

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee January 25, 2021
Rough Draft

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B. HANSEN: [RECORDER MALFUNCTION] tell everyone good morning, and welcome to the Business and Labor Committee. My name is Senator Ben Hansen, I represent the 16th Legislative District in Washington, Burt and Cuming counties, and I serve as Chair of the Business and Labor Committee. I'd first like to invite the members of the committee to introduce themselves, starting on my right with Senator Hansen.

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

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

HALLORAN: Senator Steve Halloran, senator from District 33, which is Adams and parts of Hall County.

GRAGERT: Senator Tim Gragert, District 40, northeast Nebraska, Cedar, Dixon, Knox, Rock, Holt and Boyd County.

B. HANSEN: I'll let Senator Hunt introduce herself here.

HUNT: Hi there, I'm Senator Megan Hunt and I represent District 8 in midtown Omaha.

B. HANSEN: All right. Also assisting the committee is our legal counsel, Benson Wallace, and our committee clerk, Ellie Stangl. And our pages for today, Patrick and Mason. Thank you. A few notes about our policy and procedures. Please turn off or silence your cell phones. This morning, we'll be hearing three bills and we'll be taking them in the order listed on the agenda outside the room. We had mentioned to read some of our COVID-19 hearing procedures as well. For the safety of our committee members, staff, pages and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearings in progress. The bills will be taken in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors in the hearing room, which are marked. Testifiers may remove their face coverings

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during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chairs between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by the sergeant at arms who allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing while waiting in the hallway or outside the building. And we ask that you, if you could, please eliminate or limit the handouts best that we can. On each of the tables near the doors of the hearing room, you'll find green testifier sheets. If you're planning to testify today, please fill one out and hand it to Ellie when you, when you come to testify. This will help us keep an accurate record of the hearing. If you are not testifying at the microphone, but want to go on record as having a position on a bill being heard today. There are white sheet, white sign-in sheets at each entrance where you may leave your name and other pertinent information. Also, I would note, if you are not testifying but have a position letter to submit, the Legislature's policy is that all letters for the record must be received by the committee by noon day prior to the hearing. Any hand--any handouts submitted by testifiers will also be included as part of the record as exhibits. We ask that you would have your handouts, that you please bring ten copies and give them to the page. We use the light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony and we will ask you to wrap up your final thoughts. When you come to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last names. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make a closing statement if they wish to do so. And we do have a strict no prop policy in this committee. With that, we will begin today's hearing with LB169. Welcome, Senator Matt Hansen.

M. HANSEN: All right, good morning, Chairman Hansen and fellow members of the Business and Labor Committee. For the record, my name is Matt

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Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26, which is northeast Lincoln. I'm here today to introduce LB169, which would repeal the licensing requirements for locksmiths in Nebraska. Current statute requires locksmiths to register with the county clerk in the county where their business is located and pay a fee of five dollars. During the 2020 interim, as required by the Occupational Board Reform Act the Legislature passed in 2018, the Business and Labor Committee introduced LR357 to review locksmith licenses. In the course of the study, the Nebraska Association of County Officials sent out a survey to county clerks. They reported that several counties have not issued any locksmith licenses in the past two years, with most counties issuing between one and ten and only one county issuing more than 15 in the last five years. No counties reported revoking any locksmith licenses, and it is not clear if the statute even gives them the power to do so. The current statute was enacted in 1974, and after reviewing the legislative history, there did not appear to be widespread concern that the licensure requirements arose from, but rather one instance where a burglar was masquerading as a locksmith. During the committee hearing on the initial legislation, concerns were raised regarding the renewal, renewal process, the cost of the license, and the response was that future legislatures could build upon these requirements. As you can see, that has not been the case. County clerks are burdened with this task, which does not generate significant revenue, and without a physical license, the ability to revoke a license or a mechanism to even provide a background check, this does not seem to provide a public safety service. The simplest way to move forward, I believe, is to repeal these sections requiring a locksmith license in Nebraska. And with that, I'll close and will happy to work with the committee on the bill.

B. HANSEN: All right. Thank you, Senator Hansen. And what that, we'll take now some questions from the committee. Yes, Senator Blood.

BLOOD: Thank you, Chairperson Hansen. Forgot your last name. Just a brief question. I'm looking over the fiscal notes. So would it be correct assumption to say that financially, that actually it's costly to the counties because more staff time is used than actually what they're paying for the permits?

M. HANSEN: Yes.

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BLOOD: On top of everything else. All right. Thank you.

M. HANSEN: Thank you.

B. HANSEN: Thank you. Any other questions at all? All right, thank you, Senator Hansen.

M. HANSEN: Thank you.

B. HANSEN: So with that now, we will be taking any testifiers in support of the bill. Welcome.

BETH FERRELL: Thank you. Good morning. Starting to get used to the good morning rather than good afternoon. Chairman Hansen, members of the committee, for the record, my name is Beth, B-e-t-h, Ferrell, F-e-r-r-e-l-l, I'm with the Nebraska Association of County Officials and I'm appearing in support of LB169. We'd like to thank Senator Hansen for introducing the bill and the committee for introducing and following through with the interim study this fall. Actually, this was an issue that appeared on our list as a potential initiative for NACO to look at this year for legislation. So the timing was great. Thank you for that. I'm handing out a letter from the Seward County clerk. She had submitted this right on the cusp of the new procedures being enacted. And so we wanted to make sure that you had a copy of her letter. NACO has no position about whether locksmith's should be licensed. Our concern is really about how the process is in place. It's as Senator Hansen pointed out, it really there are a lot of questions that are unanswered about what the clerk's authority is to do. For example, the statute requires the application form to include a sort of a check the box. If the individual has been convicted of a crime, it requires three references to be listed. But there's nothing that tells the clerk what to do with that information. Some counties do a background check. They ask their sheriff or their state patrol to do that check. There's no provision to pass the cost on to the applicant. So counties really absorb the cost of that, if they choose to follow through with that. There's no authority to reject an applicant if that report would come back negative. So really, it's just a question that, that's answered, but, but there's no real purpose for it or use that it's applied for. There's no direction for what the clerk should do with the paperwork. Clerks are good public servants. They keep a file, but there's no process for renewing the

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license. There's no central state registry, none of those things that are typical with an occupational license. So what we're asking is for your support in this bill is to just clarify what the clerks do. And we think that's best handled by eliminating the statutes as they are now and then if this is something we're an occupational license is appropriate, the committee can look at that or the profession can look at that. That's not our place to say. But our concern is with the process that's in place now for clerks to actually do the issuance. So we'd encourage your support of LB169 and I'd be happy to take questions.

B. HANSEN: All right, thank you. Any questions from the committee at all? Seeing none, thank you very much, appreciate it. And our next testifier in support. All right, seeing none, we'll move on to any who wish to testify in opposition. Seeing none, any in a neutral capacity? All right, Senator Hansen, would you care to close? He waives closing and that concludes the hearing on LB16-- actually, I want to say one thing here. I forgot we do have one other letter in support for the record, and that does come from Laura Ebke from the Platte Institute in support of the bill. All right, so now we will move on to LB37. Welcome to the Business and Labor Committee, we're discussing LB37. And welcome, and you're ready and willing to go for opening on the bill.

PATRICK ROY: Thank you, Chairman Hansen and members of the Business and Labor Committee. My name is Patrick Roy, P-a-t-r-i-c-k R-o-y, and I'm the legislative aide to State Senator John Lowe. Senator Lowe cannot be here today, so he just asked me to introduce LB37 for him. LB37 was brought to Senator Lowe by the State Fire Marshal. The State Fire Marshal brought him the bill because two years ago, Senator Lowe brought LB301, which moved some responsibilities from the Department of Labor to the State Fire Marshal's Office. This just does some updates to that. I'll keep it short for you guys and turn this over to the State Fire Marshal, unless you have any questions.

B. HANSEN: Short and sweet, I like it. Thank you very much. All right, we will welcome our first testifier in support of the bill. Welcome.

CHRISTOPHER CANTRELL: Thank you. Good morning, Chairperson Hansen and members of the Business and Labor Committee. My name is Christopher Cantrell, C-h-r-i-s-t-o-p-h-e-r C-a-n-t-r-e-l-l, and I'm a State Fire

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Marshal and the state boiler inspector. I'm here to testify in favor of LB37 and want to thank Senator Lowe for introducing it on behalf of the agency. LB37 contains a variety of changes designed to help the State Fire Marshal Agency create a more effective and efficient work environment for both public and staff members. The removal of outdated definitions for hotels, lodging houses and the removal of a standpipe requirement in hotels of a certain height will allow for clarity in inspections, as all of these items have current definition and application in our adopted codes. LB37 would also amend state Statute 28-1253 by removing the requirement that the agency adopt regulations regarding the enforcement of the prohibition on the use of liquefied petroleum gas, LPG, in mobile air conditioning systems. The State Fire Marshal Agency has never conducted an investigation under this statute because a facility has never attempted to use LPG and for motor vehicle air conditioning systems. Research also indicated that there has never been a criminal citation issued for a violation of this statute. The underlying criminal prohibition on the use of LPG in mobile air conditioning systems would remain in the statute, but the requirement for regulations development would be removed, allowing for a regulatory reduction. LB37 would also amend state Statute 81-5,167 to remove unnecessary and burdensome requirements relating to qualifications and endorsements, specifically the "B" and "R" endorsements that a person must possess in order to be hired and employed as the state boiler inspector. The "B" endorsement is intended to be issued to inspectors who perform supervisory activities of persons in possession of a new construction commission who perform new construction inspections of pressure retaining items. The requirement in statute for the state boiler inspector to have or obtain a "B" endorsement is not necessary due to the fact that neither the state boiler inspector nor the deputy state boiler inspectors perform inspections of pressure retaining items during construction. Regarding the "R" endorsement requirements in current statute, this endorsement is intended to be issued to inspectors performing inspections of repairs to pressure retaining items. Neither the state boiler inspector nor the deputy state boiler inspectors perform such inspections as part of their jobs, so it is not necessary to have this endorsement as a prerequisite for state employment. New construction inspections and repair and alteration inspections in the state of Nebraska, and in fact, the majority of states, are performed by private industry inspectors, also known as special inspectors, that

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have and maintain the "B" and "R" endorsements. LB37, if passed, will also deepen the pool of potential candidates if and when it becomes necessary to hire a state boiler inspector, thus reducing the time it typically takes to find a suitable candidate, while increasing the likelihood that the State Fire Marshal can hire a qualified person that is a good fit for the agency. Finally, LB37 would amend state Statute 81-51.01.4a [SIC] to remove the plans review fee schedule listed in the statute and allow a new fee schedule to be listed in regulations. The current fee schedule is developed in 1983 and then modified in 1997 to add an accessibility, what we call an "ag review" fee that is equal to 50 percent of the plan review fee. In 2004, a late fee of \$50 was added in the hope that it would reduce the number of projects from being started before any plans had been submitted to the state. It is important to note, though, that the original plan review fee structure has not been modified since its creation. The current model is cumbersome and confusing to plan submitters and often results in miscalculations of the fee by the public. These incorrect fees must be denied, returned or refunded in the correct amount requested by the agency staff. This process is frustrating for both the staff and for the submitters. It is inefficient and creates unnecessary delays and additional work for all involved. May I continue?

B. HANSEN: Yes. Yep. You still got another minute yet.

CHRISTOPHER CANTRELL: OK, it's not red yet. Thank you. The amended language would allow the agency to propose a revenue-neutral fee structure and regulation. The maximum fee amount for plan review will remain unchanged at \$500. The new fee structure would list a set fee amount for every ten thousand dollars of projected project cost up to a maximum fee of \$500. By eliminating interpretation of the intermediate value, values, the simplified formula we have developed will also allow for a much cleaner, clearer, simpler way for our customers to figure out plan review costs, thus saving time for them and our team. This concludes my testimony. Thank you for your time and attention today. I would be happy to answer any questions you or the Business and Labor Committee members might have.

B. HANSEN: Thank you very much. Are there any questions from the committee? Seeing none, you're off the hook. Thank you very much.

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CHRISTOPHER CANTRELL: Thank you very much for your time today. I appreciate it.

B. HANSEN: All right, are there any other, any others wishing to testify in support of the bill? All right, seeing none, are there any of those who wish to testify in opposition? Seeing none, are there any who wish to testify in a neutral capacity? All right, well, seeing none, Mr. Roy, would you like to close? OK, he waives closing. All right, and that will close the hearing for LB37. Now we move on to LB255, and welcome again, Senator Hansen.

M. HANSEN: Well, thank you. Good morning, Chairman Hansen and members of the Business and Labor Committee. My name is Matt Hansen. For the record, M-a-t-t H-a-n-s-e-n, and I represent Legislative District 26 in northeast Lincoln. I'm here to introduce LB255, which would adopt the In the Line of Duty Compensation Act. LB255, provides for a family member or designee to receive compensation if a firefighter, police officer or other first responder dies while in the line of duty. This is common practice in other states and I believe long overdue here in Nebraska. All of our neighboring states have some form of compensation for those that die in the line of duty. And I believe that it's time for Nebraska to join our neighbors in making sure that our first responders know that we know the value of their work, the service and their lives. LB255, would include paid and volunteer firefighters, emergency medical service, ambulance squad members and law enforcement. The bill allows for a one-time payment of \$50,000 starting in 2022 that is indexed for inflation for each of the following year to the family of the person who died in the line of duty. Each employee has the opportunity to designate a beneficiary, or if they do not, they will follow their will or other procedures of inheritance. As introduced, a claim must be made for compensation with the Nebraska Risk Manager within one year after the date of the death of the first responder. The State Claims Board shall then investigate the claim and then approve or deny the claim. I think this is an important bill and we'll continue to work to make sure that we are taking care of our firefighters' and police officers' families while they are taking care of ours. With that, I believe there are a few people coming to testify behind me. Perfect. A few people will come and testify behind me who can better share the importance of this bill. So I'll stop my introduction here. With that, I'd be happy to take any questions.

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B. HANSEN: Thank you. Are there any questions from committee? All right, seeing none, thank you much.

M. HANSEN: Thank you.

B. HANSEN: And we will hear our first supporter to testify in support of the bill.

DARREN GARREAN: Good morning, Chairman, members of the committee. My name is Darren Garrean, D-a-r-r-e-n, last Garrean, G-a-r-r-e-a-n, and I'm president of the Nebraska Professional Fire Fighters Association. We represent approximately 1,300 firefighters, paramedics from Scottsbluff to Sioux City, Beatrice and places in between throughout the state. I want to thank Senator Matt Hansen for bringing the bill and his support, continued support with this. I want to thank Senator Bostar, Senator Brandt, both Senator John and Machaela Cavanaugh, Senator Day, Senator McDonnell, Senator Morfeld, Senator Pahls, Senator Slama, Senator Wishart, and Senator Hunt for adding your names to support on this bill already. We rise to support LB255 and have strong, have been strong advocates for this for many years. Recently it was LB363, before that it was LB212, and before that it was LB836. So this is something that we've been advocating for a while and we thank Senator Hansen for continuing to bring this. I have a story that I kind of want to have put in the record. Sometimes we forget as time moves on, and particularly with 2020 with COVID, on Wednesday, March 13, 2019, flooded had started in and around the Fremont area. Our firefighters were called into extra work, extra duties to assist the evacuation the citizens of Fremont and Dodge County. Thursday was my shift day. After evacuating people all day long and answering our 911 calls, at approximately 6:00 p.m., we were called to rescue four adults and two children whose basement had collapsed. We were all surrounded by floodwaters. This was approximately seven miles east of Fremont. Airboat crews were sent and there were 40 mile an hour winds, 35 degree temperatures. The boats had to go three to four miles out to reach them because we can't use our vehicles to get there. When we were updated on the way, dispatch had stated three of the basement walls had collapsed, one beam in the center of the floor was holding up the entire house. Airboats were launched shortly after and en route to a distress call was sent out. Both airboats had sank and seven rescuers were in the water and they needed help. Rescuers were able to gather themselves and hold onto their boats. Blackhawk helicopters

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were sent from Columbus area to rescue them. The arrival was about 20 to 30 minutes afterwards while they were in the water. With such heroic efforts for those individuals, the original seven rescuers were saved. The Blackhawks were refueled, returned and rescued the original vic-- victims that were, they were sent to rescue. They refused rescue. The helicopters left and returned to Columbus and then continued life-saving efforts. I remind you that they called us to help. You may find this unbelievable. That's what we do for others. Three of the four firefighters were from Fremont, along with three from the surrounding volunteer fire departments, all have children. With a glimpse of death returned within 24 hours to assist rescuing more flood victims. I'm so grateful and thank God that I did not have to face their families at a funeral. This benefit that we're asking for, I think, can be compared to a bouquet of flowers. Great for a short time, but it won't last very long. I ask you to pass this bill for those that risk for all, and I'll try to answer any questions. Now, though, this is testimony of last year from Dave Wordekemper, and I say this because how quick we can forget as time moves along. And the things that we do, we will always do those things. I'd like to close this and remember that what we're asking for is not for us. The benefit of the line of duty death benefit are for those that remain behind. This is not anything for the first responders will receive. It will be those who are left behind with some tragedy where first responders gave the ultimate sacrifice. With that, I'll be answering any questions, if there are any.

B. HANSEN: Thank you for that story, too. And thanks for your testimony. Is there any questions from the committee at all? Seeing none, thank you very much. Appreciate it. We'll take our next testifier in support of the bill. Seeing none, are there any here who wish to testify in opposition? Seeing none, any in a neutral capacity? All right, well, that will conclude-- actually, one more thing again. We do have one letter for the record in support from Sue Martin from the Nebraska AFL-CIO. Forgot to mention that. That will include LB-- or actually, Senator Hansen, would you like to close? Thank you. He waives closing and that includes LB255. And actually that concludes our hearing for this morning and we welcome everyone back at 1:30 for afternoon hearings. Thank you.

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B. HANSEN: Good afternoon and welcome to the Business and Labor Committee. Going to start off by just giving a brief kind of introduction/opening here. My name is Senator Ben Hansen. I represent the 16th Legislative District in Washington, Burt, and Cuming Counties and I serve as Chair of the Business and Labor Committee. I would like to invite the members of the committee to introduce themselves, starting on my right with Senator Hunt.

HUNT: Hi there. I'm Senator Megan Hunt and I represent District 8 in midtown Omaha.

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

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

HALLORAN: Good afternoon. Steve Halloran, District 33, which is Adams County and the better part of Hall County.

B. HANSEN: OK. Also assisting the committee is our legal counsel, Benson Wallace, and our committee clerk, Ellie Stangel, and our committee page, Ellie, right?

EMILY LOFTIS: Emily.

B. HANSEN: Emily-- OK, sorry. I was close. Emily, thank you for being here. I've also been invited to read a couple of procedures concerning COVID-19. For the safety of our committee members, staff, pages, and the public, we ask those attending our hearings to abide by the following procedures. Due to the social-distancing requirement, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. Request that-- we request that everyone utilize the identified entrance and exit doors in the hearing room, which are marked next to the door. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize

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McDONNELL: Thank you, Chairman Hansen and members of the Business and Labor Committee. My name is Mike McDonnell, spelled M-i-k-e M-c-D-o-n-n-e-l-l, representing LD 5, south Omaha. The purpose of this bill is to address the gap in access to unemployment benefits that currently exist in Nebraska. In Nebraska, employers pay unemployment insurance taxes for all of their employees, including eligible work-authorized immigrants. However, as a state, we do not extend these unemployment benefits to all eligible work-authorized immigrants. During this pandemic, in other state-- other states have been rapidly adjusting their laws and policies to fix this gap. Nebraska is now the only state that does not extend unemployment benefits to all work-authorized immigrants. Unemployment taxes are being paid by their employers, yet some of these workers are being denied access to the benefits that they should be receiving because we haven't included them. We are working with the Department of Labor and workers' advocates on an amendment to address language concerns to ensure that we are accomplishing the intent of this bill, which is to allow all work-authorized noncitizens to receive the benefits they are entitled to. We're working with the Nebraska Department of Labor to change the language of LB298 to ensure that this conforms to their current process of demonstrating work authorization status. Also here to testify in support of this bill is Alexis Steele from the Immigrant Legal Center and Lauren Garcia from the Nebraska Catholic Conference. Micky Devitt from the Heartland Worker Center planned on testified today, but provided a copy of her statement to the committee due to weather. I'm here to answer any of your questions and I will be here to close.

B. HANSEN: All right. Thank you, Senator McDonnell. Are there any questions from the committee at this point? All right, thank you. And with that, we'll open it up for testimony for all those who support LB298.

ALEXIS STEELE: Good afternoon, honorable members of the Business and Labor Committee. My name is Alexis Steele and I'm proud to join you today on behalf of the Immigrant Legal Center to testify in support of LB298. The mission of the Immigrant Legal Center is to welcome immigrants into our communities by providing high-quality legal services, education, and advocacy throughout the state. We are sensitive to how the pandemic's impact, which disproportionately afflicts immigrants and people of color, has continued and we advocate

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for legislation that facilitates critically needed support. As experts in immigration law and embedded members of our community, we are confident that LB298 corrects an oversight in our state's social safety net by connecting Nebraskans, some of whom in the greatest need, with the resources that they earned. Little known to most people, DACA recipients cannot access unemployment benefits in Nebraska, even though they are work-authorized and lawfully present individuals. This quirk is unique to our state and it arises from our law's treatment of unemployment insurance as an ordinary public benefit, not an earned benefit. This distinction matters because Nebraska places extra restrictions on immigrant access to public benefits requiring qualified alien status for access. Qualified alien is a federal term of art that describes a list of various statuses with work authorization and lawful presence, but which predates the DACA program. DACA recipients, however, are very important law-abiding and high-contributing members of our state and they should have access to their unemployment insurance. LB298 offers an uncontroversial policy solution to allow all work-authorized, lawfully present community members access to the unemployment insurance that they earned. This solution follows guidance from the Supreme Court of Nebraska in utilizing federally granted authority to include all such individuals, amplifying the reach and efficacy of our preexisting state system. LB298 requires immigrant applicants to provide proof of work authorization for the Nebraska Department of Labor's verification, which would include federal systems such as SAVE, the electronic immigration status verification system provided by the United States Citizenship and Immigration Services and which our Department of Labor already uses. LB298 supports our state by closing a gap in access and terms that complement and reinforce Nebraska's existing unemployment insurance system. As advocates for the immigrant community, ILC recognizes its value and would support LB298 any session, but this is no ordinary session and we cannot dismiss the circumstances that brought this issue to our attention. We are today in the first day of hearings in the wake of a pandemic. Equally, we cannot ignore the fact that members of our Latino community suffer the majority of positive coronavirus cases, half of hospitalizations, and a quarter of COVID-19 deaths in our state. It is unrealistic to plan our state's recovery from the coronavirus while leaving whole communities without the support that they need to maintain basic needs when hardships inherent to the pandemic arise. We urge the honorable

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members of the Business and Labor Committee, whether by compassion or common sense, to vote in unanimous support of LB298. Lawfully present, work-authorized Nebraskans should have access to the unemployment insurance that they earned. And we would like to thank Senator McDonnell for his leadership in bringing this issue of labor and public health to this committee. And I would happy to answer any questions that you might have, whether presently or even later by email, so I'll open that up.

B. HANSEN: Thank you for your testimony. Any questions from the committee at all? All right, seeing none, thank you for coming, appreciate it.

ALEXIS STEELE: Thank you very much.

B. HANSEN: We'll take our next testifier in support. And if we could, if you're going to come up here to testify, maybe because of the mask, the obstruction there, if we can speak just a little bit louder to make sure everyone hears or just lean into the microphone a little bit, I appreciate it.

ROSE GODINEZ: Yeah, sure.

B. HANSEN: Thank you, appreciate it.

ROSE GODINEZ: Thank you, thanks. Good afternoon. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I am testifying on behalf of the ACLU of Nebraska in favor of LB298, which brings Nebraska in line with every other state in the country by providing unemployment benefits for noncitizens with work authorization. Under current law, many immigrant workers, including DACA, TPS recipients, and asylum seekers, are cut out of unemployment insurance even when their employer has already contributed to the same. The economic impact of a pandemic has affected every household without regard to immigration status. This exacerbating financial hardship will likely make it impossible for immigrant workers and community members to survive and it will harm our short and long-term recovery efforts. As we all know, COVID-19 does not discriminate, neither should our state's response to it, including unemployment insurance, insurance to all workers. And for those reasons, we thank Senator McDonnell for introducing this

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legislation and we urge the committee to advance it to General File. Thank you.

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

ROSE GODINEZ: Thank you.

B. HANSEN: Anyone else wishing to testify in support? Welcome.

LAUREN GARCIA: Hi, thank you. My name is Lauren Garcia, L-a-u-r-e-n G-a-r-c-i-a, and I am reading this testimony on behalf of Tom Venzor and the Nebraska Catholic Conference. The Nebraska Catholic Conference advocates for the public policy interest of the Catholic Church and advances the gospel of life through engaging, educating, and empowering public officials, Catholic laity, and the general public. The Catholic Church has a long history of caring for the immigrant. This is because the church is fundamentally impelled by the witness of Jesus Christ, who, as we hear toward the end of the gospel of Saint Matthew, urge his believers to welcome the stranger. At the beginning of that same gospel, we read that Jesus himself experienced the need to migrate and flee persecution. To use modern immigration law terms, we would say that Jesus, Mary, and Joseph were like refugees and asylum seekers in their flight to Egypt as they escaped the wrath of Herod. In addition to the life of Christ, the church is impelled by the long-held experience, teachings, and practices of God's chosen people, the Israelites, who themselves experienced the plight of the migrant. Through this experience of being strangers in a strange land, they learned about God's fidelity and love for them, as well as the moral obligation to meet the needs of the migrants they encountered. These biblical and ethical principles have led the church in Nebraska and indeed throughout the world to involve itself in the development of public policy and work toward the justice for immigrants. When thinking about immigration policy, the church is guided by and proposes for consideration three basic principles. First, people have the right to migrate to sustain their lives and the lives of their families. Second, a country has the right to regulate its borders and to control immigration. Third, a country must regulate its borders with justice and mercy. Currently, Nebraska unemployment insurance benefits law contains a basic injustice that can be resolved by this Legislature. Several thousands of work-authorized migrants are unable

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to access unemployment benefits, which their employers have already paid into on their behalf. Our state laws governing public benefits are only available to qualifying aliens, which is a term that does not adequately accommodate those who have been provided work authorization by the federal government. This legal structure places a hardship on asylum seekers, DACA recipients, and persons with temporary protected status. Unlike their fellow Nebraskans with whom they legally work alongside of, asylum seekers, DACA recipients, and persons with temporary protected status cannot otherwise obtain UI benefits that their gov-- employers contribute to. This creates a basic unfairness and injustice for those who work hard to support their families, contribute to our local communities, and grow our state economy. Rather than add to an already difficult situation given their immigration status, we have an opportunity to adjust our state's public policy and help those who end up in the unfortunate situation of becoming unemployed. While such an action should make clear economic sense, it also makes sense from a moral perspective. Closing the unemployment insurance gap for our work-authorized migrants is the right thing to do. The Nebraska Catholic Conference respectfully requests that you advance LB298 to General File. Thank you for your time and consideration.

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

LAUREN GARCIA: Thank you.

B. HANSEN: Anyone else wishing to testify in support? Seeing none, are there any that wish to testify in opposition?

JOHN ALBIN: Chairman Hansen and members of the Business and Labor Committee, for the record, my name is John Albin, J-o-h-n A-l-b-i-n, Commissioner of Labor, and I'm appearing here on behalf of the Nebraska Department of Labor in opposition to LB298 as drafted. Under existing law, most noncitizens with work authorizations are potentially eligible for unemployment insurance benefits. In 2020, 10,809 noncitizens applied for unemployment benefits and only 316 were found ineligible for benefits due to their immigration status. LB298 as drafted removes unemployment insurance benefits from the state definition of public benefit. By excluding this as a public benefit, additional individuals working in Nebraska with a work

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authorization would be eligible for unemployment insurance benefits. NDOL estimates this change will mean approximately 300 additional people will be eligible for unemployment insurance benefits each year. Nebraska's unemployment insurance benefit program is a federal-state partnership. In order to receive federal benefits to administer Nebraska's unemployment program, the state must meet certain-- excuse me-- certain federal conformity requirements. One of the federal requirements is to use the Systematic Alien Verification for Entitlements, SAVE program, to verify work authorizations and citizenship status. As drafted, LB298 both changes the process by which the claims of noncitizens are reviewed in order to determine if work authorization exists and adds additional documentation that may be used to prove that the individual is authorized to work. The changes to NDOL's process required in LB298 appear to create methods of proof of authorized work status that would allow a claimant to prove eligibility that would supersede the required SAVE methodology. NDOL has sent LB298 to the United States Department of Labor for review. Unfortunately with the early hearing date, it was not until this morning that NDOL heard back from the USDOL. The additional non-SAVE-approved methodologies to establish proof of authorized work status do create a conformity issue. The conformity issue jeopardizes \$411 million in federal tax credits to which Nebraska employers are currently entitled and \$14 million in federal funds for administration of the unemployment insurance program. Therefore, therefore, NDOL must oppose the legislation. A copy of the informal opinion from the USDOL will be provided upon request. The department did meet with Senator McDonnell last week to advise them of our concerns regarding the conformity issue and has shared the email with him-- from USDOL with him. That concludes my testimony and I'll be happy to try and answer any questions that you might have.

B. HANSEN: All right. Thank you, Commissioner. Is there any questions from the committee? I'll start with Senator Blood first.

BLOOD: Thank you, Chairperson Hansen, and thank you for your testimony. Just a brief question. I had trouble hearing some of what you're saying.

JOHN ALBIN: I'm sorry, this mask is difficult.

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BLOOD: Yeah, we're-- it's been an ongoing issue. So who are you speaking on behalf of?

JOHN ALBIN: Department of Labor.

BLOOD: Nebraska Department of Labor.

JOHN ALBIN: Yes.

BLOOD: But you said the opposition came from the U.S. Department of Labor. Did I hear that correctly?

JOHN ALBIN: The-- when we first met with-- or first saw the legislation, all of our legislation has to meet federal conformity requirements in order for Nebraska employers to get their federal tax, tax credits and for my department to receive the administrative funds that it utilizes to administer the program. And so any time the employment security law is amended, we are required to transmit to them the legislation that affects it in order to determine if any conformity or issues acquire-- or ensue as a result of that legislation. And so I think this bill was introduced, like, on a Tuesday and we-- by Wednesday, we had it off the USDOL and asked them for their review. And then this morning at 7-something a.m., they sent me an email that said, yes, there is a conformity requirement there that would jeopardize your eligibility for the grant funds and the employers for the tax credit.

BLOOD: Can you tell me what other states do this type of thing?

JOHN ALBIN: Well, all states, like Nebraska, pay unemployment--

BLOOD: As far as, as far as allowing these workers-- I mean, we pay-- Nebraska, Nebraska businesses pay for each of those workers, correct?

JOHN ALBIN: Yes.

BLOOD: OK. My question is not what other states have-- do this. Obviously, other states do this. My question is whether states are taking those funds and utilizing them for those workers and treating them on an equal playing field with the other workers, which is what his bill does. Can you tell me what other states are doing that?

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JOHN ALBIN: I am not aware of any publication that I'm-- have access to that says these states do pay these individuals. First of all, if you look at A70-- or the CFR that's incorporated, there's a whole list, I can't remember how many long, of individuals who are eligible under that statute, under that regulation for a work authorization. Most of those, with the possible exception of subparagraph 10, are already being paid in Nebraska. I mean 10,400 and some odd noncitizens were paid last year. I guess one of my issues with the legislation is it isn't-- if the only population we are looking for are those with deferred deportation, then I'm not aware of any state that looks at those individuals or any publication that's looked at those. I'm not arguing with the 49 states that Senator McDonnell mentioned. He could be accurate on that. I'm just not aware of a publication that does that. I do know and I'm quite confident that many, if not most states do pay the people in deferred deportation status. I just don't have anything that I can rely upon, like a USDOL publication that I would normally rely upon that says these states pay for these types of benefits and these states don't.

BLOOD: But Nebraska doesn't?

JOHN ALBIN: Nebraska does not at this point.

BLOOD: And, and so with that reasoning, why don't we then just disallow those businesses not to pay them--

JOHN ALBIN: Because we're--

BLOOD: --if it's not meant for the employees?

JOHN ALBIN: Another one of those wonderful conformity requirements, Senator Blood, is that we must tax all-- for our unemployment program, must tax all wages paid in employment and USDOL has consist-- consistently interpreted that unrefuted to include anyone who has paid wages, whether they're in document status, completely undocumented and illegal work, or in one of the federal statuses. So we aren't allowed to ignore certain wages that are paid in employment. We must tax them all and must cover-- and must at least potentially provide benefits to those individuals for benefits.

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BLOOD: All right, so I, I guess I'm, I'm confused and I'm trying to get my head wrapped around this and I'm going to have probably one more question.

JOHN ALBIN: That's fine.

BLOOD: But I want to kind of hear-- let you know where I'm coming from and it's not to make an official statement or anything silly like that. So you're talking about if they're working illegally or-- well, they're not working illegally because they're authorized workers, correct? I mean--

JOHN ALBIN: Well--

BLOOD: --surely a Nebraska business would never hire an undocumented worker illegally.

JOHN ALBIN: Well, I wish that were true. I'm not sure that's entirely true. But what I was saying, Senator, and maybe I didn't make it clear enough, is that we're required to tax the wages, regardless of the status of the individual, if their wage is paid in employment. And that's a determination that's completely independent of the legal working status of that individual. On the other hand, when it turns around to eligibility, then eligibility is tied to being in one-- in authorized working status of one sort or another. And it's a two-part test even then, because first of all, in order to accrue the wage credits that their benefits are based on, the worker must have been in legal status, authorized to work at the time they earn the wages. And then in order to be available for those benefits, if they do become unemployed and attempt to draw on the system, they must be in a legal working status that would allow them to accept new employment. So it's a multilayered process.

BLOOD: So, so last question: so ultimately, if I hear you correctly, what is the definition of this-- the purpose of this tax?

JOHN ALBIN: The tax is to raise the funds that pay for the unemployment benefits.

BLOOD: All right, thank you.

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

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LATHROP: I want to try to understand your testimony. John, you're here in opposition. Is that because you have a problem with the underlying idea or policy trying to be advanced or because it would put us out of compliance if we passed the bill the way it sits today?

JOHN ALBIN: The department's opposition here today-- and I'll take this down a little bit, maybe that'll help-- the department's opposition here today is entirely as to the conformity issues that arise, basically because of the provisions on page 3 of the-- of LB298.

LATHROP: So if you sit down with Senator McDonnell and work through the-- keeping the bill in compliance with federal law, you're good with it. No more opposition?

JOHN ALBIN: Well, the process is I have other people that I have to put things through, but we will certainly work down-- work with Senator McDonnell to see if there's a way to get this bill into form that would accomplish his goals without creating a conformity issue for us under federal-- under the U.S. Department of Labor's guidelines.

LATHROP: OK, so I want to make sure I'm hearing this. You're saying a-- in terms of Mr.-- Senator McDonnell's bill, he needs to work with your office to make sure it's not offending any of the federal provisions. That's step one. Step two, then, is you speak for the administration. Will they support the bill once it is properly conforming to federal law?

JOHN ALBIN: Once we have Senator McDonn-- final amendment on the process, we will run it back through and make sure that there's a decision based solely upon the policy of the bill, rather than the, the conformity provisions that have cause us that problem.

LATHROP: But you don't know where the administration is at on that today?

JOHN ALBIN: We've not discussed that issue.

LATHROP: Thank you.

B. HANSEN: Any other questions? Yes.

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HALLORAN: Thank, thank you, Mr. Chairman. Thanks, John, for being here today. I should know this, but I'm not a tax accountant, so I don't know this. But what you're saying, if I understand it correctly, is if there's conformity issues, then there's, there's risk that businesses would lose 5.4 percent Federal Unemployment Tax Act tax credit, is that, is that--

JOHN ALBIN: That's correct.

HALLORAN: That's correct?

JOHN ALBIN: And that-- and dollar value for Nebraska employers is somewhere around-- \$411 million is the value of that curr-- 5.4 percent credit.

HALLORAN: Can you explain to me how that tax credit works? I mean, so they're losing the tax credit, but--

JOHN ALBIN: All right. Every employer has to file a federal unemployment tax return. And under that return, the nominal tax rate is 6.2 percent of the first \$7,000 in wages paid to that employee. However, there are two credits that are available-- I don't want to get too wonky-- the regular credit and the additional credit. And if both-- if a state is in conformity, an employer is entitled to both of those credits and their rate drops from 5.4 percent to 0.8 percent.

HALLORAN: Thanks, John.

B. HANSEN: Any other questions? All right, seeing none, thank you. Is there anybody else wishing to testify in opposition? All right, seeing none, is there any that wish to testify in a neutral capacity? All right, seeing none, we'll welcome Senator McDonnell back up if you'd like to close.

McDONNELL: Try to clarify a couple of things that were brought up and I appreciate the, the questions from Senator Blood and Senator Halloran and Senator Lathrop. So we're in a situation where I'm contacted based on we have an employee, a worker that's authorized. They're working. They're paying taxes. Then you have an employer that's actually paying taxes on that worker, on that, that employee. Everything's going fine. Pandemic hits, no fault of the employer or, or the employee, and now that employer has to make a decision and

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start laying people off. The state of Nebraska has been collecting money from that employer for years. Now the employee comes down to say, OK, I'd like to have that unemployment benefit that my employer has paid for. I'm eligible for it. I'm an authorized employee, authorized-- not illegal-- authorized to work. Yeah, we know your employer and I-- we-- you talked to your employer and your employer told you that they paid in and they did it right and you did it right, but no. There's a problem with the language, not with the work you did, not with your employer paying, but just with the language, that you're no longer eligible to receive this. And you are-- you're right, we, we are not arguing that you're not authorized. You are an authorized employer or employee. But at the same time, the state of Nebraska has been collecting that money. Not once did they ever say, oh, in this trust, we have "X" number of dollars and we know that "X" number of employers that have paid in for these employees. They've never been able to collect it, not once. This does not increase the amount of money that we have to pay out. The money is already there to pay out and it's been done legally. When, when Mr. Albin brought up the idea of, of the time frame and let's say there is someone that wasn't authorized as an employee. Well in the bill, we gave 60 days for them to find out and to correct that and make sure they do it right. So if there was something that happened with the, the employer and the employee that no one knew about, then they're-- they have 60 days to find out and to correct that. But remember, these are the employees of employers that have done everything correct. At no fault of the employer or the employee, they're out of work and now they want that benefit. It's not something that is handed out to them. It's something they deserve, something they've earned. And all we're trying to do-- and as I said in my opening statement, I'll work with anyone to make sure that we are not-- we're in federal compliance. That is not the goal here. The money is sitting there. These people need it and they need it now. And it's not asking for anything they don't deserve or they didn't earn. I'm here to answer any of your questions.

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

HALLORAN: Thank you, Mr. Chairman. Senator McDonnell, I certainly have no quibbles with the fairness of what you're trying to do. It's, it's-- clearly, it's, it's the fair thing to do. I don't know-- you probably haven't had time to look into-- I mean, this isn't the

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employer's fault or the employee's fault. And I'm very readily willing and able, at any time, under any administration, to blame the federal government, OK? But, but it strikes me as though that's kind of the thing that has to be resolved here a little bit to deal with the conformity issue, am I correct?

McDONNELL: Yeah. So that's what-- in my opening and, and I'll restate it now. We want to make sure that we are in compliance, but we also know there-- the ground has been plowed. There's 49 other states that have taken action and they are in compliance with the federal government.

HALLORAN: I'd like to plow.

McDONNELL: I'll follow you on that plowing.

B. HANSEN: All right, good. Any other questions? Thank you, Senator McDonnell, appreciate it.

McDONNELL: Thank you.

B. HANSEN: All right. Well, that will close our hearing for LB298 and we'll start the hearing now for LB260 and welcome Senator Hunt. I'd like to mention, while she's-- while Senator Hunt is coming up to the table, that we did have some submitted written testimony in support of LB298. I'll just read them off here quickly since there's not too many of them. We have Kristen Hassebrook from the Nebraska Chamber, Susan Martin from the Nebraska State AFL-CIO, Micky Devitt from the Heartland Workers Center, Stacey [SIC] Martin from Catalyst Public Affairs, and Camdyn Kavan from OpenSky Policy Institute. And we did have multiple letters on the record of support as well, so I just wanted to mention that. The floor is yours.

HUNT: Thank you very much, Chairperson Hansen and members of the Business and Labor Committee. I'm Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I represent Legislative District 8 in midtown Omaha. I'm presenting LB260, which is a bill to allow caregivers to be eligible for unemployment. Many of you will recognize this bill as the former LB306 from the 2019 Legislative Session, which was introduced by Senator Sue Crawford. That bill passed unanimously out of this committee and made it to Final Reading on the floor where it

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ultimately failed due to disagreement about the inclusion of "domestic partner" in the family definition. LB260, this bill, removes that piece that caused the consternation during Floor Debate. It incorporates language from the committee amendment, which was a compromise to neutralize opposition from business groups by adding language to specify that the employee must have made "all reasonable efforts" to preserve employment. As a refresher, the bill simply adds, "caring for a family member with a serious health condition" to the list of existing reasons that constitute "good cause for voluntarily leaving employment" under our employment security law. Under current Nebraska statute, employees who leave work due to family caregiving demands are not able to collect unemployment benefits that they have earned throughout years in the workforce. Caregiving typically involves taking time off of work to provide hands-on care for an elderly, disabled, or seriously ill family member. It can include things like bathing, helping them eat, giving medications. And these are all things that family members do for each other, often to keep them out of long-term care facilities, which ends up saving money for the state and saving money for the family. Something I want to make clear is that to collect unemployment in Nebraska, workers must be ready, willing, and able to work. The provisions in this bill require that the person has made all reasonable efforts to preserve employment, but has left employment to care for a family member with a serious health condition. You're only eligible for this when you're also seeking a new job and these individuals would be subject to the same job search requirements as any other claimant for unemployment insurance. So really what we're covering with this bill are situations where someone has had to leave one job and then they have a temporary period where they're out of work caring for their family member and then they can collect unemployment as they're ready to get back into the workforce. That's when you would qualify under this bill, just like anybody else who's seeking unemployment. We are not just giving a pass, you know, quote, unquote, for someone to be out of work indefinitely and collecting unemployment. They actually have to meet a pretty rigorous standard in order to receive it in Nebraska. Our employment security law is an insurance program designed to serve those with a strong work history who become unemployed through no fault of their own. This bill would be supporting folks who have likely worked the majority of their lives, but who have been forced to have a temporary lapse in employment while caring for a seriously ill

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family member. For example, an employee may have a parent that suddenly becomes seriously ill. It may take weeks for that employee to find suitable arrangements for their parent's long-term care or until the parent might be admitted into a care facility. So this bill is just providing that safety net until the need for full-time caregiving passes. Under this bill, benefits are paid from the Unemployment Compensation Fund, which each employer already pays into. It's the same way unemployment works for everybody. And this bill would not affect any individual employer or charge them for benefits paid out. This bill would also not cause benefits to be counted against any individual employer's experience or reserve account, including self-insured employers, for example, the city of Omaha. The Department of Labor has previously stated in discussions around LB306 that the changes anticipated under this bill would not be substantial enough to require an impact on any individual employer's experience account. A worker may have to quit their job to care for a parent or spouse with a terminal illness, Alzheimer's, or dementia. We have many colleagues, of course, who have been in that situation, some-- many of us ourselves, and they may not have enough funds to fight back on until they find a new job. This can be particularly devastating for low-wage workers who are less likely to have savings or be able to afford, afford professional care for their family member. Additionally, the sacrifices associated with caregiving fall disproportionately upon women, who also tend to live longer and provide informal care in multiple roles. One thing I thought was interesting was that the average caretaker is a 49-year-old woman who cares for her mother and she does over 20 hours a week of unpaid, you know, labor caring for this person, and so that's sort of a picture of what a typical caregiver is going through in Nebraska. And we know that providing this temporary safety net will allow these caregivers some security while they seek to reenter the workforce. Additionally, in light of the coronavirus pandemic that impacted so many Nebraskans over the past year, this bill is even more important. With infection rates at long-term care facilities sky high, it's understandable if some people may choose to keep a sick loved one at home. Further, vulnerable individuals may have lingering health impacts that require increased care at home long after any need for hospitalization due to COVID has passed. There are some advocates today who can share statistics about caregiving in Nebraska and I will leave that to them. I really care a lot about this bill. I think it's something that will help a lot of

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people in Nebraska. We clearly had, you know, the appetite and the will for this last year and after the impact of this pandemic and all of the messages and outreach that we've gotten from our constituents, I think that we should agree that this is the year we need to get this across the finish line. Thank you and I'm happy to answer any questions you may have.

B. HANSEN: All right. Thank you, Senator Hunt. Is there any questions from the committee? Seeing none, thank you. We'll hear our first testifier in support of this bill. Welcome.

SCOUT RICHTERS: Good afternoon. My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska in support of LB260. I want to thank Senator Hunt and the long list of cosponsors for bringing this legislation forward, as it rightly recognizes that assuming a caretaking role for one's family should not be devalued or undervalued, especially during the pandemic. And it really fits within the ACLU's efforts to stop discrimination in the workplace based on things like gender, pregnancy, and parenting. This piece of legislation is an important step in working to end caregiving discrimination that people of all genders face. So ensuring we have policies that support caregiving work have been on the back burner for too long and it has become even more apparent during the pandemic, when more and more people have family members that need care. And additionally, it's important that we start valuing this work as-- obviously, as the population ages. We do know, as Senator Hunt said, that the caregiving role is more likely to fall on women and with so much illness and uncertainty around the pandemic, properly valuing the caregiving role has become all the more important. Without the ability to get unemployment benefits for this necessary caretaking, women will lose income for themselves and their families that they rely on. And it's especially important because 64 percent of all families have a woman as either the sole or primary breadwinner for their families. So by enumerating caretaking as a necessary and recognized and valid reason for leaving a job, we do work to combat caretaking discrimination that has long persisted throughout our history. And at the same time, we ensure that those who take on this role are able to earn money for themselves and their families. So with that, I would reiterate our thanks to Senator Hunt and the cosponsors and I'd be happy to answer any questions.

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B. HANSEN: All right, thank you. Is there any questions from committee? Seeing none--

SCOUT RICHTERS: Thank you.

B. HANSEN: --thank you. We will take our next testifier in support.

JINA RAGLAND: Good afternoon, Chair Hansen and members of the Business and Labor Committee. My name is Jina Ragland. That's J-i-n-a R-a-g-l-a-n-d, here today testifying in support of LB260 on behalf AARP Nebraska. Family caregivers play a central role in the lives of older people and those with disabilities. Increasingly, older adults or others with chronic or disabling conditions rely on family members to provide the care they need. Caring for an older relative or friend is now the new normal of family caregiving. Family caregiving concerns do and will continue to have an increasing impact on both employees and workplaces because of the aging of the population and the labor force. Older workers, those most likely to have elder care responsibilities, are an increasing proportion of the workforce and many will need to work longer to prepare for retirement. Elder care can be especially challenging, as both its onset and its duration often are unpredictable. When an older person becomes ill, roles, relationships, and expectations within the family change. Evidence suggests that more family caregivers are assisting older family members or friends with higher rates of disability than in the past. And more-- and many are more likely to be providing hands-on and often physically demanding and intimate personal help with activities such as bathing or using the restroom. Elder care may arise gradually from chronic degenerative conditions such as multiple sclerosis, Parkinson's, or Alzheimer's disease. But very often the need for long-term supports and services arises abruptly as a result of an accident or acute health crises such as a broken hip, illness, or a stroke. Suddenly, an adult child is thrown into the world of caregiving with little preparation or time to make choices. If employed caregivers lack the supports and protections needed to manage their dual responsibilities, some make changes in their work life, especially if they cannot afford to pay outside help for the care recipient. Research shows that the economic consequences of reducing work hours, quitting a job to give care, or taking an unplanned early retirement can be significant and have long-term consequences for family caregivers' financial security. Forty-five percent of employed

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caregivers have experienced at least one financial setback as a result of caregiving. Family caregivers 50 and older who leave the workforce to care for a parent lose on average nearly \$304,000 in wages and benefits over their lifetime. Because providing care for an adult family member or friend from a serious illness or disability may mean taking either scheduled or unscheduled time off from work, it's not surprising that 61 percent of employed caregivers report that it impacts their job. Over half say they have to go in late, leave early, or take time off, whether it be paid or unpaid, to provide the care. One in five employed caregivers who are low income, Hispanic, or caring for an adult age 18 to 49 gave up work entirely or retired early. Hourly employed caregivers were more likely than those who were salaried to experience, experience certain work-related impacts, such as having to reduce their work hours, taking a leave of absence, or giving up work entirely. Nebraskans do want to work and they are working, but oftentimes they have no other choice but to quit and provide care to their loved one. The unpredictability of elder care and its enormous financial costs often add to the strain of family caregiving and keeping a job. Please keep in mind the cost savings to the state by giving these caregivers provide-- that are providing uncompensated care. The result is allowing loved ones to age in place at home, keeping people out of higher, more expensive levels of care, and saving the state significant sums of money. As both the workforce and the Nebraska population age, the workplace will include more employees who need to combine elder care responsibilities with the jobs upon which their economic futures depend. So where would we be and where will we be without our growing population of the 240,000 people providing uncompensated caregiving care to their loved ones? Nebraska caregivers are estimated to be providing 199 million hours of that care, which is valued at \$2.9 billion annually. This number will only continue to increase. The COVID pandemic is adding new emotional and economic stressors on family caregivers, especially those who may have lost their jobs, their health insurance coverage, had to cut back on work hours, or quit their job completely to provide care for an ill family member. We want to thank Senator Hunt for introducing the legislation and to the 24 members of the Legislature who have cosigned the bill. We appreciate the opportunity to comment and I would ask for your support, advance the bill from committee. I would be happy to answer any questions.

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

JINA RAGLAND: Thank you.

B. HANSEN: Is there anybody else wishing to testify in support? Seeing none, is there any that wish to testify in opposition? Seeing none, is there any that wish to testify in a neutral capacity? All right, seeing none, Senator Hunt, you're welcome back to close.

HUNT: Thank you, Chairman Hansen and members of the committee. I will just be super brief. I'm, once again, really excited about this bill and considering making this a priority this year. And I want to thank the people who came to testify on this bill. The information from the AARP is really interesting and I hope that you dig into that and, and see how important this is to people in Nebraska. These are people who have put in a lifetime of work in, in most cases and they have to leave work through no fault of their own, which is exactly what our unemployment insurance system is for. And I would also like to thank the 25 cosponsors that I have for this bill. And once again, I'd be happy to answer any questions. And if you don't have any, then I thank you for your time.

B. HANSEN: Is there any questions from the committee at all? I just-- I have just a couple of clarifying questions--

HUNT: Yeah.

B. HANSEN: --but not critical of the bill, just more curious. When, when you use the term "all reasonable efforts to be made," is-- like, is that typically kind of made a-- decided between the employer and employee or is there a certain kind of set of predetermined, kind of, values that we use to, to, to define that?

HUNT: I think this is a rules and regs thing with the department--

B. HANSEN: OK.

HUNT: --because if you look at the bill in statute, there's, like, oh, ten or something other reasons that you can leave work. Yeah. And it's language that's used in other reasons to voluntarily leave work, all

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reasonable efforts. And so this is something that's already been tested in statute that's already in, in our statutory language.

B. HANSEN: OK, good. OK, and one other thing. Well, is-- do we have a definition of serious health condition?

HUNT: Yes. So the definition of serious health condition is in the USC and it is-- "means an illness, injury, impairment, or physical or mental condition that involves (a) inpatient care in a hospital, hospice, or residential medical care facility, or (b) continuing treatment by a health care provider." And that definition is specifically referenced on page 4, line 5 of the bill.

B. HANSEN: Good. OK, thank you, appreciate it.

HUNT: Yep, thank you.

B. HANSEN: Sorry I missed that, probably should have caught that, so-- thank you.

HUNT: It's okay. I'm the expert on the bill, not you, so-- you will be soon.

B. HANSEN: Awesome. Any other questions? We're good? OK, thank you, appreciate it.

HUNT: Thank you.

B. HANSEN: All right and I'd just also mention we did have two submitted written testimonies in neutral position, one from Kristen Hassebrook from the Nebraska Chamber and also one from Robert Hallstrom from Nebraska Federation of Independent Businesses, along with a bunch of letters in record in support. All right, well that will end our hearing for LB260 and then we will open it up for LB249-- oh, there she is-- and welcome up Senator Pansing Brooks.

PANSING BROOKS: Ready?

B. HANSEN: Yep, thank you. Welcome.

PANSING BROOKS: Thank you. Good afternoon, Chair Hansen and members of the Business and Labor Committee. For the record, I am Patty Pansing

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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 LB249, which promotes equal wage opportunities for all Nebraskans. As we have seen, the gender and racial wage gap is a complicated problem, one that has real consequences for our workers, for, for our communities, and for our economy. I think many of us would agree with the intent of the Nebraska Fair Employment Practice Act that, quote, denying equal opportunity for employment because of race, color, religion, sex, disability, marital status, or national origin is contrary to the principles of freedom, unquote. LB249 will support the goal of equal opportunity-- employment opportunity by taking salary history out of the hiring process, ensuring that compensation decisions are driven by what the position and specific applicant are worth to the company and not what a person was paid in their, their last job, which unfortunately cannot be separated from gender and racial discrimination. Women in Nebraska earn 78 cents for every dollar earned by a man and this wage gap grows even larger for women of color. Although the gender gap has been shrinking over the past few decades, a persistent disparity remains that cannot be explained by reasonable job-related factors such as occupation type, education, and experience. Most researchers conclude that discrimination and unconscious bias continue to affect wages. LB249 does not purport to fully solve the problem of wage discrimination, but it does provide an opportunity to disrupt its perpetuation to prevent an employee from carrying any discriminatory salary impact from job to job as they advance in their career. LB249 in-- prohibits an employer from inquiring about salary history from an applicant or a former employer. It makes it an unlawful employment practice to require disclosure of their prior salary as a condition of an interview or employment to retaliate against an emp-- applicant for not providing salary history or to rely on prior salary history to determine future wages. Here is an example of how salary history perpetuates and exacerbates, exacerbates wage discrimination. Two employees with similar job-related characteristics, level of education, and experience, for example, are offered similar jobs and their salaries-- salary offers are based upon the salary of their most recent job. Research on the wage gap tells us that the woman's prior salary is likely to be less than a man's and thus, the starting pay based on historical salary would reflect that existing gap. Generally, annual salary increases based upon a percentage of pay. For example, a 3 percent annual salary

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increase will serve to widen that gap. A-- 3 percent of a higher starting salary for men will equate to a larger wage increase than a 3 percent increase for a lower starting salary for women. Every time a wage increase happens, even if it is similar percent applied across men and women, it will increase the wage gap. This example demonstrates that even well-meaning employers implementing neutral policies, like an across-the-board annual percentage wage increase, can exacerbate the wage gap when starting wages based on a previous salary history. Recent research has shown that when a salary history ban is in effect and workers are, are able to engage in salary negotiations based upon their present qualifications and experience, disconnected from their prior salary, that job changers earn 5 to 6 more percent on average. The impact of a salary history ban is an-- even more pronounced for women who see an 8 percent salary jump and African-American job seekers who experience a 13 percent increase in pay in locations with a salary history ban. With the passage of LB249, we would be joining 15 other states and Puerto Rico with statewide salary history bans as well as 20 localities. Alabama was the state most recently to adopt this salary history ban. LB249 provides an opportunity to disrupt the cycle of pay discrimination, which is critical to creating equal employment opportunities for all. Removing salary history from hiring and competition decisions will interrupt a practice that forces women and workers of color to carry their lower pay status from old to new jobs. LB249 is a reasonable, relatively no-cost, high-impact solution to promote equal employment opportunities for all and I encourage your thoughtful consideration and support. And Chairman, if you would let me-- allow me to, I have a, a letter from the Women's Fund. They were not able to get down here today, so I wanted to read a, a good portion of it, if that's OK?

B. HANSEN: Yep.

PANSING BROOKS: So it's from Tiffany Siebert Joekel and she worked significantly with me on this bill and, and provided a lot of the information, so that's why I wanted to read her information. She, she said the wage gap is a substantial and real-- Nebraska provides concrete measure of just how far the state has to go to ensure women, particularly black, indigenous, and women of color, can participate fully and equally in our economy. Women in Nebraska earn saving-- 78 cents for every dollar earned by a man for full-time, year-round work. This pay disparity is even more pronounced for women of color. For

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every dollar earned by a white man in Nebraska for full-time, year-round work, a black woman earns 60.8 cents, a Native woman earns 59.9 cents, an Asian woman earns 68.9 cents, and a Latina woman earns 55.5 cents. Nebraska women are paid less than men, despite being more highly educated. More women in Nebraska, age 25 and older, have bachelor's degrees, 27.2 percent of women, compared to 20.8 percent of men, and graduate or professional degrees: 12.1 percent of women, compared to 10.8 percent of men. In fact, women are more highly educated than men in every age category except those 65 and older. Yet at every level of educational attainment, women have lower median earnings than men and the gap continues-- grows at education-- as education increases. Research attributes this pay gap to a variety of factors, including occupational segregation and differences in caregiving responsibilities, but there is still a portion of those disparities that can only be explained by discrimination or bias. LB249 provides a meaningful opportunity to disrupt the impact of pay discrimination for workers who experience pay disparities related to gender or racial discrimination. Salary history information injected into the hiring process will perpetuate the inequality that has held down their pay throughout their entire career. Such workers cannot escape discrimination by taking another job because their prior history salary will artificially depress future salary offers, making even well-meaning employers complicit in perpetuating employment discrimination. Recent research at Boston University School of Law provides a substantial contribution to our understanding of the impact of salary bans on the salary of job changers. Quote, The findings are based upon wage information from approximately 52,000 workers who changed employers between January 2013 to February 2020. Compared in a control group of counties not covered by salary history bans that are in the same labor market areas-- commuting zones as those counties that are under salary history bans, the study found that after a salary history ban, job-changing workers earn 5 to 6 more percent on average than comparable job changers in markets not under a salary history ban. This increase of pay of job changers is even larger for women, 8 percent, and African-Americans, 13 percent. We know many employers share our goal of pay equity and equal employment opportunity for all Nebraskans. Although using salary history may seem like a neutral practice, it is a discriminate-- it has a discriminatory impact by effectively affirming and reinforcing a prior employer's bias. Employers can instead implement better hiring

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practices that reflect their commitment to equity, such as including salary information in job postings to save time in hiring process by allowing potential employees to self-select if the salary range does not meet their expectations. LB249 provides a tremendous opportunity to interrupt the impact of bias in perpetuating the wage gap. On average, women employed full time in Nebraska lose a combined total of more than \$3 billion every year due to the wage gap. Those lost wages mean marginalized workers and their family have less money to support themselves, save and invest in the future, participate in our economic markets, and spend on goods and services. As-- a starting salary held down by past discriminatory pay practices has longer-term implications, including artificially depressed contributions to Social Security, pensions, and retirement savings. The persistent earnings inequality by gender, race, and ethnicity impact not, impact not just the current generation of workers, but also their children, and thus the next generation. Women, their families, businesses, and our state's economy suffer as a result. Disrupting the cycle of pay inequity will help build economic stability for families and communities and also help Nebraska thrive. Thank you for your-- for indulging me with some extra time there.

B. HANSEN: That's fine. All right, is there any questions from the committee at all? Yes, Senator Halloran.

HALLORAN: Thank you, Mr. Chairman. Thank you, Senator Pansing Brooks. Quick question. So this, this will prohibit an employer from inquiring or soliciting wage history from a potential employer applicant. My question is, why wouldn't it be-- to be fair and balanced, why wouldn't it be fair to limit an employee or applicant from voluntarily saying what their previous work history--

PANSING BROOKS: The-- we have-- they can voluntarily. It is in the bill. I'm sorry. I should have mentioned that.

HALLORAN: I understand that. That's my question: why is it-- why shouldn't it-- why shouldn't the wording be the same? Why shouldn't the expectations be the same? In other words, it's OK for an applicant to say-- to voluntarily give what their, their pay--previous pay was.

PANSING BROOKS: Yes.

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HALLORAN: Why don't we limit the applicant to not expose their previous pay?

PANSING BROOKS: I think that it was-- that that was-- the concern is, is to avoid the discrimination that's occurring by people requesting that information, but we're not going to limit a potential employee from discussing what they made. I mean, it could benefit or hurt them, but that's up to that person to decide that. It shouldn't be up to the employer to discriminate against an employee because of what their previous-- if somebody starts out at a lower wage than as an employer, I could look at it and say, oh, well, that person made so much less. I only have to pay them a little bit more, whereas this man, I'll have to pay quite a bit more. And so that just continues to artificially hold down that person.

HALLORAN: OK, thank you.

PANSING BROOKS: Thank you.

B. HANSEN: All right, any other questions? All right--

PANSING BROOKS: Thank you very much.

B. HANSEN: --thank you. We'll take our first testifier in support of LB29 [SIC]?

SCOUT RICHTERS: Hello, my name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska in support of LB249. First, I'd like to thank Senator Pansing Brooks for her leadership in bringing this bill that really fits squarely within ACLU's mission to end discrimination in the workplace based on things like gender, race, national origin, age, or disability to ensure that workers are able to bring home every dollar that they rightfully earn. The federal Equal Pay Act that passed nearly 60 years ago made it illegal to pay men and women different wages for performing substantially equal work, yet, as Senator Pansing Brooks mentioned, the Equal Pay Act has not closed this unrelenting wage gap between men and women. As was mentioned, women in Nebraska typically earn 78 to 80 cents for every dollar paid to men, which is actually below the national average of 82 cents per dollar. And, and as was mentioned, the wage gap is even larger for women of color. And it's, it's

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important to note that the wage gap costs Nebraska women an average of more than \$400,000 over the course of a 40-year-long career. And I think it's important that we should be paying particularly close attention to these pay disparities, as women in the Midwest have the strongest labor force participation rates overall and Nebraska consistently ranks in the top ten of all states for women's participation in the labor force. And it's really disheartening because despite a large percentage of Nebraska women working, as of 2019, Nebraska ranks 48th out of 50 in terms of equal pay. So given this Nebraska-specific data, this bill is all the more important. Study after study tells us that the gender wage gap begins early on in a woman's career, grows over time, much like the concept of compound interest, and follows her from job to job. So when employers use prior salaries to determine a new employer's starting salary, as was mentioned, it only perpetuates the wage gap problem that has been and continues to be fueled by gender stereotypes and sex discrimination. So this legislation would put an end to this. The coronavirus has obviously meant disproportionate job loss for women more likely to be employed in the service industries that have been among the most affected by the pandemic. And so in many cases, this means total departure from the labor market for women. So I just wanted to note that because coming closer to pay equity via this legislation will be vital to the overall recovery of women's workforce participation. So ensuring that workers can break free from prior gender discrimination in wages will help narrow the wage gap, while also giving Nebraska businesses a straightforward rule that they can follow. This, this legislation benefits all workers, but especially women and women of color and as such, we'd offer our full support for LB249 and reiterate our thanks to Senator Pansing Brooks and I would be happy to answer any questions.

B. HANSEN: Thank you. Any questions from the committee? I have one, more-- I have a question, more for your opinion. Why are we 48th out 50 for disparity?

SCOUT RICHTERS: That's a good question. Probably because we don't have measures like this in place and I think it's-- something like this is very simple, but obviously very effective, as we have seen that states that do have these measures are able to really do, do good work to close that gap.

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B. HANSEN: Thank you.

SCOUT RICHTERS: Yeah, thank you.

B. HANSEN: All right. Thank you and any others wishing to testify in support? Seeing none, are there any that wish to testify in opposition? All right, seeing none, is there any that wish to testify in a neutral capacity?

MARNA MUNN: Ready?

B. HANSEN: Um-hum.

MARNA MUNN: Good afternoon, Chairperson Hansen and members of the Business and Labor Committee. My name is Marna Munn. That's M-a-r-n-a M-u-n-n. I'm an attorney and the executive director of the Nebraska Equal Opportunity Commission and I'm here to testify in the neutral capacity on LB249. First and most importantly, I'd like to assure the committee that our agency is capable of processing cases under the language this bill proposes. We submitted a no-fiscal-impact statement because the NEOC can absorb into our existing operations any additional work generated by this bill should it pass. I would note a few things in my testimony. I'll try to be quick so that we can all try to get out of here. One, this would be a state-based claim not covered under any federal work share agreement we have with our federal partners. That's not a problem for us. We already enforce several such state-based-only protections like marital status. The whistleblower claims are state based in the recently passed wage transparency law. At least 17 other states have some version of this law in operation. Most of them have been passed in just recent years, so there's not a lot of data that I can provide beyond that, but I think that prior testimony has indicated the reason why states are looking at this kind of measure. But we are able to look to those other states and then the 20 additional municipalities that have these types of laws in place and, and work to be able to quickly get up to speed on how to process these cases. I would say that right now it looks like it's divided into three basic prohibitions where the employer could not request, could not retaliate, and could not rely upon prior salary history, so it's fairly straightforward in that way for our operations. And it's qualitatively like other issues that we have involving hiring, compensation, and other allowable practices,

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primarily under our statute, 48-1111. I would actually-- I would say in my prepared testimony that we would probably work first to do our part, along with other organizations, to communicate the change in law, should it be passed, through our outreach and education mission so that we are able to reduce the likelihood of investigations by taking advantage of some of the existing infrastructure we have for outreach efforts so that all companies are on the same page and have an opportunity to make changes to their practices. But they too can look to these other states who have made these-- where these changes have been made. And I would say that it also fits within our discrimination scheme. I'm going to jump off just a bit to address Senator Halloran's question in terms of the scheme. Everything under the Fair Employment Practices Act and all of our-- all five of the civil rights acts that we enforce involve a scheme where the onus is not on the individual, it would be on the employer for the practice. It would be difficult and less workable to figure out how to file claims against an individual who was in violation of the act for volunteering. So one of the safeguards for respondents, as I understand it from different versions of the law, is that if an individual actually volunteers it, then there's no repercussion to the respondent for having the information. They'd still be under an obligation not to rely on that information to make the hard decisions, but it, it really would be that the business is in the best place to avoid the problem. But that just matches the rest of the discrimination statutory scheme, so I think that's the way-- that's the reason they get worded like this. And so, you know, with that, I think that I would conclude my prepared remarks. I primarily wanted to be here in case there were other questions so I could answer that from either an operational standpoint and enforcement standpoint or what I know about the, the reasons this has come about. I can try to help. Thank you.

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

HALLORAN: Mr. Chairman, thanks. Beautiful first name. I have a daughter-in-law named Marna. It's not common, but it's a pretty name. A quick question: so if, if an employ-- if an employer hears voluntarily from an applicant what their wage was, there's no way to qualify or quantify that then? I mean--

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MARNA MUNN: You mean in terms of a claim of discrimination, understanding-- no?

HALLORAN: No, the-- in terms of the reliability of the-- of, of a comment or the statement about their previous salary.

MARNA MUNN: Correct. I think-- if I, if I may expound on that, I think that's the reason that you have, you have the recommendation in H.R. circles that you set a salary. For example, the state. I've been a state employee in four different capacities for eight years and I've always known the salary range that I was looking at when I went into a job and I, I could make a decision about whether that range fits. Now being someone who manages an agency, we set-- we have those salary ranges that are in our job postings. We still, of course, get people who seek to get hired outside those salary ranges, but it actually creates a good protection for us. We're able to point to those salary ranges and say that, you know, that's been part of the process all along and so we can't go outside that salary range.

HALLORAN: That's interesting because, again, I think that raises an important question or point too is that's within government, right? There are usually very clearly laid out or prescribed ranges of salary based upon experience and so forth, right, regardless of gender?

MARNA MUNN: Right.

HALLORAN: But in the free market system, we don't necessarily have, have those-- that criteria spelled out for what the marketplace is for an individual for a job description.

MARNA MUNN: Well, I have two, two thoughts on that. I'll go with the first one, which is a practical thought. I think that there are-- there's plenty of research and websites and search engines-- I'm not thinking of all the right words-- that can give-- can generate what salaries are for different kinds of positions. I've had to look across-- do research on my own for that kind of thing. So I think in the private sector you have that and so I think that you can figure it out. But I think that the real-- part of the real driver on this is that a company may need to think about what it's worth to hire that individual and if two people came through the door, that they'd offer those two people the same salary, regardless of any discriminatory

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reason. You're still allowed to look to seniority, merit, different certifications, different education. Those principles can be imported from the equal pay law. But if, if all of those things are equal, then even in the free market, you're left with the-- a notion that it might be a discriminatory reason that, that causes the difference in salary or you're perpetuating one that had been implemented in a prior employment situation.

HALLORAN: I understand. I'll, I'll end on my starting point. That's a very pretty name.

MARNA MUNN: Thank you. I don't hear it too often, so I'm always glad to hear of another Marna. Thank you.

B. HANSEN: Any other questions? Thank you for your testimony.

MARNA MUNN: Thank you. Everybody be safe.

B. HANSEN: Anybody else wishing to testify in a neutral capacity? Seeing none, we will welcome up Senator Pansing Brooks if she wishes to close. And while she's walking up here, I'll mention we did have four written-- submitted written testimonies; two in support from Jennifer Creager from the Public Policy of Greater Omaha Chamber and Susan Martin from the NE-- Nebraska State AFL-CIO and two in opposition from Kristen Hassebrook, Nebraska Chamber and Robert Hallstrom from Nebraska Federation of Independent Businesses. And we did have three letters for the record in support.

PANSING BROOKS: Great. On this snowy day, I will waive, so thank you all.

B. HANSEN: Senator Pansing Brooks waives closing so we can all go home and hopefully not get our car stuck, so-- all right, with that, we will close the hearing for LB249 and for the day. Thank you all.