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Business and Labor Committee
February 02, 2015

[LB251 LB494 LB599 LB611]

The Committee on Business and Labor met at 1:30 p.m. on Monday, February 2, 2015, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB251, LB494, LB611, and LB599. Senators present: Burke Harr, Chairperson; Dave Bloomfield, Vice Chairperson; Ernie Chambers; Sue Crawford; Laura Ebke; Jerry Johnson; and John McCollister. Senators absent: None.

SENATOR HARR: Hello. Welcome to your Business and Labor Committee. I am Burke Harr from Legislative District 8. I am the Chair of this committee. If we can have the members who are present go ahead and introduce themselves. And as always, I'd like to start on the right.

SENATOR BLOOMFIELD: I'm Senator Dave Bloomfield. I'm Vice Chair of the committee. I represent District 17 which is up in the northeast corner of the state, Wayne, Thurston, and Dakota Counties.

SENATOR JOHNSON: Senator Jerry Johnson, District 23 which is Saunders County, Butler County, and about three-fourths of Colfax County.

SENATOR EBKE: Laura Ebke, District 32, east Saline, Jefferson, Thayer, Fillmore County, and a little piece of Lancaster County in the southwest corner.

SENATOR HARR: And to my left I have Jamison Wyatt who is the committee clerk, and Meghan is to my right. And I'm blanking because...Drew Schendt from Broken Bow and Stefani Bradley from Kansas City. Looks like everyone in here is pretty much a regular. But if I can just remind you to turn off your cell phones or at least turn them to vibrate, I won't hear them. I'm not that young. If you are coming up to testify and you have a handout, I'd ask that you bring eight copies...excuse me, ten copies. And if you don't have ten copies, just raise your hand. Let one of the clerks (sic--pages) know and they will get it for you. When you come in, don't forget to sign in, print your name. And when you do testify, please introduce yourself, spell your last name. Each testifier will be allotted five minutes. We do use the light system. So green indicates you may begin, yellow indicates you are nearing the end of your time, and red, we would ask you to wrap up your thought. And if we want to hear more from you, we will ask you questions. I think that's about it. With that, we can begin with Senator Nordquist with LB251 which adopts the Veterans Subsidized Training and Employment Act. Senator Nordquist, welcome to your Business and Labor Committee.

SENATOR NORDQUIST: Thank you, Chairman Harr and members of the Business and Labor Committee. I'm state Senator Jeremy Nordquist from District 7 in downtown and south Omaha. LB251 is aimed at helping veterans gain employment in Nebraska by incentivizing companies regardless of size to hire unemployed veterans. I'd first like to

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thank Senator Crawford, Garrett, Morfeld, and Schnoor for cosponsoring LB251. Companies that do engage in this act will receive a wage subsidy of up to \$12,000 for the first six months to help cover the hiring and training costs associated with employing an unemployed veteran. This bill has been modeled after a successful program in Connecticut where the unemployment rate for veterans is much lower than it is in Nebraska. And in just a few short years under the program, hundreds of veterans have been hired by the 72 businesses that currently participate in the program. There are 21.4 million men and women, or 9 percent of the population age 18 and over who are veterans. The unemployment rate for veterans who served in U.S. active duty in the armed forces at any time since September of 2001, a group often referred to as Gulf War era II veterans, is...their unemployment rate is 9 percent in 2013, while the jobless rate for veterans overall is 6.6 percent. Among the 722,000 unemployed veterans in 2013, 60 percent of them are over the age of 45. As of November 2014, the unemployment rate for veterans in Nebraska was 5.8 percent. That means out of the 71,000 Nebraska veterans in the labor force, about 4,000 are actively seeking employment. Just to give you a perspective, that unemployment rate of 5.8 percent is almost double...actually as of the most recent number, it actually is double the 2.9 percent unemployment rate for the overall population in Nebraska. We all know that veterans bring unique abilities and experience to the civilian work force and attributes that are hard to teach like loyalty, self...to dedication, self-motivation, sustained performance under pressure, respect for procedures, and the ability to work as a team. LB251 gives us the ability to stand up for the same people who have stood up for us and our state and our country. And I encourage the committee to give it favorable consideration. Thank you. [LB251]

SENATOR HARR: Thank you, Senator Nordquist. Are there any questions? Since we began, we have been joined by Senator John McCollister and Senator Crawford. Senator Crawford, you had a question. [LB251]

SENATOR CRAWFORD: Thank you, Senator Harr, and thank you for bringing this bill. I appreciate it. Just wondered if you had considered including any reporting mechanisms back, something like, you know, that the veteran is still employed after so many months. I see some of that will be taken care of in terms of actually getting the compensation. You'll have to indicate they're still employed. [LB251]

SENATOR NORDQUIST: Right. So there is an annual report. But if there are additional requirements that we would like to have reported, that's in Section 5 of the bill, just a report from the Department of Labor to us about it. But if there's more specifics about the length of employment, the continuation of employment, all that would be great to consider. [LB251]

SENATOR CRAWFORD: Thank you. [LB251]

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SENATOR NORDQUIST: And just know that as far as the cost of the bill, in Section 7, we put the intent to appropriate, we said \$2.5 million. It certainly...you know, whatever we would want to put in an A bill. Again, it would provide up to \$12,000 a job. The Department of Labor in the fiscal note estimated that if we did the \$2.5 million number, subtracting out their administrative costs, the remaining \$1.8 million would be enough to help subsidize, their estimate, about 200 veterans for the employment. And just, I didn't really hit on it that much, just to walk you through how...and Senator Crawford certainly is aware of this because she passed the pilot legislation for wage subsidy a couple years ago, not specific to veterans. This would be specific to veterans. But essentially, we help businesses for the first six months to fray the cost of bringing that person on board and helping get that person trained during that six-month period. So for the first month, we would help pay 100 percent of the wage. It's up to \$20 an hour. Month two would be a 75 percent subsidy. Month three would be 75 percent. Month four would be a 50 percent subsidy. Month five would be a 50 percent subsidy. Month six would be a 25 percent subsidy. And then at that point, you know, we're hopeful that the veteran is an asset to the business fully at that point, has been trained and is able to make their way. [LB251]

SENATOR HARR: Just quickly, we have been joined by Senator Chambers and our house has become a home. Senator McCollister. [LB251]

SENATOR McCOLLISTER: Thank you, Senator. Has this bill been vetted or tried by any other state? [LB251]

SENATOR NORDQUIST: Yeah. So Connecticut, this is very much a model that we took. In Connecticut, they've had it in place for a couple years. They've had about 216 veterans at 72 businesses. And they're spending around, it's about \$5,000, I think, \$5,000 it ends up being, is what their average has been for that employment. We can get more data on how long those employees have stayed and things like that. We can report back to this committee. [LB251]

SENATOR McCOLLISTER: I would appreciate hearing that. [LB251]

SENATOR NORDQUIST: Yeah, yeah. [LB251]

SENATOR HARR: Senator Bloomfield. [LB251]

SENATOR BLOOMFIELD: Thank you, Mr. Chairman. Senator Nordquist, you put me kind of between a rock and a hard spot here. I support most things that I see may help with one of our veterans. But this seems like a lot of money. And as much as I like to support the veterans, I don't like spending a lot of money. Is there anything in this bill, and I haven't gotten all the way through it, that says after the six months, say, a couple months after that if the company fires the veteran, do they have to pay back any of this?

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Or they get these benefits for six months and they can cut the veteran loose and he's swinging in the breeze again? [LB251]

SENATOR NORDQUIST: Right. We didn't include that. And it isn't that way in the program that we modeled this after. But we talked about it and I think we would want to make sure that we're not being...you know, putting in too many barriers that a business would be reluctant. We wouldn't want to create a program that wouldn't be successful because businesses are reluctant to enter into it. But I think the potential is there to maybe include some limitation like that to ensure that they're just not getting six months of free labor. But I would think that if you're a business, I mean barring any economic downturn and you've had an employee on the job and trained for that period, that that person would be an asset to you. [LB251]

SENATOR BLOOMFIELD: Well, he may be an asset, in fact. But is he a big enough asset to keep you from cutting him loose and getting another free employee two weeks down the road after you've run out of options on this one? [LB251]

SENATOR NORDQUIST: Right. And we certainly could look at limitations on the Department of Labor as far as who they...they would ultimately still have discretion to grant to the eligible businesses who they choose to work with. So if we knew that there was a business being a bad actor, the Department of Labor could have the ability to not participate with that company. [LB251]

SENATOR BLOOMFIELD: Okay. I think I've got a little more work to do on this before I can get totally on board with you. Thank you. [LB251]

SENATOR HARR: Senator Johnson. [LB251]

SENATOR JOHNSON: Thank you, Chairman. A couple questions, if I was to have a labor, job fair-type thing and five people came in and I needed to hire all five of them and one was a veteran. Would I have to do anything different in training that person for jobs versus the other four that are coming from the general sector. [LB251]

SENATOR NORDQUIST: No. There's no requirement on specifics on requirements of training. [LB251]

SENATOR JOHNSON: Okay. The second part of it if I might, I hire these five and for some reason that we mutually agree, or maybe this is not the job for that person, for that veteran. And they, or we agree, and maybe they leave. Are they disqualified for another program that might fit them better or where might that fit in? [LB251]

SENATOR NORDQUIST: The only limitation on that is that you may only receive the grant for the same employee one time. So you couldn't hire them back in some

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other...and start over the six-month period. But as far as that individual worker going somewhere else, the possibility is still there. [LB251]

SENATOR JOHNSON: Still there. So it doesn't disqualify them from future employment somewhere. [LB251]

SENATOR NORDQUIST: Right, right. [LB251]

SENATOR JOHNSON: Okay. Thank you. [LB251]

SENATOR HARR: Senator Chambers. [LB251]

SENATOR CHAMBERS: This bill has been here before, hasn't it? [LB251]

SENATOR NORDQUIST: Not the veterans wage subsidy. [LB251]

SENATOR CHAMBERS: Or something like this. I remember it because I was very critical because these businesses like to get credit for doing so much for veterans but they're not going to do it unless they get paid for it. So these are the kind of...I'll oppose this bill. This is not to help the veteran. It's to subsidize businesses and give them free money because if they have an opening, they train whoever they hire for that. So without having to go through all I went through last year when we had it, I'm going to oppose this bill. I think--not you, necessarily; you're young--I think it's cynical. I think it's hypocritical. I think it plays in on that notion that anything a veteran wants, a veteran gets. And so there are groups who do things in the name of veterans. Now there are bills where they say you did something for the veterans last year but it's not enough. Now you've got to go additional steps. And being a veteran does not make you a better human being than other people. You don't say combat veterans. You don't say those who were injured. Those who are suffering all these psychological traumas. And there are veterans in the penitentiary and none of these people have any interest about how they're treated there. When they bring these license plates and I opposed all of them. I said a piece of tin with a notation on it is not what the veterans need. And the VA in Nebraska is not as good as everybody says because I get complaints but there's nobody to go to. I say all that to put it into a context. And I'm not going to grill you. [LB251]

SENATOR NORDQUIST: No, that's all right. [LB251]

SENATOR CHAMBERS: I'm not going to grill the other people who might speak for it. But I'm going to oppose it. I'm going to vote against it in committee and I'll fight it tooth and nail on the floor, or since I've developed this affinity with mountain lions, fang and claw. [LB251]

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SENATOR NORDQUIST: And I will just comment, I certainly agree with your sentiment that we do a lot of feel-good stuff for veterans that doesn't make a real impact. I guess I would disagree that this is something that is focused on necessarily the business. I think we see a real problem with the double unemployment rate for veterans of that of the normal population. And this model is something that we need to expand not just for veterans. Senator Crawford last year had the bill on the wage subsidy. It's something we need to do for all chronically unemployed individuals. And this is just one population, I think a small population that we can try to pilot it with. But it has been a proven success around the country. We've been late to the game in helping businesses bring on those chronically underemployed individuals who need maybe some...a little more extensive time and training and getting them into the work force. [LB251]

SENATOR CHAMBERS: Why do the businesses have to be subsidized? Why do you have to pay them to do this great work for the veterans that they're pretending, and they say, oh, by the way, I want you to pay me for it. That's not what they say on television. They say we're hiring vets. [LB251]

SENATOR NORDQUIST: Right. Yeah. I guess I see that too. I think it's a matter of some populations are a little more difficult to get trained and get into the work force, certainly with the chronically underemployed. And I think with the veterans population we see it statistically double the unemployment rate. There just seems to be some more barriers where there's...for the business it may not make, if it's just a straight hire, it may not make perfect economic sense for them. They need to have some incentive. And that's why these wage subsidy programs around the country have been proven to be successful. [LB251]

SENATOR CHAMBERS: But when you're extending help, it's going to be something out of your hide that these businesses are not so hard up that they cannot help these men who on other occasions they're going to say they risked their life. Not every veteran risked his or her life. Not every veteran has fired a weapon. Not every veteran has been fired...I'm a veteran. Nobody shot at me. I didn't shoot at anybody. I didn't go overseas. I didn't like the Army. I didn't want to be there. I went in, got out as soon as I could so that I could go to school. And I have an honorable discharge by the way. While I was there I did everything I was supposed to the best I could, otherwise I'd have lost my mind because there's not that much you have to do in the Army anyway. Here's why I'm saying all of that. The word veteran can have a lot of meanings and a lot of nuances. And when these businesses, hypocritical as they are, going to get credit for doing so much. And then they say but pay me for it, they've lost me immediately. And I do believe that once they exhausted that \$12,000, that person is out of there. If the person couldn't do the job without special training and it's going to take them more than six months to train a person, they're not going to have that person there anyway. I would create a job for somebody if you're going to give me \$12,000 for six months. And then they're gone. I'm skeptical. I'm cynical. And I've seen the idea of veteran and helping veterans milked

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for everything that it's worth. And remember, I'm not aiming this at you personally.
[LB251]

SENATOR NORDQUIST: No, I understand. [LB251]

SENATOR CHAMBERS: In fact, not at anybody personally, but at businesspeople and the business community as a whole. They should be in here opposing this bill. And they should say we are patriots, not just sunshine variety. We want to help these people. And really, you say something negative about us when you suggested that we have to be paid to do that which it should be our duty to do. That's my approach. And remember, I'm just one vote on this committee. It'll get out on the floor. I'm just one negative vote on the floor. But I'll get my pound of flesh for eight hours and then however many other hours I can get, not that I'm antiveteran. But I don't want that idea to be entrenched in this society that if you do something for veterans, somebody is going to give you cash for it. Then it becomes a quid pro quo: help the veteran and get some money; don't help the veteran, you don't get any money. Well, so what. [LB251]

SENATOR NORDQUIST: I certainly agree with your sentiment, that we have all benefited from the service of veterans and that it is something that all of us, businesses, members of the community, need to do more to give back. [LB251]

SENATOR CHAMBERS: Well, in my case, I have to say nobody benefited from what I did, except the fact that when I was...I'd volunteer for KP and do things that other people didn't want to do just to occupy my time. But that wasn't because I was a patriot and certainly I was no hero. I wanted to get out of there quickly. But I didn't do enough to get kicked out. Some people thought that that's what would have happened to me. And that's not to say there are not veterans who could use assistance. But I'm so accustomed to focusing on those who don't have anybody speaking for them. Everybody, if they can get publicity, will. But I say again, what about those who are in the penitentiary? And some of them have the type of mental illnesses that will cause them to do things that are not really criminal in nature but they've got no place to put them, no treatment. VA doesn't want them. So you have to lock them up. They get out. Their mental illness is still there. They engage in the same kind of treatment. And they're back again and again and again. I haven't heard anybody on the floor, none of these businesses talk about that. I have not heard anybody say what I do, even if I'm only going to do it on Thanksgiving, New Year's, or whatever these other holidays are, I'm going to go find a vet. And I'm going to find one who has no place to stay and I'm going to make it possible for him to get some clean clothes. And for at least one day in the year, he's going to be treated like a human being. He's going to sit down at my table with me and my family. And he's going to keep those clothes. And it will just show him that I couldn't do much. But what little I could do, I did it. And I'm doing it for you as a human being dealing with a human being, not exhibit A and the television people are there. The media are there, because after that one show, the media have no interest

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either. What I'm talking about are ongoing problems right now. And I want you to know thoroughly, and I'm putting on it this record, why I'm opposed to this bill. And as I've stated, I'm not going to ask you a lot of questions. And anybody else that comes up here I'm not going grill. But I want it crystal clear that I'm opposing it and why. I think it's detrimental because it nourishes an unwholesome, unhealthful attitude. And if you've got to pay these businesses who in some cases are organized crime, like some used car dealers, some insurance operatives, some of these financial operations. But see, they have a license from the state to do it. If I do it individually, they get me for fraud. [LB251]

SENATOR NORDQUIST: Thank you. [LB251]

SENATOR HARR: Thank you, Senator Chambers. Senator McCollister. [LB251]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. Two questions, first off, would a veteran hired in this fashion be subject to the same employment conditions as everybody else that had been hired. [LB251]

SENATOR NORDQUIST: Right. [LB251]

SENATOR McCOLLISTER: Probationary period and all of that. [LB251]

SENATOR NORDQUIST: That's right. [LB251]

SENATOR McCOLLISTER: Secondly, I'm following Senator Bloomfield's line of thought. Would it be possible to simply provide a tax credit rather than a direct financial stipend or payment? [LB251]

SENATOR NORDQUIST: That certainly is one avenue, you know, depending on how you probably could structure it to be very similar, I guess, for...it would have to be, to be the same effect depending on the size of the business, you would probably need to make it refundable and maybe even transferable. But I think you could probably structure something to be similar. [LB251]

SENATOR McCOLLISTER: Thank you. [LB251]

SENATOR HARR: Thank you. Senator Nordquist, I have a couple of questions. [LB251]

SENATOR NORDQUIST: I guess the only thing on that would be the timing of it, you know, especially if you're a small business wanting to hire somebody, having the cash, knowing the cash is up front versus, I guess depending on how you account for your taxes, when that credit comes in, then filing later to see the benefit of that. But, you know, front loading it versus back loading it I think would be the distinction but that,

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depending on the size of the business, could probably be worked through, Senator Harr. [LB251]

SENATOR HARR: Thank you. Well, let's start with that then, what you just last talked about. That's how we do LB775. That's how we do our other business incentive acts. And you've already said to Senator Johnson you're not providing any more training, so there's no more money out of the pocket for an employer for employee one through four than there is for employee five who happens to be a veteran. So what would be the problem of back loading it like we do with LB775 to make sure that what they say they're going to do, they do do? [LB251]

SENATOR NORDQUIST: I think really on these wage subsidy programs it really is about putting the dollars up front to getting people hired sooner rather than later. I think... [LB251]

SENATOR HARR: If they can't afford the employee now, they're not going to be able to afford them in... [LB251]

SENATOR NORDQUIST: But LB775, I think there's questionable results for small businesses. I know I got another bill coming to Revenue for the biotech industry that says it doesn't work for...it's not working for small businesses. [LB251]

SENATOR HARR: Okay. Well, and I'm glad you brought up Revenue because I sit on Revenue. [LB251]

SENATOR NORDQUIST: I know that. [LB251]

SENATOR HARR: And last year we passed a bill for...Senator Janssen introduced for our veterans. The Governor has \$23 million set aside for tax breaks for veterans. Senator Crawford has a bill because these are great people. And I'm not being facetious. They are. But there's a belief we have to treat them differently. And if we don't, they're going to leave this state. And gosh, darn it, we want to hold on to them. And we do. But now we have the other side of the coin where we're saying they need extra help. They can't find a job. And I'm kind of left in the middle going, well, what's right? Is it, these are highly trained, highly educated people, that we've got to give them tax breaks or they're going to leave us? Or is it, these are people--and I do believe that there are these--who come back with PTSD, who you know what, quite frankly do need extra training? I'm not sure if the training needs to be by their employer or if they need some outside help because...well, they do need outside help. But maybe the better way is to provide that training on the outside of how to deal with society so that you can hold on to that job, so that you are a benefit to your employer. So which side am I to believe? [LB251]

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SENATOR NORDQUIST: Senator Harr, I would say, and you may say I'm not answering the question, but it's got to be an "all of the above" approach because veterans that are coming back, especially the Gulf War era II veterans that are coming back do range the gamut. I have friends who...I have a friend who's done four tours, two in Afghanistan, two in Iraq and has had a real hard time adjusting. And I certainly know people who haven't had that hard time adjusting. And you know, the military retirees do bring a lot to our community and I think that's certainly a policy debate that we need to have. But I think we have to focus, we have to do something for the higher, double unemployment rate that we are seeing for these veterans. [LB251]

SENATOR HARR: But this bill does nothing to address that issue, the issue of the person who's served four tours--with all due deference--that's served four tours that are having a tough time readjusting. I mean, look, I have all the sympathy in the world for them and I will do whatever it takes for those people. But then it's what Senator Chambers talked about. There is no difference between combatant and noncombatant. Look, I did a year of Jesuit Volunteer Corps. Pat me on the back and tell me I'm a great guy and give me a tax break. You know, I don't know...you're doing eight years in the Legislature for \$12,000 a year. Are you going to have a job when you come out? I don't know. A lot of people serve their country in different ways. And this is the problem I start running into is when do we make a value judgment of, this person deserves a tax break. This person, yeah, you did a great job but you don't deserve a tax break. That's not a business I want to start getting into. Our farmers feed us. We would be nowhere. We would be starving without our farmers. We'd be relying on the Ukraine. Do we give them more of a tax break for that? Our police officers, you know, they're great people and I love them and they protect us. Do we give them a tax break? What about our elevator repair people? If we couldn't use elevators, think about what that would do to our zoning. Think about how much more we would have to travel. Think about the safety. We rely on these people. And I'm not demeaning anyone. Every job serves a purpose and they're all very important and they have to be done right. And I don't know...I'll leave the floor to you, but I'm having a tough time determining why one person or one job is better than another. And it's a policy issue and I'd love to hear your reasoning. [LB251]

SENATOR NORDQUIST: Well, I certainly think on your...discussing the tax break, I think that's certainly a policy discussion that we have to have and see if there is truly an economic benefit for this...an economic benefit for that tax break. And if there is then it's something we probably should do. As far as this population, it certainly stands out in its uniqueness, in its higher unemployment rate, but also the sacrifice that they do by going away. And often it's the time that they have to spend away often limits, restricts, and constrains their ability to get and maintain and even though we have protections in place, it's still often very difficult for them to be able to do that. That's why I think we do need to look at some unique approaches to that population to getting them in the work force and grabbing on to the skills. [LB251]

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SENATOR HARR: And I don't disagree with that. But how does this bill do that? [LB251]

SENATOR NORDQUIST: By subsidizing the employment for them to get into a job and get trained in that job. If a business is going to go out and hire a veteran, right now they're going to go out and hire a veteran... [LB251]

SENATOR HARR: And that's great that there is additional training. [LB251]

SENATOR NORDQUIST: ...but there are some veterans and some training paths that probably take more time. And this is a way to ease that barrier and open... [LB251]

SENATOR HARR: And I think you're using a shotgun when you need a rifle because this doesn't, as we've talked about, it doesn't require any more training for one versus another, a veteran versus a nonveteran. It's just a subsidy to hire. As it's currently written, it's a subsidy to hire that person. Now if you wanted to make it grants for additional training that you provide this employee over a different and it addresses their issues related to their military service, well that's a different bill and that's a different conversation. But that's not what this bill does. [LB251]

SENATOR NORDQUIST: I certainly think that...I'm certainly open to any discussion from the committee to narrow the scope. But I certainly think that this model has proven to be successful in the state it's been implemented in. [LB251]

SENATOR HARR: All right. Well, thank you very much. A follow up, Senator Bloomfield. [LB251]

SENATOR BLOOMFIELD: Thank you, Chair. I've got two or three issues that come to mind yet on this. And again, I don't want to take anything away from the veterans. It would occur to me that maybe we'd ought to be putting this to disabled veterans. That we can discuss as we go on. I run a small company myself, a little salvage business. Can I hire myself, give myself an extra \$12,000 for six months? My son is an Afghanistan vet. Can I hire for the winter months when I'm down here, give him \$12,000 to keep me a little revenue stream coming in? [LB251]

SENATOR NORDQUIST: Yeah, I don't think that either of those circumstances are contemplated in the legislation. They probably... [LB251]

SENATOR BLOOMFIELD: Are they eliminated? [LB251]

SENATOR NORDQUIST: No, not contemplated or eliminated. And we do give the...certainly Section 6 grants the Commissioner of Labor to adopt rules and regulations on that. But if that's something that we think we need to have specifically in statute, I would think the department would look at specific situations like that and

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eliminate them. [LB251]

SENATOR BLOOMFIELD: One more question. I'm a 55-year-old man working at a job that requires not a lot of training. Is there anything to keep a business from unloading me to pick up this 23-year-old kid that I can hire for free for the first six months? [LB251]

SENATOR NORDQUIST: I don't think so. [LB251]

SENATOR BLOOMFIELD: Okay. Thank you. [LB251]

SENATOR HARR: Any follow-up questions? Seeing none, thank you, Senator Nordquist. [LB251]

SENATOR NORDQUIST: Thank you. [LB251]

SENATOR HARR: Anyone here to testify as a proponent of LB251? Come on up, sir. Welcome. Welcome. Please state your name and spell your last name for the record. [LB251]

JAMES SHUEY: (Exhibit 1) My name is James Shuey, J-a-m-e-s, last name S-h-u-e-y. Chairman Harr and distinguished members of the committee, it is indeed a privilege and an honor to be here today. In my present capacity, I serve as the state adjutant and legislative director for the Department of Nebraska Disabled American Veterans organization. I come today as a spokesman for the Nebraska DAV in support of LB251. With the ever-increasing number of veterans returning home because of ongoing efforts to downsize our nation's military, we believe this legislation will be beneficial to those employees who choose to make their home in Nebraska. With the veterans' unemployment rate in Nebraska nearly double that of the state average of 2.9 percent, the DAV believes this bill will have significant impact on lowering that veterans' unemployment figure. Furthermore, with the national unemployment rate of our female veterans at 11.2 percent, we in the DAV believe that LB251 will also have a positive impact on the employment of those female veterans who have served her country with honor and distinction. In its simplest form, we believe that rather than having to contribute to the welfare of an unemployed veteran and his family through Nebraska's present unemployment program, it makes more sense to help subsidize an employer who will hire and train an unemployed veteran for long-term gainful employment for a six-month period. As always, once that veteran becomes gainfully employed in Nebraska, we then always give them the privilege of paying a state income tax on those wages, thereby we believe helping to offset some of the initial cost of the subsidized training. If there were a concern, it would be one that has been echoed here several times today, that there might be employers who would terminate or end a veterans' employment after 180 days and hire new veterans under the program to obtain less expensive labor every 180 days. This of course would be a worst-case scenario and I

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would hope that there are no such unscrupulous employers who would take advantage of the legislation or any such veteran. We believe that the Commissioner of Labor could easily track those participating employers and monitor the retention of those veteran employees who utilize this program without it causing a undue hardship on that department. We in the DAV believe that the hiring of veterans is the right thing to do. Veterans have sacrificed on our behalf to ensure our safety and our freedoms. Veterans know discipline, more importantly, self-discipline. They know about commitment, whether it be to unit, squadron, or battle buddy. And they know what it takes and what sacrifices must be made to accomplish a mission. These are skills that will serve them well in the civilian world and skills that will perhaps serve their employers even better. The hiring of a veteran whenever possible is, in our judgment, just makes good sense for all concerned. We believe LB251 will help our goal of making Nebraska a truly friendly state. I would also like to report that on January 20, 2015, the Nebraska Veterans Council voted unanimously to select LB251 as one of its six pieces of priority veterans legislation to support for this One Hundred Fourth Legislative Session. As always, the DAV is forever grateful to every state senator who has gone out of their way to introduce and support legislation to improve the quality of Nebraska's veterans. And so we thank all of you who have or will support this proposed bill. On behalf of the DAV and the Nebraska Veterans Council, I appreciate the opportunity to be with you today to speak in support of this bill and ask that after careful consideration and review of this distinguished committee, LB251 will be advanced for consideration and enactment by the Nebraska Unicameral. Thank you for your time here today and your ongoing support of Nebraska veterans. [LB251]

SENATOR HARR: Any questions? Senator Bloomfield. [LB251]

SENATOR BLOOMFIELD: Thank you, Chairman. Mr. Shuey, thanks for coming in and testifying today. What would be your thoughts on modifying the bill a little bit to going to disabled veterans instead of just any veteran? Given our job market today where we're sitting at less than 3 percent unemployment, if an able-bodied veteran wants a job, he really doesn't have much trouble finding one. [LB251]

JAMES SHUEY: I would think that would be a great benefit to anybody who's got a service-connected disability, absolutely. I haven't...it's something I would have to think through a little further. But, yes. [LB251]

SENATOR BLOOMFIELD: Understanding that you can't speak for the group you... [LB251]

JAMES SHUEY: Yes, sir. [LB251]

SENATOR BLOOMFIELD: ...without consulting with them. I wish you would talk to them and get back to me. Thank you. [LB251]

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JAMES SHUEY: I would be pleased to do that. [LB251]

SENATOR HARR: Senator McCollister. [LB251]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. Thanks for coming in, Mr. Shuey. You said, and I'm going to quote it, that veterans know discipline, more importantly, self-discipline, they know about commitment whether it be the unit, squadron, or their battle buddy. And they know what it takes and what sacrifices must be made to accomplish their mission. That is a true statement. And how do you account, somebody with those attributes, how do you account for the fact that the unemployment rate for male veterans is twice that of civilians and also females is so high? [LB251]

JAMES SHUEY: I don't have an answer for that, sir. It's a bit...you know, I know that our national legislative staff, I've gone to them in D.C. There is some stigma out there about returning veterans and their...that's a larger than normal PTSD stigma associated with our returning veterans now. I really believe that it's going to be the Agent Orange of the Gulf...of this war, the PTSD is. So there may be reluctance by some employers to not step into that if there's any issue at all with PTSD. We would hope not. [LB251]

SENATOR McCOLLISTER: So you're thinking that this reluctance to hire a vet would be combated or minimized or mitigated by a direct wage subsidy? [LB251]

JAMES SHUEY: I would think, you know, anything that could get a veteran in the door and gainfully employed, off of the unemployment rolls and hopefully on the road to being able to sustain a quality of life that they deserve is a positive step. [LB251]

SENATOR McCOLLISTER: Thank you, Mr. Shuey. [LB251]

SENATOR HARR: Senator Crawford. [LB251]

SENATOR CRAWFORD: Thank you, Senator Harr, and thank you for coming in to testify. Appreciate that. I think that raises the point about when a wage subsidy is appropriate. And so we've talked a bit about the training. But then I think this also...what I hear between the lines of what you're saying is that some employers just may have a sense of hesitation, a risk because they don't know. Maybe they haven't worked with veterans before and they don't know what they've heard about PTSD or TBI. They just don't know. They just have that feeling of risk. So I think perhaps one of...the policy, a policy logic for this is to help in that case of risk to the employer to say here is a tool to...we will help subsidize that risk. And then the state justification may be that we see this as a chronically unemployed part of our population. And why is this, you know, a chronically unemployed part of our population? Perhaps because just employees are

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concerned about that risk. And so that's why we apply the...put the money, to try to address that risk. The employer comes in risk-free at the beginning. I mean that's what the subsidy is. I think it's not just a benefit to you for paying, but it's a risk-free, to give them a chance to show themselves. And they do or they don't. And I think that's kind of a different logic. While we have done it for our TANF population is to say here's someone who's been chronically unemployed. Anybody who's chronically unemployed is potentially risky. So let's take that risk and give them a chance to come in and prove themselves. They don't need special training as much as they just need a chance. Would you agree with that or comment on that? [LB251]

JAMES SHUEY: Yes, I agree with that. And back to an earlier question about the levels of unemployment on our veterans, I do know that certain employers are reluctant to hire a veteran if there's PTSD possibly associated with it because of time off the job to go to the VA to address the issues. We believe that some of that might be offset by this bill as well, at least for the first six months to see whether that...but that's, you know, the intent of the DAV is to get unemployed veterans back into a sustainable quality of life for themselves and their family. [LB251]

SENATOR HARR: Any other questions? Mr. Shuey, thank you for taking the time to come down here and testify today, especially given the weather. [LB251]

JAMES SHUEY: Thank you so much. [LB251]

SENATOR HARR: Anyone else here to speak as a proponent of LB251? Seeing none, anyone in opposition? Anyone in the neutral capacity? Senator Nordquist, if you would like. I think we have a letter here. [LB251]

JAMISON WYATT: (Exhibit 2) We have a letter of support from Barry Kennedy with the Nebraska Chamber of Commerce and Industry. [LB251]

SENATOR HARR: Senator Nordquist, if you would like to close. [LB251]

SENATOR NORDQUIST: Well, I guess I would be remiss to point out that we have several thousand veterans in our state without health insurance. And we have a potential remedy for that before the Health Committee this year. That would be it. [LB251]

SENATOR HARR: Thank you, Senator Nordquist. Any questions for Senator Nordquist? Senator Bloomfield. [LB251]

SENATOR BLOOMFIELD: Thank you. Do you have a big objection with amending this disabled veterans? [LB251]

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SENATOR NORDQUIST: No. I think we can put some language in and say service-related disability and we can work on getting the number, see what the scope is of that in Nebraska and that would obviously...limiting that would limit the fiscal exposure and we would come up with a number that...a fiscal number that would be more reasonable. [LB251]

SENATOR BLOOMFIELD: Okay. I'm going to ask you a question that you have probably suspected from Senator Chambers instead of me. There is nothing in this bill. Do you know if we have any legislation anywhere that would grant a subsidy to nonviolent offenders that have been in prison and got out? I have no intention of attempting to amend anything like that in here, but it might something to look at to help that population too. [LB251]

SENATOR NORDQUIST: Yeah. The only other wage subsidy program that we have would be the one, the pilot program that Senator Crawford passed for TANF individuals. But I wouldn't be surprised if there are models like that around the country. [LB251]

SENATOR BLOOMFIELD: Okay. Thank you. [LB251]

SENATOR HARR: Thank you, Senator Bloomfield. Senator McCollister. [LB251]

SENATOR McCOLLISTER: Yeah. PTSD, is that considered to be a mental illness or a disability of some kind? [LB251]

SENATOR NORDQUIST: I guess I wouldn't know and I don't...I assume if it's service related that it would be covered and is treated through the VA. [LB251]

SENATOR McCOLLISTER: So if we did in fact amend this bill, somebody suffering that malady would be qualified? [LB251]

SENATOR NORDQUIST: I'll double-check on that. That's probably...I would assume, yeah. I would think it would be covered. It certainly is a service-related disability. [LB251]

SENATOR McCOLLISTER: Okay. Thank you. [LB251]

SENATOR HARR: So would you want to limit it to service-related disability or to combat-related disability? So for instance, I lose a foot being driven over working at Offutt with a vehicle. Or is it, I was in combat? [LB251]

SENATOR NORDQUIST: Why don't I talk with some members of your committee and we'll get data on what the scope of those populations are in Nebraska and come back and talk about it. [LB251]

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SENATOR HARR: That sounds great. I think Senator Bloomfield had a follow-up question. [LB251]

SENATOR BLOOMFIELD: It's not so much a question again here, as to talk to Senator McCollister's question. PTSD, the D stands for disorder. There is a number of studies out that show calling it a disorder makes it a bigger problem than what it might be. So it's not something that you don't expect after the folks have been through combat situations. It's not necessarily a disorder, but that's still what we call it. [LB251]

SENATOR HARR: Thank you, Senator Bloomfield. Any other comments, questions, concerns? Thank you. With that, that closes LB251. Thank you, Senator Nordquist. And we are ready to move on to your next bill, LB494 which changes the minimum wage for persons compensated by way of gratuities. [LB251]

SENATOR NORDQUIST: Great. [LB494]

SENATOR HARR: Senator Nordquist, the floor is yours. [LB494]

SENATOR NORDQUIST: Thank you, Chairman Harr and members of the Business and Labor Committee. It's always a pleasure to be before you. I'm Senator Jeremy Nordquist from District 7 in downtown and south Omaha. LB494 would increase the tipped minimum wage incrementally from \$2.13 an hour until it equals 50 percent of the minimum wage; or with the current minimum wage law that was passed by the voters in November, it would go to \$4.50 per hour by 2018. The purpose of this bill is to make hard work pay in Nebraska. The tipped minimum wage was established in 1966 and it was originally tied to the federal minimum wage. In 1996, a federal law decoupled the tipped minimum wage from the federal minimum wage. Since then, the tipped minimum wage has been frozen at \$2.13 an hour and its purchasing power has fallen by 36 percent in inflation-adjusted terms. We know the restaurant industry in Nebraska is one of the largest and fastest growing sectors of our economy which currently accounts for nearly 1 in 12 private sector workers. In Nebraska alone, there are over 15,000 servers. Although this industry is rapidly growing, its long-term stability is threatened by unfortunately poor job quality. The wages of restaurant workers are lower than those of any other occupational category. On top of low wages, 90 percent of restaurant workers don't receive benefits like paid sick leave, paid vacation leave, or health insurance through their employer. These factors increase employee turnover, diminish food...diminish service quality which impacts the bottom line for restaurants. Currently, four of our neighboring states pay above the federal minimum wage. There are more states that have increased the tipped minimum wage than have increased the minimum wage overall. Colorado is at \$5.21 per hour. Iowa is at \$4.35 per hour. Missouri is at \$3.82 per hour. And South Dakota is at \$4.25 per hour. Providing livable wages is important to the success of a business. This is an industry with significant turnover,

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almost 80 percent to 90 percent at times, which is very costly to the business. Some of these costs are quantifiable such as training, recruiting, screening, administrative costs, unemployment insurance. And others are not as quantifiable such as team morale, trust, employer-worker trust. Paying workers wages that allow them to support themselves and their families will help facilitate lower turnover and higher productivity for restaurants. This practice helps make workers feel invested in the success of the business. We know that some will argue that servers already make decent wages. But this...and often the picture is painted about, you know, a worker at a steak house or someplace like that. But that certainly is the exception, not the rule. Here is the reality. Restaurant workers are three times as likely to live in poverty as the population as a whole. Servers are also twice as likely than the general population to rely on food stamps. Poverty rates for African-American and Latino servers are well over 20 percent of servers...of African-American and Latino servers live in poverty. And the other population to consider certainly is the impact on women and children. We know that women make up 66 percent of tipped workers nationwide, 71 percent of restaurant servers suffering disproportionately from low tipped wages, 51 percent of low-income servers have children under the age of 18. Women also, because of this situation, instead of relying on the employer for their wages, they have to rely on their customers and are often, and research shows, are forced to endure more on the job than the average worker. A recent study showed that 80 percent of women that work in the restaurant industry report being harassed by customers at some point. Those who work in states where tipped wages remain at the current level of \$2.13 per hour reported a statistically significant higher rate of harassment than in the other states because in those states, those workers again have to endure more because they rely on their customers for their wages. Lastly, you may hear that this will force layoffs due to the high cost of business, labor cost per worker will increase, that providing...labor costs per worker will increase for restaurants that provide living wages and benefits. There's no doubt about that. But the productivity of those workers research has shown will certainly increase. Training costs, turnover costs will decrease. And overall, the industry will not be harmed in the state of Nebraska with this increase. Actually there are a handful of states that have no differential between the tipped minimum wage and the regular minimum wage. And there has been research to show that the industry in those states creates restaurant jobs at the same pace or even faster than states with a differential in the tipped wage. So we certainly think, certainly I think and the proponents of this bill think, that this is the next step to ensure that we treat our workers with dignity in our state, that no one should have to work for \$2.13 an hour. And I ask this committee to look favorably upon LB494. Thank you. [LB494]

SENATOR HARR: Thank you, Senator Nordquist. Questions for Senator Nordquist?
Senator McCollister. [LB494]

SENATOR MCCOLLISTER: Do you have any evidence to show--thank you, Mr. Chairman; thank you for appearing--how many restaurants serve that low wage?

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[LB494]

SENATOR NORDQUIST: I don't. No, I guess I don't. All we know is that that is what the minimum is. I certainly know anecdotally talking to servers that I know that it is a significant...I mean it seems to be pretty standard. I've heard, you know, in some, maybe up to \$3 an hour. But rarely do they reach anywhere near 50 percent of the minimum wage. [LB494]

SENATOR McCOLLISTER: Thank you, sir. [LB494]

SENATOR NORDQUIST: Yeah. [LB494]

SENATOR HARR: Thank you, Senator McCollister. Senator Bloomfield. [LB494]

SENATOR BLOOMFIELD: Thank you, Chairman Harr. Senator Nordquist, I've been told by some people in the restaurant business that their employees record their tips and if they don't reach the state minimum that the employer is obligated to go back and bring them up to that. Is that accurate and if so, how big a percentage of the employees would be covered under that? [LB494]

SENATOR NORDQUIST: That is federal law that that happens. And there's been research, and I would have to get the exact study that was done, but the survey that I saw, it was a national survey of restaurant workers shows that the knowledge of that even among restaurant workers is less than half, know that they are protected by that. Now if...you know, I hope that restaurants are doing that and certainly I hope that this bill is also a way to make sure that we get word out about that because even talking to friends of mine who have worked in restaurants in recent years say that that isn't standard practice or they sometimes get played around on the numbers a little bit. We now, after the bill we passed last year on wage theft, we have very aggressive penalties for businesses that aren't doing that including on second offense it's a \$5,000 fine. So it's important for us as policymakers to make sure that word gets out there. But you're right about that. [LB494]

SENATOR BLOOMFIELD: Okay. So it would appear to me that we already have the law in place to handle this, we just need some enforcement and some education instead of another law on the books. [LB494]

SENATOR NORDQUIST: I certainly think, yes, we do need the enforcement and the education and that is a slow growing issue. But I do think that we still have a problem of workers having to rely on the customer base for their wages rather than the employer. And you know, at the end of the day, even if we have the best enforcement in the world, we're not going to make...there's no way we can ensure that every worker is taking home at least a minimum wage to allow them to support their family. [LB494]

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SENATOR BLOOMFIELD: Okay. Thank you. [LB494]

SENATOR HARR: Senator Crawford. [LB494]

SENATOR CRAWFORD: Thank you, Chair, and thank you, Senator Nordquist, for bringing this bill. And I don't know if you know the answer to this, but I wonder if part of the situation as well might be a delay in terms of if a waitress has to report and then it's below the minimum wage. There may be a delay in terms of having that money as take-home pay to take care of the groceries. So that may be another reason why, just allowing that federal law to cover it may not work as well as changing the rates. I don't know if you know anything about that situation or if you want to tell us about that. [LB494]

SENATOR NORDQUIST: I certainly know that, and there's probably people who in the restaurant industry who can talk about their understanding of it, but certainly that it's supposed to be whenever you're...my understanding is during your pay period, that at the end of it that you would get settled up on that. So I don't how much of a delay there would be. [LB494]

SENATOR CRAWFORD: Okay. Thank you. [LB494]

SENATOR HARR: Just a couple of questions. [LB494]

SENATOR NORDQUIST: Yeah. [LB494]

SENATOR HARR: If I am a tipped employee and I'm doing a job that's not related to my tipped job, so for instance if I have to report for a staff meeting, do I earn minimum wage or do I get the tipped wage? [LB494]

SENATOR NORDQUIST: I don't know. [LB494]

SENATOR HARR: Okay. [LB494]

SENATOR NORDQUIST: I do know under training, when they come in for training, that they're not considered tipped employees at that point until... [LB494]

SENATOR HARR: And there's a plane. I couldn't hear you. [LB494]

SENATOR NORDQUIST: My understanding is when they come in for training for a job, that they're not considered tipped at that point. So then they have to be paid that wage. [LB494]

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SENATOR HARR: Okay. So if I have to come in for a staff meeting or if part of my job is to clean up, I still am earning the \$2.13 an hour or do I get to go up to minimum wage? [LB494]

SENATOR NORDQUIST: You know, I don't know if... [LB494]

SENATOR HARR: Okay. [LB494]

SENATOR NORDQUIST: ...when once you're employed if you do other things if there's a differential that they have to pay. I don't know that. [LB494]

SENATOR HARR: Okay. And my second question--if you can find out and answer that, that would be helpful--is there was a movement last fall to raise minimum wage. You may be familiar with that. (Laughter) [LB494]

SENATOR NORDQUIST: Right, right. [LB494]

SENATOR HARR: Whenever there's a referendum, there is a constitutional...there's a requirement found in our constitution that you have to reach a certain percentage. I think it's 30 votes. Is that correct? [LB494]

SENATOR NORDQUIST: I believe it's two-thirds. [LB494]

SENATOR HARR: Two-thirds? [LB494]

SENATOR NORDQUIST: Three-fifths or two-thirds. [LB494]

MEGHAN CHAFFEE: Two-thirds. [LB494]

SENATOR NORDQUIST: Two-thirds, right. Yeah that was adopted as one of the two gambling initiative that passed out of four not authorizing gambling. But one of them that did pass said that it takes two-thirds. And my understanding is the Secretary of State has interpreted that anything that touches that section would require a two-thirds vote. [LB494]

SENATOR HARR: So this would require two-thirds? [LB494]

SENATOR NORDQUIST: I would say practically at this point, on an issue like this, anything that increases or decreases the minimum wage would likely be met with a filibuster anyway. So practically speaking, it probably needs two-thirds vote anyway. But you're right. [LB494]

SENATOR HARR: Okay. Thank you. [LB494]

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SENATOR NORDQUIST: And just...this committee did advance a bill last year, Senator Lathrop's bill, as an amendment to the minimum wage bill to go to 70 percent of the minimum wage. This bill again just would tie it to 40 percent...50 percent of the \$9 an hour when we do get to \$9 an hour. I think that the only reason we shot for that number is it puts us more in line with our neighboring states, the four of our neighboring states that have a higher minimum wage. [LB494]

SENATOR HARR: And do you have a fear that workers will leave this state because we don't have an equal wage? [LB494]

SENATOR NORDQUIST: No, I don't. I think that this population, the population that works in restaurants probably isn't as likely to up and leave as other populations. [LB494]

SENATOR HARR: Okay. Thank you. Thank you, Senator Nordquist. [LB494]

SENATOR NORDQUIST: Thank you. [LB494]

SENATOR HARR: Are there any proponents on LB494? Welcome. Take a seat. Please state your name and spell your last name for the record. [LB494]

STEPHANIE BARTH: Stephanie Barth, B-a-r-t-h. [LB494]

SENATOR HARR: Go ahead. [LB494]

STEPHANIE BARTH: Okay. I worked with Servant Cab Company for about ten years. And I just wanted to come in and talk about this. We received a commission that equaled about up to \$5 an hour. Anything over that you would get tips, on and on. Therefore, that left you subject to unprofessionalism if you wanted to stay--talk, actions, that kind of thing. It was discussed here, unnecessary flirting, unnecessary conversation that wasn't "discussionary," no conversational tones, that kind of thing, rude or demanding behavior from the customers in the car. And this is mainly because they knew they owned you for that moment because they know that they are the ones in charge because you are not getting paid sufficiently by your employer. And so if I would go and report any of this in the beginning to my employer, a lot of the comments were, well, the customer is the boss. And that was very, very prominent. Customer is the boss or it's just harmless chatter, you know. Endure that. Oh, you can flirt a little, can't you? That kind of thing, so customer knowing that they have the upper hand. Oftentimes, I would hear things like, I'm the one that's giving the tip, therefore, you may let me be rude and unkind to you at this moment because I'm the one giving you the tip, or, there goes your tip, whether said in jest or in a joshing sort of manner, they always knew. Therefore, I can be messy. I can be rude. You know, I can flirt with you and use

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subterfuge. And I see somebody shaking their head over there. Thank you. And I can engage in conversation that delves into things that are nowhere near professional. And then you have to respond in some sort of manner, okay? So of course, in my position, I went to day shift where they had an account with Health and Human resources (sic--Services) to take people to their medical appointments. In that sort of situation, you are always given a commission that went over, that allowed for a pretty reasonable wage because you had consistent income. And you knew that. If you worked at night or if you worked early evening or if you worked early morning, you never knew what those things would be. And so I thank you for your time. I just came in to say that. So I don't know what rules are here to end this. [LB494]

SENATOR HARR: Well, thank you. Thank you for coming to testify. [LB494]

STEPHANIE BARTH: Okay. [LB494]

SENATOR HARR: Well, someone might have some questions for you though. Any questions for Ms. Barth? None. Thank you for taking the time to come down and participate in your Legislature. [LB494]

STEPHANIE BARTH: Thank you. [LB494]

SENATOR HARR: Any other proponents? [LB494]

RODNEY D. VLCEK: Good afternoon, Chairman Harr and members of the Business and Labor Committee. My name is Rodney D. Vlcek, spelled R-o-d-n-e-y D. V-l-c-e-k. I am president, secretary/treasurer of the Nebraska State AFL-CIO and we are supporters of LB494. We want to speak up for the people who are a little on the lower end of the scale working that can't be here because they are working. We appreciate Senator Nordquist introducing this. We were a cosponsor of Ballot Initiative 425. Almost 60 percent of your constituents on November 4 voted and were fair, reasonable people who felt that a person should be rewarded for their hard work and paid for their hard work. So with that, again, we are supportive of LB494. And I'd be happy to take any questions you may have. [LB494]

SENATOR HARR: Questions for Mr. Vlcek? [LB494]

RODNEY D. VLCEK: Very good. Thank you. [LB494]

SENATOR HARR: Seeing none, thank you for taking the time to come down here today. Any other proponents? Opponents? Mr. Otto, the floor is yours. [LB494]

JIM OTTO: Chairman Harr, members of the committee, my name is Jim Otto; that's J-i-m O-t-t-o. I am a registered lobbyist for the Nebraska Restaurant Association and I

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am here on behalf of the Nebraska Restaurant Association in opposition to LB494. We're very supportive of a lot of things that Senator Nordquist does, especially in the area of immigration. So it's not one of my favorite things to do, to testify against one of Senator Nordquist's bills. I just wanted to make sure that we answered any questions you might have. Senator Bloomfield brought up a point earlier that is very valid and is true, that everyone is required to pay at least the minimum wage: The tipped wage plus whatever it has to reach the minimum wage or they are in violation of the law. And so I would agree that maybe this is...for anyone who is in fact not earning minimum wage, the employer is...if that is happening, the employer is at fault and should be held accountable. And the Nebraska Restaurant Association would be supportive of any remedies on enforcement that we may need to do because the law says that you have to be making at least minimum wage when you take the tipped wage plus your gratuities. Also, I would point out that most of the employees that are tipped, at least in a restaurant, employees that are tipped are some of the highest paid staff in the restaurant. The kitchen help probably doesn't get tips and the restaurant...the servers do get tips based on hopefully the quality of service. Most tipped employees, depending on the restaurant, make somewhere between \$12 and \$20 an hour. And so I would also answer...I think, Senator Harr, you had a question about if somebody is being required to come in for a staff meeting. As I understand it--I'm pretty sure this is true--as I understand it, their average wage must be at least the minimum wage. So if they spent 3 hours in a staff meeting and then 10 hours serving, those 13 hours have to equate to the minimum wage based on the way I understand it. With that, I'd be glad to answer any questions. [LB494]

SENATOR HARR: And just quickly, do you know what percentage of the tipped wage employees make \$2.13 an hour as opposed to a higher rate? [LB494]

JIM OTTO: I would say almost everybody pays \$2.13 plus tips. [LB494]

SENATOR HARR: Okay. [LB494]

JIM OTTO: I mean, that's my gut. [LB494]

SENATOR HARR: Any questions? Senator Bloomfield. [LB494]

SENATOR BLOOMFIELD: Thank you, Chairman Harr. Mr. Otto, does the Nebraska Restaurant Association put out any information so that the servers would be educated on this law? And if not, would you be willing to do so? [LB494]

JIM OTTO: Yes and yes. Maybe we...there's a bimonthly newsletter that goes out. And we have had articles about it. But we would be glad to step that up. [LB494]

SENATOR BLOOMFIELD: Does it go any further than the management? Does it go to

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the guy that owns the place? [LB494]

JIM OTTO: Well, that...the actual restaurant newsletter probably doesn't go any further than management. But the Nebraska Department of Labor has signs that are required to be posted. And I'm not absolutely sure what those signs have to say. But I think they say something about tipped wages, but I'm not positive about that. [LB494]

SENATOR BLOOMFIELD: Would you be willing to check into that for me? [LB494]

JIM OTTO: I would. I'd be glad to. [LB494]

SENATOR BLOOMFIELD: Thank you. [LB494]

SENATOR HARR: Senator McCollister. [LB494]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. I'm trying to figure out the basis of your objection and if what this bill would do, would raise it to 50 percent of the minimum wage. And if what you say is correct and I'm sure it is, the restaurants pay at least the minimum wage, what's the objection then? [LB494]

JIM OTTO: Well, you would raise...it would cost the restaurant. I mean, bottom line is it would cost the restaurant more money. Presently they're paying \$2.13 an hour. It would go up eventually to \$4.50 an hour. You would pay everybody \$2.26, or whatever that is, more per hour. And that is the bottom line. But it would also change...I mean increase the disparity between workers in the restaurant because presently tipped employees are already probably the highest paid people in the restaurant other than hopefully the owner. But this would increase that. And I don't think people are going to tip less if the tipped wage is increased, if you see what I mean. The tips will still amount to probably the same. [LB494]

SENATOR McCOLLISTER: How do most restaurants figure their tip income for their employees? Do they give them all the tips that are left on the table, or do they take out a certain percentage or does the restaurant retain any of that tip for overhead or anything else? [LB494]

JIM OTTO: Mr. Boles is after me and he can answer that question better than I. But as...based on my experience with my son who was a server in a restaurant here in Lincoln, it's up to him to report that. And he has to report his tips. And those are also claimed as income for income tax. But in his case, it was actually up to him to report how many...what his tips were. Now in some cases, maybe they split that with some of the other serving staff or the bus people. I think that varies in restaurants. But Mr. Boles can answer that better than I. [LB494]

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SENATOR McCOLLISTER: Well, I think there's some new IRS regulations on that that may have an impact on his answer. We'll wait for him to testify. Thank you very much, Mr. Otto. [LB494]

JIM OTTO: Thank you. [LB494]

SENATOR HARR: Thank you, Senator McCollister. Senator Crawford. [LB494]

SENATOR CRAWFORD: Thank you, Chair Harr, and thank you, Jim, Mr. Otto, for being here and answering questions. So I would like to come back to the question about delay or unpredictably in the wages on the part of someone who is working in a restaurant. So what we received in one of our letters that we received from one of the supporters, it says that current rules rely on the employee to notify the employer if they receive less than the minimum wage in a work week where a work week, in quotes, is defined as any fixed and regularly occurring 168-hour period. This comes back to the point about the average wage. So can you tell me a little bit...that sounds more like a four-week period that it might take before they get compensated for a week in which they got paid less. And so I'm concerned about unpredictably and delays in someone who works in a restaurant getting paid to get compensated back up to that minimum wage. [LB494]

JIM OTTO: Once again, I think it varies from restaurant to restaurant. Maybe that's something that needs to be stiffened up or something like that. I go back again to my son. And he got, as I think it was, he got paid every two weeks. And if he didn't make an average of the minimum wage during those two weeks, the employer made that up. And sometimes that did happen. So that happened...I mean with his regular paycheck every two weeks. Now I guess it would depend on if a restaurant pays every four weeks or every week or every two weeks. But maybe that's something that needs to be looked at. [LB494]

SENATOR HARR: Thank you. Senator Chambers. [LB494]

SENATOR CHAMBERS: Mr. Otto, did the establishment where your son worked know that you are his father? [LB494]

JIM OTTO: Yes. (Laughter) [LB494]

SENATOR CHAMBERS: So that case I think I just removed from the table. Does your organization or do people who are members of your organization provide meals to the senators during the session on various occasions? [LB494]

JIM OTTO: Well, Senator, I think you know that I organize the late session dinners. And I've tried for 13 years to get you to eat one. And you won't. [LB494]

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SENATOR CHAMBERS: And when the senators come, do they ever tip? [LB494]

JIM OTTO: Well, they give me a few tips, I mean verbal tips. [LB494]

SENATOR CHAMBERS: I mean cash. (Laughter) [LB494]

JIM OTTO: No, Senator, they don't. But there is no charge for those. [LB494]

SENATOR CHAMBERS: If I were to do a sign as my contribution to your preparing meals for the senators, would you agree sight unseen to post the sign? [LB494]

JIM OTTO: Would it jeopardize my employment? [LB494]

SENATOR CHAMBERS: Not with your company, I don't think...I'm not sure. [LB494]

JIM OTTO: I'd like to see the sign first. [LB494]

SENATOR CHAMBERS: It would say something like: Welcome, all moochers and spongers, especially captain hungry and lieutenant lunch hunter otherwise known as state senators. Would you post that at the door every time? [LB494]

JIM OTTO: Could you kind of run that by on the floor first before I did that? [LB494]

SENATOR CHAMBERS: I shall. [LB494]

JIM OTTO: If I could just add one thing, Senator, if you divide all of the meals by all the lobby who...or each lobbyist is indebted to a senator somewhere less than \$4 total. So if they got sold out, they sold out for less than 4 bucks. [LB494]

SENATOR CHAMBERS: I always say you couldn't get a Nebraska state senator to sell out for \$10,000, but you get him for a meatloaf sandwich and a chicken dinner. Now how much would a meatloaf sandwich and a chicken dinner cost, about \$4? [LB494]

JIM OTTO: Probably. [LB494]

SENATOR CHAMBERS: Well, see, I was right. But anyway, that's all that I have. [LB494]

SENATOR HARR: I do love meatloaf. Senator Bloomfield. [LB494]

SENATOR BLOOMFIELD: Thank you. I just want to respond a little bit to Senator Chambers' question and Mr. Otto's answer. Actually, I do tip when I go in there. I leave 1,000 percent tip. But 1,000 percent of nothing is still nothing. Thank you. [LB494]

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SENATOR HARR: Thank you. Any other questions? Thank you, Mr. Otto. [LB494]

JIM OTTO: Thank you. [LB494]

SENATOR HARR: And thank you for the meals. Please. [LB494]

WAYNE BOLES: (Exhibit 1) I am Wayne Boles, W-a-y-n-e B-o-l-e-s, with Lazlo's Brewery and Grill Restaurants and Fireworks Restaurant. Thank you for your service and for this opportunity. Regarding LB494, version 2015, a proposal to increase the tipped minimum wages for servers in restaurants by 113 percent, here are related facts for your consideration. LB494, year 2013, increased the entry-level wages by 37 percent for nontipped workers as you know. As you may already know, the federal minimum tipped wage for restaurant servers before tips is \$2.13 per hour. The federal tipped wage for restaurant wait staff who work over 40 hours in a week increases to \$6.13 per hour plus tips. In its present form, LB494 2015...and I apologize for my voice being so loud. I'm not really a mean person. I just speak loudly. In its present form, LB494 2015 would change the Nebraska minimum tipped wage from \$2.13 per hour to \$5 per hour because it says in there, in the bill, that half of the minimum wage...that it has to equal at least half of the minimum wage, which in the 2013 bill made the minimum wage \$10. So half of that is \$5 per hour. The federal government requires servers to report cash, tips, and credit card tips to their employers. Employers then must report these incomes to both the state and federal governments and withhold income tax. Over 90 percent of the tips to servers are through credit cards. And credit card tips help employers to know how much tips the servers are getting from that source. The hourly rates earned by our servers in our four restaurants including the current minimum tipped wages and actual tips ranges from \$10 at the minimum per hour to \$23.08 per hour. I got this from the payroll administrator. Those at the higher levels of income earn more than salaried managers. That answers a question somebody asked. Those at the lower levels earn both more than the state and federal minimum wage. Servers, therefore, do not need this proposed increase in tipped minimum wage. Restaurants have enough challenges already without increasing tipped wages by 113 percent. Nationally, sit-down restaurant profit margins average only about 4 percent or 5 percent. And some of the fast food restaurant profit margins are up to 6 percent. And it's already been mentioned that the annual turnover rate ranges from 85 percent to 90 percent making training a constant expense. And because our unemployment rate hovers beneath 3 percent, recruitment is a huge challenge for restaurants. And then the Affordable Care Act, everybody who works 30 hours in a week has to be insured either by the employer or by themselves to answer another question. So therefore, out in your citizens' world where I live, consumers and businesses are used to annual adjustments influenced by inflation or the consumer price index. [LB494]

SENATOR HARR: Can you wrap up your thought? You're at the five minutes, please.

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[LB494]

WAYNE BOLES: In how many more minutes? [LB494]

SENATOR HARR: You're done. If you can just wrap up that thought, please. And if you want, someone can ask you a question. [LB494]

WAYNE BOLES: Oh, okay. So I've mentioned some statistics here. And we've been used to 3.3 percent in adjustments for CPI and inflation in our industry, and not 113 percent adjustments. I wrapped up that thought. [LB494]

SENATOR HARR: That sounds great. Thank you very much. Sorry to do that to you but... [LB494]

WAYNE BOLES: That's okay. [LB494]

SENATOR HARR: ...we have a lot of people waiting to testify. Senator Ebke. [LB494]

SENATOR EBKE: Mr. Boles, back in ancient days when I was very young, I managed a restaurant that actually did have tipped employees. And I think the minimum wage at that time maybe was \$2.01 if that sounds familiar, many years ago. Tell me what the standard is today. Are all tipped employees paid at \$2.13 or is that just the starting wage and how high do most restaurants go? [LB494]

WAYNE BOLES: All tipped employees who are working 40 hours or less get \$2.13 an hour plus tips. If they work over 40 hours in a week, they get \$6.13 plus tips. [LB494]

SENATOR EBKE: So you don't adjust that based on the amount of time that they've been there or anything. The particular business that I worked for did, and so after three months we might raise them to \$2.11. You know, so we had some...and I'm sure that depends on the business too. [LB494]

WAYNE BOLES: In our restaurants we don't adjust it. [LB494]

SENATOR HARR: Any other questions? I guess I have one question, the \$23 an hour, is that peak hour, Friday at 7:00? Or is that over an 8-hour shift times 40 hours, the \$23 an hour? [LB494]

WAYNE BOLES: What we did is we took our highest paid server based on payroll and reported tips, the whole thing. And we found out that this individual is making almost \$50,000 a year which is more than our salaried managers make. And then we divided it by the number of hours that that person was working. And that's how we came up the \$23.08. [LB494]

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SENATOR HARR: Thank you. And I'll say this right now: A good meal, maybe remember; great service, I definitely remember. And I'll go back to a place that gives me great service and average food over great food and horrible service. Senator Crawford. [LB494]

SENATOR CRAWFORD: Yes. Thank you. Thank you for your testimony. I wonder if you can help us to understand how that process works if someone doesn't make the minimum wage. Or maybe it doesn't happen that often in your restaurant, that you know, if you don't make tips up to the required minimum wage then you report that. And then you're supposed to be compensated by the employer. Can you tell me what that looks like? [LB494]

WAYNE BOLES: Well, to answer two questions that was asked of someone else, I have in my office the posters that have to go up on the wall at every restaurant telling what the minimum wage is, the new minimum wage in Nebraska. So everybody, all the employees know that in Nebraska you have to be earning at least \$5...you have to be earning at least \$9 (sic) an hour this year and \$10 (sic) an hour next year. Did I answer that question? [LB494]

SENATOR CRAWFORD: Well, I just didn't know if you could tell us about that process of how someone reports it if they aren't earning that and when they would get compensated if they didn't make that. [LB494]

WAYNE BOLES: Oh. We, as the employer, we get to see what their tips are on the credit cards. And then the law requires the servers to report to us the cash tips. And it's based on what they report and what's on the credit card tips and the \$2.13 per hour. Did I answer that? [LB494]

SENATOR CRAWFORD: All right. So in terms of when they would get paid if they needed to get compensated. [LB494]

WAYNE BOLES: Well, in our organization we have a payroll administrator and our...we pay every two weeks. There are 26 pay periods in our fiscal year which is a calendar year. [LB494]

SENATOR CRAWFORD: And that would get reconciled each pay period from your experience, is that correct? [LB494]

WAYNE BOLES: Yes, yes. [LB494]

SENATOR CRAWFORD: All right. [LB494]

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SENATOR HARR: Thank you. Senator Johnson. [LB494]

SENATOR JOHNSON: You brought up a question for me anyway and clarification. The tips that are added on the credit card, most of the time we'll go into a nice restaurant and we use a credit card. I've always felt I want to tip the employee direct so I knew they had a better chance of getting it in a timely manner and get their fair share. What percentage of people put the tip on the credit card and what percentage do you have to depend on the employee? [LB494]

WAYNE BOLES: I know that over 90 percent of tips nationwide are on...by tips...your question is about what percentage of the people put it on their credit card. [LB494]

SENATOR JOHNSON: Yeah, yeah. [LB494]

WAYNE BOLES: And I don't know the answer. [LB494]

SENATOR JOHNSON: I'm just curious. And you know, in the restaurant business if that, I'm probably in the minority. I'm a Swede, so you know. [LB494]

WAYNE BOLES: That's a good question, but I don't know the answer. [LB494]

SENATOR JOHNSON: I'm just curious. [LB494]

SENATOR HARR: Senator Bloomfield, please. [LB494]

SENATOR BLOOMFIELD: Thank you. Mr. Boles, I could be wrong here, but I believe you're mistaken on your numbers. I think this year it's \$7.50 and next year it's \$9 instead of the \$10 you're quoting. I think that's the numbers. [LB494]

WAYNE BOLES: Oh, is... [LB494]

SENATOR BLOOMFIELD: I believe so. [LB494]

SENATOR HARR: Yes, that is correct. [LB494]

WAYNE BOLES: Is that correct? I apologize. I read the bill. (Laugh) [LB494]

SENATOR BLOOMFIELD: Not a problem. I just wanted to get it clear in the record. Thank you. [LB494]

WAYNE BOLES: Thank you. [LB494]

SENATOR HARR: Senator McCollister. [LB494]

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SENATOR McCOLLISTER: Thank you, Mr. Chairman. Bob (sic), Lazlo's is a pretty good restaurant. What benefits do you pay your servers other than their tips on there, in a minimum wage situation? [LB494]

WAYNE BOLES: If they are working 30 hours per week or more, the federal Affordable Care Act requires that we offer them health insurance, medical insurance. [LB494]

SENATOR McCOLLISTER: 401(k) maybe? [LB494]

WAYNE BOLES: And I apologize for not knowing this, I think that after they've been...and this is me too. Each of us, there was a waiting period. And I think it was 90 days of employment before we could get on 401(k). And I believe that's the case with the servers also. [LB494]

SENATOR McCOLLISTER: Do you have any openings? (Laughter) [LB494]

WAYNE BOLES: Yes, we do. [LB494]

SENATOR HARR: Senator Crawford. [LB494]

WAYNE BOLES: And you have to be able to memorize the menu to recite it. [LB494]

SENATOR CRAWFORD: Thank you. So in your testimony, you say that customers and businesses are used to annual adjustments influenced by inflation or the consumer price index. So if we took \$2.13 was where we were around 1991 and we just adjusted it for inflation or the CPI would that sound fair? [LB494]

WAYNE BOLES: Are you talking about just in one lump sum accounting for a number of years? [LB494]

SENATOR CRAWFORD: I'm saying that if we were to say, well, it's fair to consider inflation and the customer price index, then we would say, well, it was \$2.13 over 20 years ago. So let's make sure we're adjusting it to keep up with inflation. [LB494]

WAYNE BOLES: I used to be on the Lincoln-Lancaster County Health Department Food Advisory Committee. And the Food Advisory Committee issues licenses. And so they would wait a number of years and then they would raise the price. And we had been budgeting based on the CPI. And we pled with them and said, please, if you...adjust your license fees on an annual basis according to the CPI for the Midwest. And then we can make that work. But if you just hike it all up every once in a while, it's a problem. [LB494]

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SENATOR CRAWFORD: So we should adjust our minimum wage to the CPI. I think that would be... [LB494]

WAYNE BOLES: And recognizing that sometimes the CPI goes down. [LB494]

SENATOR CRAWFORD: Right. Fair enough. True. [LB494]

SENATOR HARR: Thank you. Just one quick follow up, what percentage of your workers...servers work 30 hours or more? [LB494]

WAYNE BOLES: I don't know. [LB494]

SENATOR HARR: Can you ballpark it? [LB494]

WAYNE BOLES: We have a requirement that you have to be available for a certain number of shifts before you get hired otherwise the restaurant couldn't function. And a lot of these people are college students. And so they decide whether they can accommodate that number of shifts. And I don't know the exact answer to the question. [LB494]

SENATOR HARR: Can you ballpark it? [LB494]

WAYNE BOLES: No, I can't. I'm sorry. [LB494]

SENATOR HARR: Can't even ballpark it. [LB494]

WAYNE BOLES: I'm sorry. I could get the answer. [LB494]

SENATOR HARR: If I said it was 5 percent, only 5 percent are eligible for the ACA, you couldn't say no? [LB494]

WAYNE BOLES: Would you rephrase the entire question, please, Senator? [LB494]

SENATOR HARR: So I guess my question is if you can't ballpark it, you couldn't disagree if I said only 5 percent of your work force of servers are eligible for the ACA, of your servers. [LB494]

WAYNE BOLES: I don't know. I wouldn't be surprised. But I'm not sure. [LB494]

SENATOR HARR: Okay. Thank you. Senator Bloomfield. [LB494]

SENATOR BLOOMFIELD: This is kind of a follow-up to Senator Harr's question. Of the people that don't put in 30 hours a week, is that more their choice or your choice?

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[LB494]

WAYNE BOLES: Their choice. If we're talking about servers... [LB494]

SENATOR BLOOMFIELD: Right. [LB494]

WAYNE BOLES: Their choice. [LB494]

SENATOR BLOOMFIELD: So you don't make a policy then out of holding people at 28 or 29 hours to keep them from going over into that. [LB494]

WAYNE BOLES: Absolutely not. [LB494]

SENATOR BLOOMFIELD: Okay. Thank you. [LB494]

WAYNE BOLES: Thank you. [LB494]

SENATOR HARR: Any other questions? Seeing none, thank you for taking the time to come down here and testify. Any other opponents? Mr. Clark. [LB494]

DICK CLARK: Chairman Harr, members of the Business and Labor Committee, my name is Dick Clark, D-i-c-k C-l-a-r-k. I'm director of research for the Platte Institute. Thank you for this opportunity to testify in opposition to LB494. This bill would increase the minimum wage for workers who are compensated primarily via gratuity. According to a 2013 U.S. Bureau of Labor Statistics report, this describes somewhere in the ballpark of 12,000 workers in Nebraska or about seven-tenths of a percent of the working population in the state. The bulk of these workers are employed in the leisure and hospitality industries. Nearly twice as many women as men earn a wage below the minimum wage. Young people ages 25 or younger are nearly four times as likely as their older counterparts to be compensated by their employers at a rate below the minimum wage. There's no good evidence that increasing the minimum wage will help these workers and there's ample evidence that doing so will harm many of the workers that most need our help. Proponents of raising the minimum wage often cite a 1994 study by economists David Card and Alan Krueger to support the claim that a minimum wage increase will not result in job loss. Their research into the effects of the 1992 increase in the New Jersey minimum wage surveyed fast food restaurants in New Jersey and neighboring Pennsylvania, with its minimum wage unchanged, to estimate the effect of the higher minimum wage on employment. Their conclusions contradicted the so-called textbook model of minimum wage analysis and the authors asserted that their data did not indicate that employment was reduced as a result of the higher mandated wage. However, other economists have since thoroughly critiqued their survey methodology and data quality. And although noble policymakers and officials including President Clinton continued to tout the 1994 study, Card and Krueger

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eventually retracted their claims. A subsequent study by Saul Hoffman and Diane Trace contradicted Card and Krueger's original findings as well. Examining transborder labor effects in New Jersey and Pennsylvania on all workers, not just those employed in fast food, Hoffman and Trace found consistent evidence that employment of at-risk groups was negatively affected by increases in the minimum wage. A June 2014 publication by the Center for Economic and Policy Research claimed that job growth was faster in the states with higher minimum wage levels. However, further examination of the underlying data showed that the states that raised their minimum wage levels has substantially higher unemployment than other states to begin with. A state that starts with greater than 10 percent unemployment may add many jobs but still not be situated as favorably as a state with lower unemployment to begin with. A 2013 study by Jonathan Meer and Jeremy West found some locales where employment growth continued after the minimum wage had increased. However, the authors determined that the growth was likely attributable to preexisting trends rather than the legal wage increase. The data overall suggests that job growth, even though still positive, was substantially diminished. Increasing minimum wages hurts the economy. It hurts businesses. And most importantly, it hurts workers. That's the best reason I can give you to not advance this bill to General File. And I thank you again for the opportunity to testify today. [LB494]

SENATOR HARR: Thank you for taking the time to come testify. Any questions for Mr. Clark? Seeing none, thank you. [LB494]

DICK CLARK: Thank you. [LB494]

SENATOR HARR: Mr. Hallstrom, welcome. [LB494]

BOB HALLSTROM: Thank you, Chairman Harr, members of the committee. My name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the National Federation of Independent Business in opposition to LB494. I don't think there's much more to add to the record based on what you've heard on both sides of this question. I would clear up for the record, Mr. Otto and I went to different schools, but I think the difference between \$4.50 and \$2.13 is \$2.37. I'd be happy to address any questions that the committee might have. [LB494]

SENATOR HARR: Seeing none, thank you for your time. [LB494]

BOB HALLSTROM: Thank you. [LB494]

SENATOR HARR: Anyone else in the negative? Neutral? [LB494]

STEPHANIE BARTH: May I make a neutral comment? It's not a personal comment that I am making. [LB494]

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SENATOR HARR: You know what, you are not a regular so please come up, Ms. Barth. And again, you're Stephanie Barth. You testified earlier. [LB494]

STEPHANIE BARTH: Stephanie Barth, B-a-r-t-h. Thank you. [LB494]

SENATOR HARR: Go ahead. [LB494]

STEPHANIE BARTH: Okay. The neutral comment that I had that is not personal is perhaps we could look at this from a way of, it's not necessarily about the amount of money that you make after the tips, but about the way in which you get the money. And I think that that is the issue and possibly something could be done with the restaurant, the board of...the restaurant board where if you want to give a tip, you are instead required by the company to give the tip instead of the customers are owning that person. And so that was my more neutral comment, to make it gratuity based where the company is instead receiving the tip and then giving that money to the employee instead of a tip-based situation where the customer is giving you the money and you're just wondering if you're going to get it. So that was my neutral comment there. [LB494]

SENATOR HARR: Thank you, Ms. Barth. [LB494]

STEPHANIE BARTH: I don't know if you had...okay. [LB494]

SENATOR HARR: I appreciate that. Wait, let's see if anyone has any questions. Seeing none, thank you very much. I appreciate your time. [LB494]

STEPHANIE BARTH: Okay. Thank you. [LB494]

SENATOR HARR: Thank you again for coming down. Senator Nordquist will waive closing. I believe we have some letters in support, or letters. [LB494]

JAMISON WYATT: (Exhibits 2-8) Yes. On LB494, as a proponent we have Tessa Foreman with Nebraskans for Peace; James Goddard with Nebraska Appleseed; Terry Werner with the Nebraska Chapter of the National Association of Social Workers; Voices for Children in Nebraska; we also have Mike Marvin, Nebraska Association of Public Employees, AFSCME Local 61; Abbie Kretz of the Heartland Workers Center; and in opposition we have Barry Kennedy with the Nebraska Chamber of Commerce and Industry. [LB494]

SENATOR HARR: Thank you, Mr. Wyatt. That will close LB494. Next up is LB611, Senator Kintner, requiring private employers to use the E-Verify Program. Senator Kintner, the floor is yours. [LB494]

SENATOR KINTNER: (Exhibits 1-4) Thank you, Mr. Chairman. Members of the

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Business and Labor Committee. I'm Senator Bill Kintner, B-i-l-l K-i-n-t-n-e-r. I represent Legislative District 2 and I'm here to introduce LB611. LB611 would amend Nebraska law Section 4-114 to extend the current requirement for public employers and contractors to use the federal E-Verify Program, which is used to confirm citizenship or immigration status of employees, to also require private employers to use the federal E-Verify Program to confirm employment authorization status of their employees beginning January 1, 2016. Since 1986, employers have been required by federal law to verify identity and employment authorization of each new employee using a list of documents that meet the verification standard of U.S. Citizenship and Immigration Services. To comply with this law, all new employees must provide documents on the authorized list and fill out the first section of the form I-9. The employer must verify the documents presented by the new employee and attest that to the best of their knowledge, the documents are genuine. The employer is then required to keep the completed form I-9 as a record and proof of compliance in case of an audit by the federal government. In 2009, Nebraska joined other states that made all or certain employers electronically confirm employment authorization of new employees with the federal government using E-Verify system when LB403 went into effect. I believe the current number is 22 states; 11 of the 22 states, including Nebraska, only require public employers and contractors to confirm employment authorization electronically using E-Verify while 9 states require all employers to use E-Verify. The remaining two states only require public contractors, not employers. Like I mentioned earlier, LB611 would move Nebraska from a state only requiring public employers and contractors to use E-Verify to a state requiring all employers to confirm the legal status of new employees. A few of the nine states that require all employees to use E-Verify also exempt small businesses from the requirement if they have less than a certain number of employees. I have provided the committee with an amendment for your consideration that would make a few changes and allow for such an exemption. AM166 would change the bill by only requiring businesses that have more than 15 employees within the calendar year. So they would be exempt. To use E-Verify system, each employer would have to enroll their company in the program with U.S. Citizen and Immigration Services. They can also either...they can either do this on their own or through an E-Verify employer agent who is certified to do all the administrative work for the client's business. In addition, there is a memorandum of understanding that is required to be signed to ensure the system is used correctly and fairly by all parties. I have handed out some things for you here. And there is a handout that gives an overview of employees' responsibilities using E-Verify. That looks like this one right here. So you should have that. That should have just been handed out to you. I also have a handout showing the latest statistics from the USCIS. That would be the one with the pie charts on it. If you look, most employees are automatically confirmed as work authorized, 98.3 percent of employees automatically confirmed that they're authorized to work, 1.7 percent of employees receive initial systems mismatches. And then out of that 1.7 percent, 1.43 percent are found not to be authorized. Moreover, my office was able to find four different E-Verify employer agents with a quick search on-line. One of the sites had a good frequently asked questions

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page. I thought I would hand that out to you. Also, it's this one right here. And the only thing I would say...one question I kind of like out of there is that you have three business days after the new hire's first day to go ahead and use E-Verify system. So you can have three days. You don't do it until you've extended an invitation and they've accepted the job and then you have three days to take the information off the I-9 that you already need and plug it in E-Verify. We're not asking for any new information you don't already have on record. As I said earlier, Nebraska currently requires public employers and contractors to use E-Verify. What I'm handing out now is results of confirming employment authorization in Nebraska's public sector. It's also some information verifying eligibility for government programs. So if you look here, there is a system when we're looking at people who are eligible called the Systematic Alien Verification for Entitlements which is called SAVE which is a public version of E-Verify that governments use. If you go to page 2, it shows you some of the people who are run through it and some of the rejection rates to show you where we are doing it. On unemployment insurance, we found 121 that were not eligible for unemployment because they were not U.S. citizens. You go to the third page, Health and Human Services, they rejected 3,467 applications for government benefits using the SAVE Program which is the counterpart to E-Verify. If you go to the next one, the University of Nebraska system, last year they had one person that was rejected for anything that they offer to do. And I'll let you look. There's only a few more after that you can look at. The point I'm showing you is that this stuff is used on a regular basis for all kind of different things in our state on the public side. I believe the E-Verify system has made improvements and would be a valuable tool for all employers to confirm that their employees meet federal government standards for legal employment in the United States. From my view, I believe this protects jobs and wages for our citizens in Nebraska and lawful aliens present in our country. With that I'll make the best effort to answer any questions you may have. [LB611]

SENATOR HARR: Thank you, Senator Kintner. Are there questions for Senator Kintner? Senator Crawford. [LB611]

SENATOR CRAWFORD: Thank you, Chair Harr, and thank you, Senator Kintner. I was wondering if you have any idea of the cost of E-Verify for private employers. [LB611]

SENATOR KINTNER: If you use a service that you just hire and just give them your I-9s and they plug it all in for you, they'll bring you a couple things to sign and that's it, it would be \$9.95 per employee. That's it. [LB611]

SENATOR CRAWFORD: For some kind of contract. [LB611]

SENATOR KINTNER: Yeah, so if you're using a service. If you're doing it yourself, you just stick it in and there's no charge. [LB611]

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SENATOR CRAWFORD: Thank you. [LB611]

SENATOR KINTNER: And this was set up by the federal government for employers that like to use it. So they set it up for our benefit. [LB611]

SENATOR HARR: Senator McCollister. [LB611]

SENATOR McCOLLISTER: Do most employers employ that, an outside contractor for that E-Verification? [LB611]

SENATOR KINTNER: I have no idea how many use an outside contractor to do the...to gather your information, plug it in for you. I have no idea how many do it themselves and how many hire someone to do. I do not know that. [LB611]

SENATOR McCOLLISTER: Is it, what is it, a Web site that you go to... [LB611]

SENATOR KINTNER: Yes. [LB611]

SENATOR McCOLLISTER: ...for the approval? [LB611]

SENATOR KINTNER: Yep. You just take your I-9 form, plug the information in, and you're good to go. [LB611]

SENATOR McCOLLISTER: Okay. Thank you, Senator. [LB611]

SENATOR KINTNER: By the way, if you're found to be in violation, you have eight days. So you're paid during those eight days and you would go to Social Security and try to work it out if you want to contest it. If you've been busted red-handed, I guess you'd hit the road. But if you think that you're legal and it's not right, you've got eight days to go contest it. And during those eight days you're being paid. [LB611]

SENATOR McCOLLISTER: Okay. Thank you, Senator. [LB611]

SENATOR KINTNER: So we want to make sure that we're not violating anyone's rights to employment. They've got that right and they have...so you know, I just don't want you think that you get thrown out, you know, without a chance to appeal. [LB611]

SENATOR HARR: And cannot be fired during that time, right? [LB611]

SENATOR KINTNER: Yes, and they cannot be fired during that time. [LB611]

SENATOR HARR: Senator Kintner is a big fan of creating protected classes. (Laughter) I do have a couple of questions. Now three other states, I believe Arizona, Georgia, and

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Tennessee have done what you're suggesting. Do you know what the results have been there? [LB611]

SENATOR KINTNER: Nine states have done that. [LB611]

SENATOR HARR: How many? Nine states, okay. [LB611]

SENATOR KINTNER: Including Utah, Nevada, Georgia, Texas I believe. No problems. [LB611]

SENATOR HARR: No problems. [LB611]

SENATOR KINTNER: I mean we've looked and we can't find any problems. We can't find any lawsuits, can't find anything. [LB611]

SENATOR HARR: And one other question, would you be willing to expand this to include contractors and subcontractors? [LB611]

SENATOR KINTNER: Well, this includes contractors. It does not include subcontractors. They're not responsible for the people the subcontractor hires. [LB611]

SENATOR HARR: Okay. [LB611]

SENATOR KINTNER: I thought that was unfair. They don't know every guy the subcontractor has got. Subcontractor needs to do it for his own people. So he should have already done it for his people. But I think to put that on a contractor to vouch for all the guys of the subcontractor I thought was a little bit too much. [LB611]

SENATOR HARR: Okay. Thank you. Any follow-up questions? Senator Chambers. [LB611]

SENATOR CHAMBERS: Why is this done? What is the purpose for doing this? [LB611]

SENATOR KINTNER: This is to make sure...well, it does a couple things. One, it makes sure that everyone who's supposed to be not working in our state is not eligible to work based upon federal law does not work. One of the benefits is it doesn't drive down wages. And when you've got people working who are not eligible to work, they're kind of a hostage to the employer and they tend to be paid less and they tend to drive down the wage rates. And I've got some guys I think coming up behind me that might speak to that a little further. [LB611]

SENATOR CHAMBERS: Just one or two for you as the introducer, what kind of jobs are they driving wages down on, what kind of jobs? [LB611]

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SENATOR KINTNER: I would say almost anything. If they're illegal, I would say most anything they're doing. [LB611]

SENATOR CHAMBERS: College professorships, driving down their wages? [LB611]

SENATOR KINTNER: Well, if the public university, they already use E-Verify anyway. So they've already taken care of the problem. [LB611]

SENATOR CHAMBERS: But I want to find out where they would be working, whoever the "they" are, they would be driving down the wages of college professors? [LB611]

SENATOR KINTNER: Well, if it's a public university, they wouldn't be driving down because they can't get a job because they use E-Verify or SAVE, one or the other. [LB611]

SENATOR CHAMBERS: Well, if they did not E-Verify then they, whoever they are, would be getting jobs at these public universities and driving the wages down. [LB611]

SENATOR KINTNER: If they didn't use E-Verify they very possibly could, yes. [LB611]

SENATOR CHAMBERS: And if there are places where electrical engineers are employed, they might drive those wages down too. [LB611]

SENATOR KINTNER: I wouldn't think so. I wouldn't think it would probably be more blue collar. I wouldn't think you have a lot of illegal aliens coming here with master's degree in engineering trying to get jobs. I would think. I'm only speculating, Senator. [LB611]

SENATOR CHAMBERS: I understand. You know, that's the nature of the questions. Would they be blue collar jobs or no collar jobs? What level job would they be driving down the wages in? [LB611]

SENATOR KINTNER: I would think it would be more common labor jobs that would probably suffer the most. [LB611]

SENATOR CHAMBERS: What is the rate of employment...unemployment in Nebraska right now? [LB611]

SENATOR KINTNER: 2.9 percent. [LB611]

SENATOR CHAMBERS: So there's a serious problem in your opinion with wages being driven down and jobs being taken? That's almost complete employment, isn't it?

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[LB611]

SENATOR KINTNER: That's pretty much complete employment. I wouldn't say much more than that, yes. [LB611]

SENATOR CHAMBERS: So what difference would it make if they get some jobs? They're not going to take jobs from people because almost everybody is working anyway. [LB611]

SENATOR KINTNER: Senator Chambers, we may not be at full employment three years from now. We may not be at full employment ten years from now. So if... [LB611]

SENATOR CHAMBERS: Well, the world may not be here three years from now. [LB611]

SENATOR KINTNER: ...if things get tight, I want to make sure those jobs are going to legal Americans and legal aliens. [LB611]

SENATOR CHAMBERS: But it's not a problem right not, would you agree? [LB611]

SENATOR KINTNER: I don't know to what degree it is, but I would think that this a federal law. And I think that they've given us the tools to do this. And I think it makes sense to do it. [LB611]

SENATOR CHAMBERS: But aside from what the federal government is doing, there is a philosophical underpinning to what's being done in this state. This state has an attitude. Now if there is virtually total employment, they are not taking anybody's jobs. Or are they included in the unemployment statistics? And if so, would they comprise the 2 percent who are not employed? [LB611]

SENATOR KINTNER: No. I don't believe so. [LB611]

SENATOR CHAMBERS: What percentage of the labor market do they comprise if you have any idea? [LB611]

SENATOR KINTNER: I have no idea. [LB611]

SENATOR CHAMBERS: Okay. I'll wait then. Thank you. [LB611]

SENATOR HARR: Any other questions for Senator Kintner? Seeing none, thank you. I assume you'll stay for closing. [LB611]

SENATOR KINTNER: Yes, I will hang out. Yes. [LB611]

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SENATOR HARR: Wonderful. Any other proponents of LB611? [LB611]

GREGG RHOADES: Hello. [LB611]

SENATOR HARR: Please state your name, spell your last name. Sorry. [LB611]

GREGG RHOADES: (Exhibit 5) Gregg Rhoades, R-h-o-a-d-e-s. Chairman Harr, committee members, my name is Gregg Rhoades and I am the business manager for the Operative Plasterers and Cement Masons Local 538 here in Nebraska. I come before you today in support of LB611. It is my belief that this legislative bill would help level the playing field for our fair contractors performing work here in Nebraska. Currently, without an E-Verify system in place that applies to private contractors, the door is wide open for a variety of abuses ranging from individual worker exploitation to shortchanging the state in the form of applicable taxes paid. Many of these private contractors prey upon the illegal immigrant population because they realize that they can exploit them in the following manner: paying substandard wages to the individuals, not providing health insurance on the individual's behalf, not paying overtime pay unless challenged, paying some individuals in cash, not paying unemployment benefits on behalf of the individual's behalf, not paying workers' compensation on the individual's behalf, and not paying correctly all state and federal taxes on the individual's behalf. It is my belief that LB611 would help curtail these contractor abuses. These abuses show up on bid day as well. A fair Nebraska contractor pays living wages and health insurance and all applicable taxes, both state and federal, on their employees. These costs are figured in on the bid price. Then you have a contractor that pays none of these and, therefore, can reduce the bid to secure the work. This is not the Nebraska way. I would encourage this committee to advance LB611 and I believe the benefits far outweigh any of the negatives that may arise. And I'd be happy to answer any questions. [LB611]

SENATOR HARR: Thank you, Mr. Rhoades. Senator Chambers. [LB611]

SENATOR CHAMBERS: Are you familiar any such contractors who are doing the thing you are worried about here? [LB611]

GREGG RHOADES: Yes, sir. [LB611]

SENATOR CHAMBERS: How many of them would you say? [LB611]

GREGG RHOADES: It's hard to put an exact number on it. I'm from the building trades sector. [LB611]

SENATOR CHAMBERS: Just estimate. [LB611]

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GREGG RHOADES: Operating in Omaha and Lincoln, I'd say 20 percent. [LB611]

SENATOR CHAMBERS: So then 20 percent of contracts are going to these people who do all these kind of things you're saying. And roughly how many employees would these 20 have, guessing? [LB611]

GREGG RHOADES: Ten to fifteen per construction company, which is all I can speak for is the construction companies. [LB611]

SENATOR CHAMBERS: If you know who they are, do you turn these companies in to anybody? [LB611]

GREGG RHOADES: It's a difficult process as you know. It's hard to get someone to listen. Oftentimes, what the angle that we'll approach it from is when we find a violation where they're not getting paid, when they're on a Davis-Bacon project, we can identify that quickly. We can take our concerns with that quickly to someone who will listen. Oftentimes, what I found with the illegal immigration population is they are reluctant to come forward. And at the end of the day I can speak on their behalf. But unless the entity in charge of that hears it from them, it doesn't hold much water. [LB611]

SENATOR CHAMBERS: How many...what percentage of the contractors that you represent pay health insurance benefits? [LB611]

GREGG RHOADES: 100 percent. [LB611]

SENATOR CHAMBERS: So the Affordable Care Act has not impacted negatively on you. [LB611]

GREGG RHOADES: No, sir, not whatsoever. [LB611]

SENATOR CHAMBERS: And when we see this term "substandard wages," what does that refer to, less than minimum wage or less than union wage? [LB611]

GREGG RHOADES: A substandard wage is typically, Senator, anything that is less than the fair wages that have been established and negotiated over decades by the labor unions, that is correct. [LB611]

SENATOR CHAMBERS: And that wouldn't be just minimum wage. [LB611]

GREGG RHOADES: No, sir, that is above. We like to consider it a living wage, a wage where an individual can support his family, maybe take his wife out to dinner, has his kids dressed in nice clothes to attend school. [LB611]

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SENATOR CHAMBERS: Well, when you hear some of these companies who are not talking about minimum wage employees but legal Americans, the minimum wage is too much for them to receive, you don't agree with that. [LB611]

GREGG RHOADES: I think it's shameful. [LB611]

SENATOR CHAMBERS: I don't have any more questions. Thank you. [LB611]

SENATOR HARR: Any other questions? Senator McCollister. [LB611]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. You cited the difficulties with enforcement. Is that likely to change with the adoption of LB611? [LB611]

GREGG RHOADES: I hope so, yeah. I think what Senator Kintner was alluding to or trying to work towards is we need to begin somewhere. We need to start somewhere. And I think LB611 will be that start. Will it be perfect? No. It's going to take some time to work itself out. But right now what you have is like a lot in our society: the haves and the have-nots. You've got the contractors that play by the rules in that they take good care of their employees and then you've got the other side that abuses their employees. And the employers that abuse their employees, they have a captive audience. They have the perfect storm. I've said--this light is about ready to go off but--if you're an unscrupulous contractor and you haven't gotten all the worker abuses you can stand in the last ten years in, you've missed the boat because there's little or no enforcement for these people. I've heard some of the speakers before talk about paying someone \$2.15 an hour. My god. You'd never guess this is the United States. [LB611]

SENATOR McCOLLISTER: Thank you. [LB611]

GREGG RHOADES: You're welcome. [LB611]

SENATOR HARR: Thank you. Senator Crawford. [LB611]

SENATOR CRAWFORD: Thank you, Chair, and thank you for being here, Mr. Rhoades. So I have two questions. So my first question is from your response to Senator Chambers you said you thought many of these contractors had 10 to 15 employees. So I guess that raises just a first question about whether or not you think 15 employees is a right number or should we think about that carefully if the kind of employers that you're worried about tend to have 10 to 15 and they can just drop down one or manipulate that to stay below the radar screen. That's my first question. [LB611]

GREGG RHOADES: Oh, I think that they've got the game figured out. If they need to drop an employee or two to stay below the radar or to have to keep from paying or offering healthcare insurance, they'll do it. [LB611]

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SENATOR CRAWFORD: So 15 might be a...we need to think about carefully. And my second question is, if these companies are engaged in these kinds of practices, so they're violating the rules for these kind of practices, why are you confident that they would actually do E-Verify if we asked them to because why wouldn't they violate that rule? [LB611]

GREGG RHOADES: I have no confidence that they would comply with it. But I believe that we as a society of caring individuals and people have to start somewhere. I mean it...again, I don't believe LB611 will be the silver bullet. But I do believe it is a large step in the right direction to accountability. And you can read the papers every day about the abuses that go on, not only worker abuses but corporate abuses in Wall Street and everything else. But we've got to begin somewhere. And I think this legislative bill, although not the silver bullet to all of our problems, at least begins the process to where we can have a dialogue to where we can move forward. [LB611]

SENATOR CRAWFORD: Thank you. [LB611]

SENATOR HARR: Senator Chambers. [LB611]

SENATOR CHAMBERS: Your testimony is very interesting to me. I don't get the impression that you are opposed to certain people being in this country in the way that other people, especially in Nebraska, are. If these companies were hiring these individuals that Senator Kintner and others are very upset about, were paying and following all of the standards that every company in your trade were following, would you then object to them working in this country? [LB611]

GREGG RHOADES: I think I have some bias, to answer question, for the Americans. I think of all races, I don't care what race you are, if you're an American, you're an American. I think we have an obligation to our fellow Americans to put them in jobs first. I would like to...I don't like to see people exploited. And like I said, in the last 10 to 15 years, a lot of these, and I've been in this business, I've probably stayed around too long. But you've got contractors that exploit people simply because they can, because they've got a group of citizens that are fearful anyway. And I could tell you stories. We could sit here for three or four days. But it's got to stop somewhere. We have got to... [LB611]

SENATOR CHAMBERS: Well, here's my question, if these companies who are hiring these people were paying the rate that they should, all of these items you mention, one through seven, all the companies in your trade were paying all of their employees in this fashion, how would you even know that there is a group of people who are in any way damaging your trade? [LB611]

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GREGG RHOADES: It wouldn't have shined the light on it like it does now that they are abusing them, you're correct. The issue would not have come to the forefront as quickly. [LB611]

SENATOR CHAMBERS: Now here's the question, I'm asking for your view. [LB611]

GREGG RHOADES: Okay. [LB611]

SENATOR CHAMBERS: If your view is based on these companies being able to underbid and do these other things and get an unfair advantage as far as competition within the trade, if all of them were playing by the same rules, what difference would it make to you whom any other contractor hired? [LB611]

GREGG RHOADES: From a business standpoint it would make none. From an American, it would make some. [LB611]

SENATOR CHAMBERS: What does being an American have to do with it? [LB611]

GREGG RHOADES: Well, I think it's important that we can't...in my opinion, Senator, we can't solve everything. All we can solve is what we can control. And I think it's important...you had a couple speakers prior to me about veterans and veterans coming back and being unemployed. And I think we have an obligation as a country to our own people before...you know, if there's plenty of work, then let's extend our hands to another nation. But I think it's important that we take care of our own citizens as a country first. [LB611]

SENATOR CHAMBERS: Well, there are people of my complexion who were born in this country going back generations, in fact, some to the Mayflower which would precede a lot of those who don't want us here or don't want us to get our rights. We will see an ad in the paper for people to work. We apply for the work and there are no jobs. Then a person of your complexion goes right behind us and gets a job. So your concern is not maybe yours personally, but the concern in America is not for all Americans. I'm 77 years old, older than you. [LB611]

GREGG RHOADES: Yes, sir. [LB611]

SENATOR CHAMBERS: And I know that they don't care about people of my complexion. And they know that we get these substandard considerations even on jobs where they're supposed to be doing it right, but if we say anything they'll fire us. [LB611]

GREGG RHOADES: I agree with you. [LB611]

SENATOR CHAMBERS: We take these inferior jobs. And then we get jobs where

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they're not on such a low level as far employment. We get the worst duties in that company. We have no place we can complain to in that company. We are retaliated against if we say anything. So whenever somebody tells me they're concerned about Americans, I'm very skeptical because the flag protects you but it doesn't protect me. In fact, any time I see the American flag I'm concerned. When I see bikers with American flags I feel they're racist, they're ruffians, and the only thing that will stop them from jumping off their bikes and lynching me is they might get caught by the law. But the flag doesn't mean the same thing to me as it does to you. You see it and you're comforted. I see it and I'm on my guard. [LB611]

GREGG RHOADES: I understand. And I agree with a lot of what you just said. I think what helps yourself, you're a wise man, and myself and all the workers coming up is if we can educate those employees regardless of color, that they're being exploited, that they're being taken advantage of. [LB611]

SENATOR CHAMBERS: Well, we know we are. [LB611]

GREGG RHOADES: Yes. [LB611]

SENATOR CHAMBERS: But we have no redress. We have no recourse. The first thing they require us to do is go to some human resources person who works for the company. You know as a man of the world that when you complain about the company to an employee of the company, you're not going to get a fair shake. [LB611]

GREGG RHOADES: No. [LB611]

SENATOR CHAMBERS: And if I say that this happens to me because of my race, they say, oh, you're playing the race card. [LB611]

GREGG RHOADES: Right. [LB611]

SENATOR CHAMBERS: That...you know why that drives me crazy? Until a black woman became a member of the Legislature, every article written about me said, Senator Ernie Chambers, the only...either the only black man or the only African-American in the Nebraska Legislature. There's no person in Nebraska who doesn't know what my race is. Who's playing the race card? They don't say, Senator Harr, one of the 98 percent of the white people in America. So they do these things. They do it to us. And you're not supposed to be concerned about it. And even when we discuss it, white people become indignant. So when I see all of a sudden these people who practice racism so concerned about what's happening to other people, then it drives me up a wall. And I will not stop talking about it. I will not stop trying to do something about it. And when they make that appeal about all of us Americans, it doesn't apply to me and never has and never will in my opinion. [LB611]

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GREGG RHOADES: I understand. [LB611]

SENATOR CHAMBERS: So my view is different from yours. [LB611]

GREGG RHOADES: Yes, sir. [LB611]

SENATOR CHAMBERS: But on some of the big issues, I think we'd be joined not only at the hip but from forehead, past the kneecap, down to the ankle. And that's where I have to work with people, on the basis that we can but knowing that I will never be accepted as a full-fledged American. And there will be people sitting in a room like this angry at what I'm saying, and their very anger shows the truth of what I'm saying. And if you listen to them you see what their attitude really is. [LB611]

GREGG RHOADES: I understand. [LB611]

SENATOR CHAMBERS: Remember, I'm 77 years old, sonny. So I know what I'm talking about. [LB611]

GREGG RHOADES: I enjoy talking with you. We have more in common than we do apart. [LB611]

SENATOR CHAMBERS: Undoubtedly. [LB611]

GREGG RHOADES: I think all work is dignified. I'm biased towards organized labor. I grew up in a union household. My father worked hard. There's a lot of misconceptions about organized labor. But organized labor provides their members with living wages, with health insurance, with retirement so that they can retire in dignity. And I came here to today in support of LB611 but I hear some of the other conversation about what people make. And in my mind, and I'm only 52, it's almost as if we're a nation of the haves and the have-nots. [LB611]

SENATOR CHAMBERS: And see labor would have...all labor would have dignity if a living wage was paid. [LB611]

GREGG RHOADES: I agree. [LB611]

SENATOR CHAMBERS: And that labor which is considered not to have dignity is that where your humanity, your personal dignity are taken away from you and you're treated like less than a human being. [LB611]

GREGG RHOADES: I agree. [LB611]

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SENATOR CHAMBERS: Then in a sense, no matter how much they paid you, that is not dignified. See you and I will understand this because we've worked. Other people have no idea what we're talking about. [LB611]

GREGG RHOADES: That's correct. [LB611]

SENATOR CHAMBERS: So keep organizing, keep agitating, keep rabble-rousing, keep doing everything that can be done to let people know who are similarly situated that they need to come together where they can cooperate even if they have differences here and there. [LB611]

GREGG RHOADES: In closing, I think all do better when we all do better. [LB611]

SENATOR CHAMBERS: You got that right. [LB611]

SENATOR HARR: Thank you. I think we have one more question or a couple questions from Senator Bloomfield. [LB611]

SENATOR BLOOMFIELD: Thank you, Chairman. I want to go back to a question that Senator Crawford raised. When we exempt below the 15 employees, my question is more along the line of subcontractors. The unscrupulous contractor you were referring to, if they are determined to take advantage of these people, what keeps them from simply hiring 5 groups of subcontractors at 10 or 12 each and get a full crew of 60 contracted? [LB611]

GREGG RHOADES: I don't believe anything prohibits them from doing that at this time. [LB611]

SENATOR BLOOMFIELD: Okay, thank you. [LB611]

GREGG RHOADES: Thank you. [LB611]

SENATOR HARR: Thank you. Any other questions? Seeing none, any other proponents on LB611? While the gentleman is coming up, I must confess I'm partly responsible for the 15 insofar as I was worried about myself, having a babysitter, having to get every babysitter I had E-Verified. And so that's where that came from. [LB611]

SENATOR BLOOMFIELD: Are planning on having 15 babysitters, Burke? How busy are you going to be? [LB611]

SENATOR HARR: Well, they don't like me very much. I don't pay them a living wage. Sorry, go ahead, sir. [LB611]

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PAUL VON BEHREN: (Exhibit 6) That's fine. Senator Harr, I appreciate the opportunity to speak, committee members. My name is Paul Von Behren; it's a two-word last name, V-o-n B-e-h-r-e-n. And I wanted to speak in support of LB611. And I think one of the key things...the handout that I'm putting out here, not to offend anybody, but if you hadn't looked at the Web site, I think on the second page of that handout it answers a fundamental question. The thing that I like about E-Verify--and I'm not big on central government programs--but the thing I like about E-Verify is that it's a simple yes or no. It's not based on anything else other than is this person legal or are they not legal. If you'll take a look at the wording at the first paragraph, it's to verify the employment eligibility of their employees after hire as was pointed out. And at the last line, it's to determine whether the information matches government records and whether the new hire is authorized to work in the United States. So there's no bias in it. It's just a simple, is he there or is he not there legally? And so it's a fairly easy litmus test to pass by any legal worker. I think 98 percent was the number quoted. And it's verified by the Social Security Administration and the U.S. Immigration Service. So it's a government program that's probably as good as we've got right now as far as administering and facilitating legal employment. I have a little different spin on this on because we've had in Fremont, you may or may not know, we've had a fair bit of experience. We've done some digging over the years and as you look at...what we found is our illegal population, from 1995 until about 2013 had increased about 20 fold. And that is not such a...I mean that's a stand alone fact. But then you have to, at any time you look at people who, and let's face it, their first act was to...coming into this country was to break federal immigration law. So you have to say is there any point or is there any concern? And as we dug into it, we utilized a Washington, D.C.-based immigration consultant. And we just tried to put numbers to it because I'm not very smart. I don't deal well with philosophical arguments but I can at least understand numbers. And what we found as we sorted through it is that there's not only a cost to American jobs, but there's is a real cost to the American taxpayer. We took community data. We took Nebraska data. We took the numbers that were given to us. In some cases the school systems, for example, would argue that we were much too high in our numbers by using a Nebraska average. One of the numbers we then backed down was over \$1 million because they said it was a few thousand when Nebraska average would have been considerably higher than that. And when we pushed the real numbers and said does it really matter, the average cost to the Fremont taxpayer came up to something like \$200 per person. That's not per household. That's per person. And that was based on the most conservative numbers that we could find. So it's not just a matter of illegal workers and it's not a matter of who they are. The point is that there is a point where law matters. And if you're going to choose to discard one law in favor of saying does it matter if they're legal, then let's disregard the next law. And I won't get into that. It's very trite. But the point is when you start disregarding one law, how many do you really want to disregard? So to us it became a matter of is this legal or isn't it? And we watch much of the same thing. We watched some of the local trades, especially some of the roofers who were hiring these people at less than optimum wages, less than minimum wages. One of the really devastating things that we

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saw was in the Fremont rental group because if you intimidate illegal workers, you can also cram them into single-family dwellings and almost nobody reports violations of the single-family ordinance. But then you can also charge them by the person. And we found renters who rent some of the rentals who were making probably making two to three times what they could have on the rental just by packing people in. And frankly they lived there under the threat of intimidation. And so there's a...as you look at it, it's not just the jobs cost. But any time you are not screening for legal employment, you're also subjecting communities to significant social costs. And those we've been able to somewhat document, Fremont has had E-Verify as a result of that ordinance. And frankly it's been a pretty seamless process, virtually no complaints about it. I think as Senator Kintner pointed out, it's about \$10 per person to outsource. So it's fairly economical. So at the end of the day, this comes down to a refereed system that is just based on a yes-or-no judgment by Washington, D.C. [LB611]

SENATOR HARR: Okay. Any questions? Senator McCollister. [LB611]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. Under the benefits, your third point, it spares employers the cost of starting over. So you don't...old employees are grandfathered, is that correct? [LB611]

PAUL VON BEHREN: Yes, and I think that's the only fair way to do this. It wouldn't be fair to walk in. It would be too disruptive. Let's say a meat processor that might have a number of them that sometimes they can't tell. And you can't walk into them and ask them to reverify everybody. So it's starts at day one and now it'll be a slow process, new workers as they're added. [LB611]

SENATOR McCOLLISTER: And secondly, it eliminates work site raids. And we've seen the INS, I guess, conduct those raids particularly in some of the meat plants. So this wouldn't be necessary. Those raids would not occur if this was passed. [LB611]

PAUL VON BEHREN: If this is thoroughly applied, that should be correct because those raids are very disruptive obviously to the business and they're disruptive to the families of the people. You know, one of the big cries is look what we've done to the families by raiding these plants. When you get down to the point where you know every person there is literally legal, it saves a lot of disruption to the people and to the business. [LB611]

SENATOR McCOLLISTER: Thank you. [LB611]

SENATOR HARR: Any other questions? Senator Chambers. [LB611]

SENATOR CHAMBERS: Are there ever any errors made during the utilization of this process? [LB611]

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PAUL VON BEHREN: Oh, I'm sure there are. I'm sure there would be. But I will say that when we first looked at E-Verify in Fremont we laughed at it. But it has come far enough now, like every other program, that it's actually getting to be a fairly good and fairly accurate program. Are there, you know...look at...what did they get? Maybe 10 million to 15 million applications every year? Sure, they're going to make errors. [LB611]

SENATOR CHAMBERS: And those who are erroneously misidentified or erroneously identified are just collateral damage that must be expected when you're doing something to protect Americans. [LB611]

PAUL VON BEHREN: Well, I think Senator Kintner pointed out that just because there is a discrepancy, it doesn't say that you're automatically terminated. I think he said you normally have eight days to resolve that. And that should be plenty of time. We actually had a worker in Fremont who applied, gave a Social Security number and they found out he already worked there. So the point is, he was using somebody else's. So it catches things like that, but it catches them out of the chute. And if there's a disagreement, you get eight days to resolve it. It's not like it's going to be some big surprise. [LB611]

SENATOR CHAMBERS: There are a lot of Americans who do this, don't they? In fact, it's a multibillion dollar business. It's call identity theft. [LB611]

PAUL VON BEHREN: Absolutely. Yes. [LB611]

SENATOR CHAMBERS: So there are people doing this and there's no concerted government or any other effort to go after them for the sake of the Americans who are being snookered by Americans, is there? [LB611]

PAUL VON BEHREN: Well, I wouldn't say there's no effort. But at the same time I wouldn't say that doesn't mean that we shouldn't enforce the federal laws that are already on the books. Just because something is...and identity theft in the world is probably a relatively new crime. It certainly needs to be prosecuted. But that doesn't mean that we ought to overlook every violation of an existing law until we get it solved. [LB611]

SENATOR CHAMBERS: I don't think anybody was talking about overlooking every violation. And that's what people always say when they have a weak argument: I don't like these people so if we don't enforce the law against them, next thing you'll say is we won't enforce this law and that law. That has never happened. [LB611]

PAUL VON BEHREN: But I don't get to say these people under this law. This is a simple match that goes to Washington, D.C. Neither I nor anybody else have the luxury

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of saying this person shouldn't work here. This is Washington, D.C., saying the documents match, don't match and there's nobody in between that gets to make a racist call, a judgment decision, a quality of life, anything else. [LB611]

SENATOR CHAMBERS: So on this particular issue, Washington and their determinations are all right. [LB611]

PAUL VON BEHREN: I'm not saying they're all right. I'm just saying that this is... [LB611]

SENATOR CHAMBERS: I said only referencing this one. They're okay. What comes from Washington is high quality when it comes to doing something that you would like to see done as affecting a certain identifiable group of people. And we know who the people are we're talking about. [LB611]

PAUL VON BEHREN: But I really don't care. I don't care if this person is from Great Britain, Russia. I don't care where they're from. If they are... [LB611]

SENATOR CHAMBERS: We're not talking about Great Britain or Russia. [LB611]

PAUL VON BEHREN: I really don't care. I know there are people here from Great Britain and Russia illegally and they should be subject to the same rules as anybody else. Law is law, and law is blind. [LB611]

SENATOR CHAMBERS: When I read the newspaper and I know the groups of people that people in Fremont are concerned about. And the fact that that cannot be acknowledged when that's what the issue is, and when a question is raised we talk about people from Great Britain and Russia, it ends my effort to even try to communicate or discuss that issue because the person is so sensitive and so much in denial that he jumps to something that nobody is even talking about. I've never heard anybody in Fremont say we have to do something about who's getting these apartments because we have all these people from Russia and Great Britain. You know it just like I know it. [LB611]

PAUL VON BEHREN: Just because a certain segment is committing most of the violations does not make it a racist argument. That is an argument that doesn't hold water. If a certain race is the primary violator, it doesn't really matter. They have broken the law, yes or no, and that's the issue. And if that happens to be it... [LB611]

SENATOR CHAMBERS: Well, are you... [LB611]

PAUL VON BEHREN: Excuse me, just one more. Our experience was in Fremont was that there are probably very few more welcoming communities than Fremont. I mean

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I've personally gone down and worked with some of the people that we're talking about. But what was so interesting was the number of outside groups that came in. And you can just about name them and predict who they are from the left wing. And the only people that truly tried to make this a racist debate so that...with the express purpose of taking this off, illegal or legal, were the racists. [LB611]

SENATOR CHAMBERS: If that's being addressed supposedly to answering my question, I withdraw the question. You don't have to say any of that to me, so you're free from all that. [LB611]

PAUL VON BEHREN: No, but... [LB611]

SENATOR CHAMBERS: You're not talking to me now. You can talk to the rest of the committee. [LB611]

PAUL VON BEHREN: That's fine. Thank you. [LB611]

SENATOR CHAMBERS: But I don't even want to hear that. Thank you. [LB611]

PAUL VON BEHREN: I appreciate that. [LB611]

SENATOR HARR: Any other questions? Seeing none, are there any other proponents? [LB611]

STEVE SIMPSON: Good late afternoon. My name is Steve Simpson; that's S-i-m-p-s-o-n. I am the president of the Lincoln Building Trades. I'm also the business manager for the Elevator Constructors. Lincoln Building Trades represents 14 union construction trades and we pretty much cover everybody that does just about everything in a job outside the carpenters and the roofers unfortunately. We used to support the roofers. The roofers have left due to lack of numbers, and the numbers have been depleted in my opinion because of illegal immigration. With that being said, I'd like to...my brother from the cement masons started off and he did pretty well. And I've to echo what he said. But not just his trade, there's other trades that also suffer from the wages that have been suppressed. Not only that, but the workers that are being taken advantage of are not getting paid hourly in some cases. They're getting paid by the room that they drywall. They're getting paid by the boxes, the electrical boxes that they're hanging in the room. They're getting paid by the paint on each house that they paint or each room that they paint. They're getting paid that way. And they're getting paid under the table that way as well. Therefore, they're not necessarily making the lower wage per hour because it's hard to guesstimate how many hours they're putting in. But that eliminates all of the overtime. The subcontractor issue on this one does concern me, particularly since you can hire somebody and call him a subcontractor. And each individual could be a 1099 and be his own contractor. I really think each person

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should have to go through their own E-Verify system as well if they're going to be called a contractor. I think they should have to put themselves through the E-Verify system as well. There's a lot of loopholes in this particular law, but it doesn't mean that I don't think Senator Kintner wouldn't be open-minded to taking a look at what these loopholes are and maybe working with the committee. And that's all I have. I'd take any questions. [LB611]

SENATOR HARR: Thank you, Mr. Simpson. Any questions? Senator Chambers. [LB611]

SENATOR CHAMBERS: Mr. Simpson, why do you think huge operations like Walmart no longer refer employees as employees but as associates? Why do you think they do that? [LB611]

STEVE SIMPSON: I believe they're looking for a way to get around paying the hourly wage. I believe they're looking for a way to maybe figure out a way to do that when you become an associate, we need you to do this extra work off the clock and that sort of thing. And it keeps them away from maybe...eventually I think you're probably right. If you're heading this way--maybe I'm just assuming you are--but eventually I think they're going to be looking at 1099ing their employees as well. [LB611]

SENATOR CHAMBERS: And a vast majority of the associates are people of your complexion, not these people that the ones in Fremont are worried about. [LB611]

STEVE SIMPSON: Correct. [LB611]

SENATOR CHAMBERS: And even some newspaper companies will say that the little kids who deliver papers are independent contractors. They're not employees of the World-Herald...oops, of these newspapers. And that means certain requirements as far as the safety, liability, and so forth that anybody would want to be willing to accept when you're dealing with youngsters, they don't have to deal with that. And when attempts are made in the Legislature to try to put in the law the genuine relationship between these newspaper carriers and the big newspaper, the newspapers are the ones who stop it. And you as a man who deals in labor issues like your brother will know that we're not just talking about Latinos from whatever country in South or Central or Latin America, however people want to call it, are concerned. The depressing of wages is being done toward white people by these large corporations that get away with it. And it's a politically based system that allows them to do it because they purchase immunity by giving large amounts of money to politicians. And the reason I get upset, people act like I'm stupid, that I don't understand what's going on, that I don't see it, that all of these things that are happening...and by the way, I'm concerned about all people. I speak up for people and categories who are far more than are white...than are nonwhite because I don't like to see anybody exploited. And the ones who argue against me are the same

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race as the ones I'm trying to help because they are the exploiters. And for those who think that I'm seeing mirages when I get complaints from white women, the one they're complaining against is a white man. When I get complaints from white men, the ones they're complaining against are white men. When I get complaints from teachers, even some school administrators that are not at the top, they're always complaining against a white person. So before they start in their racist arrogance to try to snooker me, they need to know that I can read, that I understand what I read, and I would weigh and compare the complaints I get from people in this Legislature against anybody else in this Legislature because there are people who are referred to me by judges, by lawyers, by doctors. And then I ask the person, well, this is a medical problem. Why would your doctor tell you to come to me? Well, the doctor doesn't want to get involved because it would be a problem with the licensing of another doctor and he doesn't want to be involved with that. But you will deal with these kind of issues. Well, there are 47 white people here. Why do you come to me? Because you'll do something. Have you even tried, have you even given them a chance before you say that? Well, I can't talk to them because I can't get past their employees or their staff. And I know what I'm talking about. So it's why I told your fellow labor brother that people similarly situated are going to have to learn how to work together. There are unions that discriminate against black people. But I have never been an antiunion person because there is only salvation, if you let me use that word for working people, in their numbers. They don't have the money. They don't have the political clout individually. But when you put them all together, the example is several sticks. One stick, break it easily. Break as many of them as you want to. But take those ten that you could go down the line and break just like that, put them in a bundle and say break it now and they can't do it. So there is slack that I will grant when it's an organization even if it's not doing all that I think it should toward us and other nonwhite people. As we say, it ain't much but it's all we got. And if there is some benefit that can come and if we work together, then eventually there can come some understanding. But when I get people who want to deny the existence of the problem itself, it's a waste of time for me to talk to them. I could talk to you about any of this and your brother about any of it. But some of these other people I wouldn't waste my time. [LB611]

STEVE SIMPSON: I understand. [LB611]

SENATOR HARR: Thank you, Senator Chambers. Any other questions or comments? Seeing none, thank you, Mr. Simpson. [LB611]

STEVE SIMPSON: Thank you. [LB611]

SENATOR HARR: Any other proponents? Opponents, in the negative? Neutral? Seeing none, Senator Kintner--do we have any letters--you want to come on up. Senator Kintner would waive closing. And with that, that...do we have any? [LB611]

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JAMISON WYATT: Yes. [LB611]

SENATOR HARR: Sorry. Go ahead. [LB611]

JAMISON WYATT: (Exhibits 7-15) Items for the record, LB611: In support we have Susan Gumm representing herself; also Susan Smith representing Nebraskans Advisory Group; John Wiegert representing himself; Gene Schultz representing himself; we also have a letter of support from George Levy; and we have letters in opposition to LB611 from Katie Pitts with Nebraska Appleseed; Amy A. Miller from ACLU of Nebraska; and in neutrality we have a letter from Dave McCracken with Nebraska Cattleman; and also Robert Hallstrom with the Nebraska Federation of Independent Business. [LB611]

SENATOR HARR: Thank you. And with that, that closes LB611 which brings us to Senator Ebke and LB599. Senator Ebke. [LB611]

SENATOR EBKE: Thank you, Chairman Harr. Thank you, members of the Business and Labor Committee. For the record, my name is Laura Ebke, L-a-u-r-a E-b-k-e. I represent District 32. I'm here today to talk a little bit about LB599 with AM163, which I hope you have in your books, which I will address as well. LB599 was brought to me by the Nebraska Grocers Association. I have a fair number of members of that association who do business within my legislative district. It deals with the minimum wage for a new definition of young student workers. The biggest example of this definition in this instance is going to be a student worker who is working after school as a cashier or stocker at a small town grocery store. We're talking about two very specific elements that this bill looks to address: small businesses and young student workers. There's many of these rural and small town grocery stores that felt this issue needed to be addressed. I think it's important to remember that these businesses are very involved in their communities. They support the local schools. They offer kids employment. Oftentimes, that employment is the kids' first job. And they offer the community an important and convenient service as a marketplace for food. I have a number of small grocery stores in my district which, you know, are barely staying open with the owner and one or two part-time employees that come in to help occasionally. Many of these grocery stores aren't making large profits, but they stay in business because of that sense of community and the desire to keep their small communities alive. Many of these businesses employ young student workers. We define a young student worker as an individual who is 18 years or younger, is attending public high school, private school or even home school as you see in AM163. They don't have any dependents. They are able-bodied and are often unskilled and hired to fill an entry-level position like in the grocery store example. The bill allows employers to pay this employee a minimum wage of \$7.25 per hour or 85 percent of the federal minimum, whichever is higher. The employer is not allowed to pay more than 25 percent of the total hours worked by all employees at this rate. Once a young worker graduates from or permanently ceases his

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or her high school education program, they must be paid the full statutory state minimum wage. Student learners who are employed as part of a bona fide vocational training program are not affected by this definition. I also want to note that the bill leaves open that employers can obviously pay higher wages if the market demands or if they so desire. We're just addressing the minimum and the definition for the young student workers. This bill seems simple yet as we've progressed over the last couple of weeks, we found that we needed to address a couple of other issues. As a result, we have AM163 which you should all have, which strikes some of the original sections and inserts a series of new sections. The first change dealt with minimum wage amounts and federal requirements. You can find this section in Section 1, page 1, lines 26 through line 4 on page 2. Second, we thought something should be included to address home schoolers as well. The original bill only stated students of a public or private school. That's lines 5 through 11 on page 2, which, note that change. And the last definition crossed my mind late last week, actually last Thursday or Friday, and we were wondering how this definition might affect young single parents under the age of 18. Voices for Children in Nebraska also contacted me about the same concern soon afterwards. And as such, we decided that we needed to make a change to exempt young parents who have dependents from the definition of a young student worker. This is on page 2, lines 5 through 11 as well. My office has since contacted the parties involved that had issues with the bill previously and we think that we, with the amendment and the conversations with those parties as well as with the Department of Labor who's taken a look at this, and the Grocers Association, that we've cleared up most of the concerns that folks had. I do want to thank everyone involved for being cooperative as we made those changes. If there's anything else, let me know. We'd be happy to address that and work with the committee to make this an acceptable bill. Thanks for the time and I'd be happy to try to answer any questions you have keeping in mind that we have several people to testify after me. [LB599]

SENATOR HARR: Questions for Senator Ebke? Senator Chambers. [LB599]

SENATOR CHAMBERS: Without this new language, what would the amount of pay have to be for these young people? [LB599]

SENATOR EBKE: Without the language, meaning with the original bill... [LB599]

SENATOR CHAMBERS: Forget...okay, this language...obviously, this legislation is brought so these young people can be paid a lesser amount than would be the case. [LB599]

SENATOR EBKE: Right. [LB599]

SENATOR CHAMBERS: And that is not to benefit these young people. It's to benefit those who are hiring them. [LB599]

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SENATOR EBKE: There's a couple of ways to look at that. These students workers, oftentimes 16 years old--and I've got a 16-year-old; well, she'll be 16 in a few months who I hope will be getting a job this summer--they are, as a general rule, less experienced. It's their first job. A lot of times they don't know what it means to get out of bed to be at work during the summer. They don't know what it means to show up on time. As I mentioned earlier, I've had some experience many years ago working with high school students in a restaurant situation. And we oftentimes found ourselves in a position where the student would forget that...oh, gosh, we've got basketball practice tonight and I won't be there. So it oftentimes makes it more difficult for employers to justify keeping student employees around because there's a training aspect of it. So this is really just a way to allow those students to be trained. It gives the employer a little added incentive, but it also costs them a little bit to have a high school student there to who's not necessarily going to be the most experienced employee that they've got. [LB599]

SENATOR CHAMBERS: I understand everything you're saying. But when we get through all of that, this bill is not brought for an association that is interested in the welfare of children but rather the grocers and others who want to hire people to do work for a lesser amount of pay. That's what it boils down to, isn't it? [LB599]

SENATOR EBKE: Well, certainly they want to do it...they want to make money. And they want to...it's cheaper for them to hire a high school student to work from 4:00 to 8:00 than it is to hire somebody at \$9 an hour. [LB599]

SENATOR CHAMBERS: And if this language...if this bill were not to pass, these stores would probably still be hiring these young people, wouldn't they? [LB599]

SENATOR EBKE: Some would. [LB599]

SENATOR CHAMBERS: So it's not really to benefit the young people. It's to benefit the ones hiring them. If that's a crime then you don't have to answer because I don't allow the Fifth Amendment to apply here. But if the Fifth Amendment is not going to apply, why is it so difficult for people to just admit what it is they're doing and why? Then we don't have to get on the side issues that I have to bring up all the time where they're trying to make it look like they're doing something to help somebody when they're trying to help themselves. There's nothing wrong with you trying to help yourself. But the fact that they won't admit it makes me wonder what are they trying to hide so they got to pretend this is something that it's not. [LB599]

SENATOR EBKE: Well, Senator, let's consider this possibility. If I have an employee, if I were an employer, if I have an employee that works typically 12:00 to 4:00 but could work 12:00 to 8:00 but because of that--but they get paid \$9 an hour--they wouldn't

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mind going home at 4:00 because their kids are out of there. Younger kids are out of school or whatever. They don't have to pay babysitters and at 4:00 they can get a high school student to come in at a lesser amount if it saves the employer money for certain. But if they're going to have to pay somebody \$9 an hour or the same amount of money an hour whether they are a...you know, whether they are 25 years old or 16 years old, they might rather pay the 25-year-old that amount because they've got a little bit more experience. They've already worked all day and they know how...they know the flow of the business. [LB599]

SENATOR CHAMBERS: That's all I'll ask you. Thank you. [LB599]

SENATOR EBKE: Okay. [LB599]

SENATOR HARR: Any other questions? All right, I have a couple questions. I guess my first question is, you were up for election this last fall. [LB599]

SENATOR EBKE: Yes. [LB599]

SENATOR HARR: And there was another bill up. And it seemed...or there was a resolution to increase the minimum wage and this would seem to go opposite of the will of the people last fall. How do you go back to your people and say I know this passed 60 percent but? Or how do I justify this to my constituents if I voted for this bill? [LB599]

SENATOR EBKE: Sure. Well, I mean I think that the way that the bill was proposed, it didn't suggest for 16- and 17-year-olds. [LB599]

SENATOR HARR: It didn't exclude them either. [LB599]

SENATOR EBKE: It didn't exclude them, but most of the publications that I saw referred to living wages and things like that. And I'm not sure that a 16-year-old needs a living wage. Some cases they do obviously. And there's nothing in this bill that prevents an employer from paying more. And it could very well be that in some places that the market expects that they pay that. [LB599]

SENATOR HARR: Okay. Well, yeah. I would have a tough time I'll just say personally. And you would agree that this requires a higher vote count of the body. [LB599]

SENATOR EBKE: Right. [LB599]

SENATOR HARR: Okay. And then you were here for Senator Nordquist's LB251. Wouldn't the better way to handle this, workers that need extra training and extra time, wouldn't it better to do what Senator Nordquist suggested in LB251 and give those employers money to hire these people? [LB599]

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SENATOR EBKE: That wouldn't be my preferred way of doing it, no. I don't... [LB599]

SENATOR HARR: Well, then let me turn it around. Would you be okay with LB251 if we said veterans could be hired for a lower than market rate? [LB599]

SENATOR EBKE: No. I'm not keen on...well, I'm...no, because they're adults. The veterans are adults and they are out on their own. And so they fall into a different category. We're... [LB599]

SENATOR HARR: Well, some of them have a pension. What if we said if you have a pension? [LB599]

SENATOR EBKE: Doesn't matter. They're not...they don't fall under the young student worker category. [LB599]

SENATOR HARR: Okay. And then one last question is if I'm single mom, your chances are...well, first of all, a dependent child, if I am the father of the child, do I get to make more than minimum wage if I still live at home with my parents and going to school full time? [LB599]

SENATOR EBKE: I would say yes. [LB599]

SENATOR HARR: Okay. And if I'm not paying child support does that matter? [LB599]

SENATOR EBKE: Well, if your child is dependent, then in some way you're providing... [LB599]

SENATOR HARR: Doesn't mean I'm paying child support. [LB599]

SENATOR EBKE: You're doing something if they're a dependent child, right? [LB599]

SENATOR HARR: I'm asking you. I don't know. I'm asking you. [LB599]

SENATOR EBKE: (Laugh) No, but I'm...I would say that if you are paying for something, if you've got a dependent child, then obviously they are in some way getting some benefit from your salaries. [LB599]

SENATOR HARR: Okay. Is there a fear that someone might hire a teenager who doesn't have a child over a teenager who does have a child since they could get that person for less? [LB599]

SENATOR EBKE: I'm trying to think. In my particular district, I can't think of any

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instances where that would be a concern. I'm really thinking about the three and four person, you know, small town grocery store. But I understand what you're saying. [LB599]

SENATOR HARR: Yeah, yeah. [LB599]

SENATOR EBKE: Yeah, I mean I... [LB599]

SENATOR HARR: Because they're identical, identical other than one has a child and one doesn't. All the other reasons for paying less exist except that you have an additional, I don't want to use the term burden, but addition of a child. I mean does that make that person automatically more responsible? Does it make them automatically get up earlier, get up later, understand responsibility, because I know in my world when I had a child, as much as I would have liked to think it made me more responsible, it didn't always. And you can take that however you want. (Laughter) Yeah. [LB599]

SENATOR EBKE: No comment. [LB599]

SENATOR HARR: Yeah. And I'll just leave it at that. And my wife would concur with that by the way. [LB599]

SENATOR EBKE: So you were out of high school by then, right? [LB599]

SENATOR HARR: What's that? [LB599]

SENATOR EBKE: You were out of high school by then? [LB599]

SENATOR HARR: Yeah, a long ways out unfortunately. Senator Chambers. [LB599]

SENATOR CHAMBERS: Senator Ebke, a lot new senators will come here and some of the ones who have been here and say my district. Are you aware that this bill applies all over the state...? [LB599]

SENATOR EBKE: Sure, sure. [LB599]

SENATOR CHAMBERS: ...and that what might work in a small town is not going to work in a larger city? [LB599]

SENATOR EBKE: In Omaha or Lincoln. Yes, absolutely. Sure. [LB599]

SENATOR CHAMBERS: ...that there are people in Omaha who could make use of this bill too? [LB599]

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SENATOR EBKE: Sure, sure. But again, remember, only 25 percent of the total hours could be and so that may be a relatively small number. I think primarily of service sector. [LB599]

SENATOR CHAMBERS: But, see, what they used to say when they'd pay women lesser amounts, well, a man has more obligations than a woman. So a man can get more by way of a salary than this woman. And then if she could show in a specific situation that she in fact has more obligations that she pays, then it's something like, well who put you in that situation? You didn't have to be in that situation. You could have gotten married, couldn't you? And these are things that were actually said. And there are cases and studies where these things were stated by business owners because they didn't see anything wrong with it because that's the way they felt. The point I'm getting to is that--and I was saving this for some of the people who come after you so I'm not going to... [LB599]

SENATOR EBKE: That's okay. [LB599]

SENATOR CHAMBERS: ...go into too much depth but I always have to look at how the law passed by the Legislature is going to apply all over the state. When you talk about something being applied because of the age, it doesn't mean children or young people of that age only in small towns. It means everywhere. And that's what I have to look at. And I think I keep that in my mind more than the other senators and that's why I'm always at odds. But then as soon as that senator brings something and needs somebody to understand it because their...this is a group of people who are not being serviced, guess who invariably they've come to for over 40 years? I've been here. I know what happens. I know what these senators do. And I know how they are not sympathetic toward certain groups of people until something happens that applies it to their district. So this bill may work very equitably in your town. But I don't see it as an equitable bill philosophically or otherwise. [LB599]

SENATOR EBKE: Well, I think... [LB599]

SENATOR CHAMBERS: All labor is worthy of the same thing to me. [LB599]

SENATOR EBKE: I agree to a point. You know, my years in restaurant management were actually in Omaha. And I'll just tell you that we had a labor budget. And we were designated, and it's been 25 years, but something like 35 percent...no, more than that. I don't know what the percentage was. Whatever the percentage was, let's say 50 percent of our budget had to be in...we were limited at 50 percent of our total income could be spent in labor cost. And I know that our adult labor was more dependable and our high school labor was somewhat less dependable. We hired a fair amount of high school labor because they were cheaper for us at that time because our adults had been around for a long time. But we had a continuous flow and we spent a lot of time

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training the young folks. [LB599]

SENATOR CHAMBERS: Aren't there jobs that young people wind up with that adults are not interested in taking, especially in some restaurant jobs? Like I go to, it's Golden Corral, I think. There are young kids doing all the... [LB599]

SENATOR EBKE: Sure. [LB599]

SENATOR CHAMBERS: Grown people don't want those jobs. I've talked to them. I've talked to managers. And I don't call myself snitching on them because if it's true, then it's true. And a lot of times they say we didn't give these jobs to young people we'd be hiring...adults would get them if we had to pay...no, they wouldn't because adults don't want them. [LB599]

SENATOR EBKE: Right. [LB599]

SENATOR CHAMBERS: They don't want the aggravation. They don't want a manager who might be younger than they are. And they just don't want those kind of jobs. So here's what I'm ultimately coming back to. The question that the Chairman asked you, the Legislature did not want to increase the minimum wage. The Republicans at the national level did not want to increase the minimum wage. And in numerous states, people took it into their own hands to get the question on the ballot. And lo and behold, a lot of Republicans voted to raise the minimum wage. So their leaders had an agenda that was out of step with the people who are out here and actually have to work. A lot of Republicans, people who call themselves that, they don't work for banks. They don't have a lot of money. The minimum wage does mean something to them and what their family will have. I don't think these propositions would have passed if only Democrats or non-Republicans voted for them. So wouldn't what we're being asked to do here in formulating a policy go in contrary to what we were just told by the vote? You don't have to answer. Let it be a rhetorical question. [LB599]

SENATOR EBKE: Okay. [LB599]

SENATOR CHAMBERS: Then I'm through at this point. You and I can talk. You know, we have plenty of time. We'll see each other. [LB599]

SENATOR EBKE: Sure, yeah. [LB599]

SENATOR CHAMBERS: Okay. [LB599]

SENATOR HARR: Any other questions? Seeing none, thank you, Senator Ebke. And you'll be sticking around for close? [LB599]

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SENATOR EBKE: I'll be here. [LB599]

SENATOR HARR: I figured. Mr. Clark. [LB599]

DICK CLARK: Chairman Harr, members of the Business and Labor Committee, again, my name is Dick Clark, D-i-c-k C-l-a-r-k, director of research for the Platte Institute. Thank you for this opportunity today to testify in support of LB599. While the impact of minimum wage laws is felt across the economy, the most acute effects are on the population for which the laws are supposed to provide the most relief, low-skilled workers whose limited work productivity does not justify higher market wages. LB599 would mitigate this disemployment effects of Nebraska's high new state minimum wage for one segment of this worker population, young workers age 18 or younger who are enrolled in school. Contrary to the promises of advocates for government wage controls, the net effects of minimum wage laws are negative, not positive, for low-skill workers. A survey of economics literature by David Neumark and William Wascher revealed virtually no published research indicating the minimum wage laws have a positive effect on employment. The same review found that studies focusing on the impact of minimum wage laws on the most vulnerable segments of the work force present overwhelming evidence that minimum wage hikes result in serious disemployment effects for the laborers with the least valuable skills. Enacting a higher minimum wage did not reduce poverty but instead redistributed income among low-income families. Perversely, higher minimum wages also tend to discourage completion of high school and technical training programs. Minimum wage increases may diminish a younger worker's earning potential later in life too. According to a REMI Report describing the impact of a minimum wage hike in Maryland, over the long term, minimum wage hikes may lower the earnings of workers later in their work life if they were the beneficiaries of increases in minimum wage rates as teenage workers. It's only a combination of work experience and education that can sustainably raise a young worker's productivity and consequently his or her standard of living. Boosting worker productivity means boosting the worker's personal earning potential. Effectively prohibiting the employment of lower skill workers means blocking opportunities for the vital work experience that can grow a worker's wages sustainably. Because of the demographics of minimum wage workers, those lost opportunities will disproportionately hurt young workers, those with lower educational attainment, women, and racial and ethnic minorities. Work force development is critically important for Nebraska which is already confronting demographic challenges relating to out-migration and an aging work force. As the minimum wage discussion continues, Nebraskans and their legislators should be mindful of the benefits of a competitive labor market. Thank you again for this opportunity to testify. [LB599]

SENATOR HARR: Thank you, Mr. Clark. Any questions for Mr. Clark? Senator Crawford. [LB599]

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SENATOR CRAWFORD: Thank you, Mr. Clark. So I was interested in your point about a concern about higher minimum wage discouraging school completion and the need for an employed work force. In this case, the bill would seem to discourage the opposite because if you're in school, you get \$7.25 or 80 percent if you're...and so like that seems to discourage being in school. [LB599]

DICK CLARK: Well, I think that the incentive to not go and to, you know, further training that can result in a...you know, a sort of trade level of wages, there's the temptation when you're a young person who hasn't had to pay your own bills for very long, there's the temptation to think that well, yeah, this is plenty for me. I can have a good time and pay for my beer or pay for my whatever it is that I want to pay with my disposable income at that level. And they don't necessarily take into account the much higher costs later of being a member of a family who is supporting kids and whatnot. And I think that when we see the effects of minimum wage on young people, we also see it correlated with, you know, these kids who sort of fail to launch from the nest, right. We have a higher average wage before young people are leaving the parental home, a higher average wage, nationally anyway, of people getting that first job. And so I think that you can have real negative effects for a variety of reasons just a few years later, things that young people aren't necessarily mindful of when they're making the decision do I go and enroll in some additional training program or do I just go ahead and get the job and kind of do my thing. [LB599]

SENATOR CRAWFORD: Just for the record though, I think it's important to note some young people need to work to support their family. It's not just pin money as they used to say. It really is part of a family income as well often. So just for the record, that's important to recognize this. It's not beer money necessarily. [LB599]

DICK CLARK: Right. And it was my... [LB599]

SENATOR CRAWFORD: Well, it shouldn't be because they should below. (Laugh) [LB599]

SENATOR HARR: For high schoolers at least. [LB599]

DICK CLARK: I tend to agree with you. Right, right. Very good point. And I would just suggest there that maybe that's the...and I can't speak for the introducer, but perhaps that's the intent of the limitation for folks who aren't in school. So if they are in the position of having to work full time to support a family, this wouldn't impact them. [LB599]

SENATOR HARR: Senator Chambers. [LB599]

SENATOR CHAMBERS: If I am to accept your premise then the lower we make the

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minimum wage, the better off workers are, correct? [LB599]

DICK CLARK: I'd say that the less relevant that you can make a government price control, whether it's a floor or a ceiling, that the less that it will be distortionary in the market. So in a roundabout way, I'd say my answer is yes, Senator. [LB599]

SENATOR CHAMBERS: So the poorer you are, the better...I can see why you would say that because you and your class benefit from poor people. Let me ask you another question. Do you read other things than what the Platte Institute deals with? [LB599]

DICK CLARK: Yes, sir. [LB599]

SENATOR CHAMBERS: Now I don't have a lot of money, so I read The Wall Street Journal in the Research Office down there. It doesn't cost me anything. I read The New York Times. There are people who will sometimes let me see something like Business Week. Sometimes I'll read...I subscribe to these because I guess you'd call me, I don't know what but not what you are, a conservative. I read The Atlantic monthly. I'll read The New York Review of Books. I read The Nation. I read Mother Jones. I read Consumer Reports. And I know these are worthless things, but I read them. So I arrive at different conclusions from yours in a lot of respects. And I watch the news and I see what the kind of people that you pay a lot of attention to run companies with cars that have these big bags that when you hit an obstacle, they inflate. Well, some of them inflate inadvertently and when there's no accident. Some of them when they inflate, they fire shrapnel that not only causes serious injury but deaths. Well, we ought to leave the free market alone and let it operate and say well people would stop buying the cars that had those kind of inflatable bags so the government shouldn't stick its nose into the work and operation of business. You agree with that, don't you? [LB599]

DICK CLARK: No, sir, because I'm afraid, as we'd say in law school, I have to fight your hypo for a second. And that's because of course air bags entering the market when they did was a direct result of regulatory intervention. And so certainly the danger that comes from those first generation air bags in particular I would say is a result of government saying that something had to be included in a consumer product before it was safe. So I think that that's really the symptom of government meddling, not the opposite as you suggest. [LB599]

SENATOR CHAMBERS: So you don't think the government has any role in mandating safety devices. [LB599]

DICK CLARK: I tell you, you referred to one publication that I trust more. And that's say, Consumer Reports or Underwriters Laboratories. There are a lot of private market entities that their bread and butter is off of exposing unsafe products. And they don't get paid by tax dollars. They get paid because there's a demand on the market for

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information about whether or not products are safe. There's a demand from the manufacturers' side when they want to get that certification from Underwriters Laboratories to say, hey, this toaster won't burn the house down. Certainly there's the incentive, you know, on the part of people who don't want to go up against insurance companies that may think a product is too risky and it might affect rates. So there are all sorts of market incentives to bring safe products out. [LB599]

SENATOR CHAMBERS: Okay. Now I watch the news and I've seen a lot of white people, male and female, who had jobs, high-paying jobs, managerial jobs. They were qualified. They were competent. They had experience. They can't get jobs now. So the experience doesn't matter. The successful work record doesn't matter. They're not wanted and in some places, they're just of a certain age. So there are things in this society which you're unaware of. You deal in the realm of theory. And I deal with real people and what it is that they confront. And you will never convince me, a guy who dresses like you dress, runs in the circles you run in, make the money you make for the kind of "unwork" that you do, will convince me that the more impoverished a person is, the better off he or she is. [LB599]

DICK CLARK: Well, I certainly wouldn't assert that they're better off if they're more impoverished. I think minimum wage laws exacerbate poverty; they don't relieve it, Senator. I want people to be better off. I want people to have the means to provide better for their family. I just see a different means for getting to that common goal. [LB599]

SENATOR CHAMBERS: When I asked you the question, are you saying that the poorer a person is, the better off he is; the lower the wage is the better off? You said, well, I think of all I've said, my answer is yes. You went through your mental process right here and your answer was yes. So I'm not going to argue with you. I can't change your mind. I just wanted to give my view. But I'm going to say something that will make you feel good. Guys with your name always look a lot younger than they are. [LB599]

DICK CLARK: Thank you, Senator. [LB599]

SENATOR CHAMBERS: He's 85 years old. [LB599]

DICK CLARK: The only person in the room older than you, Senator, is that right? [LB599]

SENATOR HARR: All right. Any other questions? Seeing none, thank you. [LB599]

DICK CLARK: Thank you. [LB599]

SENATOR HARR: Any other proponents on LB599? Good afternoon. Welcome, Ms.

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Siefken. [LB599]

KATHY SIEFKEN: (Exhibit 1) Chairman Harr, members of the committee, my name is Kathy Siefken, S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association. And we thank Senator Ebke for sponsoring this bill. The amended version is really the bill that we like. It's sort of a process when you go through writing legislation and it's not something that we do very often. So she picked it up and ran with it and fixed the parts that really needed to be fixed. One of the main concerns that we had when we initially started talking about this at our board of directors meeting was that we really didn't want to pay what the federal government would allow us to do as we looked at these guidelines, which was \$5.44 an hour. We thought that was much too low and that's why we set it at the \$7.25 rate because that is the current federal minimum wage and we had to tie it to something. We also wanted to make sure that this group was very, very narrowly defined. We as an industry hire entry-level...we have entry-level positions. And we hire the inexperienced. We hire the people that actually need training and they need help so that they can move on through life and they take those skills with them as they move forward. These are the people that when they walk in our door, it is hard to justify \$8 and \$9 an hour because it takes a lot of effort and a lot of patience and a lot training to get them to a point where they can do the job that we hire them to do. They don't walk in the door knowing those things. It impacts the unskilled and the inexperienced that are still in high school. We really didn't understand, hadn't thought it through enough, I guess, about the dependent, the high school kids that have dependents. So we wanted to make sure that we didn't impact those students because frankly they're not the people that we were concerned about on a lower wage because they need the \$8 an hour. Those that walk in our door that earn \$7.25 an hour or \$8 an hour, if they do a good job and they pick up the skills, they'll get raises. We have some high school kids that are rock stars and they make much more than the minimum wage. We have other kids that have to have repeat training and that's our job. We prepare them for life. We give them the skills where they can leave our stores and move on and we teach them those basic business practices. And that's really what this bill is about. It's about allowing us to continue to hire those kids because frankly once...when we went to \$8 an hour, everybody kind of went, okay, we can do \$8 an hour. But \$9 an hour is going to hurt our industry. And as Senator Chambers said, the people in Omaha in Lincoln and the bigger communities, there will be some people that will take advantage of it. But this bill will was brought basically to help our rural grocery stores because if you don't live in rural Nebraska, I don't think you understand how much trouble they're in out there. We have retailers that are just barely hanging on. We have communities that are trying to figure out how to keep their grocery stores open. As a matter of fact, about two weeks ago I think there were three grocery stores that hit the front page of their local papers because they're trying to keep their doors open and they're closing. It's a problem in rural Nebraska. So with that, I would hope that you would support this bill. I hope that you will help small independent businesses survive. And I hope that you will help us train the kids that don't have the skills and don't have the experience that they need to

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get on through life. With that, I'd be happy to answer any questions. [LB599]

SENATOR HARR: Senator Bloomfield. [LB599]

SENATOR BLOOMFIELD: Thank you, Chair. Ms. Siefken, thank you for bringing this bill. I happened to, in my prior life, I delivered to both these grocery stores in the handouts you gave us here. But my question is you...and they are small independent stores and that is who you are purporting to help here. Would we be prudent possibly in putting a minimum number of employees that a store could have? I see this being of great benefit to the small town stores. Unfortunately, I also see it being a benefit to the Walmart warehouse in North Platte and to bigger places that can take advantage of these kids. Would you consider a minimum of 15, 16 employees because that's... [LB599]

SENATOR McCOLLISTER: You mean a maximum? [LB599]

SENATOR BLOOMFIELD: Maximum, I mean. [LB599]

KATHY SIEFKEN: Fifteen, sixteen employees will not fix the problem out there because we hire so many part-time people. We are an industry that truly does...the majority of our employees are part time. So you may think that 15 is the right size. I would say in rural Nebraska it would have to be closer to 30. But I'm not sure how that fits in with the federal labor laws. We put this together and we ran it by the Department of Labor to make sure that we weren't putting something in the bill that they couldn't enforce. And it's kind of a...I don't know the answer to that. I don't know if you can. [LB599]

SENATOR BLOOMFIELD: Okay. It just appears to me that there's a lot of room in here for abuse. [LB599]

KATHY SIEFKEN: I'm not sure how many high school kids are being hired by Walmarts in North Platte. [LB599]

SENATOR BLOOMFIELD: I'm not either. I'm not either. [LB599]

KATHY SIEFKEN: I think very few. [LB599]

SENATOR BLOOMFIELD: But I think we are limiting this to 25 percent. [LB599]

KATHY SIEFKEN: Yes, because that's already in federal law. That's why. [LB599]

SENATOR BLOOMFIELD: Okay. I don't know. I had, and you've been around them just as long as I have or maybe...oh, probably not any longer. But I was associated with these small stores for 25 years. And very few of them do I recall having--the true small

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stores--having 30 employees. It was more likely the husband, the wife, and a couple guys that come in and unload the truck at 2:00 in the morning and another three or four that maybe stocked the product. I would think if we allow them to hire three or four kids at this rate in the small stores that that would be sufficient. But I'm open to discussing this more with you and Senator Ebke as we go along. Thank you. [LB599]

SENATOR HARR: Thank you, Senator Bloomfield. Senator Johnson. [LB599]

SENATOR JOHNSON: Yeah, just doing some math: \$9 and \$7.25 is \$1.75 difference. Is that what we're...and you said you'd do the...you're teaching. [LB599]

KATHY SIEFKEN: Yes. We're training. [LB599]

SENATOR JOHNSON: Or training, teaching whatever. [LB599]

KATHY SIEFKEN: We're giving them experience, yes. [LB599]

SENATOR JOHNSON: I guess just, is that what we call learning the Midwestern work ethic? That we, I don't know, keep their wage low so they learn it at a discount? [LB599]

KATHY SIEFKEN: Well, at least they learn it because when it goes to \$9 an hour, I think you will see fewer high school kids being employed in grocery stores, especially in rural Nebraska because they can't afford to pay that. Those dollars come right out of the pocket of the owners. And I've got to tell you, if I were a grocery store owner in rural Nebraska, I wouldn't work for the wages they do. These are the owners, the people that are taking the risk. [LB599]

SENATOR JOHNSON: Well, I understand... [LB599]

KATHY SIEFKEN: But it's a choice... [LB599]

SENATOR JOHNSON: Yeah. [LB599]

KATHY SIEFKEN: ...because it's where you live. [LB599]

SENATOR JOHNSON: In rural Nebraska in small towns, small communities, volume is volume and there's not much you can do to increase it. [LB599]

KATHY SIEFKEN: Exactly. [LB599]

SENATOR JOHNSON: This helps cut down some of the overhead. I would assume there is still probably labor available at \$7.25, same as at \$9. [LB599]

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KATHY SIEFKEN: In some areas. There are some areas where right now they're paying \$9. [LB599]

SENATOR JOHNSON: Just to get the labor. [LB599]

KATHY SIEFKEN: Just to get...and I've got one guy that said that his high school kids actually run the store on weekends because that's all he can get for employees. But they're good kids. I mean he's just got a great group of people that are working in his store. I don't know what the next crop of high school kids is going to be like, or neither does he when he...because they rotate through. You only get these kids for maybe two or three years and then they're off to college. [LB599]

SENATOR JOHNSON: Thank you. [LB599]

SENATOR HARR: Senator McCollister. [LB599]

SENATOR McCOLLISTER: We talked...thank you, Mr. Chairman. We talked earlier about the number of votes required to pass this bill. Just asking maybe committee counsel whether this would require a two-thirds. [LB599]

MEGHAN CHAFFEE: Yes. [LB599]

SENATOR McCOLLISTER: It would. [LB599]

MEGHAN CHAFFEE: We haven't sought an Attorney General's Opinion about this yet, but based on the section in the constitution, it would be two-thirds, 33. [LB599]

SENATOR McCOLLISTER: Okay, thank you. What's the legal working age? So how old are these kids that work for some of the rural grocery stores? How young can you hire? [LB599]

KATHY SIEFKEN: They can begin working at the age of 14, but they are limited to carryout, sacking groceries, that type of thing. [LB599]

SENATOR McCOLLISTER: So they would typically be...that this lower wage would apply to them as well. [LB599]

KATHY SIEFKEN: Yes, yes. They are also the employees that can't work beyond 7:00. They can only work three hours during a school day. They have limited number of hours that they can work during the week. [LB599]

SENATOR McCOLLISTER: Okay. [LB599]

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KATHY SIEFKEN: And it's different when their...the summer hours versus their school hours. So there are restrictions on when they can work and what they can do. [LB599]

SENATOR McCOLLISTER: I see. So at what...does that law ever change as these kids get older? Or does it go up until they're age 18? [LB599]

KATHY SIEFKEN: When they turn 16, then they can work more hours. It's the 14- and 15-year-olds that really have a lot of the restrictions. And that's probably who we're talking about for this \$7.25 an hour. [LB599]

SENATOR McCOLLISTER: So you'd be happy to limit this bill to 14-, 15-, 16-year-olds. [LB599]

KATHY SIEFKEN: I'm open for discussion. [LB599]

SENATOR McCOLLISTER: Okay. [LB599]

KATHY SIEFKEN: And I would have to go back to my members and talk to them about it. Again, the federal regulations would have allowed us set the age at 20. And we thought that was much too high. [LB599]

SENATOR McCOLLISTER: I see. [LB599]

KATHY SIEFKEN: So we've tried to factor in what we could do and what we really wanted to do. And we didn't want to impact 20-year-olds. And we didn't want to impact people that have dependents. And we didn't want to impact those that are 19 years of age and still in high school. That's a different type of student. [LB599]

SENATOR McCOLLISTER: Those people that can work at 14, 15, or 16, it's only, what, grocery stores and restaurants. I don't..it wouldn't include... [LB599]

KATHY SIEFKEN: Service industries which is mostly... [LB599]

SENATOR McCOLLISTER: Service industries. So it wouldn't include any kind of manufacturing or... [LB599]

KATHY SIEFKEN: No, 14- and 15-year-olds are not allowed to work in manufacturing, 16-year-olds are not allowed to work with anything with moving parts. And even 18-year-olds can't deliver groceries because they're not allowed to drive vehicles. So there are restrictions on different age limits. [LB599]

SENATOR McCOLLISTER: I understand. Thank you. [LB599]

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SENATOR HARR: Senator Bloomfield. [LB599]

SENATOR BLOOMFIELD: Thank you again, Chairman. This is just to clarify some of what Ms. Siefken and Senator McCollister were talking about. Most of the stores when they unload a truck that's backed up to the door use a mechanical lift or a forklift of some kind. These young people can't run those. They can't get on a forklift. They can't use the machine that "squoshes" cardboard into bales. Anything mechanical these 14-, 15-, I think 16-, and probably 17-year-old kids can't be anywhere near. [LB599]

KATHY SIEFKEN: They can't even throw cardboard in the direction of the baler. [LB599]

SENATOR BLOOMFIELD: Into the baler or toward the baler. So there are some pretty stringent regulations, way more regulations than there should be about what a kid can do. We started to face some of this in ag a couple years ago when they didn't want to let anybody in the barn if there was a calf or a hog or a sheep in there, that nobody could go in the barn. We got some of that blocked out. But there was a lot of nonsense out there. [LB599]

SENATOR HARR: Any other questions? I guess I have a couple. And first of all, thank you for bringing this bill. It's an interesting problem because do I think the Walmarts of the world should get this discount? Heck no. [LB599]

KATHY SIEFKEN: I don't represent them. (Laughter) [LB599]

SENATOR HARR: Yeah. Right. And our small town grocery stores and retail are the lifeline of those small towns. And I get that. The towns often die when they lose their grocery stores. And I understand the situation and the problem you have. Maybe this bill is too broad. Maybe we can limit it to certain types of towns, town size if store size doesn't work. I kind of have a problem with subsidizing, and I don't know if that's the right word to use, keeping these small town grocery stores open on the backs of our youth that couldn't otherwise afford to stay open. But I sympathize with your situation I think we need to do something to make sure that these small towns do remain active. And I look forward to working with you and Senator Ebke to find a way to make sure small towns...because it's a health issue, right? You lose your small town grocery store, that town becomes a food desert. They lose access to fresh fruits and vegetables, sometimes fresh meat and dairy. And so I can see your...I sympathize with your situation. We got to get two-thirds votes though. And so it's got to be something that's equitable. So thank you. [LB599]

KATHY SIEFKEN: Thank you. [LB599]

SENATOR HARR: Thank you. Any other proponents? Opponents, anyone in the

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negative? Mr. Hayes. [LB599]

JASON HAYES: Good afternoon, Senator Harr and members of the committee. For the record, I am Jason Hayes, J-a-s-o-n H-a-y-e-s, and I'm here today representing the Nebraska State Education Association. NSEA is testifying in opposition to LB599. The bill provides that once a young student worker graduates from or permanently ceases his high school education program, he must be paid the full statutory state minimum wage. We are concerned that this provision in the bill would create an incentive for a student age worker to drop out of school in order to qualify for a higher wage rate under the bill. Although there are many reasons for a student to stay in school beyond just receiving a higher minimum wage rate, LB599 would provide the wrong sort of incentive for a student wavering on the edge of deciding to quit school. The dropout rate is Nebraska for the previous school year is 1.11 percent. This is impressively low considering the national high school dropout rate is 7.4 percent. And we need to continue to keep this rate low. Having a bill providing that students would be paid a higher minimum wage rate if they are no longer in school is not good public policy, and for this reason we oppose this bill. And I'd be happy to take any of your questions. [LB599]

SENATOR HARR: Thank you, Mr. Hayes. Any questions? Senator McCollister. [LB599]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. Jason, you're aware that there are limitations to the number of hours that these young students can work? [LB599]

JASON HAYES: Yeah, that's correct. [LB599]

SENATOR McCOLLISTER: I'm just saying you're still opposing the bill because of the...even if some of those restrictions in hours. [LB599]

JASON HAYES: Well, I think you set up a situation where--and even more so in 2016 when it goes up to \$9 an hour--a wage differential of \$1.75 per hour if somebody is not in school. So it's not going to be maybe a disincentive for all students. But there will be some students that say, hey, if I drop out of school, I'm going to be able make more money and I'm going to be able to work more hours that I wouldn't be able to work if I was in school. So I just think it sets up a bad disincentive for somebody to not be in school. [LB599]

SENATOR McCOLLISTER: I understood that the age restriction were based on age rather than whether or not you were in school. Isn't that right? [LB599]

JASON HAYES: I think the bill says, makes it very clear that you're either...it has three different options. One is that you're 18 or younger. But it also says that if you're in high school, either public or private. [LB599]

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SENATOR McCOLLISTER: But I'm thinking of employment law, federal laws restrict the number of hours you can hire a kid of any age...of some ages. [LB599]

JASON HAYES: Well, you know, I'm speaking primarily towards that 17-year-old, 18-year-old that would have more the ability to go out and get a job. And I calculated that if we're talking about 20 hours a week, if somebody drops out of school, they're going to be making an extra \$140 an hour after 2016...I'm sorry, \$140 a month after 2016. So I think that...you know, if they're wavering in terms of should I stay in school and make less money or I drop out of school and make more money, I think you're setting up a distinction where whether or not they get paid a minimum wage hinges on whether or not they're in school. And I think that's the wrong way to go. [LB599]

SENATOR McCOLLISTER: Thank you. [LB599]

SENATOR HARR: Thank you. Any other questions? Senator Johnson. [LB599]

SENATOR JOHNSON: It's been a while since our kids have been in school and our grandkids are not quite there yet. When students are able to go out and do work release during school, is that 18 and over then? Or what, do you know, are the age restrictions or certain types of regulations there? [LB599]

JASON HAYES: You know, I'm not sure on that. I did see in the bill that in Section 1(3), it does appear that there's a provision under state law right now that says if you're part of bona fide vocational training program, that then you can be paid 75 percent of the minimum wage, which I was thinking during the earlier discussion, wouldn't this be the avenue by which grocers would hire somebody? But it would have to be through a bona fide vocational training program. [LB599]

SENATOR JOHNSON: Training program through the school. [LB599]

JASON HAYES: Yeah. [LB599]

SENATOR JOHNSON: Okay. I was just curious how that would work. Thank you. [LB599]

JASON HAYES: And I think at that, with 75 percent, that gets you to \$5.44 cents based on the old minimum wage. [LB599]

SENATOR HARR: Any other questions? Seeing none, thank you, Mr. Hayes. Anyone else, opponents of LB599? Mr. Vlcek. [LB599]

RODNEY D. VLCEK: Good late afternoon. My name is Rodney D. Vlcek, spelled

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R-o-d-n-e-y D. V-l-c-e-k. I am president, secretary/treasurer of the Nebraska State AFL-CIO. And we go on record opposing LB599. We see this as creating a second separate class of workers. No matter what their age is, they are still doing the same work whether they're 16 or whether they're 19. And correct me if I'm wrong, but according to the recent ballot initiative, these workers right now are making \$8 as of January 1, 2015. If they were going to be taught a lesson, it's going to be taught a lesson in politics financially because they will be taking a reduction if this was to so pass. As Senator Crawford so eloquently pointed out, some of these individuals are providing for their families. Whether we want to believe that or not, they are. Another thing that we have a concern with is how many of these grocers in these areas are going to utilize these young workers, 16, 17, 18, the moment they become 18 and graduate, are they going to be released and hire back a new group. That's a lot of skill that they went to of training and stuff like that. But we are opposed to that. And again, I want to point out as previous testimony, the almost 60 percent of the registered voters in Nebraska supported a minimum wage increase. They did not vote a minimum wage increase exempting young workers. They voted a minimum wage increase of \$8 an hour as of January 1, 2015; \$9 an hour January 1, 2016. So with that, I'll be happy to take any of your questions. [LB599]

SENATOR HARR: Senator Chambers. [LB599]

SENATOR CHAMBERS: Not a question, but the Chairman raised this issue, you touched on it. The ones who are trying to undermine the fair wage for these young people are the same ones who were opposed to raising the minimum wage, period. So I don't lend much credence to any of the things they say about doing this to teach or train or any of that. And in rural areas, even if they don't want to admit it, the population is diminishing. There are fewer incentives for people to remain in the rural areas and the young people are not the ones who ought to be the sufferers because if anything, if they can see that where they live means they make less money than children their age living somewhere else, then there's nothing to keep them in a rural area. So I think some of these people who come here representing companies or organizations that make money are going to forget the bigger picture of why young people might leave one area for another. But I agree with the idea that our children should not see that every time something on the one hand is put in place to help them, the Legislature turns around, the Legislature which was opposed to raising the minimum wage to try to undercut what the voters said ought to be the case. And I've been trying to find a way all afternoon to rationalize that. And I can't. And you phrased it very well with the comments you made so I thought I'd just tailgate on you. You're the one this time that cut a trail and I'm just kind of walking the path that you laid out. [LB599]

RODNEY D. VLCEK: Well, Senator, you can tailgate on me anytime you so choose. [LB599]

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SENATOR CHAMBERS: Oh, thank you, brother. [LB599]

RODNEY D. VLCEK: You boys are more wiser than I am. And what you added, Senator, Chairman Harr, I don't know what the answer is in some of these rural communities. Senator Chambers, they are. The population is diminishing. The pride...I have an aunt who recently passed. She worked in Swanton, Nebraska, and I'm not sure if that is in Senator Ebke's district or not. I'm not quite sure. But they had a small community grocery store that she worked at and they only were open a couple days a week. They let the members of that community know what days they were open. But you know, I don't know an answer. We'd be willing to obviously work because you know we do want to keep our rural communities up and extinct because like Senator Chambers said, the population is diminishing. And once you lose your grocery store, your local pub, the place pretty much disappears. [LB599]

SENATOR HARR: Thank you. [LB599]

RODNEY D. VLCEK: Thank you. [LB599]

SENATOR HARR: You bet. [LB599]

SENATOR HARR: Anyone else in opposition? Neutral? Seeing none, Senator Ebke waives closing. We have a couple of letters. Mr. Wyatt. [LB599]

JAMISON WYATT: (Exhibits 2-6) Okay. For LB599: In support we have Barry Kennedy from the Nebraska Chamber of Commerce and Industry; we have a letter of support from Jim Otto representing Nebraska Retail Federation; we have an additional letter from Jim Otto representing Nebraska Restaurant Association that's in support; we also have a letter of support from Robert Hallstrom on behalf of the National Federation of Independent Business; and we have a letter in opposition to LB599 from John Cavanaugh with Holland Children's Movement. [LB599]

SENATOR HARR: Excellent, thank you. With that, that closes LB599 and ends the Business and Labor Committee for Monday, February 2, 2015. Thank you. [LB599]