaccine communications and administration at Tyson plants. We will not require team members to take the vaccine but are focusing our efforts on education and to make the vaccine easily accessible to those who want to take it, at no cost. We will also compensate team members for up to four hours of regular pay if they are vaccinated outside of their normal shift or through an external source. We are providing extensive information, in multiple languages, to our team members on how the vaccine works to help them make an informed decision on whether they want to receive it. This includes handout materials for all frontline team members at our plants with additional planning information shared with plant leaders. Tyson's health services team will be on hand to answer team member questions throughout the vaccination process in the weeks and months ahead. In closing, I want to reiterate that our team members' health and safety is our top priority. Tyson has implemented and is fully committed to continuing to implement proactive measures to protect our workers during this national crisis. We also take seriously our responsibility

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

as part of the United States' critical infrastructure to maintain food supply chains to the American people without compromising this commitment. Our Nebraska plants and the almost 11,000 Nebraskan team members who support them are an indispensable part of a supply chain that includes farmers, ranchers, truckers, grocers, hospitals and many others. As stated above, we are opposed to LB241 because Tyson has undertaken significant action to address team member safety and the spread of COVID-19 in our facilities, consistent with guidance from CDC and OSHA. I would be happy to provide answers to any follow up questions that you, or other members of the Business and Labor Committee, may have.

***RON SEDLACEK:** Chairman Hansen and members of the Business and Labor Committee: My name is Ron Sedlacek and I am testifying today on behalf of Nebraska Chamber of Commerce and Industry in opposition to LB241. From the early days of the COVID-19 pandemic, learning from and attempting to mitigate workplace outbreaks, Nebraska meatpackers have taken extraordinary measures to protect employees from the virus. Our meatpacking companies have reported they are meeting or exceeding prevailing federal, state, and local health and safety guidance, including the offering of personal protective equipment with more than significant reserve inventory available. Meatpacking companies have reported significant investments in employee protection measures and health and safety interventions, such as physical barriers, signage, sanitation stations and COVID-19 pre-screening, testing symptomatic workers and close contacts, covering COVID-19 related health expenses for employees, and removing "vulnerable population groups with full pay and benefits" through tailored leave programs and other protocols to keep sick employees offsite. Employers are incentivized to provide safe workplaces for employees. They rely on a maintaining a healthy and safe workplace and to keep employees safe and secure in the workplace to keep business operations open. Employers also rely on reasonable scientific guidance available and evolving recommendations from state and federal agencies. There has been much activity in this regard on the federal level. OSHA released new guidance at the end of January aimed at protecting employees from COVID-19. OSHA and the CDC have also issued and continually update additional guidance regarding meatpacking workers, the latest issued in February 2021. These ever-evolving guidance documents demonstrate that a "one-size-fits-all" static policy enshrined in law is not the right solution to address worker and workplace safety. Rather, the ability

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to update, adjust and respond to evolving circumstances is best left to flexible regulatory guidance documents and health directives. For these reasons, the Nebraska Chamber asks that the Business and Labor Committee not advance LB241 for further consideration.

***MICK MINES:** Chairman Hansen and members of the Business and Labor Committee, thank you for the opportunity to provide comments on LB241. My name is Mick Mines, and I am the registered lobbyist for the Cargill. Cargill's Beef plant in Schuyler, employs over 2,200, where they process 5,000 head per day. The plant is critically important to Cargill's foreign and domestic beef supply chain. Cargill is opposed to LB241 because they believe existing federal standards make additional state-level regulations unnecessary. Throughout this pandemic Cargill's first priority has been the health and safety of their employees on the front lines. Cargill knows first-hand about being an essential worker, and they continue to be humbled by the resilience and commitment demonstrated by the team in Schuyler as they provide product for millions of meals to families every day. To promote and maintain a safe work environment, Cargill partnered with health experts to implement new protocols to protect their employees from the community-wide impacts of the virus. Over the last year, standards have evolved, and they are continuously learning about new ways to protect employees. Cargill has worked with the World Health Organization, Centers for Disease Control, OSHA, and other national, state, and local health officials, to proactively deploy the latest available safety protocols appropriate for the contexts in which we operate. In addition to protocols already in place, Cargill implemented the following actions: • Developed screening questions that are asked prior to entering Cargill's protein plants, which include questions on any illness-related symptoms, recent travel out of the state, and any close contact with someone who has COVID-19. • Initiated temperature screening for employees at arrival and before returning to work after lunch break. • Prohibited all unnecessary visitors to the facility. • In addition to already high sanitation standards, they increased sanitizing throughout the day in all common areas and office spaces, including additional sanitizing each night. • Increased available space in the break room by utilizing meeting rooms, installing dividers throughout the breakrooms, and expanding break areas to tents • Installed protective barriers on the production floor between employees where possible. • Provided full face shields for any job where the protective barrier is not possible. • Provided

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our COVID-19 response protocol

and mandated the use of masks for employees and contractors at the plant. Cargill has taken further steps to respond to the community-wide impacts of the virus. These include:

- Reduced the likelihood of carpooling to reduce potential transmission between employees in transit, by providing buses with protective barriers between the seats
- Limited vehicles to two people per car from accessing protein plants
- Provided buses with protective barriers between the seats to alleviate the need for carpooling from multiple areas
- Continued to focus on education and awareness of social distancing inside and outside of work, including not sharing food during meals.

Today, the company is working closely with the local health departments in Nebraska and other states on vaccine planning to ensure they are prepared to support their essential employees in receiving vaccinations as soon as supplies are available. A number of Cargill employees in Schuyler have received the vaccine in partnership with the community hospital and Marathon Health. The first round of vaccinations has been offered to employees age 65 and older, and they will continue to partner with local health departments to provide vaccines to the remaining workforce as supply becomes available. Vaccinations will be voluntary, and each team member is provided an additional 4 hours of pay to accommodate receiving the vaccine. At Cargill, they put people first. They have made it clear to their workforce that no employee should come to work if they are sick, or they have been exposed to someone with COVID-19. If they see a practice that does not adhere to Cargill's values or these policies, Cargill encourages them to speak with a manager or call the Open Ethics Line. The company adopted a "see something, say something" culture many years ago to ensure their workplaces are safe for all who enter. Cargill is committed to keeping their employees safe, feeding the world, and ensuring farmers and ranchers have access to markets. Doing all three simultaneously requires tremendous care. Cargill stands behind the actions taken over the last year and believe LB241 is unnecessary. Cargill has a 155-year history of nourishing the world in a safe, responsible, and sustainable way, and their people will continue to carry out that essential work safely. For that, Cargill is unfailingly grateful. About Cargill- Founded in 1865, Cargill's 160,000 employees across 70 countries work to achieve our purpose of nourishing the world in a safe, responsible, and sustainable way. Every day, they connect farmers with markets, customers with ingredients, and people and animals with the food they need to thrive. Cargill in Nebraska - Cargill has deep ties to Nebraska communities

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our COVID-19 response protocol

with over 4,000 professionals employed in diverse businesses across the State. In addition to the Schuyler Beef processing plants, they have grain elevators (Albion, Carleton, Gibbon, Shelton, Holdrege, O'Neill, Ord); an animal feed plant (Fremont) and cooked meats plants (Columbus). Cargill's largest investment in the world is our 650-acre bioscience complex in Blair with 500 Cargill employees, 500 full-time contractors, and 500 professionals employed by their co-located partners: Corbion, NatureWorks, Evonik, Novozymes, and Avansya. Thank you.

***JULIA PLUCKER:** Good afternoon Chairman Hansen and members of the Business and Labor Committee. My name is Julia Plucker, J-U-L-I-A P-L-U-C-K-E-R, registered lobbyist for the Nebraska Coalition of Agricultural Manufacturers. I developed this testimony with Mark Theisen, General Counsel of Greater Omaha Packing, located in south Omaha. Greater Omaha Packing is a meat processing facility, started in 1920, that employs approximately 1400 people. Greater Omaha processes approximately 2400 head of cattle per day, and we ship beef to every U.S. state and over 70 countries around the world. Greater Omaha is a single source supplier of high quality beef and we source Angus and Hereford cattle within a 200-mile radius of our Omaha production facility. We typically spend approximately \$1.1 billion annually in livestock purchases in the area. This helps the state economy for farmers, ranchers, and cattle feeders. Thank you for the opportunity to discuss our opposition to LB241. Let me begin by saying that Greater Omaha Packing strives for worker safety in all aspects of our operation, including practices and protocols to reduce or eliminate the spread of COVID-19. As the pandemic wreaked havoc on the country, we worked quickly and diligently to supply facemasks, shields and other safety-related PPE to our employees. We established 6-foot distancing where feasible, and erected plastic barriers to reduce the risk of transmission. We also developed and currently maintain a COVID-19 Preparedness Plan that is updated as new CDC and OSHA guidelines become available. In short, we believe the practices in this bill have already been implemented in our plant. This is evidenced by the dramatic reduction in positive COVID-19 case numbers in packing plants - 1/9th the rate of the general population. The current number of positive COVID-19 cases at Greater Omaha Packing is ONE, in an employee population of about 1400. One particular section of the bill, Section 4, is unworkable. This section calls for "mandatory six-foot radius of space around and between each worker in

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

all areas of the employer's facility", without a clear exception for the use of plastic barriers. This will result in reduced operational efficiency which means slowing production lines and reducing capacity, which will ultimately result in fewer head of cattle being processed, thereby affecting the entire supply chain from the Nebraska cattle producers to the customers. An estimate from our plant engineer states that the impact of this section alone would result in a 50% reduction of workers and throughput on our fabrication floor. When we go through a grocery store check-out, check-in at a doctor's office, or transact business with a bank teller, we are within a few feet of the employee, but a plastic barrier allows further protection, even though within six feet, to prevent spread of COVID-19. Greater Omaha also uses plastic shielding when we are unable to adhere to a strict distancing standard. For long-term protection of our employees - vaccinations - not this legislation, are required. We have a lot of employees willing to roll up their sleeves and receive the shot when we are able to access the vaccine. It has been a disappointment to our plant and the employees that although we are saluted as "essential workers" supplying food for the country, we have not been prioritized to receive the vaccine. Please know that we are prepared to administer those vaccines when they become available. Thank you for your time and consideration, and I'll be happy to answer any questions.

***JOHN ALBIN:** Senator Hansen, members of the Business and Labor Committee, for the record, my name is John Albin, and I am the Commissioner of Labor. I am appearing here today in opposition to LB241. LB241 creates the Meatpacking Employees COVID-19 Protection Act. As drafted LB241 requires the Nebraska Department of Labor to inspect and enforce safety violations within meatpacking facilities. The enforcement of workplace safety violations is preempted by federal law. Specifically, the Occupational and Safety Health Act of 1970 (the OSH Act) created a federal workplace safety program. Please note, OSHA is the administrative agency and OSH is the act itself. The State of Nebraska is prohibited from asserting jurisdiction under any State law that is covered under the OSH Act. According to the Federal Occupational Safety and Health Administration, the OSH Act requirements apply to preventing occupational exposure to SARS-CoV-2 (COVID-19) <https://www.osha.gov/coronavirus/standards>. Therefore, LB241 is preempted. The OSH Act does create a path for state enforcement of issues covered by the OSH Act. Section 18 of the Act states: Any State which, at any time, desires to assume responsibility

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

for development and enforcement therein of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated under section 6 shall submit a State plan for the development of such standards and their enforcement. The submitted plan then requires approval by the Secretary of Labor. LB241 ends on December 31, 2021. The Department does not believe it will be feasible to have a full plan submitted and approved by the Secretary of Labor by December 31, 2021. Additionally, any plan would have to account for enforcement equal to or more stringent than the regulations created under section 6 of the OSH Act. LB241 is considerably less broad than the OSH Act and its accompanying regulations. That concludes my testimony and I would be happy to try and answer any questions that you might have.

***LOREEN REYNANTE:** I am here to oppose LB241. I am for a safe work environment and proper health measures for all workers regardless of the industry. I'm just not sure this bill is really the way to address those concerns. Nebraska already had a Department of Labor that has OSHA regulations and the Meatpacking Industry Workers Bill of Rights: The Right to Organize The Right to a Safe Workplace The Right to Adequate Facilities and the Opportunity to Utilize Them The Right to Complete Information The Right to Understand Information Provided The Right to Existing State and Federal Benefits and Rights The Right to Continuing Training Including Supervisor Training The Right to Compensation for Work Performed The Right to Seek State Help It seems this bill would add another layer and cause the meat packing industry and others (as I am sure this is a template for all industries) to have less flexibility as their needs change. The bill states there will be an inspector. Aren't these plants being inspected? Isn't that what the DOL does, inspections? Are they not doing their job? This bill implies a health mandate by law which implies that employers and employees will lose their freedoms and liberties. The bill also has some steep fines and then where does that money go? The very people that you are trying to protect will be hurt by this bill. Adding a 6' radius working area will add actual physical space to a building. If a plant has 1000 employees by adding an additional 6' that will add 6000 more feet of space and I know businesses are not going to build new plants. The way around that will be a reduction in workers by dismissal or by cutting shifts and hours. I am also concerned that this is a way of shutting down this industry in the United States or at the very least here in Nebraska and have plants opened in other

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countries. If laws become too much for companies, they will shut down and go elsewhere. This bill is a nice sneaky way of tracking everyone all the time and creating travel papers. We are not a communist country, even though many are doing their best to change that. With all these bills being introduced today, in the past and the future, I always think about "what's in it for you"? I suspect that you were approached by a coalition and probably the ACLU of Nebraska. Things like this are never for the worker, they are for the legislators and the special interest groups. What have the special interest groups offered to you? We elect our State Senators and Federal Representatives to take care of us and put our needs in the best light. Lately, I feel that "we the people" are becoming the Oversight Committee via a grass roots movement. We are questioning you on your motives and I oppose this Legislative Bill 241.

B. HANSEN: Anybody else wishing to testify in opposition to LB241? All right, seeing none, is there any that wish to testify in a neutral capacity? And seeing none, we will welcome back, Senator Vargas, to close. And while he is coming up here to close, there have been some written testimony, four in support: Maggie Ballard, from the Heartland Family Service; Tiffany Joekel, from the Women's Fund of Omaha; Al Davis, Nebraska Chapter Sierra Club; and Justin Carter, the Nebraska Food Council. And six in opposition: Justin Brady, Tyson Foods; Ron Sedlacek, Nebraska Chamber; Mick Mines, Cargill; Julia Plucker, Greater Omaha Packing for the Nebraska Coalition Agricultural Manufacturers; John Albin, with the Department of Labor; and Loreen Reynante. And there have been 25 letters of support, letters for the record, and 9 in opposition. And it's all yours.

VARGAS: Thank you very much, Chairman Hansen and members of the Business and Labor Committee. Try to answer a few questions. Senator Lathrop, I don't know the exact number in terms of what they're filing, but to, to our knowledge, there has only been one workers' comp claim filed in regards to meatpacking plants, which means employers aren't filing. Second, OSHA's standards, while I do appreciate Miss Kolterman's response on her interpretation, at the end of the day, OSHA's recommendations are recommendations to Senator Gragert's point. It's great that some people are taking the more seriously in a given time. But as you and I know very well, a recommendation is a recommendation, even with some of the questions that were just asked of the person that was here previously, couldn't state that 100 percent of the time were they meeting these standards,

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excluding even the six-foot social distancing. That was the pain point, at least for the last testifier. We need enforceable standards. We leave this up to recommendations and we get what we've currently have, the data overwhelmingly shows that there was spread. The larger concern I have is if this-- the data that we saw over the last year happened in any other sector, I think there would be a huge cause for concern and alarm sounding and we would be moving on it. The people behind me are probably some of the most frustrated people outside of the families of loved ones that have either have been lost or been hospitalized. And the reason they are is we've worked through some serious motions here. In April of last year, when we were first starting, I contacted the Heartland Workers Center and asked them to put forward a set of recommendations that we should communicate to the Governor on how they could approach this. We received-- and, and, and to many of the plants, we received no response from the Governor's Office. We had listening sessions to try to learn more. We contacted UNMC. Part of that led to those site visits, which were also just recommendations, by the way. We further than asked again and inquired from the Governor's Office what they had and had not done, we received no response to the letter that we sent. That letter was really just a letter inquiring, and we received no response. Then we introduced the bill. Department of Labor, I think what you heard since this sort of the interim between March and August, where we were seeing hotspots and we had the most up-to-date data at that time, which we don't have right now, there was no site visits done to any of the plants for this reason. And the capacity of the person that's supposed to be doing it was mostly for unemployment claims. OSHA and CDC have also been under investigation currently by Congress. Because across the country with these 50-plus hotspots that have happened in this industry, they've issued less than 10 citations across the country. Sometimes we don't have to rely on the federal government to enforce things. Sometimes we should do it ourselves. In this instance, it's abundantly clear based on the data, that there's something that we can and should do. This is very narrowly tailored, narrowly tailored to a period of time, to a pandemic, and you've heard there's a multitude of things that people are already doing and employers already doing. So what's the real opposition? I'm standing in front of you because we have an opportunity to actually listen on behalf of Nebraskans. I have a significant amount of respect for each of you. We sit here and we debate on the issues and concerns of so many other things that are not as life threatening, but are clearly urgent to different Nebraskans

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that are outside of my constituency. I don't often hear issues about property tax relief, but it doesn't mean we don't debate it. I don't always hear issues on behalf of, you know, business and tax incentives, but we still debate it and we passed legislation on that. And for the last year, we have heard from constituencies and families and loved ones that have lost people, that have seen them hospitalized, seen them on ventilators. And we have yet to act in a way that is actually reasonably pragmatic. You can't have-- you can't say that you're opposed to this, but then say you're doing most of it. I mean, you can say that, but then the issue should be how do we actually implement this so that it's enforceable? Our constituencies are not the employers. Our constituencies are all Nebraskans. And we're hearing an overwhelming number of them tell us that there's an issue at hand and it was at hand at last year and we have to do something about it. Most of you know me, we work on a lot of issues. This is-- it's not even just personal because at this point we're talking about putting something in place now that can then help protect lives for the next several months. Colleagues, I'm asking you to put in place enforceable standards so that we can actually protect this population of individuals that don't often have a say, have the time, or the privilege in many instances to have a voice in this process. I appreciate your time. I really don't want to wait for Congress to go through this investigation. I think that there is enough urgency that you heard from the voices behind me, which I'm forever grateful for them, that we should take action immediately. And I'm happy to answer any additional questions.

B. HANSEN: Yes, Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. Thank you once again, Senator Vargas. Of the, the handout that you gave us, I have a couple of questions and the, the first one, first sentence, you know, these are all safety protections. I got, I got kind of a question on then they're going to end December 31 of this year?

VARGAS: When we first drafted this-- when we were drafting this from last year, we really hoped that the pandemic would be over by then. I'll confess, I actually think it's probably should be extended beyond the 31st simply because of the fact that we're seeing variants, these variants, we really they're unknown. They're are still COVID-19 variants. And because they are, that means that we can have potential outbreaks on a new variant. We still don't know how these vaccines are

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going to react. Some vaccines require two doses. Some of them cover some of the variants, some of them don't, or maybe not to the full extent. It should probably be extended beyond 2021 because I, I anticipate that we are going to be preparing for the worst and hoping for the best. We have to prepare for the worst.

GRAGERT: My next question, and I kind of already alluded to it earlier, but the first bullet statement, the six-foot radius is-- are these negotiable? First of all, these eight bullet statements?

VARGAS: Senator Gragert, I, I appreciate your question. I don't like saying on the record that any of our legislation is negotiable.

GRAGERT: OK, I'll go to the,--

VARGAS: But--

GRAGERT: --I'll go to the first one.

VARGAS: No, no, no, but, but, but I will say this, the reason why this was put-- we, we drafted it this way is because it's the standard on what the best recommendations are. It is clear from the current investigation, at least the allegations from this on the CDC and OSHA, that those recommendations-- first of all, not enforceable as recommendations weren't good enough. Otherwise, you wouldn't have seen the number of cases and hospitalizations and spread that we saw in this industry, more so than other industries. So that's why the standard is written as such. But I'll work with the committee. I'm happy to.

GRAGERT: A lot of the, a lot of the safety protections are basically tools, if you will. We wear the mask, we wash our hands, we six-foot distancing. You know, the more we can do, the better. But I just-- that's why I'm asking because is, is any of this negotiable? And, and like the six-foot distancing seems to be one of the big ones where not 100 percent of the line, you know, is able to be there, will, will barriers, will different masks, will other-- where other things like we heard a couple of times now that they're doing besides the six-foot distance, you know. So that's why I'm asking the question. Thank you.

VARGAS: Thank you.

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B. HANSEN: Any other questions? I might just have a couple, some of the particulars about the bill. Somebody brought up about COVID testing. Is, is there a certain kind of test that the employer would have to do? It's like the 15-minute test versus a other certain kind of test?

VARGAS: Do not specify what kind of test is a COVID-19 test.

B. HANSEN: Just making sure. OK. And currently, I was-- I think somebody else, might of one of the other senators might of asked something similar to this. It seems like some of the demographics that the employers are already kind of collecting that have to do with race and ethnicity are already being done and you have it in here that they should be doing that daily. Is it just more for demographic purposes to figure out kind of maybe where if there, if there is a spread kind of where things are coming from or is it--

VARGAS: So let me clarify something. One, it's not being done, at least not consistently across the industry. Kind of gets to Senator Lathrop's question from earlier. At some point last year, the Governor or the executive branch put out an opinion that-- and the person that testified before me said, and I'm going to sort of quote this, I comply with the data requests as required. This administration has not stated that they require data to be shared which left it up to local areas, companies to share and have that relationship with county health departments and DHHS. So one of the reasons we put this in, including the race ethnicity, is because that information has not been provided, transparent for months.

B. HANSEN: OK, thank you. And another section here where it says, "An employer shall clean and regularly disinfect all frequently touched surfaces." Is there a certain amount that they have to do or they have to do like just once an hour? Or does it really matter? Or is it just kind of leaving it up to the employer to decide to regularly clean and disinfect it? Because that's another concern that we heard among testifiers that they felt like they weren't being cleaned enough. And so I didn't know if there was some specificity about how much they need to do it or is it--

VARGAS: I'm happy to work on a standard that quantifies it. We put it in there because we want to make sure that there is, well, essentially some broad guidelines that are enforceable, actually enforceable

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language in here that provides the direction. Because right now, we
have nothing in writing regards to that.

B. HANSEN: OK. And what happens if a, a facility cannot follow the
guidelines?

VARGAS: There are a set of enforcement measures on page 6 that go from
citations and actually have dollar amount consequences associated with
it. That is a new component of this. Part of the reason is we want to
make sure that there is a consequence and enforceable measure. We have
other standards in the Department of Labor that follow, have some
enforcement mechanism, a Workplace for Misclassification Act is one of
them, so we wanted to make sure that there was some enforceable teeth
to this.

B. HANSEN: And it seemed like there's some conflicting testimony, some
people said the OSHA recommendations are ultimately enforceable, but
you're saying they're not.

VARGAS: They're, they're not.

B. HANSEN: OK.

VARGAS: Now, let me put two things aside. OSHA can put in-- OSHA can
make a citation, for example. And they've done, again, less than ten
over the last year. I think, I think the number is seven, maybe eight,
according to the most recent congressional documents that were
provided in early February. The total amount of the fines associated
with those citations, I think was somewhere around \$70,000 in total.
But they have not issued any standards that their people are being
held accountable to. Instead, what they issued was a set of
guidelines. And so I think what you heard from Miss Kolterman, one,
one part of that I very-- I, I agree with, they may have done a few
visits, but those are still recommendations being made, the level to
which the citation has not happened and they have not issued any
standards that they're going to enforce. So I think that's the issue,
there is no standards to enforce. When they got to the level of the
citation, it's just based off a set of guidelines.

B. HANSEN: OK, and I got to ask one more question. I'd be remiss if I
didn't ask it and I hate to play devil's advocate, but for those
facilities who cannot do a six-foot distancing where they are required

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to stagger shifts or only have two, two shifts instead of three, is there any concern that we may lose employment because of this, like they may have to lay off workers? Is that a concern at all?

VARGAS: You know, I don't have the right answer for you, but I'm going to give you my best answer. Part of this is we take people at their word that we can't implement six-foot distancing. OK. The only proof point we have right now is Virginia that put in six-foot social distancing needs to be put in place in the industry. And they're still operating. So the question is, what's the most right, that it's not possible or that it is possible with some parameters? Maybe we should look at how Virginia made it possible on how the industry is still working there. Happy to look at that.

B. HANSEN: Yeah, I, I just appreciate you answered my questions.

VARGAS: Yeah, no, no, no.

B. HANSEN: Thank you.

VARGAS: Of course.

B. HANSEN: Any other questions?

GRAGERT: I've got one more.

B. HANSEN: Senator Gragert.

GRAGERT: Thank you. Hey, I had one more that just came up as we-- as you were visiting there and, and in, in this bill, is, is it only going to be monetary fines or is there a cease and desist end of result if they don't follow the standards?

VARGAS: Yeah, I'm just going to make sure. So there's a administrative penalty of no less than \$5,000 in the first violation and not less than \$50,000 for a second violation [INAUDIBLE]. We did not put that language in here, but there is a process with which if the employer has 15 days after the date of the citation or penalty to contest it. I'm going to say that under the rules and regs that are promulgated by the Department of Labor, that there's a process for them to do more than what's written in here. But we wanted to make sure that there's a set of citations and a monetary component associated with it.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee March 1, 2021

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GRAGERT: Thank you.

B. HANSEN: Any other questions? All right, appreciate it, Senator
Vargas.

VARGAS: Thank you very much.

B. HANSEN: And that will close the hearing for LB241, and that will
close our hearings for this evening.