

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee February 8, 2021
Rough Draft

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B. HANSEN: Good morning and welcome to the Business and Labor Committee. Sorry, I'm a little behind. I got stuck behind a couple plows on the-- Highway 133, so-- my name is Senator Ben Hansen. I represent the 16th Legislative District in Washington, Burt, and Cuming Counties and I serve as Chair of the Business and Labor Committee. I'd like to invite the members of the committee to introduce themselves starting on my right with Senator Hunt.

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

LATHROP: Steve Lathrop. I represent District 12, which is Ralston and parts of southwest Omaha.

CAROL BLOOD: Good morning. Senator Carol Blood and I represent western Bellevue and southeastern Papillion, Nebraska.

HALLORAN: Good morning. Steve Halloran. I represent District 33, which is Adams and parts of Hall County.

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

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

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capacity, the entrance door will be monitored by a sergeant at arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing while waiting in the hallway or outside of the building. We ask that you also, if you can, please limit or-- limit handouts. A few notes about our policy procedures as a committee, please turn off or silence your cell phones. This afternoon-- this morning we'll be hearing, I think, approximately about five bills and we'll be taking them in the order listed on the agenda outside the room. On each of the tables near the doors to the hearing room, you will find green testifier sheets. If you are planning to testify today, please fill out one and hand it to Ellie when you come up to testify. This will help, help us keep an accurate record of the hearing. If you're not testifying at the microphone, but want to go on record as having a position on the bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. Also, I would note if you are not testifying, but have a position letter to submit, the Legislature's policy is that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask if you do have handouts that you please bring ten copies and give them to the page. We use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony and we ask you to wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last names. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. And we do have a strict, no-prop policy in this committee. So with that, we will begin this morning's hearing with LB451 and we will welcome Senator McKinney. Good morning.

McKINNEY: Good morning. Thank you, members of the Business and Labor Committee and Senator Hansen. LB451 acknowledges natural hair discrimination in the workplace can affect how a person's job

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performance is perceived, what advancement opportunities are given, and what additional measures may be expected, overtly and covertly, to fit in with corporate grooming standards. In an age where employment discrimination rarely presents itself in policies that explicitly exclude employees based upon their race, LB451 addresses harmful practices that appear neutral, but actually work to deny opportunities for reasons that have nothing to do with the qualifications and ability to do the job. This bill intends to address this vital issue by clarifying language to expand protections for natural hair texture and protective hairstyles. Moreover, this bill clarifies that natural hair and protective hairstyles can be an extension of race and cultural background. According to the Equal Employment Opportunity Commission, race is a social construct that isn't strictly limited to immutable or unchangeable characteristics. Race can also include cultural characteristics related to race or, or ethnicity, including natural hair and protective hairstyles. It is vital that we acknowledge this cultural distinction because it takes a great deal more work and effort to care for and maintain natural hair. Therefore, many black women don their hair with protective hairstyles such as braids, updos, and locks in custom with the culture to preserve the health of their natural hair. These-- the aesthetics of these styles can vary, but the connection to race and culture remains. Bans and restrictions on natural hair or hairstyles are often too rooted in white standards of appearance and, and perpetuate racist stereotypes that black hairstyles are unprofessional. Such policies exacerbate antiblack bias in employment, at school, while playing sports, and in other areas of daily living. To illustrate, locks and long braids have been banned from workplaces for being unprofessional, unkempt, distracting, or messy. However, it is unlikely that black women who choose to wear hair extensions that are long and straight will be subject to similar reprimands, although the process of acquiring the style is similar. The difference is the aesthetic and how society has been groomed to, to perceive them. Black women continuously report suffering from anxiety, pressure, and stress to comply with one, formal or informal straight hair expectations, two, are more likely to report spending more time on their hair than white women, three, are more likely to report that they do not engage in exercise and other physical activities because of their hair to accommodate not only the significant monetary or temporal investment, but the substantial professional social pressures to maintain that this is-- to maintain hair that is similar to their white counterparts. Though this is an

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issue that affects black women significantly, I would be remiss if I did not acknowledge that the lack of protection surrounding natural hair affects black men and boys who are often required to cut their hair in order to even be considered for a job opportunity for which they are qualified. In fact, historical black college in Hampton, Virginia, has often come under ridicule for, for a ban they've instituted on men wearing locks in their, in their business program. The reason they've done this is not to be harmful. It's not to restrict the standards they aim to educate. They, they do it for the same reason black women and men have incurred chemical burns and traction alopecia in an effort to assimilate to a standard that was not designed with them or their hair texture in mind. The reason is so that they have a better chance of getting and remaining gainfully employed. As I bring this bill to this committee, I ask that each of you-- I, I ask if each of you have ever felt that the trajectory of your career, your ability to make a living, take care of your family, or pay your bills depended upon you altering your hair from the very way it grows out of your scalp. While I could expound upon the numerous harms or, or discriminations for days, I must recognize that the effect of this bill would allow employers, businesses, and individuals alike to really think through and be intentional about the rules and standards that are central to the workplaces with-- without implementing laws that are merely arbitrary and capricious. Does it matter that a woman or a man has dreadlocks? What casual connection does this have to the work being done or to the educational or professional merit of an employee? It should always be the goal of the Legislature to keep Nebraska work-- keep Nebraska's workforce diverse, to assist employers in acquiring and retaining the best talent in our state. This task is made all the more easy when we have systems in place that allow individuals to be able to show up confidently as their whole, authentic selves. I ask that you move this bill forward out of committee on to General File and I'll be happy to answer any questions.

B. HANSEN: Thank you, Senator. Yeah, we'll open it to the committee for questions. Senator Blood.

BLOOD: Thank you, Chairperson Hansen. Thank you, Senator, for, for bringing this bill forward again. I actually have several questions for you. My first question is one of concern. So I was comparing this bill to last year's bill that was ultimately vetoed by the Governor and I noticed that your bill was a bit more comprehensive. And I'd be

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curious if you believe that adding the extra language and the extra concerns might make it even more of a target for vetoing. Where are you at on that?

McKINNEY: I think that the extra language clarifies things to, to hopefully make sure that members of the Legislature and the Governor better understand the, the concept behind the bill and I think it's also better for employers as well.

BLOOD: So you feel that the new language better clarifies things--

McKINNEY: Yes.

BLOOD: --and maybe, if I hear you correctly, explains the thinking behind it?

McKINNEY: Yes.

BLOOD: Do you, you believe that individuals have an absolute right to assert their identity and reveal their personal information through hair rituals or grooming?

McKINNEY: I think you have a personal right to wear your hair how it grows.

BLOOD: So an absolute right?

McKINNEY: Yes.

BLOOD: And the reason I ask that is I was kind of looking historically through hair discrimination and, and I kept going back to what the-- what happened in Nazi Germany. So what was the first thing they took away from Orthodox Jews? Their hair.

McKINNEY: Um-hum.

BLOOD: And, and after World War II, they had these massive piles of hair and they were arguing what to do about it. So the hair, is it something that you throw away? And, and that's why I asked you that question because that was one of the questions that were asked of the committee that was trying to decide whether they put the hair in, in the museum or not. So do you feel that when people are discriminated

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against when it comes to their hair, that it erases their identity and can be dehumanizing?

McKINNEY: Yes.

BLOOD: OK. Do you feel it's a way for people to take social control and dominate a, a particular culture?

McKINNEY: Yes.

BLOOD: OK. Do you believe that it's not only part of the human body, but also part of the human personality?

McKINNEY: Yes.

BLOOD: All right, so thank you for those questions. Those were all questions that, that were asked of them-- the people that were doing the museum. It's, like, why, why is hair important? It's important because it's been utilized as a tool to take away people's identity from Native Americans to, to the black community to the Jewish community. So I think that it was important today for us to talk about what, what is hair really about? And it does identify who we are and where we come from and that's important--

McKINNEY: Definitely.

BLOOD: --so thank you.

B. HANSEN: Thank you, Senator Blood. Yes, Senator Hunt.

HUNT: Thank you, Senator Hansen. Thank you for bringing this bill again. One thing that I think about when I think of hair discrimination is that obviously there's many people who have never gone through that and so maybe they're more likely to think it doesn't exist because it's not something they've experienced. But I think in Nebraska, sometimes our culture can be very homogenous and very insular from other cultures and other parts of the world where they do wear their hair very differently, sometimes for religious reasons. Like, I think of the Sikh people who-- they, they never cut their hair and you see them-- they put it under a turban and that's for religious reasons. And Jewish people-- similarly, some sects of Judaism have similar requirements for their hair. Would this bill protect religious

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freedom by allowing people in these groups in Nebraska to wear their hair this way in the workplace?

McKINNEY: Yes, it would, but it-- yes, it, it would.

HUNT: Thank you.

McKINNEY: Yep.

B. HANSEN: All right. Thank you, Senator Hunt. Any other questions from the committee? Seeing none, thank you very much.

McKINNEY: Thank you.

B. HANSEN: All right, we'll open it up for our first supporter of LB451 testifying.

TIFFANY JOEKEL: Thank you. Chairperson Hansen, members of the Business and Labor Committee, my name is Tiffany Joekel, T-i-f-f-a-n-y J-o-e-k-e-l, and I am testifying on LB451 in support of-- on behalf of the Women's Fund of Omaha. Many testifiers after me will speak to the very real impact of this policy on black women in particular in our community and across the state. It, it-- this bill provides an opportunity for black women to show up as who they are and who they want to be in their work and be judged upon the skills and qualifications and experience they bring to the job, not how they are wearing that hair-- their hair that day, that week, that month. I know last year there were a lot of questions on the floor about whether this bill is needed and I will tell you that since the Women's Fund has opportunity to support many black women working on this bill, we have heard story after story after story. We did not ask those stories to come forward today in an effort to be respectful of folks' concerns about COVID and so unfortunately we didn't-- we weren't able to pack this room with stories. We want to be respectful of your health and their health, but I will tell you, ask any black woman you meet and she will tell you that she has had an impact in the workplace because of her hair. And I think it's-- at a time when we are trying to attract and retain diverse talent in this state and support our workforce and their need for qualified employees, hair discrimination has no place for those goals. I'm happy to speak a little bit to how the language has changed. We had the-- again, the great opportunity to work on the bill last year and support efforts in Senator McKinney's

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office in, in the, in the bill this year. You will notice that it does include a stronger definition of race. I think that is important because it does provide additional clarity. So culture and personhood are things that the EEOC are already considering as they are evaluating racial discrimination claims. Culture is explicitly named in the E-- federal EEOC guidance and I'm sure the NEOC can speak better to this than I can as well. But I would just say that by naming these pieces, it tells employers what is considered racial discrimination, whereas now race is not defined in our statute. And so I do think it provides additional clarity. I would also say Section 2 of the bill adds an employment-- or a standard for health and safety. There was a lot of questions last year by this committee and on the floor about, you know, are employers allowed to implement stand-- grooming policies and appearance policies that regulate safety? And so I think the bill is pretty clear in that it provides the standards. So as long as the, the reason the policy is being implemented is to protect health and safety standards of the employee, that is clear as long as it's implemented for nondiscriminatory reasons, it's applied consistently, and then they can demonstrate that reasonable accommodations were made. So for example, we talked last year in the hearing about an-- a person who may work on a line and it's moving quickly and a concern for hair being caught up and so I think this bill allows for a policy that would require hair to be restrained. So for example, this hair would probably be not appropriate on a line. But if we are-- a reasonable accommodation is made that allows me to restrain my hair, I think that is a policy that would fit under this standard. The, the challenge is when, as an individual, the, the grooming policy requires me specifically to change my hair. So I think that would apply in the case of a locks ban, right, for example. So with that, I'm happy to answer any questions that I can.

B. HANSEN: Is there any questions from the committee at all? Thank you.

TIFFANY JOEKEL: Thank you.

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

SCOUT RICHTERS: Hello. My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s. I'm legal and policy counsel at the ACLU of Nebraska here in support of LB451. We would like to extend our gratitude to Senator McKinney and Senator Cavanaugh for their leadership on this

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critical issue. As illustrated in the statement of intent, the goal of LB451 is to end natural hair discrimination in the workplace by clarifying language to include explicit protections for natural hair texture and protective hair styles. Moreover, this bill clarifies that race includes characteristics associated with race, including culture, personhood, including, but not limited to skin color, hair texture, and protective hairstyles. And this bill really makes clear what people of color have known all along and that is that hair discrimination is race discrimination, no mental gymnastics needed, and the prevalence of it in our schools and workplaces is really why explicit protection is needed. This bill overtly specifies that discrimination based on characteristics of hair associated with race would violate the Nebraska's Fair Employment Practice Act. And I think it's important to note that this concept is already being followed by the EEOC, so by affirmatively and explicitly establishing that hair discrimination is prohibited under Nebraska employment law, we can make important steps forward to ensuring that all Nebraskans can contribute to their communities and workplaces as their full selves without fear of being who they are. And this measure is a commonsense, no-cost solution to advancing racial justice and gender equity and it's obviously needed based on the lived experiences of many Nebraskans detailing instances of discrimination that have been shared and will be shared. So with that, we would pledge to work with all stakeholders in support of this bill and we would urge your advancement.

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

GRAGERT: Thank you, Chair Hansen. Thank you for being here today and thank you for your testimony. I just-- I just wondering if you could give me any additional-- it says here often includes characteristics associated with race, culture, and personhood, including, but not limited to skin color, hair texture, and protective hairstyles. What, what would be some more characteristics that you-- "but not limited to" would cover?

SCOUT RICHTERS: I believe the EEOC would have guidance on that. I'm not, I'm not exactly sure, but I think that the reason that's important to say that including but not limited to is because of race discrimination is really maybe more subtle than it has been in years

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past, but that doesn't mean that it's any less harmful. So I think that the law needs to recognize that and the EEOC has recognized that.

GRAGERT: Thank you.

SCOUT RICHTERS: Thanks.

B. HANSEN: Thank you. Any other questions? Seeing none, thank you for coming--

SCOUT RICHTERS: Thank you.

B. HANSEN: --appreciate it. And we will take our next testifier in support. Welcome.

MYEISHA ESSEX: Thank you. Good afternoon, Chairperson Hansen, members of the Business and Labor Committee. My name is Myeisha Essex, M-y-e-i-s-h-a E-s-s-e-x, and I am the associate director of YWCA Lincoln. Our mission is to empower women and eliminate racism and promote peace, justice, freedom, and dignity for all. Our agency is dedicated to ensuring that race-based hair discrimination is not a part of any workplace. We are here today to testify in support of LB451 and would like to extend our thanks to Senator McKinney for introducing this important and essential bill to end natural hair discrimination in the workplace. Black women and women of color face numerous barriers to productivity and success in the workplace, often solidified by workplace policies and procedures, in particular dress codes. One such barrier in particular is race-based hair discrimination. As women of color, the way we wear our hair is not only a point of pride, an expression of our individuality, it is also-- it also holds significant meaning and has deep ancestral roots. We know that being wholly ourselves in this way is more likely to result in less chances of being recruited into the workplace, removal from various activities including sports teams, and discrimination within the workplace. As you heard in various testimonies last year, women of color often endure endless questions in the workplace about the ways in which they choose to style their hair, whether or not they clean it, and why they choose not to style their hair in a normal way. A 2016 study by Perception Institute show that on average, black women's hair is seen as less beautiful and less professional than their white counterparts. This type of bias often leads to social pressure on women of color to conform to European standards of beauty.

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Measures to obtain the European standard of beauty often includes potential damaging levels of heat and dangerous chemicals to straighten their curls, often resulting in burned and damaged hair and scalps. Women of color should not have to suffer this kind of pain and indignity in order to be accepted and taken seriously in their workplace. They should not be forced to conform to-- to conform to grooming standards that erase their cultural individuality and the measure of their success should not be determined by the way they choose to wear their hair. By expanding this definition of race, LB451 would not only acknowledge the discrimination faced disproportionately by women of color, but also ensure that another barrier preventing success in the workplace is removed. We therefore ask the committee to vote LB451 out of committee to end natural hair discrimination in the workplace. With that, I will take any questions you may have.

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

MYEISHA ESSEX: Thank you.

B. HANSEN: We'll take our next testifier whenever you're ready.

MILDRED CIPRIAN: Good morning, committee and Senator Hansen. My name is Mildred Ciprian, M-i-l-d-r-e-d C-i-p-r-i-a-n, and I'm here as a proponent of the bill, LB541, and I am representing myself. The reason I am here to support this bill is because I have become increasingly aware of the importance of building up and protecting the minorities in our country and I think this is an important step towards achieving that. Passing this bill would make it possible for black communities to embrace their natural culture-carrying hair. The history of hair discrimination. Again, in the 1700s, as slavery was changing and some slaves were able to buy their freedom, this very small group of Africans were able to buy-- that we're able to buy their freedom posed a threat to the white leaders of the time. [INAUDIBLE] laws were put in place to oppress the free Africans and prevent them from expressing themselves and their unique features. Now these are no longer in place. The idea and stigma that natural black hair styles and textures are unprofessional and dirty remains. The idea that black hairstyles are unclean is not a fair stereotype because those hairstyles oftentimes take a lot more work to maintain. Along with that concern comes the argument that black hairstyles cannot be discriminated against because they're mutable and available to any race. This is

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true. Any race can style their hair in, in any way they would like, though locks and other black hairstyles are frowned upon now in styling with other races. And those hairstyles are also not working well with other races, like, their hair textures. And along the lines of black hair textures, they're very expensive and damaging to change. Expecting black people to mute their hair by express-- by exposing it to expensive chemicals in order to follow the prejudices of hair textures associated with the white, white race is an expectation that needs to stop being seen as acceptable. I believe that LB451 needs to be passed in order to protect these beautiful features unique to African American communities. Thank you.

B. HANSEN: Thank you for coming to testify. Is there any questions from the committee? All right, seeing none, thank you. And we'll take our next testifier in support of LB451.

ASHLEI SPIVEY: Hello. How are y'all? Say and spell my first name, right? Do I need that yet? OK. Ashlei Spivey, A-s-h-l-e-i S-p-i-v-e-y. Well, Senator Ben Hansen, Chairperson, and the Business and Labor Committee, thank you all for hearing this bill today. My name is Ashlei Spivey and I am representing myself, black women, and Nebraskans and I Be Black Girl. I Be Black Girl is a collective that creates space for black women, femmes, and girls to grow, connect, give, and take action so we can access our full potential and authentically be. On behalf of the collective, we ask you to advance LB451 to General File. LB451 ends natural hair discrimination in the workplace by clarifying language to expand protections for natural hair texture and protective styles, including braids, locks, twists like my hair. Did you know that natural hair discrimination in the workplace can affect how a black woman's job performance is perceived, what advancement opportunities we are given, and what additional measures we may be expected to take to fit into corporate grooming standards? This is especially harmful to economic security of families as we, black women, lead 80 percent of our households in Nebraska, not to mention the emotional trauma that comes from this type of discrimination. By centering black women, femmes, and girls in this legislation, all employees will benefit, creating more safe, inclusive, and equitable workplaces. We have an opportunity to role model what it looks like to create workplaces that can attract and retain racially diverse talent, which we know is a topic across Nebraska. I personally have been fired for deciding to wear my natural hair and believe this bill is a step in the right direction to address

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harmful employment practices. Thank you for your time and advancing this important bill to General File.

B. HANSEN: Thank you. Ask questions here real quick.

ASHLEI SPIVEY: OK.

B. HANSEN: Any question from the committee? Yes, Senator Hunt.

HUNT: Thank you. Thank you, Ms. Spivey, for being here. I was wondering if you could speak to how this affects younger generations, children who potentially grow up seeing their mothers affected by discrimination that this bill seeks to address?

ASHLEI SPIVEY: For sure. Well, so racial discrimination can show up as early as two years old in children are what most studies are showing. And so when you have this type of discrimination in general, when 80 percent of black women are leading households, when young children are being conditioned to have discriminatory thoughts and behaviors or practices, if-- it affects the entire family. So that, that means that we are not able to economically have economic mobility to take care of our families. Young children are building these ideas that they're not good enough who they are and it just creates a cycle of vicious institutional racism and discrimination. And so I think this bill really shows and can role model what Nebraska can be. And other states across the nation can take note that we are creating environments where folks can be their authentic selves and actualize their potential, do what they need to do economically for their family. And we're building a culture around affirming who you are and being proud of that and young folks can see that and then continue to build a culture around exclusivity.

HUNT: Thank you.

ASHLEI SPIVEY: You're welcome. Thank you, Senator Hunt.

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

ASHLEI SPIVEY: All right, thank you for your time.

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

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MICHELLE DEVITT: Thank you. Good morning, Chairman Hansen and members of the committee. My name is Michelle Devitt, M-i-c-h-e-l-l-e D-e-v-i-t-t, or Micky is fine. And I'm a labor attorney and the legal and policy coordinator of the Heartland Workers Center. I'm here today on-- speaking as a proponent on LB451, which in our view, justifiably clarifies and codifies employment discrimination to include physical traits, including hair texture and protective styles. LB451 introduced is necessary to clarify inclusion because Nebraska's Fair Employment Practices Act does not currently define the protected category of race in this way. And currently federal guidance on race discrimination already recognizes discrimination because of race includes physical characteristics associated with race, including hair textures. Title VII of the 1964 Civil Rights Act similarly recognizes that facially neutral policies unrelated to job performance are lawful if they have a disparate impact on employees and the protected-- employees protect-- in a protected status, sorry. But even still, the courts have struggled to provide certainty in this area, most recently in a 2013 case involving Chastity Jones. The U.S. Supreme Court declined to hear the 11th Circuit appeal on this issue, leaving it uncertain and leaving the door open. This bill is an opportunity for Nebraskan employers and employees to have at least some certainty here. Several leaders of our north Omaha core team wanted to be here today. We did not encourage them to come because of safety over their own, over their own objections, but they did share many stories through the portal and through written testimony. I hope you'll read it. But I wanted to share just a couple of stories today that were shared with me and our organizers over the last couple of weeks. One worker I spoke with had been offered promotion as a supervisor at the Omaha Metro Transit until she stopped styling her hair in what she described as a European style. The talk of promotion vanished, replaced by rude questions about her hair. Another worker shared a story of being complimented on a red power suit at work when her hair was straightened. When she wore her hair in a natural hairstyle on a different day with the same suit, she was warned that her skirt was inappropriately short. Mind you, the same woman, same job, same suit, but a different day, but different natural hair. Obviously, it wasn't her appearance that was inappropriate. Workers also shared stories about their parents warning them that they wouldn't be taken seriously at work, at work with natural hairstyles and then on the other side, describing now how to wrestle with that conversation with their own children, wanting to instead affirm their natural, healthy, beautiful

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hair. I can tell you that not once in my entire life have I been told as a white woman that my hair is inappropriate or even when I was in a hurry and I threw it in a ponytail, a braid under a pretty scarf, and even when I was having what I call my Jim Morrison hair days. I want to assure you that these are not anecdotal, isolated, or imagined events, but represent daily experiences of millions of African American women. A study has-- studies have indicated that women of color are one and a half-- black women, specifically, are more than one and a half times more likely to be sent home from work because of their hairstyles and the, the Perception Institute study on the prevalence of discrimination against and implicit bias against black women's hair has already been mentioned. So we encourage you to advance this bill to General File and I thank you for your time. I'm open for questions.

B. HANSEN: All right. Thank you for your testimony. Is there any questions from the committee at all? Seeing none, appreciate it. Is there anybody else wishing to testify in support of LB451?

JENNIFER CREAGER: Still wet. Good morning, Chairman Hansen and members of the committee. My name is Jennifer Creager, J-e-n-n-i-f-e-r C-r-e-a-g-e-r. I'm senior director of public policy at the Greater Omaha Chamber. I'm here today to offer the chamber's support for LB451. Please let me know if you can't hear me and I'll speak louder.

B. HANSEN: Jennifer, I might actually-- yeah, could you speak a little bit louder?

JENNIFER CREAGER: Sure.

B. HANSEN: Yeah, sorry about that.

JENNIFER CREAGER: We thank Senator McKinney for bringing this to the committee. As some of you know, approximately three years ago, the chamber established the commitment to opportunity, diversity, and equity or CODE program. This was done to bring greater focus on inclusion needs around our community. This includes the CEOs for CODE and was done with the recognition that we need to use our voices and our power more forcefully and intentionally to better advocate for inclusion efforts in Omaha and in Nebraska. Nebraska is a great place to work, live, and raise a family. That's why so many businesses have chosen this state to operate. But that comes with facing the fact that

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there are too many Nebraskans who don't share that viewpoint based on the totality of their experiences. CODE is a commitment to create a more welcoming state for all those who call this state home. Part of that effort goes to our public policy front. Last year, we keyed in on three particular pieces of legislation intended to make some progress: LB924, Senator Chambers' law enforcement training proposal; LB918, Senator Wayne's African American Commission; and LB1060, Senator Machaela Cavanaugh's bill that mirrored the intent of LB451. All were approved by the full Legislature, though, as you know, the Governor vetoed LB1060. There was no opposition to LB1060 in committee testimony, though there was some concern in subsequent discussions as to whether protections for protective hairstyles could present some sort of workplace safety issue. Language in LB451 should address any of those concerns. I want to echo some of the comments expressed by our CODE during the 2020 session. The business community has had its own painful history of neglect, indifference, and outright failures on racial issues in the past. At the same time, there have been business and political leaders who have been champions of advancing civil rights. We choose to follow their example. LB451 might present a minor issue in the big picture, but to those directly affected by this, it is no small matter. Again, to our CODE statement, the time is now to show them that their concerns and needs are being listened to in a way that they have not been before. We are working to create a culture where everyone can share in the prosperity of our region. We stand here today to help ensure this happens. Our support of LB451 is about economic inclusion for all. We believe our community is better, our economy is better, and most importantly, the quality of life and experience of those who have been marginalized and discriminated against due to hair texture and style is improved with the protections afforded to individuals through this bill. We urge your support of LB451. I'm happy to take any questions.

B. HANSEN: Thank you. Are there any questions from the committee at all? All right--

JENNIFER CREAGER: Thank you.

B. HANSEN: --I don't see any. Thank you. We'll take our next testifier in support of LB541. Anybody else want to testify? All right, seeing none, we will take our first testifier in opposition to LB451. All right, seeing none, is there anyone that wishes to testify in a neutral capacity?

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MARNA MUNN: Good morning, Chairperson Hansen and the members of the Business and Labor Committee. My name is Marna Munn, M-a-r-n-a M-u-n-n, and I am an attorney and the executive director of the Nebraska Equal Opportunity Commission, or NEOC, and I am speaking in a neutral capacity on LB451. That is typically the position that we take because we like to just come and initially assure you that the language under the bill poses no problems in terms of operational standpoint since our agency would be responsible for making it work. And I would point out, as has been mentioned before-- just a few things. Currently the NEOC can and does investigate allegations involving hairstyle under up to six different bases: race, color, national origin, sex, religion, and disability. However, we recognize and respect that this bill has a specific purpose to create greater focus and protections with regard to this issue. We stand ready and able to enforce the law should the law pass. Because several other jurisdictions have passed similar legislation, there are resources available to us should we need any regarding how to process a claim under this language if it were to need to be processed any differently than we currently process it. We do-- I came with a few examples that I'll just share with you in, in a moment regarding some of the kinds of claims that we, we have experienced in the last few years. I would also note that the-- this bill does kind of codify the safety and health exception. I testified last year that we already operate under that interpretation being in place, so this poses no problem. I've reviewed the language. It is consistent with the interpretation under which we currently operate, so it just adds assurance to those who have concerns that this language would supersede a business' health and safety concerns with regard to things like hair and it also comes up with clothing and things like that being caught in machines. That's already available as a defense and often used as a defense by respondents against these kinds of claims, so the language being put explicitly in the, in the bill doesn't present any problems for us. And we are experienced in investigating that defense, as well as it being used as a potential pretext, which is also a kind of word of art under the law. So sometimes respondents raise that issue, but we're able to discern that there really isn't a health and safety issue that would necessitate what they're requiring of an individual, but oftentimes there are, but this language is consistent. So a couple of examples that-- in, in recent years, just so you have a sense of that, of folks who have been motivated enough to come with-- to come to us and discuss the issue of hair. And I would note that there are

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probably many, many, many, many other times an individual comes to us with issues of allegations of racial discrimination. They likely don't even mention hair as a factor, even if it was, simply because it hasn't been so spotlighted as an issue and so I think there are probably countless additional examples. One example is a store manager told an African American complainant that another, quote unquote, dreadhead was starting in the store. The store manager stated he already had two quote unquote dreadheads and did not want a third. The complainant told the store manager he could not make those remarks, as people might find them offensive. The store manager began subjecting complainant to different terms and conditions of employment, including not allowing the complainant to wear his hair in braids. The complainant requested a hairnet instead because it was painful to tie the braids back. He was told there were no hairnets available. A week later, the store manager told the complainant that since the complainant would not take his hair down, the complainant should find another job. A director who was white in, in the company asked a Native American complainant on numerous occasions why the complainant didn't cut his hair and why it was important to have long hair and suggested it would be better for the complainant to look like everybody else in their industry. I will prob-- I have several more. An individual wore a wig, she was told to go home and change the wig. When she did so, she called and said can she return to work with the cornrows that she had underneath the wig in order to support the wig hairstyle and she was told she could not. She must take leave for the rest of the day on her own leave. She wasn't given leave and she could not return to work with cornrows in her hair when the wig was found-- deemed unacceptable. So those are the kinds of things that we already see. Right now, in part because Nebraska -- the-- just the makeup of the population in Nebraska, we would have to look at each of these basically as disparate treatment. It's the whole notion, as Senator McKinney indicated in his introduction, about whether the policy is neutrally applied and that's a defense that respond-- respondents have. We just have this general policy and it's neutrally applied. The other way to, to look at the issue is the disparate impact on a population. Unfortunately, most of the times, the complaints that come to our agency, there are-- there's an insufficient population at a particular workplace to do the work to find disparate impact because you have to be able to look at a population and how it's applied to a group of people and not just necessarily an individual. So while disparate impact is an available theory, it's not very practical in

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Nebraska at this time just because of the population disparity. And so this would help with that. It also isn't something we necess-- we would hope through education and outreach, if it were passed, we would use those efforts to try to inform employers about this issue so we have less investigations that were necessary. And the Fair Employment Practices Act we enforce is replete with-- it, it has numerous examples of things that are, are given to businesses for what they can and can't do. And so having this in place is consistent with the law and it might create a situation where businesses just change their practices and we wouldn't have as many investigations that we have to take care of in that way. With that, I see my time is up and I'm happy to answer any questions I could for you.

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

HUNT: I have no question. I just want to thank you for being here. I always appreciate hearing the Equal Opportunity Employment Commission's view of bills like this and it's helpful, so thank you.

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

GRAGERT: Thank you, Chairman. Thank you for your testimony. I don't know why I'm hung up on this, but I am. I'm, I'm hung up on the words, "but not limited to."

MARNA MUNN: Sure.

GRAGERT: So you-- I mean-- and all day, we've been talking-- or all morning or so far this morning, we've been talking about just hair.

MARNA MUNN: Um-hum.

GRAGERT: What other, what other characteristics and/or that-- have you heard that may also be discrimination?

MARNA MUNN: Sure. Well, I mean, I think you have to just generally-- two, two things-- there's two prongs to this. First, by using that language, you leave open the possibility that something we're not thinking of is that important. And a complainant could come-- they would have to prove that case, right? I mean, they-- if they came and said it was, you know, the color of the shoes they prefer to wear, right? I mean, the burden would be on them to show that-- how that

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fits in as a, as a characteristic for their race or culture, but it leaves open the possibility that there are things that we're not thinking of. So that's prong one. But again, the burden would be that they have to show that connection. But prong two, there are things like-- characteristics that I think thankfully as a culture, we've sort of moved past, but we shouldn't discount eye color, facial features, stature. These are all things that at times have been used to separate or create groups and thoughts about certain groups. To go back to Senator Blood's example about in Nazi Germany, you know, there, there was a belief that people could identify someone in the Jewish population by their set of facial features, irrespective of hair, right, but the way that their eyes looked or the eye color and things like that. So we thankfully are past-- I think and hope-- some of these things that would make up characteristics, but, but there are a host of things that can fall within that. So, so I think it leaves open, open the possibility that somebody could make the argument that they won't hire anybody of a certain national origin because they think that their stature is too slight to be able to do heavy lifting kinds of work, right? That's a possibility that leaves open.

GRAGERT: So right now that, that's all opened up for interpretation even today, so you don't feel like going through all this just for hair texture could open the door to other things? But that's already there, you're telling me?

MARNA MUNN: Sure. I mean, but those other things are possibly there as well. I mean, it just-- it, it-- what this bill appears to be doing in the stated intent is that I think that we've come to a place through social science and research that we're able to say that hairstyle is, is a, is a specific and identifiable problem in, in terms of discrimination as it relates to race. That doesn't mean other things aren't, but maybe we don't have that social science yet. We haven't looked at it. Unfortunately, my experience with discrimination is, is, as others have testified, you know, the old onion metaphor or low-hanging fruit. We have taken care of some of the most obvious problems that compelled the, the creation of the Civil Rights Act in 1965. But once we got those out of the way, right, we found that some of those beliefs and thoughts are, are more subtle, right, than the obvious things. And so the hairstyle and the social research has, has borne out that hairstyle is one of those things that we can prove, right? But yes, it does leave open the door that the-- other, other things exist, but you're going to need to, you're going to need to--

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the burden is still going to be there to make that connection, right? Can't just-- I mean, we can have anyone walk through the door and, and say anything. They can walk through and say they were fired because of their red shoes and somehow that related to their religion, for example. But there-- the burden is going to be there to prove that and, and the respondents get an opportunity to, to challenge that and we look at-- you know, we do neutral investigations and it obviously starts with allegations of discrimination, but we always have to listen to what the respondent has to say about it as well.

GRAGERT: And one last question then. You're not-- you don't fear that individuals won't be hired initially because of this?

MARNA MUNN: Well, but hiring is one of the things that we look at and so it would be-- they could bring an allegation of not being hired because of that and we've had-- you know, we've had some in that area. I'm not necessarily accessing it, but I mean, any-- the couple of examples I read could have been that. It could have been, you know, that I interviewed with the store manager and I had, you know, dreadlocks and they said they didn't want another person like that in the store and so they didn't hire me. And then that person could come to us and then it would be a failure to hire as opposed to a discharge, for example.

GRAGERT: Hey, thanks a lot, appreciate it.

MARNA MUNN: Sure.

B. HANSEN: Yes, Senator Halloran.

HALLORAN: Thank you, Chairman Hansen. Following up with Senator Gragert's concerns about the rather broad language, "but not limited to," would, would this bill be weakened that much if that was amended out? I mean, could we not bring another issue up if another issue comes to surface? The, the people are concerned that it's a cause for or a definition of discrimination. Can we deal with that as it comes rather than just broad "but not limited to?"

MARNA MUNN: Second part of your question first, of course. You're the Legislature. You can do whatever you would like in that regard.

HALLORAN: Not always.

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MARNA MUNN: You can bring the language and, you know, we would come in and deal with that, whatever it was. The first part of your question, whether it weakens this bill, you know, I, I guess I didn't bring the bill, so, you know, I think that that maybe is for the introducer. To the extent that it's trying to put a spotlight on, on the hair issue specifically, probably not because it, it would, in effect, still bring the spotlight to the hair at-- to, to the point that it's making a broader point about race and culture and the other characteristics that are connected. It just puts a placeholder in place to allow you not have-- to not have to do that. And then it becomes bur-- you know, our job to have folks establish, you know, anything else they would bring under that language.

HALLORAN: OK, thank you.

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

BLOOD: Thank you, Chairperson Hansen, and, and thank you. I, I have to echo Senator Hunt's comments. It's great when you come into the hearings and you explain things in a way that's very not biased and very professional and I'm sincerely appreciative. With that said, I, I just-- I have something stuck in my craw and I need clarification. So when I hear a statement like do we, we need a bill just for hair texture, can you, can you better clarify how this is not about hair texture, what it's more about? And you may have touched down on that a little bit, but I'm really having trouble hearing you.

MARNA MUNN: Oh, I'm sorry.

BLOOD: No, it's not--

MARNA MUNN: Boy.

BLOOD: --your fault. It's the mask's fault, so--

MARNA MUNN: I come from a family of six kids and I've done speech. No one has ever-- I mean, in-- rarely do I get you can't-- they can't hear me so I certainly--

BLOOD: Use your out-- use your outside voice because we can't hear you.

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MARNA MUNN: OK. I am happy to speak up and capable of doing it. Yeah, I, I, I guess, I guess from my perspective, what I see this bill trying to do is to again put a spotlight on some of these characteristics that are connected to, to race, culture, sometimes national origin, and hairstyle is one of those things, right? But it's, it's, it's an example in a sense. It's both an actual problem in and of itself, but it's also an example of the kinds of things experienced by other cultures. And by bringing a spotlight on all of that, you know, I think the biggest hope is it's trying to put respondents in my-- our language, but employers on notice that, that, that they, they need to expand their thinking on some of these. And a few years ago, I might have wondered myself about the need. What I read day in and day out for the investigations we do, I, I am often quoted as saying I thought we were past this in a whole range of things, right--

BLOOD: Sure.

MARNA MUNN: --but, but we're not. And there are-- in fact, recently encountered a very large employer, a sizable employer, state-based employer who is almost moving backwards in this regard. They've instituted some dress code issues that, again, I thought we were years past, right? And I am of an age that I was just on the cusp of being required to wear skirts in certain settings and things like that and so I was inclined to think we were moving past some of that. But I can tell you from my reading-- on average, I don't know the exact number in the three and a half years I've been at the Nebraska Equal Opportunity Commission-- I have read somewhere between, somewhere between 2,500 and 3,000 employment cases and I can tell you we are not past this and sometimes we have to use explicit language to stop it. And that's the hair example and then the rest of the language is a more general-- I read it as a more general language that-- and things like it, right? So that's, that's my take on this, if that answers your question.

BLOOD: Yeah, thank you for that clarification.

MARNA MUNN: Yep.

BLOOD: That was very helpful.

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

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MARNA MUNN: Sure.

B. HANSEN: Senator Blood brought up a clarification that kind of made me think of this question. So would the term personhood--

MARNA MUNN: Um-hum.

B. HANSEN: In, in your professional opinion, does that mean the person felt like they were discriminated against because they didn't feel like a person because of a certain characteristic such, such as a dentist not hiring somebody because of bad teeth or, or because of weight or because of some of the kind of characteristic? Would that be included in personhood?

MARNA MUNN: That's a great question. Personhood isn't the concept that is-- you don't find that in our discrimination laws, so I don't know that I can come up with an example off the top of my head. I remember looking this up when I saw the bill and there are some slight nuances to the definition of it, but under the discrimination-- it would still have to fit within the discrimination laws and be the way we investigate. And I think it's just-- the way we would view it is it's just there to try to cover all the bases, but it essentially comes down to the same kind of thing. You know, it's not-- our-- if you're asking are we going to investigate it to the person, you know, basically on what they feel makes them complete their person, that is not at this point a workable way because we would go from 1,000 cases a year to-- you know what I mean? And, and then-- and it-- and even if that were true and we did do that, it would settle into whatever it is. I know that sounds really vague, but after a little while-- but no, I mean, that's-- personhood really speaks to I think that person is part of the race and the culture that they're in. That would be the way that we would view it.

B. HANSEN: OK and one other quick question. Those cases that you just briefly cited, have any of those gone to litigation or a lawsuit or--

MARNA MUNN: Yeah, I don't have all this information. I kind of pulled this together from last year and I grabbed it--

B. HANSEN: Yep.

MARNA MUNN: --because I thought it would be helpful. And some of them might be settled through ADR before-- an alternative dispute

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resolution before they would be a cause finding. Some of them were-- I can tell you this, some of them were no reasonable cause because the, the respondent prob-- you know, came up with another reason that was what we call a nondiscriminatory and nonpretextual reason for, for why they took whatever action they took. But no, I think some of them at least got settled. That doesn't mean they went to litigation, but they got settled.

B. HANSEN: OK, just curious about that.

MARNA MUNN: Yep.

B. HANSEN: Thank you. Any other questions? Thank you, appreciate it. Is there anybody else wishing to testify in a neutral capacity? Seeing no one else, we will welcome Senator McKinney to close. And just for the record, while you're getting ready, we did have some written testimony in support from Paige Gade from the Lincoln Young Professionals Group. And we did have also letters for the record. We have 14 in support and three in opposition.

McKINNEY: Thank you. Thank, thank you to everyone who testified. I would say that the changes made in this bill were in direct response to the Governor's suggestions and the reasons why he ended up vetoing Senator Cavanaugh's bill last year. Senator Blood was definitely correct to point out that the history in Nazi Germany is why culture and religion is added in this bill because sometimes race is included with other things, not just what somebody sees on the outside, but what actually grows from, from your head. Page 7, lines 4-- 14 through 18 provide the protections and standards in this bill as well. And in response to the questions from Senator Gragert and Halloran, "not limited to" can be a person's name. A lot of times individuals are discriminated against because of their name. So my name is Terrell, but somebody from another culture might have a name that isn't a name that is normal in, in a sense or a name that is somewhat hard to pronounce and individuals are discriminated because of that. This bill is to, you know, protect individuals, not, not-- you know, it's, it's associated with hair, but hair-- but within it, it's so many other things and we're, and we're-- within this bill, that's what we're seeking to do, is protect the individuals' culture, their personhood, because it, it's very important that, you know, we doing all we can to protect individuals. The particular characteristics of hair is so associated with and fundamental to a

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person-- personal identity that it should not be made and required to be changed. Hair is so fundamental to a-- who a person is. It shapes their very existence. The way their hair naturally grows out of their head should not be directed to be changed for aesthetic or subjective opinion. And honestly, just, just ask somebody that grew up in a home with a black mom. And I have a black daughter, I have three black sisters and grandmothers and cousins and aunts and I hear the stories about, you know, going to work and somebody saying what's up with your hair today? Can I touch your hair? Why are you wearing your hair this way? Can you go home and fix your hair? I've heard those stories my whole life. And as someone with a young black daughter, I hope that she never has to endure that. It's very important as a father that if I'm down here advocating for things that-- in the future, hopefully I'm able to pass this legislation to protect my daughter for, for her future so she does stay in this state because it, it would be hard for me to tell her to stay here if she still has to go to work and change who she is because an employer told her that it's not right or it doesn't fit. And I would just ask each of you before I close, have, have you ever felt that the trajectory of your career, your ability to make a living, take care of your family, or pay your bills depended upon alter-- altering your hair that grows from the-- grows from your scalp? Have you ever had to deal with that? And just think about that when you think about this bill. Thank you and I'm happy to answer any questions.

B. HANSEN: Yes, Senator Hunt.

HUNT: Thank you, Chairman Hansen. Thank you again, Senator McKinney. One thing I want to mention for the committee and for my colleagues is because of COVID-19 this year, we have many alternate methods of testimony and I think typically we would expect this room to be full of people, people of color, people of different religious backgrounds, sharing their personal stories of discrimination that this bill seeks to address. But because of COVID-19, we have this new method to communicate with the Legislature by submitting written comments online and these are things that senators and staff can see. But I will say for the record, we have 42 proponents and no opponents who have submitted written comments. And these comments are not for the record, you would have to submit a letter to do that, but all of the stories that we could have heard today in committee, you can scroll through these comments and read these personal stories from people. And these are Nebraskans who we serve who are trusting us to do something to

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help them. So I hope that all of you take a look at that. And I think on the record, all of the people who could not be here today because of any limitations did reach out to communicate their story with us. Senator McKinney, I have a question. You talked about people you know in your life being asked to change their hair for their work because of an aesthetic opinion or subjective opinion about what's quote, normal, unquote or how they should look. Can you speak to the financial cost of that? We've heard testimony about the emotional cost and you can speak to that too, but all of this costs dollars and cents to, to women and to workers. Can you speak to that?

McKINNEY: I'll try. I'm not a woman, but, you know, I probably could give some, some numbers. So for instance, if, you know, an individual had braids and were told go home and fix your hair, you can't work here because you're wearing braids-- so they go get a hair extension. That could cost between \$300 and \$1,000 and then there's the installation costs, which could be \$200 an hour. And then the chemical treatment that, you know, individual might put on their hair can be \$50 to \$100 if professionally done.

HUNT: Is that like a relaxant?

McKINNEY: Yes and, and that could be very harmful, not only just on the person mentally, but, but also physically, it could cause harm. There's cost of maintenance, weekly and biweekly. You have to buy products, gel, texturizers, and others things to manipulate your hair to fit into what your employer may need and that could be very expensive. And there's a lot of trauma associated with that, being told that who you naturally are is not acceptable. And I, I know a lot of people that have done it and years later said, you know, that, that [INAUDIBLE] them for a long time and it's, it's taken them a long time to get over that. And they had to seek therapy because they tried to assimilate into something that didn't accept them for who they naturally were.

HUNT: Can it damage your scalp?

McKINNEY: Yes, it can. Yeah, it can definitely.

HUNT: OK, thank you.

McKINNEY: Thank you.

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B. HANSEN: Any other questions from the committee?

HALLORAN: Senator.

B. HANSEN: Yes, Senator Halloran.

HALLORAN: Just a quick comment. Senator McKinney, thanks for bringing this bill. The language on the health and safety, safety standards was on my primary concerns last time it was before, before the Legislature and that-- and this language more than adequately deals with that concern, so I appreciate you doing that.

McKINNEY: Thank you.

B. HANSEN: All right. Seeing no other questions, thank you for bringing the bill.

McKINNEY: Thank you.

B. HANSEN: And that will close the hearing on LB451 and we will open it up for LB420. We'll wait for the room to clear out here a little bit first. All right, I think we're all set. Welcome, Senator Pahls. You're welcome to open up on LB420.

PAHLS: Thank you. Good morning, Chairman Hansen, members of the committee. My name is Rich Pahls. The bill was brought to me by the Omaha Firefighters Union, Local 385. Its goal is to align Nebraska workers' compensation laws with the reality that our firefighters, as a result of their work protecting our community, face an elevated risk of cancer and heart disease. Firefighters breathe in more than just burning wood when they enter a smoke-filled home. Modern homes contain numerous toxins and carcinogens, many of which cannot be properly mitigated by a firefighter's breathing apparatus and other protective gear. The same goes for the chemicals that they can breathe that threaten their health through skin absorption. Cancer and other illnesses caused by exposure to these hazardous substances are the leading cause of line-of-duty deaths among firefighters today. In fact, there's already a rebuttable presumption for most post-employment benefits that Nebraska firefighters who suffer death or disability as a result of cancer, hypertension, heart or respiratory defects as a result of their work. LB576 [SIC] would apply the same rebuttable presumption for the purposes of the Nebraska Workers' Compensation Act. This bill acknowledges the hidden dangers

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involved in the work of these first responders. So basically the bones of this bill is we already offer rebuttable presumption to some of their post-employment benefits. This bill would add that to the Nebraska workers' compensation. And I think you see there are a couple of amendments. One is to include villages. If you look at that, it would include smaller sections of the state of Nebraska, not just Omaha and Lincoln. And also one of the dates is to bring up to date the definition of carcinogens. And today we will have one person who was going to be here. Steve LeClair from the firefighters cannot make it for-- I think he's saving the city of Omaha right now, but he did send a, a letter explaining some of the issues. And I want to note in that letter, he did describe that there were two firefighters who did suffer from cancer, so-- I will end my testimony at that and, and we shall go from there.

B. HANSEN: All right. Thank you, Senator Pahls, and then we'll open up for questions. Yes, Senator Blood.

BLOOD: Thank you, Chairman Hansen. Thank you for bringing this bill forward. So for clarification, you're really talking about presumptive cancers, cancers that are caused as part of this workmen's comp issue, things that include, like, skin cancer, lymphatic, digestive, reproductive, prostate, all secondhand-- I don't know if that's the correct terminology. I'm not doctor, but cancers that are known to be caused by the chemicals that the firefighters face when a building burns because buildings are full of chemicals, correct?

PAHLS: Correct, but more than just cancer. I'm talking about heart.

BLOOD: Right and stress?

PAHLS: Stress, yes.

BLOOD: So some, some of the same things that we found after September 11--

PAHLS: Right.

BLOOD: --the New York firefighters that now seems to kind of trickle down to the other states, correct?

PAHLS: Right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee February 8, 2021
Rough Draft

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BLOOD: Thank you.

B. HANSEN: Yes, Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. Thank you for your testimony this morning, appreciate it. Volunteer firemen for 30 years and this is a very-- you know, thanks for bringing the bill. But I have a couple of questions-- at least one question on the exam, the requirement of the exam before, and, and who's going to pay for that out in my-- Creighton, Nebraska?

PAHLS: I don't know for sure. I do have somebody from rural state of-- rural part of state who will be speaking to this. The city of Omaha, of course, that goes along-- they, they take-- you need-- basically, there's a pretest, you might say, for all this, because the way it's set up, they, they do not--

GRAGERT: Check?

PAHLS: --explain how they got it because it's already covered.

GRAGERT: I'll wait for it, thank you.

PAHLS: And also then Jerry Stilmock, he's not here today. He's quarantined. He, he probably would have that answer and if not, I will get that to you.

GRAGERT: Thanks a lot, appreciate it.

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

PAHLS: Sure.

B. HANSEN: And we'll take our first testifier in support of LB420. Welcome.

TOM HAMERNIK: Good morning, Senator Hansen and the rest of the Business and Labor Committee. My name is Tom Hamernik, T-o-m H-a-m-e-r-n-i-k, and I'm here on behalf of the Nebraska State Volunteer Firemen's legislation committee and the Nebraska Fire Chiefs Association, as well as my own local district, Clarkson Volunteer Fire and Rescue Service, and we're asking you to support LB420 and Senator

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Pahls' amendment, which includes other political subdivisions that sponsor our volunteer firefighters. The Nebraska State Volunteer Firemen's Association has taken a very strong position on cancer, protecting our volunteers and reducing their exposure to the cancer-causing materials and the risks that they face. I personally have served 42 years as a volunteer firefighter/EMT in my local district, along with my father and my two brothers and now my son-in-law is our fire chief and my grandson thinks he's a firefighter already, so we've got a strong history in our, in our family. When I joined in the late '70s, home and contents of homes were mostly made of natural materials and so the risk was less. In fact, when I first joined, there were only a couple of the self-contained breathing apparatuses that are currently widely used today, as well as rubber raincoats and tall boots. So, so the, the protective equipment that we wear has drastically changed, as well as information that's come to light from the Nebraska-- or from the National Fire Protection Association. Regarding firefighters' exposures to cancer, there have been many changes operationally in the last ten to 15 years to reduce firefighters' risks with the environment that they're in. And honestly, there are many things that remain in the environment after the fire is out that are still cancer causing and still can affect our firefighters, so it's not just during the fire. Currently in Clarkson, we have a Firefighter 1 class being taught by the Nebraska Fire Marshal's Office. And we have 20 young people from our community and the surrounding communities that we work with through our mutual aid district. And many of those just took the EMT class a year ago, so you can, you can understand that there's a huge commitment by them to protect our communities and our citizens. And I owe it to them to do the very best I can to try and first of all, mitigate their risk as firefighters and also to support them if they do have an illness relating to their service as a volunteer firefighter. I'm asking for your support of LB420 and the amendment that was put forward by Senator Pahls to help with the-- protect our future volunteers. I think it's-- in our local community, we've had a bit of a resurgence, which is thank-- very we're thankful for, but it's still a struggle to find young people that are willing to make that commitment to serve their communities, thinking about the time requirement that they have. And so it's, it's very important to do what we can to support them and to protect them and their families. There was a question about the precertification. We believe that that's a reasonable thing to have firefighters precertified cancer free. Currently in our fire district,

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our city and our rural fire protection district share our costs for those types of things and we would expect that they would do that too. They appreciate what we do. They understand the time commitment. They want to keep us safe and so I have no reason to believe that they wouldn't cover that cost. Honestly, someday there's going to be a requirement for a physical to be a volunteer firefighter and I believe that's reasonable. I want them to be in shape and to protect their health as a volunteer firefighter. I think that covers what I wanted to say. I wanted to thank you all for your service to the citizens of Nebraska. I understand it's a difficult job. You hear a lot of bills. There's a lot of research involved and, and I do appreciate it. So thank you very much. I'd be happy to answer any questions.

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

BLOOD: Thank you, Chairman Hansen, and thank you for your testimony. I, I'm hoping that you know the answer to this. I just want to make sure we get this on record. So can you address some of the, the toxins that are involved in some of the older bunker gear? I know that we have it in some of our smaller communities because it's cost prohibitive, prohibitive to get new gear.

TOM HAMERNIK: It is very expensive. I served as an assistant fire chief for 18 years and I just retired this last year from chief after ten years. And a full set of firefighting gear is upwards of \$2,500 and we typically had to pick and choose who got new gear. And typically those were the people that were the interior firefighters who were most commonly exposed to the chemicals that are in the environment. And personally, I washed a lot of sets of gear. When I had a firefighter that had contaminated gear, I'd pester them and I'd pester them and then on a Sunday, I'd wash their gear because it has to be done and we have to make sure that those chemicals don't stay in their protective clothing and then be absorbed by their body the next time they sweat in those very, very warm clothes.

BLOOD: So can you, off the top of your head, name some of the chemicals that, that are concerns with the older bunker gear?

TOM HAMERNIK: There, there are a lot-- there's a lot of hydrogen sulfide in the environment at a fire and those chemicals are off-gassing off of the heated materials from the fire. There's a lot

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of carbon monoxide. Everything in our homes is made of plastic and we know that's a carcinogen. And, and that stuff stays in your clothing and your gear for months if you don't wash it and--

BLOOD: Teflon, Nomex--

TOM HAMERNIK: Yep. Yeah, we wear Nomex hoods.

BLOOD: --PFAS exposure?

TOM HAMERNIK: And that's probably-- your hood is probably the most dangerous thing because it's directly on your skin.

BLOOD: Right, sorry. I just wanted to make sure we get that on record. We always think about the chemicals involved with the house burning, but the gear itself is also a danger and I don't think that's-- a lot of people realize that that's part of the concern.

TOM HAMERNIK: Yes, there were some, there were some things used in older gear from the '80s and '90s that have proven to be carcinogenic and those need to be replaced. I think NFPA requires-- I think they recommended eight-year cycle for bunker gear replacement, protective clothing, and I know we've got some that are significantly older than that.

BLOOD: Thank you so much for helping me get that on record.

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

TOM HAMERNIK: Thank you very much.

B. HANSEN: We'll take our next testifier in support of LB420. All right, seeing none, we will take our first testifier in opposition of LB420.

PAUL BARTA: Hello, members of the Business and Labor community-- or I'm sorry, Committee. My name is Paul Barta. I am here on behalf of-- it's Paul, P-a-u-l B-a-r-t-a. I'm here on behalf of a group called Nebraskans for Workers' Compensation Equity and Fairness, largely comprised of employers and insurers, some are from the insurers-- insure some of the municipalities. They'll be involved here. First and foremost, although I am testifying in opposition to LB420 or at least portions of LB420, it's very clear what firefighters and volunteer

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firefighters do is extremely important to the community. There's no question about that. And there's also no question that if firefighters, volunteer firefighters incur some kind of injury or occupational disease from their employment, that it should be compensated. They should be taken care of and no one, no one at least that I'm here on behalf of, would argue otherwise. I think the larger question-- I anticipate largely what you see in the sub-- submitted testimony in opposition is the issue of a presumption. Workers' compensation is a system that's set up theoretically to be a more efficient manner for employees who are injured to gain recovery. I would posit that all the injuries that are currently covered or that would be covered under LB420, under workers' compensation, because that is-- you know, this is a largely pension bill that's being modified to cover workers' compensation in some respects. These are all injuries that are recoverable under workers' compensation currently. The issue is the presumption, the presumption that-- I mean, it's-- as, as one of the senators noted, it's not just cancer. There's a lot of conditions that are being covered under this and fairly broad. And so the concern here is that it, it kind of opens up a door to something where there's already the ability to recover, but, yes, there's an obligation on that employee who feels he or she has been injured to prove that, to bring that claim forward and demonstrate it through their own medical evidence, things of that sort. So the concern here is largely with the presumption across a very wide class of potential injuries or conditions, as opposed to going through the normal route in workers' compensation, which you present some evidence, present the claim. It can either be picked up or denied and then, of course, they have that right to proceed forward with legal redress. That would be the extent of my testimony. I'm-- if there's questions, of course, I can answer those.

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

GRAGERT: Thank you. Thank you for your testimony. You say with volunteer firefighters or firefighters, it's a broad range. Isn't that a broad range with every, everyone you deal with workers' compensation?

PAUL BARTA: Exactly right, which is why the concern of a presumption arises, is that it-- given that there's, there's such a significant amount of conditions that fall under this, the concern-- I mean, once

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again, I realize it hasn't been proposed, theoretically, perhaps if it was a smaller range. We were talking-- most of the, the prior individual's testimony related to some of the cancer issues. I could understand perhaps a presumption relative to a smaller, more specific class of conditions. But the problem is when you have that large of a class of conditions, you have a population that naturally they're just going to age, of course, as they, as they continue forward on the fire department or volunteer fire department. The concern is just how broad that is and then applying the presumption to it.

GRAGERT: Even with the-- I mean, they're going to take a, a test, I guess, health test, stress or a physical test.

PAUL BARTA: Yeah.

GRAGERT: Go ahead.

PAUL BARTA: Well, my, my only concern in, in, in reading this bill-- and I don't, I don't mean to cut you off, senators-- when I read that test-- there's two things, but when I read the requirement for a test-- and perhaps I'm misinterpreting it-- the test only goes, I believe, towards the cancer and the blood-borne pathogens piece.

GRAGERT: What was the second part of that? I--

PAUL BARTA: There's, there's the blood-borne pathogens piece--

GRAGERT: OK.

PAUL BARTA: --in here. And because there's several statutes that are being modified, I believe-- for example, I don't read the test applying to the hypertension, heart or respiratory defect part. Perhaps I'm misinterpreting the statute, but when it comes to the kind of precertification tests that you talked about, I believe that just applies to the cancer portion and it applies, applies to the blood-borne pathogen piece. My only other comment on that would be-- and, and once again, perhaps this is an issue for the-- whoever introduced it to consider is the individual who came before me that testified, how long he's been on, been on the volunteer fire department, which is once again a wonderful thing and a wonderful service being provided. But if I take that test when I'm 28 and it demonstrates I don't have cancer in my system and I'm on this-- I'm on the force for 30 years, there's no indication here that you have to be

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recertified or things like that and so-- and frankly, not being a doctor, it appears there's a lot of conditions here, which can also just develop through age, time, things of that sort. Once again, the purpose of this testimony isn't to indicate that these individuals shouldn't have the right if they do have some kind of long-term or even acute exposure to recover. The issue is more one of the presumptions, given the broad range of classes of conditions.

GRAGERT: OK, thanks.

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

PAUL BARTA: Thank you for your time.

B. HANSEN: Anybody else wishing to testify in opposition to LB420? All right, seeing none, is there any wishing to testify in the neutral capacity? Seeing none, we will welcome up Senator Pahls again to close. And while he's coming up again, we did have some written testimony, had one in support of Steve LeClair from the Omaha Professional Firefighters Association and one of opposition from Korby Gilbertson from the American Property and Casualty Insurance Association and no letters of the record.

PAHLS: Thank you, Mr. Chair. Several good questions were posed by the last individual who was up here. I think we could probably look to find out some of those answers. I do think we ought to really give serious thought to this and what I'd like to do right now is talk a little bit about the fiscal note. If you have that in front of you by chance, I'll just talk about a couple of the issues. The fiscal commission-- or the Workers' Comp Court establishes no fiscal impact from this bill. I'm just going to read the city of Imperial says they see about a \$2,000 increase. City of Lincoln, no fiscal impact. City of Omaha, \$100,000 per year. If you read down a little bit lower, the authors of this report thought that the Omaha estimate was high, especially if, if Lincoln is saying none. So that part, but the issue of the number of years you've been a firefighter and where does this all -- so I need to find out that information because I do not have that. I do think that we could find the answers to the questions so that we could proceed with this because as somebody indicated, we have a lot of individuals out there, especially in the rural areas. If you continue to want to attract individuals out there-- because it's a

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tough job. I can remember many, many years ago, my dad being a volunteer fire-- I mean, we're talking about long time ago. We found that the amount of time that he did do that, drove the ambulance, the whole bit. He was a very, very important part of the community, so I think we should really think about that, also about-- just to give you an idea, when we talk about the gear that the firemen and women wear, they are supposed to wash them every time they use them. In the city of Omaha, we had so many times somebody had to use it without washing them. They had the big washing machines in the stations that-- we found that, that we had to buy another set and they were expensive, but they didn't have time to wash them and have them ready in some cases, not in all cases, but the city of Omaha thought it was wise because of the threat of cancer to the fire people-- firemen and women who were working there. So I will end my discussion and I'll answer any questions if you have them.

B. HANSEN: All right, any final questions from the committee? Yes, Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. Just want to get this on record also. I know we've been talking a lot about physical cancer and, and all this, but PTSD is going to be big one and taking a test one year and not testing-- you know, it can happen within one event or, or multiple events. That, that has to be addressed too, you know, so-- workers' comp, you know, are we going to be able to carry or cover everything that a volunteer fireman or a paid fireman comes up against? I don't know, but whether it's broad or not, that's their job to figure out what-- I guess would be to figure out did this happen from this profession or somewhere else, so thanks a lot.

PAHLS: Yeah and I do think we could find some of that information from past years so we could think forward what are the things that should be covered? Apparently insurance companies think this is too broad. You know, I heard cancer was very, very solid cancer, but others I didn't hear, but we, we, we can look into that.

GRAGERT: Thanks a lot.

PAHLS: Thank you.

B. HANSEN: Any other questions?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee February 8, 2021
Rough Draft

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LATHROP: Maybe just a, a comment.

B. HANSEN: Yes, Senator Lathrop.

LATHROP: So I carried the mental-mental bill that we eventually got passed for, for first responders to include firefighters and police and faced opposition from the same people that have just shown up, so this Gilbertson's group as well as the work comp equity group. And it isn't or at least it wasn't then-- they really don't have a dog in this fight. This is the slippery-slope argument.

PAHLS: Yes.

LATHROP: We don't want to see this happen with firefighters because pretty soon you'll find somebody else to add to it, but this seems reasonable to me. Same-- very same situation with the metal-metal bill we did back when Abbie Cornett was still here.

PAHLS: Yeah, well, that's the reason I say I, I could try to find the information. I think once we found the information and gave it to you, you probably would support it. That's-- I mean, I'm that confident.

B. HANSEN: All right. Thank you.

PAHLS: Thank you.

B. HANSEN: That will close LB420-- the hearing for LB420 and we will open it up for LB598 and we will welcome up Senator Wishart. Welcome.

WISHART: Well, good morning, Chairman Hansen, members of the Business and Labor Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the 27th District here in west Lincoln. I am here today to introduce LB498 [SIC], the Small Business Stabilization Grant Program, or as I like to call it, the Main Street Recovery Act. I first would like to thank Chairman Hansen for your flexibility with scheduling this hearing. As you all know, our Appropriations Committee was asked to self-quarantine and so I really appreciate you waiting and holding this till I was back. I represent a diversity of small businesses in Nebraska in District 27, including those that exist within the Historic Haymarket. Last year and this year as well has been an absolutely devastating year for the bar and music venue, restaurant industry as met-- as well as many other businesses in the service industry. Many bars that I have met with and continue to meet

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with have lost at least over 50 percent of their revenue. I have bars in the district that I represent that are down 90 percent revenue and that is because of the pandemic and because of the following shutdowns. It is not because of any business decision that they have made on their own. Yes, there was federal relief that came to them, but it wasn't enough. And it was very frustrating last summer during the interim to be talking with businesses and really have nothing that the state could do to be able to support them in this situation during a time of crisis. Already in the Haymarket alone, I walk through those streets and see closures of restaurants that were there that I loved before this pandemic. And I really worry every day that I'm going to wake up after the vaccinations are through and people feel a sense of certainty in coming out and we will not have a lot of our Main Street businesses existing anymore. So I got to thinking, how can we as a state set up a targeted system of relief for the future where we have basically an emergency fund in place to help small Nebraska businesses who experienced this devastation from a natural disaster or an emergency? This way, when we as a state encounter flooding, wildfires, or a future pandemic and our Legislature is out of session, we have a mechanism already in place on the state level to provide immediate relief. I was reminded when drafting this legislation that we passed several years ago a bill that was brought, I believe, by Senator Erdman and championed by Senator Linehan and then passed unanimously by the Legislature, a bill that would provide property tax relief to a person who had lost their home during a flood. And this bill, in my mind, is sort of channeling that same goal, which is to realize that there are small Nebraska businesses in our state where they will not make it unless they have some level of cash flow relief, relief during a, a devastating emergency in their community that impacts them. So I have met with many stakeholders from across the state from the business community when putting together this bill and we looked at all different types of mechanisms. We looked at a sales tax credit, all different types of mechanisms, but eventually I decided that why reinvent the wheel or make a very complicated system out of something that we already have something in place? When we received CARES funding last year, the government and the Department of Economic Development had a fund called the Small Business Stabilization Grant Program that they utilized to be a flow-through for that money so that they could channel, channel relief to small businesses. The fund worked pretty well and so I think it makes sense that we just continue this fund in perpetuity. So here's how it would work moving forward.

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It's called the Small Business Stabilization Program. We would establish that. It would be that following a natural disaster or a declared state of emergency by the Governor, the Department of Economic Development would award grants to businesses that are physically located in Nebraska. They have to have no more than \$1 million of gross revenue in the most recently completed calendar year. I'm not entirely married to this number, but we had to start somewhere and I do really want this focus on your small, small business. The business must show sufficient documentation that gross revenue over a period of one month, month or more has declined by at least 50 percent from the amount of gross revenue received over the same period in the prior year. This is really important to have in this because what we found and some of the biggest criticism of this past grant program last year was from businesses who weren't able to get the second round of funding, had 90 percent revenue loss, but they got beat out by somebody who didn't show any revenue loss, but they qualified. So I do think we need to have sort of a qualification that because of the natural disaster, you have experienced loss. I think that also helps to make sure that we're focusing in on businesses that are viable and not those that, for other reasons, have experienced revenue loss other than that natural disaster. And then the grants would be awarded no more than \$12,000 to any one business. I just mirrored this off of the current program. Again, you know, I recognize that this isn't going to solve a business' financial strains when they're dealing with an extraordinary situation, but the feedback I hear from small businesses is cash flow is everything. And if you can get some significant cash flow quickly to you, it could be the difference between whether you shutter or stay open. So our Legislature can fund this program to the amount that we believe is necessary to help these small businesses recover, similar to the way that we fund the Governor's emergency fund. And that would give the Governor, him or her, the flexibility to be able to address emergency situations for Main Street businesses at that time. I have included an appropriation for \$20 million for us to continue to provide targeted relief to businesses still struggling through this pandemic. I think there-- again, I have heard from some that we're not able to access this \$12,000 grants because of technical issues, computers, and whatnot, but there are some that is experiencing-- these are the bars and restaurants and the very businesses that these dollars were-- need to be targeted towards. And then also with this \$20 million, if we receive more federal funds, there's no reason that this wouldn't be the fund through which we as a

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state would already have a grant program in place that NDED is already used to administering. They've already done this. They know who to contract with to do it, that this would be a perfect flow-through for that. Main Street businesses in Nebraska are absolutely vital to our, our, our economy and our community and the vitality of that. Whenever I drive through small towns and towns across Nebraska, I make a point of going to their business district. I spend a lot of time in, in the business district in Tekamah. It's one of my favorite places in the whole world because of its main street and the businesses that exist there. And it's really important that, you know, we can look at the stock market doing fine and people saying, oh, everything's fine then with the economy. And then you go out and you walk down your street and you talk to your local independent business and it isn't doing fine. And so we really need to have something in place for this. And again, I want to remind the committee this isn't just for pandemics. This is for floods. This is for wildfires. This is for the emergency situations like in Pilger, Nebraska, where an entire business is devastated. And as much as we can do as a state to support them through that to me is a win for all of us. And with that, I'd be happy to answer any questions.

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

GRAGERT: Maybe a couple.

B. HANSEN: Yes, Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. Thank you, thank you for bringing this bill. You know, coming from northeast Nebraska and the flooding we just went through, it's got significant potential for sure. On the \$20 million, is-- will that be a pot that once it's, once it's used up, there's another \$20 million or how, how do you see that?

WISHART: I funded it as one-time funding, so it would be for this specific pandemic emergency, but I see this fund working very similar to the Governor's emergency fund. So we don't sit on a lot of cash in it because obviously we all have different priorities funding wise and, and limited budget, but I do see it as an opportunity where, say we see something coming up or there's-- say there-- we're hearing that there's going to be flooding coming down the line. We put some money in there and we give the, the ability for the Department of Economic

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Development to get that money out quick to the businesses that are victims of the flood.

GRAGERT: OK, so I hope-- now I also heard, you know, the Haymarket and, and-- you know, the pandemic where fed-- federal money didn't provide enough. My question is is this a separate-- is this going to be separate from-- if you've already received federal monies, can you still-- this would be in addition to those federal monies or is this just a isolated Nebraska thing where flooding, tornadoes, the, you know, Governor emergency, not necessarily a federal thing?

WISHART: Both.

GRAGERT: OK.

WISHART: So when there is a state of emergency-- so for example, if they-- if we as a state go into a state of emergency, but it's only something that affects a certain portion of the state, then that certain portion of the state, those businesses would be eligible for this because you have to show that that natural disaster emergency declaration is what has impacted your, your business' revenue. We did not limit businesses being able to access this if they've gotten federal funds. But first of all, I'm happy to, to work on that or message that if the committee wants to, but from-- what I would like to do is, is really base it off of their revenue from the previous year and whether they've received loss and not take too much into account the federal dollars if that hasn't made up the loss that they've experienced. And this-- again, this is working just almost exactly the same as the Governor's CARES Fund program that he administered.

GRAGERT: One last question and then I'll be finished. I guess I see-- you know, where I come from, the northeast, not very big businesses at all, not probably anything near Haymarket, OK, but \$12,000 would mean a lot more to somebody making \$100,000 than somebody making \$1 million. I know you're not married to the \$1 million, but I just don't know. That's what I would like to think about is where is that cut off? Twelve-thousand dollars is going to mean a lot to-- I mean, that means a lot to me, don't get me wrong, I won't make a \$1 million in my lifetime. But, you know, the \$12,000 and I'm, I'm a company that only makes \$100,000, that may, may mean the difference.

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WISHART: Yeah and again, I am very open to this committee looking at sort of what-- you know, where do we want to really target that? You know, a \$1 million revenue for a business-- and for example, the Haymarket, we have a lot of just independent businesses that are owned, have been there for a long time. It's hard enough to run a restaurant, especially when you're in-- especially in Lincoln, it's really hard. You don't have the same customer base as that we do-- they do in Omaha and, you know, I really-- I'm, I'm seeing restaurants that I never thought I would see leave us leave. And we've worked so hard to really build up that area of Lincoln. It's very important and again, this won't fix the entire situation, but it's definitely an effort that the state should do. And other states, very few other states have done this. Colorado did a little something. And I think it means a lot just to the narrative, too, of what we think about small businesses that we move forward with this fund.

GRAGERT: Thanks a lot.

B. HANSEN: Yes, Senator Halloran.

HALLORAN: Thank you, Senator Hansen. Thank you, Senator Wishart, for bringing this. I share your concerns about restaurants and bars and I, and I hope you share with me-- we'll talk about that later-- about concerns I have with other bills that are going to cause more jeopardy to both of those bars and restaurants. But the question about the guesstimate for \$750,000 to administer the program by outside vendor is-- do you think that's reasonable, high, low? It seems like a lot of money for me.

WISHART: It is the-- my understanding, it is the money that they spent to contract with a consultant for administering the-- this program with the CARES dollars. And, and it does seem high to me, but again, I haven't had time to talk with the department about ways that maybe we could find some efficiencies on that. Because as many dollars as possible that can go to the businesses, are freed up to do that, the better we are as a state.

HALLORAN: I would like to submit a bid for about half that because basically is-- you're basing it upon lost revenue and that should be easy to reflect on that with your tax returns and in a heartbeat, I would do it for half that if, if they're interested. Thanks.

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B. HANSEN: Yes, Senator Blood.

BLOOD: Thank you, Chairman Hansen. Senator Wishart, I'm going to build on what Senator Halloran just, just brought up because that was one of my concerns too. So the difference, though, between the two grant programs is that when we, when we take money from the federal government, the reporting criteria is very complicated and, and that's why we have to hire an outside source. But we are not going to have those same complications as far as guidelines and reporting, will we, on a program such as yours?

WISHART: Well, I have definitely not put anything around guidelines or reporting. Being on Appropriations Committee, I always see a price tag when you add for a report. So I'm, like, no, no report necessary, just, you know, follow the rules. I, I do imagine that this could be a flow-through for federal dollars. So potentially the department is anticipating that if we pass federal relief package this year on the federal level, that this maybe could be a flow-through. Again, I haven't talked with them about that. I read the fiscal note this morning.

BLOOD: Yeah, it's hard when get the fiscal note as the same day as the hearing. I can concur. That's one of my concerns as well. I just-- I look at some of the fiscal notes and they're, like, we need to hire a person at \$100,000 a year or we need to hire a consultant at \$750,000 a year. And it's, like, how do I get one of those jobs? But my concern is, is this, is this inflated and why? And I, I don't know why they couldn't do this in house, so I would hope that we can get a better answer for that before we "exec" on it.

WISHART: The one other thing I'll add to that is that, you know, again, I don't anticipate that this is something that is continually funded all the time. This is for an emergency situation and one that arises. And again, like, we met as a Legislature and we put dollars into the Governor's emergency fund this year in a special session. Well, if we had this in place, we could have put some targeted relief pot of money in there too. So you're not going to need full-time staff for, for this project, which is, again, why I think they're going and looking at a consultant, but look forward to, to sort of negotiating that price tag with them.

BLOOD: All right, thank you.

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B. HANSEN: Yes, Senator Lathrop.

LATHROP: Just briefly, Senator Wishart, when the pandemic hit, a lot of businesses looked to their business insurance to see if the business could be covered in their business loss coverage and I know I looked at a number of cases and a lot of comment-- legal commentators suggest that a business can recover for their loss of business if they have a natural disaster like tornado, fire, flood, but the pandemic doesn't trigger the ability to make a claim for loss of income. The bill might benefit from covering net losses after insurance because with COVID, these people that you see down in the Haymarket, they're not getting-- were able to make a claim for their business losses. But if they had been struck by a tornado, they could. And so we may want to, we might-- may want to limit the benefit from the fund to those losses not otherwise covered by insurance.

WISHART: Absolutely and it's my understanding here that, that businesses that qualify intended to provide easement for loss of business and damage in business, such as insurance or federal disaster relief payments, but did not receive remittance to make their losses whole and the corresponding month would qualify for this program. So that's the way it was intended, but I-- again, I am very-- you are all the subject-matter experts on business and labor side of things and so if you find that there is an even better way for us to really target to ensure that this is going-- my goal is that this is going to businesses that are not getting cash flow support in one way or another, so I'm very amenable to an amendment to address that.

LATHROP: OK, thank you.

B. HANSEN: Any other questions? Just one question. Senator Lathrop answered one of mine. I was going to ask that same one, but also-- so when we have to reappropriate money into this fund, say-- we're assuming we're probably going to use up all \$20 million this year and then say there is some kind of other natural disaster when we're not in session. Would we have to come back as a special, special session and reappropriate funds for this or--

WISHART: We would have to unless the Department of Economic Development could-- obviously, if they had some dollars they could use, but--

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B. HANSEN: OK.

WISHART: --no, we would have to. So the goal is that we, we kind of look ahead and be prepared, but at least it gives us more of something in place than not having a fund and having to rebuild that sort of funding mechanism. But ideally and if we can figure out a way-- I couldn't-- of being able to trigger these dollars-- but we have to do that with the emergency funds. I mean, it works very similar. We-- I imagine that if something hits us like a pandemic or a real major disaster, we will be in giving the Governor emergency funds and that would-- could be an opportunity for us to do this as well.

B. HANSEN: OK and the, the \$1 million in revenue, it's gross revenue?

WISHART: Yes.

B. HANSEN: Thank you. Any other questions from the committee? Seeing none, thank you very much. We'll take our first testifier in support of LB598.

KRISTEN HASSEBROOK: Good morning, Senator Hansen, members of the Business and Labor Committee. My name is Kristen Hassebrook, K-r-i-s-t-e-n H-a-s-s-e-b-r-o-o-k. I'm the registered lobbyist for the Nebraska Chamber and I'm here today on behalf of our membership, as well as the Greater Omaha Chamber of Commerce and the Lincoln Chamber of Commerce in support of LB598. Quick, decisive action by local, state, and U.S. leaders in addition to business innovation have gone a long way in stabilizing our economy and starting us down the road to economic recovery. Vaccines are on the way, yet some businesses have not reopened. Communities and families continue to struggle. And as much as possible, we must continue to respond to their calls for help. One of Nebraska chamber's COVID-19 immediate recovery priorities outlined in our back to business initiative is to rebuild hard-hit sectors critical to community, vitality, and growth. LB598 puts in place a method to do that now in response to the ongoing pandemic, but also creates a framework to provide the support in the future if such an event were to occur again. Main Street, service-sector small businesses have been particularly hurt by this pandemic and it is these same businesses our communities across the state rely upon to serve as the heart of their communities. And consistently one of the main concerns they have told us and documented by the UNO Center for Public Policy and Surveys is the need for access to flexible and

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accessible cash flow during this pandemic. The grant process that was facilitated with CARES Act dollars is similar to what is envisioned with LB598 and we are pleased to see an opportunity to put such a program in, in structure and place for the future. The bill is also appropriately tailored to benefit small businesses with a cap on gross revenue and those that are most in need, demonstrating revenue losses of at least 50 percent caused by that qualifying event. We would encourage the committee to support and advance LB598 from committee and I would be happy to answer any questions.

B. HANSEN: Thank you. Any questions from the committee at all? Seeing none, thank you very much. Is there anybody else wishing to testify in support?

JOSEPH KOHOUT: Good morning, Senator Hansen, members of the Business and Labor Committee. My name is Joseph D. Kohout, K-o-h-o-u-t, and I am the registered lobbyist appearing today on behalf of four clients: the Nebraska Golf Alliance, the Associated Beverage Distributors of Nebraska, the Nebraska Regional Officials Council, and the Metropolitan Area Planning Agency. We appreciate very much Senator Wishart's desire to assist small businesses that have been affected by the pandemic. Certainly this was foreseen, the scale of which was enormous. The effect it has had on businesses of all kinds is unparalleled in the history of our state and our nation. For the Nebraska Golf Alliance, we have seen firsthand the effect on golf-related businesses like those who sell golf equipment and those who provide lessons. Some of these related businesses are the smallest of the small and in many cases seasonal. While some of the grant programs launched during the height of the pandemic helped those industries with multiple employees, there were still many that were affected. Don't get me wrong, we appreciate very much the efforts by the Governor and others to make sure that individuals could still play golf during the pandemic. However, there are some smaller parts of the golf ecosystem that struggled. For the Associated Beverage Distributors of Nebraska, otherwise known as Nebraska's beer distributors, we have seen the devastation that the pandemic has reckoned on restaurants, bars, and other licensed retailers. While the beer distributors have worked with our retail partners in these industries by seeking relief from certain requirements regarding return of product and working with the Nebraska Restaurant Association to assist retailers with to-go cocktails-- the hearing I just came from-- we know that we are still struggling to make payroll. They are

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still make-- struggling to make payroll and pay other bills. For both the Nebraska Regional Officials Council and the Metropolitan Area Planning Agency, we appreciate how forward working this-- looking this legislation is, that it doesn't just look at the pandemic. As some of you are aware, Nebraska's economic development districts have been at the fore during times of floods and other natural disasters to assist business in some of our hardest-hit areas to find a variety of resources to assist those small businesses in time of true struggle. This is, in their mind, another tool in the proverbial toolbox to assist those businesses now and that-- when the next natural disaster comes. In sum, we would ask on behalf of all these clients to advance LB598 to General File. I would be happy to answer any questions.

B. HANSEN: All right. Thank you. Any questions at all? Thank you very much.

JOSEPH KOHOUT: Thank you.

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

KATHERINE WHITE: Good morning. My name is Katherine White, K-a-t-h-e-r-i-n-e W-h-i-t-e, and I am here today representing the Lincoln Independent Business Association. LIBA represents over 1,000 businesses, primarily located in Lincoln and Lancaster County, and a significant part of our mission is to communicate the concerns of the business community to elected and appointed officials at all levels of local government. Chairperson Hansen and members of the Business and Labor Committee, thank you for your time today. I am here in support of LB598, which would create the Small Business Stabilization Grant Program Act. The Legislature has precedents for supporting its constituents under extreme circumstances. In 2019, Senator Erdman's LB482 aimed to provide a reduction in property taxes for Nebraskans whose property was destroyed or damaged by the devastating bomb cyclone and subsequent flooding our state saw that spring. His proposal was eventually merged into Senator Linehan's LB512 and was unanimously passed by the Legislature, ensuring that affected landowners received the property tax relief they needed. Just as the flooding in 2019 was a damaging blow to our state, the current COVID-19 pandemic has had a devastating impact on Nebraskans in many ways. Some of those most impacted by the pandemic include our small business owners. At LIBA, we have witnessed countless businesses, both new and old, substantially downsize or even close their doors due to a

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lack of business from imposed restrictions at no fault of their own. While LB598 would cost the state \$20 million, this grant program could be the difference between fighting to keep the doors open for another month or having to shut down for good. Supporting our small and local businesses is essential as we look to restimulate our local economy while also making sure we can continue to provide jobs and ensure our unemployment rate stays the lowest in the nation. LIBA stands in support of advancing LB598 out of committee. We appreciate Senator Wishart's introduction of this legislation to help ensure our small businesses have the financial capacity to keep their doors open during a time of great need. Thank you for your time today and I would be happy to answer any questions regarding LIBA's support of LB598.

B. HANSEN: Thank you very much. Any questions from the committee at all? Seeing none, thank you very much. Anybody else wishing to testify in support? Seeing none, anybody wish to testify in opposition to LB598? Seeing none, is there anybody that wishes to testify in a neutral capacity? All right and Senator Wishart waives closing. And with that, we will mention that we did have one written testimony in support from Bob Hallstrom from the National Federation of Independent Business and Nebraska Bankers Association and two letters for the record in support. And that will close that hearing for LB598 and we will open up for LB440 and we'll go to Senator Matt Hansen.

M. HANSEN: Thank you. Good morning, Chair Hansen and fellow members of the Business and Labor Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB440, which makes several technical changes to the Nebraska Fair Employment Practices Act, or FEPA, following discussions we had with the Nebraska Equal Opportunity Commission or NEOC this interim. First, it corrects an apparent error in the definition of cause for action by our-- disability by association, which is different in FEPA than in the federal Americans with Disabilities Act, or ADA. The current Nebraska definition effectively excludes anyone from seeking relief under this cause of action through the NEOC. This bill would fix that by replicating the ADA definition found in federal U.S. code and the Nebraska statute and strike the old, erroneous definition currently in statute. To be more specific, the current Nebraska definition requires both parties to be a person with a disability, which is not the intent of the cause of action for disability by association. This should be obvious, as someone who is obviously already experiencing a disability is already

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covered by the ADA and stated equivalent. Second, it updates state statute to allow the NEOC ten business days rather than ten calendar days to serve a complaint on the respondent, allowing for more operational efficiency within the NEOC. The commission has indicated that this will provide meaningful flexibility to ensure proper service, especially when that current ten-day window falls on or near a holiday. And third, finally, it eliminates the requirement for a mandatory finding against the respondent who fails to respond within 30 days under state statute. This would confirm the NEOC's ability to work cooperatively with the respondent and provide an extension if needed. In my mind, these are all simple updates that will prove the effectiveness and efficiency within the NEOC. With that, I'd be happy to close and take any questions.

B. HANSEN: Thank you, Senator Hansen. Are there any questions from the committee at all? Seeing none--

M. HANSEN: Thank you.

B. HANSEN: --thank you very much. Is there anybody that wishes to testify in support of LB440? Welcome back.

MARNA MUNN: Thank you. Good morning again, Chairperson Hansen and members of the Business and Labor Committee. My name is Marna Munn, M-a-r-n-a M-u-n-n, and I'm an attorney and the executive director of the Nebraska Equal Opportunity Commission or NEOC. I'm speaking as a proponent of LB440 and I'd just like to thank Senator Matt Hansen and his staff for being open to the idea of helping us make a few adjustments to our Fair Employment Practices Act and essentially just ditto what he said. And I was-- I just wanted to appear in support of it and to answer any questions about any of these three items. And I can repeat what he said, but you got the gist.

B. HANSEN: All right, any questions from the committee at all? Easy-peasy, thank you very much.

MARNA MUNN: If you wind up with any questions, I'm always happy to answer them if you want to contact our office, so thank you.

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

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SUZANNE SWANSON: Well, thank you. Since I'm the last one, I'm asking to be able to read the letter in its entirety and no time limit per say just for the letter, it's like under six minutes. I timed it last night when I was working on it.

B. HANSEN: OK.

SUZANNE SWANSON: Thank you. My name is Suzanne Swanson, S-u-z-a-n-n-e S-w-a-n-s-o-n. I have no vested interest with any organizations and I'm here as a private citizen to vote-- voice my support for LB440. I am asking that you send this bill to the floor for full debate. I will preface this letter with that I am an individual who has Asperger syndrome. That's a disability covered under the ADA and I am currently involved with the NEOC on a complaint against an employer for discrimination, failing to hire me because of my disability. I do want to share my personal experience with having a disability and how it relates to employment because it's been very hard for me to find, retain, and enjoy fulfilling employment. I have struggled all my life with employment and I did not know until I was 28 that I have Asperger's syndrome. That explained a lot of it. However, it does not cover all the issues and-- I just need to make a side note. As far as I understand, the bill also was going to eliminate the kind of assessments you have to take for employment, behavioral, and all that stuff unless that's been edited, but last I looked, it was in there, so that's what I'm writing about. I find the employment test to be very discriminatory. I'm an exceptionally good employee. I have an extremely hard work ethic, give my 100 percent to a job, come in when they need help, pull extra hours, a lot of times just last minute, and do what's best for this organization, yet I cannot get hired at those who have tests because I can never pass them. But I have had coworkers who have passed them and should not have been hired because they were flat-out lazy, did not do their job, or they were just there for their paycheck and they should have been fired, but they weren't. Please explain to me how that is fair or right when I'm actively wanting to do the work and be there to help better the organization. I must have help to pass them and I must lie to pass them too. I remember when I was involved with Nebraska VR, my counselor told me they must help almost all their clients pass these tests. These tests were not written for people with disabilities, especially those who have an autism spectrum disorder. We do not see the world the same as the neurotypical-- is the term we use to call people who are not on the spectrum. We see various solutions to the question and we are

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creative. We think outside the box and can justify an answer with how we think about the question at hand. I have failed these tests over and over because of that. They are written for neurotypicals. They are cookie cutter tests. They do not take into consideration how there is more than one right answer to a question. Without giving too much away with my current case with the NEOC-- and honestly, I'm not sure if I should even talk about it or can-- I will just give an overview of the claim. The employer failed to hire me based on my Asperger's syndrome because I failed their assessment by 1.5 percent, yet they claimed other reasons for failure to hire at the N-- to the NEOC, which simply is not the truth. Their assessment was related to the job and the company's core values and beliefs, but they did not consider that there could be multiple answers to a question at hand and the job I applied for was dealing with a different population that has no straight cookie cutter answer. In order to work with this population, you must be creative, you have to think outside the box, and you have to know what they want for an answer. It's not always the correct way in handling the client. I have experience in working with this population and I know firsthand their questions were not realistic to approach-- how to approach a client, especially if a crisis is involved. These are the type of scenarios that make these employment assessments a poor tool to use. They do not think ahead and how one answer does not fit all. They look only at it from one point of view. These tests need to be stopped immediately as they actively discriminate against myself and others. Employers today are all about making a diverse work culture, yet if we do not fit in by passing an assessment to prove our worth and talent, then how is that promoting a diverse work culture? By putting a stop to these assessments, it will level out the playing field. I'm honestly surprised that these assessments have not had any class action lawsuits against them. I do not know how employers in good faith and consciousness can back up their use of these tools for employment practices. As I said in my example above, I could be the best, hardest-working employee, but not hired because I cannot pass it and those who pass it should not be hired because of their lazy work ethic or failure to do their job. I am also urging that the 30-day mandatory response date be reinstated in this bill, as employers should not be given more than that to respond to such allegations without automatic finding of discrimination. Many, if not most of them, will end up asking for extensions anyway. This bill is to help protect those with disabilities' employment. Why is it now being geared towards

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employers? They already have enough protections in the workplace. Employees are the ones who need more protections. I am here not only to advocate for myself, but to advocate for those who have disabilities, but are afraid to speak up and have their voices heard about their experiences with these assessments. I am not afraid to take employers and test creators on, as I know what they are doing is discriminatory and I will not cease active-- advocating for eliminating them until they do so, whether it be through a court-ordered class action lawsuit or just a new way of doing employment practices. Please pass this bill and make it into law. There's always a question of why Nebraskans are leaving the state to pursue employment in other states. The answer is amazingly simple. Nebraska is not a very employment friendly to those with disabilities, those who are in the LGBTQI-plus community, and to those who are convicted felons. Why would we want to stay in a hostile state? I know I sure do not and as soon as I can, I will be leaving it for a state that is friendlier and welcoming to me because of my disability and accepting me for who I am. Thank you for your time hearing my testimony today and considering what I've shared. I will take any questions you have.

B. HANSEN: OK. Thank you. Good timing, actually. That's good. All right, thank you for your testimony. Is there any questions from the committee at all? Seeing none-- oh, yes, Senator Hunt.

HUNT: I don't have a question. I just want to thank you for sharing a personal experience because a lot of time here, we hear from lobbyists and agencies and especially during COVID, we don't hear as much from citizens in Nebraska who are representing themselves. So thank you for being patient and waiting and for sharing that with us.

SUZANNE SWANSON: Thank you for actually bringing this bill forward. I was really excited when I jumped on the website to see what bills got proposed this year, so--.

B. HANSEN: Thank you.

HUNT: And I'm really excited when I hear citizens pay attention to what we're doing, so thank you.

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

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SUZANNE SWANSON: Thank you.

B. HANSEN: Anybody else wishing to testify in support? Seeing none, is there anybody wishing to testify in opposition? Seeing none, anybody wishing to testify neutral? All right, Senator Hansen waives closing and that will end our hearing for LB440 and that will end our hearings for this morning.

[BREAK]

B. HANSEN: All right. Good afternoon and welcome to the Business and Labor Committee. My name is Senator Ben Hansen. I represent the 16th Legislative District in Washington, Burt and Cuming Counties and 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 Lathrop.

LATHROP: Hi. I'm Steve Lathrop, state senator from District 12, which is Ralston and parts of southwest Omaha.

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

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

GRAGERT: Good afternoon. Tim Gragert, District 40, northeast Nebraska, six counties.

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

B. HANSEN: Also assi-- also assisting the committee is our legal counsel, Benson Wallace, and our committee clerk, Ellie Stangl. And our committee pages for this afternoon is Kennedy and Emily. So concerning COVID-19 procedures, for the safety of our committee members, staff, pages, and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. That-- the list will be updated after each hearing to identify which bill is currently being

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heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We re-- we request that everyone utilize the identified entrance and exit doors to the hearing room, which are so marked. Testifiers may remove their face coverings during testimony to assist committee members and transcribers to clearly-- 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 will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing while waiting in the hallway or outside the building. If you could, we please ask that you try to eliminate or limit the amount of handouts, if you could. And a few other notes pertaining to our policy procedures as a committee: Please turn off or silence your cell phones. This afternoon we will be hearing four bills and we'll be taking them in the order listed on the agenda outside the room. On each of the tables near the doors to the hearing room, you will find green testifier sheets. If you're planning to testify today, please fill out-- fill one out and hand it to Ellie when you come up to testify. This will help us keep an accurate record of the hearing. If you are not testifying at the microphone but want to go on record as having a position on a bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. Also, I would note, if you are not testifying but have a position letter to submit, the Legislature's policy is that all letters for the record must be received by the committee by noon the day prior to hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask, if you do have any handouts, that you please bring ten copies and give them to the page. We do use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time for you to end your testimony and we ask that you please wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last name. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then those in opposition, filed by those speaking in a neutral capacity. The introducer of the

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bill will then be given the opportunity to make closing statements if they wish to do so. And we do have a strict no-prop policy in this committee. With that, we will begin this afternoon's hearings with Senator Clements, LB684. Welcome, Senator Clements.

CLEMENTS: Good afternoon. Thank you, Chairman Hansen and members of the Business and Labor Committee. I'm Senator Rob Clements, R-o-b C-l-e-m-e-n-t-s. I represent Legislative District 2 and I'm here to introduce LB684. LB684 allows public school employees to join or terminate membership in a labor organization at any time. It prohibits labor organizations representing school employees from placing any restrictions on when a public school employee may join or terminate membership in a labor organization. Currently, public school labor organizations include arbitrary opt-out dates that are not always well advertised. If the opt-out dates are missed, as a teacher, you may have to wait over a year to officially terminate your membership with the labor organization while paying fees to an organization in which you don't wish to belong. I decided to introduce this bill because I believe in the right to associate freely with organizations with which you find value and common interests. In the same way, when you cease to find value in your organization, you should be able to leave without difficulty. In my opinion, the current practice restricts public school employees' constitutional right of free association. LB684 would allow better freedom of choice for Nebraska public school employees regarding membership in labor organizations. In addition, the bill would only apply to contracts entered into after the effective date of the bill. Mr. Charles Zurcher, with the Association of American Educators, will follow with additional information. I will gladly work with the committee and other stakeholders to try to address any concerns they may have. I thank you for con-- your consideration of LB684 and I'll try to answer any questions you may have. Thank you.

B. HANSEN: Thank you, Senator Clements. All right. Questions from the committee? Senator Blood.

BLOOD: Thank you, Chairman Hansen. How are you today, Senator Clements?

CLEMENTS: Fine, thank you.

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BLOOD: I actually have quite a lot of questions, and I apologize in advance, but I'm just going to go once. So you specifically talked about freedom of choice. Can you explain to me, based on what you're aware of, what's-- we'll use the NSEA as an example because that's the one I'm most familiar with. How do employees not have freedom of choice? Don't you choose whether you're in a union or not?

CLEMENTS: Yes, you sign a-- they're currently signing a contract that says that they'll join the membership in the union and it says you can terminate-- I think in Lincoln, it's April 1-- excuse me, May-- March 1 through April 15. But outside of that period of time, you are not able to make any changes. So I think that's what's the restriction and the reason for this bill.

BLOOD: So I've been looking that over their contracts and stuff, and I thought they could-- they could terminate at any time.

CLEMENTS: That's not the information I've been given.

BLOOD: OK, so you're saying that they can only do it in April and May.

CLEMENTS: And I believe in Omaha--

BLOOD: Is that all of-- is that all of the organizations that you're familiar with or just NSEA?

CLEMENTS: I believe they're all-- it's a combination membership. I think it's all the organizations. I was told that in Omaha, it's May 1 to June 1. And so different parts of the state, different contracts have different dates is another part of the problem.

BLOOD: So-- so when an employee signs it, it specifically says on the contract that I read that I understand that this agreement is voluntary and it's not a condition of employment and that I have the legal right to refuse to sign this agreement without suffering any reprisal. Is that not freedom of choice?

CLEMENTS: That allows them at that time to join or not join.

BLOOD: Right, which is freedom of choice.

CLEMENTS: Yes, but--

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BLOOD: So this is where I'm confused. I-- I-- I'm-- I don't understand when you talk about freedom of choice, where do they not have freedom of choice that they-- because they can drop out at any time. But just like a gym membership, when you sign up for a gym membership, maybe, you know, when summer hits, you decide you don't want to exercise anymore. You're in the bikini shape you want to be in. But when you sign that contract, you sign it for a year, and so you're still owed the dues. How is this any different?

CLEMENTS: That's-- yeah, that signing up for a year is the situation here.

BLOOD: Right, which is pretty standard because there's cost-saving measures as opposed to constantly taking things and billing every month. They've gone to like automatic ways to save money, like taking it out of your-- your paycheck. But that doesn't preclude them from being able to cancel it. I mean, you sign that form saying that you understand that you're signing on for a year, just like you do any-- I mean, I'm not the lawyer on this panel. I think we have at least two. You sign a contract that's very clear that says this is for a year, you're going to be paying a year's due-- dues. It's very clear in the writing. How are they not being given freedom of choice? That's where I'm confused. I'm still not seeing it.

CLEMENTS: We're not trying to affect any existing contracts but would-- would hope that the contract would be changed in the future to allow flexibility during the year rather than a 12-month--

BLOOD: So when you--

CLEMENTS: --lock-in.

BLOOD: --brought that to them before you wrote this legislation, what was their response that you had concerns about this?

CLEMENTS: I-- I didn't catch the question.

BLOOD: So when you brought this concern to these organizations prior to dropping your bill, what was their response? Because you said that you were concerned about this, so this is something that you brought forward to them and they said, nope, we're not going to change it?

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CLEMENTS: I've had other constituents who brought this to me and I haven't had conversations with them.

BLOOD: So here's my secondary concern, and maybe you can answer this. The vast majority of opposition letters I got pertain to abortion. Can you clarify that for me?

CLEMENTS: No, I-- that hasn't been a conversation that I've had, but some other proponents may have that.

BLOOD: So here's the concern that I'm hoping you can answer for me. So I've read all of the lett-- and I do read all the opposition and support letters that they claim that they don't want to support an organization, which, of course, they have the choice to not support, which is the thing that, again, is puzzling to me, because they feel that these organizations support pro-life bills and pro-life candidates. And I went through NADC reports and I went through-- I went back like a decade and I can't find any support of anything that's a pro-life bill. And in reference to pro-life candidates, what we both know, too, is that somebody could very well be a pro-life candidate, doesn't really matter-- if the opposition is going to get extra funds to slam that person, it doesn't really matter whether pro-life or pro-choice. That never really comes out clearly in campaigns. So the question I would have for you is, is why is this so important to people that are allegedly pro-life?

CLEMENTS: I think they've apparently disagreed with the values that the union they belong to was putting forward.

BLOOD: Can you give me an example of those values? Because I'm not finding anything that is-- that pertains to any legislation that any of these groups have ever supported.

CLEMENTS: I think I'll defer to proponents that will be speaking who have brought this bill to me.

BLOOD: So my last question, and-- and I may have to circle back after I hear these testifiers, since this sounds like some of this is new to you. And I'm not trying to put you on the spot. I just-- I thought for sure you'd seen those letters of opposition. So we know that they can terminate at any time. Yes? We know that they signed a year's contract, as most contracts are nowadays. Yes? Is that correct?

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CLEMENTS: They can terminate once a year. Yes.

BLOOD: But they do sign a contract saying that they have understanding that this is for a one-year membership.

CLEMENTS: Currently, yes.

BLOOD: OK. And they can-- they can-- it's my understanding, and maybe when we get-- like when the NSEA up here or somebody up here, that they can drop at any time. It's just that the membership is a yearly provision.

CLEMENTS: That's my understanding, yes.

BLOOD: OK, so--

CLEMENTS: They could drop-- they could request to terminate anytime, but it won't be effective till the following year.

BLOOD: Right, because you've paid for your one-year membership. OK. Sorry, I don't mean to keep pounding. I'm just trying to make sure that I have this really clear.

CLEMENTS: Sure.

BLOOD: So I really appreciate you answering those questions for me. Thank you so much.

CLEMENTS: Thank you.

B. HANSEN: All right. Other questions from the committee? Senator Halloran.

HALLORAN: Thank you, Chairman Hansen. Isn't the question-- the question isn't so much that-- that members of the NCAA feel as though if they want to quit, a part of it is they-- they want the opportunity to quit at any time during the year if something comes to their attention that they don't-- they don't care for the support NSEA might giving, that they can quit any time during the year.

CLEMENTS: Yes, that's the concern.

HALLORAN: OK. And so there really is no qualms about if it's in the contract. I think the way the bill's written, there's no qualm about--

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because it's in the membership agreement, that it's-- the membership dues are for a year. You could-- but your concern is to be able to let them quit. But the members know that those dues still stay with NSEA because of the contract, right?

CLEMENTS: Yes.

HALLORAN: All right. OK, thank you, Senator.

B. HANSEN: Any other questions? All right, thank you. We'll look forward to your close. All right. We will take the first proponent of LB684. Welcome.

CHARLES ZURCHER: Hi, how you doing? My name is Charles Zurcher, C-h-a-r-l-e-s Z-u-r-c-h-e-r, 402 Oakwood Drive, Papillion, Nebraska. I am here today to testify in favor of LB684: school employees may leave or join unions at any time. Thank you for the opportunity to speak with you today. Some background on myself, I hold a teaching degree in business marketing from UNL. I'm currently the Nebraska state director for the Association of American Educators. My wife Kim has been a teacher for over 40 years, both full time and presently as a substitute teacher. My son and his wife are currently teachers in the Lincoln Public School District. My daughter also has a teaching degree from UNL and many of my friends are teachers. I was elected in 2016 and served on the Papillion La Vista School Board. So as you can imagine, I have a vested interest and passion for the well-being of the hardworking teachers in this great state. Teachers should be allowed to join and leave and leave a lab-- a labor union anytime they want. It just makes sense. Polling shows 85 percent of teachers agree they want the freedom to join or leave at any time. Here in Nebraska, many teachers aren't allowed to do that. For example, teachers in Lincoln Education Association are only allowed to leave between March 1 and April 15. Even if they are fortunate enough to catch this arbitrary window, they aren't officially out until the next school year, which means months more paying dues and belonging to an association they no longer want to be a part of. If they try to leave on April 16, they are stuck for another 16 months of dues. If you work in Millard, don't be fooled by the Lincoln days. Yours are May 1 to June 1. Finding these dates are challenging. Some districts do not appear to post them, and the dates can theoretically be changed, narrowed or ignored at any time. Public schoolteachers are left with the uncomfortable position of their employees [SIC] taking wages out

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of their paycheck for unwanted services. Teachers who want out of the union but are unable to leave are stuck paying hundreds of dollars in membership fees for something they don't want. Annual dues in Nebraska exceed \$450 for many teachers and more. While some teachers may see the value for their money, those that don't shouldn't be forced to see money taken from their hard-earned paychecks. This bill would allow teachers to leave their union at any time they'd like, and when they do, they no longer have to pay membership dues. This straightforward solution gives teachers the autonomy and respect they deserve with respect to association membership. This bill does not interfere with an educator's voluntary membership in a labor union, nor should it. The bill requires educat-- the bill helps educators exercise their First Amendment right of speech and association by restoring control over their membership choices. Teachers are highly educated professionals who can be trusted to decide which organizations they join or leave. In 2018, the United States Supreme Court ruled that public employees, including teachers, cannot be forced to pay dues to a union they have left. Forcing our teachers to jump through hoops to leave and then continuing to take part of their paycheck every two weeks seems to be in violation of what the Supreme Court decided in the Janus case. We must align Nebraska state law with the law of the land. Most teachers, 52 percent, don't even reali-- realize they can leave the union without paying a fee. We should respect our hardworking teachers and make it easier for them to know their options and easier for them to exercise their rights. This commonsense bill will do just that. I travel throughout the state and talk to hundreds of teachers and I've found that the overwhelming majority have no idea when or how to leave the union. Thank you for your consideration in this matter.

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

BLOOD: Thank you, Chairman Hansen. And thank you for making the drive down today. I'm glad the roads were better today than last week--

CHARLES ZURCHER: You bet.

BLOOD: --for you to come; 370 can be kind of tough out of Papillion, huh? So I noticed you mentioned Janus, and that was also mentioned in one of the letters of opposition, so I did a little research on that. So your concern is that, if I hear you correctly, again, a

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freedom-of-choice issue, that they should be allowed to drop at any time and you don't feel that the dues should be have to be paid once you drop out? Is that correct-- a correct assumption?

CHARLES ZURCHER: Right. And-- and-- and give you an example. Situations change, whether or not the union decides to take a particular position that a teacher may not agree with, and they say, I don't want to be associated with that. So they want to leave the union. They can do that--

BLOOD: Yeah, exactly.

CHARLES ZURCHER: --absolutely, they can. But they're still going to have to pay the dues.

BLOOD: So-- so here-- here's my concern.

CHARLES ZURCHER: Right.

BLOOD: So I found at least ten other court cases that stated that when an individual voluntarily joins any union and they agree to pay their annual dues that can only be revoked in a certain window of time, that they're still obligated legally to pay the-- their contractual agreement, much like you would for a gym membership, a subscription, like most contracts are nowadays. And so the contracts that I looked at clearly state what the intention of the contract is. So the concern that I have is, are we going to micromanage every contract that somebody si-- signs? Because I can tell you that a lot of people have been paying gym memberships for years--

CHARLES ZURCHER: Sure.

BLOOD: --because, you know, they don't go anymore and they didn't read their contract or keep a copy of their contract. I mean, we're talking about some really smart people, right--

CHARLES ZURCHER: Absolutely.

BLOOD: --well-educated people that obviously can read a contract. I've seen these contracts. I'd say they're written at about-- I mean, I'm going to be gracious-- a tenth-grade level. So they're not hard to read. So I guess the concern I have is, why are we mothering these people? Why aren't they adults that are-- they can-- they can stop at

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any time, but they don't do their research before they sign a contract. Isn't that on them?

CHARLES ZURCHER: If I may--

BLOOD: Absolutely.

CHARLES ZURCHER: --a couple things, and you make some valid points. But then if that were the case, why do we make it hard for teachers to leave? Why do we put a one-month window on it? And by the way, they put that one-month window on it in the busiest time of the year. I taught for two years. My wife taught for 40 years. From March to May is extremely busy for these teachers. They have other things on their mind. Now is that important, whether or not to be in a union? Absolutely. But they've got a million other things, especially in the climate today, so-- and then-- and then it comes down to the right of association. Again, circumstance change it. It might be financial. It might be philosophical. If-- if that's the case and they say, well, you know what, I don't want to pay \$50 or \$60 a month in dues, I can't afford it, I need to be out, and they're not able to do that, is that fair? Is that-- is that something you-- how you want to treat a professional educator in this state?

BLOOD: Well, you--

CHARLES ZURCHER: I think not.

BLOOD: --you could say that about just about any kind of contract you could get into. I mean--

CHARLES ZURCHER: You could, but we're talking about the teachers in the state.

BLOOD: And I understand that, but I--

CHARLES ZURCHER: Yep.

BLOOD: --also, like when it comes to-- and again, I'm not a lawyer, but when it comes to contracts, I-- I mean, we'd have to pretty much tear apart every contract-- contract in Nebraska if we start doing this. So, look, here's-- here's what I hear you saying though. March to May, when do teachers usually decide that they're going to be leaving a school and maybe transferring to another state or just

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getting out of the business? Isn't that usually at the end of the school year?

CHARLES ZURCHER: It-- it could be any time of the school year, absolutely.

BLOOD: But that would explain the March to May thing to me. And then the other issue, I-- I think that they go yearly for contracts like this because of bookkeeping, is what I'm guessing. But again, I'll wait till-- I'm hoping there's somebody here that's in favor of this bill from these organizations that can answer that. But--

CHARLES ZURCHER: Sure.

BLOOD: --I mean, surely that would be a bookkeeping nightmare for any membership organization to have to deal with something on a monthly basis. I mean, that just seems kind of common sense.

CHARLES ZURCHER: I-- I can't speak for that. I know they have a large membership. And whether or not that 1 or 22 or 50 people would affect what they do is doubtful, and the reason I say that, because you have local representation of the NEA in each school district and whether or not 5, 10, 20 members decide to leave that union, wouldn't affect their bargaining or-- as far as when I was on the Papillion School Board, whether or not-- how many members they have would not affect how they negotiate.

BLOOD: So last question, promise--

CHARLES ZURCHER: Sure.

BLOOD: --so, again, I'm going back to the letters of opposition. Many of them said you can't terminate at any time. But if I hear you correctly and I heard our presenter correctly, you can-- you can terminate any time.

CHARLES ZURCHER: Oh, yeah--

BLOOD: You just can't-- OK.

CHARLES ZURCHER: You-- you can. But you would--

BLOOD: And--

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CHARLES ZURCHER: --continue to pay dues.

BLOOD: And then I'm hearing freedom of choice and not under communist tyranny, which I don't understand that statement. So your concern as a nonunion organization is that you feel that teachers shouldn't have to pay for something they can't use?

CHARLES ZURCHER: I-- our concern is for the teachers' ability to choose their association without penalty. And if you just would resign your membership from an organization such as the NEA and continue to pay dues, and I gave the example in there, if you miss that opt-out date by one day, then you're obligated for the next six months. That's just, to me, fundamentally wrong. Again, people's lives change. They-- things happen, whether it be financially or philosophically. And if they want to leave a union, they shouldn't be penalized for it.

BLOOD: But ultimately, when you sign a contract, who is the person responsible when they sign the contract? I-- I don't know the answer to that. That's--

CHARLES ZURCHER: Yeah.

BLOOD: I'm kind of giving that to you-- again, not a lawyer.

CHARLES ZURCHER: And I'm with you. There's a lot more legal minds than-- than-- than I am, a business marketing major. However, I-- I-- I would say that the-- the Janus case gives us some direction on that. But again, I am not a lawyer and-- or a legal scholar.

BLOOD: Thank you.

B. HANSEN: I-- I got a question real quick. That's what I was hoping you were going to touch on a little bit, was the Janus case, and that's something I'm a little unfamiliar with, so is--

CHARLES ZURCHER: I-- I'm sorry?

B. HANSEN: The Janus case that went to the Supreme Court in 2018.

CHARLES ZURCHER: Correct.

B. HANSEN: Yeah, talk about that a little bit. What is it?

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CHARLES ZURCHER: Well, again, what--

B. HANSEN: It seems like that's a part of this whole thing.

CHARLES ZURCHER: Yeah. What it does is say that a-- a person leaves a union cannot be forced to pay dues.

B. HANSEN: OK, so that was a Supreme Court. But that's for public employees, right?

CHARLES ZURCHER: That's correct--

B. HANSEN: So we're not talking about--

CHARLES ZURCHER: --including teachers.

B. HANSEN: Yeah. OK, so public employees, the Supreme Court ruled, when you decide to leave that union, then you-- then you-- then you get to stop paying those fees?

CHARLES ZURCHER: Right, and it also says there are-- there-- there's a lot of implications to that. But it also says that you don't need to belong to the jun-- a-- a union to receive the same benefits from that. The same thing would be with teachers in the state. If they leave the union, they would still benefit from the negotiated wages and benefits in that school district.

B. HANSEN: OK. So in your opinion-- I don't know you're not a lawyer, so again [INAUDIBLE]

CHARLES ZURCHER: Yeah, that's for sure.

B. HANSEN: So according to this case, if a teacher decides to leave their union for-- whenever that is, they are not obligated to pay the rest of their union dues for the rest of the year?

CHARLES ZURCHER: That-- that's my interpretation of it, and I'm sure you can get legal counsel to--

B. HANSEN: Yeah, I-- I-- this the first I'm hearing about it, so I didn't really know about it, so just kind of curious.

CHARLES ZURCHER: Yep. Yeah.

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B. HANSEN: OK. And that's all I had. Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. Thank you for your testimony.

CHARLES ZURCHER: You bet.

GRAGERT: A couple questions. OK, you-- you mentioned the-- if an in-- individual or a teacher comes in on April 16, and that's after the deadline of April 15 in this [INAUDIBLE]

CHARLES ZURCHER: In that particular school district, yes, sir.

GRAGERT: Right. And so that individual now-- first of all, when's the-- when's the season? Is it from January to January?

CHARLES ZURCHER: That-- it--

GRAGERT: Or when is a contract length? Is it--

CHARLES ZURCHER: Yeah, it varies from district to district. And I'm not an expert on that. Again, it-- a lot of them start the first of September; some of them start the first of August.

GRAGERT: OK.

CHARLES ZURCHER: But the opt-out dates vary way before. So if a teacher signed the contract or what have you and then-- and it goes for a year, but then they opt out in April, in-- even in that time frame, they would still have to pay dues to an organization they don't want to be a part of.

GRAGERT: Into the next year?

CHARLES ZURCHER: Correct, into-- that's probably four or five months. If they opt out in March, then they would pay dues up until August or September 1, whatever that start date was.

GRAGERT: OK, so there's a-- there's a date, a time period when you can opt out. Is there also an open season when you can get in? I mean--

CHARLES ZURCHER: I believe you can get in at any time and-- which is-- which is kind of confusing because you can get in at any time, but you can't get out at any time.

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GRAGERT: OK, thank you.

CHARLES ZURCHER: You bet.

B. HANSEN: Senator Hansen.

M. HANSEN: Thank you, Senator Hansen. And thank you for your testimony. And I apologize. This is going to start off by a bit more of a statement, but I wanted to-- you've acknowledged your extent of your knowledge in the Janus--.

CHARLES ZURCHER: I-- I'm sorry, I can't--

M. HANSEN: Sure. You've acknowledged the extent of your knowledge on the Janus decision. And so I wanted to tell you my understanding of the Janus decision was it was about nonmembers being forced to pay dues as part of the collective bargaining unit, as opposed to current members ending their membership. And I'm kind of just flagging that. I understand you probably-- you're welcome to respond to it. I'm kind of flagging that for a future testifier, if somebody wants to highlight that distinction, because your-- your-- your summary of it was different from my understanding of it. I just kind of want to flag that for the committee.

CHARLES ZURCHER: Yeah, and-- and I appreciate that interpretation.

M. HANSEN: OK.

CHARLES ZURCHER: It's just when they opt out or-- or quit, they're no longer a member.

M. HANSEN: OK. Thank you.

CHARLES ZURCHER: And-- and again, it comes back to freedom of association.

B. HANSEN: OK. Senator Halloran.

HALLORAN: Thank you, Chairman Hansen. Thanks for your testimony, Mr. Zurcher.

CHARLES ZURCHER: You bet.

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HALLORAN: So with your association with teachers, you've taught for several years?

CHARLES ZURCHER: I--

HALLORAN: How many years did you teach?

CHARLES ZURCHER: I taught two years in the classroom.

HALLORAN: And your wife has taught?

CHARLES ZURCHER: 40.

HALLORAN: 40?

CHARLES ZURCHER: Yeah, my son has taught five. His wife has taught ten.

HALLORAN: With-- with your association with the teachers that you know or your wife knows, do teachers generally know, do you think, when their opt-out date is?

CHARLES ZURCHER: Now that's a great question. And again, I traveled-- speaking to my-- I could show you emails after emails about teachers that actually are requesting those from their local district. Most of them do not. And I talk to hundreds of teachers. They simply do not know the opt-out dates. That doesn't go for all of them. I'm not-- nothing's 100 percent, but the vast majority of them simply don't know. And there's a reason for that, in my opinion.

HALLORAN: You raised-- some questions have been asked about when the renewal date is and-- and understand that people can join up any time besides that particular--

CHARLES ZURCHER: That's my understanding, yes, sir.

HALLORAN: So if people sign up to the NSEA in-- in August or September--

CHARLES ZURCHER: Um-hum.

HALLORAN: And the political world is kind of dynamic, right? I mean, issues come up and when it's in the state of Nebraska, they typically don't come up legislatively until the Legislature starts, in January.

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Right? So teachers that sign up in-- in September really don't know what-- what those issues might be specifically until the Legislature is open and the bills are in place and the NSEA may take a stand on it one-- one way or another. And if-- if the-- if those bills-- if-- if the stand of the union doesn't appeal then to the members, they still-- they can't just arbitrarily opt out any time?

CHARLES ZURCHER: They cannot, or they can, but they still pay dues, yep. And if I could, on a personal note, you mentioned my wife. My wife used to be a local NEA rep for Bellevue school district. For the first three or four years that she taught, she taught at Fork Crook and Bellevue Elementary, and she was the local rep. But as she got more involved and understood that philosophically she wasn't aligned with the-- with the union, so she decided to separate herself. There are many teachers in the state of Nebraska that as, again, situations change philosophically, monetarily, that they just need or want to leave the union and aren't able to without paying the-- it's almost like a fine. I-- I-- I want to be out of the union, but I can't. I have to pay it for another 16 months or 5 months or whatever it is until they're not able to-- or the union no longer takes their dues.

HALLORAN: You're a Nebraska state director for the Association of American Educators.

CHARLES ZURCHER: I am.

HALLORAN: Can you give us an idea of how the benefits and costs of-- of-- of your organization might compare with the NSEA?

CHARLES ZURCHER: Absolutely. And I can supply the-- the committee with-- with a comparison on that. But we supply basically similar benefits at a very reduced cost. One of the benefits and one of the reasons teachers even join the union is because of liability insurance, and one of the things we offer is a \$2 million policy with li-- legal services. The NEA offers a \$1 million policy with legal services, and that's the major reason most teachers join the union. We do this, along with a lot of other benefits-- I'm not going to list them, but I can certainly provide that. We do that for \$198 a year. The average cost to be a member of NEA with similar benefits is well over \$450. Most of the time, and I could be wrong, but most of the time it's-- it's well around \$600, \$620.

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HALLORAN: One last quick question. Does your organization contribute campaign funds to candidates?

CHARLES ZURCHER: We absolutely do not. We are nonpolitical, nonpartisan.

HALLORAN: OK, thank you for your testimony.

CHARLES ZURCHER: You bet.

LATHROP: OK.

B. HANSEN: Yes.

LATHROP: I wasn't going to do this, but I want to ask you some questions.

CHARLES ZURCHER: Sure.

LATHROP: Now I've been listening to this and you said you're a-- you're an educator, your wife's an educator, your kids are, and you got an in-law that is?

CHARLES ZURCHER: I am not an educator at the present time.

LATHROP: OK.

CHARLES ZURCHER: I have a degree--

LATHROP: OK. But--

CHARLES ZURCHER: --yes.

LATHROP: But none of you are NEA members, is that right?

CHARLES ZURCHER: My wife was-- was at one time. They are not now.

LATHROP: You said she's taught for 40 years and this happened in her first three years?

CHARLES ZURCHER: That's correct.

LATHROP: OK, so she hasn't been for over 35 years.

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CHARLES ZURCHER: That's right.

LATHROP: What's the name of your organization?

CHARLES ZURCHER: Association of American Educators.

LATHROP: OK, and-- and are you telling this group, this panel, that you do the same thing NEA does, but you do it for less money?

CHARLES ZURCHER: I-- I would say what we do is offer teachers in the state of Nebraska an alternative to a nonpolitical group, yes.

LATHROP: Do you negotiate contracts?

CHARLES ZURCHER: We do not.

LATHROP: OK, so you don't do what NEA does, but you do offer--

CHARLES ZURCHER: I said--

LATHROP: --liability coverage.

CHARLES ZURCHER: Yes, we do, along with other benefits.

LATHROP: And it's your-- in your estimation, and I haven't heard you, lawyers would say, offer foundation for this opinion, but you're-- you're suggesting to the committee that people join NEA for the liability primarily.

CHARLES ZURCHER: I would say, when they're first starting out, absolutely, yes, Senator.

LATHROP: OK, but they do negotiate their contracts for them?

CHARLES ZURCHER: The-- the NEA is typically the certified negotiator for a district, yes.

LATHROP: OK, now your organization--

CHARLES ZURCHER: Not always, but yes.

LATHROP: OK. Your organization that competes with NEA, do they charge dues?

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CHARLES ZURCHER: No. We do-- we-- we charge a-- yes, we do, yes--

LATHROP: OK, so you--

CHARLES ZURCHER: --dues for that insurance, yeah.

LATHROP: You got to have a--

CHARLES ZURCHER: Yes.

LATHROP: You got to have dues. And to fix your dues, do you try to figure out how many people are going to contribute to your organization when you establish the amount of the dues?

CHARLES ZURCHER: You would have to talk to our president on that, but that would make sense, yeah.

LATHROP: It-- it-- it sure would make sense that an organization that's going to spend money to represent people is going to want to know how many people are paying dues so they can fix the dues amount. Would you agree with that?

CHARLES ZURCHER: I-- I would say they do that nationally, yes.

LATHROP: All right. And wouldn't it make sense, if you are an organization that represents people and you are fixing your budget, that you would want a commitment from people who are going to be paying those dues to stay with it for the year that they've promised to?

CHARLES ZURCHER: If-- if-- if-- again, I-- I see your point, but I-- I would say--

LATHROP: Yeah, they gotta have a budget like everybody else.

CHARLES ZURCHER: But I would say this. In a-- the right to association would need to be analyzed with that because--

LATHROP: Well, if I-- if I joined your group for \$196-- is that what you said? Is that for a year?

CHARLES ZURCHER: No, it is not. It is month to month.

LATHROP: Month to month, so I pay--

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CHARLES ZURCHER: You can join one month. You can quit the next month.

LATHROP: OK.

CHARLES ZURCHER: Absolutely.

LATHROP: OK, but the amount that you fix your dues at is based upon the number of people that you have in it?

CHARLES ZURCHER: Well, yes, but according to what you're saying is, because half of our membership could quit in one month, so is it-- is it basically-- does that dictate what our dues are? No, not in our case.

LATHROP: Well, you have a certain amount of overhead, and if half the people--

CHARLES ZURCHER: Absolutely.

LATHROP: --left, you'd have to charge the other half more per month, wouldn't you?

CHARLES ZURCHER: Absolutely. We are-- we are a nonprofit organization.

LATHROP: I'm not suggesting you would have to raise your fees to make a profit, but to cover your expenses, if you have fewer people, you're going to have to raise your premium.

CHARLES ZURCHER: Right. And-- and in-- I understand what your position on that is. Again, our membership [INAUDIBLE]--

LATHROP: It's not a position though.

CHARLES ZURCHER: --in and out.

LATHROP: It's not a position. It's merely when you talk about this organization asking people to make a one-year commitment, they're setting a budget. They need to know how much to charge all the members, so if half of them aren't going to do it the next year, it's going to cost twice as much.

CHARLES ZURCHER: Yeah. Yeah, well, that's not the case with our organization, so-

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LATHROP: I-- I get it. I get it.

CHARLES ZURCHER: --if it is with NEA, then that's up to them.

LATHROP: OK, that's all I have. Thank you.

CHARLES ZURCHER: Thank you.

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

CHARLES ZURCHER: Thank you very much.

B. HANSEN: We'll take our next-- next proponent for LB684. Welcome.

DOUG KAGAN: Good afternoon. Doug Kagan, that's D-o-u-g K-a-g-a-n, representing Nebraska Taxpayers for Freedom. Nebraska is a right-to-work state, so employees are not required to join a union. However, teachers have told our group that, disenchanted with-- with belonging to the state teacher's union because of its political posture, it is somewhat difficult to leave it. Some teachers have told us they don't realize that they have the right to never join in first place or even leave the union without a requirement to pay dues, and they're unaware of the U.S. Supreme Court decision that was already referred to. But according to our interpretation of what the court did in-- in *Janus v. AFSCME* was to overturn a 40-year precedent by forbidding public sector unions, not just teachers but public sector unions in general, from collecting dues from nonmembers. However, some educators confusingly believe they will forfeit pay increases or lose their health insurance. And unfortunately, the current Nebraska arrangement remain-- retains arbitrary short-term opt-out days, restricting school employee constitutional right to free association. If you look across the nation, you'll see that teacher unions limit their members to a severely limited time when they can resign a membership, so teachers will remain in the union. It's not a situation unique to Nebraska to submit their resignations in writing. So with the inconvenient deadlines at busy time, short opt-out windows and special forms required, teachers just find it difficult to resign their union membership. So the arrangement allows unions to continue to collect the mandatory dues until the opt-out window opens again in the next cycle. LB684 would allow teachers in future contracts freedom of choice to terminate union membership at any time during the year,

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and it would prohibit the union from placing restrictions on both how and when a public school employee could terminate membership. Opting out allows a teacher to remain under the same contract and seniority and enjoy the same benefits. The contract and state law protect tenure, job protection also available by joining nonunion education associations. A union is not the only source of teacher liability insurance, as we've heard. Other-- there are a variety of actually national, local, state teacher associations that provide liability insurance, employment rights coverage, and other forms of support. So we urge you to advance LB684 to the floor of the Legislature. Thank you.

B. HANSEN: Thank you for your testimony. Questions from the committee? Yes, Senator Blood.

BLOOD: Thank you, Chairman Hansen. Mr. Kagan, has the NTF mission, has it changed at all from what you've got on your website and what you've promoted over the last decade?

DOUG KAGAN: Can you repeat-- I didn't hear the last part of that.

BLOOD: Has your mission statement changed at all for your organization, for NTF?

DOUG KAGAN: No, it's-- last time I looked.

BLOOD: So isn't-- isn't part of your mission statement an emphasis on personal responsibility?

DOUG KAGAN: Whose responsibility?

BLOOD: Personal responsibility.

DOUG KAGAN: Yes, it is.

BLOOD: So do you think it's reasonable to, say, make changes and cancel your healthcare plan for a span of one month during a year? I want to talk about what's reasonable. There's--

DOUG KAGAN: Well, those are different kinds of contracts.

BLOOD: In what way?

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DOUG KAGAN: Well, you're talking about health insurance, which is different from belonging to an association.

BLOOD: OK, so is it reasonable to allow cancelation for at-will policies when they're still required to res-- represent them, say, during a grievance process?

DOUG KAGAN: Well, it's difficult to say because it depends on what the individual teacher wants to do. If she want-- or he wants to join another association, she-- the teachers could have the associations they belong to, whether they join anew, to represent them.

BLOOD: But isn't there significant administrative legal cost for that representation or is it-- should it be free?

DOUG KAGAN: Well, there's cost for any representation.

BLOOD: Right. So can you tell me what teachers, what-- from what areas-- so you said the teachers have told you, Nebraska Taxpayers for Freedom, about these concerns. Can you give me some-- a breakdown of what teachers, from where-- what communities they're from?

DOUG KAGAN: Well, our members are from around the state with-- generally what they tell us is they-- they're members of the union. They don't like the political positions of the NSEA and the NEA, so they decide to drop out and they find it to be very difficult.

BLOOD: So they've reached out to your organization from what areas, Omaha, Council Bluffs-- or, excuse me, Omaha, Lincoln?

DOUG KAGAN: Well, I've-- I've heard from teachers from around the state, not just the metropolitan areas.

BLOOD: Scottsbluff, Kearney?

DOUG KAGAN: To tell you the truth, Senator, I didn't write down. I just-- you know, I get phone calls; we get emails.

BLOOD: Sure.

DOUG KAGAN: I tally general numbers, but I don't list, you know, particular localities.

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BLOOD: I can appreciate that. I'm just trying to get some clarification, trying to figure out where the most concerns are. So if-- if you do have a list that you can provide to me after this hearing, I'd be really appreciative.

DOUG KAGAN: Well, as I said, the--

BLOOD: I don't need to know who. I just need to know what areas.

DOUG KAGAN: The-- the area-- the area is just one general area, and that's-- they don't like the political stance of the teachers union.

BLOOD: I-- again, I need to know who they are. That's all I'm asking. I don't need names. I need to know what districts they're from because you're saying that teachers have reached out to you, so I'm just trying to get some clarification. I'm not questioning that they did this. I'm not questioning that-- that this did or didn't happen. I'm just curious who these people are and where they're from. You say they're teachers. Where are they from in Nebraska?

DOUG KAGAN: Well, we don't-- we don't give out the names of our members, Senator.

BLOOD: I-- I didn't ask for names, sir.

DOUG KAGAN: I'll-- I'll give you a tally of-- of general numbers, but I'm not going to give you names of people.

BLOOD: But you can tell me where they're from.

DOUG KAGAN: Generally, I can tell you what areas of the state they're from.

BLOOD: OK. And-- and I know you know my email because I get stuff from you all the time, so I'd really be appreciative of that. Thank you so much.

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

VIC STEVENART: You'd think I'd never done this before, but I've been here, other committees, before, so--

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B. HANSEN: Welcome.

VIC STEVENART: --I'll do my best. Thank you. My name is Vic Stevenart. That's V-i-c; last name is S-t-e-v-e-n-a-r-t. I just tell people I'm the guy with three first names: Vic, Steven, Art. I'm from Omaha, Nebraska, 14820 Wirt Street. It's on my sheet that I'm turning over to you. I even put my phone number on there because I'm not shy. I'm the father of 6 children and I've been blessed with 15 grandchildren, so I know what it means to have a family and have them be in the schools, especially the public schools. They've been-- many of them have been educated in the public schools in Nebraska. Four of my children reside in Nebraska currently. I'm old enough that all of them are old enough to be on their own totally. The youngest is 36. I am retired now, but I've held several jobs in Nebraska since 1976. I was with ConAgra Foods for several years. But prior to moving to Nebraska, I lived in Indiana and Ohio, and while I was-- I was in Ohio, I taught school and coached for four years, so I am familiar with the education process. And obviously, by raising six children, I was very actively involved in their stuff, so I do know enough about it. And I also know about the unions because I was involved in the unions when I first started teaching and I decided early on I didn't want to be a part of them and chose to go a different direction. But-- but the reason I support LB684 is because it provides flexibility and choice for teachers, and it's interesting to hear all the discussion about what that means. Some of them have dropped out of the union because they were disappointed, teachers that I know, but they left themselves vulnerable to lawsuits without insurance. So only recently has there been organizations around to allow them to have at least that opportunity for that insurance again, and that was their major concern. That's the major reason some of them really felt that they missed it. There are now alternatives and they indicated they'd like to explore those al-- alternatives. And as you've heard from several others, that's not an easy thing to do in Nebraska, and it's different in every community, so, there-- therefore, if they change jobs and move to another community, who knows what's going to happen in terms of that? It's very easy for public school employees to get into the union, but in the name of fairness and equality, it should be just as easy for them to get out. I hear it compared to union dues-- to dues for a gym membership or whatever. I would just like to say it ain't the same thing, folks. I know. The teachers union in Nebraska, the Nebraska State Education Association and-- and subsequently the NEA,

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currently make it very difficult for them to decide to terminate their labor union relationships. I have a son who's in a labor union, so I'm familiar with the unions and how they work. It's also during this busiest time of the year, as you've heard, for any of them to get out, which makes it even more difficult. This bill would provide the opportunity for teachers to pursue alternatives without having to continue paying for the union until they can term-- terminate that membership. I believe that there has been legislation, and Janus, again, was mentioned, and I have many friends who are lawyers and I've talked to them about this a little bit. I understand it. It comes back to the First Amendment rights that we all like to cherish, and I would like to see it handled without litigation. But I will tell you, I have friends in the legal field who would be more than happy to enter this from a legal perspective. Lawyers like to make some money once in a while, and this would be a relatively simple thing to take care of. It would be much easier to take care of it with a law that says leave it open. It's not a gym membership. And that's my position at this time, and I appreciate your opp-- the opportunity to be here before all of you and I appreciate all that you do for Nebraska. You people work hard and you do so on our behalf and we appreciate that. Thank you.

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

M. HANSEN: Thank you, Chairman Hansen. Thanks for your testimony. Just to clarify, have you or a member of your family ever been a part of the teachers union in Nebraska? Are you testifying from personal experience? Have you or anybody in your family?

VIC STEVENART: In my family? Yes, I have-- my oldest daughter was in the union-- well, not for long. When she first started, she was in because she was at the University of Nebraska-Omaha, where they, as I explained to her, accosted her by-- and forced her into thinking she had to be a member of that mem-- union. And once I talked to her a bit-- a little bit about it, because she didn't understand what they did, that they were all about-- she also didn't understand the contract that she signed. And usually my children all came to me at all times whenever they would sign a contract and said, Dad, would you take a good close look at this, because I don't think I understand it. So I've been involved with the-- the kids in that regard before, but only one of the children in Nebraska as a teacher.

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M. HANSEN: OK, thank you.

B. HANSEN: OK. All right. Any other questions? Good. Thank you.

VIC STEVENART: Thank you.

B. HANSEN: Welcome.

AMBER PARKER: Thank you. And it's 60 degrees outside, so by the time we get out, we'll be warm. My name is Amber, last name Parker. You spell it A-m-b-e-r, Parker, P-a-r-k-e-r. I'm here today as a proponent to LB684. You know, Senator Blood, I found it very interesting with your questions and what you were asking Senator Clements at the very beginning. And for everybody watching on NETV and in this room, it only is the same sound bite that teachers feel the bullying pressure of those who are a part of the NEA, NSEA, because you can't be a member of one without being the other. And I have a couple firsthand testimonies I want to share, but I first want to focus on this. Legislation, quite frankly, I think that there's way too many bills being introduced every year, and I think it's really for some people's foundation to usurp power over people. This year we all have struggled. We've had family members, and I've recently had a friend die of complications of COVID-19. Senator Blood, Senator Lathrop, and Senator Hansen, I ask you, do you believe it's fair in a time of COVID-19 where we have been dealing with a pandemic to lock in teachers to pay membership dues when they themselves no longer want to be a member and they're having a hard time putting food on the table for their family or, if they're single, feeding themselves, paying their health insurance bills? Perhaps some of this money could go towards those areas, and I really, seriously urge you to think of these things. Furthermore, you talk about gym memberships. With gym memberships, I've been a member of the gym membership. I was told you did-- they did lock me in for the next year. It was within a month or two. I had to cancel the month prior and then I was locked in for that full month. I think you need to research that. But here's this. I am not going to get caught in a corner of bullying. And I'm telling you guys, Senator Hansen, Lathrop, and Blood, correct me if I'm wrong, but you support abortion and there are teachers that don't support abortion. There are teachers that don't support teaching children as young as age five to ask a little girl if they really are a little girl or do they feel like a little boy? We have legislation being pushed on us in areas. In our unions, they have a lot of power and

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control in this. So when you're receiving emails, and I haven't seen your emails, I'm just saying let's stick to what LB684 does. LB684 gives the power back to these hurting teachers, public school employees to say, hey, if you want to end your dues, you can terminate at any time to do so, and that's important. Furthermore, what LB684 is going to do for both the teacher unions, NSEA, NEA, whatever, it's going to clarify across un-- excuse me, across the state of Nebraska, when that membership ends, that they are in power of when it ends, not the union themselves dictating to them how much they have to pay and saying, oh, well, you can use the terminology that you're no longer a member, but you're still going to have to pay that money. So what does it do? Here's where my two testimonies come in. I ran for the Millard Board of Education and I went forward to run because I saw how Planned Parenthood and the power over the teachers that they had. There were teachers that didn't even want to come forward and talk. I had no idea to the degree that these teacher unions had. In talking to principals, I found out that they-- they-- there were some that wouldn't even allow other-- like an Association of American Educator group to come in and talk to them. It-- there was such a power of the teacher union taking over that they couldn't even put notes in their own boxes because if that principal or vice principal would not allow them into that school, they had no other way. So that needs to be noted, and that's a whole different thing together. But for a teacher, LB684 does this. A teacher, right now in the present, let's look at the legislation in the present or what the union, NSEA, NEA does now. They say, well, if you miss this time by a day, then you're locked in for this many months and paying dues. But what LB684 does is it cuts it out, because I had a teacher tell me when I was running for Millard Board of Education, and she whispered to me, she goes-- she didn't even want to tell me her name. She comes in, and I can tell you she had dark hair. I don't remember if she had brown or blue eyes. And she just said, I just want to let you know, thank you for what you're doing. And she goes, I-- I filled out paperwork and the paperwork that I filled out, she said, the union said they never received it, so I had to pay my dues, I was locked in. LB684 takes care of that. There's no mistake of that, that the-- it's in the power of the teachers to terminate at any time. And that is why we need to pass this bill.

B. HANSEN: OK, thank you. Is there any question from the committee at all? OK, thank you for your testimony.

AMBER PARKER: OK.

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B. HANSEN: We'll take the next proponent for LB684. All right.

JOHN KNAPP: Sorry about that, got too many pockets [INAUDIBLE] I spend more time hunting for these. Sorry about that.

B. HANSEN: That's all right. Welcome.

JOHN KNAPP: My name is John Knapp, J-o-h-n K-n-a-p-p. I live at 19010 South 168th Street in Springfield, Nebraska. Right up front, I-- I'm not a teacher. I'm looking more at this from the standpoint of the contract, what Charles mentioned, Senator Blood. Anyway, I am testifying here today to give my personal full support for Senator Clements' LB684 to support school employees to leave or join labor unions at any time. It is my understanding that currently to join the union, it is just a matt-- matter of filling out and submitting the application form. The membership agreements have conditions as this agreement shall automatically renew each school contract year unless such renewal is revoked in writing to the local association. The revocation notice has stipulations on it, including limited windows to take action. This limited window of time for teachers to withdraw their membership varies throughout the state, prove-- proving-- proving to be con-- providing to be-- proving to be confusing and contradictory for teachers as they move from district to district. Why should it be harder to terminate your unite-- union membership than joining? The union is taking my money, represents me. If I don't feel they are representing me, I shouldn't have to jump through hoops to keep my money and end the contract. The stipulation should be the membership automatically expires unless you renew your membership for the next contract school year. The unions are pro-choice for abortion. Why can't-- why aren't they pro-choice for a man and/or a woman when it comes to joining or terminating their union membership at any time? Please give LB684 your full and complete support. Thank you for your time and consideration.

B. HANSEN: Thank you. Any questions from the committee? Seeing none, thank you very much. Anybody else wishing to testify in support?

MARIS BENTLEY: Thank you. I'm getting kind of hot back there with that mask on. Let's see, I'll start. Thank you, Chairman Hansen and members of the Business and Labor Committee. My name is Maris Bentley, spelled M-a-r-i-s B-e-n-t-l-e-y. And I'm from Plattsmouth, Nebraska. I am a retired teacher and school counselor and a former member of the

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Nebraska State Education Association, the National Education Association, and I strongly support LB684. LB684 is about freedom and choice, and we've been hearing that already, right? I'm going to digress from my prepared statement because I do want to address some of the things that I've heard brought up as the-- the hearing has progressed. We've heard that it is difficult for teachers to withdraw from the union, and that is exactly true. It's difficult. It is also not well known. You've heard that. Teachers do not understand. If you did a survey of them-- I did not understand the years that-- when I was a member of the union. I did not understand how to withdraw or when, you know? And again, it's the fine print on the bottom of the contract that looks like this. I'm-- I'm guessing we're probably all guilty of not fully reading all the contracts we sign in our lives, right? This is an important one. Yes, it is.

B. HANSEN: Well, we'll put that down. We don't have any props in the committee.

MARIS BENTLEY: Oh, I'm sorry.

B. HANSEN: You're fine, you're fine.

MARIS BENTLEY: OK, I just wanted to be able to read from it and--

B. HANSEN: Yep. Sure.

MARIS BENTLEY: --and to show you that I actually have the contract. I guess I didn't consider that a prop.

B. HANSEN: Yep. All right.

MARIS BENTLEY: All right. Anyway, and you've given-- been given the examples about the-- the dates of withdrawal, very limited window of opportunity for teachers at the busiest time of the year, and I'll vouch for that starting those last few months of the year. Teachers are incredibly busy filling out reports, grading, dealing with what paperwork they have to submit, testing, final testing of the year. So-- so it's-- that's the difficulty. That's part of it. And then another difficulty is the lack of transparency. Like I mentioned, teachers do not know when that-- those window of dates are. Most of the membership forms do not tell teachers when the dates are. The only one that I've seen that does is the Lincoln Education Association that actually on the form that the member signs to become a member, and

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then they get to keep a copy of, right? It does tell them the dates. And as I'm-- as-- as-- as has been mentioned, the dates for the Lincoln Education Association are March 1 through April 15, not this-- the case across the state though. The dates vary. And again, that's a problem as teachers move from district to district, creates contradictory and confusing information about how to withdraw from the union, if they choose to do so, right? But it's not consistent across the state either. And the lack of transparency, I've mentioned that already. Because it's not listed on the forms, teachers, again, do not know. Like I said, the Lincoln Education Association is the only one I'm aware of that actually has the opt-out dates printed on the bottom of the membership form. Most teachers, most school districts use the standard form that comes from the NSEA and all that it says is that they have to submit their resignation in writing. It doesn't tell you-- tell them what dates they have to do that by. This is not coddling teachers. It's treating them fairly and equitably and as the trained professionals, the highly educated professionals that they are. It is not the same as a gym membership, and I actually-- I'm not appreciative of that comment. As a-- as a member, as-- as an educator myself and a member, former member of the union, I don't find that comparison to be favorable. A union is a professional organization and it's not a gym. It is-- and in this case, it's a-- it's also a partisan organization, which I'm not aware that gyms are partisan organizations, so-- and again, that's why many teachers decide they want to withdraw from the union. Many people, such as myself, when we're right out of college and we're eager to be teachers and not very knowledgeable about what we're facing, right, it's is just part of the reality we've all dealt with af-- after we've graduated from college-- and then go into the education field and have there right in the packet when you're signing up and getting all ready your first day of teacher in-service, there's your NSEA membership form. By the way, I'm not aware that organizations-- it wasn't the case for me-- like Association of American Educators were allowed to have that membership form in the packet when I-- in the different districts that I've been in, and I was in four different school districts during my years in education. And so, again, there's a lack of equitable treatment; there's a lack of transparency. I'll conclude with my concluding remarks. It is we've-- you've heard it's very easy and-- and teachers can join at any time, and it should be. They should be able to join the union at any time and-- but it also should be easy for them to leave the union if they should choose to do so. Voluntary membership

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is exactly that. It's voluntary. And it should be just as easy to volunteer to leave the union if they choose to do so and when they choose to do so. One thing I do want to add, too, is that I don't think you understand that membership is continuing in the union. You don't sign a contract every year. Membership is continuing. It says that right on the bottom of the membership document. So a teacher that forgets during those limited window of opportunity? Too bad, how sad, you're going to be paying dues again for another school year, whether you like it or not. So I encourage you and I ask you to support LB684 and advance this bill to General File. Thank you.

B. HANSEN: Thank you. Any questions from the committee?

MARIS BENTLEY: Senator?

B. HANSEN: Yes, Senator Blood.

BLOOD: Thank you, Chairman Hansen. Thank you for your testimony. I just have a real quick question.

MARIS BENTLEY: OK.

BLOOD: One of the things you said is that you felt NSEA was partisan. Could you address that for me, please?

MARIS BENTLEY: Yes, well, just the fact that they contribute to partisan politics.

BLOOD: And so can you give me examples of those contributions? Because I could not find anything in NADC.

MARIS BENTLEY: You can't. You don't-- you go to the-- what is it, Nebraska--

BLOOD: NADC.

MARIS BENTLEY: --Accountability and Disclosure--

BLOOD: Right.

MARIS BENTLEY: --Commission? Yeah, look at it. They give--

BLOOD: I-- I have. That's what I'm asking you.

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MARIS BENTLEY: They give tons-- they give tons of money and it's mostly to Democrats by far. If you look at the-- and I-- I didn't bring any of that with me, but if you'd like, I could send you that.

BLOOD: But I-- it's my understanding, looking through-- I read their newsletter-- that they give money to what they consider to be proeducation, pro-public education people. And on that list are-- are multiple Republicans, especially since the vast majority of our body is Republican.

MARIS BENTLEY: Mostly, if you look at the amount, the last research I did, and it's been a few years ago, it was like 80 to 90 percent of the money from the NSEA was going to Democrats.

BLOOD: So you consider that partisan if that particular candidate in a nonpartisan body is pro-public education?

MARIS BENTLEY: Well, there's more than just being pro-public education, right?

BLOOD: When it comes to teachers?

MARIS BENTLEY: I mean, well, yeah. Explain to me the irony- and here we get into the whole abortion issue. How can an organization that teaches children support the-- the destruction of children in the womb? It'd be like McDonald's putting poison in the food they serve to their customers.

BLOOD: So--

MARIS BENTLEY: You'd think that an organization that consists of people who dedicate their whole lives to children, to working with children, to educating children-- it's blows my mind to think that they-- that organization would also be pro-abortion. It does not-- it's-- it doesn't make sense. It's a very disturbing hypocrisy, if you ask me.

BLOOD: Well, I have to be very frank with you--

MARIS BENTLEY: And so there are many teachers that feel the way I do and who--

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BLOOD: I have to feel-- be very frank with you that-- that there are many people who-- who, regardless of how they vote, because of their party, are considered to be either pro-- are considered to be pro-choice and not considered to be pro-life. It really doesn't matter. When it comes down to campaigns and it comes to political rhetoric, people are going to hear what they want to hear. These-- these pro-life bills that supposedly everybody's so upset with, with NSEA, are really just regulating murder, but yet nobody seems up in arms about that. So I guess I have grave concerns that we're bringing in the abortion issue when supposedly this bill is just about what's going on with the NSEA and their contracts. And so if that's what it's really about, if-- if you don't like the way they represent you, then you don't join the union. It's by [INAUDIBLE]

MARIS BENTLEY: And you-- you should be able to leave it when you want to.

BLOOD: And you still can do that.

MARIS BENTLEY: And not-- not something-- not if you miss that four weeks of time and then you're on the hook to pay dues for another-- over another year. And does that seem right to you?

BLOOD: It seems--

MARIS BENTLEY: It doesn't to me.

BLOOD: --really improbable to me that these really smart people aren't reading their contracts. That's the issue that I'm having with all of this. But I do appreciate your testimony. And I do have grave concerns of all the finger pointing about who's supposedly pro-life and pro-choice. And I think this is definitely not the hearing for that.

MARIS BENTLEY: No, but you're the person who brought up the abortion issue.

BLOOD: I did bring it up because I wanted to make sure that we were transparent. But I won't argue--

MARIS BENTLEY: I didn't bring it up. Other people didn't--

BLOOD: I don't-- it's not my job to argue with you. It's my job to ask you questions--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee February 8, 2021
Rough Draft

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MARIS BENTLEY: OK.

BLOOD: --and get answers.

MARIS BENTLEY: Sure. I just want to point out--

BLOOD: But I do appreciate your te-- again, I do appreciate your testimony.

MARIS BENTLEY: I just want to point out the other person that brought up the abortion issue though.

B. HANSEN: Let-- let me go around and-- let me go around and ask is-- if anybody has any other questions before we keep going anymore, OK?
[INAUDIBLE]

MARIS BENTLEY: Pardon, Senator?

B. HANSEN: I'm just going to go ahead and ask and see if anybody com-- other committee members--

MARIS BENTLEY: All right, sure.

B. HANSEN: --has any questions, if that's OK.

MARIS BENTLEY: Sure.

B. HANSEN: Yes, Senator Gragert.

GRAGERT: Thank you, Chairman Hansen. Thank you for your testimony.

MARIS BENTLEY: Yes.

GRAGERT: I just want to get back to the contract. And, you know, I've heard it twice now that it's a very busy time of the year.

MARIS BENTLEY: Yes, it is.

GRAGERT: We don't-- we-- we don't get to the December-- or the April 16 deadline. Would it be better-- why is it only a month to six weeks? Why not make it three months? I mean, what about--

MARIS BENTLEY: That would help. That would help.

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GRAGERT: OK. And then my next thing is, I heard you say that, well, we just don't know, we just don't know, you know, and, you know, I've been on the school board for a number of years. But there's teacher in-services. I would think this would be an issue that-- why aren't they covered at the teacher in-service at the very beginning of the year that you're-- you know, what kind of programs are going on and this is what you need to look out for. You know, you've got teachers that have taught here and teachers like my daughter just coming on that--

MARIS BENTLEY: Um-hum.

GRAGERT: --I think a teacher in-service would be a place to-- so every teacher in that school building does know what's going on with their contracts.

MARIS BENTLEY: It-- it wouldn't actually be brought up at a teacher in-service. It would have to be brought up at the-- the local association meeting--

GRAGERT: OK.

MARIS BENTLEY: --about res-- you know, how do you resign, because not all teachers-- the majority do belong to the union, but not all do. So a teacher in-service is for all teachers and it's usually related to, you know, teaching--

GRAGERT: It's a way to figure it out, though, right?

MARIS BENTLEY: --related to what's going on in the classroom, in other words, so.

GRAGERT: Right. And then what about a month-to-month instead of a year-to-year, like you give them a month's notice-- maybe working with them, you know. You give them a month's notice, you can jump out in a month, because I understand that Senator Lathrop was coming from, you know, at the start of the year maybe they need to know exactly how many are going to be union for operating whatever. But, you know, once they make that decision, then you jump out. Why couldn't it be on a month-to-month instead of year-to-year? You know--

MARIS BENTLEY: Yeah.

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GRAGERT: --so that'd be my question.

MARIS BENTLEY: Yes.

GRAGERT: So thank you.

MARIS BENTLEY: I would agree with that.

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

HALLORAN: Thank you, Chairman Hansen. So earlier, my understanding was that there's typically a start-up date for signing up to join, but now, if I understand correctly, if you miss that terminating window, you're automatically renewed.

MARIS BENTLEY: Yes, you are.

HALLORAN: So that's actually the sign-up period/terminating period. All right. If you don't--

MARIS BENTLEY: Well, you're automatically signed up. So, yeah, I guess you could call it that, but, you know, you don't--

HALLORAN: Well, if you don't-- if you don't terminate, you're signed up again.

MARIS BENTLEY: Right, right, yes. And you-- most teachers join when they're first starting-- the school year's starting. So I think somebody mentioned already August and September. That's when teachers sign up. You know, they're-- the school year's starting; they're getting their whole packet of forms and there's the union form in there and that's when they sign up. And then, like it-- like it has been noted, it's the end of the year when they can opt out, if they choose to do so, and-- but like I said, most teachers do not know the opt-out dates. They just-- they don't, and it's not printed on the general form from the NSEA that most teachers sign. The Lincoln Education Association is the exception, not the rule.

HALLORAN: Thank you, Ms. Bentley. Thank you.

MARIS BENTLEY: Thank you.

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

MARIS BENTLEY: Thank you.

RACHEL PINKERTON: Good afternoon. Members of the committee, my name is Rachel Pinkerton, R-a-c-h-e-l P-i-n-k-e-r-t-o-n. I'm here today to ask you to support LB684, preventing the teachers union from handcuffing school employees to arrangements that automatically withdraw dues payments from their paychecks, even if employees have decided they want to leave the union. Membership nationwide derided the teachers union in response to a May 2015 NEA Journal cover story on the Common Core State Standards Initiative. A commenter with the name Cos--Cospelero stated: NEA should be ash-- ashamed of itself for complicity in foisting CCSSI on American children and claiming teachers support it. That's a big lie. There were 37 likes and 5 dislikes for that comment. Ellen's comment received 70 likes and 6 dislikes: I've lost all faith in my union. NEA is a shameless panderer and has totally sold out its constituency, Kay Kline says: I'm an NEA/NYSUT team member. I could not be more angry at the sellout of our profession and our children/students Sellouts. I guess the end result will just be a bunch of toadies and uninspired teachers left in our classrooms who will go along like the Nazi prison guards and doctors. I don't use this comparison lightly. Sixty-four liked and 7 disliked Kline's comment at the time that I captured the screenshot. Hindsight shows us that Bill Gates's fulfillment of his 2004 UNESCO contract to devise universal education standards untethered to academic excellence or child development principles became the Common Core debacle supported by the teachers union. Staggering implementation costs, economic and personal, for students, families and teachers yielded disastrous results. The National Assessment of Educational Progress recorded the historic drop in reading and math scores caused by Common Core. Worst of all, the achievement gap between advantaged and disadvantaged students, one of the pretexts for this power grab, widened. As we-- has been discussed here, state and national union participation, both are required for local membership. And at the NEA, social reordering is job one. I find it mystifying that-- or confused that abortion is an issue that-- that brings people to write to-- to the senator about the NEA, because if you look at the NEA, social issues are-- they-- they-- they drive the conversation at the NEA. They danced around abortion for years. And this last summer, they just flat-out came out in opposition to any restrictions. Observe multiple new business items

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from the 2015 NEA annual meeting in Or-- Orlando denouncing binary biological sex as an ignorant, bigoted construct. How many teachers are truly represented by an agenda teaching little children that human sexuality is a subjective, fluid spectrum and that parents who say otherwise are not to be trusted or respected? LB684 gives school employees the freedom of association they deserve. Thank you for your consideration.

B. HANSEN: OK. Thank you. Any questions at all from the committee? Seeing none, thank you. Anybody else wishing to testify in support of LB684? All right, seeing none, is there any that wish to testify in opposition to LB684? Welcome.

SUSAN MARTIN: Good afternoon, Chair Hansen and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n. Sorry, I'll try and talk louder. I am testifying on behalf of the Nebraska State AFL-CIO and 20,000 union members throughout the state of Nebraska in opposition to LB684. Because Nebraska is a right-to-work state, it's the employee's choice on whether to join the union and pay union dues. When they do this, they complete an authorization form to deduct the dues. If they choose not to be dues-paying members, they are still covered under the bargaining-- collective bargaining agreement and have the same benefits as dues-paying members. Again, this is at the choice of the employee. By joining and paying dues, they fully understand the authorization form used to deduct dues; and by being a member of the organization and signing the form, understand the stipulation of the agreement. Just like Senator Blood stated, I wanted to compare this to a gym membership and, yes, it could be compared to a gym membership. You're signing a contract and understand the stipulations of that agreement. I'd say-- say I'd signed an agreement to pay the gym membership costs over the course of, say, 12 months based on what the contract is. The form I complete, is that my choice? And I fully understand the conditions of that agreement. And I don't think the state of Nebraska would want to delve into the area of setting the stipulations on that agreement. That is the point of this legislation. Our State Legislature is always looking at less government involvement, and I would say this qualifies for less involvement and feel the bill is unnecessary overreach. Just like in other agreements signed by individuals when joining an organization, they are aware of the terms of the membership. These decisions should be between the employee and the organization, and we feel the legislation being introduced

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unnecessarily targets unions. When I called Senator Clements' office and asked who brought the bill to them, I was told it was bought by an out-of-state education association who represents nonunion educators, who ironically also connect-- collect membership fees from their members for representation. In closing, I would respectfully ask that the committee indefinitely po-- postpone LB684 simply due to the fact that it is an unnecessary piece of legislation.

B. HANSEN: Thank you. Any quest--

SUSAN MARTIN: I'd be happy to answer any questions.

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

M. HANSEN: Thank you, Chairman Hansen. And thank you for testifying, Ms.-- Ms. Martin. We've talked a little bit about Janus throughout today. Can you speak to that at all--

SUSAN MARTIN: Yeah.

M. HANSEN: --because it's my understanding that Janus didn't really impact us in Nebraska because it struck down laws we didn't even have here in the state to begin with.

SUSAN MARTIN: Right. So Janus was the case regarding representation for public sector employees--

M. HANSEN: RRight.

SUSAN MARTIN: --in non-right-to-work states. So some public sector unions charged reduced fees for representation if an employee did not want to be a union member. Janus eliminated that. So really, but important to note, all employees that work in a place with a public sector union are represented, whether they pay dues or not.

M. HANSEN: Right. OK, so Janus really dealt with kind of a fee structure that didn't even exist in the state of Nebraska.

SUSAN MARTIN: Yeah, yes. So they were saying that you -- in these non-right-to-work states, they were charging a reduced fee maybe for representation, and then Janus removed that.

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M. HANSEN: Thank you.

B. HANSEN: OK, any other questions? Yes, Senator Lathrop.

LATHROP: I'm just going to use you as an opportunity. You know, I got online when I-- when people started throwing this case around, and I just looked at the Supreme Court Opinion. It was completely different and it was an Illinois person who did not want to be part of a union, absolutely didn't want to be part of a union, and they made them pay--

SUSAN MARTIN: Right.

LATHROP: --dues to the union and the Supreme Court said, you can't make somebody join this organization and make them pay dues. It didn't say anything, nothing about being able to get out of a--

SUSAN MARTIN: Right.

LATHROP: --out of a union--

SUSAN MARTIN: Correct.

LATHROP: --one of these contracts that we're talking about today.

SUSAN MARTIN: Correct.

LATHROP: Thank you.

SUSAN MARTIN: Um-hum.

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

HALLORAN: Yeah, thank you, Chairman Hansen. So you're-- you're okay with an arbitrary, narrow window to allow people to withdraw from-- from membership to the union?

SUSAN MARTIN: Most all-- most all of the organizations, the labor organizations do have that in their agreement, and everyone that signs that agreement should see that on there.

HALLORAN: Are they all universally, in other states, the same way, all labor union agree--

SUSAN MARTIN: I can't answer to that.

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HALLORAN: I haven't finished my question. Are all other labor union agreements the same way? If you miss a narrow window to withdraw-- and I won't say narrow, but a 30-day window to withdraw and you miss that, that you are automatically renewed as a member?

SUSAN MARTIN: I can't-- and I can't speak on behalf of the NSEA or teacher union contracts, just other public sector unions.

HALLORAN: And that's what I'm asking. For other unions, is that typically the case?

SUSAN MARTIN: The-- the contract rolls over to another year? No.

HALLORAN: So it's not automatically with-- with--

SUSAN MARTIN: No.

HALLORAN: --renewed if you choose-- if you miss that window to withdraw?

SUSAN MARTIN: No, I think NSEA is a little bit different than other--

HALLORAN: Why do you suppose that is?

SUSAN MARTIN: I have no idea.

HALLORAN: I think that's a question we need to ask them. Thank you.

B. HANSEN: Any other questions from the committee? Thank you for your testimony. We will take our next testifier in opposition to LB684. Anybody else wish to testify in opposition? All right, seeing none, is there anybody that wishes to testify in a neutral capacity? OK, seeing none, we will welcome Senator Clements back up, if he so wishes, to close. Welcome back.

CLEMENTS: Thank you, Chairman Hansen. Thank you, committee, for listening to the testimony. I just had a couple things to reiterate. We heard that, the union membership being continuous, you don't sign up every year. So it is becoming a problem, I think, for people to be aware of what their contract says that they signed maybe several years ago. I'm a member of professional organizations and those associations send me a yearly notice to send in dues and it would certainly be nice if that would be the case with this membership. It was said that-- by

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opposition that by joining, these teachers fully understand the agreement. I think the testifiers that we've had indicated that they really don't fully understand the agreement. So I would hope that you would consider making this change. Thank you.

B. HANSEN: Any questions from the committee at all? Yes, Senator Halloran.

HALLORAN: Thank you, Chairman Hansen. I don't have a question for you, but I'm using this closing opportunity to make a statement. It's disappointing that the NSEA and NEA didn't have someone here to testify from their position. And I think that would have been appropriate for them to do that so we could ask them questions. Thank you, sir.

B. HANSEN: Any other questions at all? All right. Thank you.

CLEMENTS: Thank you.

B. HANSEN: That will close the hearing for LB684 and we will actually take a short break for about five minutes. Everyone stretch your legs. We'll get back to the second [INAUDIBLE]

[BREAK]

B. HANSEN: All right. Welcome back. And now we will open up for LB171. And welcome, Senator Hansen.

M. HANSEN: All right. And thank you and good afternoon, Chairman Hansen and fellow members of the Business and Labor Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I am here to introduce LB171, a bill that would provide an additional 5 percent for each child receiving un-- a child for those persons receiving unemployment benefits. These additional dependents would not count towards an individual's maximum annual amount and would max out at a total of 15 percent. This bill stems from LR359 2020 interim study on ways to improve our unemployment benefits system in the face of the COVID-19 pandemic. In that interim study, our research showed that 13 other states provide for a dependent allowance in addition to the basic unemployment benefit amount. This makes sense to me. Several of our other states' assistance programs determine the benefit amount based on household size. So walking through how this would work, the amount you receive for state unemployment benefits is calculated by taking

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the highest-earning time period during the last year and calculating your average weekly wage. That number is then divided to arrive at your weekly benefit amount. So let's say that you make the average salary in Nebraska of about \$48,000. If you then get to receive unemployment, that would mean your weekly benefit amount would be at about the maximum benefit cap of \$456 per week for total benefits of just under \$12,000. You receive benefits for the maximum time allowed of 26 weeks. LB171 would add 5 percent per child, and using the scenario I just said, to that \$456 per week, so a person with one child would receive about \$23 more per week, two would receive about \$46 per week, and anyone with three or more children would receive about \$69 or more per week. The amount added under LB171 would not count towards that individual's maximum amount, which is 26 times your weekly benefit amount or one-third your total base period wages, whatever is less, so the total amount this change could add to what a person receives is about \$1,800 if they have at least three children and if they receive the maximum benefits for the maximum time allowed. During this pandemic, it has been made clear that unemployment insurance has been a lifeline to struggling families across the state. Like me, I'm sure you've all been fielding calls and emails to your office from those applying and patiently waiting to receive those benefits. I've also seen, and the data bears this out, that Nebraskans are some of the hardest working people you'll ever find. Nebraskans want to work. So when they are in the unfortunate position of applying for unemployment benefits, let's do a better job of matching what families need to what we can provide them for the short time they do receive those benefits. We've also seen that putting money in people's pockets not only benefits that individual family, but benefits our larger economy as well. If struggling families have a little bit more money to spend on household needs, I expect that also helps businesses across our state at a time when many of them are also struggling. With that. I'll close and be happy to take any questions.

B. HANSEN: All right. Thank you, Senator Hansen. Is there any questions from the committee? All right, seeing none, thank you very much. All right, we'll go take our first proponent for LB171. Welcome.

ALEX SERRURIER: Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Alex Serrurier; that's A-l-e-x S-e-r-r-u-r-i-e-r, and I'm a policy analyst for OpenSky Policy Institute. I'm testifying today in support of LB171, a bill that would aid Nebraska workers by expanding critical unemployment insurance

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benefits for members-- for members of our labor force who are searching for work while supporting dependents. LB171, would modernize our unemployment system by allowing it to recognize, much like our income tax system already does, that those with dependents require the resources to support more than just themselves. In Nebraska, unemployment insurance replaces 50 percent of a worker's average weekly wage, capped at one half of the state's average weekly wage, which is \$456 for 2021. To put this into context, a 40-hour-per-week, minimum-wage worker would receive \$180 per week in UI benefits, the equivalent of less than \$10,000 per year. The maximum weekly benefit equates to an \$11.40-per-hour wage, which is less than \$24,000 per year. There's also a six-month maximum period on receiving benefits, which means these annualized amounts are never realized by UI recipients. I also want to put the benefit increase proposed in LB171 into context. At the minimum wage, an unemployed parent would receive an additional \$9 in UI per week per dependent, whereas at the maximum benefit amount an unemployed parent would receive \$23 in UI per dependent per week. This benefit increase can make a tangible difference for household earners who are out of a job and actively searching for work, which is a requirement to receive UI benefits in the first place. LB171's fiscal note suggests that this policy change would cost Nebraska's UI trust fund \$36.5 million annually. However, the fiscal note's methodology assumes that nearly 240,000 Nebraskans will file UI claims each year, which is based on the amount that did so in 2020, a year that was made highly unusual by COVID-19. The amount of claimants in 2020 was almost six times higher than the number of claimants in 2019 and about five times higher than the average annual number of claimants from 2015 to 2019. So using the five-year average for a number of claimants instead of number of claimants in 2020, you'd get a projected cost of just over \$7 million to the state's trust fund annually, which is less than 2 percent of the trust fund's current balance. Thirteen other states already offer dependent credit for their-- as part of their UI programs. Iowa, for example, increases benefits by about 4 to 5 percent for each dependent up to a maximum of four dependents. LB171 would bring us roughly in line with Iowa and ensure that we're supporting families who are temporarily out of work in the same way that our neighboring state has been. Finally, I want to stress that UI payments not only support our labor force, but benefit state and local economies. A study by the Maine Department of Labor found that \$235 million in unemployment benefits paid during a single year of the Great Recession created an

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economic ripple effect that resulted in 3,200 jobs, \$8 million in earnings, and contributed \$178 million to Maine's GDP. This demonstrates the positive economic effects of UI recipients spending their benefits in order to support themselves and their families. So I'll conclude by saying that for these reasons, we hope that the Business and Labor Committee will support Nebraska's workforce by advancing LB171 to the floor for debate and thank you all for your consideration and truly for the work that you do for the state. And I'm more than happy to answer any questions that you may have.

B. HANSEN: Thank you. Any questions from-- from the committee at all? Yes, Senator Hunt.

HUNT: Thank you, Senator Hansen. So to be clear, LB171 has a fiscal note of like \$36.5 million.

ALEX SERRURIER: Correct.

HUNT: But this is based on claimants in 2020--

ALEX SERRURIER: That's correct.

HUNT: --which was obviously an extraordinary here. How did you get to the \$7 million projected cost?

ALEX SERRURIER: Sure. So I took an average of the amount of claimants from 2015 to 2019, which is almost exactly 44,000-- I believe it was 44,008 in the end-- and that is five times less than the amount in 2020. And so taking the same methodology used in the fiscal note and reducing the overall number of claimants, and I don't know how much time you've been able to spend with the fiscal note, but essentially they take the proportion of claimants and use the proportion of Nebraskans applying with certain numbers of dependents to calculate the fiscal impact. So if you reduce sort of each of those buckets of Nebraskans with one dependent who are claiming, Nebraskans with two dependents who are claiming by five times to sort of scale it down to the normal amount that we see, you end up with about \$7.3 million instead of 36.5.

HUNT: So this kind of treats unemployment like we treat SNAP and other types of benefits where the type of benefit you get scales depending on how many kids you have to feed, basically--

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ALEX SERRURIER: Yes.

HUNT: --and support with the benefit. OK, thank you.

ALEX SERRURIER: Thank you.

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

ALEX SERRURIER: Thank you so much.

B. HANSEN: And we will take our next proponent. All right. Is there any wish that testify in opposition to LB171? Welcome.

JOHN ALBIN: Thank you. Senator 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, and I'm Commissioner of Labor and I'm appearing here today in opposition to LB171. LB171 creates a dependent allowance for unemployment insurance benefits. The department estimates this will increase the amount of unemployment insurance benefits paid out per year by approximately \$36.5 million. LB171 proposes a 5 percent weekly benefit amount increase per independent-- per dependent child, up to 15 percent. To arrive at the benefits paid estimate, the department looked at the number of unemployed individuals with dependents. According to the current population survey, approximately 37.5 percent of unemployed Nebraskans have at least one dependent child. In 2020, Nebraska had 239,739 individuals file for unemployment insurance benefits. The average weekly benefit amount was approximately \$300, and the average claim duration was 14 weeks. As detailed in the department's fiscal note, NDOL took the approximate number of unemployed individuals with one, two, or three or more dependent children and determined the anticipated increase to weekly benefits based-- pay based upon an average weekly benefit amount of \$300. The department then multiplied the increase in weekly benefits paid by the average 14-week claim duration. The department notes that LB171 does not actually increase the overall amount of benefits an individual is eligible to receive. But even during the pandemic, most unemployment indi-- unemployed individuals did not exhaust their benefit eligibility. Essentially, individuals with a dependent will receive their full benefits more quickly. Because the department will be paying benefits to individuals with dependents a higher weekly benefit amount in the early weeks of claiming, overall, more benefits will still be paid. Unemployment insurance benefits are paid out of the

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Nebraska Unemployment Trust Fund. All states have seen a significant tr-- have seen significant trust fund impacts in light of the COVID-19 pandemic. As of February 1, 2021, 23 jurisdictions had received federal advances from their trust funds to have sufficient funds to meet the current unemployment needs. Nebraska's current trust fund balance is approximately \$400 million. Nebraska's trust fund has remained relatively stable throughout the pandemic because Governor Ricketts authorized the use of CARES Act dollars for the payment of unemployment benefits due to the COVID-19 impact-- or pandemic. This decision saved Nebraska employers from a dramatic increase in unemployment taxes. Because the dependent allowance is not due to the COVID-19 pandemic, these additional benefits would not be eligible for CARES Act dollars. Furthermore, there is no guarantee that future federal legislative changes will include additional CARES Act dollars. Nebraska cannot rely on federal dollars to be available to prevent a future tax increase if the Dependent Allowance in LB171 had existed in 2020, even with the use of CARES Act funds to pay unemployment benefits, the average combined tax rate for 2021 would have increased from one-half of 1 percent to 0.86 percent. Today Nebraska's trust fund balance would be under \$370 million dollars. In 2020, Nebraska paid out approximately \$350 million in unemployment insurance benefits. Based on these numbers, it's unlikely that LB171 could be implemented without an increase to employer taxes. As a technical note it's critical in the unemployment world. To have changes in process be attached to benefit year begin dates. Unemployment claims are effective either the Sunday the claim is filed or the Sun-- Sunday immediately preceding the date claim is filed. As currently drafted, LB171 has an operative date of January 1, '22, which is a Saturday. This means claims file on January 1, 2022, would be treated differently than claims filed on December 31, 2021, but both would have a be-- benefit year begin date of December 28, 2021. This would create significant IT complications for the department. That concludes my testimony. I'd be happy to answer any questions.

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

JOHN ALBIN: Thank you.

B. HANSEN: Is there anybody else wishing to testify in opposition? All right. Anybody wishing to testify neutral? All right, and we will welcome back Senator Hansen to close on LB171. And while he's coming

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up here, we do have some testimony, one from-- in support from Tiffany-- [INAUDIBLE] last name-- Tiffany Joekel from the Women's Fund of Omaha; two in opposition, one from Bob Hallstrom, National Federation of Independent Business, and Ron-- Ron Sedlacek from Nebraska Chamber of Commerce. And letters for the record: one in opposition from Rocky Weber from the Nebraska Cooperative Council. The floor is yours.

M. HANSEN: Thank you, Chairman Hansen, members of the committee, for hearing this. I'll try and close quickly but have a couple different thoughts. I think one issue we fundamentally with-- are going to have to deal with in the Legislature is, is 2020 our new normal or not? And I presume it won't be our new normal, but I also presume we won't go back to 2019 levels, and we're seeing that already just comparing January of 2021 versus January of 2020 and 2019. We're seeing a higher-- still higher unemployment claims now than we did in 2019, but nowhere near a peak in last summer, in 2020. So how long that lasts and where that lands is going to be something we're going to have to figure. And I bring that up by saying, you know, these numbers, some of the numbers in the fiscal note are based on the 2020 numbers. And if that's the-- that's the-- that's kind of the rub we've got to figure out is, is what-- what's a good baseline to-- to-- to focus this on and what. In full disclosure, I have a bill in front of Appropriations just to give more staff to the Department of Labor. I've suspected and worried that they are-- could-- needed more staff to just handle claims more expediently, and that's something I'm kind of working on independently of this bill. A couple other things: It was not my intent with this bill to, as the commissioner said, just end up paying people their amount faster. We've intended to include language in the bill that exempted this from their maximum-- maximum benefit amount. So it's not my intent to just kind of pay a little bit up front faster at-- at the end. And if that's something we need to clarify, we need to clarify. Addit-- additionally, the technical issue of this bill is-- technically picks a Saturday and it'd be more convenient to the department to pick a Sunday, it's no problem for me. I'd be happy to move it to a day that makes sense. But kind of in sum, looking at this, I think a lot of people think that unemployment insurance is something that just kind of got dropped in our lap from the federal government and maybe we don't have much to do and we just process it or what have you. But there are different states who choose to do different things. We have a considerable amount of flexibility

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in terms of what we do if we wanted to create different policies, and I think this policy providing just kind of a meager additional benefit to families with dependent children is one that's worthy of investment, whatever amount we end up figuring out it's going to cost. With that, I'll close and be happy to take any questions.

B. HANSEN: All right. Thank you. Any questions from the committee at all? All right.

M. HANSEN: Thank you.

B. HANSEN: Thank you very much and that will close our hearing for LB171. And just so I have it on the record, I would be remiss [SIC] if I didn't mention that LB684 that we heard a little bit ago did have one-- did have some written testimony, one in opposition from Jason Hayes from NSEA and also some letters of the record for support: 26 in support and 0 opposition. All right, we will open the hearing for LB290 and welcome Senator Cavanaugh.

M. CAVANAUGH: Thank you. This is my first time in Business and Labor this year. So good to be here. Good afternoon, Chairman Hansen and members of the Business and Labor Committee. I am Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h. I represent District 6, west-central Omaha in Douglas County, and I'm here to introduce LB290. As a mom, I appreciate the opportunities I have been afforded to have good medical care and a job with generous salary and benefits package because when my children were born, I had paid time off. That is actually not the norm. Many mothers and fathers have to take time off, take time off unpaid after a child is born or use sick and vacation time. In fact, employees who worked for the same employer I did were not afforded the same benefit I had because they were at a lower wage where the benefit package didn't include paid time off. That is more often the case. The higher the wage, the more often paid, paid time is included in the benefit package. Hundreds of thousands of workers who are also family caretakers, both male and female, are forced every year to take time off work unpaid to care for a family member or themselves and that was before COVID. One of the advocates to follow me will talk more about the workers struggling to care for family at the same time they are holding down a job. Studies show that caretakers, especially women, who have the option of having paid family and medical leave, are more likely to stay in the workforce instead of feeling like they are forced out of their jobs and into a

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caretaking role for full time. Paid family and medical leave is a tool to retain trained workers and a way to keep employee turnover down. Federal family and medical leave is a placeholder to keep a job and benefits, but does not have a reimbursement mechanism. It helps you save a job you want to return to or an equivalent job, but it doesn't help with partial replace-- replacement of a wage. LB290 proposes a statewide plan that would have many of the same definitions and protections as the federal law, but it includes a particular wage reimbursement. Here's how LB290 proposes to do this. The program administration agency is the Department of Labor. The Commissioner of Labor will promulgate rules and regulations, create forms, handle complaints, issue related notices, and make determinations related to the Paid Family and Medical Leave Act. LB290 would include all Nebraska employers subject to the Employment Security Act with two differences. Self-insured employers with private benefits equal to or better than those required in LB290 can opt out. However, any complaints would be dealt with by the Commissioner of Labor using the Administrative Procedures Act. Self-employed persons could opt out and that is an important point that self-employed workers are actually very excited about, the option of being able to participate in this because currently, they can't fund their own time off for these kinds of things. All individual employees would be eligible for paid family and medical leave. There would be a one-week waiting period. Paid family and medical leave would-- could be granted up to 12 weeks, full time or intermittent, for the serious health conditions of family members, military exigency leave, sorry, or when family-- new family members arrive. Family members are defined to include the covered individual employee, spouse of covered individual, a child of the covered individual or their spouse, whether biological, foster, adoptive, step, legal ward, or person whom covered individual or their spouse stood in loco parentis regardless of their age, grandparent, grandchild, sibling, whether biological, foster, adoptive, or step relationship or legal word of covered individual or the covered individual spouse, newborn biological child, newly placed foster or adopted child, military family member for quality-- qualifying leave, other person designated by the covered individual as a family member. Paid family and medical leave benefit for and-- for responsibilities of covered employees, the employee is assured the same job or similar job with equal pay upon return. The employee may take leave under the federal Family and Medical Leave Act concurrently to the paid family and medical leave allowed by this act. A covered individual found to

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have presented false statements or misrepresentations is disqualified from the benefit for one year. Benefits paid erroneously may be reclaimed by the Commissioner or used as an offset to future payments. The employer responsibilities: employer must provide information about paid family and medical leave to all employees. Employers shall maintain health benefits for individual employee if the covered individual continues to pay the covered individual's share of cost as required prior to commencement of leave. Employer cannot require an employee to exhaust accrued vacation or sick time prior to taking paid family and medical leave. Retaliatory personnel action by employer against employee for taking paid family medical and leave is prohibited. An employee found to be in violation of the act may be issued a citation that could result in a fine up to \$500 dollars for the first violation and up to \$5,000 for subsequent violations. The employer will have the right to appeal. On an annual basis, the Commissioner will determine the level of contributions required for employers to cover the expenses of the paid family and medical leave program. In no case shall the contributions required from an employer exceed 1 percent of the gross wages paid. Not including the startup cost, estimates for employer contributions should be around half a percentage of wages paid. Calculation for benefits: paid family and medical leave benefits are calculated as a percentage of the individual's average weekly wage, as compared to the state's average, average weekly wage. For example, if the average weekly-- state weekly wage-- wage is \$671, the benefit for individual wages at or below that will be calculated at 90 percent. For individual wages above \$671, the benefit would be calculated at 50 percent. Paid family and medical leave benefits shall not be paid at the same time in individuals receiving workman compensation benefits for total disability or unemployment benefits. LB290 proposes to borrow the startup costs from the Health Care Cash Fund to be repaid when the paid family and medical leave fund has, has sufficient funds, but no later than October 1, 2025. The amount to be used in LB290 was taken from the fiscal note from last year's bill, LB311, as it was drafted. There will need to be an amendment or adjustments made to address the current fiscal note estimates. Another proposed bill I am introducing this year is an increase in tobacco tax. Should that bill pass, part of the revenue generated would go into the Health Care Cash Fund and could be available to assist with the startup costs of the family and medical leave. Paid family and medical leave is needed now more than

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ever and I ask you to advance LB290. I'm happy to take any of your questions.

B. HANSEN: All right, thank you. Any questions from the committee at all? Seeing none, we'll see you when you close. We will take the first proponent for LB290.

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. I'm here today in support of LB290 on behalf of AARP Nebraska. The issue of family caregiving is both timeless and nonpartisan. Most of us are and have been, will be a family caregiver, or will ourselves be needing the help of a loved one to live independently in our lifetime. Family caregivers are the backbone of Nebraska's long-term supports and services system. Nearly 240,000 Nebraskans provide 199 million hours of unpaid care, which is valued at \$2.9 billion annually and growing. Family caregivers are the first line of assistance for most people, helping to make it possible for older adults and people with disabilities to remain at home and out of higher levels of care settings. These caregivers are the most important source of emotional and practical support for older persons or adults with a serious illness or disability. As the population ages and individuals stay in the workforce longer, trends suggest that an increasing share of family caregivers will be in the labor force. This means that many face the dual demands of employment and caregiver responsibilities for family or friends with serious illness or disability. According to a December 2020 AARP study report, 61 percent of family caregivers of adult relatives or friends worked at a paying job at some point during their caregiving experience in 2019. This is making for an estimated 29.2 million employed caregivers of adults. This represents an increase of more than 5 million family caregivers since 2015. The December report also found that 58 percent of employed caregivers were more likely to be female, 44 percent were caring for an adult age 75 or older, and 45 percent were older workers themselves, meaning age 50 and older and in their prime working years. Additionally, 57 percent expect to have some caregiving responsibilities in the next five years. Unlike previous generations, many families today do not have a nonworking family member to provide daily care to an older relative with self-care needs, in large part because of the increase in the labor force participation rate of women, especially older women. Seventy-three percent of millennial family caregivers are employed while also providing care for an adult

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with a disability or an older adult with chronic care needs. Family caregiving responsibilities impact people across their working lives, often creating a stressful juggling act between work, their caregiving role, and other family responsibilities. When work requirements conflict with family obligations, some employed family caregivers must make difficult decisions that can lead to lost wages and missed career opportunities. Many workers struggling to make ends meet simply cannot afford to take unpaid leave. Elder care can be especially challenging, as often both its onset and duration are unpredictable. When an older person become ill-- becomes ill, roles, relationships, and expectations within the families change. More family caregivers are assisting older family members or friends with higher rates of disability than in the past and are more likely to be providing hands-on and often physically demanding and intimate personal health. In fact, nearly half of employed caregivers report their relative or friend has two or more conditions that affect the individual's health or functioning, one in four is caring for someone with Alzheimer's or dementia, and 56 percent perform complex medical nursing tasks such as giving injections or doing tube feedings. Elder care may arise gradually from chronic degenerative conditions, but very often the need for caregiving arises abruptly as a result of an accident or acute health crises such as a broken hip or a stroke. Research shows that family caregivers who disrupt their careers or leave the workforce entirely to meet full-time caregiving needs can face substantial economic risks and short-term and long-term financial consequences by losing salary, personal retirement savings, and eventual Social Security and retirement benefits, even career opportunities, and overall their financial well-being. More than four in ten employed caregivers have experienced at least one financial setback as a result of caregiving. About 28 percent used up their personal short-term savings, while 25 percent took on more debt. Access to paid leave is a vital workplace leave benefit. Many workers, especially low-wage workers, do not have access to any paid leave to care for themselves, let alone family members with caregiving needs. Managing paid work-- paid work alongside care for an adult family member or a close friend with a serious health condition or disability can be challenging for employed caregivers when their needs are not being met by existing policies and programs. Because most family caregivers now hold paying jobs, too, employed caregivers need access to workplace leave benefits and other supports to fulfill both their caregiving and paid work responsibilities. The COVID-19 pandemic is

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adding new emotional and economic stressors on family caregivers, especially those who may have lost their job, their health insurance coverage, or had to cut back on work hours or quit their job completely to provide care for an ill family member. LB290 will protect working family caregivers and seniors in need of care by ensuring work-- working caregivers struggling to make ends meet by, by their-- paycheck to paycheck are not forced to take unpaid leave. Without LB290 and strong paid leave and flexible workplace policies to support family caregivers, vulnerable seniors will increasingly be forced into taxpayer-supported higher levels of care. This could put in even more pressure on Nebraska's already strained budget and is likely an unwelcome and potentially dangerous outcome given the pandemic. Thank you to Senator Cavanaugh and I'd be happy to answer any questions.

B. HANSEN: Thank you. Any questions at all from the committee? Thank you very much.

SCOUT RICHTERS: Hello, my name is Scott Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska. We'd like to first thank Senator Cavanaugh for bringing this bill. As has been mentioned, the vast majority of people in Nebraska lack paid family leave and even unpaid leave under the federal Family and Medical Leave Act is inaccessible for 62 percent of working people. And even when it is available, many can't afford to take unpaid leave. So that means that when health issues inevitably arise, especially during an ongoing pandemic, it can force people to make an impossible choice between caring for their fam-- themselves and their family or keeping their jobs. And this choice disproportionately affects low-wage workers who most often lack paid leave and these low-wage jobs are disproportionately held by women and people of color. And it's important to note that these same low-wage workers are the ones who often don't have the luxury of working from home during the pandemic, as they are essential workers responsible for things like caring for our children, caring for the elderly, processing foods, and working in our grocery stores. So for that reason, ensuring the availability of paid leave for all workers is of utmost importance in ensuring equal opp-- economic opportunities. Also, while we know that the work of caring for children and family members has traditionally been disproportionately borne by women, this bill is appropriately gender neutral and really works to ensure that anyone, regardless of gender, can take necessary leave without risking their job. Paid leave is also

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good for businesses, with studied-- studies showing higher retention, morale, and productivity where this kind of paid leave is available. So in short, we know that many Nebraskans both care for family and work. We know that the population in Nebraska is aging, which increases the need for care and we also know that choices between jobs and family hurt the economy by forcing people out of the labor market. Paid leave means a stronger economy and fairness for all workers, regardless of gender or race, and that's why we offer our full support of this legislation.

B. HANSEN: All right, thank you. Is there any questions--

SCOUT RICHTERS: Thank you.

B. HANSEN: --from the committee? Seeing none, thank you.

SCOUT RICHTERS: Thank you.

B. HANSEN: And we'll take our next proponent. Welcome back.

TIFFANY JOEKEL: Thank you. Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Tiffany Joekel, T-i-f-f-a-n-y J-o-e-k-e-l, testifying in support of LB290 on behalf of the Women's Fund of Omaha. We support LB290 to create a paid family and medical leave insurance program because as been stated, the majority of workers do not have access to paid leave to be there during a dying parent's last days, to care for a newborn child during those fragile first weeks, or even to care for oneself during an unexpected illness because of a lack of paid family leave. Paid leave allows women, often the primary caregivers, to remain in the workforce, supports their family economic stability, and reduces the gender wage gap. And we believe a program of paid family leave insurance offers an affordable solution to help small businesses put family first, compete for the best talent, reduced costly employee turnover, and alleviate the cost of wage replacement through affordable insurance. Access to paid family and medical leave is an important tool for women to help them build and maintain their economic security. And Nebraska women represent almost half of the workforce, or at least before COVID, and the great majority of children in our state have working mothers, almost 80 percent. Beyond responsibilities to our job, women must continue to fulfill the primary role of caregiver within our families, balancing two important

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sets of responsibilities to our careers and to our families in a world where most jobs don't offer sufficient paid leave. Women are often put in a position to sacrifice their career advancement or earning potential to care for their families, but it doesn't have to be this way. Paid family and medical leave, as provided in LB290, is a solution for both employers and employees. The reality is that most folks will need this kind of leave at some point in their lives. Not having a program like this doesn't mean that no one needs it, right? It means that we have to deal with the realities of folks needing this leave in other ways and that can be disruption from the workforce, disconnection from the workforce. And at a time when employers need employees, we really see this as a solution to help retain the talent that workers need. Additionally, I think it's important to note that this creates a system of insurance. I think it's often perceived that this is a requirement that employers provide this leave and instead this functions more like a short-term disability program in that employers do pay into this. When an employee needs to take leave, it is the pool that pays out. So for example, there is a potential of savings for some employers who already offer paid leave benefits. I will use our example-- our-- my employer as an example. The Women's Fund offers paid leave. I had a baby last year and was able to take 12 weeks paid and because the Women's Fund essentially self-insures, they paid my wages while I was gone. And what this does instead is the Women's Fund would pay in-- the employer would pay into the insurance program. Then when an employee needs to take that leave, it is actually the insurance pool that pays out at least a portion of my wages while I'm on that leave. And I think that offers an important tool for employers because then in that time, if they need to hire additional help to cover the workload while I am accessing leave or if they need to pay for overtime, for example, they do have the wages available that they had intended to pay me, but because I'm on leave and the pool is paying me, they can use those unspent wages to offer assistance to, to fill the workload. So I don't want to be insensitive to the concerns that businesses face when trying to make this work and make it work with their employee, employees. But the reality is most people will need to access some amount of leave and so I think this provides an opportunity for small business and medium-sized businesses to compete with large businesses who are, quite frankly, sort of falling all over themselves when they can to compete in offering more and more generous benefits in this space. And so I think this is a real opportunity for our state and to support employers in offering

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these benefits, we can make Nebraska the best place to live and raise a family and work and I would hope this committee would consider this as an opportunity to do that. So with that, I'm happy to answer any questions.

B. HANSEN: I knew I pronounced your last name wrong last time. The "J" is silent.

TIFFANY JOEKEL: I mean, it is just a terrible one. It is OK. It is--

B. HANSEN: Sorry.

TIFFANY JOEKEL: --Yaykel [PHONETIC], like, yay, but I, I answer to all of it.

B. HANSEN: All right. Thanks for your testimony.

TIFFANY JOEKEL: Sure.

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

BLOOD: Thank you, Chairman Hansen. Just a couple of really quick questions.

TIFFANY JOEKEL: Yeah.

BLOOD: You touched down on working moms specifically.

TIFFANY JOEKEL: Um-hum.

BLOOD: I know that 70 percent of moms in the United States work. Nebraska's rate is higher. Do you remember what that rate is?

TIFFANY JOEKEL: I think it's, it's 80 percent of children have a working mother in the workforce, though.

BLOOD: And where do we rank nationally?

TIFFANY JOEKEL: We're in the top three always, three to five.

BLOOD: As being the best?

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TIFFANY JOEKEL: Yes, like, highest rate of parents-- children with all available parents in the workforce.

BLOOD: But don't, don't we rank low on other things that pertain to things like childcare and--

TIFFANY JOEKEL: Yes, we have--

BLOOD: Because I was going to say, I found us to be like 29--

TIFFANY JOEKEL: Yeah.

BLOOD: --for working moms.

TIFFANY JOEKEL: We have very consist-- we have some of the lowest levels at which we support childcare assistance through the subsidy programs. Is that what you mean?

BLOOD: Right.

TIFFANY JOEKEL: I mean, we're one of the lowest and certainly lowest among our surrounding states.

BLOOD: So all this-- although this bill will touch down on other aspects, it especially could help our working moms?

TIFFANY JOEKEL: I think so, yeah.

BLOOD: Thank you.

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

TIFFANY JOEKEL: Thank you.

B. HANSEN: We'll take our next supporter. Hello, welcome.

DIANE AMDOR: Hello. Good afternoon, Chairman Hansen, members of the Business and Labor Committee. My name is Diane Amdor, D-i-a-n-e A-m-d-o-r, and I'm the staff attorney for the Economic Justice Program at Nebraska Appleseed. Nebraska Appleseed is a nonprofit law and policy organization that works for justice and opportunity for all Nebraskans. Nebraska Appleseed supports LB290. Nearly everyone experiences the need to take time away from work to recover from a

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serious illness or to take care of a sick family member or a newborn child. However, many Nebraskans cannot take the time they need to take care of themselves or their family without risking their jobs or financial stability. By adopting LB290, the Paid Family and Medical Leave Insurance Act, we can ensure Nebraskans will no longer have to choose between keeping their job and earnings and caring for themselves or their family. And you have my written testimony in front of you. I don't want to repeat what other testifiers have said. We love this bill. We've been here in support of this version, other versions of this bill in previous sessions, LB311 last session, and many years before that. I do just want to highlight on the federal level that paid-- the Family and Medical Leave Act, FMLA, has prevented millions of people from losing their jobs when confronted with serious medical issues. The, the reason we need a Paid Family and Medical Leave Act is because that only covers some of the workforce and only guarantees unpaid leave. The federal level is not enough. We need this at the state level and Nebraska Appleseed is happy to be a resource to answer any questions about this bill moving forward.

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

DIANE AMDOR: Thank you.

B. HANSEN: Is there anybody else wishing to testify in support of LB290?

SUSAN MARTIN: Good afternoon again, members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, testifying on behalf of the Nebraska State AFL-CIO and working families in support of LB290. I am just going to submit my testimony for the record. The previous testifiers have done a magnificent job of explaining the reasons to support this bill and why we should all be supporting it and I don't want to reiterate what they've already mentioned. So we thank Senator Cavanaugh for introducing this legislation. By passing LB290, we are valuing our workers and allowing Nebraska's businesses to attract and retain a productive workforce. We ask that you support LB290 and advance it from committee.

B. HANSEN: OK. Any questions from the committee at all? Thank you very much. Anybody else wishing to testify in support?

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ASHLEA KERR: Hi. My name is Ashlea Kerr, spelled A-s-h-l-e-a K-e-r-r. I work for the Arc of Nebraska. We're a nonprofit organization with over 1,500 members across the state. We work to ensure Nebraskans with disabilities are able to live integrated, fulfilling lives. We focus on community inclusion because it, because it results in the best treatment outcomes that are the most cost effective. We strongly support LB290. This bill will help our members and their families. Many Nebraskans live with a disability or care for a loved one who has a disability. Whether it be their child or their aging parents, many Nebraskans often have to take time away from work to manage the daily and unexpected tasks required to care for their loved ones. Without paid leave, many workers face a cruel and unnecessary trade-off, health and family or work and making ends meet. Access to pay while away from work is very important, especially for people with disabilities and their families, who on average have lower incomes and fewer savings to fall back on when taking leave. Nearly all of us will need paid leave at some point. Unlike sick leave, paid family and medical leave will help workers with longer-term, more serious medical needs that require long absences from work. LB290 will address the realities of modern work-family balance needs and will boost economic security and opportunity for all of us. The Arc of Nebraska urges the committee to support and send LB290 to General File. Thank you for this opportunity to testify.

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

ASHLEA KERR: Thanks.

B. HANSEN: Anybody else wishing to testify in support? All right, seeing none, is there any that wish to testify in opposition to LB290?

JOHN ALBIN: Thank you, Chairman Hansen, and not possessing Patrick O'Donnell's ability to read at amazing speeds, I'm probably going to get cut off by the red light here in the middle of my testimony, so I apologize in advance. Anyway, Senator Hansen, members of the Business and Labor Committee, for the record, my name is John Albin, J-o-h-n A-l-b-i-n, and I am the Commissioner of Labor and I'm appearing here today in opposition to LB290. LB290 is a rework of LB311 in 2-- 2019. Our administration continues to try to be innovative and generous when it comes to maternity leave. We support creating a work environment that is more conducive to new parents. However, the coverage provided for in this bill is very broadly drafted so I'm going to explain the

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mechanics of it in more detail. Before diving into the benefits proposed in LB290, I want to start by taking a minute to address the increased fiscal note. I fully understand the increased cost of administrative-- in administration is large. When the department first began examining the costs of implementing paid family and medical leave with LB205 in 2017, it envisioned a program as part of the unemployment system. It believed it could rely on existing team members and increase the workforce to carry out the program. With the pandemic, the department has hired 425 new employees, including contractors, to administer the dramatically increased unemployment workload. Because of new federal legislation, the department has implemented multiple new unemployment programs over the last year. The department simply does not have the bandwidth to utilize existing staff for the operation of this program. The department also does not have the space to house the number of employees anticipated for the program. Previously, spacing was not a concern, but the increased staffing levels creates an issue with building space. For the department, it always analyzed Rhode Island's experience with paid family and medical leave. However, Rhode Island had an existing medical leave program known as temporary disability insurance. This existing program is the overwhelming majority of benefits paid under their program; 93 percent of benefits were paid under the existing temporary disability insurance program. Nebraska has no similar existing program. The District of Columbia recently launched their paid family and medical leave program. They also had no existing framework for the program. The department believes Nebraska's implementation experience will better compare to D.C.'s experience. For the first three years, D.C. has estimated administrative costs of \$49 million. Nebraska has a larger population than D.C., so we anticipate more applications and LB290 requires full implementation at a faster pace than D.C. The department has no reason to believe it can implement more quickly than-- for more people at a lower cost than D.C. Significant concerns about the timeliness proposed in LB290 also impact the cost. As drafted, no administrative funds are received by the department until October of 2021. However, the department is required to begin collecting the employer tax by January of 2022. That is simply not a feasible timeline for implementation. It would also be extremely difficult to be in a position to make payments by July of 2023. D.C.'s legislation was passed in February of 2017 and applications for the program did not begin until July 1, 2020. LB new-- LB290, if passed, will give the department less than two years

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to implement the program. The overwhelming share of the program cost will be benefits paid. The department is projecting over \$300 million per year in benefit costs. Because D.C. just implemented their program in 2020, annual data on benefits is not yet available. For benefits paid, the department continued to review Rhode Island. The Rhode Island 2019 annual statistics for its combined temporary disability and paid family leave program are now available. Those statistics are set forth in the handout entitled "Rhode Island Department of Labor and Training TDI Annual Update January-December 2019." In 2019, Rhode Island received a total of 46,259 applications: 33,404 applications were for temporary disability leave for serious nonwork-related injuries or illnesses exceeding seven days in length; 28,782 of those claims were approved. Rhode Island received only 12,855 initial applications for temporary caregiver insurance, of which 7,175 were approved. Rhode Island's temporary caregiver law includes care for a family member with a serious health condition and bonding with a new child. In financial terms, Rhode Island paid out a total of \$200-- over \$200 million in paid leave, temporary disability, and caregiver benefits in 2019 and the benefit amount average was \$525 per week. Of that total, approximately 7 percent of-- or \$14 million was for caregiver benefits. To estimate benefits paid under LB290, the department closely examined Rhode Island's annual statistics. LB290 only provides benefits for individuals employed and covered employment or self-employed that elect into the program. In 2019, Rhode Island had approximately 478,000 people in covered employment. Based on the 46,259 initial applications received, it was determined approximately 9.7 percent of the covered workforce filed in the claim were paid leave benefits. Approximately 78 percent of those claims were approved. For that same time, Nebraska had approximately 969,000 people in covered employment. If 9.7 percent filed a claim for paid leave, there would be approximately 93,993 claims for benefits. Of those, 73,314, 78 percent, would be approved. The average number of payments proclaimed in Rhode Island was just over ten payments. LB290 proposes a rather complex benefit calculation. Section 4 of the bill requires the department to look at wages above and below the average weekly wage. For an individual that earns more than the actual weekly wage, the wages up to the actual average weekly wage are paid benefits at 90 percent and any wages above that are paid at 50 percent for an overall cap of 66 percent of the average weekly wage. The 2020 average weekly wage in Nebraska was \$912. Because NDOL does not have existing information on percentages of individuals above and below the average

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weekly wage, the best readily available source data is unemployment. The average weekly benefit amount for a UI claimant in 2020 was approximately \$300. And I'm sorry, I've run out of time. I'd be happy to answer any questions.

B. HANSEN: Yeah, I guess-- should-- do you want to finish up, just your final thought quick here or--

JOHN ALBIN: With the Chair's permission.

B. HANSEN: Yeah, go for it.

JOHN ALBIN: OK. This means the average weekly wage for those filing for unemployment was approximately \$600. If we assume, on average, a person filing for PFMLA earns \$600 per week, then the first \$456 of the wages will be reimbursed at 90 percent and the remaining \$144 would be reimbursed at \$72 dollars for an average annual benefit-- an average benefit payment of \$482. The benefit payout was calculated at nine payments per claim. Rhode Island averaged over ten, but the weeks available vary. The department estimated the average length of a claim to be nine payments. At nine payments per claim, the department would pay out \$318,302,000 in paid family and medical leave benefits per year. Of note, Rhode Island's temporary disability benefits are available for up to 30 weeks and the average length of the claim was ten weeks. Their temporary care benefits are only available for four weeks and their average length of claim was 3.6 weeks. LB290 puts all types of leave at 12 weeks or 60 days of intermittent. LB290 also has a broader definition of a family member. Under LB290, each covered individual may designate a non-family member as a family member. Most importantly, LB290 proposes a \$470 million tax increase on Nebraska employers. LB290 requires covered employers to contribute to the paid family and medical leave insurance fund. The amount of employer contributions is capped at 1 percent of gross wages for a year. It's important to note that the definition of covered employers wouldn't include the state of Nebraska and political subdivisions. Unlike unemployment taxes where political subdivisions only reimburse the department for benefits actually paid to its former employees, LB290 would require each political subdivision to pay a quarterly tax. In 2019, Nebraska's total gross wages were \$47 billion-- over \$47 billion. The maximum amount of contributions to the department could have-- collected in 2019 under LB290 would have been 2-- \$470 million. I provided copies of the Rhode Island Annual Report, D.C. Cost and

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that-- Cost Estimate, and the first quarter of 2020 D.C. Report and that concludes my testimony. I thank the Chair for the additional time. I would be happy to answer any questions you might have.

B. HANSEN: Is there any questions? All right, seeing none, thank you very much.

JOHN ALBIN: Thank you.

ERIN EBELER ROLF: Good afternoon. My name is Erin Ebeler Rolf. I am an attorney with Woods Aitken LLP. My name is spelled E-r-i-n E-b-e-l-e-r R-o-l-f. I am here today to speak on behalf of nine different business-based organizations in Nebraska, including the following: the Nebraska Chamber, the Omaha and Lincoln Chambers of Commerce, the Nebraska Bankers Association, National Federation of Independent Business, the Lincoln Independent Business Association, commonly known as LIBA, the Nebraska Grocery Industry Association, the Nebraska Retail Federation, and the Nebraska Restaurant Association. These organizations have come together in opposition to LB290 because businesses should be allowed to choose what combination of wages, benefits, and leave plans best work for them and their employees. They believe that allowing individual businesses to address these issues is the best way to protect both Nebraska businesses and Nebraska employees and ensure the success of both groups. The overbroad nature of LB290 will impose a heavy cost on businesses that, quite frankly, many will be unable to bear. First, LB290 fails to include many of the federal FMLA Act's size requirements for employers to ensure that the leave obligations are not unfairly imposed on small businesses. Second, this bill takes an approach that is very different from that done in the few other states that have enacted legislation similar to this, in that it imposes the entirety of the cost on employers. It is not done through a cost share basis and it is not done through a payroll deduction on the employees. As drafted, any employer subject to the employment security law is required to participate in the program, meaning that any business who has one or more employees and has paid more than \$1,500 in wages in a calendar year. This bill provides no exceptions for the vast majority of small businesses, which are the ones who would be most impacted when employees take a sudden leave of absence. In contrast, the federal FMLA Act only applies to businesses who have at least 50 employees within a 75-mile radius. And even then, the worker must have worked at least 1,250 hours for the employer in the prior 12-month period. Only unpaid leave

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is mandated under the federal act. In contrast, LB290 imposes paid leave obligations on nearly all employers, regardless of size and regardless of the number of employees they employ in any given location. I live in rural Nebraska between towns of approximately 300 and 1,500 people. I can assure you that many parts of Nebraska, outside of Lincoln and Omaha and some of our other larger communities, do not have access to a large pool of temporary workers or staffing agencies. Moreover, we know that many workers are unable or unwilling to travel from urban centers to rural communities for a temporary position, especially where temporary housing situations are not readily available. LB290 puts employers in those communities in an especially difficult position in being able to continue their business operations in the event that one of their two or three employees suddenly takes 12 weeks of leave. Let's next address the financial burden. LB290 places the sole unfunded burden on employers to contribute to the insurance pool being created. This stands in stark contrast from the way that most other states have implemented such a program. For instance, even California funds its program through employee-paid payroll taxes. Nebraska's, Nebraska's program is one of the few that would be solely employer funded. I could only identify the District of Columbia in my research. As such, any comparisons made between this bill and other states' programs need to be closely scrutinized as to the impact on businesses because, quite frankly, imposing 100 percent of the cost of this program on employers is not how other states have approached this issue. I challenge the committee to ask themselves this question: if these leave rights are being demanded by employees in lieu of the other wages or benefits currently being provided by employers, why shouldn't employees be asked to contribute to the cost of the program? In addition to the changes in the formula relating to how much would be paid out under each claim, there were a number of other changes to LB290 as compared to the-- to LB311, which was introduced in 2019. First, an employee is entitled to designate "one person" as a family member, regardless of whether that person is an actual family member of that person and regardless of whether the employee actually has a need for leave to provide care for that individual. Two, the maximum amount of leave that may be taken with wage reimbursement was expanded to 12 weeks or 60 workdays in the event of intermittent leave for all purposes, whereas in the earlier bill, certain leaves only necessitated six weeks of leave. Both changes mean that it is more likely someone would have a qualifying

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reason to take the leave throughout the course of the year for a longer period of time. I also note that during 2019's testimony--

B. HANSEN: Hey, Erin--

ERIN EBELER ROLF: --on a similar--

B. HANSEN: --excuse me. Sorry, I don't mean to interrupt you. We'll just wrap up your final thoughts here real quick, if you could, please.

ERIN EBELER ROLF: I appreciate that.

B. HANSEN: Thank you.

ERIN EBELER ROLF: The members of the business groups I represent appreciate the difficulty employees and all individuals face in balancing family and work obligations. We just believe that many of our employers are better situated to determine what the best combination of wages, benefits, and leave programs are best for their recruitment, retention, and promotion of success of both the businesses and the employees. I appreciate your time and I'm happy to answer any questions.

B. HANSEN: Thank you. Is there any questions from the committee at all? Seeing none, thank you very much. Is there anybody else that wishes to testify in opposition to LB290? All right, seeing none, is there any that wish to testify in neutral? All right, well, we'll welcome Senator Cavanaugh back up here to close. Oh, and while she's coming up here, we do have some written testimony. We had 3 letter--written testimony in support from Julie Erickson of Voices for Children, Jason Hayes from NSEA, and Paige Gade from the Lincoln Young Professionals Group and one in opposition from Robert Bell from the Nebraska Insurance Federation. And we did have 8 letters for the record of support and 1 in opposition.

M. CAVANAUGH: Thank you. Well, I'll start by speaking to some of the points that were made in the opposition testimony that we just heard. I-- oh, thank you. I will speak up. So yes, we have this fully employer paid. This has been introduced in many different forms, in many different ways and the chamber has always opposed it. We've had it completely employee paid. We've had it employer-employee paid. So I thought if you're going to hate it anyways, let's do what's best for

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the employees, for the people of Nebraska and not for businesses and corporations. So that's what this bill is. This bill is what's best for the people of Nebraska, for the individuals working in Nebraska. Now I am happy to entertain amendments to change this to be more employer friendly, absolutely, but the time is now. Nebraska needs paid family and medical leave. We have a pandemic and we have a problem with brain drain and people leaving the state and we need to do everything we can to recruit and retain people, young people, people who are having children, people who are caretakers moving back to Nebraska to take care of their parents. So yeah, this is an employee-friendly bill. It doesn't get any more employee friendly than this, but I'm happy to work with interested parties to make changes. It's going to cost money. So did tax incentives. This doesn't cost more than tax incentives for corporations and this actually helps people, actually helps people. So yes, we as a legislature have to make a decision. Who do we want to be in this state? Who do we want this state to be? Do we want to be a state that's big corporation, big money or do we want to be family friendly, worker friendly? I want to be family friendly. I want to be worker friendly. I want to bring people to this state to raise their family and to thrive and to know that Nebraska cares about them. I'll take any questions.

B. HANSEN: All right, thank you. Any questions? Yes, Senator Hunt.

HUNT: Thank you, Senator Hansen. Thank you for bringing this bill. I definitely empathize with the frustration of bringing a bill in so many different forms and so many different ways and the opposition never comes off. And so it doesn't seem to be about the granular detail of the bill, it just is about the policy writ large. I have been a business owner in my district for 15 years and I've had dozens of employees who would have really benefited from something like this and this is a policy that I would love to see pass because it actually brings a benefit that I, as a very small business owner, wouldn't be able to provide a loan for my employees. You know, I can't afford to pay out 12 weeks of somebody's salary, but I could afford to pay 1 percent of my annual payroll so that everybody had the opportunity to take a benefit like this. And we see in states that have policies like this that these are the places that young people want to work, that-- where young women are more willing to have children and more willing to grow their families because they know they'll be supported by their state, which, you know, if we're preaching the morality of supporting women and families, then this is a great way to do that. Without

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pontificating more, can you speak to any, any other small business owners that you've spoken to who support the bill?

M. CAVANAUGH: Oh, they're-- small business owners are very excited about this. This is very helpful to them. The smaller the business, the better. Again, if you're self-employed, you can opt into this. So if you've got COVID and you couldn't take on clients for a certain amount of time because you were just too sick to do anything, you could benefit from this as a self-employed individual. This would be huge for small business in Nebraska. Yes, so I've heard from small business, self-employed insurance providers that do family insurance in the state, homeowner's insurance, car insurance, those kind of things. I've heard from small business owners, restaurant owners that could benefit from this, you know, when they have employees-- the restaurant community, as I'm sure you know, Senator Hunt, is, is a community and they have employees that have to have surgery or have to take care of a sick parent. And they oftentimes will pool around that person. I mean, I've participated, in my time working in the restaurant industry, participated in fundraisers for coworkers to help pay for-- so that they can take time off because there isn't something like this. And so, yeah, this will improve the quality of life for so many small businesses and it does purposely go further than the federal program because we should be better. Nebraska should be better. We should be the best place; the best place to be a family, the best place to have a business, the best place to live. We're the good life and we should reflect that in our policies. So yeah, I hope that helps answer your question.

B. HANSEN: Yes, Senator Blood.

BLOOD: Thank you, Chairman Hansen. Just a brief question, Senator Cavanaugh. I'm looking through this information that we were given that compared to other states and by far-- have you seen these graphs?

M. CAVANAUGH: No.

BLOOD: So by far, the claims were "bond with newborn" for the reason that people took time off. So in your personal opinion, looking at your bill and knowing that Nebraska is allegedly a pro-life state, why do you think that this is especially important for new moms?

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M. CAVANAUGH: Oh, well, you can't put a child in a licensed child care before they're six weeks old. So if you work at an hourly job, say-- example I used earlier, I worked for the university and I was a managerial class employee, so I had 26 weeks paid sick leave that I could use. Hourly employees at the university, and this is still the case today, would have to work for five years, take no sick leave and no vacation time to accrue enough time, plus participate in the crisis leave pool to get enough sick time to take 12 weeks off. Five years of taking no time whatsoever and I could take 12 weeks, no problem, just needed my doctor's note. Well, not no problem, I had to have a baby. That's, you know-- it's not no-- it's not a small thing, but it's more like a ten-pound thing. So yeah, this is-- this would help those hourly workers that don't get that time off if they're having a baby, in that example, to take at least the six weeks off before they can put their child into a childcare. And if you're an hourly worker and you have to take six weeks off, regardless of if your employer pays you or not, because you birthed a human-- let's say maybe you had a C-section, so you really have to take the time off. It doesn't matter who your employer is. It doesn't matter how big or small your employer is. If you've had your stomach cut open and a baby taken out of it, you are not showing up to work the next day. It's not going to happen. So the question is, do we want to be the kind of state that helps that person or do we want to be the kind of state that says too bad and has that family move to a different state?

BLOOD: And so the question is--

M. CAVANAUGH: Sorry.

BLOOD: --what truly is pro-life?

M. CAVANAUGH: I, I am pro-family. I don't know with that statement, pro-life, means because it seems to mean different things to different people.

BLOOD: Thank you.

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

HALLORAN: Chairman Hansen, I-- help me out here, Senator Cavanaugh-- and I could have missed it because I miss a lot of things. When did we have a bill written that it was funded by employees?

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M. CAVANAUGH: Oh, that version was proposed a few years ago. I'd have to go back and check with Senator-- former Senator Crawford, but it was in there at one point.

HALLORAN: Just an observation, my, my email is blowing up by small business emails opposite of what you suggested, that you're getting all the friendly emails. And it's kind of surprising because typically on any bill, we get pros-- proponents and opposition emails on all of them, all the time.

M. CAVANAUGH: Oh, yes, Senator Hansen and I are very familiar.

HALLORAN: Well, I'm just saying why, why haven't I got the emails that you have? I'm surprised I haven't got proponents encouraging me to vote for it. I haven't got, I haven't gotten one.

M. CAVANAUGH: I, I can't speak--

HALLORAN: Could you share yours with me?

M. CAVANAUGH: Sure, sure.

HALLORAN: OK, thank you.

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

M. CAVANAUGH: OK, thank you.

B. HANSEN: And that will close the hearing for LB290 and we will open it up for the last one of the day, LB258. We'll welcome up Senator Vargas.

VARGAS: Good afternoon, Chair Hansen, members of the Business and Labor Committee. For the record, my name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7, the communities of downtown and south Omaha, here in the Nebraska Legislature. And I'm honored to bring LB258, the Healthy and Safe Families and Workplace Act, before you today. Now, if you previously served on this committee, you will recognize this bill. I'm picking up where our former colleague, Senator Sue Crawford, left off. This is the same legislation as her LB258, which she introduced in 2019. And I'll confess, I'm bringing it for a couple personal reasons, but it's nonetheless still urgent. As Nebraskans, we value hard work and we prioritize our family

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responsibilities. However, almost half, 46.3 percent, of the Nebraska workforce does not have access to a single paid sick day to stay home with a sick child or recover from an illness themselves. Access to sick leave is even more limited for some of our most vulnerable families. Now 70 percent of low-wage workers across the country do not have any sick days. Twenty-six percent of Nebraska jobs are considered low-wage jobs. LB258 creates the Healthy and Safety Family and Workplace Act to ensure that hardworking Nebraskans can earn up to a week of paid sick leave to care for themselves or a family member or to deal with situations of domestic abuse or stalking without having to worry about losing their jobs. Under the provisions of LB258, employers with four or more employees are required to provide employees with access to sick and safe leave. Employees accrue a minimum of one hour of paid sick and safe time for every 30 hours worked and can start using this leave starting on the 60th day of their employment. Although employers must allow employees to accrue up to 40 hours in a calendar year based on hours worked, nothing in the bill prohibits employers from providing additional paid leave. It is also important to note that employers with paid leave policies that make available an amount of paid leave that is sufficient to meet the accrual requirements in this legislation, in this bill, and that may be used for the same purposes of paid sick and safe time under the Healthy and Safe Family and Workplace Act, are not required to provide any additional paid sick and safe time. Essentially, if they meet the standards of this, then they're good. Under LB258, leave can be used for an employee's own mental or physical illness, injury, or health condition, to care for a family member with a mental or physical illness-- to care for a family member with a mental or physical illness, injury or health condition, or an absence necessary due to domestic abuse, sexual assault, or stalking. In addition to the obvious benefits of individual workers and their families, being able to stay home when ill is critical to public health. According to a study conducted by NPR, each week, about 1.5 million Americans without paid sick leave go to work despite feeling ill. At least half of employees of restaurants and hospitals, two settings where disease is easily spread, go to work when they have a cold or the flu. The public health impacts are especially relevant today as we are living through a global pandemic. Now before Senator Crawford left the Legislature, she presented an interim study report to this committee on her LR391, which was a study on paid sick leave and the effects it has on a pandemic has spread. She reviewed more than 40 studies of paid sick

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leave and found that access to paid sick leave provides valuable public health benefits, not surprisingly including reducing pandemic spread, as well as the spread of influenza and other diseases, decreases in mortality, increases in preventative care, drops in emergency room use, reductions in levels of psychological stress. She also noted that our own University of Nebraska Medical Center recognizes paid sick leave as a critical strategy to control COVID spread in meatpacking plants and the surrounding communities. Now LB258 doesn't just address paid sick leave. It also includes access to safe leave, which is a critical tool ensuring that victims of domestic abuse, sexual assault, and stalking have the support and job stability they need to escape and begin to recover from violence. Now according to the National Partnership for Women and Families, survivors of domestic violence are at an increased risk of harm during and shortly after separating from an abusive partner. It is essential that they are able to find shelter, file restraining orders, attend court dates, and receive counseling to prevent further abuse while also being able to continue working. LB258 does put protections in place for employers. The bill requires that employee's request for leave include the expected duration of the absence, if reasonably possible. If the use of paid sick and safe time exceeds more than consecutive workdays-- three consecutive workdays, an employer may request reasonable documentation that the paid sick and safe time has been used for the permitted purpose. When utilizing safe leave, one of the following forms of documentation must be provided: a police report, a court protection order, or documentation affirming that the individual or their family member is a victim signed by law enforcement, a health professional, a social worker, or a member of the clergy is who it would be signed by. Finally, LB258 also explicitly states that paid sick and safe leave benefits for an employee conclude upon the conclusion of an employee's employment with the company. In other words, employers are not required to reimburse employees who quit or are fired for unused leave. Paid sick and safe days actually benefit employers in a number of ways. In fact, studies have continued to show that offering paid sick days save employers money by reducing turnover, increasing productivity, greater workforce stability, preventing the spread of illness, and lowering healthcare costs. Eleven states and 21 localities have passed laws requiring paid sick leave in studies conducted in these cities, and states are showing that these laws have worked for both employers and employees. Connecticut was the first state to enact a paid sick days law in 2011.

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A survey of employers in Connecticut found that the law has had a minimal impact and effect-- effect on costs and the vast majority of employers have not reported making changes, such increasing prices or reducing employee hours, because of it. Now employers identified several positive effects, which sometimes we don't hear from the opposition, including improve-- improved employee productivity and morale, and more than three quarters expressed support for the law overall. Further, data from the Connecticut Department of Labor showed job growth across industry since the law's implementation, including the most effective industries, leisure and hospitality. Now two years after New York implemented its paid sick days law, 86 percent of employers expressed support for the law. Eighty six percent expressed support for this. Unemployment was at its lowest in six years. The number of businesses grew, consumer prices fell, and labor participation was the highest on record. A meta-analysis of all states and localities with sick leave laws did not find any evidence that wages or employment significantly changed after the laws were implemented, which I hope should curb any of this opposition that it is going to hurt sort of the economic standpoint of businesses. The bill does have a fiscal note. LB258 gives the Commissioner of labor investigative and enforcement powers. The commissioner may assess an administrative penalty of \$500 for the first violation of the act by an employer and not more than \$5,000 for subsequent-- or second or subsequent violations. Any person aggrieved by a violation of the act may also bring a civil action against the employer and may recover the full amount of any unpaid sick and safe time and attorney fees and costs. The Department Labor has estimated they will need three additional FTEs to operate and maintain the program and one contract IT position, which would be in one-- year one only. Now as a member of Appropriations Committee, I know well the revenue challenges we face, and as-- but as Chair of the Planning Committee, I also know that one of our biggest economic challenges right now in the state is recruiting and retaining our workforce. It comes up in everything, nearly everything that we talk about that has to do with jobs. Nebraska needs to think critically-- critically about cuts but also about investments. We've made investments in businesses through LB1107, which is LB720. We need to think about ways that we grow our workforce, which will be key to economic prosperity in the coming years. As you'll see from testifiers behind me, the provisions in LB258 are support-- supported by many Nebraskans and desperately needed by our workforce. This will ensure that Nebraska workers have

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the ability to earn a week of sick and safe leave for themselves or family members. Employers who already benefit from these benefits will not have to make changes to their policies if this passes. With that, I encourage you all to think critically about the values we hold as Nebraskans and advance this bill to General File. Thank you for your attention to this important issue and I'm happy to answer questions. One thing I'll say is, in addition, I was pausing a couple of it. This one's kind of hard for me, and a couple reasons. One, if it wasn't for sick leave that obviously, you know, came as a result of this COVID-19 pandemic that happened, I really don't know what would have happened to many members of my family, and including my mother who took sick leave and was offered by her employer if it wasn't going to be offered by the federal emergency sick leave; my brother, as well, who tested positive for COVID-19, as well as his-- my nephew and several others in my family. Now, just because they received it, didn't mean that it covered everybody. There were exceptions to this, which means that other people got what my family didn't get. And I also look to all the individuals right now that they don't have sick leave, not just in the meatpacking plants but in industries that did not qualify for that leave. I confess to you that this is-- it's harder because I feel like it should have passed when Senator Crawford introduced it, and maybe, just maybe, those days could have provided time away that people needed. And I sit here in front of you being somebody that I can leave and not come in and still get paid. And I feel a really heavy sense of embarrassment that that's some privilege that we all have here. We still get paid as senators our \$12,000 a year even if we don't come in. Not everybody has this ability. And I think that this is a very basic, basic set of benefits that we should pass, that we're the only industrialized nation that doesn't do this. So with that, I'm happy to answer any questions, or if there's somebody behind me that might be able to answer some of these questions. Thank you.

B. HANSEN: All right. Thank you. Is there any questions from the committee at all? All right, seeing none, see you at closing. We'll take our first proponent of LB258.

SCOUT RICHTERS: Hi. 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 LB258. I'd like to first thank Senator Vargas for bringing this bill. First, speaking to the safe leave aspect of the bill, anyone can become a victim of domestic violence. And we do recognize that the majority of victims of domestic violence are women, especially women of color, and LGBTQ people.

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Domestic violence, sexual assault, and other forms of gender-based violence deprive women and girls of their fundamental ability to live with dignity. Domestic violence also frequently affects a victim's job. It's estimated that 60 percent of domestic violence victims lose their job directly as a result of the abuse they face. And abusers sometimes attempt to sabotage a partner's job to better maintain control. Given that financial abuse is often tied to domestic violence, a victim's job is often her lifeline. Second, turning to the paid leave portion of the bill, it's clear that among those suffering the most during the pandemic are those who typically get paid the least, so these are essential workers, as the senator mentioned, that grow our food, stock our supermarket shelves, work in our meatpacking plants, basically the workers necessary to ensure that we all have food on our tables. These mostly black and Latinx workers are disproportionately women and they already live in a state of economic precariousness. For months now, they have been asked to literally risk their lives and the lives of others for their paychecks. And among the lowest paid quarter of the workforce, the majority of whom are black and Latinx workers, only half of them have any paid sick days, and just 7 percent have paid family leave. In short, low-wage workers are often the ones who lack paid sick and safe leave, yet are the ones who need it the most. That is why we support this bill and I'd be happy to answer any questions. Thank you.

B. HANSEN: Thank you for testifying. Are there any questions from the committee? Seeing none--

SCOUT RICHTERS: Thank you.

B. HANSEN: --thank you very much. We'll take our next proponent for LB258. Welcome.

KELSEY WALDRON: Thank you. Good afternoon, Chairperson Hansen, members of committee. My name is Kelsey Waldron, K-e-l-s-e-y W-a-l-d-r-o-n, and I'm the policy associate with the Women's Fund of Omaha. The Women's Fund testifies in full support of LB258 providing paid sick and safe leave to Nebraska workers. Seven in ten low-income workers lack access to even a single day of paid sick time. During the largest public health crisis known to us, over 420,000 Nebraskans have remained exempt from any legal protections to miss even a single day of work when sick. This policy is a matter of racial equity for our community with black, Indigenous, and brown workers experiencing

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disproportionately limited access to paid sick time. Fifty-four percent of Latinx workers, 38 percent of black workers, and nearly half of Native workers lack access to even a single day of paid sick time. Access to paid sick and safe time is additionally a matter of workforce investment in our state that has benefits for workers and employers alike. Nearly one in four workers report that they have lost a job or were threatened with job loss for taking brief time off work in order to attend to personal or family illness. Currently, if a worker misses work because of illness, injury or violence, that turnover is costly for an employer. The employer must invest in a rehiring process, advertising the position, recruiting applicants, reviewing applications, interviewing. When a new employee is hired, an employer must invest in training and navigate the loss in productivity as the new hire adjusts to the learning curve of the position. It is estimated that companies pay about one-fifth of an employee's salary to replace them. These costs to an employer far exceed the few days' wages that could be provided to an employee by offering paid leave, avoiding this job separation. Access to paid sick days can reduce the probability of job separation by 25 percent. In a state where employers frequently cite workforce shortages as a primary challenge to their business, the current lack of paid sick and safe time is unsustainable for workers and employers alike. An important part of this bill, access to safe leave, is critical for survivors of domestic violence, sexual assault and stalking. Paid safe time allows someone brief time away from work to respond to violence, accessing critical medical care, legal protections, gathering necessary documents, or finding alternative housing. Economic stability is a primary barrier for individuals leaving an abusive relationship. Ninety-nine percent of survivors of domestic violence will experience financial abuse from their harm doer, including controlling one's ability to work, controlling how money is spent, limiting access to banking decisions and bank accounts, or accumulating debt in the survivor's name. Where survivors already face economic uncertainty, the time directly after abuse often exacerbates such hardships. Without sufficient workplace supports, 50 percent of survivors of sexual assault will experience a loss of employment or be forced to quit in the aftermath of abuse. Survivors of assault experience significantly more job instability as a direct result of abuse, translating to jobs with fewer benefits such as paid leave. A lack of safe time not only has severe implications for the economic security of survivors, but it is also dangerous. Offenders feeling a loss of

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control is the greatest risk factor for escalation of violence, and the time period following a survivor's decision to leave a-- a harm doer is the highest risk time for homicide. When someone is leaving an abusive relationship, often the one place their harm doer knows they can find them the next day is at work. As a result, a lack of paid safe time threatens the safety of both survivors and their workplaces. As a matter of health and safety for our community and to build back a stronger, more financially secure workforce, the Women's Fund urges your support of LB258 and advance to General File. Thank you. I'd be happy to answer any questions.

B. HANSEN: Thank you. Is there any questions? No. Seeing none, you're off the hook.

KELSEY WALDRON: Thank you.

B. HANSEN: Welcome.

ROBERT SANFORD: Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Robert Sanford, R-o-b-e-r-t S-a-n-f-o-r-d. I am the legal director for the Nebraska Coalition to End Sexual and Domestic Violence, and I am testifying on behalf of the Nebraska Coalition to express our support for LB258. The Nebraska coalition is focused on enhancing safety and justice by changing the beliefs that perpetuate violence. We believe that individual autonomy will help survivors seek safety and that economic stability is a factor in attaining that autonomy and safety. The Nebraska coalition has provided various forms of legal assistance to victims of domestic and sexual violence since 2003. During that time, attorneys on staff have noted client concerns related to their employment and the legal assistance being provided. Workplace Fairness notes that victims need time off from work for various reasons. These reasons include, but are not limited to, seeking medical care, going to court to obtain a protection order, or finding a new place to stay that is safe. The Centers for Disease Control and Prevention has found that approximately one in four women and about one in ten men experience some form of intimate partner violence, including sexual violence, physical violence and stalking. The CDC notes that financial impact intimate partner violence has on society and on the individual. They indicate that the cost of violence to the victim committed by an intimate partner is \$103,767 for women and \$23,414 dollars for men during the course of the victim's lifetime. Finally, the CDC suggests

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we can end intimate partner violence by strengthening financial security and strengthening work-family supports. The National Network to End Domestic Violence, a national organization that supports state coalitions like our own organization, indicates that workplace support for victims of domestic violence should include paid sick and safe leave. The National Network notes that paid sick and safe leave permits victims to take time off of work to address the health consequences of violence or to attend to other critical safety needs, such as filing for an order of protection or cooperating with law enforcement, without compromising their jobs or economic stability. This is the exactly the goal of LB258. It allows victims of domestic and sexual violence an opportunity to seek help without fear of losing their employment. LB258 would allow a victim to seek medical care, obtain victim support services, receive psychological counseling, relocate due to the-- due to the abuse, and attend to legal needs related to their victimization. In 2019, our annual report, the coalition notes that the 20 domestic violence and sexual assault programs within our network of service providers assisted 11,793 adults with direct nonshelter services. This number represents the number of unduplicated individuals receiving services provided by these service providers. These numbers represent a portion of all victim-- all those victimized by domestic or sexual violence, as not all victims are able to seek support services. However, each of these individuals is someone who could be positive-- positively impacted by the passage of LB258. Over the course of the last 16.5 years of employment with the Nebraska coalition, I have often been asked why victims stay in abusive relationships. While I do not believe this is an appropriate question to ask, as we should be looking at why people choose to use violence and abusive behavior instead, there are many reasons individuals stay in an abusive relationship. Economic stability is one of those reasons. Economic stability cannot be obtained when a victim of domestic or-- and sexual violence fears losing a job that is necessary in seeking safety. With that fear of a lost job in front of a victim, they are forced to weigh the consequences of seeking shelter, obtaining medical assistance, or participating in a court hearing. LB258 is an opportunity for you as members of the Business and Labor Committee to step forward and support victims of domestic and sexual violence. By moving the bill out of committee and to the floor for debate, you are telling victims that we as a state want to be a part of their transition to being a survivor. We would ask you to support LB258. Thank you.

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

ROBERT SANFORD: Thank you.

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

JINA RAGLAND: Chair Hansen and members of the Business and Labor Committee, my name, again, is Jina Ragland, J-i-n-a R-a-g-l-a-n-d, here today testifying in support of LB258 on behalf of AARP Nebraska. As the U.S. population ages and as Nebraskans' populations age, more and more workers bear responsibilities for caring for family members with a serious illness. These family caregiving responsibilities can have a substantial economic impact on workers and pose a challenge for policymakers and employers to find ways to make the workplace more caregiver friendly. Providing workers with access to paid family leave and paid sick days can lessen the strain of caregiving, provide family members and caregivers with greater financial security, increase employee retention, and help maintain a productive workforce. In one household, a spouse, for example, is recovering from internal injuries from a bicycle accident. In another, an older parent is hospitalized with a broken hip for a fall-- from a fall. Elsewhere, a grandparent suffers a stroke, while a cancer diagnosis requiring surgery might befall another family. In another household, parents care for and bond with a new child. Each of these family and medical situations necessit-- necessitates a working adult to take time off from work to care for himself, herself or for others. As a result, millions of Americans and Nebraskans face financial difficulties or risk losing their jobs if they must take time off to address specific and significant family caregiving needs. This can often result in reduced job security, reduced employment benefits, and reduced retirement savings. The financial impact on working caregivers can leave the labor force due to caregiving demands can be severe. Estimates of income-related income losses sustained by family caregivers age 50 and older who leave the workforce to care for a parent are \$304,000 on average in lost income and benefits over a caregiver's lifetime. Family caregivers are the most important source of emotional and practical support for older persons or adults with a serious illness or disability. And as mentioned in my previous testimony, and I just mention again because it is-- the numbers are staggering, nearly 240,000 Nebraskans provide 199 million hours of unpaid care. That's valued at \$2.9 billion annually and growing. Family caregivers are the

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first line of assistance for most people, helping to make it possible for older adults and people with disabilities to remain at home, to age in place, and to stay out of higher levels of care settings. Access to paid sick leave is a vital workforce leave benefit. Many workers, especially low-wage workers, do not have access to a single paid sick day to care for themselves if they are ill or need to care for family members with short-term caregiving needs. Paid sick days can be more flexible than paid leave in that they allow time off for preventative care and short-term illnesses, as well as for providing intensive caregiving tasks for a family member, again, such as doing wound care for several days after a relative's hospitalization or taking a family member to a medical appointment. Managing paid work--managing paid work alongside care for an adult family member or close family-- close friend with a serious health condition or disability can be challenging for employed caregivers when their needs are not being met by existing policies and programs. Because most family caregivers now hold paying jobs, too, employed caregivers need access to workforce leave benefits and other supports to fulfill both their caregiving and work, paid, responsibilities. We believe family caregivers should not have to choose between taking care of mom and dad, losing a paycheck, or even risk losing their job. LB258 will protect working family caregivers and seniors in need of care by ensuring working caregivers struggling to make ends meet don't have to do that paycheck to paycheck and they're not forced to take unpaid leave. We want to thank Senator Vargas for introducing this important legislation, Senator Hunt for cosigning the bill. We appreciate the opportunity to comment and would urge you to support and advance LB258 to General File. And with that, I'd be happy to answer any questions.

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

MICHELLE DEVITT: Sorry.

B. HANSEN: Welcome.

MICHELLE DEVITT: Hello. And I had some trouble this morning, so I'll see if we do a little better with just one. Good afternoon. My name is Michelle Devitt, M-i-c-h-e-l-l-e D-e-v-i-t-t, and I'm labor attorney and the legal and policy coordinator for the Heartland Workers Center in Omaha. Today I'm here on behalf of the Heartland Workers Center in support of LB258. In our view, allowing workers to earn just five paid

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days of sick and safe leave a year is a modest but important step in assuring both the physical health of our workforce and public health. It is also a pressing equity issue that disproportionately impacts Nebraska's women and workers-- workers of color. Unfortunately, in Nebraska, as across the nation, workers who are the most economically vulnerable are the least likely to have access to paid sick and safe-- safe leave. Senator Vargas already touched on that. What he didn't mention is that Nebraska has the 11th highest rate of workers without paid sick and safe leave and that the average worker without sick leave makes just \$12 an hour. So even a couple of lost workdays can mean a difference between paying bills and not for thousands of families. Without this benefit, they're forced to work while they are sick, sending their children to school sick, and forgoing preventive medical care on pain of lost jobs and lost wages. When they can't-- when they can't afford to take the time off, they often don't have job protections, which is why, time and again, Heartland Workers Center hears from and helps workers who complain of being pressured to work sick or being fired from their jobs after staying home with a sick child or an illness. This pandemic has further highlighted how important paid sick leave is to the health of the workforce and as a critical public health tool. As this committee learned in its exhaustive interim study on paid sick and safe-- paid sick leave and pandemic spread, which is LR391, paid sick leave has a positive impact on pandemic containment, right now, critically, vaccination rates, and compliance with quarantine and isolation orders. That's precisely why the federal government temporarily required paid sick leave benefits as an emergency measure early on in the pandemic through the Family First Coronavirus Response Act. But not only have these re-- requirements lapsed, but employees of companies with 500 or more employees were exempted from the paid sick leave provisions. The act's-- Family and Medical Leave Act expansions for COVID-impacted workers were unpaid. So many workers in this pandemic, especially essential workers and low-paid workers like retail, food service, had no choice but to keep going as long as they could, whether they were exposed or not, sick or not. I submit that this lack of support for our workforce possibly contributed to Nebraska's being the fourth highest state in terms of COVID rates for some time in last summer and-- and early fall. As a result-- as you-- as those of you who have seen me before on meatpacking issues, this also touches, of course, that concern as well. Meatpacking plants, especially the largest ones, did not have the access to sick leave. We

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heard from workers over and over who were asked to come in sick, come in even presenting symptoms. So as a result, COVID rates in these workplaces were much higher than average. Currently, 7,000 meatpacking workers, which is one in four people in the workforce-- in that workforce, have been infected. And as a result, COVID-19 has been particularly high in the segment of the population with the least access to paid sick and sick-- safe leave, including Latino, black and Indigenous communities. So throughout the work-- pandemic, workers have come-- I'm sorry. Throughout the pandemic, workers have come to work even when they were symptomatic to avoid disciplinary points or financial penalties. As the workforce is in the process of being vaccinated, we can expect at least some workers will have adverse reactions to the vaccine and require some leave. We've heard too many workers pressured to come back to work sick because of personnel shortages on lines. We worry they will be pressured to come to work with the fatigue that some report with the second shot. They need to be assured that they will actually be protected when they use this leave. As Senator Vargas mentioned, too, there are also very, very real, positive impacts on the business community when sick leave is provided, too, namely that presenteeism, or coming to work sick, has-- has collateral effects on the wellness of other workers. It increases employee turnover, which, in fact, in turn increases work im-- impacts-- I'm sorry-- customer satisfaction, which impacts profits. LB258 has the potential to positively impact economic and physical health of our workforce. In our view, the bill is also an essential tool to address this pandemic and long-term equity issues. So we encourage you to advance LB258 to General File. I'm happy to take questions.

B. HANSEN: Thank you. Are there questions? Seeing none, thank you very much.

MICHELLE DEVITT: Thank you.

B. HANSEN: We'll take our next proponent of LB258.

SUSAN MARTIN: Good afternoon again, Chair Hansen and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, testifying on behalf of the Nebraska State AFL-CIO and all working families in the state of Nebraska in support of LB258. LB258 proposes a simple but effective measure to help ensure that workers in Nebraska have a base level of paid leave for sickness or

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other time off. The paid leave provided is earned by the employees based on how much they work and is a fair means to help rectify an otherwise unfair circumstance we currently have in Nebraska and the United States. One hundred and sixty-three other countries have laws that guarantee paid sick leave. But in the U.S., an employer can dock pay or fire a sick worker for staying home to recover. Nearly 42 percent of all U.S. workers do not earn any paid sick leave, and 80 percent of the lowest paid workers don't get a single paid sick day. Workers without paid sick days handled food at our restaurants, drive our busses, bag our groceries, care for our kids at daycare centers, and nurse the sick and elderly, all essential workers during this pandemic. Forcing workers to work sick poses a public health risk and lack of earned pick-- paid sick leave threatens the economic security of working families. A minimum standard for earned paid sick days will increase protection for our families and communities and strengthen our economy. Needed sick time deprives workers of pay or pushes them to show up on the job while sick and delay seeking treatment for themselves or their dependents. While the United States continues to be behind its international peers in providing this basic protection, many state and local policymakers understand both the public health risk of leaving workers little choice but to show up to work sick and the reality that lack of paid sick time imposes a disproportionate burden on lower-wage workers. Earned sick time is a wise investment for employers, workers, and the general public. The many employers who already provide paid sick days would have a more level playing field with their competitors if more workers were given the opportunity to earn paid sick time. Additionally, businesses would be able to more easily maintain a healthy workplace and have greater implications for worker productivity. We want to thank Senator Vargas for introducing this important legislation and thank you for considering our views. There are very real and important reasons to support the paid time off components contained in LB258 and we ask that you support LB258 and advance it from committee for consideration by the full Legislature. With that, I'd be happy to answer any questions.

B. HANSEN: All right. Thank you. Is there any questions? All right. Seeing none, thank you very much. Welcome.

SCHUYLER GERRY-ZINK: Good afternoon, Chairman Hanson, committee members. My name is Schuyler Gerry-Zink, spelled S-c-h-u-y-l-e-r G-e-r-r-y, hyphen, Z-i-n-k, and I'm a staff attorney with Nebraska Applesseed. Nebraska Applesseed as a nonprofit, nonpartisan organization

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dedicated to justice and opportunity for all Nebraskans. We work closely with the Nebraskans working in jobs where they often do not have access to paid sick leave. While a dire issue before the pandemic, it is now more critical than ever to have access to basic earned paid sick leave. We support LB258, which promotes healthier and stronger families, especially working parents with young children. For many years, Nebraska Appleseed has trained more than 600 workers per year in communities across the state in worker health and safety. One of the most common concerns we hear in addition to injury rates is that workers cannot take a day from work to care for a sick child or themselves, or they are penalized for doing so. One worker explained, if they, the employer, don't care about us, the health of their workers, then they're going to care even less if it's your child. Another worker described: At my work, we can arrange in advance for time off for something more serious, like a surgery. But if I'm sick one day, I can't take today off. There is no paid time off and they'll give me a point penalty as well. From a food production worker: If you're sick and working on the line, we're wiping our nose on our sleeves to try to make sure it doesn't drip on the food. If I have a fever in addition to a runny nose, they'll let me go home, but they'll give me half a point penalty and it's not paid time off to get better. For lower-income families, losing just a few days of wages can break the household budget. For an average worker earning between \$40,000 to \$49,000 annually, just two days of lost wages are equivalent to a month's worth of gas, and just three days are equivalent to a month of utilities or groceries. In the first two years of life, parents can expect their children to catch eight to ten colds. And it is estimated that over 77 percent of school-age children miss at least one school day per year due to an illness or injury, at least one. When parents are unable to take time off to stay at home with their children, they are more likely to send their children to school or daycare, where children will go on to spread the illness to others. This is particularly concerning during an unprecedented pandemic, where we are trying to keep families and communities financially stable and healthy. Paid sick days provide financial stability for families and benefit local businesses. Workers with access to paid sick days are 28 percent less likely to be injured on the job than workers who do not have paid sick days. In states with paid sick time policies, the vast majority of employers reported that the policy had a minimal financial impact and they had even seen positive business and job growth in their local economy. A universal paid sick day policy is estimated to

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reduce workplace transmissions of the flu by 6 percent, ensuring that other employees remain healthy when one worker is ill. Paid sick leave is, therefore, a crucial component in alleviating COVID-19 spread and allowing essential workers to safely and fully recover from the illness. Beyond the pandemic, basic paid sick leave is a wise long-term policy for healthy workplaces, families, and communities. Support healthy and financially secure families. Advance LB258 out of committee to ensure Nebraskans have access to commonsense health leave during a pandemic and for the future. We want to thank Senator Vargas for introducing this legislation, and please note that there are testimonies from Nebraskans working in the community who were not able to be here today, but wanted to share their story-- their stories and experience with a lack of paid sick leave in the state. I'll take any questions at this time.

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

SCHUYLER GERRY-ZINK: Thank you.

B. HANSEN: Anybody else wishing to testify in support? All right. Seeing none, is there anybody that wishes to testify in opposition to LB258? Welcome back.

JOHN ALBIN: Thanks. This one will be shorter.

B. HANSEN: OK.

JOHN ALBIN: Chairman Hansen, members of the Business and Labor Committee, for the record, my name is John Albin, J-o-h-n A-l-b-i-n, and I'm the Commissioner of Labor and I'm appearing here today in opposition to LB258. LB258 is a rework of LB305 in 2019. As written, LB258 creates a new type of leave that employers are mandated to provide employees. Employers must provide paid sick and safe time to employees at an accrual rate of 1 hour for every 30 hours worked. The amount of the required accrual is capped at 40 hours per calendar week. Assuming an employee works a standard 40-hour week, the employee will stop accruing paid sick leave and safe time leave after 30 weeks. Employees are not eligible to use the leave until the 60th calendar day of employment. This would be a completely new area of enforcement for the department. The department anticipates several questions from employers and employees on how this will impact existing sick,

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vacation, and paid time off accruals. The department's best comparison to this program is the Wage Payment and Collection Act. Currently, the department has one manager, one staff assistant, and eight investigators handling all labor standard issues. The largest of these programs are the Wage Payment and Collection Act, the Contractor Registration Act, and the Employee Classification Act. Last year, the department had 1,040 wage complaints filed. The department is anticipating a similar volume under this new law as well. As such, we believe three additional investigators will be necessary. Department will also need to modify its existing wage complaint system to work for both laws. The department will need one contract IT position for four months. Department is anticipating cost of \$304,535 in year one and \$251,672 in year two, which would all be new General Funds. Thank you for your time and I'm happy to answer any questions.

B. HANSEN: That was shorter, All right.

JOHN ALBIN: I promised.

B. HANSEN: Are there any questions? All right. Seeing none, thank you very much. Welcome back.

ERIN EBELER ROLF: Hello. My name is Erin Ebeler Rolf, E-r-i-n E-b-e-l-e-r R-o-l-f, as in "frank." I am an attorney with Woods Aitken LLP and I'm here today, again, to testify on behalf of the nine different business-based organizations in Nebraska, including the Nebraska Chamber, the Omaha and Lincoln Chambers of Commerce, the Nebraska Bankers Association, the National Federation of Independent Business, the Lincoln Independent Business Association, commonly known as LIBA, Nebraska Grocery Industry Association, Nebraska Retail Federation, and the Nebraska Restaurant Association. These organizations oppose LB258, the Healthy and Safe Family/Workplaces Act, for a number of reasons. First, this bill applies to small businesses that may not even have full-time employees. Small businesses are the ones who are most impacted when employees take a sudden leave of absence and they are the least likely to be able to cover gaps created with other workers. Under this bill, all employees who have-- excuse me. Under this bill, all employers who have at least full- or part-time employees who work at least 20 weeks per year are covered, so an employer with only four part-time employees who work mid-April through mid-September-- in other words, the heart of construction season-- is covered by this act during the entirety of

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the year, regardless of how many employees they have during other parts of the year. This bill also far exceeds the current provisions of federal law. While executive orders have provided for paid sick and safe leave to certain federal contractors and subcontractors, no federal law currently provides for paid sick leave with regard to private employers who are not federal contractors. While the Families First Coronavirus Relief Act provided paid leave, it did so on only a temporary basis, and it did so with substantial tax credits and other mechanisms for employers to essentially be paid back for the costs associated with providing this leave. The federal Family and Medical Leave Act applies to businesses with 50 or more employees, but does not mandate that employers provide paid leave. Further, as compared to the FMLA, LB258 is exceptionally broad in who may be a beneficiary of the bill. For example, FMLA applies to employees who have worked at least 1,250 hours for the employer during the 12-month period immediately preceding the leave. Further, an employee must work at a location where the employer has at least 50 employees within 75 months. None of these limitations exist in LB258. The definition of a family member in LB258 far exceeds what is currently in FMLA. Other than for military-based leave, a covered family member under FMLA only includes a child, spouse, or parent. These terms are further limited by FMLA and now the child is one who is under 18, absent physical or mental disabilities. This act has no such age limit. Under LB258, a 35-year-old who is otherwise mentally and physically capable is entitled to the same benefits as a 12-year-old. While FMLA applies to spouses, including same-sex spouses, this bill applies to both spouses and domestic partners. There is no definition of who constitutes a domestic partner or-- and the act does not state how an employer is to determine if someone legitimately falls into that category. LB258 further expands beneficiaries to parents-in-law, grandparents, grandchildren, and siblings, categories specifically excluded by FMLA. These are meaningful additions, given that employers often employ people from the same family. Under LB258, an employer could lose several employees at once or consecutively, due to the illness of one family member. LB258 provides limited protections for the employee. Employees have limited obligations to timely notify employers of the need for leave, to work with the employer to minimize the impact of the leave on the business, or to timely provide documentation supporting the need or use for the leave. Under FMLA, medical certification is required within 15 days. Under this bill, an employee only must provide some information within 30 days, and even that is

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limited. It is not always easy for an employer to cover an employee's missed shift and temporary workers are not always available, especially in our rural communities. LB258 in general fails to recognize that small business owners care about their employees and they are continuously weighing their options of how to provide the best overall range of benefits from wages as well as leave options. Employers are always attempting to figure out the best way to attract and retain workers and these organizations ask that businesses be allowed the opportunity to work with their workers on an individual basis to achieve the right mix. Thank you.

B. HANSEN: Thank you very much. Right on the button there, it's good timing.

ERIN EBELER ROLF: I learned. I don't do this often, but I can learn.

B. HANSEN: All right. Any questions from the committee at all? All right. Thank you very much. Anybody else wishing to testify in opposition? All right, seeing none, is there anybody that wishes to testify in a neutral capacity? Seeing none, we will welcome back Senator Vargas to close. And for the record, we did have two written testimony in support from Julie Erickson, Voices for Children, and Jason Hayes from NSEA. And we did have five letters of support for the record and one in opposition.

VARGAS: Thank you very much. Chair Hansen, members of the Business Labor Committee, I know we're running late. I'm going to try to be concise here. It's not always my best skill. So let's-- there's a couple of things that I want to try to-- to get to here. You know, I expected the opposition, so I'm not surprised by that. I don't think any of us are. The one thing I want to try to implore to you all is that when we look at policies, we need to sort of zoom out in the lens of how many people are affected by them. I understand that there's an association of many different businesses, State Chamber and Omaha Chamber and-- and others, retail, food, you-- restaurant, you name it. However, we were elected here by the larger majority of individuals. This statistic, I think, is the most helpful, the Bureau of Labor Statistics, federal Bureau of Labor Statistics: 93 percent of high-wage earners have access to paid sick leave. That's pretty good. If you make good amount of money, your employer tends to give you sick leave, or it's offered; it's something that you might have. For everyone else, 30 percent of lowest wage earners did not have paid

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sick leave. That's the issue here, not talking about increasing wages, although I support that; not talking about increasing our tipped minimum wage or our general minimum wage. I support that as well. Talking about whether or not people have adequate sick time, safe time to do things for themselves and their family, not a-- not a lot of hours. It obviously accumulates to something. But what we've seen-- I'm not a big fan of "the sky is falling" argument. Other states that have implemented this, companies small to large, haven't dissolved or gone into bankruptcy because of this act or because of something similar to this act. So it's possible to implement. It's just a choice on whether or not it's the best economic choice and the best thing for families, and it clearly is because the larger majority of individuals that live in Nebraska are working class and live in that larger bracket of individuals that are working-- working families, working individuals. So it's those 30 percent of people that don't have access to paid sick leave, that have to make extremely difficult tradeoffs. It's not just about meatpacking plants, although that is important to me. We're talking about people making tradeoffs on whether or not they-- they feel sick and whether or not they stay at home. And when they do go to work, they're getting other people sick, potentially, and I'm not just talking about amidst a pandemic. There's enough data to show that there is a calculable risk on having people that are sick stay at work when they should be at home taking time to rest; also a calculable risk on the-- on the mental and physical, emotional exhaustion, and that comes from domestic violence and abuse and the need to take time for yourself. There's an economic benefit that we don't always talk about or we see here that we should be when we're talking about bills like this and this bill in particular. It should feel more commonplace because the majority of us, even though maybe I might-- might not say that we're all high income, necessarily, have some access to paid sick leave, whether we define it that way or not. It's everybody else that doesn't have the ability or doesn't necessarily have a lobbyist, although we had some people talk here in support, that I'm really pushing this and talking for it. We should get back to a place where we're talking about whether or not people can earn a set of hours to have paid sick and safe time so that they can not have to make really dangerous tradeoffs that will eventually hurt not only themselves and their family, but also hurt our economic prosperity and our communities and our livelihood. So that's what this is about. I urge you to support this bill. If there are technical changes to then make it, let's say, less likely-- people to like it

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less in terms of some of the feedback we received recently, I'm all for that. But the crux of the issue, this is about ensuring that people don't have to make these tradeoffs. That's what this is about. With that, I want to thank you. Oh, one last thing: I'm not a big fan of it saying that the small businesses overall blanketly don't support this. I think what we'll find is, in other states and even other different groups of-- sort of industry groups and association, there are people that support this, can't find many different issues where we're sort of 90 percent of the way. Maybe property tax relief, maybe that will get a lot of people on board. But in this issue, we-- we have significant number of surveys across the country that show maybe that the overwhelming majority, but 60 percent of people support paid sick leave; and small businesses, 60 to 65 percent of these small businesses, according to Main Street Alliance, a recent survey that came out in October 2020, so it's not black and white that businesses, small businesses don't support this or see the benefits of it. With that, I want to thank you, appreciate your time, and I'm happy to answer any questions.

B. HANSEN: All right. Thank you. Any questions from the committee at all? Seeing none, thank you very much.

VARGAS: Thank you very much.

B. HANSEN: And that will close our hearing on LB258. That will close our hearings for this afternoon. I'll ask the committee to stick around for a little bit.