

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee February 11, 2019

M. HANSEN: All right. All right, good afternoon, and welcome to the Business and Labor Committee. My name is Senator Matt Hansen, and I serve the 26th Legislative District in northeast Lincoln. We're-- we'll start as we usually do with having the senators here on the committee introduce themselves starting with Senator Crawford.

CRAWFORD: Good afternoon, Senator Crawford, District 45, eastern Sarpy County.

TOM GREEN: Tom Green, legal counsel.

HALLORAN: Good afternoon, Steve Halloran, Senator from District 33: Adams-- Adams and part of Hall County.

KEENAN ROBERSON: Keenan Roberson, committee clerk.

M. HANSEN: All right, thank you all. Also assisting today are committee pages, Kaci, and Hunter will be joining us soon. This afternoon, we'll be hearing seven bills and will be taking them up in the order listed outside the room. Just to kind of this full notice, because the way we structured this to accommodate, Senator McDonnell's LB644, we scheduled that at 1:00. And so we end before 1:30 on that bill, we'll actually stand at ease because we didn't schedule the next bill until 1:30 with Senator Wishart. On each of the tables in the back of the room, you'll find white testifier sheets. If you are planning to testify today, please fill out one and it in to Keenan when you come up. This will help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on a committee statement for a particular bill, you must testify in that position during that bill's hearing. If you do not wish to testify, but would like to record your position on a bill, please fill out the white sheets in the back of the room. Also, I would like to note the Legislature's policy that all letters for the record must be received by the committee by 5:00 p.m., the business day prior to the hearing. Any handout submitted by testifiers will also be included as part of the record as exhibits. We ask if you do have any handouts, that you please bring nine copies and give them to the page. If you need additional copies, the page can help you make more. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then by those in opposition, followed by those in a neutral capacity. The introducer of a bill will then be given the opportunity to make

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closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name and please also spell them for the record. And I think with the size of the crowd, we'll be using five-minute light system today. So when you begin your testimony, the light on the table will turn green. The yellow light will come on for one minute warning, and the red light will come on and ask you to wrap up your final thoughts, just like a stop light. I will remind everyone, including Senators, to please turn off or silence your cell phones. And with that, we all know that Senator Lathrop has joined us, and I'll invite Senator McDonnell to open on LB644.

McDONNELL: Senator Hansen, thank you, and also Happy Birthday.

M. HANSEN: Thank you.

McDONNELL: Thank you to the members of the committee that are here. My name's Mike McDonnell, spelled M-i-k-e M-c-D-o-n-n-e-l-l, proud to represent LD5, South Omaha. According to the National Skills Coalition and the Bureau of Labor Statistics, Nebraska has 89,000 unfilled or soon to be created middle-skilled jobs that it does not have the work force qualified to fill. At the same time, Nebraska has over 100,000 adults who lack a high school diploma or a high school equivalency, such as one attainable by passing the General Educational Development exam. The purpose of LB644 is to address both of these issues by creating a framework for Adult Workforce Diploma Program that provides adults at least 22 years of age the opportunity to complete their high school diploma and develop critical employabilibit-- employability career and technical skills to prepare for employment. Arguably, adults without a high school diploma are one of the most disenfranchised population in our state. They have few if any options to advance their employment opportunities or are frequently forced to rely upon government assistance. According to the Columbia University economist Henry Levin, over the course of a working career the average drop out costs the state \$258,240 in today's dollars due to the increased use of social services, higher incarceration rates, and reduced income from taxes. Combined with the lost wages and the costs to the federal government, the total economic opportunity cost per drop out is \$755,900, again, discounted to the net, net present, present value in today's dollars. According to the Nebraska Appleseed report, 52 percent of employees had positions requiring a high school education, but less than an associate's degree go unfilled within the past year. Employers make it clear that they either require or

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strongly prefer applicants to possess a high school diploma for the middle-skill jobs they are looking to fill. Unfilled jobs inhibit economic growth of the state and its communities. In referencing the same report, Nebraska is one of 23 states that offer only the GED as a high school equivalency. Furthermore, it should be noted that adult education options in our state are currently being provided by two high schools, community colleges, and the Department of Corrections. The Nebraska Workforce Deployment-- Diploma Act will expand current options and create a pipeline of new qualified workers for those unfilled jobs. LB644 follow successful programs pioneered in Ohio and Michigan by funding and creating a Workforce Diploma Program to provide a pathway for Nebraskans at least 22 years of age and older to complete their high school diploma and develop critical career and technical skills. Successful participants will be equipped with the tools necessary to create better lives for themselves and for their families, while also filling a crucial work force shortage that must be addressed in Nebraska is going to continue to create and attract more jobs. The Nebraska Workforce Diploma Act has four key components. First, the program is dedicated to serving the adult dropout population. As mentioned previously, this population has largely been left behind and other reskilling and upskilling initiatives, but they represent one of the greatest opportunities to prepare Nebraskans for our middle-skilled jobs. All participants in this program must volunteer in order to participate, and Ohio and Michigan have shown that the individuals who volunteer for this program are highly motivated to complete their diploma and improve their circumstances. Adult students in both states are completing the equivalent, equivalent of a year of high school in six months, and they are graduating at a rate of more than 60 percent. Second, this is an open multi-provider program. The bill establishes the quality and capability requirements expected of providers and the Department of Labor will review and approve qualified providers through an open process. Most importantly, all providers must have accreditation or approval by the State Department of Education or by a regional-- recognized regional accrediting body, and two years of experience serving adults without a high school diploma. Michigan has four approved providers, and Ohio has 28. Approved providers will then compete in the open marketplace to locate students, reengage those students and then educate and support those students course by course throughout graduation. Third, payment to providers only comes once the program's desired outcomes have been achieved on behalf of the students and the state. This outcome based or pay for performance

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model shifts the risk from the state to the providers. If the providers do not deliver the outcomes required, then the payment is not made. As this bill seeks to develop a more skilled work force, the outcomes on, on which it focuses are completion of a high school diploma, conferral of recognized industrial credentials, and certification of a work force skill. For the diploma path, providers are paid \$250 when students successfully complete a course and \$1,000 when the student graduates. Payment for the attainment of a work force skill, certifications also only occur at the same-- at the time a student successfully completes the certification for which the provider would receive \$250. The amount paid to the providers for successful conferral of industry credentials is dependent upon an amount of training required for the credential. Providers receive \$250 for industry credentials up to 50 credits, \$500 for 51 to 100 credit hours, and \$750 for over 100 credit hours. Last, the program has clearly established minimum performance standards for the approved providers including a minimum cohort graduation rate that far exceeds the pass rate for high school equivalencies and a \$7,000 cap on the cost per graduate. If providers do not meet these standards, then they will no longer be allowed to continue to serve under this program. By holding all providers accountable for quality and efficiency, we give participants the best possible chance for success. The Nebraska Workforce Diploma program is not intended to replace existing adult education programs. Rather, is intended to provide another pathway to high school completion and work force preparation for individuals aged 22 or greater which is a key component to solving Nebraska's middle-skill work force shortage. In meeting with two deputy commissioners from the Department of Education, as well as the director of Career Education, and the director of Adult Education about the components and merits of this program, they were supportive of the legislative concept and aware of the continued need to provide any additional avenues to assist and support this population. These representatives also reference their current working relationship with the Department of Labor who also indicates being open to the concept. I'd like to point out that part of your packet includes a letter of support from Randy Schmailzl, president of Metro Community College. I received this letter on Friday, and I apologize I did not get it to you sooner. The outcomes funded by this legislation will make a difference for individuals, families, communities, employers, and the state of Nebraska as a whole. I believe that good neighborhoods build good cities, good cities build good states. And what creates a good neighborhood, it's good paying jobs, it's good public education, and

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it's good public safety. What we are trying to do here, and specifically looking at my district, but looking at all 49 of our districts, LD5 has only 71 percent of my people that I'm working for and serving that have a high school diploma. Now LD25 has 98 percent that have a high school diploma, but there still is need. There's still a need of 2 percent in that district. But based on where I'm coming from and the people that are coming to me and asking for help saying, let us give an opportunity to change our lives, give us an opportunity to be part of Nebraska, be part of that Nebraska dream. You need us right now in the work force. We want to be in that work force. The GED is not for everyone. The GED was created based on soldiers coming back from World War II. It was for people to get back in the work force and possibly continue their education higher. That is great, that's still an opportunity for someone to study, get their GED. But this is an opportunity for someone to actually get their high school diploma, build those skills, those soft skills they're gonna need, and those technical skills, and while they're getting their diploma to look at what they want to be, a mechanic, a nursing assistant, other things out there that we need those people for right now. And right now we have 100,000 of the people that we're serving in this state that need our help. I would greatly appreciate your support of LB644, and I thank you for your time and consideration. I'm happy to entertain any questions of the committee at this time, and I would also share that a current provider who participates in both Michigan and Ohio, is here to further elaborate on the benefits of this program.

M. HANSEN: All right, thank you, Senator McDonnell. Any questions from the committee? Senator Crawford.

CRAWFORD: Thank you, Chair-- Chairman Hansen. And thank you, Senator McDonnell. Do the participants pay anything to participate in this program?

McDONNELL: No.

CRAWFORD: Yeah, so it's volunteering?

McDONNELL: Yes.

CRAWFORD: OK, thank you. And do you-- have you had a chance to talk to any community colleges about whether they would meet the criteria that's laid out in the bill?

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McDONNELL: Yes, in your packet I believe there's a number of different agencies right now including the community colleges that would meet the criteria, and you have a letter of support from President Schmailzl from Metro Community College. Part of the criteria also is that they have served the adult education community for two years or more. But there is a list in your packet.

CRAWFORD: So that would get them in the first, the first year, just the two years of experience and then after that's when they have to prove the results and the cost?

McDONNELL: Well, part of that. There's also a list of actually looking at the evidence they need to become part of this program. The 11 different areas are listed on page 2 of the bill, but there are-- there's 11 different criteria that they have to meet through the Department of Labor and the Department of Education to be qualified.

CRAWFORD: Thank you.

M. HANSEN: Thank you, Senator Crawford. Any other questions? Seeing none, thank you for your opening,--

McDONNELL: Thank you.

M. HANSEN: --and we'll invite up our first proponent for LB644.

CHAD CRAYCRAFT: Chairman Hansen, Senators, thank you for the opportunity to speak to you today. My name is Chad Craycraft, and that's spelled C-h-a-d C-r-a-y-c-r-a-f-t, and I'm a senior vice president and senior counsel for Graduation Alliance, which is a provider of education services to school districts and for high school diploma programs across the nation including, as Senator McDonnell mentioned, the programs in Ohio and Michigan, the 22-plus and 23-plus, respectively. As Senator McDonnell already shared, LB644 takes its lead from the programs in those two states. Graduation Alliance is one of 4 providers of the similar program in Michigan, and one of 28 in Ohio. Ohio's program was the first in the nation, has been in operation since late 2015, and is focused solely on completion of diploma for adults 22 and older. The demand for the program is so overwhelming that all available enrollment slots fill early in each fiscal year with enrollments having closed just 60 days into the current fiscal year that began July 1. The last statewide report issued by Ohio was in December of 2017, summarizing fiscal year 2016, and two-day progress in 2017. According to that report in 2016, there

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were 776 enrollments in the program, 121 graduates, and 191 students who continued into 2017. In 2017, saw 74 of that group graduate for a program graduation rate of 25 percent. At the time of the publication of this report, a total of 945 students were active in 2017. If we look at Graduation Alliance only data as one of the providers of the program, we serve 496 students in fiscal year 2016, producing 104 graduates; 382 students in 2017, with 169 graduates; 635 in 2018, with 282 graduates; for an overall graduation rate of students that our company serves between 40 and 50 percent. We can also share that the median age of the student served by Graduation Alliance is 29, 73 percent report at the time of enrollment that they were earning minimum wage or less, and 40 percent had experienced homelessness at some point in their life, most as adults. Michigan just entered its second year of operating their Adult Workforce Diploma program. And while they certainly took a page from Ohio's book, they added employability milestones, milestones to the program which LB644 does as well. At the request of the administering agency in Michigan, Graduation Alliance served as the sole provider for the first year of the program. But as I mentioned earlier, there's now four for their second year. Thus far we have served 570 students, of which 359 have graduated, 226 have completed employability skills, 212 have completed industry recognized credentials. For a-- and to date, we have a graduation rate of 63 percent, and the average cost per graduate in the state is \$4,161, which includes the cost of the employability skills and the credentials, not just the diploma. We believe that Nebraska will see similar impactful results if they approve the Workforce Diploma Act. And with that, thank you again, and I'm happy to answer any questions.

M. HANSEN: Thank you. I'll see, are there questions? All right. Oh, Senator Halloran.

HALLORAN: Thank you, Chairman Hansen. When did the program start for you? When did your program start?

CHAD CRAYCRAFT: We began serving in the Ohio program at inception which was in 2016.

HALLORAN: In 2016?

CHAD CRAYCRAFT: Yes, sir.

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HALLORAN: Of those that have graduated, do you have data on their job fulfillment? Being able to get jobs after?

CHAD CRAYCRAFT: We have stacks of anecdotal data, where we have student testimonials, who have contacted us and told us about the jobs they've been able to obtain or promotion or whatever that may be. We are currently as a company, personally working to use a third party to provide some empirical data that is independently verifiable for that exact type purpose. Unfortunately, we don't have that today. I am happy to share anecdotal data-- an anecdotal evidence with you though.

HALLORAN: OK, thank you.

M. HANSEN: Thank you, Senator Halloran. Any other questions? All right, seeing none, thank you for your testimony.

CHAD CRAYCRAFT: Thank you.

M. HANSEN: All right, we'll take our next proponent.

KRISTEN HASSEBROOK: Good afternoon. My name is Kristen Hassebrook, K-r-i-s-t-e-n H-a-s-s-e-b-r-o-o-k, and I'm here today testifying in support of LB644 on behalf of the Nebraska Chamber of Commerce and Industry, the Lincoln Chamber of Commerce, and the Omaha Chamber. Work force development is of vital importance for Nebraska businesses and is often cited as the number one issue for employers. Today, a high school diploma or some equivalency is generally, generally required for the vast majority of positions any individual might apply for. This means that this type of degree or its equivalent is very important to be successful as a Nebraska citizen. A recent study estimates that almost 100,000 individuals in Nebraska do not have their high school diploma or GED. And with the current skills gap and low unemployment in Nebraska, encouraging the development of an Adult Workforce Diploma program, like in LB644, could go a long way in moving thousands of individuals into the work force. We feel that such a focus on work force development could really serve as a catalyst for the economy, and we'd encourage the committee to support LB644. With that, I'd be happy to answer any questions.

M. HANSEN: Thank you, we'll see if there are questions. Seeing none, all right, thank you for your time. All right, any other proponents to LB644? Seeing none, any opponents to LB644? Seeing none, anybody in

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neutral? All right, seeing none, Senator McDonnell, would you like to close?

McDONNELL: Thank you, Senator Hansen, and as I mentioned in my opening as a gift for Senator Hansen's 21st birthday, I was trying to keep it within 30 minutes. I think we've accomplished that, but I would like to try to answer any of your questions. The questions I can't possibly get to today because of the time, I would like to answer in, in writing at a later time.

M. HANSEN: I will say for the record that was the longest intro I've heard from anybody who's ever trying to hurry. [LAUGHTER] With that said, is there anybody from the committee who has questions? All right, seeing none, thank you, Senator McDonnell.

McDONNELL: Thank you.

M. HANSEN: I'll read into the record, we have a letter of support from Greg Adams of the Nebraska Community College Association. We have a letter in opposition from Nancy Carr of Lincoln, and a letter in opposition from Kathy Wilmot of Beaver City. And with that, we'll close the hearing on LB644.

HALLORAN: Good job.

M. HANSEN: Perfect, and due to our timing and how we scheduled this, we're gonna stand at ease for about five minutes, and we'll start at 1:30 when Senator Wishart gets here for LB345.

[BREAK]

M. HANSEN: All right, good afternoon, everyone, and welcome back. This is technically a continuation of our earlier hearings. We will not necessarily go through our full start of hearing speech. I will say because we've had several people-- many people join us since we started at 1:00, the procedure for if you're planning on testifying, there are testifier sheets in the back of the room. Please have those filled out with your name and present them to Keenan, our committee clerk, when you come up. If you have any handouts make sure those get handed to the pages, and the pages will distribute them. As well as, we'll be using the light system today. It's like a stoplight, green is you're free to talk, yellow is a one-minute warning, and red is your time is up. And with that, I'll note that Senator Ben Hansen and

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Senator Slama have joined us. And with that, I will let Senator Wishart open on LB345.

WISHART: Well good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the 27th District in west Lincoln. District 27 encompasses four correctional facilities, 51 percent of the inmate population resides in this district. The Regional Center exists right outside the boundaries and many corrections and Regional Center employees live and work in the district. It is therefore a priority of mine to ensure the safety of staff, inmates, and the public which is why I am here today to introduce LB345. Colleagues our state correctional facilities including our secured mental health facilities are operating in a historically unprecedented staffing situation that has reached what I would consider a crisis level. According to our report from the Nebraska Department of Corrections, annual turnover rates which should be below 15 percent to be considered healthy according to Director Frakes are estimated at near 24 percent and are above 30 percent for productive service positions. Vacancies have also increased from 136 protective services positions in 2017 to 168 in 2018, that's a 23.5 percent increase. These trends have resulted in all time low levels of staffing at the major corrections and mental health facilities. These staff vacancies have put enormous pressure on the current staff to bear the burden with required overtime. I have heard from staff who are working 3 to 4 double shifts, 16 hour days, multiple days a week, multiple weeks per month. And I have to say walking door to door, it was-- it is something that's burned into my mind. I would knock on people's doors and end up waking them up. They were correctional officers and they would come to the door and I have never seen people look so tired in my life, and so I'm bringing this bill on their behalf. These overtime conditions come with the monetary and a human cost. In 2014, the Department of Corrections paid overtime for an average of 19,000 hours per month. In 2017, that number was an average 38,000 per month, with a fiscal impact of \$13.3 million in overtime expenses. Thirty eight thousand an-- hours per month, excuse me, thirty eight thousand hours per month represents an average of eight double shifts a month per employee. There are inherent dangers associated with prolonged work hours. According to a report by the federal Centers for Disease Control and Prevention, prolonged overtime can cause decreased alertness, increase fatigue, low cognitive function, increase injuries, a period of extreme tension and anxiety, gastrointestinal

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pain or discomfort, and chest pain. In 2008, the Nebraska Legislature authorized a special committee to examine the issues of abuse facing the Beatrice State Development Center, and Senator Lathrop will remember this very well, and they looked at the issue of mandatory and voluntary overtime reported. And in that report they found that the requirement of mandatory overtime as a substitute for sufficient staffing has been identified as the principal reason for abuse and neglect to residents, failure to provide active treatment to the residents, and appears that it's a principal reason for failure to provide adequate staff development at the Beatrice State Development Center. Concern for employees and public safety is why you see regulations on the hours for truck drivers, for example, who can work no more than 10 hours before taking at least 8 hours off, nor drive more than 60 to 70 hours in any 7 to 8 day span. Under our current statutes, the Nebraska-- the state of Nebraska has the power to mandate that employees work extra shifts with very little limitations and without notice. LB345 seeks to change this. Under LB345, an employee of the state of Nebraska providing services to individuals and facilities under the 24-hour care and supervision of the state of Nebraska shall be disciplined-- shall not be disciplined, nor lose any right, benefit, or privilege for refusing to work more than 12 consecutive hours. Additionally, under no circumstances will these same employees be required to work 7 straight days, days without a day off. There is an area on this-- of this bill that needs some clarification on line 15. My intent is that overtime above 12 hours or 7 days straight must be voluntary, so a person can volunteer to work 16 hours or 7 days straight a week. It just cannot be mandated, and I'd be happy to address any confusion with that with an amendment. I also want to caution this committee to be mindful of the discussions that may result today about mandatory and voluntary overtime. If there are position categories where mandatory overtime is down, that could be a great thing. It also can mean that employees are signing up for volunteer overtime so they can try to avoid and have some control over mandatory overtime. The Inspector General for corrections details this on page 16 and 17 of his annual report. At facilities such as Tecumseh or NSP, many individuals choose to work voluntary overtime in an effort to keep from receiving mandatory overtime. They also choose to work voluntary overtime due to their desire to assist their fellow employees who does not have the support around them that they likely need. Employees may also work voluntary overtime in the hope that someone will do the same when there is not the appropriate staffing levels and they need to avoid working overtime. As a result, the

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Inspector General has tracked total overtime hours. The bottom line is that even though mandatory overtime may be going down in some instances, this does not necessarily mean that there is a positive change in the correctional system. So I just wanted to put that out there for discussion. Whether or not it is voluntary or mandatory overtime, the end result is that there has and continues to be significant growth in the use of overtime within the state correctional system and Regional Center which continues to take its toll employees health, morale, and their ability to do their jobs. So there will be others following behind me that will speak to their firsthand experiences of how these extreme amounts of overtime can affect people. Thank you, and I'd be happy to answer any questions.

M. HANSEN: All right, thank you, Senator Wishart, for your opening. Are there questions? Senator Halloran.

HALLORAN: Thank you, Senator Hansen. Thank you, Senator Wishart, for bringing this bill. You gave some figures, and I'm gonna ask you to repeat them--

WISHART: Sure.

HALLORAN: --because I didn't take them down. But-- and I don't know what year it was, if it was 2018, but the number of hours of overtime and the, and the equating a dollar figure.

WISHART: Yeah, so in 2017, it was on average 38,000 per month. There were some months that were up to 40,000 hours of overtime per month with a fiscal impact of \$13.3 million in overtime expenses.

HALLORAN: Annually-- per month?

WISHART: Annually.

HALLORAN: Thirteen point three million?

WISHART: Um-hum.

HALLORAN: OK, thank you.

M. HANSEN: Thank you, Senator Halloran. Any other questions from the committee? All right. Oh, Senator Hansen, go ahead.

B. HANSEN: Hi.

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WISHART: Hi.

B. HANSEN: You don't see any issue with the State Patrol and National Guard coming in to filling hours? There's been open-- you don't foresee any problems with, with them filling the hours that some correctional officers may not be able to work anymore?

WISHART: You know I think that is a-- that is-- that could be a valid concern. I think the, the issue is that we are running our corrections facility right now with so many vacancies that we are heavily relying on the current staff to fill those vacancy needs. And you know, I'll defer that question to the Fraternal Order Police and, and staff who would be better able to talk about staffing levels. But, I brought this bill for a discussion about the fact that the way that we are currently running our correctional system is, is problematic.

B. HANSEN: I agree. I appreciate you bringing this, too.

WISHART: Thank you.

B. HANSEN: And one, one more question. I don't know if it was specifically stated in the bill that this is for the correctional facilities, but it-- there wouldn't be any other state agency that would-- this would, this would affect, would it? Can you think of any [INAUDIBLE]?

WISHART: So the way that-- yeah, and that's a really good question, Senator. The way that we wrote this was that it would impact any facility that has 24-hour care of an individual and so that would be the correctional facilities and the Regional Center. I do believe that, that actually does include the veteran's facilities. That's something we're going to need to talk about because it was not my intention to include them in this bill. What I'm really looking to address is the Regional Center and the correctional institutions.

B. HANSEN: And the likelihood that they're understaffed and have to work as many hours as the correctional facilities do are probably slim to none.

WISHART: Yeah, I have not heard from staff members who work within our Department of Veterans, the way I've heard from staff in these other two facilities.

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B. HANSEN: Thank you.

WISHART: Thank you.

M. HANSEN: Thank you, Senator Hansen. Any other questions? All right, seeing none,--

WISHART: OK.

M. HANSEN: --thank you for your opening, Senator Wishart. All right, we'll take our first proponent for LB345. And while he's coming up, can I just see real quick show of hands of people planning on testifying? All right, perfect. Welcome.

JIM MAGUIRE: Senators, good afternoon. My name is Jim Maguire, J-i-m M-a-g-u-i-r-e. I'm president of the Nebraska Fraternal Order of Police. I want to thank, Senator Wishart, for introducing this very important bill. Before we start, I just want to make a comment that we know that there are problems and I'm very sympathetic to the director of corrections, their, their ability to staff. But we're at a point where we're talking about crisis within overcrowding and everything else, and we, we have a real retention crisis when it comes to corrections. And when we were-- the, the FOP was making the pitch for them to come over to our organization, and we're having a lot of recruitment hearings with them. The number one complaint was not pay, it wasn't that they felt unsafe, the number one complaint was that they're being worked to death, that they're working entirely too many hours. And again as I under-- I understand that there are problems with the staffing. But when you have a turnover rate for protective services of 32.79 percent, and you have to pay-- you know, somebody \$5,792.82 to go through training and then after that you have 40 percent, 40 percent of every person that you hire within the first year is gonna leave. What a waste, what a waste of money, and then you have to, you have to pay people overtime over and over and over again to staff those facilities. As Senator Wishart referenced, back in 2008, they-- the Legislature had a, had a study on Beatrice. And again, the number one-- the requirement of mandatory overtime as a substitute for sufficient staffing has been identified as the principal reason for abuse and neglect of residents. Then in 2015, this is part of the Inspector General's, his report that he provided to the Legislature this year, or actually it was last year. This was May 30, 2015: staff vacancies, heavy workloads, two years of negative media coverage, and excessive mandatory overtime are just some of the

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challenges we face. Nebraska Department Correctional Services employees are tired and might have-- and might be difficult to believe that things are going to get better. It is going to get better. I've asked the Legislature and others to accept on blind faith that good changes will come to our department, now I'm asking you to do the same. Well the definition of insanity is doing the same thing over and over again and hoping for something different to happen, and nothing has changed. It hasn't changed in ten years. We have to be bold. We have to take care of the employees and we have to think differently. This is the only-- we, we have to force the hand. We, we have to stop working these folks to death. You've got folks that live in Omaha that are working at Tecumseh, which takes about an hour and a half to get down there. They work 16 hours a day, they're, they're-- you're already up to 19 hours before they even hit the streets and try and drive back home. And God forbid if one of those folks get into a car accident, who is going to be the blame. If you have a female or even a male, it doesn't matter, and they start their career and they are-- you know, they want, they want to be a correctional officer, good for them. And lo and behold they find-- you know, their spouse or themselves pregnant and they go back to work after their FMLA, and they are, are working their eight-hour shift and then all of a sudden they're told, oh, by the way, you can't leave this facility you have to work another eight hours. Well, I can assure you that childcare doesn't, doesn't continue for 16 hours. So then they have to make the difficult decision, do I have to quit this job or, or, or go to my family, which one is it gonna be? That's, that's the choices that they have to make, and it shouldn't be that way. Some of the other-- hour-- the other jobs that limit hours worked, as Senator Wishart described, were truck drivers, yes, pilots, and train conductors and that's because it's a safety issue. You don't want them-- you certainly don't want somebody working 24 hours a day and why would that be the same with our correctional officers when they are faced with some of the most difficult and trying job requirements within this state. So-- you know, going from-- again, from, from one job site to the next, it is, it is, it is going to become a safety issue, and you will hear from some of the correctional officers that are going to probably regurgitate a lot of the stuff that I said. They feel that they are being worked to death and they need help. Thank you.

M. HANSEN: Thank you for your testimony. I'll see if there's questions. Starting with, Senator Lathrop.

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LATHROP: I just want to comment. Thanks-- first of all, Senator Wishart, for bringing the bill, and Jim for your testimony. When the Special Investigative Committee looking into the Department of Corrections held hit-- hearings in 2015. The director-- a number of witnesses came forward to testify about the turnover rate, which is-- it's now in-- well into the 30s.

JIM MAGUIRE: Right.

LATHROP: And one of the, one of the testifiers that came to talk about their efforts to hire more people went through this exhaustive list of the things that they're doing. They're going to job fairs or they're advertising in circulars, they're doing all these different things. And the list of things that they have done to try to hire people is impressive, but has been completely ineffective because they have not been able to hire enough people to stop the mandatory overtime. It seems to me understanding the Commission on Industrial Relations-- one of the problems that we have is that the Commission on Industrial Relations will set a floor on what you can pay a public, public employee, but doesn't set the market. And the difficulty we're having hiring and retaining is that the market for these workers is much higher than what the Commission on Industrial Relations set-- will set as a floor. And this bill is to me a way of forcing the hand of the administration to get them to pay a salary that will retain the workers that they have. And it's that simple. The market-- because the county of-- the county corrections workers are making probably \$8 an hour or more. You represent them as well.

JIM MAGUIRE: We do, yes.

LATHROP: And, and in Douglas, Sarpy, Lancaster County, they're all making \$23 dollars an hour somewhere in there?

JIM MAGUIRE: They, they are-- and the other thing they also have are step increases, so you don't have folks under the current system that have been there 20 years that are getting paid the exact same amount as somebody that comes in on day one, and it creates hard feelings. And-- you know, what's their motivation to stay, if, if they don't feel rewarded by the generous work that they have done.

LATHROP: Right. And so the Executive Branch would be in charge of negotiating with the public employees that work in these jobs and the Legislature can't intervene in that process. It's not our place to

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tell the Governor or to intervene in the, in the negotiations between those workers and the Executive Branch. On the other hand if we prohibit mandatory overtime, they're going to make a change, and we're gonna fix the problem.

JIM MAGUIRE: I, I think with this bill we're, we're beyond the point of no return. We have to do something. Requiring employees to work 16 hours a day is just-- it's unacceptable. I mean, no other job would require the sustained amount of overtime, then the Nebraska Department of Corrections. And I'm not saying that this is a problem that is unique within Nebraska, there, there are problems within correctional systems throughout the United States getting people to do that. But within the state we-- we're better than this, and we have to do better. We have to treat our employees better. We've always, we've always rewarded people for good work.

LATHROP: And I don't want to chew up a bunch of the committee's time but, but I do understand both this circumstance and what happened at Beatrice. It wasn't just the Legislature that determined mandatory overtime was a problem at the Beatrice State Developmental Center. When the Department of Justice came in, an extraordinary step, and an illustration of just how bad things were at the department, at BSDC. The Department of Justice, after doing an extensive evaluation of the Beatrice State Developmental Center, said that mandatory overtime was central to every other problem we had there. Central.

JIM MAGUIRE: That is correct. And, and meeting and speaking with the, the employees within the correctional system, again, that is the number one complaint. Obviously, yes, they'd like to get paid more, but they want to stop working so many hours so that they can have some downtime.

LATHROP: And just to make one other point which is, mandatory overtime is only one symptom of not having enough help. The other is, is that we don't have enough programming because we don't have enough officers to take people from point A to point B where the programming is gonna happen or they're not getting time out of the cell because they don't have enough officers. So mandatory overtime is just one symptom of a, of a larger problem which is not having enough help.

JIM MAGUIRE: No doubt.

LATHROP: That's all.

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M. HANSEN: Thank you, Senator Lathrop.

LATHROP: I guess I was testifying as sort of, but-- I, I feel really strongly about we have two significant problems at the Department of Corrections and this is one of them and we don't seem to be interested in solving it.

JIM MAGUIRE: Right.

M. HANSEN: Thank you, Senator Lathrop. Senator Hansen, had a question?

B. HANSEN: Thanks for coming.

JIM MAGUIRE: Thank you.

B. HANSEN: So I'm assuming one of the overarching goals of this bill is to then hopefully retain new hires then more often?

JIM MAGUIRE: Abso--

B. HANSEN: [INAUDIBLE] hire so that I can get more cadets mostly [INAUDIBLE] quit. And I-- I just make sure we're not gonna be using State Patrol and National Guard for like five years.

JIM MAGUIRE: I had-- I haven't heard the State Patrol or the National Guard coming in to assist and I-- and personally, I think that would be a bad idea. Only because your State Patrol officer's make-- they're gonna make more than correctional officers, so you're not, you're not dealing with the problem that you have at hand. So I just-- my philosophical view of that would be, it's a bad idea.

B. HANSEN: OK. Do you, do you see we'll, we'll have to bring them in once we start getting these mandatory hours?

JIM MAGUIRE: I'm hopeful that if we can stop working these folks so many hours they can see the value in, in becoming and seeing correctional-- being a correctional officer within the state as a career rather than a stepping stone, that you'll be able to retain those folks rather than just wasting money day in and day out bringing folks in to train them just to have them either go work some other job or go work at a county correctional center. And if-- you don't want that to be a breeding ground for county corrections, which it's starting to become because county corrections is seeing the value in

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these state employees and saying, well, you know what I don't even have to train these folks they're already trained.

B. HANSEN: Thank you.

JIM MAGUIRE: Thank you.

M. HANSEN: Thank you, Senator Hansen. Senator Slama.

SLAMA: Thank you again for coming out today and testifying. Tecumseh, in my district, and an obvious concern on my end is with-- if this bill passes just what would be used as a stopgap for say if a weather event were to happen and we are, we are asking staff members to stay for more than 12 hours because I see some-- I understand the point of this bill. I have some concerns about its applications outside of what its intended purpose is.

JIM MAGUIRE: Well, certainly I would hope that if, if you have adequate staffing, you may have folks that may have trouble getting to the facility--

SLAMA: Um-hum.

JIM MAGUIRE: --and there could be some wiggle room there. But the mandatory amounts of, of overtime are on, on clear sunny days would come to an end. That's, that's kind of where I'm at with that. I mean, I, I understand the dilemma and I do understand the dilemma that the director has, but this has been a problem for so many years. It's, it's come to the point where you just have to force the hand and say as, as legislators and policy makers enough is enough. We have to treat our people better.

SLAMA: That's all, thank you.

JIM MAGUIRE: Thank you.

M. HANSEN: Thank you, Senator Slama. Senator Halloran, did you have a question?

HALLORAN: Thank you, Chairman Hansen. What's the pay difference between-- say, Douglas County Law Enforcement and Tecumseh Correction Facility. I know there's a scale of--

JIM MAGUIRE: There's a-- it's a scale, and I wouldn't look so much at the starting wage-- although, the starting wage is about \$3 more for

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Douglas County. It's the-- you have step increases that are included in that which could bring it up another \$7 an hour over the course of maybe ten years.

HALLORAN: So let me rephrase that, someone doing a par level position for Douglas County versus someone in Tecumseh, what would, what would the difference be on average?

JIM MAGUIRE: Probably about \$3 an hour.

HALLORAN: Three dollars an hour. The reason I, I bring that up-- I mean, a lot of-- I've heard many times that a lot of people that work for corrections end up-- for obvious reasons, they don't travel, they don't-- and a pay increase, they end up working for Douglas County or Lancaster in law enforcement. So--

JIM MAGUIRE: Correct, and, and the amount of forced overtime is significantly less at Douglas County.

HALLORAN: OK, thank you.

M. HANSEN: Thank you, Senator Halloran. Any other questions from the committee? Seeing none, thank you for your testimony.

JIM MAGUIRE: Thank you.

M. HANSEN: We'll take our next proponent for LB345.

BRAD KREIFELS: Good afternoon,--

M. HANSEN: Welcome.

BRAD KREIFELS: --my name is Brad Kreifels. I have an A.A., a B.S., and a M.S. I'm not here representing the Nebraska Department of Corrections, but I've been employed by them for 26 years. The last 12 of those as a supervisor. First and foremost, I'd like to thank, Senator Wishart, for the introduction of this bill. I think that why it's not gonna be a complete answer to the problem, I believe it's gonna have a cascading effect that will help other problems with pay. I believe, Senator Bolz has a hearing here in a few days about that. Senator, you're a mind reader because the testimony you just gave about the cascading effect and what other things could be fixed if we fix the overtime problem, right on the mark. Senator, you talked about snow emergencies. In the event that the Department of Corrections has

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a bona fide emergency, they could declare an emergency, and that would change the set of circumstances of the hours we would work, to answer your question.

SLAMA: Thank you.

BRAD KREIFELS: I am against growing government, and my boss is in the room, and I think it's a shame that we have to introduce legislation to do what the Department of Corrections should have been doing the whole time. Nothing I can do about that. The problem here, it's overtime. There's a corporal that can't be here today because she's at work. She was telling me that she worked 16 hours a day, 5 days a week. And when she comes in on her Friday, she sometimes is mandatory. So she worked 16 hours a day, 5 days a week. She goes-- you know, I'm already giving them four extra hour-- shifts of overtime, and then I get mandatory on my Friday. She went to a captain about this and the captain told her, well, why don't you come in four hours early on your next day, that way you can't be [INAUDIBLE] overtime. So she's gonna work four doubles, go home for four hours and be back four hours later and then do another 12. It's ridiculous. Senator, you said something about bringing the State Patrol and the National Guard in. I understand why a person would think that would be effective, but what does the State Patrol and the National Guard know about doing my job, any more than I would know what I would be doing if I was going to get put in a cruiser and go collect-- go to take care of my I-80. Overtime is a symptom, and it's too bad that we're all about correcting the symptoms. We need to take care of the disease that causes the symptoms. The symptoms is the lack of staffing at the Nebraska Department of Corrections. Part of that problem is the pay. When you can go to county, and maybe start a little bit less, but you're making ten or twelve thousand dollars more a year just a few days later. It's definitely gonna be a problem for anybody that wants to make corrections a career. I have sat down with Mr. Frakes in his office, with witnesses, and told him how to fix the volun-- the mandatory overtime problem. Today, Mr. Frakes has not taken my advice. If anyone's interested in how we could do that I'd be happy to sit down with any one of you at any given time and tell you how to do that. While I don't know how much money the Department of Corrections has that it gives him bonuses, and so, so forth, I do know that mandatory overtime is a correctable issue. In the event-- I'm gonna take a lot time-- in the event that this does get out of committee, I will tell you now that if it does go to the vote you will have to have enough votes to override Governor Ricketts' veto. I don't believe that Mr.

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Frakes or Pete Ricketts can afford to let this bill pass. I encourage you to think about that as you recommend whether it leaves committee or not. Thank you. Are there any questions for me?

M. HANSEN: Thank you. First thing, can we have you just spell your name for us, sir?

BRAD KREIFELS: Absolutely. It's Brad, B-r-a-d Kreifels, K-r-e-i-f-e-l-s.

M. HANSEN: All right, thank you for your testimony, Mr. Kreifels. We'll see if there's questions from the committee. All right, I will be-- can you give us the very short summary of how you think the problem could be addressed from within?

BRAD KREIFELS: Absolutely. You need to prod Governor Ricketts to get the CIR to come up with a reasonable offer that would allow the union to accept a reasonable contract that will retain employees. This needs to be done through step raises. Governor Ricketts is very adamant about merit raises, and merit raises are a great thing. But there will be those that will always come to work and do exactly what they have to and not more. Merit raises will encourage them to do more. I believe that if we have an opportunity for people to come to work, know they're gonna be rewarded for staying there for some sort of longevity and going above and beyond. They're not gonna make just a qualified employee, they're gonna make a quality employee.

M. HANSEN: All right, thank you very much.

BRAD KREIFELS: Thank you.

M. HANSEN: All right, thank you for your testimony. We will take our next proponent for LB345.

CARLA JORGENS: Good afternoon.

M. HANSEN: Welcome.

CARLA JORGENS: My name is Carla Jorgens, C-a-r-l-a J-o-r-g-e-n-s. I'm a corporal at the Nebraska State Penitentiary, and I've been there for 21 and a half years. First I'd like to thank, Senator Wishart, for introducing LB345 on behalf of myself and approximately 1,580 workers, co-workers. The Nebraska Department of Correctional Services and the Department of Health and Human Services are both barely surviving in

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crisis mode. Why, then when you ask, have you been told that things are getting better? Turnover is reducing, we're hiring larger amounts every month, and less are walking out the door. I don't know which NDCS or DHHS these positive changes are being made at, but I assure you, they're are not located in Nebraska. I am the secretary of FOP Lodge 88, and I have access to the list of people that have been hired and that have left these departments. Recently, in three months' time, we lost over 110 staff in these facilities. The number of staff currently working for these departments also includes people on long-term military, military leave, long-term sick leave, and investigatory leave. These people are not contributing any hours worked, but are still counted as currently employed in the institutions. For every one of these people, someone has to pick up the 40 hours a week-- 40 hours of work per week, that fewer and fewer of us are expected to work. So 110 people times 40 hours is 4,400 hours a week. That adds up to a minimum of 17,600 hours per month that have to be worked by one of us in the institutions. These number of hours are not even including the vacancies that we're already being required to make up for. The two departments are running out of people to force this mandatory overtime on, and we are running out of hours in our day to work for you. Currently they legally can force us to work 17-hour days. At NSP, the line staff that are being hit with mandatory 16-hour shifts are now refusing to work them. Staff that have worked two to three double shifts a week are being hit for a fourth and a fifth. Employees are being told that there's no one to relieve them. They're getting up and they're abandoning their posts. They're walking off the job, putting other staff and the inmates and, yes, you, the citizens of this state at great risk. They are at such a desperate level of frustration that they're risking disciplinary action, which could include being terminated. They're working so many hours that sometimes the inmates see them work all three shifts in a 24-hour period. We literally see our co-workers and the inmates more than our own families. Our children are not gonna stop growing up, and our parents are not going to stop getting older. Our spirits are broken and we are worn down. We need some relief from the relentless demands that are being placed on us and then for-- unfortunately our administration and our Governor are indifferent to these needs. I train new-hire employees in my assigned area, and they're telling me that they're already looking for other places of employment. They haven't even been assigned a permanent job yet, and they're already wanting out. They-- they're told that they have to work some overtime and, like you, they're being told things are gonna get better, things

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are getting better. You see, it's all in how you present the numbers. You can find all kinds of creative ways to hide the truth and make it look good on paper, but you're never gonna convince these hardworking, dedicated people that things have improved any in the last two years. You can see it in their faces. They know the truth. And so should you. I have testimony from 2017, that I gave to the Senate Appropriations Committee, and Senator Wishart was there. Two pages, they're almost identical. Nothing has changed.

M. HANSEN: All right, thank you for your testimony, Miss Jorgens. I'll see if there's questions from the committee. All right, seeing none, thank you for your time.

CARLA JORGENS: Thank you.

M. HANSEN: All right, any additional proponents to LB345? Welcome.

JASON SWEDLUND: Thank you. Jason Swedlund. I'm a mental health security specialist II at the Lincoln Regional Center. I've been there for over 16 years now. Before that, I worked as a caseworker at the Nebraska State Penitentiary for five years. I, I guess I was asked to come here today to provide some personal testimony about the personal impact that this overtime has on staff. I'm coming off a 16-hour shift this morning. The only reason I'm not doing a 16-hour shift right now from 3:00 in the afternoon to 7:00 in the morning is so that I can come and testify. The thing that I'm facing right now is at 6:30 tomorrow morning that phone rings and I'm-- I got to wonder am I gonna be able to take my daughter to school tomorrow morning even though I did a 16-hour shift today. I'm still having to face the possibility of my daughter not being able to go to school tomorrow morning or I have to call the neighbor or make arrangements. You know this isn't tenable. It's-- the, the turnover rate at the Lincoln Regional Center, as far as I can tell, from the numbers that I have available to me is well over 40 percent, probably close to 50 percent right now. And that doesn't include the temporary agency staff, they signed three-month contracts. You're training them for five weeks, four or five weeks, to work for twelve. So they're there for three months and they're only helping us out for eight weeks, and they don't have to do overtime. They're not required to do mandatory overtime. And-- you know, during the negotiations I was part of the negotiating team for the current union contract that's gonna start in July, and the head of the HR department said that wages don't have anything to do with the impact on staff retention. They actually said that wages don't have anything

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to do with staff retention. I-- I'm a union rep and I hear all kinds of horror stories. We have staff who prearrange overtime so that way they can go to class during the day. They work 11:00 to 7:00, but they're gonna come in at 7:00 tonight work a 12-hour shift so they can then go to 9:00 class from 9:00 in the morning to 1:00 in the afternoon. And then get three or four hours sleep, come back to work at 12-hour shift. Now LRC has changed their policy where they will cancel her prearranged overtime shift. She now has to work from 7:00 in the morning to 3:00 in the afternoon. She, she can't go to class anymore. She can't go to college. She can't advance her career. Well, what do I tell this person? Sorry, you're out a luck. Nobody wants to do anything to help you. I mean, how, how are you supposed to retain staff when I-- I've had to call my daughter at home and tell her I couldn't make her violin recital because I got called and they said, sorry, you have to stay. Every single day when it's time to leave, that phone rings, in the back of our mind, we got to think do I get to go home to my family today or do I have to do another 16-hour shift. You can't keep treating people like this. Something has got to change. Now I know she had said earlier-- you know, what, what happens if there's a snow emergency? I know at the Lincoln Regional Center. I have been told there's over 600 employees out there. Only 180 of us are carrying the load of overtime. Every day at 3:00, we see two-thirds of the staff leave. So you're putting this huge burden on us and we're watching everybody else go home to their family. So there is other alternatives. There is other ways to ease this burden on us. And-- you know, over the last four or five years I've seen studies, studies, studies, committees, committees, committees. It's, it's time, it's done. Time for committees is over, time for studies is over. We have got to have real solutions today. I just-- I-- after 15 years, I don't know what to tell people anymore. You know they, they, they keep saying, well, it's gonna get better. It's gonna get better. It's not. The, the, the Governor's Office-- his idea of a fair contract was a 2 percent raise. Now he talks about merit raises, 0.3 percent merit raise. That's like 8 cents an hour. Is that really a merit incentive? And then they're gonna take 100 percent control of our insurance premiums, so we're gonna lose money. My paycheck will be smaller. And that's their idea of incentivizing staff to stay. I, I don't-- I guess just-- we need help from somebody. Somebody, somewhere has got to help us out. We cannot do it anymore.

M. HANSEN: All right, thank you for your testimony. Before you go, first and foremost, can I get you to spell your name for the record?

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JASON SWEDLUND: Jason, J-a-s-o-n Swedlund, S-w-e-d-l-u-n-d.

M. HANSEN: All right, thank you. Any questions from committee members?
Senator Halloran.

HALLORAN: Thank you, Chairman Hansen, and thank you, Mr. Swedlund, for your testimony. Real quickly, real quickly, you, you gave a, a number of people that work at Lincoln Regional Center and how many of those are in a smaller number but a number-- large number required to do overtime? What were those numbers again?

JASON SWEDLUND: I--

HALLORAN: You were talking about two-thirds of them could go home and the third--

JASON SWEDLUND: There's-- guess I was told that there's over 600 employees total of the Lincoln Regional Center, 186 to 200. It varies from week to week to who's getting hired and quitting and what not. But, roughly 185 of those are mental health security specialists, too, and they are the only ones that are required to do mandatory overtime. So they're the only ones. There is a very small number of other support staff, who do volunteer to do overtime, but come the weekends, come holidays-- you know, come 11:00 to 7:00, those people aren't volunteering for those days.

HALLORAN: Right. So I, I may be looking at this wrong, but 600 employees totally roughly,--

JASON SWEDLUND: That's what I have been told.

HALLORAN: --and 200 are in charge of overseeing supervising the, the patients.

JASON SWEDLUND: Um-hum, yes.

HALLORAN: So broadly tell me in your mind what those other 400 are doing? What's their job, generally?

JASON SWEDLUND: I mean, to support the number of patients we have there, you have kitchen staff, you have janitor staff, you have secretaries, you have therapists, you have doctors, you have program managers, program directors. There's a lot of behind the scenes stuff

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that goes on. So-- you know, that's I guess what the other 400 are. I, I don't--

HALLORAN: Sure, no, I understand.

JASON SWEDLUND: --know exactly, but that's roughly as well as I can figure out what it is.

HALLORAN: No, that's fine, I appreciate it. Thanks.

M. HANSEN: Thank you, Senator Halloran. All right, seeing no other questions, thank you for your testimony. All right, we'll take any other proponents of LB345. Last--

CARLA JORGENS: I do have emails and other written testimony from several correctional employees from different facilities that would like to be part of the record.

M. HANSEN: If you'll-- thank you. We'll make sure we get a copy. All right, seeing that, we'll close proponents for LB345. We'll move on to any opponents of LB345.

WILLIAM WOOD: Good afternoon, Senator Hansen--

M. HANSEN: Welcome.

WILLIAM WOOD: --and members of the committee. I'm sorry, I'm suffering from a paralyzing vocal cord, so you'll just have to bear with me. My name is William J. Wood, W-i-l-l-i-a-m J. W-o-o-d. I'm chief negotiator and administrator for Administrative Services Employee Relations Division. I'm here today in opposition to LB345. The State Employees Collective Bargaining Act was enacted in 1987 to provide a framework for how the state and its employees organize into bargaining units would resolve their differences in regard to wages, hours, and terms and conditions of employment. The act provides that the term mandatory topics of bargaining means those subjects of negotiation on which employers must negotiate pursuant to the Industrial Relations Act including terms and conditions of employment which may otherwise be provided by law. Regulating mandatory overtime by statute would defeat the purpose of the act and be at odds with the language in the State Employees Collective Bargaining Act. Enacting this legislation could lead to state employees being treated differently than others performing like or similar work, in like or similar working conditions, which could be at odds with Industrial Relations Act. This

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would restrain the parties from using one of the tools that might otherwise have resulted in an entire agreement. Intent of the act is for the parties to resolve such terms through bargaining, and the more limitations that are placed on bargaining, the less valuable it becomes. Thank you for your time. I'd be happy to answer any questions.

M. HANSEN: Thank you, Mr. Wood. Are there questions from the committee? Senator Crawford.

CRAWFORD: Thank you, Chairman Hansen, and thank you, Mr. Wood. I'm wondering, are you in the room during the bargaining? Is that your role?

WILLIAM WOOD: Yes.

CRAWFORD: Have you seen efforts to reduce overtime hours as part of that negotiation?

WILLIAM WOOD: I've heard testimony from agencies as to what efforts they're trying to make. So I know that there's efforts going on and I think they'll testify about that. There was negotiation on a mandatory overtime subject and we reached impasse on that.

CRAWFORD: So they were unable to, to address it through bargaining?

WILLIAM WOOD: Yes.

CRAWFORD: Thank you.

M. HANSEN: Thank you, Senator Crawford. Mr. Wood, I would have a question. So-- it's come up today and it's come up in hearings in the past, but a-- kind of step raises, longevity, pay-- whatever you want to call it. Is that something that you have bargained with or seen come up at the bargaining table?

WILLIAM WOOD: We've seen it come up at the bargaining table.

M. HANSEN: OK, and it was my understanding that in the past there was-- is that-- let me rephrase it, is that something that the state could come to an agreement on with, with the, with the employees union?

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WILLIAM WOOD: State could come to many different types of agreements in regard to pay plans.

M. HANSEN: And, and would one of those be step raises or longevity pay?

WILLIAM WOOD: Yes, the state would have the ability to agree to that.

M. HANSEN: All right, thank you very much. Any other questions? All right, seeing none, thank you for your testimony.

WILLIAM WOOD: Thank you.

M. HANSEN: All right, we'll take our next opponent to LB345. Welcome.

SCOTT FRAKES: Good afternoon, Chairman Hansen, members of the Business and Labor Committee. My name is Scott Frakes, F-r-a-k-e-s. I'm the director of the Nebraska Department of Correctional Services. I'm here today to provide testimony in opposition to LB345. Mandatory overtime is utilized by NDCS to ensure coverage of posts that must be filled in order to safely and effectively operate each of the correctional facilities. These are staff members responsible for keeping offenders and the public safe, and who play an essential role in the rehabilitation process; assisting with treatment, programming, and reentry needs. Ensuring that there are enough people available to cover each shift is a day-to-day challenge given that any number of staff members are gone due to sickness, vacation, injuries, training, jury duty, and numerous other obligations. The one thing that allows us to ensure appropriate staffing levels is the use of overtime. I appreciate the demands placed on individuals who are required to work mandatory overtime in NDCS, and I continue to work on eliminating the need for mandatory overtime. Staff vacancies have been going-- have been an ongoing problem fueled by two primary issues. The first is that the work we engage in is challenging and dangerous, and it's not for everybody. The other issue is the ability to fill positions when the state has a remarkably low unemployment rate. Eliminating mandatory overtime would have a significant and detrimental impact on NDCS. It would throw the system into a state of chaos fueled by understaffing. We would have to put some facilities on lockdown just to maintain order and safety. There would be no way to maintain the internal or external safety of the system without relying on other resources to provide personnel. For instance, utilizing the State Patrol, local law enforcement, or the National Guard. With nursing

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staff we are able to contract some services, but there are no contract services available to supplement our security staffing. These conditions would frustrate and anger the inmate population with potentially disastrous consequences. There would certainly be a decline in the standard of care provided to inmates. In addition, lack of personnel will ultimately compromise the safety of those staff members who remain to cover each shift. NDCS has invested in a variety of strategies to reduce the number of vacant positions. For the first time in nine years, the turnover, turnover for the agency went down in 2018. But the turnover rate of 24 percent is still far too high, and our efforts are not going to slow down in 2019. We're making a strong investment in the work force that we have as a way to keep promoting from within and retain the workers we have. We're also working hard to reduce the number of serious incidents so that our teammates know they have a safe working environment. Eliminating mandatory overtime is not a solution to any of the factors that currently contribute to understaffing in our facilities. In fact, with no alternatives or recommendations for how to supply employees needed to fill essential, truly mandatory posts, LB345 is a public safety disaster. I didn't come today to defend the use of overtime, and certainly not the use of mandatory overtime, that is a problem. We got to-- we have to continue to work on it. I'm here though to say that LB345 is not the right answer to address the problem. Thank you for the opportunity to testify today. I'd be happy to try to answer any questions.

M. HANSEN: All right, thank you for your testimony. Senator Slama.

SLAMA: Thank you for coming out today, Director Frakes. Obviously, my district covers Tecumseh and a big issue out there is of course understaffing. If this bill goes through, how do we fill those spots that are already struggling to get covered even with the mandatory overtime?

SCOTT FRAKES: And Tecumseh has been a challenge since it opened, and it remains one today. We-- we're having better success in terms of managing day-to-day operations when we had the ability to use 12-hour shifts, but based on a review and a decision that was eliminated, and at that point we saw mandatory overtime and overtime in general escalate fairly significantly at Tecumseh. But in fairness, part of the 12-hour shifts had a [INAUDIBLE] in 8 hours of overtime, so I don't want to try to-- I don't want to minimize that in any way. Today part of how we keep Tecumseh functioning and operating safely, is we have 60 employees that we've hired in the Omaha area, area that are

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actually employed by Omaha Correction Center. They come each day in vans and work at Tecumseh. It provides in essence about the equivalent of 40 full-time staff to address the needs at Tecumseh. It's a-- at best a mid-range solution, definitely not a long-term solution, but it was something that we needed to try. What we've seen in Tecumseh is we were able to have some-- a little bit of success in bringing down turnover at Tecumseh, and we tried a lot of initiatives specifically at Tecumseh. Our ability to find staff for Tecumseh has gotten more and more challenging because I really firmly believe because of how hot the job markets are in Lincoln, Omaha, and other areas and how small the population base is in the area around the facility.

SLAMA: Sure. So who would we be bringing in to cover these shifts, would we just be bringing into Tecumseh more people from Omaha or the National Guard or local law enforcement? What would be the--

SCOTT FRAKES: You know, it's all of those things. It would be would-- we-- we'd have to, we'd have to see how things played out of course. We would do everything we could to work within whatever the parameters were. If there was some allowance, as the senator said in her initial testimony, there was some allowance for some mandatory overtime that could help but we run three eight-hour shifts so if you can only work twelve hours now we've got a gap that we would have to figure out how to fill. It is not our practice to call people and force them to come to work from home. We will call people and see if they're willing to come in and we have sign-up rosters and things like that. So we would look for every opportunity we could to see if we could manage it internally. I don't think we could for very long at Tecumseh, and then I would have to say can I get support from the State Patrol? Do I need to request the Governor to activate the National Guard to help assist us and keep the facility open? What I can't do is run the facility with normal movement, if I can't fill all of the posts that are required to safely do that.

SLAMA: And-- I mean, none of those external options have any correction specific training, would they?

SCOTT FRAKES: No, in the case of the National Guard some of the people deployed would probably our employees so we might have a few that would be deployed and come right back to us, but for the most part, no. They have-- the law enforcement have a little bit of background, but as Mr. Kreifels testified, their work is very different than ours and so we would use them as much as possible to fill those posts that

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don't have direct inmate contact. And then we would use our seasoned staff to the best of our ability to do the specific work of corrections and make it work as well as we could. But what I anticipate especially in the higher security facilities is we would have much less movement, much more, much more tighter control. We would not be able to have the level of movement that we do nor-- during normal operations because of that.

SLAMA: All right, thank you.

M. HANSEN: Thank you, Senator Slama. Other questions from committee members? Senator Halloran.

HALLORAN: Thank you, Senator Hansen. I don't like to make observations, I'm supposed to ask questions, but an unintended consequence of placing the facility at Tecumseh, is that you don't have a job, you don't have an employee base to, to draw from. And I understand we oftentimes place these facilities because nobody wants them in their backyard. But if we can just move it to Omaha, you would have more of a draw for employee base to make that work. But that's what you're dealing-- that's-- isn't that a lot with-- I'll pose a question.

M. HANSEN: Sure.

HALLORAN: Isn't that a lot with what you're dealing with? You have such a low base for employee opportunities to draw from?

SCOTT FRAKES: Definitely for Tecumseh. I think that's probably the primary issue. And then because we have challenges here in Lincoln with our higher security facilities as well, the tight job market is right on the heels of that.

HALLORAN: OK, thank you.

M. HANSEN: Thank you, Senator Halloran. Senator Hansen had a question.

B. HANSEN: Yeah, so-- and I should know this, how long you've been the director now?

SCOTT FRAKES: Four years, and a few days.

B. HANSEN: All right. So you said 2018's turnover rate was about 24 percent, right, somewhere around there.

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SCOTT FRAKES: That is agency wide. Protective Services was over 31, I can't remember exactly, 31.5 percent, I believe.

B. HANSEN: And what was it the previous years? Remember off the top of your head?

SCOTT FRAKES: No.

B. HANSEN: [INAUDIBLE]

SCOTT FRAKES: We were down-- for the agency, we dropped from 27 to 24 percent. I don't remember the Protective Services number. It was 32-something I think, so little drop. Not-- definitely didn't have a, a parade to celebrate the big drop there,--

B. HANSEN: OK.

SCOTT FRAKES: --but we did move in the right direction. After nine years of it continuing to go this direction, just to have it level off for me was a victory, and then let's double down and figure out what we do. How do we do all of that and some more?

B. HANSEN: OK. Thank you.

M. HANSEN: Thank you, Senator Hansen. Senator Crawford.

CRAWFORD: Thank you, Chairman Hansen, and thank you, Director for being here today. Do you conduct exit interviews when people leave?

SCOTT FRAKES: We do. It's still-- we're still trying to develop a practice that, that really works the way we want it to. We offer both in-person and on-line survey options. But, a lot of employees don't take advantage of either one.

CRAWFORD: What would you say are-- is the major reason people leave?

SCOTT FRAKES: Those that leave because they've gotten new opportunities, because they have family commitments, because they're moving out of state. I'd bring those in the leaving for the reasons you would expect people to leave any organization. So that's one part of it. I can't tell you which percentage the other side of it is, the people that leave because they're just dissatisfied. It is usually-- if it's Protective Services staff it is often the mandatory piece, compensation is often cited. And what's something that we were seeing a couple of years ago that we worked very hard on and that was

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dissatisfaction with their supervisor as well. So-- you know, one of the challenges we had-- it was mentioned that we had a very high turnover in year one was our Protective Services staff in particular. Absolutely true, in some places, some locations it was actually 50 percent. So lower in some areas, way higher than you would want it to be. One of the tough things about corrections, and pretty consistent across the country especially in those jurisdictions or agencies that have collective bargaining, is things are geared around seniority, so senior staff have the top-bid rights, senior staff-- voluntary overtime is assigned to the most senior or given, the most senior staff have the opportunity to decide whether or not they want to, the least senior staff are the first ones to be given mandatory overtime. And so unfortunately our brand new staff get hit at a disproportionate level with mandatory overtime, and I've-- when I get the opportunity to meet with them when they're first coming in the door and I talk about you're gonna see some overtime, and that is a challenge for you. I think people hear that but unless they've worked in some other similar kind of 24/7 operation there's no way you could appreciate what that really means in terms of, well, what do you mean I can't go home today, and what do you mean I can't leave at 2:00 because you need me to stay?

CRAWFORD: Thank you.

M. HANSEN: Thank you, Senator Crawford. Director Frakes, I would have a question. So, so Senator Wishart's bill, as I understand it, doesn't eliminate mandatory overtime but sets a-- both a cap on per day and per week.

SCOTT FRAKES: That's as you clarified it. I don't think it current-- the way it's currently written, I don't think that's clear.

M. HANSEN: OK. So, so I guess, I guess with that intent and I think her statement of intent says something kind of more in that [INAUDIBLE]. So I guess going along that spirit, if, if it's not an elimination of mandatory overtime but instead is a cap, would there be a way to set those numbers such that you could still function your agency and provide some meaningful reduction to employees?

SCOTT FRAKES: It certainly helps. And what would help even more than is if I had the ability or we had the ability to sit down with the labor unions and have some conversation about options for shifts and some of the other pieces that feed into this. But as it sits, if we

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were capped at 12 hours it becomes very challenging because at the end of the-- the vacancy occurs at 2:00, the shift needs to be filled until 10:00. It is a mandatory post to safely operate the prison, so this person can only stay until 6:00, now then where do I get the person to fill it in. We could change our practice and begin to call people from home and tell them they had to come to work. I don't consider that to be a good approach. But if we had 12-hour shifts, as an example, as we have done in the past and that was an option that was available, that 12-- a 12-hour shift pattern works well with a 12-hour mandatory cap. So I think there's things we could do but it definitely would require some negotiation. And it'd be great to have an opportunity to try to work through some of these things before we were facing it as an imminent decision.

M. HANSEN: OK. All right, thank you for your testimony. Any further questions? Seeing none, thank you.

SCOTT FRAKES: Thank you.

M. HANSEN: Welcome.

MARK LaBOUCHARDIERE: Good afternoon, Senator Hansen, members of the Business and Labor Committee. My name is Mark LaBouchardiere, that's M-a-r-k L-a-B-o-u-c-h-a-r-d-i-e-r-e, and I'm the Department of Health and Human Services director of facilities. I'm here to testify in opposition of LB345 which would prohibit the use of mandatory overtime at the 24-hour care facilities operated by the Department of Health and Human Services. Employee vacancy rates at the 24-hour care facilities make mandatory overtime necessary. Each facility has a staffing ratio that must be maintained to provide adequate care for the individuals served as well as ensure the security of the facility. The Youth Rehabilitation and Treatment Centers, the YRTC's at Kearney and Geneva, have staffing ratios required pursuant to the Prison Rape Elimination Act. These facilities must maintain staff to youth ratios of 1 to 8 during waking hours to maintain safety and security. Also the, the Psychiatric Residential Treatment Facilities, the PRTF's, at Whitehall and Hastings' Juvenile Chemical Dependency Program must maintain a staff to youth ratio of 1 to 4 in accordance with federal and state regulations. Adult psychiatric hospitals, the Lincoln Regional Center and the Norfolk Regional Center must maintain a staff to patient ratio of between 1 to 4 or 1 to 6 depending on the needs and severity of the illness of the patient. Pursuant to the Centers for Medicare and Medicaid Services, CMS regulations, the Beatrice

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State Department Center must operate staff to resident ratios between 1 to 3 and 1 to 6 depending on the acuity of each individual's disabilities. Due to the fact that none of the seven 24-hour care facilities have been able to maintain full staffing in direct care positions, if LB345 passes the facilities will need to contract with staffing agencies to fill in gaps in the schedule. This approach is already being used to address the staffing shortage of the Lincoln Regional Center, and has proven to be very costly. We would anticipate high costs at the other facilities as well. There may be times during national disasters that inclement weather that staff will need to stay at the respective facilities in order to serve the youth and adult patients. This proposed legislation would make it difficult to staff the facilities should a disaster occur and the next shift staff could not make it into work. Management-- mandatory overtime is also necessary to staff the facility should an employee need time off for illness and for emergencies. Even though agency staff would be in place to fill gaps in the schedule they would not be immediately available to provide needed coverage for employees who are not able to report for their shifts. Staff shortages will also impact admissions. If this bill is passed the facilities may need to further cap their maximum patient capacities resulting in longer wait times for individuals to receive needed treatment. The 24-hour care facilities recognize the hardship for staff caused by mandatory overtime, and we are making every effort to reduce the need to utilize this-- to maintain staffing ratios. The facilities have called upon supervisory and administrative positions to assist with direct care and have offered more scheduling flexibility for direct care staff. All facilities also utilize voluntary overtime to fill in scheduling gaps. Recruitment efforts are also underway to hire new staff. The facilities are using job advertisement Web sites, hiring events, and career fairs to increase exposure of our open positions to potential job seekers. We recognize the need to have a positive work culture to help the youth and adults we serve to live better lives. This is of the utmost importance to the department. Thank you, and I'm happy to answer any questions you may have.

M. HANSEN: Thank you. Are there questions from the committee? I, I would have a question. So part of the goal behind this bill and part of a lot of the testimony from proponents has been on the issue of, of kind of related to the issue of turnover. So what, what turnover rates are you seeing at these different facilities?

MARK LaBOUCHARDIERE: It depends on the location.

M. HANSEN: Sure.

MARK LaBOUCHARDIERE: So if we're looking at Hastings for example, we have a very low turnover rate there. LRC is pretty high based upon it's hard to get qualified applicants in the door. And when I say qualified applicants, because back in January 2018, we had zero vacancies, zero vacancies. But then again, we had to go back and see if the people we were bringing in the door were actually qualified or not. Because if you don't bring qualified people to work with mentally-ill patients, it can be a detriment in the long run for us.

M. HANSEN: Gotcha, OK. All right, any other questions from the committee? Senator Halloran.

HALLORAN: Thank you, Senator-- thank you, Senator Hansen. And real quickly, what's your, what's your wait time now to receive people at the Lincoln Regional Center?

MARK LaBOUCHARDIERE: It's, it's actually decreased. It went down from about 42 to about-- I think it's about 34 right now.

HALLORAN: Say again, I'm sorry.

MARK LaBOUCHARDIERE: It's gone down to 34. Thirty-four patients on the waiting list.

HALLORAN: OK, timewise on average. What-- is there, is there a way to determine what the average wait time is for--

MARK LaBOUCHARDIERE: I can get those numbers for you, Senator.

HALLORAN: OK, thank you.

M. HANSEN: Thank you, Senator Halloran. Seeing no other questions, thank you for your testimony.

MARK LaBOUCHARDIERE: Thank you.

M. HANSEN: All right, is anybody else wishing to testify in opposition to LB345? Seeing none, is there anybody who wishes to testify neutral on LB345? Seeing none, we'll offer, Senator Wishart, if she'd like to close.

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WISHART: Well, thank you so much, colleagues. I think this is a good discussion. I did want to point out a few things. I wanted to clarify, as I did in my opening, that this is not my intent to eliminate all mandatory overtime, but it is to cap hours at 12 that can-- and then anything above that somebody can volunteer as well as to allow somebody to have one day off a week. The other thing I wanted to talk about a little bit is that it is concerning to me that when we hear from the opposition what I'm hearing is that we cannot run our facilities without significant use of overtime. I think just that in itself means we have a broken system that we need to address. And the other thing I wanted to mention is that was a good question about natural disasters or inclement weather. And that is something I would be willing to work with the committee on. Maybe there needs to be some level of exception for that for, for natural disasters or extreme situations. With that, I'd be happy to answer any more questions.

M. HANSEN: Thank you, Senator Wishart. Are there questions?

WISHART: Thank you.

M. HANSEN: All right, seeing none, thank you for coming in today. And I will say we just have one letter for the record which is from Susan Martin of the Nebraska State AFL-CIO in support. And with that, we will close the hearing on LB345. And we'll stand at ease for just a moment until we find Senator Pansing Brooks who is our next introducer today.

[BREAK]

M. HANSEN: All right, welcome back everybody. And we welcome Senator Pansing Brooks to open on her bill, LB217.

PANSING BROOKS: Thank you, Birthday Chair-- I mean, Chair Hansen and members of the Business and Labor Committee. For the record, I am Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, representing District 28, right here in the heart of Lincoln. I'm here today to introduce LB217, a bill to help close the pay gap between men and women. I'm passing out my testimony today which I don't always do because of the fact that I think it's important that you see some of the statistics and are able to look at them specifically as I'm reading it. This bill specifically protects employees who disclose wages. The bill is modeled after the Workplace Advancement Act, a bill that Senator Deb Fischer has introduced into the U.S. Senate. In fact,

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the language in LB217 is almost verbatim. I'm providing a copy of this legislation to you. It is also important to note that Senator Tanya Cook brought similar wage discrimination-- wage-disclosure protection legislation in 2015, and the Business and Labor Committee advanced that bill to the floor. LB217 is important because women continue to earn considerably less than men for doing the same work. According to the U.S. Census Bureau, American women earn 80 percent of what their male counterparts make for full-time, year-round work. The pay disparity is even worse in Nebraska, as full-time, working Nebraska women earn 77 cents for every dollar earned by men. When the numbers are broken down by race and ethnicity, we, we see even more profound wage gaps. African-American women from Nebraska earn 65.5 cents on, on the dollar. Latina women from Nebraska earn 57.5 cents on the dollar and Native American women from Nebraska earn 44.7 cents on the dollar compared to their male counterparts. While the wage-- while the pay gap has slowly moved in the right direction, it has been far too slow. Projections from the Institute of Women's Policy Research-- Research shows Nebraska will not close its wage gap until 2066 if the earnings of men and women change at the current rate. Women are almost half the work force and receive more college and graduate degrees than men. Yet this wage gap persists. The Institute for Women's Policy Research also conducted a study on the gender wage gap by occupation. It shows that women nationally earn less than men in both the most common occupations for women and the most common occupations for men. For instance, accountants and auditors are among the most common occupations for women, yet they earn 70.6 percent of what their male counterparts make in those occupations. Women financial managers earn 69.3 percent of, of what men do. LB217 provides that, "An employer shall not discharge or in any other manner retaliate against any employee because such employee required-- inquired about, discussed, or disclosed comparative compensation information for the purposes of determining whether the employer is compensating any employee in a manner that provides equal pay for equal work." This bill is important because the numbers in lost wages really add up. The National Women's Law Center shows that a woman typically loses \$418,000, \$418,000 over a 40-year career based on today's 80 cents on the dollar wage gap. This means a woman has to work an additional 10 years to make what a man makes in 40 years. Clearly, lost wages directly affect the vibrancy of our economy. Passing this bill would attract women to our state which would positively affect the number one issue of the State Chamber, work force development. We need more workers, colleagues. These earning differentials hold on-- hold an especially significant

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and immediate impact right now for single women with children struggling to get by. A woman working retail earns 70.4 percent of what her male colleagues earn according to the Institute for Women's Policy Research. When you consider that the cost of child care accounts for one-third of the average person's income according to the Child Care Aware, and it's not hard to see how much negative impact these pay differentials have on women struggling to provide for their children. Women can't wait until 2066. We need to address this problem now. LB217 doesn't purport to fix the pay gap, the pay gap issue by itself. However, I believe this is a common-sense measure that everyone should get behind. Unfortunately, the Depart-- the Nebraska Department of Labor has placed a fiscal note of \$73,000 on this bill, based on an assumption of 100 claims per year. However, the Nebraska Equal Opportunity Commission is only averaging 19 to 20 complaints annually under the Equal Pay Act. I believe this is much closer to what Nebraska-- the Nebraska Department of Labor could expect under the Nebraska Wage Payment and Collection Act. I'm pro-- I am providing you with a page from the Nebraska Equal Opportunity Commission Annual Report which shows this information. I will also note that the Department of Labor indicated that there would be no fiscal impact when I brought a much more expansive bill last year that included the language of LB217. My staff has brought all of this to the attention of the Nebraska Department of Labor, and I remain hopeful that we will see a new fiscal note that indicates the impact can be absorbed under current appropriations or cash funds. If not, I will work on another solution that doesn't require an appropriation. This is too important for Nebraska not to figure out. In closing, I would ask that you advance to LB217, LB217 so that we can help close the wage gap that is holding so many working women behind and invite women to come to our state and to work. With that, I'll be glad to answer your questions or refer them to a number of experts who will be here testifying today.

M. HANSEN: Thank you, Senator Pansing Brooks. I think, Senator Slama has a question.

SLAMA: Senator, thank you, both for being here today and for bringing this bill.

PANSING BROOKS: Thank you.

SLAMA: I was just wondering-- we-- you referenced Senator Fischer's bill in the Senate that has almost identical wording. Have we seen

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similar legislation passed in other states? If so, what were the results? Do you have any--

PANSING BROOKS: There is similar legislation, but I'm not familiar with that. I'll have to let the experts behind me tell you exactly that.

SLAMA: Thank you.

PANSING BROOKS: I don't want to speak in-- incorrectly here. But I can get that information for you.

SLAMA: Solid, I'd love to see it.

PANSING BROOKS: Thank you.

SLAMA: Thank you.

M. HANSEN: Thank you, Senator Slama. Other questions from the committee? I would have one, and, and I just bring it up because one of the letters brought it up was kind of the exact behavior you mean by inquired about, discussed, or disclosed compared to compen-- compensation information. To me that's kind of, it means what it means. But if you have an example of the activities that you want to protect.

PANSING BROOKS: That somebody can talk to their-- to somebody who's a colleague about what is going on, and the, and the, the law-- the bill is as drafted also excludes somebody who is-- who has this-- who is in charge of all the information from releasing it to everybody. So if you were talking to a colleague who's in-- who's-- and you're both managers working on similar type of work then you have an ability to discuss that to make sure that, that the compensation is fair and that you're getting paid appropriately. So-- but, but if you're in charge of all the employee's data and, and what, what everyone is making you don't just get to disseminate that to everybody.

M. HANSEN: OK.

PANSING BROOKS: So that's a way to protect some of it. But, but somebody can start inquiring with similarly situated people to find out-- you know, where their compensation is versus another person. And it's already allowed in the, in the-- for state government. So it's

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just-- you know, we-- it, it-- this is for businesses that are 15 and above. Thank you.

M. HANSEN: Thank you very much, Senator. Any other questions? All right, seeing none, thank you for your opening. And we'll move to our first proponent for LB217.

TIFFANY SEIBERT JOEKEL: Chairman Hansen, members of the committee. My name is Tiffany Seibert Joekel, T-i-f-f-a-n-y S-e-i-b-e-r-t J-o-e-k-e-l, and I'm here on behalf of the Women's Fund of Omaha to testify in support of LB217. The Women's Fund believes Nebraska workers should not be punished or faced with retaliation when they otherwise lawfully disclose their compensation information. To quote our own U.S. Senator Deb Fischer: knowledge is a power when workers especially women can seek more information without fear of retribution. They can confidently pursue favorable work and wage arrangements. Despite increased legislative protections across the country and advances for women in the workplace, as Senator Pansing Brooks already stated, Nebraska's working women continue to face a significant wage gap and this wage disparity is as she said significantly more pronounced when we break the numbers down by race or ethnicity. Despite the fact that on average, women in Nebraska are more highly educated than our male workers. Research attributes this pay gap to a variety of factors including occupational choice, differences in caregiving responsibilities, motherhood penalties. But there is still a portion of disparities that can only be explained by some sort of discrimination or bias whether that's intentional or unintentional. So what LB217 does, it supports the long-established policy of the state to promote pay equity and to, quote, correct and as rapidly as possible to eliminate discriminatory wage practices based on sex. This was enacted by this Legislature in 1969 in the Equal Pay Act that is currently in place. Pay equity means paying employees fairly after taking into account job related factors, such as date of hire, time and position, job performance, prior work experience, and education. Pay differences will continue to exist and are not necessarily discriminatory. But what LB217 does, is simply subject pay practices to the Sunshine Test where differences in pay can justifiably be explained by these job-related factors, there should be a little concern. Where they can't be justified-- justifiably explained, workers can advocate for themselves to address these inequities. According to the Department of Labor, less than 50 percent of workers nationally have the ability to discuss wages without fear. Opponents of this idea in the past have argued that this

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language is unnecessary because such behavior is already protected by the National Labor Relations Act at the federal level. While the National Labor Relations Act does provide some protection to nonsupervisory employees who discuss wages with co-workers when that discussion is part of concerted improvement efforts, which are spelled out in federal law. It doesn't apply to supervisory employees. It doesn't apply to all employees. So there are certain classes of employees that are not covered in its inquiries about pay do not otherwise-- anything that doesn't constitute protected concerted activity doesn't fall under this protection. Senator Slama, to your question, there are several other states who have enacted pay transparency laws. Col-- California, Colorado, Connecticut, Illinois, Louisiana, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, Oregon, and Vermont. It's in my testimony, so you don't have to write them down quickly. Some states have gone further beyond protecting employees from retaliation, but also to the publishing of wages that is not included in this bill. It simply supports pay equity by providing workers with necessary information to be informed advocates for their own compensation. It demands no additional requirements for employers other than not retaliating against employees who share this information. The Women's Fund urges this committee to support pay transparency and to fulfill the Legislature's 1969 promise to correct as rapidly as possible and to eliminate discriminatory wage practices in our state. With that, I'd be happy to try to answer any questions.

M. HANSEN: Thank you for your testimony. Senator Slama.

SLAMA: And thank you for providing [INAUDIBLE],--

TIFFANY SEIBERT JOEKEL: Sure.

SLAMA: --it's really helpful. Do you have any statistics as to what happened in these states after these transparency laws were passed as towards the closing of the wage gap.

TIFFANY SEIBERT JOEKEL: Yeah, so I would say these laws are fairly new in their implementation, so I don't think there is extensive bodies of research. One-- there is some research that shows increased worker productivity when they are aware that they are not underpaid relative to their, to their counterparts. There is some research that shows that they are in some ways inspired when they find out what their supervisors make. You know, they-- I think they often underestimate

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that gap and when it's bigger they-- there's some research that supports that. Often what's cited about to support the success of transparency is that most government agencies require public posting of salaries whereas most private sector employees do not. The wage gap is smaller in public agencies. Women make 81.4 percent of what men make in U.S. government agencies. Whereas, in the private sector on average it's 79.3 percent. So I would say stay tuned as more and more states pass these laws, I think we'll have a lot more research to look at. But from the perspective of this bill and at this point we think this isn't going to solve the problem but it is a really strong first step to allow employees to be able to not fear retaliation to discuss this.

SLAMA: Great, thank you.

TIFFANY SEIBERT JOEKEL: Thank you.

M. HANSEN: Thank you, Senator Slama. Any other questions from the committee? Senator Halloran.

HALLORAN: Thank you, Senator Hansen. This is kind of a personal question. What's your salary?

TIFFANY SEIBERT JOEKEL: Well, I, I wasn't expecting that, Senator. I make-- let me think about that. I just got a raise. I got a 3 percent raise. I make \$79,000 a year.

HALLORAN: OK. All right, the reason I ask is according to the current salary into Master's in Public Policy degree, the range is \$38,000 to \$83,000. You're doing pretty good.

TIFFANY SEIBERT JOEKEL: Thank you.

HALLORAN: Thank you.

M. HANSEN: Thank you, Senator Halloran.

TIFFANY SEIBERT JOEKEL: And with that information available, I'm able to advocate for myself, so thank you.

M. HANSEN: Senator Hansen.

B. HANSEN: Just to make sure I'm understanding the bill correctly. So if, if somebody goes to their boss and they ask-- they're asking what the pay is of other workers next to them-- can you look at somebody's

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specific name and see what they make or is it just like employees in general? Does an employer have to give up somebody's name?

TIFFANY SEIBERT JOEKEL: So to my understanding of the bill as I read it, Senator, I think that it does not require a boss who has authorized access to that information to disclose that to me as an employee, if I go in and ask. I think it what it is protecting is if I go to lunch with my co-worker and somehow find out that my co-worker is making significantly less or significantly more and some action is taken on the basis of that. So whether it's I go into my employer and ask for an increase in my salary based on that information that is provided to me, there can be no retaliation against my colleague. So we cannot be fired or demoted or punished for having that open conversation.

B. HANSEN: OK, thank you.

TIFFANY SEIBERT JOEKEL: Sure.

M. HANSEN: Thank you, Senator Hansen. Senator Halloran, do you have a question?

HALLORAN: Just a quick question. Do you think all employees are created equal given they have, they have the same education and same job experience background? Are they all created equal? Should they all be paid the same?

TIFFANY SEIBERT JOEKEL: No, I don't think so, Senator. And in fact our existing equal pay laws in Nebraska Fair Employment Practices Act allows for-- it's in my testimony but-- pages-- wage differentials to exist based on seniority, merit, or a system which measures earning by quantity or quality of production or any factor-- than-- other than sex. So absolutely wage differentials will exist, they should. There's different levels of experience that people bring to the job, different levels of education, different levels of performance. It's about communicating that with employees and having a system in place that eliminates bias based on gender, race, and other protected classes. But simply this bill is so we can't get punished as employees for, for disclosing that information to each other.

HALLORAN: OK, thank you.

TIFFANY SEIBERT JOEKEL: Thank you.

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M. HANSEN: Thank you, Senator Halloran. Any other questions? Seeing none, thank you for your testimony.

TIFFANY SEIBERT JOEKEL: Thank you very much.

M. HANSEN: All right, we'll take our next proponent of LB217.

SCOUT RICHTERS: Hello.

M. HANSEN: Welcome.

SCOUT RICHTERS: My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s. I'm here on behalf of the ACLU of Nebraska. I am circulating written testimony and I'll just briefly summarize that here. First, I wanted to thank, Senator Pansing Brooks, for her leadership in bringing this bill. We know that the federal Equal Pay Act that passed more than 55 years ago made it illegal to pay men and women different wages for performing substantially equal work. However, as the testifiers before me have said the Equal Pay Act has not closed this persistent wage gap that we continue to see between men and women. We know that in Nebraska, women in the work force earn an average of only 78 percent of what men make. And we know that that wage gap is even larger for women of color as well. As of September 2018, we know that Nebraska ranks 41st out of 51 states and the District of Columbia in terms of equal pay, excuse me, between men and women. And we know that retaliation or fear of retaliation for discussing wages is a contributor to this persistent wage gap that we do see. And as of September 2018, we know that approximately 19 states have laws that protect-- prohibit retaliation for discussing wages. And really it boils down to ensuring that workers do not fear this kind of retaliation. It really benefits all workers, but especially women and women of color given the often intersecting forms of discrimination they do face in the workplace. We-- with that, we offer our full support of LB217, and I'll be happy to answer any questions.

M. HANSEN: Thank you, Miss Richters.

SCOUT RICHTERS: Thank you.

M. HANSEN: Are there any questions from the committee? Seeing none-- oh, wait, Senator Hansen.

B. HANSEN: Thanks for coming.

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SCOUT RICHTERS: Oh, thank you.

B. HANSEN: I just-- more kind of about-- I'm curious about your, your personal opinion. Why do you think there is a pay difference between men and women say in Nebraska? Why, why are we 41st out of 50?

SCOUT RICHTERS: I don't really have a clear understanding of why we are fir-- 41st, but I think that we know there's a lot of factors that affect the pay gap whether that be occupation, experience, education. But, we know that there's a big chunk that's-- that is unaccounted for. And really it's led researchers, researchers to conclude that it can really only be explained by factors such as discrimination or unconscious bias and things like that.

B. HANSEN: When you see a large chunk, do you know like what percentage?

SCOUT RICHTERS: Yes, it is 38 percent from-- trying to find the exact study, I believe it's from the National Partnership for Women and Families, but I can get you that.

B. HANSEN: That's fine, I'm just curious in getting your opinion. Thank you.

M. HANSEN: Thank you, Senator Hansen. Any other questions? All right, seeing none, thank you--

SCOUT RICHTERS: Thank you.

M. HANSEN: --for your testimony. All right, we'll take our next proponent. Welcome.

SUSAN MARTIN: Good afternoon, Chair Hansen and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n. I am testifying on behalf of the Nebraska State AFL-CIO and all working families in the state of Nebraska in support of LB217. A culture of secrecy around pay is bad for business not only because it gives cover to discrimination but also it leads to poor performance, employee dissatisfaction, and lower motivation, and mistrust of management. Conversely, increasing transparency by allowing employees to discuss compensation and providing employees with information about pay scales and pay sitting practices increase the likelihood that employees will believe they are paid fairly which in turn promotes employee engagement and productivity. In the fall of 2015, the AFL-CIO

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conducted a national survey of working women. Their survey was completed by nearly 25,000 responses from union and nonunion women across the country. They conducted this survey as more than just a job assessment. It zeroes in on how working women spend time at home, tackle financial challenges, and engages in our communities. The results paint a clear picture of the economy and society working women are committed to building where equal pay, paid leave, and fair scheduling are the law of the land. According to the survey, women are posed to take an action on the core economic issues that impact their lives and the issue that motivates them the most across generations and demographics is equal pay for equal work. This legislation will allow an employee the freedom to discuss their wages without retaliation to further help in determining this wage disparity. We view this as an employee's right and will lead to further close those wage gaps. We thank Senator Pansing Brooks for bringing this legislation forward and ask that you vote it out of committee.

M. HANSEN: Thank you, Miss Martin. Any questions from the committee. Seeing none, thank you for your testimony. All right, any other proponents for LB217? Seeing none, is there anybody who wishes to testify in opposition to LB217?

BOB HALLSTROM: Chairman Hansen, members of the committee. My name is Bob Hallstrom, H-a-l-l-s-t-r-o-m. I appear on behalf of the National Federation of Independent Business today to testify in opposition to LB217. Our organization traditionally has expressed opposition to state laws that are similar in effect to federal restrictions or regulations, however, may have the potential to go beyond what the federal law in its implementing regulations may provide. Miss Joekel attempted to do some of my testimony in terms of my reference to the National Labor Relations Act in, in the-- effect at the federal level. One of the issues I'd like to raise for the committee's consideration is that while Senator Pansing Brooks has indicated that her language is I think almost verbatim to that of the Workplace Advancement Act introduced by Senator Fischer at the federal level. In reviewing the Executive Order 11246 and the amendments to that order by President Obama in 2014, even though it generally applies to pay equity issues, I was unable to uncover in the federal regulation or in the federal Executive Order that it was tied specifically to-- for the purposes of determining whether there is equal pay for equal work. As a result that could be interpreted differently at the state level in terms of that particular purpose. So I would raise that issue. Obviously our, our testimony in opposition to LB217 today is in no way promoting wage

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gaps that may exist for reasons other than responsibilities, performance, individual productivity, length of employment, and so forth. So for those reasons we would simply be concerned that the interpretation and enforcement at the state level may be different than the National Labor Relations Act to the extent that it applies to employers and perhaps if the federal law that Senator Fischer is promoting which is virtually identical in its language to LB217 as adopted, perhaps this would not go any further than that particular act would once it was adopted at the federal level. I'd be happy to address any questions that the committee may have.

M. HANSEN: Thank you. Are there questions from the committee? Senator Crawford.

CRAWFORD: Thank you. Thank you, Chairman Hansen, and thank you, Mr. Hallstrom. So just to clarify, your understanding is that the National Labor Relations Act forbids people from being, being retaliated against for discussing pay with another one-- with another employee?

BOB HALLSTROM: Yeah, I think it's referred to as pay secrecy restrictions at the federal level.

CRAWFORD: And does that go-- to include all employers?

BOB HALLSTROM: There are exceptions that Miss Joekel mentioned in her, her testimony in general.

CRAWFORD: So those employers that are already complying with it, this would be no new compliance that they would need to meet?

BOB HALLSTROM: The only, the only question I raised is whether or not that, that trailer on to the language that's similar to the federal act that's pending or the federal bill that's pending would provide for any differential in interpretation or enforcement.

CRAWFORD: If that phrase were not on there, there would be no new compliance rules for businesses. Is that fair?

BOB HALLSTROM: Other than for businesses that are exempted--

CRAWFORD: Exempted.

BOB HALLSTROM: --under the federal act, Senator, yes.

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CRAWFORD: Thank you.

M. HANSEN: Thank you, Senator Crawford. Any other questions? Seeing none, thank you for your testimony.

BOB HALLSTROM: Thank you.

KATHY SIEFKEN: Good afternoon, Chairman Hansen and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n. In an effort, effort to save time today I'm here representing three organizations, the Nebraska Grocery Industry Association, of which I am the executive director, the Retail-- the Nebraska Retail Federation, and the Nebraska Restaurant Association in opposition to LB217. We represent members of the food industry, the Retail Federation represents retailers, and the Restaurant Association represents restaurants and they-- our members are all across the state of Nebraska. We do not support discrimination of wages based on race or gender. However, federal law already prohibits employers from requiring employees to agree not to share information regarding wages, so this bill simply isn't necessary. The heart of the bill is to prevent wage discrimination by informing employees that they have the right to share information regarding their salary information. Education regarding employee rights is a better fix than adding another redundant law to the books. If you have any questions, I'd be happy to answer them. Thank you.

M. HANSEN: Thank you. Are there questions from the committee? Seeing none, thank you.

KATHY SIEFKEN: Thank you.

M. HANSEN: Anybody else wishing to testify in opposition to LB217? Seeing none, anybody wishing to testify in neutral to LB217? Seeing none, Senator Pansing Brooks would you like to close?

PANSING BROOKS: Yes. Thank you for hearing us today, Committee. Couple of things. First off, Senator Hansen, I believe we're 1st-- 41st in the country partly because we can't ask whether or not-- ask about somebody else's wages. And so that causes discrimination, it causes some unconscious bias that's going on. This is actually a freedom of speech issue in my opinion. It's, it's, it's a pretty simple bill if you look at it because it just deals with that an employer cannot retaliate against somebody for asking whether or not what another person is paid or to disclose comparative compensation. So I don't

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know this-- it doesn't feel like to me the sky is falling with passage of this bill. I, I think that if, if the previous opponents say that the NLRA already applies-- well that may be so, but it isn't happening uniformly across the state. So-- and I, I want to thank all of the people that came to testify. Again, I'd like to also specifically thank Miss Seibert Joekel, because this bill does not require random people asking public information on job salaries. So just as an aside, this bill didn't really have anything to do with Senator Halloran's question to her about how much she made and I appreciate that she did answer that. It was-- it, it, it has to do with colleagues in a similar situation in a business that are working together that are similarly situated and the ability of somebody to ask without being fired. It's as simple as that. So right now you can be fired for asking your colleagues how much you're making. We don't have that problem because we all know we're making \$12,000. But I'll tell you what, if Senator Matt Hansen, my friend and colleague, we're making \$40,000 here and I were making \$12,000, I would have some concern about that. And I would be wanting to be able to ask some questions about that. And I wager that everybody in this room would, if I were making the \$40,000 and Senator Halloran were only making \$12,000. So again, it's an issue of fairness. It's an issue of ability to get information from people. And I don't think this is some kind of giant lift for the state of Nebraska to say information is available, we have to be more transparent. So I thank you for listening to all this, and I hope that you'll move forward on LB362. Is that the number?

M. HANSEN: It's LB217.

PANSING BROOKS: Oh, OK, I was looking at the back here, LB217.
[LAUGHTER] Thank you. I'm sure LB362 is really good, too. [LAUGHTER]

M. HANSEN: All right, are there any questions for Senator Pansing Brooks? Senator Halloran.

HALLORAN: Thank you, Senator Hansen. Just to be clear I wasn't asking-- the reason I was asking because a lot of the arguments meant that there's been a gender gap.

PANSING BROOKS: OK.

HALLORAN: OK, and I looked up for her, her job level of what she does, her job description, and I was glad to hear she's doing just fine.

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PANSING BROOKS: Yeah, she's, she's a pretty amazing person. So that is, that is good. Thank you, Senator Halloran.

HALLORAN: You're very welcome.

M. HANSEN: All right. Yes, Senator Hansen, go ahead.

B. HANSEN: This is just mainly to get my head still wrapped around this bill. So, so-- OK, two girls are sitting at a table at lunch talking to each other and one finds out what one-- somebody else makes. And then they can go to the-- their employer and say, I heard what Susan makes, what does everybody else, what does anybody else make? Then they have to disclose that or, no?

PANSING BROOKS: No, this is-- that's not about what-- it is not about going to somebody and-- what it is, is mainly just-- I mean, if you read the bill, it says, "An employer shall not discharge or in any manner retaliate against an employee because such employee inquired about, discussed, or disclosed comparative compensation information for the purpose of determining whether the employer is compensating any employee in a manner that provides equal pay for equal work." So clearly we're not talking about if somebody's-- I mean, somebody mentioned that if, if somebody's been there 15 years and somebody else comes in at the same level-- I mean, if, if that person is paid a lot more without more experience it just all relates to us being a welcoming state, being able to make sure that no matter who it is that, that people are getting appropriately compensated.

B. HANSEN: OK, thank you.

PANSING BROOKS: Thank you.

M. HANSEN: Thank you. So just-- I would have a question, Senator.

PANSING BROOKS: Yes.

M. HANSEN: So just to kind of clarify the scenario, so this is a situation where let's say, you and I are both working a retail job and you ask me how much I'm getting paid. And I say, oh, I'm getting paid, you know, \$11, and I say, what are you getting paid, and you say, I'm giving \$9.50. This would prevent, prevent her employer from retaliating against either of us for having that conversation.

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PANSING BROOKS: Exactly. You can't fire an-- either employee for discussing that information, which is not the law right now.

M. HANSEN: Senator Halloran has a question.

HALLORAN: I'm just curious, does that happen? Do you have evidence of that happening?

PANSING BROOKS: We, we have heard that it happens. I, I can try and get some people to come and testify to you that it has happened--

HALLORAN: That would be helpful.

PANSING BROOKS: --or let you know.

HALLORAN: I mean, it's, it's-- that would be helpful. Thank you.

PANSING BROOKS: We think that the, the, the feeling is that part of the reason that there is this, this wage gap differential is partly because of the inability to ask information. And I'm concerned about women and children and families when you look at the percentage of single mothers that there are in this-- in Nebraska. And, and women trying to raise children and trying to feed them and, and be able to work at the same time. This, this is not appropriate.

HALLORAN: And I agree with the intent. I've been in business for a long time and--

PANSING BROOKS: Yeah, I know you--

HALLORAN: --never once-- and I know a lot of business people, and I've never once, never once have heard of anyone firing anyone because they shared their wage information with another employee. So that's--

PANSING BROOKS: Well, then they wouldn't have the problem. That's good, I'm glad.

HALLORAN: Well, I'm just saying-- and that's anecdotal, too. But I, I like to deal with more than just an-- anecdotal information. And I think that would be helpful if you--

PANSING BROOKS: OK, we'll try and get you that information.

HALLORAN: --could quantify that in some fashion.

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PANSING BROOKS: OK, thank you, Senator.

M. HANSEN: All right, thank you, Senator Halloran. Any other questions? All right, seeing none, thank you, Senator Pansing Brooks.

PANSING BROOKS: Thank you.

M. HANSEN: I'll read into the record, we have a series of letters. We've have letters of support, letters of support from Sarah Zuckerman of Lincoln; from Jenni Benson of the Nebraska State Education Association; from Sydney Butler of Lincoln; from by Brian Bigelow of Omaha; from Sherry Miller of the League of Women Voters. We have letters of opposition from Kristen Hassebrook, representing the Nebraska Chamber; and from Rocky Weber, representing the Nebraska Cooperative Council. With that, we'll close our hearing on LB217. We welcome up Senator Quick for LB383.

QUICK: Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Dan Quick, D-a-n Q-u-i-c-k, and I represent District 35 in Grand Island. I've introduced LB383 to provide for an annual adjustment in the state minimum wage. In 2014 over 300,000 Nebraskans voted to raise the state minimum wage. Over a two-year period, the minimum wage was raised from \$7.25 to \$9 an hour. By doing this, voters sent a message to lawmakers that they believe workers have a right to make a wage that allows them to support their families and reflects the current cost of living in the state. I have brought LB383 to further enshrine the state law the, the importance-- to further enshrine in state law the importance of living wage for all Nebraskans. Under this bill, beginning in 2020, the State Treasurer will adjust the state minimum wage to reflect the average annual percentage change in the Consumer Price Index for the most recent five-year period. The Consumer Price Index is already used to adjust Social Security payments and to automatically provide cost-of-living wage adjustments to millions of retired workers along with retired military and federal service workers. In my experience bargaining as a union representative, I can tell you I've worked with employers to adjust wages using the Consumer, Consumer Price Index which is what we, what we are using here, and I think it's the best way to keep up with the cost of living. I believe this common sense approach to help our state minimum wage more accurately reflect the cost of living. It is my belief that rather than having a dramatic increase in minimum wage every few years as a result of a ballot initiative, this proposal will allow for a gradual increase that is tied more closely to the

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cost of living, which will benefit our businesses and our working families. If we adjust the minimum wage to keep up with inflation each year, we'll make, we'll make smaller adjustments that will allow businesses to plan ahead instead of having to make a larger judgment--a, a larger adjustment every few years. Another point that I would like to make is that if the federal government were to increase the minimum wage in the future, this legislation which increases the minimum wage incrementally would go-- would get us closer to what the wage might be. We have seen many states and cities increase their minimum wage to \$15 per hour and so it is my belief that when the federal government does make the increase it will go to that rate. Being closer to a \$15 minimum wage would benefit employers, so the increase would not be so overwhelming. This legislation would also benefit employees by keeping up with the cost of living which would allow them to provide for themselves and their families. Minimum-wage workers are students who may be trying to save for college which is critical for reducing their college debt. Minimum-wage workers are those who have to work more than one job to make ends meet and to provide for their families. Minimum, minimum-wage workers are the elderly who have only Social Security benefits to rely on and, and find it necessary to work after retirement. All minimum-wage workers are paying for housing, health care, food and clothing, utilities, transportation, and potentially childcare. These al-- these costs also increase incrementally every year which puts minimum-wage earners at a disadvantage as it-- as they find it hard to keep up with inflation. I also want to mention that the increase the bill provides, provides for cannot exceed 3.5 percent. If we hit that maximum every year which is rather unlikely given the annual CPI over the last few years, it would still be the year 2023 before the state minimum wage reached more than \$10 an hour. My office calculated that rough average of the annual CPI over the last five years which was 1.6 percent. If this bill were implemented, our \$9 minimum wage would be increased by 15 cents in 2020, which would be more manageable for employers and beneficial to employees. I'd also like to mention that I brought an amendment to the bill which would prevent the minimum wage from being decreased in the event that the average CPI is negative. Under this bill, the minimum wage would automatically keep up with the cost of living, and we owe that to our hardworking constituents. I appreciate your time today, and I appreciate the support for this bill. I'm happy to answer any questions.

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M. HANSEN: Thank you, Senator Quick. Are there questions from the committee? Seeing none, thank you for your opening. All right, we'll move on and take our first proponent in LB383. Welcome.

JOEY ADLER: Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Joey Adler, J-o-e-y A-d-l-e-r, and I'm here on behalf of the Holland Children's Movement, a nonpartisan, not-for-profit organization that strives to fill its vision for Nebraska to become the national beacon in economic security and opportunity for all children and families. We are here in support of LB383. Ensuring good wages for our working families is important for many reasons. Recent public opinion research in Nebraska shows that 44 percent of blue-collar men and women said Nebraska families do not have the tools and services they need to attain the middle-class lifestyle. And a majority among all Nebraskans, 57 percent believe that the state economic policy has done nothing or very little to help families in poverty. LB383 works to help Nebraskans obtain-- attain a middle-class lifestyle and further opportunities to succeed. Particularly by tying the minimum wage to inflation, families will be able to keep up with the rising costs. LB383 will allow Nebraskans to better succeed in maintaining a sustainable income to support their families and provide economic security they need for better opportunities to get ahead. The Economic Policy Institute recently released a report on the impact of increasing the minimum wage, quote, over the last five decades, the real inflation adjusted value of the minimum wage, which is a key tool in the fight against poverty has steadily eroded. Minimum wage increases have been too, have been too infrequent to keep up with inflation, let alone raise the real value of the minimum wage above where it was in 1968. While a full-time, minimum-wage worker in 1968 would have earned \$20,000 a year, in today's dollars a worker paid the federal minimum wage in 2017, could only earn \$15,000 working full time. This leaves a single parent of one child consigned to a life of poverty if that parent was earning the federal minimum wage, end quote. We strongly support LB383, and believe the bill would promote better economic outcomes and security for all Nebraska families and children. We'd urge you to advance it and appreciate your time and would answer any questions.

M. HANSEN: Thank you for testimony. Are there any questions? Seeing none, thank you.

JOEY ADLER: Thank you.

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SUSAN MARTIN: Good afternoon. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, testifying on behalf of the Nebraska State AFL-CIO and all working families in the state of Nebraska in support of LB383. In 2014, voters overwhelmingly supported increasing the minimum wage in Nebraska from federal minimum wage of \$7.25 an hour to \$9 over a two-year period. Raising the minimum wage to \$9 was a great investment in our workers and Nebraska's economy. Unfortunately, it has not done enough to keep up with inflation and the rising costs of working families. Setting and adjusting the level is perhaps the most challenging part of minimum wage fixing. If set too low, minimum wages will have little effect in protecting workers and their families against unduly low pay or poverty. If set too high, minimum wages will be poorly complied with and or have adverse employment effects. A balanced and evidence-based approach is necessary which takes into an account-- on the one hand the needs of the workers and their families, and on the other economic factors. An appropriate balance between these two sets of considerations is essential to ensuring that minimum wages are adapted to the national context and that both the effective production of-- protection of workers and the development of sustainable business is taken into account. To maintain their relevance, minimum-wage levels need to be adjusted from time to time. Failure to do so may lead to an erosion of the purchasing powers of workers who earn the minimum when prices of goods and services are rising or may lead to more wage inequality when the general level of wages is increasing. The Nebraska Legislature can revise the minimum wage whenever they consider it necessary, but both workers and employers could possibly be affected by some uncertainty. Workers who receive a minimum wage do not know for how long price inflation will erode their purchasing power while employers do not know when they might suddenly face an abrupt increase in their labor costs. Sometimes wages remain unadjusted for long periods followed by sudden and large adjustments. This not only weakens the relevance of the minimum wage but also makes it more challenging for employers to absorb the cost increases. Increases in the general level of prices and the cost of living is the most frequent consideration in minimum wage adjustments. This is because inflation erodes the real value of minimum wages over time. One indicator to capture the change in prices is the Consumer Price Index, which has been introduced into this legislation. Adding the stipulation that the percentage will not increase over three and a half percent is predictable-- is a predictable factor that employers can use when determining costs over the next budget year. Building an annual increase in the minimum wage is a good way for workers to keep

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up with rising costs and has a built-in mechanism to keep up with the economy. Passing this legislation now will eliminate the need for sudden increases in the future which are unfavorable to Nebraska employers. I thank, Senator Quick, for introducing this legislation, and ask that you vote LB383 out of committee.

M. HANSEN: Thank you, Miss Martin. Any questions from the committee members? Seeing none, thank you for your testimony. Welcome.

JAMES GODDARD: Thank you. Good afternoon. My name is James Goddard, that's J-a-m-e-s G-o-d-d-a-r-d, and I'm the director of the Economic Justice Program at Nebraska Appleseed, here today to testify in support of LB383. I, I guess, I want to start by saying it's, it's time for a new deal for workers in our state. Hard work should mean a living wage. It should mean benefits to fall back on when you need them. But right now wages are simply too low and benefits for many workers are, are scant. This bill would aim to address part of this imbalance by adjusting the minimum wage based on changes to the Consumer Price Index or CPI. The policy behind minimum wage in Nebraska is to ensure workers earn a sufficient wage to support their health and welfare. And I can tell you from the folks that we hear from and work with every day, people are struggling despite working hard. If you look at \$9 dollars an hour, 40 hours a week, 52 weeks a year that's about \$18,720 a year. That is not a lot of money to, to live on, and people do live on it. And I mean, adults and seniors and many people try to make it on that amount and it's hard to pay for housing, food, child care, and other necessities. So connecting the minimum wage to CPI is a good move to ensure that as prices rise so do wages. And with that, I will conclude and urge the committee to support the legislation.

M. HANSEN: Perfect, thank you. Questions from committee members? I, I would have one, and so and you [INAUDIBLE] address in your testimony. But I think one of the common discussions about minimum wages is often perceived as like a high school wage, or like a starting wage, and it's, it's not necessarily family caregivers. In your work, you do interact with a lot of families where there's a parent trying to support or at minimum themselves and children on minimum wage?

JAMES GODDARD: Absolutely. I mean, there certainly are many teenagers that work for the minimum wage but this is not an issue that only

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applies to, to teenagers. A lot of adults with dependents are working for the minimum wage and really scraping by.

M. HANSEN: Thank you. Seeing no other questions,--

JAMES GODDARD: Thank you.

M. HANSEN: --thank you for your testimony. All right, next proponent. Welcome.

JULIA TSE: Good afternoon, Chairman Hansen and members of the Business and Labor Committee. For the record, my name is Julia Tse, J-u-l-i-a T-s-e, and I'm here on behalf of Voices for Children in Nebraska, which is a nonprofit building pathways to opportunities for all kids and families in our state. Nebraska parents are working hard, but more and more hard work isn't enough to make ends meet. As wages stagnate and the cost of living rises, Nebraska families are working harder but still falling behind. Voices for Children in Nebraska supports LB383 because it ensures that the state minimum wage is not outpaced by the rising costs of raising a family. To Senator-- or Chairman Hansen's question about how many parents would be affected by this annual increase, the best numbers that I had are in my testimony so the EPI which took a look at how many folks would be affected by a federal minimum wage increase to \$15 an hour. Looking at our state estimates put that about 56,000 parents who would be affected. That's about one-fourth of those who would be affected by an increase and so I would just say that this looks specifically at the raise to \$15. So-- but the reason I pulled that number out, out is because many economists believe that raising the minimum wage for the lowest paid workers also has an indirect effect on workers that are near that wage. Nebraska's newly increased minimum wage of \$9 is still often an insufficient wage for raising a family in our state. For example, a single mother with a toddler working full-time for minimum wage would still be far from being able to pay for typical living expenses in Nebraska without any forms of assistance. Her childcare costs would amount to about two-thirds of her gross income, and Nebraska, in recent years, has risen to the top in terms of childcare affordability. Currently, we are somewhere always between one to ten most expensive in the nation. When wages aren't enough to make ends meet, parents have no choice but to turn to public assistance programs. One recent study estimated that a \$12 federal minimum wage would reduce federal public assistance spending by \$7 billion annually. It's estimated that a 10 percent boost to the minimum wage would result in a 5 percent decrease in

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child poverty and would also reduce the share of people living below and just above the federal poverty level. Without annual adjustments, a full-time federal minimum wage of \$7.25, for example, is just over \$550-- \$5,500 less than what it would have been in 1968 in today's dollars. With the passage of LB383, our state would join 17 other states and the District of Columbia including our neighbors in Colorado, Missouri, and South Dakota where the minimum wage is adjusted annually. LB383 ensures that families with minimum wage workers are able to keep up with the cost of living. And we thank, Senator Quick, for his leadership and this committee for their time and consideration and we respectfully urge you to, to advance the bill. Thank you.

M. HANSEN: Thank you. Any questions from committee members? Seeing none, thank you for your testimony.

JULIA TSE: Thank you.

M. HANSEN: All right, are there any other proponents in LB383? Seeing none, anybody wishing to testify in opposition to LB383?

ROBERT HALLSTROM: Chairman Hansen, members the Business and Labor 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 to express our opposition to LB383. My testimony goes through in some detail with regard to the traditional issues of concern with small business owners. Small business owners are probably most disproportionately impacted by changes in the minimum wage, they operate on thin profit margins. Therefore, any increases in payroll that can occur directly through an increase in the minimum wage if they have any minimum wage workers and indirectly through the ripple effect that occurs when a minimum wage is increased and the other employees see greater value in their worth and would request or expect some type of increase in salary as well. Also, I think statistics and reports would show that the minimum wage does have is, I think Miss Martin related to, a disproportionate impact on those that is intended to help which are the low-level wage earners in terms of those who are in high school or college or those elderly who are part-time workers and not supporting families may be the first ones to be impacted either by not having job availability or a decrease in the hours that they are allowed to work, if businesses need to take those actions in order to continue to keep the doors open and make ends meet. So for

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those reasons, we would oppose LB383. I'd be happy to address any questions of the committee.

M. HANSEN: Thank you for your testimony. Are there any questions? Appreciate your time.

ROBERT HALLSTROM: Thank you, Senator.

KATHY SIEFKEN: Chairman Hansen and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, with the Nebraska Grocery Industry Association. I've also been asked to speak on behalf of the Nebraska Petroleum Marketers Association in opposition of LB383, a bill that ties the minimum wage to CPI. For most people, minimum wage is entry-level pay and not a way of life. Entry-level positions provide an opportunity to acquire training and skills and gain work experience. Nationally, 2.3 percent of wage earners made minimum wage or below in 2017, and those are the latest figures that I could find. In Nebraska, according to the Nebraska Department of Labor, 1.3 percent of wage earners fell at or below minimum wage. The 1.3 includes those who are exempt from paying minimum wage, including family members, volunteers for nonprofits, agriculture or farm employees, apprentices and learners, and certain physically or mentally disabled workers. Again, minimum wage is entry-level pay for unskilled workers. The cost of living in Nebraska is reasonable and ranks 17 out of 51, and that includes-- I know we've got 50 states, but that includes the District of Columbia. You can't take the numbers out of the numbers. So tying the minimum wage to CPI results enforced salary increases and employers must then make staffing decisions that disproportionately hurt low-skilled workers. Employers leave jobs vacant, they reduce hours, they forgo raises, and in some cases lay off workers. These workers may lose training opportunities, income, and experience greater unemployment. At the same time it provides less compensation for other more qualified staff members. CPI is a measure of the rise and fall in prices of commonly used goods and services over a set period of time. Forced wage increases produce higher labor costs which translate into higher prices for all products resulting in a higher CPI which triggers another increase in minimum wage which increases inflation and it goes on and on. Linking the minimum wage to CPI will increase the minimum wage, but it does nothing to increase the skill level of those employees making them, excuse me, but it does nothing to increase the low-skilled workers real earning power beyond their current skill level. It does nothing to help them become more valuable workers so that their employers are willing to pay more for

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their labor. We believe that business owners should be able to make those decisions as to who and when employees receive pay increases. There were a couple of comments that were made in prior testimony for the proponents and so I'd like to read from the-- a couple of studies. It says-- this comes from the Employment Policies Institute, and economists use Census Bureau data to find that about two-thirds of minimum wage workers earn a raise within their first year of employment. And then, Texas A&M economists use that same data source to find out up to ten years later if that held true and their results show-- showed that a majority of employees who remain in the work force earn a raise within one year. People are not stuck at minimum wage. And then there is another section that addresses another-- what economists had said, and they surveyed economists were much more optimistic about the ability of earned income tax credits to increase the income needs of poor families compared to an increase in the minimum wage. There is a direct correlation that for every 1 percent you, you raise the earned income tax credit, there is a 1 percent decrease in the poverty level, and that same information does not hold true when you increase the minimum wage. So with that, I would be happy to answer any questions, and would hope that you would not pass this bill out of committee.

M. HANSEN: Thank you. Are there questions from the committee? I, I would have a question. So just kind of fundamentally talking about the minimum wage, and you're talking about it in relation to-- I think I heard kind of a couple different arguments to your part, so I'm just trying to process them altogether. So right now are there-- I'm trying to think the best way to phrase this, so right now minimum wage in Nebraska is \$9, are there, are there-- so you feel in the grocery industry that there's plenty of employees that do less than \$9 worth of effort?

KATHY SIEFKEN: The people-- \$9 is an entry-level pay.

M. HANSEN: Yes.

KATHY SIEFKEN: Once people are employed and they gain skills they receive raises. So there is no one in the grocery industry that receives less than \$9 per hour. The problem arises in that when you mandate a raise for them every year based on the CPI, it becomes very difficult for the businesses to keep up with that. But if you have an

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employee who is willing to learn and improve their skills they will get raises, because then they become more valuable to the employer.

M. HANSEN: OK. Any other questions? Senator Slama.

SLAMA: Yes. One of my concerns with this bill is it may compromise businesses especially small businesses' ability to project what they're going to be paying their workers next year or the year after. Do you share those concerns? Because my understanding is, is that under this bill the CPI would get calculated in January and then by April that new minimum wage would be in effect. That seems like a short turnaround if you're a small business owner [INAUDIBLE].

KATHY SIEFKEN: It would put-- in my opinion, it would put some of the small grocery stores in jeopardy. I don't know. They're, they're having a tough time making ends meet as it is with the \$9 minimum wage. And, and frankly they've just gotten to a point where those that are going to survive probably will. But if you add another wage-- mandatory wage increase on top of that, we're gonna lose some more grocery-- rural grocery stores.

SLAMA: And it's a wage increase that you can't definitively project until those--

KATHY SIEFKEN: Correct.

SLAMA: OK.

KATHY SIEFKEN: Yes, correct, um-hum.

SLAMA: Thank you.

M. HANSEN: All right, any other questions? Seeing none, thank you.

KATHY SIEFKEN: Thank you.

JIM OTTO: Chairman Hansen, members of the committee. My name is Jim Otto, that's J-i-m O-t-t-o, and I am here on behalf of the Nebraska Retail Federation and the Nebraska Restaurant Association and to testify against LB383. The-- for all the reasons that have already been stated by the previous two testifiers-- I don't need to repeat those, I would just point out a couple of things. First of all, the-- as was said the \$9 an hour is still being adjusted to-- that was actually a 24 percent increase over what we had previously. It was a

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vote of the people, but that is significant. And, and while the CPI may be a good way or not a good way to do it we would just submit that it's too early to submit another increase so quickly. And I'd also just state that-- you know, when you increase the minimum wage you don't just increase the wage for those people at entry level, everyone who is earning close to the minimum wage says, well gee, now the minimum wage went up so mine should go up, too. So it, it pretty much ratchets everything up over a period of time. So for those reasons and all the reasons that were stated earlier, we would oppose the bill.

M. HANSEN: Thank you, Mr. Otto. Any questions from the committee? I, I guess, I guess fundamentally so, so I'm hearing, I'm hearing the-- that kind of the opposition to these bills and I guess my question is fundamentally is, if we're-- if the kind of the pitch is this is entry level low-skilled unskilled-- it-- it's almost in your testimony and, and same with Miss Siefken's and Mr. Hallstrom's that \$9 is too high as it is. Is that, is that, is that your position?

JIM OTTO: No, it wouldn't be. I don't think-- as I talked to most of our members very few can-- are hiring at \$9. It would have to be-- the, the real wage that's out there that the market has set is in most cases higher than \$9. But if you raise the minimum wage, that is legally the minimum wage,--

M. HANSEN: Sure.

JIM OTTO: --you also-- the market wage will also go up.

M. HANSEN: OK. So, so if, if we, if, if we had, if we had not passed or if we did not have a minimum wage you would still-- there would still-- most retail employees would be, be hired at a rate above \$9? Is that the way the market's been [INAUDIBLE]?

JIM OTTO: I can't answer that for sure, but I, I know that when the minimum wage was lower you couldn't hire and it was very difficult to hire people at that level. But I, I don't have the specific numbers on where the market average wage is. I could try to find that out for you.

M. HANSEN: OK, thank you. Any other questions from community members? Seeing none, thank you for your testimony. Any other opponents to LB383? Seeing none, anybody wishing to testify in a neutral capacity? Seeing none, Senator Quick, would you like to close?

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QUICK: Thank you, Chairman Hansen. And I'll, I'll-- I will make this quick. So I did bring this bill-- [LAUGHTER]-- flew right by you, didn't it? I did bring this bill today, so that we could recognize that our minimum wage should be adjusted up by the cost of living. I guess one of the things that I think about and it's not just for the employees, but I think about the employers, too. I think on a federal level at some point if we decide to-- if the federal government would increase it-- let's just say if they even go to \$12 an hour, the difference between-- that's \$4 an hour-- that'd be quite an increase for employers to have to absorb at one time. And I think just getting us closer to that amount would, would make things a little simpler, and I think it'd be easier for some of the business owners to maybe absorb it they, if they didn't have to increase by such a large amount. It also benefits the employees. And I've heard some of the concerns about what maybe, maybe having them-- having hours reduced or something like that. But I don't know how this last-- I really don't know personally how it affected some of the employers if they reduced number of hours or if they, if they had to cut back like do any layoffs for employees, but I know it benefited a lot of people. And I think some of the-- I-- for the most part, I think most employers were able to, to take that on and, and do a good job of it. I'm not looking to-- I'm not doing this to, to punish employers, I think this is a good, a good way for them to get closer to that minimum wage that we could someday see happen. And I think that's gonna end up somewhere between \$12 and \$15 an hour if the federal government decides to do something like that. So I would just ask that you please consider voting this on and, and thank you very much.

M. HANSEN: All right, thank you, Senator Quick. That was quick. All right, any questions from committee members? Senator Hansen has a question.

QUICK: Oh, all right.

B. HANSEN: Sorry, I'll make this quick. That doesn't sound as good when I say it.

QUICK: Yeah.

B. HANSEN: I, I tried looking up my phone, but my Internet wasn't working. Do you know how the CPI is calculated? Is it like a whole bunch of variables or just something kind of simple?

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QUICK: Well, I can-- I don't know how it worked for this-- specifically for this bill, but I know when we, we negotiated contracts we would-- actually, I could look it up on the Internet. We'd go to the CPI Midwest, we would look up-- usually when we did a contract and we use the CPI we'd go-- we'd pick a specific month and then use that month and then that's what we would use to [INAUDIBLE] for that wage negotiations. So I know this is the, the five-year average, and so they would look up on January-- I don't know if it would December 1 of January 1, what that wage would have been for the last five years, what the CPI would have been and then they would average that out. You know, each percentage divided by five. You know, each of those years, what it would have been divided by five.

B. HANSEN: OK. So it's a local thing-- it's like-- it's not like CPI is calculated nationally?

QUICK: Well, I don't know what they-- it might be-- I don't know if they're gonna use the one according to the-- and maybe that suddenly committee would want to decide how-- which CPI they want to use. If they want to use the, use the one that Social Security uses which is probably a more national one or if they would use like a CPI Midwest which is based out of Kansas City which would be more regional.

B. HANSEN: That's what I was curious about because if we're gonna use a CPI, gonna be specific about which we're using and how it's calculated because the federal thing--how it affects us because cost of living might be different in Nebraska than it is somewhere else--

QUICK: Yeah, and there, there are different regions,--

B. HANSEN: --I just didn't know for sure how that, how that all adds up.

QUICK: Yeah, there are different regions, so I know-- like we usually use the one for the Midwest area-- is what we use, so.

B. HANSEN: OK, thanks.

QUICK: Yeah.

M. HANSEN: All right, thank you, Senator Hansen. Seeing no other questions, thank you, Senator Quick.

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QUICK: All right, Thank you.

M. HANSEN: All right, before we close I will read several letters for the record. These are all in support. We have Sandie Geis, from Grand Island; John Else, from the League of Women Voters; Brian Bigelow, from Omaha; Sarah Zuckerman, from Lincoln; Jenni Benson, for the Nebraska State Education Association; Danielle Conrad, from the ACLU of Nebraska; and Mary Sullivan, from the National Association of Social Workers. Again, all of those were in support. And with that, we will close LB383. I'm going to-- for staff do a eight-minute break and we will come back right at 4:00 for Senator Hunt and her next bill.

[BREAK]

M. HANSEN: All right, good afternoon. Welcome back everybody. We're back, and we're gonna invite Senator Hunt to open on her LB400.

HUNT: Thank you so much. Good afternoon, Chairperson Hansen and members of the Business and Labor Committee. I'm Senator Megan Hunt, that's M-e-g-a-n H-u-n-t, and I represent District 8 which includes the neighborhoods of Dundee and Benson in Midtown Omaha. Today I'm presenting you with LB400. This bill would increase the subminimum wage or tip wage for Nebraskan workers for the first time in 28 years. The new wage would take effect on January 1, 2020. It would initially increase the wage to \$3.60 per hour and then to \$4.50 per hour on January 1, 2021. Additionally, LB400 would index the tipped wage to 50 percent of the state minimum wage. I'd like to start off by providing some background. In 1966, an amendment to the federal Fair Labor Standards Act established a unique subminimum wage for workers who customarily receive tips with the legal provision that these workers' hourly earnings combined with tips would equal the standard minimum wage. At that time, the federal subminimum wage was tied to the standard minimum wage at 50 percent. That ended at the federal level in 1996 under pressure from the restaurant industry. The creation of the two-tiered wage system fundamentally changed the practice of tipping, shifting the responsibility of compensating servers from business owners to customers. Today, that responsibility has continued to shift, moving from patrons and business owners to the tax payers. Restaurant servers, the group that stands to benefit most from this legislation are three times more likely to live in poverty than the general work force, and two times more likely to be on SNAP or Medicaid. So the responsibility to support these workers has shifted to the tax payers, when really it should be on the business owners. I

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get that restaurant owners don't want to volunteer to raise their wages. And I believe that all of us here want to support small businesses, but the truth is that we are all paying for these low wages. It's been 28 years and every year that we let pass without raising the sub- minimum wage in Nebraska passes more responsibility to taxpayers to support the people who work for this wage. So how many years are we gonna let the balance pile up. This bill comes up every year. It's been passed down through the generations. Senator Nordquist brought this, Senator Hansen brought this, and he passed it down to me to bring this year. So we're gonna hear a lot of the same opponents, making the same arguments that we've always heard, today. That this is antibusiness, that the burden of paying workers a higher wage would put people out of business, but these arguments aren't supported by the numbers. Between 2011 and 2016, states that increase the subminimum wage saw a 9.4 percent restaurant growth rate and a 20.4 percent employment growth rate, growth rate, growth rate in the industry while some minimum states did not fare as well. They only saw an 8 percent establishment growth rate and a 16.37 percent employment growth rate. Business associations will always oppose efforts to increase worker wages regardless of what national data tells us. I realize that nobody is going to volunteer to increase their own payroll, but it's in the interest of taxpayers that we finally acknowledge that the business community needs to take responsibility, step up, and agree that they're tipped workers are a valuable group of people in society and they deserve a raise. Some may argue that this bill is unnecessary and point to labor laws requiring employers to supplement wages up to the state minimum wage. However, we also know that noncompliance with these provisions are rampant. Sweeps done by the United States Department of Labor showed that 84 percent of restaurants were noncompliant with these provisions, and we'll hear testimony to that effect today. I know that there were many more people who wanted to come and testify in support of this bill who reached out to me through Instagram, through Facebook, through Twitter, through every channel that people could find me on who work in the restaurant industry especially, and many of them couldn't be here because they had to work. Many of them couldn't be here because of the weather, but I know we have some people here who can testify to their experience to that effect. You'll hear about employees feeling wary of reporting violations for fear of retaliation or being fired. And when employees do muster up the courage to report wage theft they find that the response is underwhelming because Nebraska doesn't have the proper investigatory mechanisms or the political will, honestly,

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to ensure that these labor laws are actually enforced. Since the tipped wage was last increased in 1991, we have a couple senators who weren't even alive the last time it was increased, I'll point out, Nebraska has increased the standard minimum wage seven times. So what I want to ask the committee and the rest of the body when this is moved to General File, is why do we as a culture think that the general work force deserves a raise seven times in the last 28 years, but tipped workers don't? The stagnation of the federal subminimum wage has left the decision to raise tip wages up to the states, and Nebraska is behind our neighboring states in this wage. Iowa pays more than we do, \$4.35 an hour. Colorado pays more than we do, \$8.08. That's not even what I'm proposing that we raise it to. South Dakota's at \$4.55. Once again, that's higher than the rate that we're proposing here. Missouri's at \$4.30. So if we don't develop a culture of support for tipped workers in Nebraska-- many of these people are mothers, many of these people are students, we're gonna continue to see an outward migration of hard workers to our neighboring states. As anyone who's ever been a service worker knows, income based on tipped work is volatile. You can't budget on it. You can't plan on it. And these workers are also more susceptible to harassment, to abuse from customers, because they have to earn their tips. And so there's a lot of incentive for them to put up with a lot more than the rest of us do. We also know that not all clientele tips well and not all restaurants have a lot of customers and so tips aren't always guaranteed. Wage theft is common. So with all of these factors in place, plus the burden that we know this is putting on taxpayers, I would say it's time to give tipped workers in Nebraska a raise to promote the welfare of Nebraskans. And with that, I would take any questions.

M. HANSEN: Thank you, Senator Hunt, for your opening. Are there questions? Seeing none, thank you for coming in.

HUNT: Thank you.

M. HANSEN: We will move to proponent testimony. So we'll take a first proponent for LB400.

SAMANTHA DOWNS: Good afternoon.

M. HANSEN: Welcome.

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SAMANTHA DOWNS: My name is Samantha Downs, it's S-a-m-a-n-t-h-a D-o-w-n-s. I'm a resident of Nebraska's 6th Legislative District, and I'm here to represent the service industry workers affected by the minimum tipping wage and to support LB400. While this bill does not repair a very flawed system, I feel it is an excellent start towards compensating for it. Some quick background,--contrary to the stigma that this industry primarily serves as entry level for low-skilled labor, it's a home to a plethora of highly creative, educated, and skilled individuals. I've been employed as a server and bartender for over 16 years. I'm very proud of the career that the service industry has provided. Even as a full-time employee, the flexibility has allowed me to care for my two daughters without childcare while finishing two degrees. Yet since 1991, including economic downturns and recessions the minimum wage is not budged from \$2.13. After my testimony, I would love to hear any committee members that have worked in the industry and what you have to say about it. But for those who haven't, here's a quick rundown of an average day in my current position as front of house manager. I clock in at 6:00 a.m., where I set up the restaurant for an hour with no patrons. During my shift, I'm responsible for hosting, cashier, reception, all janitorial work, food prep, and the daily needs of full service. After service, we spend two hours cleaning, breaking down the space, and preparing for the next day's service. Sometimes I leave around 4:30 p.m.-- that's on a good day, and it's a 10-hour workday with no breaks or meals. Combined, I average three hours of work with zero com-- customers to compensate for that \$2.13 hourly wage. While employers must compensate the difference if tips don't reach an average of \$7.25 an hour, that's not nearly adequate. Nebraska's living wage for one adult is \$11.51. In my specific case as a mother with two kids, the living wage hourly rate is \$28.92 according to MIT data, and I assure you my average rate does not come close to that number. Moreover, systematic issues exist specifically regarding the tip-out structure and an associated lack of employer regulations regarding tipped employees. At the restaurants I've worked at in Omaha, protocol requires almost all employees to pay one another out of earned and taxed tips. For example, I'm required to, to basically claim 100 percent of my tips. Yet employees like mine-- employers like mine which gross \$2 million in one year require me to contribute a large portion of my claimed tips to support staff-- that's bussers, food runners, barbacks, and then those, those tips are claimed using basically my, my tips. And not only is that double taxation, it certainly feels like wage theft to compensate for employees being paid sub-living wage. The practice that I just

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described is industry standard-- it's happening-- happening everywhere. The employers are forcing their own employees to pay for that difference so they don't even have to meet the \$7 minimum, which is not even the state minimum. Employees are left with little to no protection while these business practices are ineffectively regulated. Finally, while there are many things about the service industry that I love and appreciate, I see as an extremely flawed, neglected, and archaic when it comes to human resources. There exists a huge gap between proper employee protection and the reality of restaurant culture. It can be a toxic environment full of sexual, racial discrimination, and harassment. I've seen enough unacceptable behavior to both customers and management to fill today's entire docket. In closing, service work is not easy physically or mentally. We often work long hours with no guarantee that customers are going to even show up, much less understand their expected responsibilities to compensate for a two dollar 13 hour-- \$2.13 hourly wage. I feel that employers need to be held to a higher standard so that employees aren't left relying on the government to make up for the difference in the living wage, and LB400 would directly and immediately improve the fairness in a chronically flawed system. I urge you to support the bill, and I appreciate your opportunity to speak, and I welcome any questions.

M. HANSEN: Thank you, Miss Downs. Are there questions? Seeing none, thank you for your testimony. We'll take our next proponent. Welcome.

TOM BRODER: Welcome, how are you today, sir? My name is Tom Broder, B-r-o-d-e-r. I'd like to thank Senator Hart-- Hunt, I'm sorry, for bringing that up and I believe last year it didn't make it out of committee though, correct? I'm here today to talk about purpose, show how a few dollars added into server wages-- by the way I have been a server for the last 30 years-- is not a burden that it would believe to be. As you know, currently we are at \$2.13 an hour. I will compare this with Arizona where I have in the past 20 years gone back and forth every two to five years. Primarily my son lives here, but I would prefer the sunshine. There are currently 19 states that pay more than the minimum wage, 17 of those are about to change. I have currently been in Omaha for three years. The three years previous to that in Arizona. The minimum wage went from \$3.65 to \$5.05 over that three-year period. It's currently \$7.15, and is about to be raised to \$8. This \$2.13 an hour does not pay for the taxes, and that's my biggest issue with it there. Get a second job to help pay for the taxes. Well, if you do it in the server business you're in the same

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position. The \$2.13 isn't covering it so you're having to put all this money aside. Granted, I'm only making about \$30,000 or \$40,000 a year, so where to get this money from becomes an issue. In Arizona, that small amount in the paycheck amounted to only \$20 or \$30, but that was money in my pocket. And at the end of the year, I got both a state and a federal return. When I live in Nebraska, I am continuously having to pay that. And I have a debt of somewhere in the neighborhood of \$10,000 with that. I do have all that information if anybody would like to see it. I would stay and give that to you. I'm sorry, I didn't make printouts for you. The extra wage increase-- if it were to be increased, sorry, to merely \$5 an hour at a restaurant selling 10,000 a week which is a half a million dollars a year, the labor change would be \$340 to \$800 from \$2.13 to \$5.00. That's an increase of approximately 5 cents on the dollar, so it's not a huge thing. Arizona about three years ago was labeled as one of the top 10 states in which to enter a restaurant business and get it started up and running. And as you can see they've been continuously paying more and it hasn't affected them. Last year, they added 10,000 jobs as well in that-- in this particular field. As you've heard prior for this \$2.13 an hour, we're required to bus tables, roll silverware, clean bathrooms, take out the trash, sweep and mop the floors, fill the ice bins, take care of our cash. If someone doesn't tip me, I'm having to pay to wait on them. If they only tip me 10 percent, I break even because by law while we're told we have to, to disclose 100 percent of our tips the government makes us pay no less than 8 percent. At my particular restaurant, I have to tip out 2 percent of my sales so at 10 percent I have made no money. If anyone doesn't tip me then I have paid the government to wait on that person as well as my fellow employees. In the 20 percent act, which is under the Fair and Labor Standards Act, I'm at work for five hours. I'm required that I can do one hour of labor at that \$2.13. As you've heard, that doesn't usually work out to that and you can't exactly bring that up to your employer because it doesn't do very well for career advancement. When you start telling them that-- you know, I'm not do any more side work, because I've already done my amount for the day. Since 1988, there have been 14 raises in the House of Representatives and 15 in the Senate. We have only seen 7. In 2009, was the last one. And ironically, on the minimum wage, Nebraska pays more than the federal minimum, but not to the tipped employees. I understand that you don't get paid as much as federal legislators, but the last time you guys did get a raise, and it has been a few years I understand, but it did go through on the first time. All we're asking is that you take a good look at this bill

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and give it some serious consideration for those of us who it would make a big difference to. I think that it would help to take single mothers off of programs like WIC, which I know it kind of comes out there, but if she's getting an extra 40 bucks a paycheck, all of a sudden she doesn't need WIC for formula or if she stayed on WIC, that \$40 a week becomes a huge difference as to what food for the family, bills to pay, a little extra money to maybe do something for themselves.

M. HANSEN: All right, thank you for your testimony, Mr. Broder. Any questions from committee members? Seeing none, thanks for coming in.

TOM BRODER: Thank you. Have a nice day.

M. HANSEN: You, too. All right, we'll take our next proponent. Welcome.

PHALIN STRONG: Thank you. Good afternoon, committee members, thank you for your time. For the record, my name's Phalin Strong, P-h-a-l-i-n S-t-r-o-n-g. I'm here in support of LB400, a proposal to increase the wage for tipped workers from \$2.13 to \$4.50 an hour. I have worked in the service industry for 11 years. This flexibility has allowed me to complete an undergraduate degree from the University of Nebraska-Lincoln, personal growth opportunities, and navigate a gamut of unforeseeable circumstances. And for this and other reasons, I'm very thankful for it. Often I hear people say that service-- refer to service as low pay for low skill, and I wonder if they have ever worked in service. I assure you-- I know a few who are able to juggle and manage the pressure of quality management, long hours and uncomfortable physical duties with the skill, candor, and creativity of my fellow service industry workers. As servers our income is based solely on the gratuity of our patrons. I fully understand that when I go into work I gamble with the generosity of strangers versus the support of my employers. If this minimum, between my servers wage and the minimum wage, is not met-- or if it is met, excuse me, it is of course taxed, then that income is shared with the pay of my support staff, where is it-- it is often taxed again. So not only am I not fulfilling this minimum at the end of the day, my income is taxed twice. Often service industry workers-- we work multiple jobs to make ends meet, working 40- plus hours a week with no overtime or benefits. In 2015, I watched as the state raised the minimum wage to \$9 an hour crawling closer to our state's average living wage for a single adult of \$11.51 an hour. While this increase went higher than the federal

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minimum wage for the first time in our state's history, I also watched it leave tipped wage workers behind, holding a wage that has not changed from \$2.13 an hour since 1991. I ask you today to consider LB400 in favor of tipped laborers and support us in inching closer to a fair-living wage so industry workers may rely less on the financial support of the state and federal government as well as close the gap between the server's wage and minimum wage for employers. Thank you.

M. HANSEN: Thank you for your testimony. Any questions from committee members? Seeing none, thank you. Welcome back.

SUSAN MARTIN: Good afternoon, Chair Hansen and members of the Business and Labor Committee. Again, my name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, testifying on behalf of the Nebraska State AFL-CIO and all working families in the state of Nebraska in support of LB400. While some tipped workers may earn enough in tips to bring their hourly earnings well above the minimum wage, the vast majority of tipped workers earn low wages just above the minimum wage. Tipped workers are more than twice as likely to fall under the federal poverty line and nearly three times as likely to rely on food stamps as the average worker according to a 2011 study by the Economic Policy Institute. The vast majority of tipped workers aren't teenagers working after-school shifts, they are breadwinners who rely on their wages to support their families. More than a quarter are raising children and nearly 90 percent are aged 20 or older. Tips are notoriously erratic varying from shift to shift and from season to season. Tipped workers are hit especially hard during economic downturns as financially squeezed customers have no choice but to leave smaller tips or cut back on spending at diners and restaurants altogether. A higher tip minimum wage would help cushion the impact of these fluctuations and ensure a guaranteed basic income for tipped workers. A 2013 study from the University of California, Berkeley examines each instance of an increase in the tip minimum wage on the state level since 1990 and finds that each 10 percent increase boosts earnings for tipped workers by 0.45 percent. This model policy has proven effective in reducing poverty among tipped workers. In the seven states involved in the study, tipped workers are 25 percent less likely to fall under the federal poverty line compared to states with the lower tipped minimum wages. A 2013 analysis from the University of California, Berkeley examines every increase in the tipped minimum wage on the state level since 1990 and concludes that the evidence does not indicate that there are significant negative effects of tipped wages or regular minimum wages at the levels experienced in the

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U.S. since 1990 in full-service establishments. For example, in Washington, Oregon, Nevada, and Alaska, the tipped minimum wage ranges from \$7.75 per hour up to \$9.19 per hour, over 360 percent higher than the current \$2.13 federal tipped minimum wage. Yet, restaurant industry job growth in all of these states is projected to significantly exceed the national average. Providing tipped workers a stable-base income paid directly by their employers is a key step for improving the economic security and working conditions of low-paid tipped workers. This bill is not just talking about tips, it's talking about a guaranteed wage. Opponents of the bill may say that raising their guaranteed wage may not incentivize them to good service-- do good service, but I ask you does providing a \$9 minimum wage to a store clerk incentivize them to do good service? We all hope that persons compensated by tips provided good services, this is their livelihood. But guaranteeing a basic minimum wage is the right thing to do. These workers typically are doing more in their position than just waiting tables. They're expected to do a variety of other work for their employer, as you've heard previous testifiers testify to. All workers defer-- deserve a fair wage for their work, and tipping oftentimes comes up short. For these reasons, I ask that you support LB400, and I thank, Senator Hunt, for bringing this legislation to you.

M. HANSEN: Thank you, Miss Martin. Any questions from the committee? Seeing--

B. HANSEN: I have a question.

M. HANSEN: OK.

B. HANSEN: Sorry, should have put my hand up sooner, sorry. Thanks for coming. Just a quick question, in the second paragraph where you cited Economic Policy Study Institute.

SUSAN MARTIN: Um-hum.

B. HANSEN: Was that national or was that for Nebraska?

SUSAN MARTIN: National.

B. HANSEN: OK, just curious. That's all I had, I was actually just curious about that. Thank you.

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SUSAN MARTIN: OK, um-hum.

M. HANSEN: All right, thank you, Senator Hansen. And thank you, Miss Martin. All right, any other proponents? All right, welcome.

ANNE WURTH: Thank you. Thank you Chairman Hansen and members of the Business and Labor Committee. And thank you, Senator Hunt, for introducing LB400. My name is Anne Wurth, A-n-n-e W-u-r-t-h. I'm a third-year law student at the University of Nebraska College of Law, and I've worked as a server for the last five years. I'm testifying in support of LB400 because I believe that raising the wage for tipped workers and tying it to the minimum wage is an important step in the right direction to ensure security and a living wage for Nebraskans who choose to work in the service industry. I'm sure all of you have been to a restaurant and tipped your server so you know that tips servers receive are based solely on social norm: 20 percent for a good experience; 15 percent for an adequate experience; 10 percent, and sometimes nothing for a bad experience. However, these tipping norms are not as widely known as most servers would like. Many times the most a table will tip is 10 percent, and that is if I give my best effort and my brightest smile. I want to take you on a quick journey of a shift at the restaurant I work in. I have a shift that lasts from approximately 4:00 p.m. to 11:00 p.m. on a weekend night. I have a section that has four tables in it. One of my tables for the night is a two-top, a couple on a date, maybe. I serve this table for about an hour and a half. The average length of a leisurely dinner. They order drinks, an appetizer, entrees, and maybe a dessert; and this ticket will average about \$60 dollars or more depending on how many drinks they get. If this table tips 20 percent, I will receive \$12. At the end of the night, I tip a bartender out for every table that orders drinks. My restaurant also tips runners out every night about \$2 to \$3 per server. If that table leaves me nothing, either because they were unhappy with my service, they were unhappy with their food, or they just don't understand how tipping works, I will not make-- I will not only make nothing but they will have taken up important real estate in my section and prevented me from getting another table that might have allowed me to make some money. The three-ish dollars that I make in an hourly wage during that time might be enough to cover what I would have to tip my bartender. However, I will likely never see a paycheck. At the current hourly wage \$2.13 an hour, my co-workers and I do not expect to see a weekly paycheck. That \$2.13 I am paid hourly is taken out of my paycheck for taxes and is not nearly enough to cover my tax burden. This results in pay--having to pay almost \$1,600 to the IRS

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when tax season comes around. My co-workers also have insurance payments-- insurance payment taken out of their paycheck. Their paycheck often does not cover this payment either, and they have to pay the cash they receive from tips to cover this. I'm also a former legislative page, a job that I thoroughly enjoyed and which has some duties that overlap with my serving job. Pages are often called to a senator's desk to get them coffee, to serve doughnuts, or other treats that senators may have provided for that day and help clean up the Chamber. However, the state does not rely on the senators to tip the pages and instead pays hourly. A wage that is definitely not \$2.13 an hour. I'm confident that if the pages were paid with tips they would make a great deal from all the senators. But the state has chosen not to rely on the benevolence of our representatives and instead pay hourly above the minimum wage. Presumably, this is because they believe that the hardworking employees serving the legislative body deserve to be confident and secure in the money they can earn and make an educated decision on whether they can afford to live and work in that position. I believe that servers and bartenders deserve that confidence in their income as well, and getting 50 percent of the minimum wage is a step in the right direction. I respectfully ask you to vote this bill out of committee, committee, and thank you for your time.

M. HANSEN: Thank you, Miss Wurth. Any questions from the committee members? Senator Halloran.

HALLORAN: Thank you, Senator Hansen, Hansen. How many-- I'm just curious on average for shift-- this is a Friday and Saturday night shift, typically you do? On an average how many tables do you tend to in your area? I assume they give you--

ANNE WURTH: It ranges per restaurant and it also ranges on what shift you get at the restaurant, but probably an--

HALLORAN: I'm asking you [INAUDIBLE]--

ANNE WURTH: --average of four to five.

HALLORAN: Four to five?

ANNE WURTH: Yeah.

HALLORAN: OK. Ever been to a restaurant--

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ANNE WURTH: Yeah.

HALLORAN: --where you got bad service?

ANNE WURTH: Yeah.

HALLORAN: Did you-- and a-- this is a personal question, but did you tip in spite of the bad service?

ANNE WURTH: Yes, but that wasn't until after I got a serving job and I realized the importance of tipping despite the bad service.

HALLORAN: OK, thank you.

ANNE WURTH: Um-hum.

M. HANSEN: Thank you, Senator Halloran. Seeing no other questions, thank you for your testimony.

ANNE WURTH: Thanks.

M. HANSEN: All right, any other proponents? Welcome.

JOEY ADLER: Good evening, Chairman Hansen and member-- members of the Business and Labor Committee. My name is Joey Adler, J-o-e-y A-d-l-e-r, and I'm here on behalf of the Holland Children's Movement, a nonpartisan, not-for-profit organization that strives to fill its vision for Nebraska to become the national beacon in economic security and opportunity for all children and families. We're here in support of LB400. The minimum wage for tipped workers has been frozen at the federal level at \$2.13 an hour since 1991. The wages of workers who received tipped minimum wage are lower than those of any other occupational category. On top of low wages, many of these same workers do not receive important benefits like paid sick leave, paid vacation leave, or health insurance through their employer. From a business perspective these factors increase employee turnover and diminish service quality, quality which impacts the bottom line. The Economic Policy Institute put together some facts and figures about raising the tipped minimum wage while Washington, D.C. was talking about raising theirs. To, quote, the clearest indicator of the damage caused by the separate wage for, for tipped workers is the difference in poverty rates for tipped workers depending on their state's tipped minimum wage policy. In states where tipped workers are paid the federal tipped minimum wage at \$2.13 an hour, 18.5 percent of waiters,

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waitresses, and bartenders are in poverty. Yet in states where they are paid the regular minimum wage before tips, also known as equal treatment states, the poverty rate for wait, waitstaff and bartenders is only 11.1 percent. Importantly the poverty rates for nontipped workers are very similar regardless of the state's tip minimum wage level. This strongly indicates that the lower tip minimum wage is driving these differences in the outcomes for tipped workers. We commend, Senator Hunt, for introduction of this important bill and urge you to advance LB400 to increase wages for tipped workers and support financial health and opportunity for our hardworking families and their children, and we'd ask you support LB400. Thank you, and I'll take any questions that you might have.

M. HANSEN: Thank you, Mr. Adler. Are there questions? Seeing none, thank you for your testimony.

JOEY ADLER: Thank you.

JAMES GODDARD: Good afternoon, again. My name is James Goddard, that's J-a-m-e-s G-o-d-d-a-r-d, and I'm the director of the Economic Justice Program at Nebraska Appleseed, as well as the staff attorney there, here today to testify in support of LB400. I think it bears repeating that it's time for a new deal for workers in our state. Hard work should mean a living wage and benefits to fall back on when they're needed. This seems particularly true for tipped workers as we've been hearing this afternoon. This is not a new issue. It does come up every year, and it comes up every year because it's a major issue that needs to be solved. And we have the opportunity to do that this session. I just want to make a couple comments. One, is that sadly, servers generally experience poverty at a much higher rate than other workers. In Nebraska, over 22 percent of tipped workers live in poverty. That is a pretty high data point. And this is predominately impacting women, with about 79 percent of these servers being women, many of whom are parents. This is simply an untenable situation that we need to fix. And because of that, I would urge this committee to consider LB400 and advance the legislation. Thank you.

M. HANSEN: Thank you, Mr. Goddard. Any questions from committee members? Senator Halloran.

HALLORAN: Thank you, Senator Hansen. As, as a person in the restaurant business we are required to-- servers are required-- tipped personnel are required to declare their wages at the end of their shift. And

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they're done that-- they are required that so that we can keep track federally for their federal taxes and state taxes and to also require that we meet at least the minimum wage. And if there's a restaurant that's not doing that-- and I, I can't, can't challenge the enforceability of it. But I guarantee if they're caught not doing it, it's, it's a huge penalty. And in regards to tip pooling or tips employees are maybe required by their employer to tip a pool of-- from their tips into a pool of money for, say back of the house employees to share, that's against the law. And I can, I can give you examples of restaurants that have been caught doing that. And what, what happens is they go back in time-- they go-- the feds go back in time and they calculate how much has been taken from tipped employees. And that is required for them to give that back, plus a tremendous fine for doing that. And so I understand, and we can make all kinds of laws and sometimes enforcing them are a challenge, but those laws do exist. And I would encourage any, any person that in the service industry for a restaurant that is being asked to do that by their employer, they can, they can, they can create a lawsuit against their employer. It's been done and-- you know, the best way to enforce laws is to create occasional lawsuits and then everybody says, oh, I'm not, I'm not gonna do that. I'm not getting caught doing that, so just a little-- that was not a question, and I'm sorry, but I'm just trying to add some information to the equation.

JAMES GODDARD: Yeah, as you say, Senator, it's an enforcement issue. I, I would expect that there are some practical challenges with turning in your employer or being part of a piece of litigation against them certainly ongoing employment would be a challenge. But I think we did hear a statistic from Senator Hart that indicated that there-- this is a major problem where employers aren't doing their duty under the law, and, and that is a significant issue that the tipped workers are bearing the brunt of.

HALLORAN: I, I just don't know how they know that. How do they know they're not doing that? Is there some empir-- where is the empirical data that shows that that's the case? Because if they got empirical data that that's the case then, then those employ-- employers are-- would be in jeopardy, right?

JAMES GODDARD: I understood this to be something of an investigation-- investigative and enforcement action where we know how many folks were

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in violation. But, I would have to get back to you on that or leave it to Senator Hunt to answer.

HALLORAN: I would appreciate it. Again, anecdotal information is, is interesting but it's-- it doesn't help us make solid decisions. So any more information you can give me on that I'd appreciate it.

M. HANSEN: Thank you, Senator Halloran. Any other questions? Seeing none, thank you for your testimony.

JAMES GODDARD: Thank you.

M. HANSEN: All right, do we have any other proponents? Welcome.

JULIA TSE: Good afternoon, members of the Business and Labor Committee. For the record, my name is Julia Tse, J-u-l-i-a- T-s-e, and I'm here on behalf of Voices for Children in Nebraska. Nebraska is a state that values family and hard work. Working parents deserve the dignity of knowing that their paychecks will be enough to meet their children's basic needs. Voices for Children in Nebraska supports LB400 because it would ensure that more Nebraska children have what they need to be happy and healthy. Our current tipped minimum wage is overly reliant on consumers while protections for workers who do not earn the full minimum wage after tips are limited. Without federal action on this issue since 1991, 32 states and the District of Columbia including our neighbors in Colorado, Iowa, Missouri, and South Dakota have all raised their tip minimum wage including eight states that require that regular minimum wage be paid to tipped workers. When compared to the overall work force, tipped workers are more likely to be single parents. Contrary to the perception that food and beverage workers are teenagers, the national median age for workers in the industry was 29.8 in 2018, and over 62 percent of those workers were 25 years of age or older. The volatile nature of tipped wages leaves many Nebraska families at the mercy of lucky shift, shift, shift assignments and the generosity of customers leaving little room for budgeting or investments in a child's future. In order to supplement low wages and regular income, tipped workers are also more likely to receive public assistance and to utilize more benefits when compared to nontipped workers. LB400 provides more income stability for working parents in Nebraska. We thank, Senator Hunt, for her leadership on this issue, and this committee for their time and

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consideration. We'd respectfully urge you to advance the bill, and I'd be happy to answer any questions.

M. HANSEN: OK, thank you. Are there questions? Seeing none,--

JULIA TSE: Thank you.

M. HANSEN: --thank you very much. All right, do we have it any other proponents for LB400? Seeing none, I will move to opponents. Is there anybody wishing to testify in opposition?

JIM PARTINGTON: Good afternoon, Senator Hansen and members of the committee. My name is Jim Partington, J-i-m P-a-r-t-i-n-g-t-o-n, and I appreciate the opportunity to represent the Nebraska Restaurant Association and testify in opposition to LB400. The Nebraska Grocery Industry Association and the Nebraska Retail Federation also oppose LB400 and support this testimony. Also in addition to my testimony, I submitted copies of a letter from Lazlo Fireworks that I request you include in the, in the record as well. Tipped employees in the restaurant industry generally like tipping as part of their compensation because it allows them to earn more based on the quality of the service they provide. Restaurant owners like tipping because it ensures excellent service and a good customer experience. It provides a direct link between the customer, performance of the server, and server compensation. The average verifiable credit card tip for waitstaff is 21 percent. Credit card sales account for over 90 percent of total sales, so this provides an accurate representation of the current tipping percentage in a typical full-service restaurant or sports bar in Nebraska. The Nebraska Department of Labor occupational wages report produced last May in 2018, reports that waiters and waitresses average \$12.67 per hour statewide. In those rare occasions when the tip wage and tip income do not equal the minimum wage the restaurant makes up the difference, so tipped employees are guaranteed the same minimum wage as all other employees, and usually earn far more. Lincoln and Omaha full-service restaurants and sport bars report paying average hourly wages for tipped employees of \$16 per hour and some top earners bringing in over \$25 an hour. LB400 would increase hourly pay for tipped employees by \$2.37 an hour resulting in a 10 to 15 percent hourly raise for some of the most highly compensated employees in the in the industry. Given the low-profit margins in the industry, this would almost certainly limit options for increasing compensation for other groups of employees equally deserving. The point is often made that the minimum tip wage has remained static for

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years while the minimum wage has increased. Two considerations regarding this: the statutory minimum wage has risen significantly; and all restaurant employees earn at least the statutory minimum wage. Menu prices have also increased over the years and since tips are calculated as a percentage of the total tab, tip income has kept pace with inflation. Acknowledging that tipping reduces the cost of labor to the employer by transferring it to the customer, it's important to note that in all businesses the cost of goods and services is transferred to the customer in some way. Tipping is one of several traditional ways of transferring these costs that has the additional benefit of encouraging excellent service. Cost of labor ranks with cost of goods is one of two major expenses for the restaurant industry. Options available for accommodating a wage increase of this magnitude include increasing menu prices resulting, resulting in reduced patronage; hiring fewer employees, resulting in reduced customer service; less compensation for other restaurant's staff; none of these options are attractive. And I'll conclude my testimony with the following thoughts: no restaurant employee earns less than the minimum wage, and tipped employees earn on average at least 25 percent more than the minimum wage. Most full-service restaurants increase menu prices 2 to 2.5 percent annually to keep up with rising commodity costs. And since tips are a percent of the total tab, tip income automatically increases with inflation, increasing the minimum tip wage limits wage options for other restaurant staff. And that concludes my testimony. I appreciate the opportunity to answer any questions you may have.

M. HANSEN: Thank you for your testimony. Any questions from committee members? All right, thank you for your testimony.

JIM PARTINGTON: Thank you.

ROBERT HALLSTROM: Chairman Hansen, members the Business and Labor Committee. My name is Bob Hallstrom, H-a-l-l-s-t-r-o-m, and I appear before you today as a registered lobbyist for the National Federation of Independent Business to testify in opposition to LB400. I believe Mr. Partington has covered all of the limited comments that I had in my written testimony. So in the interest of time, I will just close and be happy to address any questions that the committee might have.

M. HANSEN: Thank you for your brevity. Are there any questions from committee members? Seeing none,--

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ROBERT HALLSTROM: Thank you.

M. HANSEN: --thank you. Anybody else wishing to testify in opposition to LB400? Welcome.

ERIC UNDERWOOD: Welcome. Afternoon, Senators. My name is Eric Underwood, E-r-i-c U-n-d-e-r-w-o-o-d. I am here to represent LIBA, but my position formally is I'm general manager of Rodizio Grill in Lincoln, Nebraska. You may know me from other restaurants such as Skeeter Barnes. I ran Aces Haus Cuisine-- was my own restaurant, so I've actually been a full on business owner, Perkins, Wilderness Ridge, and Hidden Valley. Sounds like the restaurant industry is a really bad job to be in, but it's amazing, I guess, when you start to look at across the board what is out there. My concern with LB400 is that applying a minimum wage to a structure, an infrastructure like restaurants and bars that are gonna be different across Nebraska-- Omaha, Lincoln, a restaurant such as mine, a smaller-end bar, they're all gonna be different. And as the testimonies already talked about there, there is a lot of hard situations and there's a lot of easy situations. I've been very fortunate that in all the restaurants that I worked at, and all the servers that have worked for me, yes, they're all in poverty. They're not making 40, 50 thousand dollars. But I have working for me, track athletes, I have-- average age is about 20 to 21, father and daughters, you name it across the board. There are demographics working in this industry. Now it was also mentioned that the increase would be roughly about five cents on the dollar. The average industry-- in this industry the average across the nation, the profit level is at 5 percent to be honest. I'll give you a prime example, this year having one of our best years ever, paying all wages, all food costs, all operations, everything that we could do. At a million forty thousand, we made \$15,000 dollars. That's the profit. So if you increase the minimum wage for this average tipped-pool area you're gonna cut into that profit, so we have a choice at that point. Now make money, close down, increase wages or increase, increase our, our average costs for the food that we sell. Obviously, Rodizio Grill is just one item. We tried that two and a half years ago. We raised it \$3 to \$32.99. And within 45 days had a cut that back because the response was, we love your place but we just can't afford that. That was just a pure choice because the corporate indicated that we could raise our prices, match the other restaurants across the country. There are 23 other restaurants across the country, from New Jersey to Florida, all the way up through Columbus down to Salt Lake City. We could raise those prices and just make more profit from it. And the

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feedback was instant and so we said it was just a corporate test of the market and we dropped it back down to \$29.99. So moving forward, my goal in just opposing LB400 is that if you take a look at a, at a demographic, who are you trying to support? Are they all people in positions that are unable to do it-- are they unable to provide for their living wages? If this is the demographic, then you might be able to help them. But there is a large spectrum of people that are in this that are not under that, that construct. Again, these athletes have-- or the people that work for me they have-- they live in apartments, they have other funding that they get from their parents. It doesn't necessarily mean that they're gonna be living in poverty and can't afford their bills. And then secondarily, if it's just to increase the wages, that obviously will increase taxes, which is good to bring into the coffers, but they're already being taxed on the full money that they make. My average staff makes \$13 to \$14 an hour in just their tip. And this is a tipped-pool environment, but this is a full-service staff. They're not tipping out to bartenders or, or back of the house. It's the whole group works collectively together. So this is a completely separate anomaly from any of the other restaurants that you're talking about that you have to tip out of busser, a host, a bartender. We've never really done back of the house in any of my restaurants. They're-- usually those wages are pretty high. Cooks-- good cooks that can deal with fast-line service are making \$16 to \$17 an hour. So it's only when they first start out that it might be advantageous to have a tipped pool work for them, but that's, that's been a rarity that I've ever seen out there. Again, being the fact that this is going to be a broad spectrum of restaurants out there that this would be affecting, can we legitimately say that this two to, two to three, two to three dollars more is going to help one demographic and not hurt the restaurants? Thank you, and I'll take any questions.

M. HANSEN: Thank you. Are there questions from committee members?
Senator Halloran.

HALLORAN: So it's just interesting from one restaurateur to another, you, you pool the tips of your serving staff--

ERIC UNDERWOOD: That's, that's--

HALLORAN: --and, and then average them? No?

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ERIC UNDERWOOD: No, the way, the way this works in the, the-- a lot of the Brazilian steakhouses is because you have two, in essence, service entities, you have the server where the check gets rang under, and then you have that meat server that brings it to them. In that situation there, who gets tips and how it's [INAUDIBLE] there, you just make it equitable--

HALLORAN: All right.

ERIC UNDERWOOD: --across the board there.

M. HANSEN: All right, thank you, Senator Halloran. Seeing no other questions, thank you for your testimony.

ERIC UNDERWOOD: Thank you.

M. HANSEN: All right, are there any other pro-- opponents for LB400? Seeing none, is there anybody who wishes to testify in neutral? Seeing none, Senator Hunt, would you like to close?

HUNT: Thank you so much, committee members. I do just want to reiterate again. How long are we gonna let this problem pile up? Every year that we let pass without raising the subminimum wage, we are shifting the burden-- not burden-- I can't even use that word. It's not a burden to support the workers that support your business. Are we shifting the responsibility from business owners like me, like many people up in this committee, like many people in this audience to supporting their workers? Are we going to shift that to the tax payers? And the more years that go by, the more and more tax payers are gonna be on the hook for supporting these workers. I appreciate my friends in the restaurant industry who oppose this bill, we're just not on the same page on this. Everybody knows that I don't cook. Everybody knows that I'm one of the biggest supporters of the restaurant industry. And in doing that, I think it's really important to tip well because I understand that in Nebraska these people are not making a living wage, it's just reality. And we heard testimony that no servers earn less than the minimum wage in Nebraska because that's the law. But, what we're describing here is the law, we're not describing reality. We know that the law does not always reflect what reality is. So I would ask you again, do we want businesses to support their workers, or do we want taxpayers to support the workers? All of our constituents want this. It's really time for us to raise the wage. This bill, LB400, doesn't do anything to address gaps in enforcement

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of our labor laws. I admit that, that's not the purpose of the bill, that's a different conversation. But with 41 percent of Nebraska children growing up in poverty, we have an urgency here to support low-income families. And this is our chance to show that we hear the struggles of these working parents. It's not all athletes. It's not all people with scholarships living with their parents who are having these jobs, especially in other parts of the state outside of the urban center here. Consumer spending drives 70 percent of Nebraska's economy, and increasing demand is gonna be really important for us to maintain production to keep our economy strong and to support more local businesses. So I think that there are humanitarian reasons to support this. If you're a bleeding heart liberal like me, this is something you want to do. But there's really strong economic reasons to support this, too. And that's why I'm expecting that we can find some consensus, that we can finally move this bill forward and take it off the docket for next session and join the other 33 states who have increased their subminimum wage. If you have any other questions, I'd be happy to answer them.

M. HANSEN: Thank you, Senator Hunt. Are there questions from committee members? All right, seeing none, I'll read into the record-- we have--

HUNT: Thank you.

M. HANSEN: Thank you. We have a series of letters, and these are all in support. We have a letter of support from Brian Bigelow, of Omaha; from Danielle Conrad, of the ACLU of Nebraska; from Chris Funk, from the Center for People in Need; from John Else, in the League of Women Voters; Sarah Zuckerman, of Lincoln; and Mary Sullivan, of the Nebraska-- of the National Association of Social Workers. And with that, we'll close the hearing on LB400. The next two bills on the agenda are mine, so I will turn it over to our Vice Chair, Senator Hansen.

B. HANSEN: Good evening, Senator Hansen. We're now gonna open the hearing on LB361. And with that, Senator Hansen, you are welcome to introduce your opening statement.

M. HANSEN: All right, thank you, Vice Chair Hansen and fellow members of the Business and Labor Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB361, a bill that would help protect employees when an employer fails to pay them their owed wages,

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commonly called wage theft. This bill prohibits retaliation or discrimination by an employer against an employee or applicant for employment because they filed a complaint or participated in another action concerning the violation of the Wage and Hour Act or the Wage Payment and Collection Act. Just for clarity, the Wage and Hour Act sets and enforces the minimum wage for workers which is now at \$9 per hour. The Wage Payment and Collection Act sets certain rules for paying wages to employees. The main rule being that employers must pay all wages due on regular paydays. Others include not deducting or withholding pay unless there is a written agreement with the employee, providing wages and statements on each payday showing hours worked, pay, and all deductions, and paying all wages owed including banked vacation time upon separation within two weeks. With all-- what all that means is that currently in Nebraska, an employer can violate one of the laws under these acts, such as failing to pay wages owed. An employee can file a complaint or bring suit against an employer for that violation. And that employer can legally fire that employee even after the Department of Labor issues a citation against the employer or the courts find that they violated either of those two acts. According to the National Employment Law Project, retaliation is relatively common as our wage violations for which employees file complaints start the entire process. A national survey conducted by them found that 43 percent of workers who complain to their employer about their wages or working conditions experienced retaliation. The same survey found that about 20 percent of those surveyed never made complaints in the first place for fear of retaliation. In order to properly enforce these wage laws already on the books, we need to create a system where employees feel able to come forward when violations occur. Every day millions of responsible employers comply with wage laws. When we allow competitors to undercut them by failing to pay employees wages owed to them, we are starting a race to the bottom throughout the entire labor market. Fighting wage theft is not about adding new burdens onto law-abiding employers, it is about smarter enforcement of laws that are already on the books, closing clear loopholes, and enacting stronger enforcement tools. Nebraska has increased our minimum wage in recent years, but the achievement is, is weakened if we do not instill the proper enforcement mechanisms. This bill is a small, measured attempt to do that. With that, I'd close to the committee, and ask the committee to-- close my testimony and ask the committee to advance LB361, and I'd be happy to answer any questions.

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B. HANSEN: Thank you, Chairman Hansen. Is there any questions for him, the senator? Seeing none, thank you.

M. HANSEN: Thank you.

B. HANSEN: And we'll take proponents for LB361. Welcome.

JOHN ANTONICH: Good evening, Senator Hansen and members of the Business and Labor Committee. My name is John Antonich, and I'm the executive director of the Nebraska Association of Public Employees, otherwise known as NAPE/AFSCME Local 61. I'd like to thank, Senator Hansen, for introducing this important legislation and for his hard work as a senator and as chair of the committee to look at policies that impact the rights and needs of workers throughout Nebraska. LB361 would prohibit an employer from re-- I'm sorry, retaliating or discriminating against an employee or applicant for employment because the employee or applicant files a complaint under the Wage and Hour Act, if they would testify says or participate in an investigation proceeding are actually concerning a violation. LB367 [SIC] would also apply the same protections to investigations or complaints under the Wage Payment and Collection Act. This is a good policy change. Workers should know that employers should not only be expected to pay their employees' wages that they are owed, but also that they would be in an environment with their employment where they are not in fear of retaliation or payback for speaking up about any circumstance where they are not getting paid the wage that they should be. Employers should be held accountable even if this is done by an employee of that employer who is willing to speak up about possible wage payment infractions. LB361 is a good bill. It makes sense to hold employers accountable for paying their employees' wages that they are owed. And it also makes sense to make sure that employees are not fearful of losing their job because they speak up and participate in a process to hold their employers' accountable. I again want to thank, Senator Hansen, for introducing LB361, and I feel it's a step forward for the rights of workers and a bill I think all of you should support. I thank you for your consideration and ask again that you support LB361 and vote to advance to General File. Thank you.

B. HANSEN: Thank you, Mr. Antonich. Could you--

JOHN ANTONICH: If you have any questions, I would love to answer them.

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B. HANSEN: Yeah, could, could you spell your name for us please [INAUDIBLE].

JOHN ANTONICH: I'm sorry.

B. HANSEN: That's fine.

JOHN ANTONICH: J-o-h-n, the hard part is coming up, A-n-t-o-n-i-c-h.

B. HANSEN: All right, thank you, appreciate it.

JOHN ANTONICH: Thank you, Senator.

B. HANSEN: Are there any questions for Mr. Antonich? Seeing none, thank you very much. Appreciate it.

JOHN ANTONICH: Thank you.

B. HANSEN: All right, we'll take our next, next proponent, please.

ABBIE KRETZ: Good afternoon, Senators. My name is Abbie Kretz, spelled A-b-b-i-e- K-r-e-t-z, and I'm the lead organizer of the Heartland Workers Center. We're a nonprofit that's been around for about the last ten years located in Omaha, and one of our focus areas is focusing on workers' rights, doing trainings and education for, for workers so that they know what they need to do. Oftentimes, we have the ability to educate workers about their rights when they come to our office and seek help on issues that they, they faced. We'll probably talk about this more in the next bill as well, but one of the major issues we see is wage theft when workers aren't paid for the work that they've done. And typically what we've seen is that workers when they come to our office they've already taken steps that they thought were necessary trying to get back their wages-- whether it be phone calls, texts-- they often know where their employers live, and are trying to seek back their wages. And, unfortunately, they've already sought-- they've already seen some retaliation from some of these employers, whether it be-- essentially they stopped talking to their employees about, about setting up a payment plan or a schedule to get back those wages. They may make excuses for not paying their workers, and they might even encounter some kind of violence, whether it be psychological or threats to call the police. And so these are very real issues that are impacting workers and so they've already experienced that. And so I think-- and so whenever they come here, we're trying to assess what other options they have, oftentimes filing

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a complaint with the Nebraska Department of Labor for the Wage Payment and Collection Act. And so-- by just having that extra protection there for workers is super important for them as well. One-- two, I think the other thing that this bill will also do-- we often see workers when they're not paid for all the hours they worked or they haven't received their last paycheck and so it's blatantly obvious to them that they haven't been paid for all their hours. And I think that has a lot to do with the fact that a lot of them won't come forward when they're currently employed with wherever they're working even though they notice some of those irregularities for fear of retaliation. And so they want to keep those jobs even if-- you know, they're not making-- not being paid for all the hours worked just because at least they're taking something home for them. And so-- yeah, I think just for us it's super important just adding some more protections for workers, especially when wage theft is so rampant here in Nebraska. Actually, two things: one, wage theft nationally I think [INAUDIBLE] is a-- is an issue. There was a study done in 2009 by the national-- I'll have to reference it later, but they found that 68 percent of workers found at least one violation or they found that at least 68 percent of workers had experienced one kind of wage violation. At that time, a lot of them were low-income workers. And the way that they were able assess this was by asking workers how they were paid in terms of hours, wages, etcetera, not their knowledge about labor laws. And so-- I guess, that to me-- that just tells us that a lot of times these issues are happening that workers don't know about directly because there isn't the education out there but also maybe they're not gonna come forward because their knowledge of labor laws isn't there. But if they were to find out at least there were be a-- for the remedy for them to come forward without fear of losing their jobs. So with that, I guess, we would just strongly encourage you to support LB361.

B. HANSEN: Thank you.

ABBIE KRETZ: All right, thanks.

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

ABBIE KRETZ: Cool, thank you.

B. HANSEN: -- for your testimony. Appreciate it. And next up for proponents for LB361. Hello, again.

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SUSAN MARTIN: Good afternoon, members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, testifying on behalf of the Nebraska State AFL-CIO and all working families in this-- the state of Nebraska in support of LB361. It is unlawful for an employer to terminate or discriminate against workers for asserting their rights. Protecting workers from retaliation and assuring that they do not face threats or intimidation for exercising their rights is, and should be an important priority against discrimination. Effective laws aid in the prevention of inappropriate manipulation by parties who seek to prevent workers from exercising their rights or retaliating against them when they do. You earn a day's wage, you should get paid that wage. When that doesn't happen, Nebraska provides action through the Nebraska Wage Payment and Collection Act. The law now requires an employer to be accountable. But so many times that employee feels that because of possible retaliation, they choose to not seek what is due them. We need to hold an employer not only accountable for the Nebraska Wage Payment and Collection Act law, but also accountable for not punishing those who file a complaint or participate in an investigation proceeding or action concerning a violation of the act. They are exercising their rights. This shouldn't be a determinate when trying to obtain employment or collect what is due. This is an extremely important bill that will ensure worker protections, and just makes sense. I thank, Senator Hansen, for introducing this bill, and ask for your consideration in passing this bill out of committee. Thank you.

B. HANSEN: Thank you for your testimony. Are there any questions at all? Seeing none, thank you very much. Appreciate it. We'll take our next proponent. Welcome.

SCHUYLER GEERY-ZINK: Good evening, Senator Hansen and committee members. My name is Schuyler Geery-Zink, S-c-h-u-y-l-e-r G-e-e-r-y hyphen Z-i-n-k. I am a staff attorney with Nebraska Appleseed, and I am testifying in strong support for LB361. At Nebraska Appleseed, we work with hundreds of workers across Nebraska every year and, unfortunately, hear about many workplace abuses such as retaliation. The reality is that it's very hard to fight for your wages and to report workplace violations. We frequently hear from workers that they are afraid to complain about work conditions or unpaid wages because it could affect their future wages and job security which they need to support their families. Additionally, employers who violate the law and then retaliate against workers gain an unethical advantage over good apple employers which is detrimental to Nebraska's communities

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and economy. Retaliation is not just a stand-alone issue, it is interconnected with other workplace abuses related to safety, sexual harassment, disability accommodations, and wage theft. Fear of retaliation is a barrier to reporting workplace violations in the first place, so enhancing retaliation protection for workers who experience wage theft is an important part of promoting Nebraska workplaces that are safe with proper pay for work performed. Often, when we hear from workers that they have not been fully paid for work they have completed, we also hear the refrain, if I try to complain, I'm going to lose my job. Any protections to make it easier to file a complaint without fear of retaliation will make a difference in the lives of many Nebraskans and our communities. So I strongly urge you to support Nebraska workers and their families by advancing LB361. And thank you so much to Senator Hansen for introducing this legislation. I'll take any questions that you may have.

B. HANSEN: Any questions at all? I do have one. Just in your experience, how often have you seen an employer fire an employee because of workplace retaliation for asking about wage theft?

SCHUYLER GEERY-ZINK: So this would be,--

B. HANSEN: Is it common or is it--

SCHUYLER GEERY-ZINK: --this would be a question for our lead organizer. So I can get back to with more solid data points on that--

B. HANSEN: OK, thank you.

SCHUYLER GEERY-ZINK: -- when she returns from vacation, so.

B. HANSEN: All right, lucky her. All right, thank you.

SCHUYLER GEERY-ZINK: Thank you.

B. HANSEN: All right, thanks. Are there any other proponents for the bill? All right, are there any opponents to LB361?

ROBERT HALLSTROM: Acting Chairman, Ben Hansen, members of the Business and Labor Committee, my name is Bob 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 LB361. I've also been authorized to enter an appearance on behalf of the Retail Federation, the Nebraska Restaurant Association, and Nebraska Grocery

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Industry Association. Again, I'll try to be brief. LB361 creates another potential cause of action for employees that can lead to increased litigation against employers can actually have a, a two-edged sword type of effect in terms of having a chilling effect on employers who may be met with retaliation or undue discharge claims when they may very well have justification for leaving-- for letting an employee go based on negative evaluations of the employee that are in the employee record, disciplining an employee who is habitually late to work, performance issues, and so forth. I'd also raise a technical issue if the, if the committee is so inclined to move this bill, which we would again argue against, and that would be the extension of the scope of the two acts to applicants. I don't know that the Wage Payment and Collection Act is designed or intended to apply to applicants based on the remedies that are available under the current act, nor am I sure that the Wage and Hour Act is supposed to apply to applicants as opposed to those who are actually in the employ of an employer. With that, I'd be happy to address any questions that the committee might have.

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

ROBERT HALLSTROM: Thank you.

B. HANSEN: Are there any other opponents? All right, seeing none, are-- is there anybody testifying in a neutral capacity? Seeing none, Senator-- Chairperson-- Chairman Howard-- Howard for crying out loud. [LAUGHTER] That was HHS. Senator Hansen, if you'd like to close on hearing LB361, please.

M. HANSEN: Thank you. Normally, I get confused with Senator Morfeld, so that was a [INAUDIBLE] improvement. [LAUGHTER] Thank you, colleagues, thank you for hearing LB361. I'm actually really appreciative, we got to have this hearing on LB361 immediately following some of the minimum wage bills, because we kind of heard of those-- and Senator Halloran, you brought it up, OK, if the, if the fundamental problem is wages aren't being paid the way they should, let's make sure that enforcement is strong. We have an opportunity for strong enforcement. And this is that next step of, of people are afraid to come forward because right now you can be fired for submitting a claim to the Department of Labor and your employer-- as I understand it, could be explicit about it, like you submitted a wage claim against me, I am firing you, and that's, that's the end of the story, you have no repercussions. They're allowed to do that. So when

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we were saying-- what we really want people is to kind of come forward to have this-- and we all agree it's a small group of employers that, that are the bad employers that are doing the wage thefts You know, you know, in talking with some of the stakeholders who testified here-- you know, it's oftentimes one or two people in an industry, in a city who are just doing it repeatedly, and we just don't necessarily have the enforcement mechanisms to get them to stop. And then that distorts the whole, the whole, the whole market. You know, you think about it as a general contractor who is repeatedly not paying-- you know, wages-- underpaying wages, things like that. You know, is going out competing with bids and basically knowing he or she is willing to undercut the market by undercutting minimum wage or undercutting just wages in general. You know, he might be able to-- he or she might be able to win bids that he basically knows is capable because he's willing to violate labor law because the penalties and enforcement we have is so-- has been so lackluster. And that's then-- you know, you have an employer who's playing by the rules who is paying wages owed who's maybe paying-- who's, who's doing all the things-- crossing all the i's, dotting all the t's, and they're competing against that because we don't have the, the, the tough enforcement mechanisms. This bill is designed to be very limited, and is just saying, hey, if you're willing to come forward or if you're willing to assist or you're being subpoenaed to assist-- in that instance, I view very much-- you know, if the Department of Labor is doing an investigation-- you know, you know, there's not the retaliation against the person in HR disclosing the records, disclosing the figures. And, and all this is saying is, hey, if you're going to file a complaint you can't be retaliated against, you can't be fired for this reason, and this would just encourage people to, to know they can come forward. We've certainly heard multiple people-- from people who have had clear wage violations. There last paycheck just never got to them. And so sometimes when it's leaving they're much more inclined to file a wage complaint because that relationship's already severed, but it's the people who are in a tough situation where they get shorted a few hours or maybe the employer docked their pay as a penalty against the law. And they're like, OK, my employer shorted me \$100 as a penalty for something I know that's not allowed, but I also know they're gonna fire me if I make it an issue. You know, and they have to weigh that \$100 versus how easy it is to find another job. In terms of the-- just kind of-- one of our letters also highlighted it-- in terms of applicant, I, I do kind of agree that applicant might expand the purpose and scope. My goal there was to provide protections to

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people who maybe are getting bad referrals or something of that nature. But I do kind of-- upon hearing it, and reading the letter, I do think kind of-- might be more broad than both the Wage and Hour and the Wage Payment and Collection Act. So I'd be happy to work on a committee amendment. And with that, I'll close and have any questions.

LATHROP: I have a question.

B. HANSEN: Senator Lathrop.

LATHROP: So, page 2, Section 3, paragraph 5, In any action brought to enforce section 1, the prohibition, court shall have jurisdiction to grant such legal and-- or equitable relief as the court deems appropriate to effectuate the purpose of this particular act including temporary or permanent injunctive relief and general and special damages. So let me ask you about that. The idea of retaliation can take a number of different forms. If an employer-- let's say, that whether it's the Department of Labor or a private cause of action this bill would apply that either, is that true?

M. HANSEN: Yes.

LATHROP: OK. So employers getting sued because they're either not paying what should be paid or they're not paying that-- the minimum wage, whatever it is.

M. HANSEN: Um-hum.

LATHROP: And a lawsuit is filed and now the lawyer is calling people up and talking to them-- you know, has that ever happened to you and another employee says, yeah, it did.

M. HANSEN: Um-hum.

LATHROP: And now they show up and [INAUDIBLE] answers to interrogatories-- you know, Lathrop also got shortchanged, and I get fired. Is it your expectation that that employee would then have a course of action for lost income? Let's say that I'm making \$10 an hour and it takes me two months to find a comparable employment, or my next best job is \$9. What are the damages this person who's been fired can secure as a result of their bringing a claim for-- of retaliation?

M. HANSEN: You know, my intent wasn't to be-- was to be kind of broad in terms of economic damages. I know those are kind of not common, and

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so I, I would certainly be happy to work with the committee on how broad, how broad we want it. I do-- kind of wanted to-- because this is, this is kind of, this is kind of in my mind something-- if we're ever gonna bring a hammer down on somebody and really, really kind of be strict, it's one we're already-- they're attacking an investigation-- so they've broken the law basically for a second time. You know, you've been alleged to have broken the law and there's, and there's a court case, there's a Department of Labor investigation, there's something going on and you are coming in and you are attempting to kind of subvert that mes-- that,--

LATHROP: Right.

M. HANSEN: --that by [INAUDIBLE].

LATHROP: Well, one way to do it is to fire that guy.

M. HANSEN: So firing the other guy--

LATHROP: So I'm, I'm gonna speak and, and, and explain my experiences,--

M. HANSEN: Sure.

LATHROP: --not unlike the guy who's making the claim. And now they want to fire me.

M. HANSEN: Um-hum.

LATHROP: So when you say that they may be able to get legal or equitable relief including general or special damages, would that include lost income from being fired?

M. HANSEN: I think it could, yes.

LATHROP: OK, think it probably should--

M. HANSEN: Yeah.

LATHROP: --for it to be effective. What if, what if the boss, instead of firing me, follows me around and just calls me-- you know, is relentless in calling me names and, and demeaning me in front of co-workers and so on? General and special damages there? I mean what

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if, what if somebody hassles me until I finally go, I can't do this anymore?

M. HANSEN: Sure.

LATHROP: The guy is on me nonstop and he's ridiculing me in front of my co-workers,--

M. HANSEN: Um-hum.

LATHROP: --and it's all because I talked to that lawyer that was suing him for a wage and hour violation.

M. HANSEN: Yeah-- no, I think that this would definitely apply to places in which you were-- you know, expressly terminated. You know, there's like a constructive termination whether that's, that's from harassment or by shortchanging your hours-- giving you a-- you know, not respecting your bidding process and then changing your shifts whatever, whatever it is. I think--

LATHROP: You just want to make sure that that's what you intended, so that at least there's some legislative history--

M. HANSEN: Sure, yeah.

LATHROP: --about, about what your intent is with respect to the legal or equitable relief and the general and special damages would be trying to place that person in a position where they're, where they're compensated for what they've been through whether that's strictly financial or it could amount to harassment as well.

M. HANSEN: No, my intent was definitely for it to be broad, and for-- you know-- I mean, fundamentally to be made whole-- you know, economic damages if you-- if you're fired and takes you a while to get a similar paying or same paying job, if you have any other things related to the cause of action. I mean, certainly if you have harassment and some other-- more antagonistic things done to you-- some sort of remedy of relief, absolutely.

LATHROP: OK, thank you.

M. HANSEN: Yeah, of course.

B. HANSEN: Any other questions? All right, before we close, I'll read a couple letters for the record. We have-- and, I'm sorry, if I

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butcher this name, we have two letters of, of support: one from Tsedeye Gebreselassie, from the National Employment Law Project; and Jenni Benson, from the Nebraska State Education Association; and one letter of opposition from Kristen Hassebrook, from the Nebraska Chamber. And that will close the hearing on LB361. Thank you, Chairman Hansen. And with you right there, we'll just go and open up-- we'll open the hearing for LB362.

M. HANSEN: Perfect. All right, thank you, Vice Chair Hansen and fellow members of the Business and Labor Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB362, another bill that addresses the issue of wage theft. Over our research into the issue over the interim, we found something surprising. We'd heard stories of employees filing complaints with the Department of Labor under the Wage Payment and Collection Act when they were not paid the wages that they were owed. But then even after the department conducted an investigation, and conducted an investigation which found that they were in fact wages owed by employer, and the employer was issued a civil penalty as a result, the employee still had to file a separate action and go through the court system to get their own-- on their own to recover their wages. Many times the amount of wages is small enough that they have difficulty finding an attorney to take their case. All the while the state does issue and collect a \$500 to \$5,000 civil penalty from the employer. And note that this is after a full department investigation by the Department of Labor where they have the power to subpoena documents, interview parties and where both parties are able to appeal the decision. So imagine you're a citizen and you're going through the entire process, and you file a complaint with the Department of Labor, the department conducts a full investigation, decides in your favor. Your employer appeals. You win on appeal from your employer. And at the end of that you find out you have to start all over again by yourself in the court system because your employer is still refusing to pay your wages. And the department will not and cannot force the employer to pay you after all. This bill was drafted with the intent for the employer to be compelled to pay wages at the same time, and in the same way they would pay the civil penalty to the Department of Labor. However, after meeting with the Department of Labor, they've noted that they do not feel the bill actually gives them more enforcement powers. Thus, I am open to continue working on language that would further guide them in this process. Iowa and many other states, for example, would give their

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Departments of Labor the ability to go to court for the employees after an investigation and finds wages, wages are owed. Some-- 36 states in total have the ability built into the system for the department to collect unpaid wages on behalf of the employee. To me, one way or another this is a loophole that needs to be closed. I would like to thank the, Department of Labor, for meeting with us and working with us over the interim and for the work they've already done over the last few years in setting up a system to issue and collect civil penalties. They've set up a system that works for most. For example in 2017, workers filed 1,066 wage complaints under the Wage Payment and Collection Act that resulted in just over 100 citations issued. Most cases were able to be worked out and settled before citation is even issued, and takes a lot of time and effort by the department. However, we do need to help those who have worked for employers-- that sentence doesn't make sense to me. All right-- however, we do have to make sure we're providing for all employees who have owed wages and including for employers who are resisting and refusing to participate in the process. With that, I will conclude my testimony, and I'll be happy to answer any questions of the committee.

B. HANSEN: Thank you. Any questions at all for Senator Hansen?

M. HANSEN: Thank you.

B. HANSEN: Thank you very much. Are there any proponents for LB362? Hello.

PENELOPE LEON: Good afternoon. Dear Senators, members of the Business and Labor Committee, my name is Penelope Leon, P-e-n-e-l-o-p-e, Leon, L-e-o-n. I am a community organizer and workers right trainer at the Heartland Workers Center. I am here to speak in favor of LB362. During my almost five years working for the Heartland Workers Center, I have had the opportunity to talk to several workers from different trades about their complications with employers who for any reason do not want to pay them for the work done. The Heartland Workers Center is a nonprofit community organization in favor of workers' rights. And even though we don't provide direct services, we try to help and refer workers in labor issues. Wage theft is the most frequent problem we face and is increasing every year. We had 33 wage theft cases in 2018, with a total of \$135,000 of unpaid salaries. In 2017, we had 38 wage theft cases, with a total of \$138,000 on wage theft. Worker's options to claim their unpaid salaries are few, especially when their employer threat them with calling the, calling the police if they keep coming

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to his home or office or disappear, change their phone number or simply didn't answer their phone calls or texts. By experience, I can say that filing out a wage claim on-line with the Nebraska Department of Labor is the easiest and fast way to start an official procedure. Unfortunately, I have seen most of these claims and with no money for the, for the workers. The Nebraska Department of Labor is good in taking the cases and contacting the employer and workers, but only few workers have told me they finally got their money. It is common to hear, the department told them the case is closed because the employer failed to contact them, or the case is still open but no money is on their way. The actual laws restrict the Nebraska Department of Labor to close the case until the wages are paid. We are talking about workers who were employed for one week to clean a new convenience store, or helping installing gutters, siding, building a fence, remodeling a hotel, washing dishes, or didn't receive the check from the last week when they got fired. Maybe losing \$500 or \$1,000 seems small, but for these workers and their families means no money for Christmas presents, no money for rent, and no money for food. I have seen their frustration and the consequences they face like being evicted, repossession, or living from charity. That is the case of Mateo, Maria and Diego in 2014; Juan Carlos in 2015; Rocio, Yuri and Tere in 2016; and some others in the last two years who were hired but the same owner of a construction cleaning business, who business name change frequently, and that after working for him and for a couple of weeks he disappeared without paying them, not a cent for their work done. Another example, a group of construction workers, hired by the remodeling business owner, who were brought from Texas to finish walls in a hotel in Omaha, and after the owner received payment from the contractor he disappears and left all his crew stranded with no money to even go back home. Wage theft has become a really good business for the ones that don't pay their workers because this-- there are limited consequences that have a legal impact. I strongly encourage you to support LB362. Thank you.

B. HANSEN: Thank you. Any questions at all? Seeing none, thank you very much. Appreciate it. Are there any other proponents?

ABBIE KRETZ: Good afternoon, Senators. My name is Abbie Kretz, A-b-b-i-e K-r-e-t-z, with the Heartland Workers Center. I'm not gonna read this, so-- but there is some reference into a few studies that I've done and another one that I found later while I was sitting here about wage theft. And I think-- so there-- basically it is a rampant issue and the three issues that we've seen as an organization over the

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last three years are pretty much-- just gonna lay them out. Number one, is that, yes, the Department of Labor has done a better job of streamlining the wage complaint and they have a clear process of how things work out. The on-line application for, for which employees can file a claim is pretty straightforward and is available in English and Spanish. But again as-- I think, as the legislation clearly lays out in how it stated now is that there really are no teeth to the current legislation. And so getting those workers back their wages, that's not there. One-- two, in review in the letters that are sent to employers when violations are found, it clearly states in the first half of the letter that a violation has been found. This is the worker you owed an amount of worker-- the wages you owe him or her, and the fine that you should be paid. And it clearly tells you how to send the payment for the fine. Underneath that little tablet says, or the table says, yes, please pay back the worker. So if I'm an employer and there's no checks and balances on me and it's clearly been found that I haven't-- that I violated the law, well, then tell me how I need to pay that or at least provide some respect for that worker so that he or she doesn't need to take next steps to get back that payment. Because as my co-worker stated to, a lot of these workers are owed-- you know, less than \$3,600. Secondly, with a case that we've seen-- so we've been around for about ten years, we've seen wage theft cases quite a bit. And one of-- there was one employer that we've seen his name since 2011. He's the one who changes his name, hires workers for a few weeks at a time, and then doesn't pay them, disappears. The workers have his address, his, his phone number. They know where he lives specifically. They know his license plate number. But, when they make that complaint, nothing. With that case, we did file the claims with the Department of Labor, those workers did not get their wages back. Secondly, we tried to find a private attorney who would be able to take that, do maybe a collective action for that case. But although the attorney was able to-- or willing to take up the case pro bono, we still would have had to come up with-- the workers still would have had come up with money to pay for, for fees to do investigation and research for the case. So again, workers owed very minimum amount of money aren't gonna be able to pay for those fees. Secondly, the other option we've heard, too, is OK, so the workers didn't get paid, they have this clear proof that they're owed wages. Another option for them would be to go to small claims. But, just to be honest no one's gonna go to small claims court. You've got to work. You're gonna lose a day of wages. You're probably gonna lose more, more money that you're actually doing trying to take that day off to go apply for or make a

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small claims court. And so it's probably not worth then, for a lot of these workers, either. So I guess-- it's really frustrating-- I'll just be honest to listen to workers for years and listening to the hardships that they face being evicted from their homes, not being able to find more jobs. And then not just the economic impact it has on them and their families, but the social impacts that it has for families. And a lot of these people have kids, and then just their self-esteem how it challenges that as well. And so-- I think, this is a good first-- another first step as we move things forward, but provide more protections for workers. We did that a few years ago when we passed on the misclassification law LB560. Is that right? Yeah. In about 2013, passed which then required the Department of Labor-- or required employers to provide pay stubs to employees and that also gave them, the Department of Labor, the ability to subpoena documents and request testimonies. And I think that's a good start, but I think we have to provide more protection-- protections for workers here in the state of Nebraska. So strongly urge you to kick LB362 out of committee. Thank you.

B. HANSEN: Thank you. Any questions at all? Seeing none, thank you very much--

ABBIE KRETZ: All right, thank you.

B. HANSEN: --for your testimony. Are there any other proponents that wish to testify?

SCHUYLER GEERY-ZINK: Good evening, again. My name is Schuyler Geery-Zink, S-c-h-u-y-l-e-r G-e-e-r-y hyphen Z-i-n-k, and I'm a staff attorney with Nebraska Appleseed. We collaborate extensively with workers across Nebraska and hear about many workplace abuses such as wage theft. I am testifying in support for an amended LB362. Wage theft impacts all workers but especially minimum wage earners. Unfortunately, these are the Nebraskans who can least afford to lose earnings. Minimum-wage violations cause many families to fall below the poverty line and decreases their financial independence. This in turn harms state and local economies. Studies estimate billions of dollars are lost in stolen wages each year for millions of workers across the country. On average, minimum-wage workers lose approximately \$3,300 per year per worker to wage theft. We hear from workers in the community who are not paid for the last few weeks of work after completing a job or who are not being accurately compensated for travel time between work sites or for piecemeal work

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or who are forced to work through breaks or overtime without pay. Workers currently do not have a strong state-level enforcement mechanism to receive wages owed to them, and wage theft lawsuits are slow and often fruitless. Nationally of those few cases that are litigated, only 2 percent of wages are properly collected through lawsuits. So this bill is attempting to simplify part of the process for victims of wage theft. However, the bill would be enhanced with an amendment that Senator Hansen alluded to which would give the Department of Labor enforcement power to collect unpaid wages through the courts if the department decides in the employee's favor after a complaint. Strengthening Nebraska's wage theft protections through this bill would be critical in protecting workers from employer violations especially with stronger enforcement mechanisms added. This bill functions best alongside LB361, and the other bills that are currently being heard to protect against anti-retaliation in the workplace and enhance workers bargaining power. I strongly urge you to advance LB362, and help ensure Nebraska workers are properly paid for work performed. Thank you for your time.

B. HANSEN: Thank you. Are there any questions at all? Thank you for your testimony. Appreciate it. Are there any other proponents?

SUSAN MARTIN: Good evening, members of the Business and Labor Committee. My name-- for the record, my name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, testifying on behalf of the Nebraska State AFL-CIO. I'm going to be brief. We've already established Nebraska provides action through the Nebraska Wage Payment and Collection Act, that employer needs to be accountable for wage violations. But by passing this legislation, they will also be accountable for following through on citations issued. Currently, employees have no choice but to seek compensation through the court system through no fault of their own. This puts an extreme burden on the employee who has to seek an attorney and seek the compensation that's rightfully due to them. This would make the process for recovering wages owed simpler for the employee who would save the time and costs of going to court and is overall good public policy because employers should be required to pay their workers the wages that they're owed. This is another extremely important bill that will ensure worker protections. And I thank, Senator Hansen, for introducing this bill, and ask for your consideration in passing it out of committee. Thank you.

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B. HANSEN: Thank you. Any questions at all? Thank you. Are there any other proponents who wish to testify? All right, seeing none, are there any opponents that wish to testify?

ROBERT HALLSTROM: Acting Chairman Hansen, members of the committee. My name is Bob Hallstrom, H-a-l-l-s-t-r-o-m, appearing before the committee on behalf of the National Federation of Independent Business in opposition to LB362. Our general concern is that the bill pretends to make the Department of Labor a collection agency. We're not sure we've dealt with some attorneys. I don't practice in this area. But from some of the preliminary comments that we got from some attorneys that practice in this area, they were concerned about whether or not there is a sufficient due process that's given to the employers. Not at the administrative stage necessarily, but with regard to the current system, that would say they can go into court to determine whether or not there's wages that should be recovered and ultimately paid. And whether or not providing the employee with notice, if that's not currently done, to allow them to know that the citation has been issued, and that they have an opportunity then to pursue their rights where both parties will have the determination in a court of law determined. I think given the, the sparsity of information that we have we certainly would be willing to sit down with Senator Hansen and discuss. I don't know that we can come to a resolution, but we're certainly willing to, to do that and, and see if there's another way to skin the cat. With that, I'd be happy to address any questions.

B. HANSEN: Are there any questions at all? Thank you.

ROBERT HALLSTROM: Thank you.

B. HANSEN: Anybody else wish to testify as an opponent? Seeing none, Senator Hansen, you're-- oh, are there anybody on the neutral capacity wishing to testify? OK, seeing none, if you would like to close, Senator Hansen.

M. HANSEN: Absolutely. All right, thank you, Vice Chair Hansen and fellow members of the committee. First let me say, I forgot to thank, Senator Crawford, for bringing me the Happy Birthday balloon earlier. I really appreciated that, thank you all for spending my birthday afternoon and evening with me. LB362-- so, so-- in my mind, it's an attempt to, to essentially close a loophole and make sure that the wages are paid. And it's kind of this unique situation where now currently the leverage the Department of Labor uses, as I understand

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it, is there's these civil penalties that are range for a 5-- it's \$500 on the first one and then up to \$5,000 the following ones. And what they often do is say, hey, it looks like you're heading towards a civil penalty, why don't you just pay the wages and we'll take-- get rid of the case. And for a lot of claims for, for hundreds of them that works and that works out great. But then you've got a problem where it's an employer who owes-- you know, \$10,000 in wages and is facing a \$500 penalty, sometimes they're in a situation where like, I'll pay the penalty, and I'll take the odds to give myself a second chance that, that the employee won't file the court case and will ultimately prevail. And so that's the issue is how do we, how do-- so we as a state are paying for the Department of Labor to have investigators to conduct an investigation, to conduct an appeal process and actually go out and collect the civil penalty that goes to the school fund. So we as a state are investing a-- some money at minimum into, into this investigation and enforcement. And at the end of the day the one person who doesn't get what they're owed is the employee who filed the issue who had the initial problem who is short of the wages and is probably the person in this situation who is least able to afford missing their last paycheck or missing a chunk of their paycheck. I appreciate the Federation of Independent Businesses being interested in working out. I know we've had some other good comments from Department of Labor already in terms of what they view their enforcement powers. Be happy to work with all stakeholders in the community moving forward.

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

CRAWFORD: Thank you, Vice Chair Hansen, and thank you, Senator Hansen. So does the Department of-- the Department of Labor in the process of their investigation, they know the amount of wages that need to be repaid? This is--

M. HANSEN: Yes.

CRAWFORD: OK.

M. HANSEN: And I, I have a copy of the letter. It has, it has a company's name on it, that I didn't fully redact so I can provide that another date. But if you look at the letter, the letter says the individuals and it'll list them all off. It'll list, list a specific amount, and it'll also lists the penalty.

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CRAWFORD: Right.

M. HANSEN: And so this, and so this letter I have is [INAUDIBLE] that one employee was owed \$5,102.67. And the suit was this company's second violation, so they also owed a 5,000 penalty-- dollar penalty to the state.

CRAWFORD: And did, did you say in some states the, the Department of Labor would require that you, that you pay them and then they pay the employee?

M. HANSEN: Yeah, so there's different, there's different ones and we don't have a complete, complete-- so in about 36 states there is some mechanism for the Department of Labor to actually collect on behalf of the employee and pay them back. And, and Iowa was one that we were looking at is the Department of Labor actually acts like what-- will file the court case on behalf of the employee with permission of the employee and seek court costs to pay back the Department of Labor and then pay the wages when they ultimately prevail back to the employee. The employee kind of assigns the case over to them and they run with it and pay it back if they win at the end.

CRAWFORD: OK.

M. HANSEN: And-- so--

CRAWFORD: Or they could keep finding them until they pay.

M. HANSEN: That's kind of, that's kind of, that's kind of one of the things is, is kind of the, the actual-- this is, this is largely just in the actual enforcement mechanism. You know, because, because the employee has a private right of action from day one, so if the employee knows from day one that their, that their employer is actually going to be "obstructionant" or whatever the Department of Labor process-- this actually probably makes sense for them to go immediately to court in the sense of if you're ultimately gonna have to go to court you might as well go early. But then you're, you're paying court costs, you're paying attorney fees potentially-- you know, some of the-- some of those things in a way you wouldn't if the Department of Labor could just recover-- remit it back to you.

CRAWFORD: Thank you.

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M. HANSEN: Of course.

B. HANSEN: Senator Lathrop.

LATHROP: When the department gets involved-- does the department get involved in every case that they've been approached? So if somebody doesn't get their wages, does that-- and, and they call the department or go through their hotline or whatever the process is. Is the department good about enforcing or writing the employer and saying look you've got a bunch of people you haven't paid?

M. HANSEN: It's my understanding that the employer's good. And so sometimes--

LATHROP: You mean the department is good.

M. HANSEN: Sorry, it's my understanding that the department is good about following up with that including, including going through to the end with the penalties because you know there are some instances and that's very much where we have it as-- you know, you get, get a nasty letter from the Department of Labor over-- you know, a few hundred dollars. It's probably in your incentive to, to, to, to double check your records, see if it is a mistake on your part, and it's a mistake just pay off and it's settled. You know, because you can just write the Department of Labor back of like, oh, yeah, we did short Jim Smith, you know, a \$132 here. We sent him the check. It's all settled. So in some ways just kind of knowing the enforcement mechanisms looking at you encourages some compliance and some record keeping in ways that isn't there in terms of actually subpoenaing and going forward. I think that so far they've been pretty good at enforcing this.

LATHROP: Well, couldn't you solve this problem by saying in statute that if within 30 days of the department making a determination and imposing a sentence or a, or a fine if the employer has not yet paid the wages. Do the employees that were the subject matter of this citation that the employee then has a private cause of action against the employer for five times the wages, plus attorney fees?

M. HANSEN: That would certainly be one way of handling it, yes.

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LATHROP: It'd certainly make it economically viable for someone to take the case and for the employee to take time off work to prosecute it.

M. HANSEN: Yeah, and so that, that was kind of-- in my view there's-- there was, frankly, a couple of different ways of, of, of solving this of, of-- you do [INAUDIBLE] the assignment route and have the Department of Labor or the Attorney General, somebody actually go to court and kind of act as the collection arm. You give the employee some sort of like-- you know, rebuttable presumption, super document that allows them attorney's fees and extra damages considering the-- or-- are kind of the top two ways. And I-- and that was certainly one that we had-- was on our radar.

LATHROP: OK, good. Thanks.

M. HANSEN: Thank you.

B. HANSEN: Any other questions? Thank you, Senator Hansen. And just some letters for the record, in support we have Nathan Leach, from Kearney in support; Tsedeye Gebreselassie, from the National Employment Law Project; a letter in neutral from John Albin, Department of Labor; and a letter in opposition from Kristen Hassebrook, from Nebraska Chamber. And with that, we will close the public hearing for today. Thank you.