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Business and Labor Committee
February 06, 2017

[LB305 LB372]

The Committee on Business and Labor met at 1:30 p.m. on Monday, February 6, 2017, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB305 and LB372. Senators present: Joni Albrecht, Chairperson; Sue Crawford, Vice Chairperson; Ernie Chambers; Steve Halloran; Matt Hansen; Sara Howard; and John Lowe. Senators absent: None.

SENATOR ALBRECHT: Good afternoon and thank you for your patience. Sorry we had another meeting going on that we weren't aware of. But my name is Joni Albrecht. I'm the Chair of Business and Labor Committee. I'd like to introduce to you the other senators and I will start with our Vice Chair.

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

SENATOR ALBRECHT: Senator Hansen.

SENATOR HANSEN: It's Matt Hansen, District 26, northeast Lincoln.

SENATOR HALLORAN: Good afternoon. Steve Halloran, District 33, Adams County and parts of Hall County.

SENATOR HOWARD: Senator Sara Howard. I represent District 9 in midtown Omaha.

SENATOR ALBRECHT: And we have our clerk Beverly Neel and we have Krissa from the Revenue Committee with us to help. And we have our counsel Meghan Chaffee. And we have Lee-Ann Sims behind us and Toni Caudillo. Lee-Ann is a sophomore at UNL studying political science and global studies and Toni is a sophomore studying elementary education. Okay, for a few housekeeping, we have a couple of senators that are gone; one is introducing and the other one I'm sure will be showing up here shortly. But please turn off any cell phones. Senators, note again that the microphones are very sensitive and are able to pick up side conversations. Testifiers, you should be...you should have the appropriate number of copies and handouts, exhibits with you ready for distribution. The Business and Labor Committee requires ten copies. Each witness appearing before the committee must sign in using the forms, the yellow sheets at the desk outside that door, the front door there. Sign in only if you're going to testify. Your form must be given to the committee clerk before you begin presenting your testimony. And please don't start until I tell you to go because we're going to have the committee clerk type in your

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name before you get started. Each testifier will be allotted five minutes before the committee. We'll use a light system. The green light indicates that you may begin, the yellow indicates that you're nearing the end of your time, and the red indicates it's time for you to end your testimony. Please begin your testimonies by stating your name clearly into the microphone and then please spell your first and last name to assure accuracy for the record. Note that committee members may need to leave in the middle of the hearing as some might have bills to introduce in other communities. So do not be offended if the senators are coming and going. Today's agenda we have LB305 and LB372. We'll be hearing them in that order. The agenda is posted outside the door of the hearing room. We'll have the introducers make initial statements, followed by proponents, opponents, and those providing neutral testimony and the closing remarks will be presented by the introducing senator. So the first item on our agenda will be LB305 with Senator Crawford. [LB305]

SENATOR CRAWFORD: (Exhibits 1 and 2) Good afternoon, Chairwoman Albrecht and fellow members of the Business and Labor Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I'm honored to be here today to bring LB305, the Paid Family Medical Leave Insurance Act before you today. As Nebraskans, we value hard work and we value our family responsibilities. We have one of the highest work force participation rates in the country. Yet as I've talked with families over the past two years as we have worked on the issue of paid family medical leave, I have heard heartrending stories about the difficulties that Nebraskans and their caregivers and their healthcare providers have faced in balancing work and family responsibilities when a new baby arrives or when an older child faces hospitalization from a serious illness or a family member comes home from serving his or her country with serious injuries or a spouse begins difficulties chemotherapy or a spouse requires extra attention due to the onset of Alzheimer's. You will hear more about these personal stories and the statistics behind them from the testifiers who follow me. Meanwhile over the past two years, there's also been growing political support including attention from Presidential candidates from both parties for policies that will help families balance these needs, policies that have been in place in nearly every country in the world. Although a small number of states have pioneered paid family medical leave at the state level, Nebraska could be on the competitive cutting edge by moving forward with a strong state paid Family and Medical Leave Act before our Midwestern competing states. One of our biggest economic challenges right now is recruiting and retaining work force. As we work to bring our best and brightest back to the state, imagine if we could not only remind them of our family friendly affordable housing, safe neighborhoods, and great schools, but also let them know if they're in our work force they will have access to paid family and medical leave. It is possible for us to develop a paid family and medical leave insurance for our state with a bill that will have no General Fund impact and that is my intention. We worked over the interim to make changes in the bill to reduce startup costs and eliminate General Fund obligations. I will lay out the pathways to address the issues raised in the fiscal note later in my testimony but I wanted to

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make it clear from the beginning that we can move forward with this important investment in our families and our work force, an investment that ends up paying for itself in a few years without spending from our General Fund. LB305 creates a paid family leave insurance program to provide income replacement, partial income replacement for eligible workers to care for themselves or a family member following a serious illness; to care for a new family member through birth, foster care, or adoption; or make arrangements for an active duty military member who is deployed. Similar to the federal Family and Medical Leave Act, a covered employee who utilizes the paid family leave insurance is entitled to be restored to the position held by the employee when the leave commenced or to a position with equivalent status and pay. The definition of covered employee in the act matches the definition of those covered by our unemployment insurance in the state today. And we've provided a one-page handout to try to help cover some of the pieces and parts of the bill to help you understand several of the parts of the bill. It has been 21 years since Congress passed the Family Medical Leave Act providing unpaid leave for families. However, federal FMLA requirements apply to too few families and provide no mechanism for wage replacement for workers. In 2012...a 2012 national work force survey found that almost half of all workers eligible for federal FMLA leave who had unmet needs for family and medical leave did not take the leave they needed because they could not afford it. In short, current policies put too many workers in untenable positions to keep the jobs they need or care for the families they love. Currently less than 12 percent of all workers have access to paid family leave. This overwhelming lack of paid family leave has serious consequences for families' budgets in our economy. In 2001, a quarter of two-income families who filed for bankruptcy did so after missing two or more weeks of work due to their own illness or the illness of a family member. A 2007 American Journal of Medicine study that updated its earlier work found that 40 percent of patients surveyed reporting losing two weeks or more income before declaring bankruptcy. In slightly over half of these cases, the job loss was that of the family caregiver. What's more, a recent New York Times/CBS poll found that family responsibility has kept more than half of nonworking Americans out of the work force. And a 2013 Pew survey found that 27 percent of women surveyed quit their jobs to care for a child or family member. In Nebraska, recent queries of reasons that Nebraskans who apply for unemployment assistance give for leaving their job show that nearly 20 percent of them report health and family issues. With Nebraska's serious work force shortages, we can't afford to leave these workers sitting on the sidelines. LB305 establishes a partnership between the state of Nebraska, employers, and employees. The state establishes the infrastructure for the program, employers ensure workers are able to return back to their jobs after leave, and the employees pay a small premium for the insurance that provides partial wage replacement when they need it to take care of themselves or a family member. I want to return for a moment to discuss some arguments you may hear against paid family leave. You may hear concerns of how businesses will manage if a valued employee takes paid family leave. However, this view ignores the reality that when a family crisis hits, a valued employee who cannot take leave may feel the need to quit. In that case, they not only have to manage without that valued employee but they have the

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added cost of recruiting and replacing that employee. A meta-analysis of over 17 case studies regarding the cost to replace an employee shows that employee turnover can cost a business between 10-30 percent of employees' annual earnings. In Nebraska, reducing employee turnover through paid family leave program could save businesses between \$4,000 and \$12,000 per employee per year. If the employee does manage to find a way to come back to work at the cost of their own health or a painful price of leaving a child alone in a hospital, that employee will be back at work, distracted and resentful. We know from the research that if an employee can take time off in those situations, they come back more productive and more loyal to the employer instead. For example, in California which has had paid family leave for over ten years, over 95 percent of the workers return to work following leave. And 87 percent of California employers surveyed reported that paid family leave did not increase their costs. In fact, 8 percent of businesses reported cost savings because the employees were able to access paid family leave instead of employer-provided benefits such as paid sick leave and vacation days. The fear about how small business or any business will manage when an employee takes leave also fails to consider the entrepreneurial opportunities that paid family leave will foster. When an employee takes leave that frees up the money that otherwise would have been going to the employee's wages since the employee would be receiving benefits from the Paid Family Medical Leave Insurance Fund during their absence. This can create a new vibrant market for firms and self-employed entrepreneurs who provide temporary employment services. I've heard from a couple of Nebraskans who have spent time in Canada who describe mat leave contract market there that was helpful for college workers...for college students gaining experience. And I see this as particularly valuable market opportunity for retirees and for women who choose to stay home with their children for longer periods of time and then need a ramp, way back onto the work force. Once the kids start school, he or she can begin to take on some temporary assignments that fit their schedule to gain experience. In this way, paid family leave benefits both women who choose to return after a birth and those who choose to stay home with their children longer while they're young. Paid family leave is not just an important benefit for new parents, however. Working Nebraskans with aging parents may need time off to help an aging parent or partner recently diagnosed with Alzheimer's or Parkinson's adjust to new routines or move back into a new living situation or a worker might need time to care for themselves after a major illness or car accident. LB305 ensures workers can put families first without sacrificing their job. You may also hear that small businesses are able to work out flexible schedules with their employees now and that some larger businesses are stepping up to offer paid family medical leave benefits on their own. These are commendable business practices and these companies that offer these opportunities for their employees to work without taking leave or to offer more generous paid leave will have a competitive advantage. However, even as we...even...we still need to make sure, with LB305, that we take care of close to 90 percent of workers who have the chance to take care of their families as well. A state-paid family leave program allows small businesses and business of all sizes to know there is a way for their employees to afford to take leave when they need to do so. Evidence from other states indicates that businesses will benefit from less turnover and

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more productive employees and employees and their families benefit being able to take the time they need to care for their family members and get children off to a good start. Since insurance provides only partial wages placement, workers will still need to plan and sacrifice and take the choice to ask for leave seriously. States can invest in infrastructure to ensure workers can put their families first without sacrificing their jobs. Three states--New Jersey, Rhode Island, and California--have made this important investment. While the design of these programs vary, each provides financial assistance for the worker who may need to take family or medical leave to care for themselves or a close family member through partial wage replacement. In each state with an active program, this assistance is financed by modest employee contributions to a state-run insurance system. Now let me turn to the issue of making sure we can do this in an affordable way here in Nebraska. Our statistical models of paid family leave in Nebraska based on models compared to other states indicated that we could keep contributions below .5 percent for the program and still pay for the benefits necessary to cover disability and caregiving needs of Nebraskans and to pay back the startup costs. The analysis by the Department of Labor uses Rhode Island as the model and indicates it will need to increase the contribution gap below 1 percent to ensure that the contributions cover those benefits and pay back startup costs in those first years. One key difference between Nebraska and Rhode Island is that Rhode Island has no private disability insurance. So the paid family medical leave program in that state covers all disability wage replacement as well as caregiving wage replacement. The caregiving wage replacement is only 6 percent of the benefit's costs and so most of the costs in the state are the disability benefits. The cost estimates in the fiscal note assume that all Nebraska workers will drop out of private disability insurance and so the Nebraska Paid Family Medical Leave Insurance will need to pick up disability and caregiving benefits. While I doubt this will happen, I understand the concern to make sure that contributions are sufficient should there be a shift. It appears we can make sure to cover this possibility and repay the startup cost by moving to a contribution cap of less than 1 percent. Another alternative would be to instead focus on caregiving benefits only since we...there is a private market for disability coverage but not for caregiving which would allow a very low contribution rate to cover the benefits and pay back the startup costs. One other simple change that we can make and we have an amendment to do so is making sure that we allow time for the money to go to the Department of Labor for the contribution infrastructure to be built first and then we have the...the other parts of the program kicking in. And that was noted in the fiscal note. That's a very easy change to make and we'd be happy to make that. In summary, there are clear pathways to making paid family medical leave affordable and doable in Nebraska and I look forward to working with the committee and other stakeholders to make that happen. The most serious economic development challenge facing our state is work force shortages and we've made serious investments in early childhood education in our state. We hear over and over again the importance of this work force shortage. It's time to invest in workers and adopt policies to recruit workers to our state. A paid family leave insurance program can help us to do that. With that, I'm happy to answer any questions that you might have now or at closing. [LB305]

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SENATOR ALBRECHT: Thank you, Senator Crawford. Do we have any questions for Senator Crawford on LB305? Seeing none, thank you. [LB305]

SENATOR CRAWFORD: Thank you. [LB305]

SENATOR ALBRECHT: Okay, we'll take any proponents. Do we have any proponents wishing to speak to LB305? [LB305]

KAITLIN REECE: Good afternoon, Senator Albrecht and members of the Business and Labor Committee... [LB305]

SENATOR ALBRECHT: If you could hold on just one second, please. [LB305]

KAITLIN REECE: Sure. [LB305]

SENATOR ALBRECHT: Okay. Go ahead. Thank you. [LB305]

KAITLIN REECE: (Exhibit 3) Thank you. Good afternoon. My name is Kaitlin Reece, K-a-i-t-l-i-n R-e-e-c-e, and I am a policy coordinator at Voices for Children in Nebraska. A new baby, a family member returning from military service with a critical injury, a car accident, a parent starting to show signs of Alzheimer's, a child diagnosed with Leukemia, these are all common and significant moments for a family that can create challenges for family well-being. Under our current law, these moments can also be a financial crisis. New data available at the state level reveals that about half of working parents in Nebraska are ineligible even for the unpaid leave under the federal FMLA. For these parents, they are not guaranteed that their job will still be there when they need it to take time off to care for their family. Even when they are entitled to leave, only 41 percent of Nebraska parents can afford to take it. This leaves the majority, about 60 percent, of Nebraska parents unable to afford leave. This is especially critical in a state like ours where the vast majority of kids, 77.9 percent, have all available parents in the work force. This is a problem that cuts against some of the most fundamental things that we value as Nebraskans--an honest day's work, enabling the best start in life for our kids, and being there to care for a family member when they need it. Paid family leave acknowledges and addresses a reality that directly impacts every business and should be planned for strategically, uniformly, and deliberately. The lack of paid leave comes at a cost for workers, families, and businesses. Workers give up income they need to pay bills, buy groceries, and support their families. Workers, and especially women, lose or leave their jobs and put their long-term economic security at risk and increase their reliance on public assistance programs. Children lose out on better health outcomes right from the start by having their primary caregivers absent during a

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critical developmental time. We also know that sick children recover faster when parents can be by their side. Businesses also incur costs to replace talented employees and have their ability to compete for workers in a low-income state like Nebraska limited. In an ideal world, employers would offer this leave on a voluntary basis. But over 20 years after the passage of the federal FMLA, that just hasn't happened. Only 12 percent of employees nationwide have access to paid family leave and this access is disproportionately skewed toward higher wage earners. Only 5 percent of workers in the bottom 25 percent of wage earners have access to paid family leave compared to the 22 percent of workers in the top 10 percent of wage earners. A good example of this was in 2015 when Netflix announced some workers would be eligible to unlimited parental leave for up to a year after the birth or adoption of a child. Those who received this very generous benefit were salaried employees while the lower wage workers who worked in the distribution centers and could least afford to take the leave were not covered by the policy. What's more, in the 23 years since the passage of the federal law, the paid maternity rate in the United States has barely budged: 43 percent to 49.7 percent in 2015. At this rate and without interventions like LB305, it would take another 200 years before all American women have access to paid maternity leave. Nebraska can do better than this on behalf of our kids and families. A state-paid family leave system would level the playing field, provide a way to retain and attract workers, and provide a systemic solution to the current patchwork system that isn't working for families or businesses. We respectfully urge the committee to advance LB305 to ensure no worker ever again has to choose between the job they need and the family they love. We thank Senator Crawford for her work on this and encourage the Business and Labor Committee to advance this bill. I'm happy to answer any questions. [LB305]

SENATOR ALBRECHT: Thank you, Ms. Reece. Do we have any questions for Ms. Reece? Seeing none, we'll take the next one. Thank you for being here. Another proponent. Okay, Ms. Bruckner, go ahead. [LB305]

TRACI BRUCKNER: (Exhibits 4 and 5) Good afternoon, Chairwoman Albrecht and members of the Business and Labor Committee. My name is Traci Bruckner, T-r-a-c-i B-r-u-c-k-n-e-r. I am the Research and Policy Director of the Women's Fund of Omaha. I'm here today to testify in support of LB305, which would create the Paid Family Medical Leave Insurance Act. The Women's Fund identifies critical issues through research, we fund innovative solutions through grants, and we influence dynamic change through advocacy to ensure that every woman and girl has the opportunity to achieve her full potential. Since our founding, we've invested nearly \$11 million in programs that strengthen the lives of women and girls. We know women and their families need economic security and the ability to better manage the dual demands of work and family. We believe access to paid family and medical leave is an important tool for women to help them build and maintain their economic security. Many people are forced to leave jobs if they or a close family member become sick, or they must attend work with added stressors or decreased physical well-being. Having the ability to address a serious health condition, including

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pregnancy, care for a family member with a serious health condition and/or care for a newborn, newly-adopted child, or newly-placed foster child while continuing to earn a portion of their pay is critical to women's ability to provide for their families. Not having access to paid family and medical leave directly impacts women. While women make up 56.7 percent of the labor force nationally and 65 percent in Nebraska, they still only make 75 cents to each dollar that a man makes. For mothers, the pay gap can be even more substantial. Research shows that women experience a 7 percent decrease in pay for each child they have. Much of this motherhood penalty is a direct consequence of the wages women lose during unpaid leave and the time they lose toward scheduled earnings increases. Having access to paid leave changes this. Paid family leave increases wages for women with children. New mothers who have access to paid leave are more likely to return to the same employer within 9 to 12 months, and 97.6 percent of those who return to the same employer do so at their previous pay level or higher. In fact, women who take paid leave of 30 or more days are 54 percent more likely to report wage increases in the year following the child's birth. Our research at the Women's Fund supports the need for this kind of flexibility and accelerated on-ramps to help women reactivate who temporarily opt-out, to care for family. These avenues for advancement, along with paid family and medical leave, are best practices for improving the representation of women in leadership roles. Moreover, these practices also make sense for Nebraska businesses. Senator Crawford already referred to this but I'll repeat it: 87 percent of businesses in California with paid family medical leave saw no increased costs, and 9 percent generated cost savings by reducing employee turnover. Likewise, women who go back to employment after paid leave are more likely to stay employed years later, benefiting both their careers and business productivity. Finally, paid leave benefits families from all socioeconomic statuses. Research shows that when paid leave is not available to parents, some may rely on public assistance to supplement the incomes they lost while not at work. However, women who return to work after a paid leave have a 39 percent lower likelihood of receiving public assistance and a 40 percent lower likelihood of food stamp usage after returning to work. We believe that paid family and medical leave is a policy solution that will help provide long-term economic stability for women and their families and we urge the committee's support for LB305. Thank you for your time and I'd be happy to answer any questions. [LB305]

SENATOR ALBRECHT: Thank you, Ms. Bruckner. Do we have any questions? Okay. Seeing none, thank you. We'll take the next proponent for LB305. [LB305]

CLAYTON FREEMAN: Good afternoon, committee members. [LB305]

SENATOR ALBRECHT: Just one minute, please. Thanks. We have a new system here so we have to get that all in there and the first few words out of your mouth. [LB305]

CLAYTON FREEMAN: Okay. [LB305]

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SENATOR ALBRECHT: So I'm not trying to be difficult. Okay, go ahead, sir. Thank you. [LB305]

CLAYTON FREEMAN: (Exhibit 6) Good afternoon, committee, and thank you for this opportunity to testify on behalf of LB305. My name is Clayton Freeman, C-l-a-y-t-o-n F-r-e-e-m-a-n. I am the director of programs and public policy for the Alzheimer's Association. By 2030, the number of Americans over 65 will be 70 million. Nearly two-thirds of those Americans under the age of 60 expect to be responsible for the care of an elder relative within the next ten years. Caregiving of an individual with Alzheimer's disease is what we sometimes call the 36-hour day. Tremendous burden upon families for a disease that can sometimes last eight, ten, and many years beyond. Caregiving often includes assistance with one of more activities of daily living such as bathing and dressing, as well as many instrumental activities of daily living such as paying bills, shopping, and transportation. More than 15 million Americans provide unpaid care for people with Alzheimer's disease and other dementias and that is calculated to be worth around \$217 billion. Moreover, caregivers of persons with Alzheimer's disease can experience emotional and physical stress that can exasperate their own health conditions taking a toll on their personal health and financial well-being. Family medical leave enables families to care for aging parents without fear of losing all their wages and allowing seniors to age in their homes instead of long-term care facilities. A survey conducted by AARP related to caregiving found that 40 percent of Nebraska workers who responded to the questionnaire did not have paid sick leave. This act would provide partial wage replacement for those workers who need to take time off for family or medical reasons. We see this as a basic means of supporting working caregivers who are trying to balance their responsibility to provide financial support for and meet the care needs of their families. In Nebraska, there are currently 81,000 caregivers providing millions of hours of unpaid care for the 33,000 Nebraskans living with Alzheimer's disease. And it is projected that that will increase by 20 percent to 40,000 by 2025. Every day when caregivers speak to us, one of the things they talk about is their financial well-being. But it's also about are they going to have the time to care for their loved one? Caring for someone with Alzheimer's disease is complex. It takes care planning. It takes time. Providing families with the time they need to do that well will make them more productive workers when they have in place the kind of care planning they need to help their loved one with this challenging disease. So, the Alzheimer's Association Nebraska chapter supports LB305 enacting the Family and Medical Leave Insurance Program, promoting the well-being and independence of seniors, allowing them to remain in their homes and avoid more expensive long-term care. Thank you. [LB305]

SENATOR ALBRECHT: Thank you, Mr. Freeman. Do we have any questions of Mr. Freeman on LB305, Senators? Thank you for coming. Do we have any other proponents wishing to speak? Thank you. Just a minute here. All right, Mr. Smith. [LB305]

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KEN SMITH: (Exhibit 7) Thank you, Chairwoman Albrecht and members of the Business and Labor Committee. My name is Ken Smith and that's spelled K-e-n S-m-i-t-h and I am a staff attorney in the economic justice program at Nebraska Appleseed and appreciate this opportunity to testify today in support of LB305. Nearly everyone experiences the need to take time away from work to recover from serious illness or take care of a sick family member or a newborn child. However, many Nebraskans cannot take the time they need to take care of themselves or their family without risking their jobs or their financial stability. By adopting LB305, we can ensure Nebraskans will no longer have to choose between keeping their job and earnings and caring for themselves or their family. As Senator Crawford alluded to, on the federal level, the Family and Medical Leave Act has prevented many people from losing jobs when confronted with a serious medical issue. However, the federal program has its shortfalls. In particular, the FMLA only covers some of the work force--probably around 40 percent--and only guarantees unpaid leave which many workers simply cannot afford to take. LB305 fills in what the FMLA leaves out by creating a statewide insurance program that would support workers and businesses. This program consists of contributions from covered individuals collected by way of payroll deductions. And those deductions would be capped so as to not exceed .5 percent of income over a 12-month period. By allowing family members to take paid leave, LB305 would provide income stability to families with newborn children. This is critical because having a newborn child, which I don't have any children, but I was a baby at one point (laughter) and my mom still talks about how expensive it was to raise all four of us. So having a newborn is a very expensive health event that families face. And LB305 would also encourage work force attachment. So I know some testifiers spoke to this, but some more data to consider is that new mothers who take paid leave are more likely than mothers who do not to be working 9-12 months after giving birth. Further, LB305 would safeguard the income and retirement security of workers who drop out of the work force to take care of a parent. Nationwide, a worker who is 50 years old or older and leaves the work force to take care of a parent will lose more than \$300,000 in wages and retirement income. And lastly, LB305 would promote financial independence. As Traci Bruckner noted and I'll just reiterate, new mothers who take paid leave are 39 percent less likely to need public assistance than those who don't. And that statistic with respect to fathers who take paid leave also shows that they're less likely to need government assistance. Just kind of on a global scale, I think it's worth noting that the International Labor Organization surveyed 185 countries and territories in the world and the United States was one of only two to offer no paid maternity leave, specifically; I think the other was Papua New Guinea, although I'm not positive on that. At any rate, LB305 would benefit working people in Nebraska--families, businesses, communities, and the state as a whole--by helping to stabilize income during difficult times, promoting a healthier work force, improving worker retention, and helping Nebraska businesses recruit and retain top talent. So for those reasons and the others I've pointed out, Nebraska Appleseed would urge this committee to advance LB305. [LB305]

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SENATOR ALBRECHT: Thank you, Mr. Smith. Any questions? Seeing none, thank you for your testimony. [LB305]

KEN SMITH: Thank you. [LB305]

SENATOR ALBRECHT: Do we have any other proponents wishing to speak? Just one minute. Thank you. Hold on just one minute. Got to get it in the system. Ms. Miller, go ahead and start. Thank you. [LB305]

SHERRY MILLER: (Exhibit 8) All right. I am Sherry Miller, S-h-e-r-r-y M-i-l-l-e-r, and today I'm here to speak in support of LB305 on behalf of the League of Women Voters of Nebraska. Madam Chairman, thank you for the opportunity. I appreciate it very much. The League of Women Voters of Nebraska supports policies and programs that respect the rights, promote the well-being, and ensure the safety of Nebraska's children. We believe that paid family leave from employment is a critical element in promoting the well-being and safety of our children, in particular, newborns. This act will assure that the employment position is still there when the mother is ready to return to work, which increases the likelihood of financial well-being and safety of the child. Being paid during the leave of absence significantly increases the continued financial well-being and safety of the child during both the birth and post-birth period. As I was sitting here, and this is not in my testimony, I was remembering I met with two observers...last October, I had the privilege of meeting with two observers from the Organization for Security and Cooperation in Europe. Detlef (phonetic) from Germany and Constantina (phonetic) from Romania were here to observe elections across our country. And I had a chance to speak with them concerning...well first of all, representation of women in government which she had difficulty believing it wasn't higher in Nebraska, but secondly, a comment she made about child care, the provision of child care and paid family leave. Romania guarantees up to two years of child...of paid leave, maternal paid leave. I was thinking, yeah, you're a socialist country (laugh). But still, just to see what the extreme could be and we're not asking for that certainly. We're asking for something much less than that but could still bridge that gap and ensure that a woman or a father could return to the employment force without dealing hardship. And that's my testimony. [LB305]

SENATOR ALBRECHT: Well, thank you. Any questions? Thank you for coming, Ms. Miller. Any other proponents wishing to speak? Yes, we do. Ms. Clover, do you want to go ahead and start? Is it Clover? [LB305]

DAWN CLOVER: (Exhibit 9) Yeah. My name is Dawn Clover; it's D-a-w-n C-l-o-v-e-r. I'm going to try to keep my composure when I'm doing this because I'm speaking as a guardian. I'm a guardian for my uncle. He was the youngest of two children. My mom, which was his sister,

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passed away April 23, 2000. His father, my grandfather, passed away August 26, 2007, and his mother, my grandmother, passed away June 23, 2010. She had dementia from numerous strokes. I was appointed my uncle's legal guardian on December 29, 2009. Until I started my current job, I didn't have any trouble taking time off from work to care for my uncle, the ward. Now I was informed that due to him not being an immediate family member--mother, father, brother, sister, grandparent, spouse, or in-law of the same--I am required to ask 48 hours in advance for time off. He is mentally disabled and has a life-ending illness. He has Parkinson's disease. I now have to choose to take time off without pay, losing my job, or not fulfilling guardianship duties because how the current FMLA law is written. I believe that FMLA should include aunts and uncles as immediate family. There are more families than just mine that are out there that have disabled family members and a niece or nephew is the only one left to take care of them. I also think that someone that has a life-ending disability should be covered not just once a year but when an emergency arises, like with his, his Parkinson's will continue to get worse because there is no cure for this horrible disease. He will start falling more and it can also present in other symptoms as well. He could have a heart attack. Swallowing is already starting to be affected. Today I'm asking you to put yourself into my shoes and think that you are only allowed to have three days a year with possibly not getting paid due to your loved one, who you are guardian for, has an emergency and you have to choose them or your job. What would you do? I personally would choose them not only because they are my loved one, but that is what I signed up to do when I became a guardian. It wouldn't be any different if I was a guardian for someone that I didn't know before I became their guardian. I'm dedicated and I fight for those I love and care for. I also speak for those who are unable to speak for themselves today. I am speaking for my uncle. I do realize there are parts of this bill that won't benefit me, but I hope that you will take it into consideration, my life story as a guardian to my uncle, and the obstacles that I have to face on a daily basis. [LB305]

SENATOR ALBRECHT: Thank you for sharing your story. [LB305]

DAWN CLOVER: Thank you. [LB305]

SENATOR ALBRECHT: Do we have any questions? Thank you again. Appreciate it. [LB305]

DAWN CLOVER: Thank you. [LB305]

SENATOR ALBRECHT: Any other proponents wishing to speak to LB305? Ms. Martin, go ahead. [LB305]

SUE MARTIN: (Exhibit 10) Good afternoon, Senator Albrecht and the members of the Business and Labor Committee. My name is Sue Martin, S-u-e M-a-r-t-i-n. I'm the president of the

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Nebraska State ALF-CIO. A lot of my testimony today will be similar in nature to other testifiers, but I personally feel strongly about this legislation and so I will go ahead and proceed with my testimony for the record. The Paid Family Medical Leave Insurance Act will benefit our Nebraska workers, families, businesses, and our economy. A birth is the most expensive health event for families during childbearing years. Paid leave helps keep families on track to meet new expenses. In the year following a birth, new mothers who take paid leave are more likely than those who take no paid leave to stay in the work force and 54 percent more likely to report wage increases. Paid leave contributes to improved newborn and child health. New mothers are better able to initiate and continue breastfeeding, and new parents can more easily get babies to the doctor for check-ups and immunizations. Paid leave also allows ill or injured adults to get critical care and take needed recovery time, and it enables caregivers to help ill parents, spouses, and children fulfill treatment plans and avoid complications and hospital readmissions. The Paid Family Leave Act spreads the cost of leave, reducing the burden on individual employers and allowing many more employees access to paid leave. Paid leave contributes to reduced turnover and increased employee engagement and loyalty. Workers in low-wage, high-turnover industries are much more likely to return to their jobs after using this program. A paid leave insurance program would help keep new parents and family caregivers in the work force and boost their earnings and savings over time, all of which would contribute to economic productivity and growth. In contrast, when people have to forgo pay or lose a job when a serious medical or caregiving need arises, they often jeopardize their ability to afford even the most basic necessities. This hurts workers, their families, and the businesses that depend on revenue from these purchases, and it stifles economic growth. Family leave insurance has existed in California since 2004 and New Jersey since 2009, and began in Rhode Island in January 2014. Analyses of California's program show that both employers and employees have benefited. In New Jersey, the program costs are even lower than expected and public attitudes toward the program are favorable. A preliminary analysis of Rhode Island's first year also shows favorable results. It is well past time for an America that meets our nation's needs and truly honors families. I ask that you support this bill in the state of Nebraska because it's the right thing to do. [LB305]

SENATOR ALBRECHT: Thank you, Ms. Martin. Any questions? Thank you for coming. Any other proponents wishing to speak? It's Mark Intermill? [LB305]

MARK INTERMILL: Yes. [LB305]

SENATOR ALBRECHT: Okay. Go ahead. [LB305]

MARK INTERMILL: (Exhibit 11) Thank you, Senator Albrecht and members of the Business and Labor Committee. My name is Mark Intermill spelled M-a-r-k I-n-t-e-r-m-i-l-l and I have several points to make but I have probably more points than voice so I'm going to be selective.

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You've heard about the benefits that caregivers provide the state of Nebraska and the relatives and family members that they care for, but I wanted to talk a little bit about the benefits that the state of Nebraska budget realizes as a result of caregivers. In the late 1990s, Nebraska developed a long-term care plan. And part of the purpose of that plan was to try to enable people to receive long-term care where they wanted to receive it which was in their home. While this has had the effect of allowing more people to live at home, it is also shifted some of the burden of providing that care to family caregivers. We've gone from 17,000 nursing home residents in 1995 to less than 12,000 today. So we have been successful in allowing people to continue to live at home. And if you look at the impact of that change on the Medicaid budget, between 2000 and 2015, the Medicaid budget services for people over the age of 65 has grown at an average annual rate of 2.2 percent. If that rate had grown at the same rate as state revenue which is around the 4 percent area, we would be spending about \$240 million more today on Medicaid services in General Funds for Medicaid services for people over 65 than we do today due in large part to the efforts of caregivers. I also wanted to draw your attention to...on the second page of my handout. At AARP, we survey our members and the public at large on different issues. And in 2015 we included a survey on a number of issues related to caregiving. One of the things that we asked was...well, we asked people if they are caregivers and we found that about, you know, either 40 percent either are or have been caregivers. But we also asked the entire set of the population if they believe that there should be a policy in Nebraska to require employees to provide some paid leave to all employees that can be used for family caregiving purposes. And you can see the results there, that 44 percent strongly supported that proposition; 27 percent somewhat support; and then in the oppose side, 10 percent somewhat oppose; 20 percent strongly oppose. So we have about nearly three-fourths of those surveyed support this type of policy in Nebraska. I think we are seeing a lot of benefits being provided by family caregivers and I think it's time that we provided some support back to them. And I would encourage you to move this bill forward. Thank you very much. [LB305]

SENATOR ALBRECHT: Thank you. Thank you for your time. Any questions? Seeing none, thanks for your testimony. Any other proponents wishing to speak today to LB305? Mr. Cavanaugh, go ahead and start. Thank you. [LB305]

JOHN CAVANAUGH: (Exhibits 12-14) Senator Albrecht, members of the committee, I'm John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, 3425 South 94th Avenue in Omaha, Nebraska, 68124. I'm appearing today in support of LB305 on behalf of the Holland Children's Movement and on behalf of the Nebraska Children's Health and Education Alliance which I cochair with Pat Connell of Boys Town. The Holland Children's Movement is an organization not for profit founded by the late Dick Holland to advocate for public policies supporting families and children of low-income families. The Nebraska Children's Health Alliance is a broad-based group of health providers and educators also advocating on behalf of better policies for access to healthcare and quality education for low-income families. LB305...and I want to commend

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Senator Crawford for her longstanding effort to bring this legislation to the people of Nebraska. I think if you'll reflect on your brief service in the Nebraska Legislature, by the time you're finished I doubt you will see a bill that would touch as many people and families, businesses and the economy, health care and really the lives of every one of our citizens as LB305 and paid medical leave will. You've heard the testimony, from birth through Alzheimer's, that every one of our families are going to be touched by the circumstances that directly impact them economically. We've heard testimony today, and I think you had excellent testimony, on the benefits not only to employees and families, but to employers as well. What we recognize today is that we are in a national competition for quality workers. Nebraska cannot grow economically unless we can compete across the whole country in attracting a work force. We've reached the limits of our own population. And this would be a key component of making Nebraska a leader in the country, competitive in the work force. We've seen a transformation in terms of the attitudes of the public and employers towards paid medical leave. The Holland Children's Movement--and I included this with it--put up a petition on our Web site last week. And within 48 hours we had over 300 signatures. We haven't seen a response like that as immediate and as intense supportive since we did the similar thing with the minimum wage which ended up passing by 60 percent across the state. So this is one of the most important pieces of legislation that you will deal with in your entire career and we strongly urge you to advance LB305 and commend Senator Crawford for this terrific effort. [LB305]

SENATOR ALBRECHT: Thank you. Okay, no questions. How about any other proponents wishing to speak, do we have any other proponents? No other proponents wishing to speak to LB305? Do we have any opponents wishing to speak? Mr. Albin, go ahead and start. Thanks. [LB305]

JOHN ALBIN: (Exhibits 15-17) All right, thank you. Senator Albrecht, members of the Business and Labor Committee, for the record, my name is John Albin, J-o-h-n A-l-b-i-n, and I am the Commissioner of Labor. I'm appearing here today in opposition to LB305. LB305 is a rework of LB850. For reasons I will explain in more detail later, the department's primary concern with LB305 is the fiscal sustainability of the program. However, I do want to acknowledge that over the interim, Senator Crawford worked with the department to make the process of paid family medical leave more closely mirror the department's existing unemployment benefit process. As a result of Senator Crawford's work, the department projects a greatly reduced IT build cost under LB305 than LB850. Unfortunately, the overwhelming share of the program costs will be the benefits paid. The department is projecting almost \$300 million per year in benefit costs. This is much higher than what we projected with LB850 and I want to put in the record the reason for that increase. The department's LB850 estimate was based upon a fiscal note prepared by the state of Rhode Island when it considered adding paid family leave to its existing temporary disability program which provides a paid leave benefit for all serious, nonwork-related injuries or illnesses. However, Rhode Island's temporary disability program

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costs were not reflected in the Rhode Island fiscal note and we didn't catch that. Rhode Island's temporary disability program is very similar to the paid medical leave described in LB305. To help the committee better understand the similarities and differences between LB305, the Rhode Island TDI/TCI program and the federal Family Medical Leave Act, the department has prepared a chart that we handed out today which compares the three programs. Rhode Island has now released the 2015 annual statistics for its combined TDI and TCI programs. Those statistics are set forth in the handout entitled "Rhode Island Department of Labor and Training, TDI Annual Update, January-December 2015." When the Department reviewed Rhode Island's actual statistics for 2015, it became readily apparent the Department underestimated the benefit payout for LB850 because the Department did not account for the cost of medical leave not reflected in the Rhode Island fiscal note. In 2015, Rhode Island received a total of 48,387 applications; 40,678 were for temporary disability leave for serious, nonwork-related injuries or illnesses exceeding seven days in length; 34,005 of those claims were approved. Rhode Island received only 7,709 initial applications for temporary caregiver insurance, of which 4,951 were approved. In financial terms, Rhode Island paid out a total of \$164 million in paid medical disability and caregiver benefits in 2015. Of those benefits paid, 94 percent, \$154 million were paid for nonwork-related injury or illness. Only 6 percent, \$9 million, of the benefits were related to either bonding with a new child or caring for a family member. To estimate benefits paid under LB305, the department closely examined Rhode Island's annual statistics. LB305 only provides benefits for individuals employed in covered employment. In 2015, Rhode Island had approximately 470,000 people in covered employment. Based upon 43,000 initial applications received, it was determined approximately 10 percent of the covered work force filed a claim for paid leave benefits. And approximately 80 percent of the claims were approved. For the fourth quarter of 2015, Nebraska had 1 million SSNs in the wage records for covered employers. If 10 percent of those claims were filed...if 10 percent of those individuals filed a claim for paid leave, there would be approximately 105,000 claims for benefits. Of those, 84,000 would be approved. The average number of weeks of payments per claim in Rhode Island was 9, so we used that number. LB305 has tiered payment. To calculate the weekly benefit amount, the department determined how many were in each tier based on its fourth quarter of 2015 wage data. The department then calculated the average quarterly wage per person for each tier. And once the average wage for each tier was calculated, the benefit cap outlined in LB305 was applied. The benefit payout was calculated at 12 payments per claim, 9 payments per claim, and 6 payments per claim, and we have that data in the fiscal note. The maximum amount of leave under LB305 is 12 weeks for serious injury or bonding, and 6 weeks to care for a family or service member, or exigency leave. The department estimated the average length of a claim to be 9 payments. At 9 payments per claim, the Department would pay out \$297 million in paid family medical leave benefits. LB305 requires covered employees to contribute to the Paid Family Medical Leave Insurance Fund. The amount of employee contributions is capped at 0.5 percent of a covered employee's gross wages for a year. In 2015, Nebraska's total gross wages were \$41 billion. The maximum amount of contributions the department could collect under LB305 is \$205 million

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which is \$91 million less than the estimated cost of benefits the Department would pay per year once the program was fully implemented. Just based upon the benefits being paid and the contributions coming in, the Paid Family Medical Leave Insurance Fund would be underfunded at the end of fiscal year '20-21 by \$91 million. With the additional costs of administration and the requirements to repay the original \$4 million, it is anticipated that an additional \$4 million per year will...excuse me. With the addition of the \$4 million and \$800,000 payback per year for five years, the program would be operating at a roughly \$96 million deficit. Senator Crawford has addressed our issues about the implementation and that can be taken care of. The department's primary concern, again, is concern from an administrative standpoint based upon a review of the Rhode Island experience, that the program is sustainable at a tax rate of 0.5 percent as provided in LB305. Rhode Island, for example, imposes a 1.2 percent payroll tax rate to fund a similar program. Implementation dates can easily be adjusted to address administrative concerns, but the tax rate is a more fundamental issue. Finally, the department would note that LB305 proposes a \$200 million payroll tax increase on working Nebraskans and even that amount cannot sustain the costs of the program. With that, I would conclude my testimony and be happy to try and answer any questions you might have. [LB305]

SENATOR ALBRECHT: Thank you, Mr. Albin. Does anyone have any questions? Senator Howard. [LB305]

SENATOR HOWARD: Thank you, Senator Albrecht. Thank you for visiting with us today. This is the most I've ever heard about Rhode Island in a hearing. [LB305]

JOHN ALBIN: There aren't many states with a program, so you had to be kind of limited on your source that you can look at. [LB305]

SENATOR HOWARD: Absolutely. Can you tell me, is Senator Crawford's proposal an exact replica of Rhode Island's? [LB305]

JOHN ALBIN: They're not exact. And we try and point out in the tables that we...in the comparison we had where the differences are and where the differences aren't. [LB305]

SENATOR HOWARD: Can you highlight the differences for us? [LB305]

JOHN ALBIN: There are a lot--some of them minor, some of them not. Rhode Island requires an absolute seven days of unemployment before you can draw benefits; LB305 does not. Rhode Island does not cover military leave I don't believe. And one of the wild cards that's thrown in that that we had to look back on a lot was Rhode Island has varying leaves. It's only four weeks

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for care of a family member and it's up to 30 weeks on the medical side. So we had to kind of ignore that part of it and base our estimates on our part, on our wage records that we had. So those are some of the highlight differences. There are more, but... [LB305]

SENATOR HOWARD: So they're not quite apples to apples. [LB305]

JOHN ALBIN: It's not an absolute apples to apples. So we didn't just take Rhode Island and multiply by the difference in Nebraska's increase population. We tried to tie it back to covered work force and the amount of and the percentage of that covered work force that actually applied for benefits and then applied the tests and made the assumption at nine weeks, which is Rhode Island's average. [LB305]

SENATOR HOWARD: You know that a lot of this is very much out of my wheelhouse. [LB305]

JOHN ALBIN: And mine. [LB305]

SENATOR HOWARD: And so I'm hoping you can tell me a little bit about if LB305 passed, what the role of the Department of Labor would look like. [LB305]

JOHN ALBIN: Well, it would...the department has quite a role. One, we'd have to do a very fast build on the program. Most unemployment programs take about two to five years to build. We're talking even with Senator Crawford's amendment, we're talking about probably 22 months at a maximum. So that's a pretty fast build. However, with it being based upon the unemployment program, we can make that build faster. But there's a \$4 million build process and then once the program is up, we will have to collect the taxes. We'll have to create a separate fund to hold those taxes in. [LB305]

SENATOR HOWARD: When you say it's a \$4 million build process, what does that mean? [LB305]

JOHN ALBIN: That means that's the amount we believe we'll have to pay to contractors to build an IT system so that we can take claims because it's probably not sustainable, especially with a two-week first-payment requirements in the statute if you're doing a paper processing. [LB305]

SENATOR HOWARD: So it would be a completely separate system... [LB305]

JOHN ALBIN: Yes. [LB305]

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SENATOR HOWARD: ...unique from what you already have. [LB305]

JOHN ALBIN: Yes. [LB305]

SENATOR HOWARD: Okay. [LB305]

JOHN ALBIN: Although we're trying to borrow as much from the unemployment program as we can to keep the (inaudible) we have every employer's wage records now, so if we're using that and we'll have the individual's earning so we can use that to build the benefit determinations if and when someone files a claim. [LB305]

SENATOR HOWARD: And then...and I haven't read through the bill. So the Department of Labor is not a pass through for funds that come from the employer to an employee if they ask for benefit? [LB305]

JOHN ALBIN: That's correct. [LB305]

SENATOR HOWARD: Oh, they are? [LB305]

JOHN ALBIN: No, we're not a pass through. We'll create a fund similar in nature to our Unemployment Trust Fund. When the individual files a claim, the employers collect the tax for us through a payroll withholding similar to what they do with Department of Revenue on income tax. But the employers will pay us that tax rate, whatever it is, and that will go into a separate trust fund. And then when the individual applies for benefits, we will pay the benefits out of that trust fund under LB305. [LB305]

SENATOR HOWARD: How long does it take to set up a separate trust fund? [LB305]

JOHN ALBIN: That's part of that hopefully at least 22-month build process. I mean the mechanics of the fund itself, I mean, you work with fiscal and that's not the issue. The issue is setting up the system for collecting the tax because right now employers do not have any similar tax that they're paying to the department. They pay their rated tax on their unemployment, whereas this would basically be a flat withholding tax that they would have to pay separately and we'd have to make...we'd have to create a system so that when they hopefully can pay us with one check that we would be able to get the right amount over into the trust fund so that they aren't...so that we have the dollars segregated in the event the...when claims are filed under the bill. [LB305]

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SENATOR HOWARD: Okay. Thank you. [LB305]

SENATOR ALBRECHT: Do we have any other questions? Senator Hansen. [LB305]

SENATOR HANSEN: Thank you, Chairwoman Albrecht. Mr. Albin, so just to clarify, your opposition or hesitation to this bill is based upon fiscal sustainability? [LB305]

JOHN ALBIN: Yes. [LB305]

SENATOR HANSEN: So if we were somehow able to guarantee the funds were there either through adjusting the rate or finding another funding source, your opposition would... [LB305]

JOHN ALBIN: That would alleviate my concerns as an administrator, yes, because...you know, and the devil is always in the details with a new program. And it's all based upon actuarial projections which are all great, but just as by way of personal example, back in '94, the department had this independent retirement plan that we were told was fully funded for forever and ever so they stopped contributions. And then a decade later we found out we were \$29 million short and so nothing changed except for the actuarial projections that didn't turn out to be true. And when you have a hard cap of a tax, that can make it difficult because...and, you know, if we lean to our high that's because you really don't want me coming back here two years from now saying, oh by the way, you need to increase that tax to 3 percent because our projections were all the way the heck off. So you have to be fairly conservative in your projections just to create stability in the program. [LB305]

SENATOR HANSEN: Okay. So you would view your projections as conservative and that's kind of the concern is we're not being cautious enough to make sure it's funded in the future. [LB305]

JOHN ALBIN: Yeah, the Legislature now has one more actuary in it than I have in my department. So we don't have a lot of aid in creating all those actuarial assumptions and certainly no underwriting committees to look at that. [LB305]

SENATOR HANSEN: But then just again, one more time, so if we were able to solve that problem your opposition would fade away, correct? [LB305]

JOHN ALBIN: My administrative opposition would fall away. [LB305]

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SENATOR HANSEN: Is there something other than administrative opposition or are you referencing yourself as an individual citizen? [LB305]

JOHN ALBIN: I am representing...I am not the...I have to take my orders from pay grades higher than mine. And we haven't really discussed that issue with...so I don't want to put the Governor in a spot where one of his agency directors says, yeah, if you just fix that I'm good with it. Our concerns from day one have addressed the administrative side and so I just need to confine my remarks to that. [LB305]

SENATOR HANSEN: Perfect. I understand. I just wanted...I wasn't tracking. Thank you, Mr. Albin. Thank you, Chair. [LB305]

SENATOR ALBRECHT: Thank you, Senator Hansen. Senator Halloran. [LB305]

SENATOR HALLORAN: Thank you, Senator Albrecht. Thank you, Mr. Albin. What would the rate, in your estimation, have to be to make this sustainable? [LB305]

JOHN ALBIN: At our current projections, I didn't do the math on that. It would probably have to be somewhere between .75 percent and 1 percent would be my estimate. [LB305]

SENATOR HALLORAN: That's all I have. [LB305]

SENATOR ALBRECHT: Okay. Do we have any other questions? Thank you, Commissioner, for coming with your testimony. [LB305]

JOHN ALBIN: Thank you. [LB305]

SENATOR ALBRECHT: Do we have any other opponents wishing to speak? Just give me a few minutes here. Okay, go ahead. I'm sorry. It decided to lock up on us. So we have Mr. Schorr. [LB305]

MARK SCHORR: Thank you. Mark Schorr, S-c-h-o-r-r. I'm appearing today on behalf of the Nebraska Chamber of Commerce, the Omaha Chamber of Commerce, and the Lincoln Chamber of Commerce. I'm a private practice attorney with the firm of Erickson Sederstrom. I have specialized in labor and employment law for my entire career for over 30 years. Over the past 23 years since the inception of the Federal Family and Medical Leave Act, I have represented all types of interests on matters under the Family and Medical Leave Act, both employers and

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employees. And I am the editor of the Nebraska Employment Law Letter for business and labor resources here in Nebraska. The combined chambers of commerce recognize the issues involved in this bill but oppose any expansion of the employment law beyond what is currently provided in the federal FMLA which is the Family and Medical Leave Act that goes beyond those existing requirements. The FMLA has protected American workers since 1993 and guaranteed them various forms of family medical leave to care for family members or exigency leave for military service personnel since 1993. And we believe the FMLA provides excellent protection while also containing a number of reasonable requirements that outline the obligations of both employees and employers which are not contained in LB305. With all due respect to Senator Crawford, we understand her efforts here. But this bill is very vague, it's very incomplete, in our view, because it does not address a number of the issues that are addressed in the FMLA. It would also cover virtually all Nebraska employers including very small companies which we believe would have a very serious negative impact on small business in Nebraska including the literally thousands, tens and thousands of small independent businesses. There are very good reasons for the federal act covering only those employers with 50 or more employees and covering only those employees who have worked for 12 consecutive months and worked 1,250 hours and who are employed at a facility operated by the employer that employs 50 employees within a 75-mile radius. This is because of the serious negative impact that can occur if these types of mandated leaves are forced upon smaller independent businesses. Having key employees gone in a small business of, say, five to ten employees--and there are no limits listed in LB305--if an employer with only five to ten employees had three or four employees taking this mandatory paid leave, it could literally cripple that small company and cause it to have very serious problems in continuing to carry on normal business operations. Senator Crawford pointed out the high cost of hiring and training new employees and employers that are left with several employees on this type of leave, if they are a small company and unable to move people around like the larger employers covered by the federal act, those companies would have to incur considerable cost bringing in replacement employees just to continue to operate. We believe that LB305 also lacks structure and accountability. Under the federal FMLA, an employer must receive adequate medical certification of either the employee's serious medical condition that requires the leave or the serious medical condition of the family member which the employee wishes the leave to care for. LB305 does not address these issues in anywhere near the detail that the federal FMLA does and appears, in our opinion, to leave it up to the employee to determine whether an individual requires care or has a serious medical condition and that decision then apparently, as I read the bill, would be left to the Commissioner of Labor to determine if there was such a serious medical condition. Under the FMLA there are medical opinions submitted to the employer with all the appropriate forms that are required in the administration of the act. It also doesn't appear that there is any accountability in terms of whether the employee is actually spending a requisite number of hours to require them to be gone or actually spending sufficient time caring for the individual--again, not the accountability we see under the federal FMLA. Also, I want to point out that the federal act, leave under the FMLA is primarily paid leave in

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practice because the act provides for accrued paid time off to be substituted for the unpaid leave provided for in the FMLA. And I can tell you in my experience representing both employees and employers, the leave is primarily always paid. I don't see where LB305 addresses what will happen if an employee is taking paid leave from their employer under the FMLA or some other short-term disability program while also possibly receiving benefits under LB305 which could, in my opinion, constitute a bit of double-dipping there. I just don't see anything in LB305 that addresses that situation where somebody is getting paid leave under the federal FMLA and also getting this leave. I also believe LB305 lacks appropriate notice requirements. Under the federal act, we have serious issues with notice and when it's able to be given and I don't see that there are appropriate notice requirements included in LB305 as drafted. There are also a number of inconsistencies between LB305 and the federal FMLA which could lead to a lot of confusion. To cite just one example because we're limited on time today, LB305 contains only a very vague provision in Section 8(2) concerning continuation of health insurance benefits and having a covered individual pay their share the cost of such benefits. Under the federal FMLA there are very detailed provisions both in the statute and the regulations which outline how an individual can be required to pay their share of the employee contribution of the employer-provided group health insurance in the event the employee is not receiving paychecks or substituted paid leave. So in short, from my perspective as somebody who's worked extensively with the FMLA from all perspectives, LB305 is too vague and incomplete in a number of respects. And the combined chambers of commerce oppose the bill because we don't believe it is necessary and given the existing protections under the FMLA which are well balanced between employer obligations and the rights of the employee. And we think this would create confusion and conflicts. [LB305]

SENATOR ALBRECHT: Thank you [LB305]

MARK SCHORR: Madam Chair, I thank you and I'd be happy to answer any questions. [LB305]

SENATOR ALBRECHT: Do we have any questions of the senators? Senator Hansen. [LB305]

SENATOR HANSEN: Thank you, Chairwoman Albrecht, and thank you, it was Mr. Schorr, right? [LB305]

MARK SCHORR: Yes. [LB305]

SENATOR HANSEN: Thank you, Mr. Schorr. I have a couple questions. So I was following your testimony. So at the beginning you said your...the chambers are just kind of against any changes or expansions past the current federal FMLA? [LB305]

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MARK SCHORR: Yes, we believe when the state tries to mirror federal law and goes significantly beyond the requirements that it creates a lot of conflict. I've also outlined a number of defects we see in LB305. [LB305]

SENATOR HANSEN: Well, that's where I was trying to get to. So you said you kind of have standard, across-the-board opposition and so if there's any of these technical concerns that would be addressed, even if we addressed them, say, through a committee amendment, that would not decrease your opposition to the bill? And if you can't speak to that without going back I understand. [LB305]

MARK SCHORR: I think there are a number of reasons why we oppose it. And I don't want to get ahead of myself, but I'd like to speak a little more to that in my testimony on LB372. [LB305]

SENATOR HANSEN: Okay. And you kept referencing the federal FMLA. If you had to give a percentage, what percentage of employees are covered under that since you've worked in the area? [LB305]

MARK SCHORR: I think a lot. I think the majority of employees in America because there...I don't have the statistic right in front of me, but as I said, there's a reason why that only applies to certain size of employers, because of the negative impacts on small business when employees are gone making it very hard to continue operations when they're gone for that length of time. [LB305]

SENATOR HANSEN: And obviously that's a policy distinction that you have to balance the capabilities of different size employers. And I understand and appreciate that. But I mean we had a prior testifier who put the number of people covered by the federal FMLA as 40 percent of the nationwide work force. Is that a number you're disputing? [LB305]

MARK SCHORR: Yeah, I don't have the figures on the tip of tongue. But, yes, I'm not sure that's accurate. [LB305]

SENATOR HANSEN: Okay. So I guess that was my curiosity based on some of your testimony is we seem to have a consistent number of testifiers who talked about the federal FMLA was both primarily unpaid and didn't apply to many people. And you're coming in and essentially claiming the opposite, that is it primarily paid and primarily covers... [LB305]

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MARK SCHORR: Yes, because in the federal act itself it provides for substitution of accrued paid leave. And both the employer and the employee are advantaged by substituting that accrued paid leave. It's amazing how much accrued paid time off a number of employees have. And the employee is interested in using accrued paid time off so the time off under the FMLA to care for themselves or for the child, bonding with the child, most employers still have a maternity leave, in my opinion. But the employees want it to be paid and the employer want it to be paid because they don't want somebody to be gone for 12, or under the federal act up to 26 weeks, and then when it's time to come back and have their guaranteed job back have somebody say, well, I have another, you know, seven weeks of paid time off. And so the federal actually recognizes these interests of both the employee and the employer and provides for that substitution of the accumulated accrued paid time off for what is not mandated to be paid leave under the FMLA. [LB305]

SENATOR HANSEN: Okay, so in that sense they're using their paid time off during the mandated time, not necessarily mandated paid time under the FMLA. And that's an incentive to the employer because that limits the amount of time they can take off. Is that what you're arguing? [LB305]

MARK SCHORR: Yes, it's also an incentive to the employee. It's viewed as...I believe it's viewed as being in both parties' interests. [LB305]

SENATOR HANSEN: Is it in the best interest of the employee, or is it the best option the employee currently has available to them, if you had to pick between those two categories? [LB305]

MARK SCHORR: I'd have to talk to each and every employee as to whether they viewed their individual situation. If you look at the legislative history of the FMLA, I believe the notion was that that was a workable solution in the best interests of both employers and employees. [LB305]

SENATOR HANSEN: Okay. I appreciate your perspective, Mr. Schorr. Thanks for coming down. Thank you, Chair. [LB305]

SENATOR ALBRECHT: Senator Crawford. [LB305]

SENATOR HOWARD: Thank you. I'm Senator Howard. [LB305]

SENATOR ALBRECHT: Howard. I always get you two messed up. Sorry. [LB305]

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SENATOR HOWARD: It's okay. It's flattering to be considered Senator Crawford. I apologize for having to step out. I missed a portion of your testimony and I don't think I got a copy of your testimony. [LB305]

MARK SCHORR: I didn't write out copied testimony. [LB305]

SENATOR HOWARD: Oh, okay. That's fine. [LB305]

MARK SCHORR: But if you want I can send a copy of my talking points and bullet outline to your office. [LB305]

SENATOR HOWARD: That would be really helpful. The part that I did catch was that you noted that there's no proof that people are actually caregiving or taking care of their baby or their loved one. Can you tell me how we would be able to provide proof? [LB305]

MARK SCHORR: Well, there's...under the FMLA there's medical certification that must be provided to the employer and updated throughout the FMLA leave from the primary care physician for either the employee or the employee's family member for whom they are taking time off to provide necessary care. That medical certification is required to be sent before the FMLA leave is approved for these purposes and it is required to be updated. And if the need for the FMLA leave to care for a family member or somebody who stands in the stead as a family member, if that leave is required to be intermittent meaning the employee has to come and go, then that is all in the certification paperwork provided to the employer in connection with the requested approval of the leave for that purpose. [LB305]

SENATOR HOWARD: And so her...this piece of legislation doesn't require any type of certification? [LB305]

MARK SCHORR: I don't see anything that closely resembles what we have seen be a very workable solution under the FMLA for 23 years now. It says that the employee notifies the Commissioner of Labor and then the Commissioner of Labor notifies the employer. Under the FMLA, the employee is required to give advanced notice if practicable. Obviously if the employee is in a serious auto accident the duty is on the employer to effectuate the approved leave without receiving that initial paperwork. But eventually all of that medical certification paperwork is provided to the employer in connection with the approved leave. And it also opines from the medical providers the extent of the leave necessary, the length of the leave necessary, and the reasons for the leave. [LB305]

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SENATOR HOWARD: Okay. Thank you. [LB305]

SENATOR ALBRECHT: Thank you. Senator Chambers. Welcome. [LB305]

SENATOR CHAMBERS: It's good to be here. [LB305]

SENATOR ALBRECHT: We missed you. Thank you. [LB305]

SENATOR CHAMBERS: When the...I like the name Federal Medical Leave Act. Family is something that that word conveys a certain image to me as it does to most people. Medical conveys, to my mind, a situation in America where many people are not able to afford or access medical attention, medical care, which is available based on the advances made in medicine. So when I put the two together, family medical, I think mainly of families who are not able to procure the medical attention that they need. Now when this original federal Family and Medical Leave Act was being considered, the National Chamber of Commerce opposed it, didn't they? [LB305]

MARK SCHORR: I'm not...I don't know, Senator. [LB305]

SENATOR CHAMBERS: But it wouldn't surprise you if they did because they generally oppose these kinds of bills that might benefit employees, don't they? [LB305]

MARK SCHORR: I'd have to go back and check. [LB305]

SENATOR CHAMBERS: Well, let's keep...how long have you been a lobbyist for the local chambers? [LB305]

MARK SCHORR: I'm not a lobbyist, sir. [LB305]

SENATOR CHAMBERS: You represent them as an attorney. [LB305]

MARK SCHORR: No, I am a member of the labor relations council of the State Chamber of Commerce and Industry. I'm a member of the Lincoln Chamber of Commerce. But I was only asked to testify on the combined chambers because of my expertise in the area. [LB305]

SENATOR CHAMBERS: But you are speaking on behalf of the Chamber of Commerce. [LB305]

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MARK SCHORR: Yes, I am. [LB305]

SENATOR CHAMBERS: So you have some awareness. How long have you been with this council of which you're a member? [LB305]

MARK SCHORR: I believe since sometime in the 1980s. I started practicing in the early 1980s. [LB305]

SENATOR CHAMBERS: You don't look your age--that's not meant to flatter or anything else--when you said you'd been practicing 30 years. [LB305]

MARK SCHORR: Yes, I turn 60 this year but I really appreciate you don't think I look it. (Laugh) [LB305]

SENATOR CHAMBERS: I think you're lying. (Laughter) Let me regain my balance. Did you ever...you've heard of Oscar Wilde, haven't you, the writer? Have you? He wrote a short novel called The Picture of Dorian Gray. Dorian Gray was an individual who liked the good life. And this novel was based on an artist having the ability to sculpt an image or paint an image and it would take on life. So when he did the picture or portrait of Dorian Gray, the portrait aged but Dorian Gray never did. And Dorian Gray lived a life of dissipation, mistreatment of people. And the portrait got uglier and uglier. Every wrong that Dorian Gray did was etched on the face of that portrait. And nobody who knew Dorian Gray could understand why he seemed to live like he lived and still look so youthful. Here's my question to you. The fact that you hesitated when I asked had you heard of Oscar Wilde, then I didn't get any definitive answer as to whether you had heard of The Picture of Dorian Gray, does your house have an attic in it? [LB305]

MARK SCHORR: I think there's a crawlspace if I go up through a... [LB305]

SENATOR CHAMBERS: Is there a picture or portrait in that area? [LB305]

MARK SCHORR: No, I think there's just insulation. [LB305]

SENATOR CHAMBERS: I think he's got a portrait that is aging while he remains young. I wanted to put you at ease to let you know I'm not your opponent or your enemy, but you have the expertise because of the work you've done. Are you aware of the chambers of commerce ever supporting an increase in the minimum wage or have they always, when they took a position, opposed such an act? [LB305]

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MARK SCHORR: I'm a member of the local Chamber and the State Chamber. I have not looked at the positions they've taken on every single minimum wage. [LB305]

SENATOR CHAMBERS: But you're familiar of what their general approach is and the types of issues they support and the types of issues they oppose. [LB305]

MARK SCHORR: Yes, yes. [LB305]

SENATOR CHAMBERS: Have you ever seen a businessperson favor any position that may have taken some money or profit out of that businessperson's pocket in general? [LB305]

MARK SCHORR: Probably not, but I think they also look at job creation and preservation of jobs. [LB305]

SENATOR CHAMBERS: Well, you're sounding now like that so-called President in Washington--everything comes back to job creation, but jobs are not created. Businesspeople talk about doing that and they get handouts from states but they don't deliver. And the only penalty, if there is any, is that they stop getting the handouts. But is there any form...who asked you to come testify today, the Chambers of Commerce? [LB305]

MARK SCHORR: Yes. [LB305]

SENATOR CHAMBERS: Is there any form that this bill or a bill like this could take where this type of leave would be involved that the Chambers would support, in your opinion? [LB305]

MARK SCHORR: I think if it tracked the legislation...it's designed, it references the Family and Medical Leave Act in the U.S. Code in certain provisions of the bill. I think if it more closely tracked that and didn't contain some of the defects that are that are readily apparent, I think if it was more like the federal Family and Medical Leave Act I don't think you would see a lot of opposition because people have been working very well within the federal act since 1993 in most businesses. [LB305]

SENATOR CHAMBERS: In a sense you can say lack of overt opposition is the same as being in favor or support, but I don't see it that way. Do you think they would come and actively support a proposal such as that that you've described? [LB305]

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MARK SCHORR: I would have to go refer that to the board of directors of the various Chambers. [LB305]

SENATOR CHAMBERS: As wise as you are, as intelligent as you are, and with the experience that you've had, I think you know as well as I do and probably even better that they would never support legislation of this kind. [LB305]

MARK SCHORR: I don't think they've ever opposed legislation which mirrors the federal statutes that the state statutes are designed to be the state counterpart of that existing... [LB305]

SENATOR CHAMBERS: Would they support it? [LB305]

MARK SCHORR: I don't have authority to speak for the board of directors of either of those... [LB305]

SENATOR CHAMBERS: But I'm asking for your opinion, not the authority they gave you. [LB305]

MARK SCHORR: If it mirrored the federal act, I think it's possible. [LB305]

SENATOR CHAMBERS: You mean it would have to track it in detail or that would be a template that would be modified to meet specific state circumstances, because one size does not fit all and not all fit into one size container? [LB305]

MARK SCHORR: Right, and if we pass this law we'll be one of only four states. There have been other states that have passed similar legislation and then backed it...then retrench such as Washington and then come in and not gone forward with it because they saw the problems with it and the problems with trying to work with the interrelationship with the federal act that's similar. [LB305]

SENATOR CHAMBERS: But I think you can probably say--this could be your opinion or what you think their opinion would be--the underlying idea and policy behind this legislation is not what is being opposed by the Chambers, or is it? [LB305]

MARK SCHORR: Well, I think requiring small independent businesses with two or three employees to be subject to this law will be very damaging to small businesses, particularly in the rural parts of the state... [LB305]

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SENATOR CHAMBERS: Well, let's not look at the number. [LB305]

MARK SCHORR: ...where there are not as many replacement employees available. [LB305]

SENATOR CHAMBERS: I'm trying not to get at the societal policy that would drive this kind of legislation. Forget about the specific details, but the idea of this kind of leave program. Do you understand why there are those in office who would favor this kind of program considering the circumstances under which people work and having families? [LB305]

MARK SCHORR: Yes, I do, Senator Chambers. [LB305]

SENATOR CHAMBERS: Okay. That's all I have. Thank you, "Dorian"...I mean... [LB305]

SENATOR ALBRECHT: Thank you for your time. I think we're finished with questions. [LB305]

MARK SCHORR: Thank you all. [LB305]

SENATOR ALBRECHT: Do we have any other opponents wishing to speak to LB305? I'm sorry, go ahead and start, Mr. Hallstrom. [LB305]

ROBERT HALLSTROM: (Exhibits 18 and 19) Chairman Albrecht, 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 a registered lobbyist for the National Federation of Independent Business to testify in opposition to LB305. I have also distributed a letter on behalf of the Nebraska Retail Federation and the Nebraska Restaurant Association in opposition to the bill. Even though employers are not responsible for funding the leave authorized under LB305, the legislation will significantly impact productivity in the operations of small businesses. Employers impacted by employees taking leave will either need to hire temporary employee or replacement worker which is a costly and ineffective remedy, or take up the slack by granting existing employees a fewer vacation days or by requiring them to work mandatory overtime, also significantly increasing costs for employers. Family and medical leave is not an essential benefit or even useful to many workers. If you look at the government mandate that's imposed under LB305, that will represent or present an economic hardship for many small Nebraska employers, would impose the cost of the program on many employees who do not desire the benefit and would expand the mandate to cover a significant number of small Nebraska employers who are not presently subject to the family and medical leave under federal law. Mr. Schorr commented on some of the policy background regarding why the federal law does not apply to employers with fewer than 50 employees. And

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that is the reason that LB305 is particularly objectionable to small business owner members of NFIB. I'd be happy to address any questions of the committee. [LB305]

SENATOR ALBRECHT: Thank you. Senator Chambers, go ahead. [LB305]

SENATOR CHAMBERS: I'm probably the oldest person in this room. And when you live long enough to hold that position, there's certain prerogatives you exercise. And people just say well that's the way old people do. So for whatever reason people would conclude that, I don't mind. But here's what I notice. The dynamics or the interactions between and among people in most instances where I have ever seen male and female interacting in a professional way, the male is always in charge. So although it wasn't by design, I don't know what cockles are but it wouldn't matter since I don't have a heart anyway, but people talk about warming the cockles of their heart. So I assume that means it's something that makes them feel good. So when I can see a man or men made to wait by a woman for any reason I think it's a movement in the right direction. And sometimes it might be good for men to take pause and see the shoe, no matter how loosely it fits or for how short a period of time, it changes feet. And the man occupies the position that the woman usually is in, give it some thought and see that the world does not come to an end. Nobody is hurt by it. It's like saying what has been on my side of the plate to eat all the time, I'm simply turning the plate around and if it's all right for me to eat it, then you eat it too. I enjoy watching you, by way of my peripheral vision, wait and wait, both hands on the table, fingers interlaced, wondering at what point I'm going to be given permission to deliver my message. But you always had a pleasant look on your face. So it didn't hurt anybody but it did me a lot of good. And since you are representing the group that you represent and I'm kind of familiar with their positions, I'm not going to take you to the questions that I took "Dorian Gray" through. But I will say this. I don't think you have a portrait in your attic just like I don't have one in mine. [LB305]

ROBERT HALLSTROM: Well, I am older than Mr. Schorr, by the way, so. [LB305]

SENATOR CHAMBERS: Okay. [LB305]

ROBERT HALLSTROM: And I hope I was...I hope I was patiently in waiting. [LB305]

SENATOR CHAMBERS: You're older than 60, seriously? [LB305]

ROBERT HALLSTROM: Yes, I am. [LB305]

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SENATOR CHAMBERS: Well, now I've been around him awhile. I didn't know that. I thought he was about 80. (Laughter) That's how we get along. He thought I was 120. He said I reminded him of Moses. Moses spent the first 20 years in Egypt. He spent the next 20 on the backside of the desert, as the "Bibble" said, which made him 80. Then he spent the last 20 years of his life leading the children of Israel. Three times 40, 40 of his years; 40 here, 40 there, and 40 on the end; 120 years. I'm not quite that old yet but I'm going to make it. [LB305]

ROBERT HALLSTROM: Thank you, Senator. [LB305]

SENATOR ALBRECHT: I'm sure you will. [LB305]

ROBERT HALLSTROM: Thank you. [LB305]

SENATOR ALBRECHT: Thank you. Okay, do we have any other opponents wishing to speak? Any other opponents on LB305? Seeing none, anyone in a neutral capacity that would like to speak to LB305? Anyone in a neutral capacity? Seeing none, do we have any letters? Okay, so...okay, we'll let you close first and then I'll go through all the letters. [LB305]

SENATOR CRAWFORD: Oh, no, you can do the letters. That's fine. [LB305]

SENATOR ALBRECHT: No, no. Go right ahead. Go right ahead. Senator Crawford to close. [LB305]

SENATOR CRAWFORD: Okay. All right. Thank you, committee members, and I appreciate your attention to all of our testifiers and your good questions and considerations. And going to not respond to every single one of the concerns raised, but I do want to just echo a few of the themes that we've heard...you have heard from several of our testifiers. There are gaps in the current system. And you've heard really about the income consequences of that for women and other family members and the importance of providing leave and the benefits that we've seen in states that have stepped forward to provide this leave. I think, consistent with Senator Chambers' line of questioning, it has been the case in those states that have paid leave that at the time it was proposed the business leaders were opposed to it. But now we see in the results in those states that it provides benefits to those businesses as well. And I think that's similar to what we would often find is that opposition to the paid family leave at the outset but then support for it when you see the consequences that it can provide in terms of reduced turnover and productivity for your work force. Just speaking to Commissioner Albin's concerns about sustainability, given the fiscal note it appears that the contribution rate that would be required under their estimates for sustainability would be a .75 percent contribution rate and that's about \$6.12 a week. So if it

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were as extensive as those estimates in terms of it being the case that really this replaced all of our disability coverage and the caregiving, that would still be possible to do that for around the average of \$6 a week, that .75 percent rate, and 1 percent if we were to say something...less than 1 percent is about \$8 a week, so just to give you a sense of what those jumps would be if we were to, say, work to make it sustainable by deciding to increase that cap on the contributions. And as he noted that the shift in terms of dates is perfectly easily easy to do and doable. So in terms of coming back to the who is covered and who already has FMLA coverage and mirroring the statute closer to FMLA, I generally don't hear business interests ask for more detailed regulation. But it is the case that we were...we are trying to be attentive to mirroring the sort of basic outline along the same lines as FMLA. But it is true that it expands beyond that. And as you heard testimony, currently Federal Medical Leave Act it's unpaid leave. Really it's only in cases where there are 50 or more employees and there are some other restrictions. So there are a lot of employees that aren't covered by that; that one estimate is the 40 percent who aren't covered. And those individuals who do have FMLA coverage in those larger businesses, some of them may have paid time off to use and to coincide with their unpaid leave. This would be paid time off in terms of sick leave or vacation leave. But we know from...we know that at least 25 percent, estimates around 25 percent of our employees have no paid leave at all, all right, so there are a lot of employees who aren't able to work out those kinds of arrangements. We do in the bill really allow the Commissioner to establish those...the proof of the health condition and allow those rules and regulations to be laid out, specified in detail in our rules and regulation process, which is generally a common process when you have something that you may want to have certain forms and detailed regulations to allow that to be laid out in the rules and regulation process, whereas the bill itself lays out the basic parameters of what we're expecting to be covered. And that is part of the reason that all of those details that are in FMLA regulations are not repeated in the bill because the bill is laying out the guidelines in which the forms and regulations will be created in the rules and regulation process. There are provisions in the bill though to require coordination of the different types of leave that can be required. Someone was concerned about double-dipping. There are provisions to protect against that in the bill. And the bill does ask for a notice in terms of intermittent leave so that the employer and employee can work together to plan what that intermittent leave might look like. Intermittent leave is when you take your leave over time. The bill right now just requires the employee to give the notice to the Department of Labor when they're taking leave. But we have had conversations and earlier drafts have had leave notices in them. And so if that's an issue that is of concern, we're happy to work on that and put some kind of notice in if that's something that would be important in terms of moving the bill forward. So overall, it's sustainable and doable with some changes in the bill and I'm happy to work on those changes with members who are interested. It again has...there aren't very many states that have done it and there...we would be one...we would be the first state to do it in a state that already has some disability leave, so we are charting new ground here. But it's...we're Nebraska. We can be pioneers. So I think it is an important...as one of the testifiers noted, it's an important bill that would touch families all across the state and improve our

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business climate in terms of also providing an opportunity really for businesses of all sizes to help have benefits that allow their employees to take care of their family members. Right now it's really only larger...often larger businesses that can afford to do...provide this kind of leave. So I'm happy to work with committee members and I hope you would be willing to work with me to advance paid family medical leave in the state of Nebraska. Thank you. [LB305]

SENATOR ALBRECHT: Do we have any questions? Thank you, Senator Crawford. Senator Halloran. [LB305]

SENATOR HALLORAN: Senator Albrecht. Thank you, Senator Crawford. Would it be...and this is a newbie speaking so if I sometimes ask questions that are completely unorthodox, it's because I'm unorthodox I guess. But would it be inappropriate for you to work, say, with Mr. Schorr directly or with someone outside the committee? [LB305]

SENATOR CRAWFORD: Oh, no. That's common to work with stakeholders and I'm happy to have a conversation if there are specific suggestions that he has that he would like to see in terms of moving forward. [LB305]

SENATOR HALLORAN: I would encourage that. I mean part of the...one of the parts that troubles me is the lack of clarity on medical certifying whether or not there is indeed a medical purpose for the leave. That seems quite open ended. And I understand someone is going to put the regulations together. [LB305]

SENATOR CRAWFORD: Right. [LB305]

SENATOR HALLORAN: Thus the origin of the phrase the devil is in the details. And I'm sure how much authority we'll have to come back later once those regulations are in place to scrutinize those. [LB305]

SENATOR CRAWFORD: Right. Well the regulation process is a public process so the proposed regulations would be made public. We and businesses, anyone else propose comments in that period to try to shape those as they were developed. [LB305]

SENATOR HALLORAN: Thank you. [LB305]

SENATOR ALBRECHT: Any other questions? [LB305]

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SENATOR CRAWFORD: It is also the case that this is only partial wage replacement. So that I think is another factor that will limit the incentives for someone to take leave when it's not necessary, because it is partial wage replacement and it's like two-thirds of the median wage. So it will be a sacrifice for someone to take this. I think we would be more concerned about stringency and requirements if someone got their full wage because they would not be making that sacrifice. I mean we're asking...it is an important benefit to help families make that sacrifice, but we are still asking families to make a pretty...many families will be making a sizeable sacrifice in terms of being able to get this partial wage replacement. And so they'll have to think carefully about whether they can afford that and would not have an incentive to take it frivolously because it's a partial wage replacement. [LB305]

SENATOR ALBRECHT: Any other questions? If not, I have one. You you talked about disability. So people can purchase disability policy, correct, if they foresee whatever they're planning for in their lifetime or if they want to make sure that they don't use both incomes if there was an accident or something like that. How would that disability play into this? [LB305]

SENATOR CRAWFORD: So as I see it, the state paid family medical leave insurance coverage is something that would benefit...it would likely be used by those who don't have disability coverage. I think some people have disability benefits from their employer and that's likely to be more generous than this existing policy. And so there...and we can clarify that the statute that you must use the existing disability coverage before using the state or other language to make that relationship between those two elements clearer. So they're there, but not all employees have that either. So there are employees who don't have that opportunity to have that disability... [LB305]

SENATOR ALBRECHT: Right. And I know that we had a lot of testimony here, but is there an actual like number of women that do stay home longer than...I mean it's one thing if you have a child that has some challenges at home and/or if the mother had during her pregnancy or whatever. But there are any actual numbers of how many women actually would stay home longer than what the FMLA would account for or are you asking for even longer? [LB305]

SENATOR CRAWFORD: Well, just to clarify on the Federal Medical Leave Act is unpaid leave. So the number of weeks we have in our policy is similar to the federal number of weeks, 12 weeks. But federal policy, it's unpaid. It's just saying you're... [LB305]

SENATOR ALBRECHT: It's unpaid. You have a job to go back to. [LB305]

SENATOR CRAWFORD: Right. [LB305]

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SENATOR ALBRECHT: But with your plan they would be getting so much money... [LB305]

SENATOR CRAWFORD: Some partial wage replacement while you are gone. [LB305]

SENATOR ALBRECHT: So is there anything out there? Like in the state of Nebraska how many women take longer than that to...? [LB305]

SENATOR CRAWFORD: Than the...well, so this would still be the same 12-week period. [LB305]

SENATOR ALBRECHT: Just 12 weeks. [LB305]

SENATOR CRAWFORD: Right. [LB305]

SENATOR ALBRECHT: I'm wondering how many actually stay home that whole time. [LB305]

SENATOR CRAWFORD: So I don't have those numbers with me. Now what...there are...we could look to see in those companies that provide paid family leave or could look for numbers in terms of how many women use less than 12 weeks because I think that's something that happens as well. [LB305]

SENATOR ALBRECHT: And I do know, too, if somebody does have someone home that is ill whether it's a family member or a parent or whatever it may be, you know, sometimes that could take a lot longer than that period of time. So do they still collect until they realize that, hey, we're just going to quit the job because I need to stay home permanently? [LB305]

SENATOR CRAWFORD: So the bill does have...it does have those restrictions and limits in it. And for someone who...someone in your family who needs care, it is six weeks. And so it is the case that if the situation is more serious than you can handle with the six weeks of leave then you've got to have that hard conversation and figure out another alternative. But the idea behind the bill is that there are many situations where you might be able to take care of the situation in six weeks, or perhaps you can take care of six weeks of the situation and a spouse or someone else can take care of six weeks of the situation to try to figure out a way that the family together can help this person who needs your help. [LB305]

SENATOR ALBRECHT: I appreciate your time. [LB305]

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SENATOR CRAWFORD: Thank you. [LB305]

SENATOR ALBRECHT: Do you have anything else? [LB305]

SENATOR CRAWFORD: No, I don't think so. Again, I think there are things...ways that we can make the bill sustainable. I'm happy to work on other clarity issues that may be required and look forward to working with you. Thanks. [LB305]

SENATOR ALBRECHT: Thank you. (Exhibits 20-34) Well, we can...oh, let me read into the record. How many...we have a few proponents. Sabra Moon, a teacher from Pinewood Elementary is a proponent; Colleen Chiacchere, a teacher from Creighton University--I hope I'm not really messing those names up--Patricia Wilderman, I'm not sure, it's just a personal one; Julia Feder, assistant professor at Creighton University; Katie Thalken; Allison Harlow; Ellie Dorchuck, college student at Creighton University; Jennifer Furze, associate professor at Creighton University; Norma C., just a self letter; Ann Seacrest, executive director of MilkWorks; Dustin Jennings, just a personal one from Omaha; Mary Bahney, LCSW, National Association of Social Workers, Nebraska Advocacy; and the ACLU of Nebraska. And those were all proponents. The opponents that we had letters from were the Lincoln Independent Business Association, opposed; and Mikki Frost, city of Omaha human resources director, opposes. So that's the end of LB305. And now we have Senator Crawford with LB372. [LB305]

SENATOR CRAWFORD: Good afternoon, Chairman Albrecht and fellow members of the Business and Labor Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I'm honored to be here today to introduce LB372 for your consideration. Over the past couple of years, I've become more aware of the incredible sacrifice that so many of our fellow Nebraskans make to take care of family members and the vast amount of care that these unpaid caregivers provide. A 2015 survey conducted by AARP found that approximately 51 percent of Nebraskans surveyed have acted as unpaid caregiver to a loved one at some point in their life and 17 percent were currently providing unpaid care. Despite the demanding nature of caregiving, many of these unpaid caregivers rely on a job to provide them with both income and the means to financially support their loved ones, especially since 59 percent reported using their own money to help provide this care. In fact 60 percent of those providing care reported having been employed either part time or full time while providing this care, with 73 percent reporting they had to go to work early or late or take time off while providing this care. Caregivers in Nebraska play a vital role in ensuring that our older population can continue to live at home longer. In fact, 85 percent of the caregivers surveyed reported that their care was very important in ensuring that their loved one would continue to live independently. As noted earlier, these caregivers also provide important financial support to aging Nebraskans. It is critical that we provide workplace

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protections for these unpaid caregivers and make sure that they cannot be discriminated against in the workplace because of their role as a caregiver. The same protection should also be in place for those providing ongoing care to a spouse, child, or a loved one. LB372 creates protections for caregivers by adding family care responsibilities as a protected class under the Nebraska Fair Employment Practice Act. This is addition to the act safeguards the rights of all these caregivers to obtain and hold employment without discrimination because of their family caregiving responsibilities. LB372 clarifies it is unlawful employment practice for an employer to fail or refuse to hire, to discharge, or to harass any individual because such individual's family care responsibilities. LB372 does not require employees to provide time off or make accommodations. It simply assures the family caregivers get a fair shot at getting and keeping a job. Family caregivers continue to stimulate Nebraska's work force and economy through their work while providing direct and ongoing care and financial support to Nebraskans with serious illnesses and disabilities. LB372 is an important step to ensure that caregivers in Nebraska are safe from workplace discrimination. This can also save the state money because family caregivers help our neighbors stay in their homes so we avoid medical or financial assistance to families for out-of-home services. Following my testimony, you'll hear from Nebraska Caregivers Association, AARP, and some caregivers themselves who will share why this legislation is so important to them for our state...and for our state. I appreciate the committee's time and attention to this issue and I'm happy to answer any questions that I can. [LB372]

SENATOR ALBRECHT: Do we have any questions at this time for Senator Crawford on LB372? Seeing none, we'll open the testimony. Do we have any proponents wishing to speak? Okay, go ahead, Ms. Reece. [LB372]

KAITLIN REECE: (Exhibit 1) Thank you. Good afternoon again, Chairwoman Albrecht and members of the Business and Labor Committee. Again for the record, my name is Kaitlin Reece, K-a-i-t-l-i-n R-e-e-c-e. I am the policy coordinator for economic stability and health at Voices for Children in Nebraska. Nebraska workers balancing careers and families need support from their workplaces. Sadly, discrimination against family caregivers happens and there are few protections in federal or state law to protect workers. Working mothers are particularly vulnerable; however, family responsibilities discrimination can happen to any caregiver. Currently, most workers have to show the discrimination they faced fits into other categories such as gender or association with someone who has a disability, which can be shaky legal ground at best. The federal Family and Medical Leave Act of 1994 provides legal protections for some family caregivers; however, employees must qualify for FMLA which means they have to work in a job site that employs at least 50 workers in a 50-mile radius. In a state like Nebraska where almost half of our work force works at jobs with less than 50 employees according to the Nebraska Department of Labor, many workers, particularly low-income or rural workers, are not protected by FMLA job protections. These low-income workers are among some of the most vulnerable, facing overwhelming demands at work and at home. These workers are less likely to

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have predictable schedules and have limited ability to set their own schedules or take time off work when they or a family member are sick. Almost 60 percent of low-income workers did not have a say over when their work day begins or ends and only 23 percent of the lowest-wage workers have paid sick days. This number shrinks to 11 percent if the worker is...can be able to take time off to care for a sick child. Therefore, the likelihood that family caregiving responsibilities and work responsibilities will collide is high. Voices for Children in Nebraska supports LB372 because it supports families, particularly when they are experiencing a high amount of family and work conflict, and protects them from discrimination. Alaska, Minnesota, New York, the District of Columbia, and over 60 political subdivisions provide protections for family caregivers like this bill. We hope that the Business and Labor Committee will strongly consider making Nebraska the next state to offer this important protection for working families. Thank you. I'm happy to answer any questions. [LB372]

SENATOR ALBRECHT: Thank you. Do we have any questions for Ms. Reece? Seeing none, thank you for your testimony. [LB372]

KAITLIN REECE: Thanks. [LB372]

SENATOR ALBRECHT: Do we have any other proponents that would like to speak? Ms. Campbell, go ahead. [LB372]

SUSAN CAMPBELL: My name is Susan Campbell, S-u-s-a-n C-a-m-p-b-e-l-l, and I'm here basically just as me. I'm a volunteer in several capacities. I'm cochair of the Nebraska Caregiver Coalition and our mission is to support and advocate for caregivers across the state and this is one way we can do that. Senator Crawford has been very supportive of caregivers and we appreciate that. I worked for 28 years for Aging Partners. And my husband was ill the last 16 years of his life so I have walked the path of a caregiver and know what it can be like. I was able to take time off. I worked the last...the first 13 years. I had to quit for the last three years of his illness. But it is so important that...I talked to...I also facilitate a caregiver meeting at Saint Paul United Methodist Church once a month in support of caregivers and I talk to a lot of caregivers. I remember one lady saying that her husband had a stroke and that she needed to take time off to care for him but she was told if she missed three days she'd be fired. And she was not allowed to take that time off. I think of another young man that his mother was in an automobile accident and seriously ill and after she came from the hospital and there was no one to care for her and she needed care. They could not afford to hire someone so he had to take time off from work and he was in serious jeopardy of losing his job. He had to leave her alone and depend on neighbors. And this is in a small community, so we kind of take care of our own. But so people did help. But it is so important because if you aren't a caregiver, haven't been a caregiver, you will be. We need to take care of our caregivers and assure that when they do take time off and hopefully the

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other bill will advance and be passed, too, that they do have the assurance that they can take care of their loved one, but also that they'll have a job to come back to and won't be harassed about taking time off. So like I said, I'm just a volunteer, but I've walked the path so I know what it's like. So thank you very much. [LB372]

SENATOR ALBRECHT: And thank you for your testimony. You're not just a volunteer. You do a lot for that organization. I remember hearing your story. So thank you for being here. Do we have any other questions of Ms. Campbell? Thank you for your time. [LB372]

SUSAN CAMPBELL: Thank you. [LB372]

SENATOR ALBRECHT: Do we have any other proponents? Mr. Freeman, do you want to go ahead? [LB372]

CLAYTON FREEMAN: (Exhibit 2) Thank you. Thank you, Senators. My name is Clayton Freeman, C-l-a-y-t-o-n F-r-e-e-m-a-n. I'm the director of programs and public policy for the Alzheimer's Association. The cost of caring for a relative or friend with Alzheimer's disease or another dementia can have striking effects on a household. These costs can jeopardize the ability to buy food, leading to food insecurity and increasing the risk of poor nutrition and hunger. In addition, the costs can make it more difficult for individuals and families to maintain their own health and financial security. It's one of the most expensive diseases in America. Alzheimer's disease poses huge financial struggles for families. Currently, 81,000 caregivers in Nebraska provide 92 million hours of unpaid care for the 33,000 Nebraskans living with Alzheimer's disease. The Alzheimer's Workplace Alliance works strongly with companies to help them understand the challenges caregivers have in struggling with balancing caregiving for a person who needs around-the-clock care and also working. Caregivers typically spend 20 to 20-plus hours each week caring for a person and many consider this another part time job on itself; 73 percent of caregivers work. I can tell you, as I mentioned earlier, that so many of our caregivers come to our financial workshops that we do on how to pay for Alzheimer's care. And it's striking on how worried they are about it. I also want to let you know that there are so many individuals now under the age of 65 with Alzheimer's disease who have this disease and now their spouses have to go back to work or having to add more work on. So the diseases is, as I said, expensive. It's affecting 33,000 Nebraskans, up to 44,000 by 2025 and is the sixth leading cause of death in this state. So for those families that need to work but also need to balance caring for someone with a disease that can, as I said, go eight to ten years and more, it's a huge struggle for them. So the Alzheimer's Association Nebraska Chapter supports LB372 that creates protections for caregivers by adding family care responsibilities as a protected class under the Nebraska Fair Employment Practice Act. [LB372]

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SENATOR ALBRECHT: Thank you. Senator Chambers, you have a question. [LB372]

SENATOR CHAMBERS: From your experience have you...I'm sure you have, do you find that people who do care for a person who Alzheimer's, it's more draining than if they're dealing with somebody who has merely a physical ailment, no matter how severe the physical because you see that person slowly slipping away? They recognize you sometimes; other times they don't. There can be hostility, then it's though they're reaching back to an earlier time and they see you as somebody from that time and they make very hostile statements toward you not realizing that you are you, but you to them will be somebody else. Then that will pass and you never know for sure when that may happen so if you have not...if you have not known people who provide care to those with Alzheimer's or you haven't provided the care yourself, it's difficult to comprehend how tough a situation that is. So I don't like to compare and make one person who is doing great work less noble than another. But there are some areas where I think it takes a whole lot more to just hold on, have that staying power, continue to provide that care so if there's anything that can be done to lighten the load for those people, I think it should be done. So I'm especially appreciative of the fact that you're here today. [LB372]

CLAYTON FREEMAN: Well, thank you, Senator, and I agree with what you said. It is perhaps the most difficult caregiving job there is. And I certainly don't want to ever say other caregivers aren't working hard. But the education that people need in order to understand working for person with...they need more education. They have to understand more about the disease. So it makes it very difficult for them. And as you said, it can be a long...as Nancy Reagan said, it's the long goodbye. And so it can be very difficult. So I appreciate your thoughts, Senator. Thank you. [LB372]

SENATOR CHAMBERS: I just want you to know that I know what you all are doing and I appreciate it. [LB372]

CLAYTON FREEMAN: Thank you very much. [LB372]

SENATOR ALBRECHT: Thank you, Senator Chambers. Any other questions? Well, thank you, Mr. Freeman. [LB372]

CLAYTON FREEMAN: Thank you very much. [LB372]

SENATOR ALBRECHT: Any other proponents wishing to speak? Go ahead and start. Thank you. [LB372]

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OMAID ZABIH: (Exhibit 3) Thank you. Good afternoon. My name is Omaid Zabih; that's spelled O-m-a-i-d, last name is spelled Z-a-b-i-h. I'm a staff attorney for Nebraska Appleseed, a nonprofit, nonpartisan organization dedicated to justice and opportunity for all Nebraskans and I'm here to testify in support of LB372. Our extensive work in the area of meat packing safety has led us to talk to many hundreds of meat packing and food processing workers across the state every year. And one of the most consistent things that we hear from these workers in the communities that they live in is that there is little to no flexibility to deal with family care responsibilities and they often face retaliation for trying to take care of their loved ones. So whether that's taking care of a loved one or providing ongoing care for that person, workers are unable to do so because of fear of retaliation which can come in the form of accumulating negative points under an employee's point system, an increased workload, or just simply being fired. This bill would address some of these issues by clarifying employment protections for workers who are responsible for the ongoing care of a family member. We have a public interest in the state to ensure that Nebraskans are able to work hard and also care for their loved ones without fear of being penalized or losing their job. Hardworking Nebraskans should also have the opportunity to pursue gainful employment with such family responsibilities on their plates. And so the inclusion of family care responsibilities as a protected class under the Nebraska Fair Employment Practices Act would support these vital interests. So thank you for considering this testimony and we strongly urge the committee to advance LB372. [LB372]

SENATOR ALBRECHT: Thank you very much. Thank you for your testimony. Do we have any questions? Seeing none, thank you for being here. [LB372]

OMAID ZABIH: Thank you. [LB372]

SENATOR ALBRECHT: Do we have any other proponents wishing to speak? Any other proponents? We'll move to opponents. Do we have any opponents wishing to speak? Go right ahead. [LB372]

ROBERT HALLSTROM: (Exhibit 4) Chairman Albrecht, 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 LB372. NFIB has consistently opposed efforts to extend protected class status under state law beyond those which exist at the federal level and opposes LB372 for this reason. Federal law does not prohibit discrimination against caregivers per se. As a result, there are no specific federal safeguards against employment discrimination based on a worker's status as caregiver. In my brief testimony, I have provided a number of other federal standards and guidances that provide protection under federal law to allow redress for alleged family responsibilities discrimination. There is a 2007 EEOC guidance that I have referenced. Other federal laws include the Pregnancy Discrimination Act,

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the Family Medical Leave Act, the Equal Pay Act, and ERISA. I would also suggest that the definition of family care responsibilities under LB372 is extremely vague and will dramatically increase the amount of frivolous litigation. What constitutes direct and ongoing care, which is the standard under LB372, will likely need to be determined on a case-by-case basis. It could involve something as insignificant as administering over-the-counter medications to a family member at designated times during the work day. So as a result, we would express our opposition and respectfully ask the committee to indefinitely postponed LB372. Be happy to address any questions. [LB372]

SENATOR ALBRECHT: Thank you. Senator Chambers. [LB372]

SENATOR CHAMBERS: Mr. Hallstrom, are you a lawyer? [LB372]

ROBERT HALLSTROM: Yes, sir. [LB372]

SENATOR CHAMBERS: Okay. So you know that the federal law, even the federal constitution provides a floor. The state cannot do less than what the federal law mandates. But the state can go beyond what the federal government, the law, or even the federal constitution will provide in the way of protections for its citizens. You're aware of that, aren't you? [LB372]

ROBERT HALLSTROM: Correct. [LB372]

SENATOR CHAMBERS: And because there are 50 states and differing circumstances can be found in each one, the states are free on an individual basis to do what their elected representatives determine is the best thing for their citizens, do you agree with that? [LB372]

ROBERT HALLSTROM: Certainly. [LB372]

SENATOR CHAMBERS: If it was determined that in Nebraska, the federal protections are not adequate because in some areas there is no protection whatsoever, but because the state officials presumably and theoretically are in closer touch with their citizens than those far-away people in the swamp which the so-called President used as a term to describe Washington, they may determine that there are circumstances confronting their citizens that will require a public policy at the state level to go beyond what the federal government has determined and provide additional protection and safeguard. You agree with that, don't you? [LB372]

ROBERT HALLSTROM: Yes. [LB372]

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SENATOR CHAMBERS: Now that's theoretical. When we come down to the reality, the organization you represent would be in favor of never doing anything that goes beyond the federal level of protection in any area where it may put an additional obligation on businesspeople. That's correct also. [LB372]

ROBERT HALLSTROM: That would be our general posture, Senator, and it would be for the purpose of ensuring consistency in application so that you wouldn't have to face the potential of having to litigate what the state law does mean in particular areas where they have chosen to either go beyond or to have language that is different, particularly in many areas of the federal law where there have already been court decisions that have interpreted certain standards, particularly in this area of protected status. [LB372]

SENATOR CHAMBERS: Well, the so-called President indicated that businesspeople are very savvy, very smart, and you can run an entire country on the basis of business practices and the type of knowledge and wisdom developed through the pursuit of business. So it should not be difficult for businesspeople to navigate the kinds of protections that we're talking about here. If you do the greater, you don't have to worry about being in violation of the lesser. It's difficult for me to see how if the state goes beyond what the federal government requires in the way of protection, that that state could be in violation of anything that the federal government requires, unless I misunderstood you. When you were saying they don't have...I don't want to try to state what I think you said because I may misrepresent it. So could you say again where the problem for businesspeople would come in if we choose in this area to provide a protection that the federal government does not? [LB372]

ROBERT HALLSTROM: Senator, it would be in the area of the existing federal law may have an established body of case law that can be relied upon and understood where the federal law has been interpreted. And to the extent that the state law comes in with new or different criteria or requirement in the same area of law, that would involve having to go back through and determine through litigation what and how and why Nebraska law in that case would differ and how it would ultimately be implemented or interpreted upon businesses trying to comply. [LB372]

SENATOR CHAMBERS: Two things, and in case somebody with a similar orientation based on whom they represent, I would have asked the questions of whichever person comes up first and then I don't have to ask it or them to each person. First of all, any court decision can be modified by a higher court. And if it's the highest court in the land such as the U.S. Supreme Court, the U.S. Supreme Court can reverse itself as they have done in some cases under Chief Justice Roberts. So the case law is something like a snapshot of what the law is at that particular time. But you don't know it's always going to be that law. When the Legislature enacts a law, and it can be interpreted, applied by the state court, but still, there's still more certainty there and not as

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large a body of case law that you'd have to look at determine what the state of the law is based on interpretations the state court may have given of the state law. So it seems to me the businesspeople would welcome this if there's to be protection in this area and not wait for the federal government because a state is more flexible in modifying, altering, adding to, or taking away than the cumbersome federal government would be. Now when you came here today, you always come to represent a position that your employer--and I use that term to indicate the ones who are paying you to come here--authorize you to take in order to represent their position rather than your own opinion, is that correct? [LB372]

ROBERT HALLSTROM: Correct. [LB372]

SENATOR CHAMBERS: Okay. From what they told you, would you conclude they're against any kind of protection by the state to people who are in the position of these caregivers? Are they just flatly opposed to that being done, period, or can you not determine that from the charge they gave you? [LB372]

ROBERT HALLSTROM: I don't know that I can determine that today, Senator. I would say our consistent position has been that our preference and in having our impact on those policy decisions that have to be made at the state level is a preference that we not go beyond the federal law. And in this case, there is no specific federal law and there are other areas of the federal law that do provide redress for individuals who assume family care responsibilities. [LB372]

SENATOR CHAMBERS: But it wouldn't be what we're talking about here, would it, as far as you know, this federal redress that you're talking about? [LB372]

ROBERT HALLSTROM: There are...it would probably be under federal law, yes. [LB372]

SENATOR CHAMBERS: Would it equal what is being presented here? And I'm not expecting you to answer as one who had done extensive research. But just with you and I having this conversation, is it your view that whatever can be procured under the federal law would be the equivalent or superior to what is being proposed in this legislation? [LB372]

ROBERT HALLSTROM: My general assumption, Senator, would be that it would not be as broad as providing protected class status as proposed under LB372. There are cumulative and aggregate remedies under the federal laws that are set forth in my testimony. But my assumption would be they would not be as broad as LB372 would provide. [LB372]

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SENATOR CHAMBERS: Now very few people, if any, and you'd probably not be among the few who have done this, have you ever had it certified that you have a heart? [LB372]

ROBERT HALLSTROM: I think there's something... [LB372]

SENATOR CHAMBERS: Or do you presume that you have one? [LB372]

ROBERT HALLSTROM: ...something beating inside of there, but... [LB372]

SENATOR CHAMBERS: You presume that you have a heart. [LB372]

ROBERT HALLSTROM: I do, Senator. [LB372]

SENATOR CHAMBERS: And although it has to be in a metaphorical sense, when people say have you no heart, they're talking about feelings like compassion, empathy, sympathy and so forth. [LB372]

ROBERT HALLSTROM: Correct. [LB372]

SENATOR CHAMBERS: Your view that you bring here today may not necessarily be your personal view on the subject, is that true? [LB372]

ROBERT HALLSTROM: It doesn't necessarily have to be in any given subject matter that comes before the Legislature. [LB372]

SENATOR CHAMBERS: Okay. [LB372]

ROBERT HALLSTROM: Thank you. [LB372]

SENATOR CHAMBERS: That's all that I have. [LB372]

SENATOR ALBRECHT: Thank you. Any other questions for Mr. Hallstrom? No? Thank you for your testimony. [LB372]

ROBERT HALLSTROM: Thank you. [LB372]

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SENATOR ALBRECHT: Any other opponents, LB372? Go ahead, Mr. Schorr. [LB372]

MARK SCHORR: Okay. Again, my name is Mark Schorr, S-c-h-o-r-r. I've already introduced myself and talked about my background. I'm here again to oppose LB372 on behalf of the Nebraska Chamber of Commerce, the Omaha Chamber of Commerce, and the Lincoln Chamber of Commerce. And I'll try to be brief but we need to go back and look, folks, at what the Nebraska Fair Employment Practices Act is. In our FEP Act has, by its very notion in the legislative history, is designed to mirror Title VII, the seminal or basic, bedrock civil rights statute being the Civil Rights Act of 1964 at 42 US Code, Section 2000e, to prohibit discrimination against various classes of individuals, primarily race, color. It prohibits discrimination on the basis of race, color, religion, sex, and national origin. We have added disability to mirror the Americans With Disabilities Act. And as Mr. Hallstrom said, the Nebraska courts have always looked to Title VII for guidance and the Americans With Disabilities Act for guidance and so this is the Fair Employment Practice Act and it does mirror Title VII. And as with the case with Mr. Hallstrom's entities--and I'm here not as a lobbyist, just as a member of those organizations appearing here voluntarily--I suggest to you that trying to bring the term family care responsibilities in and calling it...giving it protected class status or protected identity status similar to race, color, religion, sex, disability, national origin, I just don't think that's appropriate. And so, yes, my organizations that I'm here today also oppose any expansion of these protected classes in the Nebraska Fair Employment Practice Act that go beyond Title VII or the Americans With Disabilities Act. We have a separate Nebraska Age Discrimination Employment Act which mirrors the federal Age Discrimination in Employment Act. And this is very important because there is a very strong interrelationship between the Nebraska Fair Employment Practice Act and Title VII or the ADA or the Nebraska Age Discrimination in Employment Act, and that is that people, aggrieved individuals in Nebraska can go to either the federal EEOC in St. Louis or they can go right down the street here, the Nebraska Equal Opportunity Commission and they can file a charge of discrimination under both acts. They're called dually filed charges. And our Nebraska Equal Opportunity Commission has a work sharing agreement with the federal EEOC whereunder they have an agreement whereby most of those charges are investigated by the local...called a local Section 706 Agency because the acts are in tandem. They mirror each other. And so we actually get federal funds at the NEOC for investigating those charges and complaints of discrimination and those are deemed dually filed. They interrelate between both acts. And so there really is a problem going beyond the protected categories under federal law. And I have nothing against family caregivers. And I would echo what Mr. Hallstrom says, that there are all kinds of protections under federal law to prohibit discrimination, but I do not believe that family caregivers rise to the same level of a protected category under our basic civil rights statutes. And I encourage you to look into this because I believe the NEOC will bear considerable additional cost if this is written into the FEP Act because there is no corresponding mirror there with the federal civil rights statutes which would provide for those federal funds to investigate. So the cost to the NEOC--and I believe

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there is a fiscal note somewhere--to gear up to receive charges of discrimination and complaints of discrimination on the basis of family care would create tremendous cost to the Nebraska Equal Opportunity Commission. It would create tremendous cost to Nebraska employers to respond to these complaints. And so I understand what's behind it but I just don't believe this should rise to protected category status under a civil rights statute. Thank you. I'd be happy to answer any questions. [LB372]

SENATOR ALBRECHT: Thank you. Senator Chambers. [LB372]

SENATOR CHAMBERS: Believe it or not, I understand what you're saying, I understand your arguments. But as a policymaker in the...myself individually, the Legislature being a policymaking body, if we chose, we could have a freestanding statute that does not amend FEP or anything else and, therefore, you would not be limited if you're a court interpreting it to what had been done in the federal court system. You don't even have to deal with that. But in enforcing any antidiscrimination law or act, you cannot go against what the federal court may have said in that area, even if the state provision does track it or even give reference to it. And I'm saying all that to get to this point. What can you think of that would prohibit the state from doing what is envisioned in this legislation? There is nothing that prohibits the state from doing it. [LB372]

MARK SCHORR: No, my position is it doesn't rise to the level of protected category under a civil rights statute. [LB372]

SENATOR CHAMBERS: Would you, just so I can get your thinking, would you feel that members of the LGBT community rise to the level of a protected class status when you consider what we all know is the discrimination that they confront? [LB372]

MARK SCHORR: That...I believe that's a subject of another bill. And, Senator, that's been looked at the federal level. Our position is that our protected categories should mirror the federal civil rights statute against which our...after which our act is patterned. [LB372]

SENATOR CHAMBERS: But when it comes to LGBT matters, there are businesses at least in the employment realm who already have adopted policies that do not discriminate against members of the LGBT community in Nebraska and around throughout the country. [LB372]

MARK SCHORR: That is correct. [LB372]

SENATOR CHAMBERS: You're aware of that? [LB372]

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MARK SCHORR: And I represent some of those businesses. [LB372]

SENATOR CHAMBERS: Okay. So then it's not unheard of that people in those categories would be discriminated against but for policies having been adopted by companies saying in this company it's not going to be that way. You know there are companies that do discriminate though, don't you? Like all these religious-based companies who take everybody's money but they say our conscience...we'll lie, cheat, steal, and cheat on our taxes, but our religion stops us from providing service to members of the LGBT community. [LB372]

MARK SCHORR: Well, I don't... [LB372]

SENATOR CHAMBERS: There are businesses like that. [LB372]

MARK SCHORR: ...I don't personally know of any of those. And of course under our civil rights statute, the federal civil rights statute, there are certain exceptions which allow religious organizations to comply with certain religious tenets and beliefs. I don't personally know of any entity anywhere, Senator, that I've ever known for sure to have discriminated on that basis. [LB372]

SENATOR CHAMBERS: Well, I know people who are members of that community who have been discriminated against and have been told that's what it is and they have things said to them that are very insulting, demeaning, and they cannot complain because the company will not protect them... [LB372]

MARK SCHORR: That should not be condoned by anyone, Senator. [LB372]

SENATOR CHAMBERS: Well, yeah, we know it shouldn't. Businessmen shouldn't lie on their taxes. The so-called President should release his tax returns as he promised, but he's not going to do it. And he's an inveterate liar; everybody knows that. So he's setting the standard. But his standard is not my standard. And when I look at a condition that exists, if a law is to be enacted, there must first be--and the court uses this--an evil, not in the sense of religion, but a wrong that is to be remedied. And if a statute is constitutional based on the federal laws, it aims at the particular evil, then it will be upheld as constitutional. And for you to sit there and tell me that in a backward, racist, bigoted state like Nebraska you don't think there's any company that discriminates against LGBT people... [LB372]

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MARK SCHORR: I'm sorry, Senator. I thought you asked if I had personal knowledge of it. I had understood you to ask me if I...that if I personally had knowledge of those situations. [LB372]

SENATOR CHAMBERS: Well, do you believe there are such entities? [LB372]

MARK SCHORR: I'm sure it must exist somewhere. [LB372]

SENATOR CHAMBERS: Oh, okay. Then we're on a different level now. I can bring it back to this bill. LGBT people have no protection under the statutes, although the Nebraska Supreme Court has prohibited any and all discrimination in the court system, any discrimination by a lawyer, by judges, or the courts on that basis. And the term they use is sexual orientation and people know what that term means. So the courts have recognized it. The state of Nebraska through its Legislature will not because of religious people coming here and saying they want to be able to discriminate. But they feel that they're discriminated against if you won't let people who wear their garb teach in the public schools. This is a very complex area. Your job in opposing this bill is much more simplistic than mine in taking the position that something needs to be done. I'm not comfortable as a policymaker, but I know there are people in this state who are mistreated and discriminated against grievously because of what they are. Farmers don't want that. Doctors don't want it. Lawyers don't want it. Religious people don't want it. But they all want to be able to practice that towards somebody else. So if you can, I know it's a big leap, but if you can bridge that chasm. Are you aware that there are circumstances that a caregiver will experience in terms of taking care of a family member with a serious ailment of some type that makes it difficult for them to maintain the same kind of work schedule as others under any and all circumstances? Are you aware that circumstance can arise? [LB372]

MARK SCHORR: I think it can. [LB372]

SENATOR CHAMBERS: But you don't think that any consideration as far as the state policy is concerned should recognize that reality, that there are people first of all who need this care, secondly, there are family members who will provide that care and, therefore, consideration ought to be given by the state to those circumstances and carve out some kind of protection for them so that they can try to earn a living while providing care to a family member which maybe the state would have to provide if that family member were not doing it? Do you see the complexity of the situation at least? [LB372]

MARK SCHORR: I understand your situation. My testimony is that I don't think family care responsibilities is what we talk about when we talk about a protected category in a civil rights statute. [LB372]

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SENATOR CHAMBERS: No category is protected until a statute says so. [LB372]

MARK SCHORR: I understand. [LB372]

SENATOR CHAMBERS: Well, then we want to say so. We're not limited in what we can do by what has been done. We bring about improvements. As society approaches a higher level of civilization, then its laws reflect those notions that attend a maturing society which is civilized. So as there comes a greater awareness at the political level of civilizing practices and the need because of the extensive reach of certain types of discrimination, for those conditions to be recognized and the state to do something to alleviate those conditions as they've done it for other people. The federal government gives farmers money for work they don't do, for crops they don't grow, for not having sense enough to not spend more money to produce something than they can sell it for. But the federal government says, well we'll overlook all that when it comes to farmers but not somebody else. Then the same ones who say do that for farmers will look at caregivers. And because it does not affect their family, it does not affect them, then it's not a situation worthy of consideration. And I'm saying this to you because you're volunteering to come here. You were not sent here. You're expressing your own personal opinion from what I gather. [LB372]

MARK SCHORR: And the opinion of those organizations. And from my experience with this statute, I have seen Nebraska amend the Fair Employment Practice statute to address every legal change around. When the federal government added the Americans With Disabilities Act, we added it to our statute because this Fair Employment Practice Act here in Nebraska was expressly designed to be the Nebraska counterpart to these broad, overreaching federal civil rights statutes. [LB372]

SENATOR CHAMBERS: So all they've done is hitched theirself to the federal wagon and wherever the federal wagon goes, Nebraska goes. But Nebraska does not cut any new ground and do what they ought to do. Nebraska should have done some of these things before the federal government. Because I'm in the Legislature, you know two things the state of Nebraska did? They passed a law saying you cannot execute juveniles. Then the federal government, several years later, came to the same conclusion. Although the term was derogatory but it was the one used at that time, they could not execute mentally retarded people. Years later the federal government did it. Should I have waited until the federal government did it when that which is in me will look at other people and say because of human dignity, what a state ought to do, what its policy should be, that is the course that ought to be followed and I followed it. And then the federal government came along. Nebraska was the first state anywhere in the country to enact laws prohibiting investment of public funds in companies doing business in or with South Africa. Nebraska was the first state in the country and it was recognized in South Africa and The Rand

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Daily Mail editorialized said that was an ominous sign for South Africa because Nebraska is a rural, conservative state and they didn't add and a black man was the one who persuaded them to do this. So Nebraska has led the way in a number of areas. I'm not content to wait until the federal government does something when there are people suffering in this state, I should say if I see a child who has a crippling ailment that the federal government hasn't said that there should be any coverage for that so we won't either. No, I will go against the lethargy or the lack of compassion that is in all these religious people and do what an ungodly person such as myself thinks ought to be done. And sometimes I manage to get it done and then the others will follow. Nebraska led the way in protecting what are called burial goods of Native Americans--bones that were existing in museums that people had on their walls as souvenirs, that were at the university in boxes had to be turned over to the tribe to whom that no-longer-living person would have belonged. And if that cannot be found. A tribe that is willing to accept those remains and give them a decent burial. And you know how I did it? I'm doing this for a reason because I'm not going to go through this on all these bills but it will give people a notion of what moves me. And I don't care what the federal government does, just like John McCain said--now I don't use this language; I'm quoting him--he was told that the so-called President said that America should torture. He said I don't give a damn what the President of the United States says. We follow the law. The law says no torture, and we will not torture. Now I don't use Christian language like he did. But I don't care what anybody says, but I will use their religion against them. There was a Senator named Bernice Labeledz, a strong, dyed-in-the-wool-hat Catholic. And she didn't understand what I was trying to do. [LB372]

MARK SCHORR: I remember her. [LB372]

SENATOR CHAMBERS: Okay. I said, Bernice, you have a rosary, don't you? She said yes. I said and rosaries means something to Catholics. Yes. I said a great deal to them. Yes. There are Catholics who will be buried with their rosary. She says yes. I said now suppose it came to your attention that there were people who opened that coffin to take that rosary and either collect it or sell it. How would you feel? She said, Ernie, I know what you're talking about now. And she supported the legislation. I have to find a way to make white people, from their experience, understand that other people have emotional, psychological attachments to the things that are dear and precious to them. So if I can find a way to cause people such as yourself to feel the same thing that these others feel, to go through the same thing that they go through, then you might change your mind, just as all these old white men who used to tell people stop bellyaching and saying the federal government should take care of you, they're the very ones who voted for this so-called President named Trump because they said the government is not taking care of us. They've forgotten us. That's what they said. But when they had those jobs they looked down their nose and condemned other people who couldn't have the kind of job they got. Now they want the government to give them jobs, want the government to take care of their families, wants the government provide healthcare for them. So I'm trying to create a situation where you can

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understand that there's a tremendous drain psychologically and financially on those who provide care for their family members. If they did it as an employee, even on a contract basis for HHS for somebody else's family, they'd be paid for it. They're not doing it to try to be paid for it by HHS or anybody else. They're saying I want to be able to work and be able to take care of my family member. People such as you will say it's not the responsibility of businesses to do that. I, being ungodly, not a Christian, find no difficulty in feeling somebody else's pain when I don't feel any particular pain at all. I can look at what it does to people. So when you go back to that group, you try to put just a spark, then you fan it, you nurture it until it takes a flame. Then when they have that fire in their belly, they'll outdo me in doing it because it'll be new to them. They'll think of all the years they were hard-hearted, all that time they didn't care, the cruel things they may have said without intending it to be cruel because they didn't understand how they were hurting people. They didn't know that these hardened hands were being thrust among people's heartstrings and causing pain. I hope you feel some pain now, but mine are just words. You'll go back to your life. You'll forget what I said. It won't impact on you at all. But I know people who right this minute are suffering grievously because there is no understanding on the part of people in this society who ought to understand. Am I preaching? No, preaching is done by Christians. I don't want anybody to mistake me for a Christian ever. But anyway, that's the price you pay sometimes when you come to testify before a committee of which I am a member. And if you'd like to respond in any way, well, then you can feel free to do so. [LB372]

MARK SCHORR: Well, thank you, Senator. My main point is that this Fair Employment Practice Act mirrors federal civil rights legislation. And I don't believe we should be expand it to include something that doesn't constitute the type of protected category or person...personal trait that these civil rights statutes are designed to protect. [LB372]

SENATOR CHAMBERS: Does this... [LB372]

MARK SCHORR: And I understand about family care... [LB372]

SENATOR CHAMBERS: When you say traits, so I understand, what do you mean by traits? [LB372]

MARK SCHORR: Well, Title VII protects...prohibits discrimination on the basis of race, color, religion, sex, and national origin. We've added disability to the Fair Employment Practice Act because it's also now our state counterpart to the Americans With Disabilities Act. [LB372]

SENATOR CHAMBERS: Does it protect against religious discrimination? [LB372]

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MARK SCHORR: Absolutely. [LB372]

SENATOR CHAMBERS: And how about marital status? [LB372]

MARK SCHORR: Yes, marital status. [LB372]

SENATOR CHAMBERS: Those are not traits. Those are voluntary actions, aren't they? People voluntarily enter into it. [LB372]

MARK SCHORR: Right. [LB372]

SENATOR CHAMBERS: But since a lot of people are religious, they want to be protected there. They can go to church if they want to. And if I don't want to hire them and nobody else wants religious people around, they should be able to discriminate against them in the same way that you feel that certain groups out to be discriminated against. [LB372]

MARK SCHORR: I don't feel anybody ought to be discriminated against. But the concept of discrimination in employment is totally different than what this would propose. [LB372]

SENATOR CHAMBERS: You think I don't know it? That's why the bill is here. We want to civilize Nebraska. [LB372]

MARK SCHORR: Okay. [LB372]

SENATOR CHAMBERS: Okay. [LB372]

MARK SCHORR: I got you. [LB372]

SENATOR CHAMBERS: I enjoyed talking to you. [LB372]

MARK SCHORR: I know. I remember a couple...a number of years ago being in front of this committee. This was short compared to that. (Laugh) [LB372]

SENATOR ALBRECHT: Well, thank you, Senator Chambers. And thank you for having the ability to listen for a while. Any other questions of the committee? Mr. Schorr, thank you for being here. Do we have any other opponents? Any other opponents on LB372? Seeing none,

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we'll go to anyone in a neutral position. Do we have anyone in a neutral position? Mr. Odenthal, go ahead. [LB372]

STAN ODENTHAL: Good afternoon, Senator Albrecht and members of the Business and Labor Committee. My name is Stan Odenthal; it's S-t-a-n O-d-e-n-t-h-a-l. I am the executive director of the Nebraska Equal Opportunity Commission. The Nebraska Equal Opportunity Commission is an independent state agency. We have 27 employees. We're relatively small. We have three offices across the state. And our mission is to eliminate unlawful discrimination in Nebraska through effective case processing as well as public outreach activities. So the principle function of the NEOC is to investigate cases of discrimination complaints in the context of three different areas: housing, employment, as well as public accommodations. So I'm here to testify in a neutral capacity regarding LB372. The NEOC works diligently to eliminate unlawful employment practices in Nebraska. We certainly appreciate any legislative efforts to enhance the protections of Nebraska's workers from discriminatory employment practices and we thank Senator Crawford for introducing this bill as we get a chance to talk about these issues and have this conversation today. So the reason the NEOC is taking a neutral stance on this bill is that we are still analyzing the effect of this bill as written on our agency. This includes the impact of our existing staffing levels, budget-related concerns, and the ability to investigate and enforce this provision consistent with the definition of the protected class. Only a few state human rights agencies enforce similar family care or caregiver provisions, each with differing definitions of such provisions. And so estimating its impact on our agency and our state by comparison has been fairly difficult. However, as mentioned before, there's absolutely nothing wrong with Nebraska taking the lead and being a pioneer as Senator Crawford mentioned when it comes to creating new legislation. So most employment-related complaints received by our agency qualify for protections under both federal and state law. As such, we dual file these complaints with the EEOC and receive a reimbursement in the amount of \$700 per case. Federal employment laws make it unlawful to discriminate against an individual on the basis of race, color, sex, national origin, religion, age, disability, or genetic information. This does not include family care responsibilities. What this means is that we would not be able to dual file complaints process solely on this basis. These would be state-only charges that are not eligible for the federal reimbursement of \$700. If the complaint was filed on more than one basis, which often happens, including at least one federal protected bases then the complaint would be eligible for the federal reimbursement. So, for example, if a male caregiver was treated differently than a female caregiver, it could also be filed under sex in addition to the family care responsibilities. So that \$700 may not seem like a lot, but for our agency, \$700 times 50 cases, you know, that's quite a bit. I mean that's \$35,000 which would be equivalent to about 3 percent of what we receive in General Funds which for an agency like ours that is small that relies on personnel as its primary cost--anywhere between 82 percent and 86 percent of our cost in any given year is just personnel cost--that could have an impact. So for a small agency, the NEOC stays very busy. During fiscal year '15-16 we processed 956 employment-related cases. That doesn't include housing or public

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accommodation which we also process those cases. Our budget relies heavily on federal reimbursements for these cases. Our investigators work diligently to investigate cases in an efficient manner but already have very high caseloads and case goals. Adding new cases to our current stream of employment-related cases without somehow improving efficiencies increases the likelihood that our small case repositories will end up turning into a backlog of cases. This could mean that without improved efficiency we would be processing less dual-filed cases each year and receiving less reimbursements from the federal government. Because of this, in our fiscal note for this bill we asked for one new investigator position in order to investigate the cases filed under this new protected class. This would help to ensure that we can continue to submit the same number of dual-filed cases to the federal government for reimbursement without falling behind our existing levels of federal funding received. And we think that's absolutely necessary. And with that, I'll close my testimony and open it up if there's any question for me. [LB372]

SENATOR ALBRECHT: Thank you very much. Do we have any questions for Mr. Odenthal? [LB372]

SENATOR HALLORAN: Senator Albrecht, thank you. So on the fiscal note, that's what we're looking at is what you're... [LB372]

STAN ODENTHAL: Yeah. Yeah, it's primarily just the one position. There is a very small cost for reprinting the publications which we put out and make available based off of the law. But it's just primarily the one position that we think would be necessary in order to maintain the current amount of funds we receive from the federal government. [LB372]

SENATOR HALLORAN: Understood. Thank you. [LB372]

SENATOR ALBRECHT: Any other questions? Seeing none, thank you for your testimony. [LB372]

STAN ODENTHAL: Thank you. [LB372]

SENATOR ALBRECHT: Do we have anyone else in the neutral position to testify? Senator Crawford, would you like to close? [LB372]

SENATOR CRAWFORD: Thank you. I would like to thank the committee members for their questions and attention and to our testifiers for laying out many of the legal aspects of this bill. I think we had a great chance as a committee to hear about some of the gaps in the current protections from some of the testifiers as well as understanding a bit more about how our state

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choice...the state choices interact with federal law and that there are some federal protections for some employees who have family caregiving responsibilities. But again, those have limitations in terms of the federal FMLA protections. Those are, again, only our larger employees--50 or more employees--that would have those kinds of protections. And those protections are really about family caregiving that's related to leave. And so this protection would be a broader protection. It is a serious choice to decide as a state to go beyond the federal protected class and to add our own protected class and it is true that it would require us to step up and take responsibility for those cases that would come before the NEOC. And so that is an important consideration for us to recognize as a cost of moving forward with this kind of protection in our state. I think one other thing I'll add to the record is a bit about a few other states that have gone in similar directions. So while we would be pioneering in some ways, there are other states who have created similar protections above and beyond the federal protected class protections in this area. So Alaska law prohibits discrimination in employment based on parenthood, so that's their added class that's related to family caregiving responsibilities. Minnesota and New York law prohibit discrimination based on familial status. And the District of Columbia prohibits discrimination based on family responsibilities. So that's the place that is closest to the language here. The language is very simple in terms of family responsibilities. Again, and it would be in the nature of the law in terms of establishing how that's interpreted would be established through case law in terms of what the family responsibility means. And we would obviously again have the protections of and the services of the NEOC in terms of investigation and developing what those protections look like. So I appreciate your attention to this question. It is a policy question to consider and I think we've had a good chance through the hearing to hear considerations on both sides and some of the legal implications of the choice. And so I look forward to further conversations about that choice. [LB372]

SENATOR ALBRECHT: Perfect. Any questions? Senator Halloran. [LB372]

SENATOR HALLORAN: Thank you, Senator Albrecht. Thank you, Senator Crawford, for bringing this to us. Lest anyone think or conclude that I have no compassion for people who are caretakers, and I was not going to bring this to anyone's attention because it's quite personal, quite private, but for eight and a half years my wife and I took care of my mother in her home. And that was harder on my wife than it was me. But it was both a benefit to my mother and it had its rewards for us as well. But it was very trying. That being said and to summarize, no man has had a complete life until he has helped his mother with bathroom duties. That being said, I know what care is. I know what home care is. I know family care very specifically. And my only...one of my concerns is on page 7, lines 11-13, throughout the bill we're interjecting the words "family care responsibility." On page 7, lines 11-13 it defines family care or attempts to define "family care responsibility" and I just find that extremely vague. Almost anything could fall into caring under that definition. And I just would encourage you and anyone else that can work with you to better define that. I mean it's...lining up prescriptions for my mother would

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have...on a daily basis or several times a day, would have qualified under that definition. It (inaudible) and it's something that she may not have been able to because she suffered some level of dementia. But there are deeper levels of care than that that I think that we should be addressing versus those minor things like prescription meds, lining that up for them. It's not unimportant, but... [LB372]

SENATOR CRAWFORD: No, I understand. It's important. [LB372]

SENATOR HALLORAN: Thank you. That's all. [LB372]

SENATOR ALBRECHT: Thank you. [LB372]

SENATOR CRAWFORD: Thank you. [LB372]

SENATOR ALBRECHT: Any other questions for Senator Crawford? Thank you for the introduction of LB372. [LB372]

SENATOR CRAWFORD: Thank you. I think we'll see in many of these bills and issues, a lot of law and lot of our policies are set out to...for people who are disabled or for people who have a health situation. Even disability insurance is for people...our own health. And this issue of how we have policies and how we take care of people who are taking care of someone else is really a newer area of law that we're exploring and trying to figure out how to have the best policies that we can to take care of those situations and be fair and equitable to the caregiver and the employer in those situations. Thank you. [LB372]

SENATOR ALBRECHT: Well, thank you. (Exhibits 5-9) I'd like to read in some proponents to LB372: Sue Martin, president/secretary-treasurer with the Nebraska State AFL-CIO; we have Sarah Hanify, LCSW, National Association of Social Workers, Nebraska Advocacy Committee; Kaitlin Reece of course was here with the policy coordinator for economic stability and health for Voices for Children in Nebraska; and again, the ACLU of Nebraska; opponents of LB372 were Rocky Weber, president and general counsel to the Nebraska Cooperative Council; and Spencer Danner, Jr., city of Omaha, human rights and relations director. That concludes our Business and Labor meeting. Thank you all for being here. [LB372]