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B. HANSEN: All right, well, good morning, everybody. Good morning and welcome to the Business Labor Committee. My name is Senator Ben Hansen. I represent the 16th Legislative, Legislative District in Washington, Burt, and Cuming Counties, and I serve as Chair of the Business Labor Committee. I would first like to invite the members of the committee to introduce themselves starting on my right with Senator Hunt.

HUNT: Hi, everybody. I'm Senator Megan Hunt and I represent District 8, which includes neighborhoods in midtown Omaha.

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

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

GRAGERT: Morning. Senator Tim Gragert, District 40 in northeast Nebraska.

B. HANSEN: OK, a few notes about our policy and procedures for the committee, please turn off or silence your cell phones. And this morning we will be hearing two hearings and we'll be taking them in the order listed on the agenda outside the room. On each of the tables near the doors of 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 keep us an accurate record of the hearing. And before I go any farther, I probably should introduce my other-- the other staff here. So sorry, apologize. Also assisting the committee is our legal counsel, Benson Wallace; and our committee clerk, Ellie Stangl. And the committee pages are Caroline and Savana. All right, good, thanks. Also, I would like note if you are not testifying, but have a position letter to submit, the legislator policy is that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handout submitted by testifiers will also be included as part of the record as exhibits. We'd ask that if you do have handouts, that you please bring ten copies and give them to the page. We are going to use a light system for testifying today. 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. And when the

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light turns red, it is time to end your testimony. And we will ask that you wrap up your final thoughts. However, for the first hearing, we will not be having a time limit. So just an FYI. 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. We have a strict no prop policy in this committee. And with that, we will begin today's hearings with LR158. And with that, we welcome Senator Blood. Morning.

BLOOD: Good morning. And so good morning to you, Chair Hansen and to the rest of the Business and Labor Committee. My name, as you heard, is Senator Carol Blood. For the record, that is spelled C-a-r-o-l B as in boy -l-o-o-d as in dog. And I represent District 3. So I appreciate the opportunity today to share LR158, which is the interim study to examine the accuracy of payments by the Department of Labor to recipients of state and federal benefit programs. Now the purpose of this resolution is to examine the acc-- examine the accuracy of payments made by the Department of Labor to recipients of state and federal benefit programs, including but not limited to unemployment insurance. Now as the resolution states, it is my intent to examine the policies and procedures of both state and federal agencies when benefits are overpaid and what the procedures are when it comes to making the decision to recoup those overpayments, as well as what happens when that decision is made. Now the fact of the matter is, especially when it comes to unemployment benefits, thousands of Nebraskans fell through the cracks. Now my office was contacted over and over again last spring, summer, and fall by people who didn't understand why it was taking so long for them to receive their unemployment claims. And then as the summer and fall transitioned to the winter, we got calls by the dozens from people who were suddenly being told that they were paid too much and they needed to pay the Department of Labor back. So a situation where people are being asked to pay back thousands of dollars they had already spent on rent or food or heat was not nearly rare enough. We were bombarded with calls. So let's talk about compassion for our fellow Nebraskans. You've been put out of work due to no fault of your own. You've been juggling late credit card payments, rent or mortgage. Finding a job may be difficult because you can't afford childcare or gas to get to that appointment. Finally, you're lucky enough to get a job. You slowly start to pay down your debt while juggling food and childcare expenses, only to be hit with a garnishment because a state agency made a mistake and

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overpaid your unem-- your unemployment claim. You see that other states have policies in place that allow for waivers when the overpayments are the fault of the state agency. And you wonder what did you do wrong? How could you've avoided this and, and why an overpayment was allowed to go on for so long without being caught? So where is the justice? And is it right and just to be told that you qualify only to find out later that mistakes in some instances were made by the agency and you must pay that price? So I do understand that overpayments happen. I also understand that fraud happens and that a key part of the Department of Labor's job is to make sure that it is not paying out more money than it should and that we expect timely payments, but certainly not at the expense of those suffering Nebraska citizens. The fact of the matter is that the process, even under these extraordinary circumstances created by the pandemic were clearly flawed. I'm beholden to Nebraska taxpayers and those who have suffered to find out how the policy may have been flawed, why it was flawed, and what we can do better should there be a next time. So in the interest of time, I'm going to keep this short and close here. I will say that we have several experts that are hopefully here lined up to testify on this. And I know that Commissioner Albin and other DOL staff are here as well. So I suggest saving your questions for those in the know. But I am happy to answer any questions should you have any for me at this time. And I appreciate this opportunity.

B. HANSEN: OK, thank you. First, are there any questions of Senator Blood? Thank you.

BLOOD: Thank you.

B. HANSEN: All right, we'll take our first testifier. Welcome, Commissioner.

JOHN ALBIN: Thank you, Senator. Good morning, Chairman Hansen and senators of the Business and Labor Committee. For the record, my name is John Albin, J-o-h-n A-l-b as in boy -i-n, and I'm the Commissioner of Labor. The purpose LR158 is to examine the accuracy of payments by the Department of Labor to recipients of state and federal benefit programs. The United States Department of Labor measures benefit payment accuracy for regular unemployment insurance benefits through improper payment rate-- through the improper rate-- payment rate as determined through the Benefit Accuracy Measurement audits. While the Department of Labor disagrees with this particular measurement for

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reasons discussed below, it is the USDOL's method of calculating improper payments. USDOL does not measure payment accuracy under the pandemic programs. For understandable reasons, federal standards prioritize speed of payment of unemployment benefits over accuracy. Those federal standards also assume that emphasizing speed of payment will result in higher error rates. A passing score on the benefit timeliness and quality measurements for nonmonetary determinations is 75 percent. That is USDOL assumes that well-run programs will have error rates of up to 25 percent. Nebraska's "nonmon" rate for 2019 was 86.7 rate and in the two quarters measured in 2020 was 74.2 percent. The federal GPRA standard for unemployment benefits establishes a 10 percent error rate, improper payment rate, as a passing score. As I'll discuss later, Nebraska's emphasis on reemployment adversely affects its improper payment rate, even though it enhances program integrity. For the period of July 1, 2017 through June 30, 2020, Nebraska had an estimated improper payment rate of 12.25 percent. During that time frame, NDOL was only responsible for 2.06 percent of the improper payments. An agency is considered responsible for an improper payment if at the time payment is made, the agency had sufficient information available to prevent the improper payment but failed to do so. Over 54 percent of the improper payments made from July 1, 2017 to June 30, 2020 were due to inadequate work searches. The claimant is solely responsible for the input of work search information. And under the federal rules, NDOL is required to pay the claimant immediately if the claimant certifies the requisite number of reemployment activities. Claimants frequently certify that they completed the work search requirements for a week. But upon audit, it is discovered that the work search requirements were not met. The next highest reason for improper payments was benefit year earnings, 14.83 percent, followed by separation issues, 12.83 percent. Benefit year earning improper payments are typically caused by the claimant's failure to properly report all or part of their earnings for the week claimed. Sometimes inaccurate reporting of earnings during a week is mere error on the claimant's part. Sometimes it is outright fraud. Regardless, there is no information available to the department to cross-check claimed earnings until many months after the week is required to be paid. For July 1, 2017 through June 30, 2020, NDOL's fraud rate was 0.7 percent. It's extremely difficult to compare states improper payment rates to each other because states have different rules and procedures. During this time frame, states improper payment rates range from 3.9 percent to 35.38 percent. Excuse me. Nebraska's transformed its unemployment

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system into a reemployment system where primary emphasis of the program is to assist claimants in finding a new job. Beginning with the first week of eligibility, unattached claimants are required to make at least five reemployment activities. At least two of the five reemployment activities must be applications for work. Other states have much less robust work search requirements, and many do not require a record of those work search activities. Yet, BAM measurements make no adjustments for those lesser work search standards. For example, the California Unemployment Handbook describes the California work search requirement for claimants as follows. Work search requirements: To be eligible for UI benefits, you must conduct a reasonable effort to search for suitable work. We advise you to keep a record of your work search dates and employer contact information for future use and potential eligibility interviews. For purposes of BAM statistics used to project improper payment rates, the impact of the differences in work search requirements between a state like Nebraska and a state like California is huge. For example, since California suggests but does not require a claimant to keep a record of their work search-- excuse me, during a BAM review of a paid week, a California claimant who claims that they engaged in a proper work search but has no record to support that claim will likely be coded as unverifiable. Under BAM rules, a week paid with an unverifiable work search is not categorized as an improper payment, even though there's no evidence beyond the claimant's self-attestation that it works to verify that a work search occurred. Contrast that with a BAM review in a Nebraska claimant's work search effort. A Nebraska claimant is required to make an online record of the employers contacted, the date of the contact, and the type of contact made. The BAM reviewer in Nebraska has a written record to review when examining the key week and the name of the employers to contact and verify that the work search effort occurred. In this instance, it should not be surprising that California's work search error rate was just 0.17 percent, while Nebraska's was 6.98 percent. The difference in the work search requirements of the various states make the BAM work search error rate a poor measure of the improper payment rate of a state. It is a huge factor in measuring improper payments as reported by USDOL. The BAM standards effectively reward states that rely solely on self-attestation for determining benefit eligibility. Thanks to the Pandemic Unemployment Assistance program, we learned how costly self-attestation reliance may be. For all of calendar year 2020, NDOL's improper payment rate as calculated using BAM statistics is

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21.485 percent. BAM statistics are pulled from a very small sample of claims. In 2020, NDOL received 240,239 state claims and 58,554 federal claims. BAM only reviewed 269 state claims and no federal claims. The 2020 data is significantly skewed because states were not required to complete BAM reviews for all quarters. States were also granted significant flexibilities in waiving and amending benefit eligibility requirements. It's important to note that Nebraska is one of the first states to reinstate work search requirements in 2020. Nebraska was also one of the only states to require selected individuals to participate in reemployment services and eligibility assessments throughout the pandemic. Again, the varying state rules have a direct impact on how state improper payment rates compare. NDOL's number one reason for improper payment rates for-- in 2020 was separation issues. Improper payments for 2020 meant 27,752 claimants of the 298,793 claims filed or 9 percent had an established overpayment. During calendar year 2020, NDOL's fraud rate was only 2.18 percent. Nationally, the rate was 5.41 percent, I believe is the number. February's public-- NDOL credits this low fraud rate to the states-- the steps discussed during February's public hearing. NDOL was extremely successful in stopping fraud before payments occurred and has continued to evolve its fraud response. Most recently, NDOL mailed a letter to all individuals in our system with a claim filed during the pandemic. NDOL is reviewing all return mail from this process as a potentially fraudulent claim. As part of this project, NDOL mailed out 243,298 notices and 32,428 notices, 13 percent were returned undeliverable. A random sample of the return mail shows the following: 68 percent of the claims reflected by the return mail didn't pay out at all; 26 percent of the claims were accurately paid; and, and approximately 6 percent paid and appear to be potentially fraudulent. More broadly speaking, NDOL has taken significant steps over the last few years to reduce the improper payment rate. During the pandemic, NDOL implemented emergency regulation change to make the work search requirement that now exist permanent. Those changes reduced the complexity of the work search requirement while retaining the emphasis on getting the claimant back into the workforce at the earliest reasonable date. It's NDOL's opinion this will have a significant impact on the improper payment rate over time. Additionally, NDOL proposed LB567 last year that was introduced as a Business and Labor Committee bill. If passed, LB567 would have significant impacts on improper payments as it reduces the information considering the claim leaving less room for agency error. Unfortunately, LB567 was not

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prioritized and did not get on consent calendar. The bill remains on General File, but LB567 is critical to both the processing of claims and the timely payment of benefits. NDOL believes the separation issues that caused over payments in 2020 were exceptionally high due to circumstances unique to the pandemic and is confident this cause will reduce as workloads stabilize. As previously discussed in April, the accuracy of unemployment claim adjudication is a balance between getting payment to claimants and ensuring accuracy in payment. The federal law states-- has stated errors on the side of payment, particularly during the pandemic, ensuring timely payment was of the utmost importance. Never had so many people been dependent on unemployment insurance benefits. NDOL made a stated goal of 75 percent on all first payments paid within 28 days through the pandemic. And for June, 2021, 80.6 percent of first payments were within 21 days. For both June and July of 2021, NDOL's more than 15 percent more timely than the national average for first payments. If payment is made improperly, an individual is expected to repay the funds that are eligible to receive. And in partial response to a statement by Senator Blood, it should be noted that the only cases that we garnish from anyone or issue a wage levy are fraud cases. In the ordinary overpayment cases, we either offset against future benefits, run it through SITTI, the state income tax intercept, or the federal TOP, if it's eligible for federal TOP. We don't garnish on ordinary overpayments. And that's particularly no fault ones. NDOL may recover overpayments through a variety of methods described in Nebraska 48-65-- 665. Participation in the Treasury Offset outlined in 48-665(2) is mandated by federal conformity requirements. Under Nebraska Revised Statute 48-663.01, NDOL may also refer a claimant who received unemployment benefits through false statements or willful disclosures for criminal prosecution and may pursue their overpayments through a levy. NDOL has referred cases to the Nebraska State Patrol and the Attorney General for review. However, many of these fraudulent payments are likely to have been accomplished by overseas entities and are not likely to be recovered. NDOL does have the authority to waive overpayments in certain circumstances for the federal COVID unemployment programs where the overpayment occurred through no fault of the claimant. NDOL recently implemented the process to apply for a waiver of overpayments under these programs. Through August 9, 2021, 443 waiver requests for federal overpayments were received and those waiver requests are under review. That concludes my testimony. I'd be happy to answer any questions that you might have.

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

BLOOD: Thank you, Chairman Hansen. And I actually have quite a few questions that I'd like to get on record, so be warned.

B. HANSEN: Yep.

BLOOD: And thank you for coming in, Commissioner Albin. I always appreciate the fact that you actually show up when you're invited. And there's a lot to be said for that. I want to back up because you did go really fast. So perhaps I used the wrong word with garnish. And I appreciate you bringing that up. How do you recoup that money then if you don't garnish the wages, you take it out of their tax refunds and how else?

JOHN ALBIN: There are two primary ways. The first way is through offsets against future claims. So if we overpaid you in week 1 of your claim and you're still claiming in week 26, we offset it against that to recover the previous overpayment. Any overpayment of any sort is eligible for an offset against the Nebraska State Income Tax Refund. So we certify over claims to the Department of Revenue that have an overpayment that exists and they offset against the unemployment-- or the income tax refund that the individual is entitled to. And there's a clause in the law that protects the innocent spouse in the case, there's an automatic presumption that half of it belongs to the innocent spouse regardless, and there's even instances where you can appeal beyond that, if it's really even more one-sided than that. As a part of the federal laws, we are required to participate in the federal Treasury Offset Program, TOP, as we refer to it. TOP is a program which is available for claims where the individuals misrepresented the wages that they earned during a week or were fraudulent. So the true innocent person, somebody who got reversed on appeal, someone where the department erred and paid them when they shouldn't have, those would not be eligible for a federal TOP offset. It's only in the case where someone did not properly report the wages they earned during the week and consequently got more money or it was an out-and-out fraud case.

BLOOD: I, I want to go back because I'm, I'm still not hearing-- so there's only two ways you're telling me that you take money when the mistake is made. One is to, to take it from their tax refund. If it's

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fraud, the TOP program. How else, how else do they pay you back? And in the offset. So take those all out of the picture. If they've gotten a job so there's no future filings, if they don't have a tax return coming or they don't have a tax return that's big enough to cover that, how do they pay you?

JOHN ALBIN: Well, there's also the voluntary-- voluntary-- we send them bills constantly, we bill them monthly. People in Nebraska, on the whole upstanding. And if there was an innocent error, they do repay it over time. We repay it according to their income schedule. So it's like we don't have a hard and fast you've got to pay this much per month. It depends upon their circumstances. We have the availability of using civil litigation to collect them. Historically, that has not been a winner for us in terms of recovering funds. When we last made a concerted effort in it for about two years, we made a particular emphasis on it, the return rate and as compared to the time spent, was fairly low. And you see all sorts of, you know, the amount collected will go up and down. In the next few years, the amount collected by the department will be huge just because that's the way it always is. You come out-- there more overpayments during a recession just because you have more claims and those overpayments get established and then you get-- you recover down the line. I don't remember, for several years running, oh, probably around 2014 and either one or two years before that, we actually recovered more overpayments in the year than we had set up that year. And that's because you're looking at a two-year lapse or a two-year time period for where you can set up an overpayment from the date the overpayment occurred. So, you know, the overpayments set up in 2020 will probably be recovered-- or be recovered in 2021, 2022. I mean, there was an old, kind of famous if you're an unemployment geek, unemployment case from IBP that went up to the Supreme Court I think twice before they finally determined whether those workers were eligible. That was in the 1980s. And we still have a couple of claimants that were slowly but surely collecting on from those old claims. So Nebraska Supreme Court has affirmed our position that there is no statute of limitations on collection of those unemployment overpayments, so we've used the methods that we found to be most effective and the state income tax intercept and the TOP intercept have been our most effective programs by far. The city one's a little more flexible for us because it doesn't require the misrepresentation of wages or fraud. It just requires it to be an overpayment.

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BLOOD: But ultimately, if the mistake is ours and because of the magnitude of claims that you handled, it looks like things are allowed to go on for extensive amounts of time. They're going to have to pay it back, even though it's our mistake. Is that a yes or no?

JOHN ALBIN: Under the statute, there is no provision for the forgiveness of overpayments through no fault of the claimant. On the federal side, there is the provision that we can waive the overpayment on the federal claims if it's through no fault of the claimant, it would work a hardship on the claimant. There's a list of reasons and all set forth in a UIPL. As per federal statute, we noted that part of that mailing to those 243,000 people was a mailing to the claimants explaining that they were entitled-- they could apply for a waiver of the overpayment if it was through no fault of theirs, and it would work a hardship upon them to repay that claim. As a result of that mailing to 243,000 people, we ended up with 443 people who thought that they were eligible under the federal standards. Those claims are currently being reviewed. No decision's been made on any of the 443 to this day.

BLOOD: All right. So I have a lot of questions. So I'm going to try and get us through this so we're not here for an extended period of time. So I know that in your August 10 letter that you addressed this a little bit. But for the record, can you explain to everybody why overpayments happen at all. When there is an overpayment, is the payment labeled as to why there is an overpayment such as agency error or fraud? Is that labeled each time that that happens so we have an accurate count of, of the overpayments?

JOHN ALBIN: It is not done as to each claim. The BAM statistics are intended to do that. As I noted, they didn't pull a huge-- they don't pull a huge amount of claims. But according USDOL's data geeks, it's a representative sample because USDOL determines the cases that get reviewed by the BAM. We submit it through the SUN system and the SUN system spits back these are the claims that you need to examine for this particular key week.

BLOOD: So, I mean, you claim to be a data geek, which I respect because I love data.

JOHN ALBIN: No, I'm not a data geek, but I just have to live with it.

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BLOOD: But here's the thing is that I've also taught that you measure what you treasure. In other words, you do not fix issues unless you know what the data truly is. And I hear what you're saying, that you're doing what you're expected, expected to do by the federal government. But I'm concerned at the local level, that we're not monitoring it in a way that we can look back and decide how to fix things. So how often would you say an overpayment is due to an honest mistake from the person filing for unemployment? How often does that happen in a normal year like 2019? And how about, say, last year? And how, how much has it happened so far in 2021?

JOHN ALBIN: Well, the fraud rate was about 2 percent. So those are obviously on the claimant. They lied somewhere in the process or filed a false claim that they weren't entitled to. Within the totally no fault, we don't measure it, I guess, but I think the agency, if you look at agency error, it's 2.06 percent, I think was my testimony. And so--

BLOOD: And how many is that in people? We talk percentages a lot. How many Nebraskans?

JOHN ALBIN: Well, if there were 243,000-- or there was 243,000 claims, whatever 2 percent of it is.

BLOOD: So--

JOHN ALBIN: That'd be what, 4,000, 5,000.

BLOOD: What is it at this year?

JOHN ALBIN: It would be-- that is the current rate for the most recent month, as I understand, for the frauds.

BLOOD: OK, for, for frauds. And, and we had a low rate of fraud in Nebraska, you were right. But a lot of that was because we were one of the lowest paying states. If you look at the dark web information that went out from the different crime rings, they were all very specifically saying that Nebraska was indeed paying fraudulent claims, but that we paid a lot less than other states. So a lot of people didn't mess with us. So I do think that that's part of what our-- why our fraud rate is so low. I'd like to put that on record.

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JOHN ALBIN: OK, well, I haven't sat down and compared Nebraska's record, but we pay almost twice as much per week as the state of Florida does. So I don't-- I think our-- if I remember right, the last time I looked our current-- our weekly benefit amount is somewhere in the middle range, probably upper third of total benefits. So it's fairly significant, but--

BLOOD: I mean, fraud, fraud is fraud and it's sad when it happens. So at the meeting earlier this spring, you said that the normal fraud rate before the pandemic was around .5 percent, but that the fraud rate during the fiscal year ending September 30, 2020 was 2.3 percent. So I know in your letter you adjusted the numbers from the spring. Can you reiterate for the record what those numbers are now? We talked a little bit about it. I'm just getting confused because you said it again. And what was the fraud rate in 2019 again?

JOHN ALBIN: OK, let me look here. I'm not sure I have that number with me, but I think it was, if I remember correctly, in 2019, it was .5 percent, .49 percent. Somewhere around in there, it's been around a half percent since we instituted the online work search requirement. And then in 2020, the fiscal year that ended 2020 was 2.43.

B. HANSEN: I'll just, just briefly here make sure if there's anybody else in the committee that has any other questions, just to make sure. Yeah, Senator Hunt.

GRAGERT: I-- can I just make a comment. I know that there's been a lot of questions asked and, and was answered on the previous. If you're referring to one of these, could you refer to what question you're, you're referring to, please?

BLOOD: Absolutely.

GRAGERT: Because it's already-- but I don't know where to go with what question you're asking. Thank you.

B. HANSEN: Senator Hunt, do you have any questions?

HUNT: Thank you. Thank you, Commissioner Albin, for being here today. And on the record, I want to thank the Department of Labor for reacting so quickly and under so much pressure during the pandemic to make sure that Nebraskans could receive the payments that they're entitled to and get on their feet, especially, you know, so many of

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our essential workers who were struggling in the last year. I do think that we have to look at the last two years as a huge outlier just because there were so many claims. And, you know, people in the department and employees and department administration and staff had to rise to the challenges that COVID presented. And from your testimony, and your testimony earlier this year, too, it seems like Nebraska is within a pretty reasonable margin of error for overpayments or problems with claims, especially compared to other states. And as somebody who's used the unemployment system, I can personally say that it's very, very rigorous. The requirements are quite robust to receive unemployment in Nebraska. It's actually not super easy to get unemployment payments in Nebraska. And do you think that we can expect that the rate of fraud or the rate of error, whether it's the 2.06 for improper payments or, you know, the 6 percent of claims paid in 2020 that seem potentially fraudulent, do you think that we can expect that to be less and less of a problem as the public returns to work and especially as federal unemployment benefits run out? Do you think it will level out?

JOHN ALBIN: I think it will drop precipitously. I mean, in the Great Recession, I think we topped out at-- a fraud range, just use the fraud rate as example, I think we topped out at 1.5 percent during the Great Recession and then it dropped down after the Great Recession was over. There are a lot of reasons why I think it will be less going forward. I mean, one, everybody understands that the Pandemic Unemployment Assistance program is the one most ripe for fraud. And that ended in Nebraska on June 19, will end else-- everywhere with the week ending September 4, so. And there's a reason the Pandemic Unemployment Assistance claims were so much more prone to fraud than a regular claim, which is what we'll be dealing with going forward. Because on the regular unemployment claims, we always had the backstop of our employer because if somebody filed a claim and said our system pulls up, everybody was reported that SSN. And since all of those employers request for separation information, you run a business, I suspect you've answered more than a few of those. You know, we-- it's been common throughout-- or I shouldn't say common, it's not unusual that we will occasionally get a call from an employer and says, I've got a claim here for Bill. Bill's still out on the line. I talked to Bill, he said he didn't file it. That's a great fraud prevention measure. With the PUA program, we didn't have anything similar to that because they were self-employed. So the employer who was going to

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verify it was-- if it was a fraudulent case, was the same one who made the fraudulent claim. We've also done a lot of other things. We've introduced several levels just from the start of the initial claim. There's a-- and our vendor could probably-- would explain it better if he was here, but the system goes out and we purchased a-- approved identity verification program that goes out and measures against public records. The information is provided by a particular claimant as to whether that is accurate or not. If it matches up with public record, the claim is allowed to be filed. And then we can send out the request for separation information to the employer and all that good stuff. If the information is not required, then we require dual authentication. There's a various set of levels. I mean, passports, driver's licenses, and then some other methodology. That dual authentication measure was not there prior to the pandemic. We put it in because of the pandemic. We like, we're going to keep it so that will certainly keep claims. We also-- we-- I mean, as Senator Blood has noted, this was a national problem. It wasn't just a Nebraska problem. You know, we had a spate of hijack, what we call hijack claims, which were-- where someone managed to figure out the password or at least figured out the challenge question so they could bypass the password on someone's claim. A lot of times through social media. You know, a lot of people will choose for a challenge question, mother's maiden name, which is really easy if they're on Facebook to figure out what it is. And plus it's probably, probably somewhere on the dark web so that a lot of those claims got hijacked. However, we built into the new process a system where if you're going to change, like, banking information, that was the most common tactic. They would get it-- they would somehow figure out and get a way past the password and they would change banking information so they could divert the money off elsewhere. We changed-- we put in several steps within that, which requires the person who originally established that legitimate claim to verify that information. So we had a spate of them up for a while. We got our dual authentication process in place and that's-- I have not heard recently from anyone and I usually do hear about a hijack claim. We did another thing, you know, when we did the mailings out, that was part-- or actually one part of a two-part process. The federal government required us to notify all these claimants of all the changes. So we were doing that anyway. So we mailed out all of those. But also as part of that process, we instituted a new process where, you know, we let the claimants allow to set up their accepted method of contact. Whether that's through text, that's through email,

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it's through hard mail. They get that choice. But because of what we had found during the pandemic with the number of fraudulent claims, we now send a hard letter to every claimant who files a new claim that says, thanks for filing a claim. Here's the information. Hopefully, we've greatly enhanced the readability of the old notices. Our old notices were spoken way too much in UI and we tried to translate them into real English. And so hopefully those notices explain a little bit better to the claimants what they're supposed to do on the claim. In regard-- in response to those, you know, you'll still see a number of, of claims where someone will call us and say, I got this letter, but I didn't file this claim. So we mark those as frauds. So that's another measure that we haven't had in place for a while. So--

HUNT: The idea of sending out the letter like a fishing lure almost is a little-- it's a little bit ingenious, honestly, because if the letter comes back to you undeliverable, then that's something you can look at. Or if, if other people if they get alerted to the fact that there was a claim filed and they didn't file it, then that's, that's information. The Nebraska unemployment insurance system, I think that it's a really well-functioning program as it's designed to function. And obviously they're certainly reforms and tweaks that I support that I work on here in the Legislature. But as a temporary safety net for people in Nebraska who are out of work through no fault of their own, I think it's a very well-functioning system. And I also think people can't forget that in Nebraska, you can't get unemployment if you're not looking for work. And as I said, it's not easy to get unemployment in Nebraska if you're unemployed, actually. And I think that your team has done a, a good job executing the system as it's meant to function.

JOHN ALBIN: Thank you.

B. HANSEN: Any other questions from the committee? Yep, Senator Blood.

BLOOD: Thank you. I, I have to say that I'm not sure I agree with Senator Hunt on that last statement based on the amount of people that our office ended up having to help. And as you stated, my office handled more complaints than the other 48 senators combined because we stayed in our office during the pandemic. We helped. We didn't turn anybody away and we did everything from bringing them groceries to helping them find childcare so they go and look for jobs. And so my view is very different, I think, than the other senators that are sitting here today.

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JOHN ALBIN: Well, you probably--

BLOOD: I think, I think that was what you had, you did the best that you could, but I think we can do better. And I just want you to, to know that I don't think that you did a horrible job. I don't think you're bad people, but I feel we can do better. And I'm hoping that as we ask these questions and get them on record, that you understand that that's where I'm coming from.

JOHN ALBIN: Sure. And I think, to be fair, you probably got a bit distorted view because I didn't see it, but I understand from people that one or more people through your office put out on various websites that they would help with claims. And I can tell you, since I got my information posted to the web several times, once it's out there, you're going to get contacted a lot. So you probably got more of them because you were visible and it was, and it was easy to find and it was good of you to help out the individuals. I have no complaints about that. And that's not a criticism. I'm just saying you probably got a bit distorted view because you were probably more out front than most state senators and-- or other elected individuals in terms of offering help to the claimants.

BLOOD: I, I take that as a compliment. So, Senator Gragert, for your benefit, we're-- I'm going to be referring to question four in the August 10 letter that's in our packet. So in the August 10 letter, you said that a factor in waiving the overpayment of federal funds was such repayment would be contrary to equity and good conscience. Can you explain how you determine who qualifies under that really broad language? I found that language concerning.

JOHN ALBIN: Well, it is a bit broad and it's not particularly precise. The-- one of-- there's-- specific UIPL, which I-- excuse me.

BLOOD: It's dry in here.

JOHN ALBIN: Well, I have this wonderful medicine that does a really good job of fixing what it's supposed to fix, but it also dries me out something fierce. So in the UIPL that they put out on there and I don't have it all committed to memory, but I will be reviewing it as we start to process these claims. One of the things they look at is whether the-- there was a detrimental reliance upon the payment. The claimant filed a claim, it was approved. They spent the money. They

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don't have the-- they thought they were getting-- they were entitled to it, and figured if they sent it to me, I'm entitled to it. They were honest throughout the process. They've spent it all on groceries and everything else. Part of the UIPL talks about detrimental reliance. And to me, that is part of detrimental reliance. You assumed that if you had answered everything correctly and someone paid your money and you spent it for the necessities of life, that you detrimentally relied upon their statement to you that they had. Some of the other things that we-- are available under the UIPL-- or excuse me, or if it would work a particular hardship on you. I mean, obviously, if someone has exhausted all of their claims and are still unemployed and they have an overpayment that occurred through no, no fault of theirs, they're not in a position to repay it. And the federal law allows those who apply for the waiver to-- for them to be-- for that overpayment to be waived. Part of the federal law, as it doesn't allow the Commissioner of Labor or any of the employees at Department of Labor just going unilaterally and sort through the claims and check off these are able for-- eligible for waiver. These aren't. It does require a specific application. I was-- the-- as I stated earlier, we had-- the first mailing that we sent out on July 1 covered everybody from forever in the pandemic unemployment program, which, I guess, forever is somewhere as March 20 weekend, are we starting March 27 of 2020. Seems like a lifetime ago. But so anybody who received an overpayment of federal benefits in that time was eligible to reply and USDOL requires them to apply in order for the waiver to occur. So we did-- that's when we did the mass mailing, which included the waivers are going to be available starting July 1. You can apply, here's where to go online and fill out the form and get it to us and we had the 443 applications.

BLOOD: So I'm just-- I'm trying-- I know that your time is valuable and I'm trying to get in--

JOHN ALBIN: I blocked out the whole morning.

BLOOD: I, I actually have been skipping past questions so we can get different topics on, on record. So let's talk about the appeals process a little bit. How often, in general, does a claimant appeal a decision when they've been overpaid? And do you have numbers as to how often these appeals happened in 2019 and '20 and so far this year? Like, actual numbers, I know you always do percentages.

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JOHN ALBIN: Prior to the pandemic, overpayment waivers were a very small number. During the pandemic, it got larger. I think, if I remember right, from the last time we looked at the-- there were about 4,500 waiver appeals, I think.

BLOOD: Forty-five hundred.

JOHN ALBIN: Yes.

BLOOD: OK.

JOHN ALBIN: For the entirety of the pandemic, I think there's-- I think 3,000 of those that remain to be processed as we go through.

BLOOD: So how many employees work on these appeals? Who are the employees that decide these appeals?

JOHN ALBIN: We have a full-time hearing officer corps, which normally stands at three, but obviously that wasn't sufficient during the recession-- or during the pandemic. So we hired on additional officer-- or additional contractors to adjudicate appeals. We also have about, I believe, the number is 16 regular adjudicators that we're swinging over to work as a team to go through the, the waiver overpayments because we want to-- or the waiver appeals that we want to get processed. So I think in the last two months they've knocked it down by 1,500. I'm expecting, I think by the end of September, certainly by the end of October, we'll have the entire list worked through. And part of that is we prioritize the appeals that we process. I mean, under normal circumstances in a regular year, it's basically first come, first serve and you work through them. In this particular case, we basically did a triage where we took claims, like if it was a separation appeal that could deny you a benefit or the employer was the appellant could set you up an overpayment. We prioritize those so we can get them resolved first because on the overpayments, in that case, the money has gone out. There's no interest charge under statute. Unlike some states, there's no liens filed against claimants who have an overpayment. So the claimants have the money in hand, so it's-- and so it's not like we're denying them anyway. So we try to take those issues first, which would deny somebody a benefit or put them up in overpayment. And we kind of put waivers back to the side. Now we've restarted to get through the waiver process. I think, if I remember right, right now, in addition

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to the regular adjudicators, we have seven other or a total of ten hearing officers working on appeals. I mean, the backlog has gone down tremendously and it needs to go down further and we'll keep working on that.

B. HANSEN: Again, I just want to turn to the committee and see if anybody else has any other questions at all. Yes, Senator Gragert.

GRAGERT: Yeah, thank you. First of all, before I ask my question, I want to also thank you for the service that you did during the pandemic. I, I do need to say that Senator Blood's office wasn't the only office sending in a lot of-- and my staff was, was at the, at the Capitol throughout the entire pandemic. So I really appreciate how you got back and responded to me-- to my staff.

JOHN ALBIN: You're welcome.

GRAGERT: Basically, it wasn't me, it was my staff. So I appreciate all their hard work, too. Could you tell me how LB567 will, will help you in, in, in the future-- for the future?

JOHN ALBIN: OK, under the existing statute, which has been temporarily suspended by the Governor's executive order, if we have to look at every separation from employment that occurs during the base period, which is basically an 18 month to two year back-- look back. And so, you know, if you quit seven jobs to take a better job, we still have to go back and adjudicate all of those. Before you got laid off from the last one, we still have to go back and adjudicate each of those other seven jobs that you quit to take the better job. And we have to issue a determination that's appealable by both the employer and by the claimant. I mean, we have to send out the separation information, say, employer, why did Joe leave? And Joe may have already told us he quit to take a better job. And the employer agrees. But we still have to process the claim and issue determinations. Under LB567, we would expedite that process. As to those original employers, the first seven that they quit to take a better job, all those cases, we would simply make a charging decision as to that employer, so. You know, did you-- did this employer cause the person to be separated from employment? If they didn't or if it was for misconduct, the employer doesn't get charged. So that affects their tax rates as they go forward. So it's important for us to still keep records of that, but it doesn't require an appealable decision by the employer and the claimant in that

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regard. The only issue that can be looked at on appeal is the charging determination. Under LB567, we would look at the last employment, the one that you separated from that caused you to file the unemployment claim. And that's the only one we would give the full-blown treatment to. So it's like if you got laid off on the last job or the employer filed-- fired you for no reason, you would-- your benefit eligibility would be based solely upon that last separation, rather than looking at all those-- spending all that time on the others. That's the only one separation determination that would be subject to appeal by you or the-- of the claimant or the employer. So it would substantially expedite the process. There's another provision in the committee amendment that would really help us out. Under the federal laws, and it-- it's happened the last two recessions for sure, and probably the recessions before that where the federal benefits come in and they require you to make an election of-- I won't say election of remedies, that's not the right term. But they allow you to-- they make you look and see, OK, if the claimant would receive more in the federal program, which is what's in the current law, federal laws, you have to either pay the claimant that one or, or the state one, whichever is higher, and so kind of an election of whatever benefits the claimant the most. We don't have anything in statute now that does that for us and that gives us that authority. The Governor's executive order has given us that authority and we've been using that throughout the pandemic, but executive orders can't exist forever. That's what a Legislature is for. So we would like to get that provision. It actually is of great benefit to Nebraska employers, because at least as to this last recession, if the person-- one of the conditions of eligibility for the federal program was you couldn't be eligible for any state unemployment benefits. Well, a lot of these people were after they exhausted the first federal claim. So then they were getting taken off of the federal benefits. And because they had less wages in the second claim, they were getting less on the second claim. And more importantly for Nebraska workers if they-- that was being paid out of the Nebraska's share of the trust fund. And so that factors into the tax rate for the next year, whereas the federal benefits that are paid aren't counted against that trust fund. And so they don't go into setting a tax rate next year. So it was kind of a double benefit for everyone. The claimant got the highest part. Nebraska employers got relieved of some charging. And so that committee amendment is also very crucial to us in terms of making the system better.

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GRAGERT: Thank you.

B. HANSEN: Yes, Senator Halloran.

HALLORAN: Thank you for being here, Commissioner Albin. And I, I, too, want to make a point of information. Our office received our share, as all offices did, because it was a tough time for employers and employees and the Department of Labor during that period of time. And my office is always staffed and we received our share of calls because of the circumstances. And I've got to say, your, your office, when we contacted, it did answer those questions quickly. And, and we responded back to our constituents. And they're very-- they were very satisfied with that response. Quick question. Does a recipient, if I were to file for unemployment, and this is a naive question, but I've not done this, so if I file for unemployment, would I know what to expect? I'm filing for a specific dollar figure?

JOHN ALBIN: Yes. And as part of the process, we tell you that the first-- when you come in and file and we do do it-- 97 percent of the cases are all online counting the ones that are done at our local offices. And I think we're the only state that stayed open throughout the entire-- all of our American job centers stayed open throughout the pandemic because we needed those offices open so those without Internet access had somewhere to go so they could file their claims. But when you file the claim, you put in a Social Security number, the system matches that against our wage records and it pulls up every employer who has reported that SSN during the base period, the first four of last five calendar quarters, if you want to get unemployment geeky. But anyway, about two years back. So it pulls up all those employers and then it asks you for the separation-- reason for separation from each of those employers. And you go through and you answer those questions. As a part of that system that's pulling up the wages that you did and at the end of the claim filing process, it gives you a tentative weekly benefit amount that you will receive. That's not the final one, because we have to, by law, have to send you out a formal monetary determination that says these are the employers we found, these are the wages and this is your weekly benefit amount. But we do give a tentative weekly benefit amount at the end of the processing of the claim.

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HALLORAN: I guess the reason for my asking that question is as a, as a person filing for unemployment, I, I would have a good idea of what I would receive if it's approved, right?

JOHN ALBIN: Yes.

HALLORAN: And if I receive something else other than that, if I received an overpayment, I would be aware of that or not?

JOHN ALBIN: Not at that stage. The overpayments come in later in the process. Overpayment would be-- because at this point you don't even have an approved claim. So we send out the monetary, we send out the "nonmons," the determinations on the separations. And at that point, then our system, as is required by federal law, you have to file certifications for each week of your claim. And then on each week of that claim, you're also asked to, you know, did you refuse suitable work this week? Did you work during this week? And if you answer yes, then it asks you to say how much you earned that week. So it doesn't-- and so then at the end of it, it gives you a thank you. Here-- here's your certification confirmation number and move on. As I said the most-- and that weekly certification, you're also required to search for work or as we now call it, reemployment activities, because we tried to make it a little more user friendly. And, you know, things like going to a resume writing workshop is important and that's now an accepted activity as opposed to just contacting employers. But anyway, you're required to fill that out and then you submit that. If for some reason you have an overpayment, as a result of that week, we send out what we call-- we give-- send out a notice that says, OK, it doesn't look like you're eligible for this week because, and then after that one, if that becomes final, then you're give a notice of the actual overpayment. So you usually aren't given notice until after the fact on that. It wouldn't be up front. So, you know, filing your weekly cert, it wouldn't say this is going to put you into overpayment. Other common reasons for overpayments, well, I listed the ones that we don't find. You know, sometimes employers appeal, claimant's found eligible, the employer appeals and said, what were you guys thinking? It goes up on appeal. And the hearing officer says, no, that really was a disqualifying separation. And this person's been claiming for however many weeks it takes them to get, to get to the appeal hearing. So then that happens and our benefit payment control unit would send them out a notice that's like, OK, there was this reversal, because of the

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reversal, you weren't eligible during those weeks that we paid you. And here's the amount that you owe.

HALLORAN: So it's complicated enough that if I filed and I wasn't fraudulent, I gave you the information that I thought was honest and I received a payment, I wouldn't, I wouldn't necessarily know that I got an overpayment? In other words, I wouldn't necessarily know, gosh, this is more than I expected?

JOHN ALBIN: Probably not. We do direct deposits-- I mean, one, you wouldn't know you were overpaid for that week. As to the amount, most of that goes through direct deposit or to a pay order card. I mean, I suspect I'm as guilty of it as anyone. Most people don't actually check the exact amount that goes into their checking account or onto their debit card. I mean, I got paid this morning by the state of Nebraska, I didn't-- I saw the amount, saw it came in, but I didn't go back in and calculate whether they had figured out all my withholdings. Another thing that's somewhat confusing to people as they go through the process is they are allowed the option of having state and federal taxes withheld from their benefit-- weekly benefit amount, so you may be eligible \$456, but the amount deposited in your account was \$400. You know, unless you remember, and most-- a lot of claimants don't, unless you remember that there were taxes withheld from that, you wouldn't know. Another common source, I mean, I can't-- we pay several million over-- out of-- deduct out of benefits every year for child support that we transmit to DHHS as part of their child support collection efforts. And then, of course, we would deduct if there was a prior overpayment that hadn't been repaid.

HALLORAN: OK, thanks.

B. HANSEN: Yes, Senator Blood.

BLOOD: Thank you, Chairman Hansen. And Senator Halloran, thank you for that thoughtful question. I think that that's the question that I keep hearing from people where there's an assumption that people know they're being overpaid and they're being sneaky about it. And the people I sincerely talked to were not aware that they were being overpaid, were just following the system in what they were told, and we're surprised later to find out that they then owed money. So in that vein, so the question, and I'm going to make this my last question because I know Nebraska Appleseed is here and has things they

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want to bring forward. So when someone files an appeal, how long does it normally take before they actually get a hearing? And then how long does it usually take the tribunal to make a decision on that appeal? And how did those time frames compare to, say, previous years?

JOHN ALBIN: Well, I can tell you the time periods as compared to previous years are completely different. If you look prior to the pandemic, the appeal tribunal was churning out about-- churning out actual decisions, not just setting up for a hearing, but churning out actual decisions within 30 days of the claim-- of the appeal being filed in 90 percent of the cases, so that-- and we really did fast track those and move those well. In the pandemic, those numbers have gone clear through the roof. At one time, there were 13,000 pending appeals. It's under six now, if I remember the number correctly. But a testament to the hard work that the appeal crew is doing is, you know, the first of the year, the number was 13,000 and now it's under six, but they've also had 13,000 thou-- or 10,000 more, 12,000 more appeals filed this year. So then only-- so you add 13 and 25, that means they've disposed of 19,000 cases in the last-- in 2021, so it's down now again, it's hard to put a number to it because the normal rules aren't set. If it's a separation appeal right now, your appeal hearing is set within 30 days. Because like I said, we prioritize those. The overpayment appeals, some of those are much older than that. I haven't looked at the standard. I think the federal standards sit somewhere around-- of all-- and the federal standards are tough to work to because not only does the appeals that are disposed of that month, that's how they measure the 30 days. So, you know, some states used to just ignore cases and so they didn't ever count against them. But I think right now, the 30-day rate is probably around, I believe, 12 percent. I could be wrong on that. I can get back to you with an actual number for the most recent quarter.

BLOOD: Is there something we can do as state senators to prevent or help prevent errors that are happening or to make your job easier so we don't have so many people that, that have obviously have fallen through the cracks? What can we do as policymakers that would make your job easier and help serve Nebraska better?

JOHN ALBIN: Well, LB567 would be a good start. That will allow us to concentrate on the separation that actually caused the unemployment and, and increase our quality on that. You know, a lot of it is, it was just a tidal wave. And I don't need to go back through all my old

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testimony, but we went from less than 800 appeals-- or claims a week to 25-- almost 27,000 claims in a week, 3 weeks later. There's just no way to staff up for that much. You know, if I staffed up to handle that level of claims, I think right now we have 277 adjudicators, I think is the official number. Normally, we would be carrying 25 to 35 in a normal time. If I hadn't staffed at that pandemic level for the entirety, one, it would be really expensive and the feds wouldn't pay for it so Nebraska taxpayers would have to. I'd have a lot of people sitting around with not much to do. This one was just a-- was an outlier even for a recession. I mean, if you look at the last several recessions, it was more of a gentle climb. I mean, some of them you could see 10 months ahead it was going to happen just because of the indicators that you saw in the system that was likely to occur. I don't know how you legislate against pandemics. It was just a slam like no other. The other part of the problem that's been a little bit of a frustration for us is the feds have constantly changed the rules. I mean, I complained before about PUA, we've had five different changes in the UIPL as to how we're to process PUA claims. Another thing that was a disaster for us in this case in terms of time was, OK, when they-- if they passed the original CARES Act and never extended it, things have been pretty clean, but obviously the circumstances were that they didn't-- they extended it. But in a lot of times, like an individual who has exhausted his regular claim then got moved over to [INAUDIBLE] claim in the original CARES Act, all fine-- or actually they went through PUC first, but they exhausted both those and moved them over to PUA. And so then the feds said when they extended, it's like, well, we're going to have more weeks. And, oh, by the way, you're supposed to go back and take all those weeks that you had in PUA and move them over to a PUC claim. It was a terribly laborious process to literally move those weeks from one claim to another. And it took a lot of time. And I don't know what the Nebraska Legislature could do about that. I mean, it was the vagaries of federal law. It-- normally, things work pretty well with the federal money we, we receive, so I don't see that under normal circumstances there's a need for expedited funding or additional funding, I should say.

BLOOD: Do, do you think policy wise that it might be because a lot of the questions that I asked you didn't really have tracking numbers, firm numbers. And as any agency, not just DOL, is it not beneficial to, again, measure what we treasure, like, how do we, how do we get

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better numbers so should something like this happen again? We know the Delta variant is coming, is here. If, God forbid, something else happens, how, how do we logically track this stuff? Percentages are great. Guesstimates are great. But we don't seem to have some solid numbers on some of the questions that we asked today. How can we be better at that?

JOHN ALBIN: Well, while I have concerns about the way the BAM measurements come out and reporting proper payments, we do religiously look at those numbers. I mean, if our fraud rate goes up, we look at why there's a fraud claim. I mean, yes, it's only a statistical sample, but you know from that-- because it's get measured every time period using the same methodology. So if you see a rise in one particular type of overpayment or then you look at that area of your program and see what you're doing differently. I mean, we've, we've changed-- we changed questions on the intake that come through for individuals based upon things that we've discovered. I mean, that was part of the changes that we've made in regard to the work search rules. We looked at those BAM statistics as to how significant the work search requirement was. And we looked at our process and said, OK, are we asking these questions in a logical manner that's going to be clearly understood so the claimant could accurately answer the question. So we do use those statistics as guidelines. So, you know, if you wanted to appropriate I don't know how many million dollars to examine every claim the way we do a BAM claim you could do it and the information would be useful. I'm just not sure it would tell you that much more than what you're getting out of the BAM in terms of causes.

BLOOD: Yeah, and I don't think that's really what we're talking about. I, I, I asked for specific examples that I would think would be common knowledge with the information that you take in. So maybe that's something that we need to talk about outside of today.

JOHN ALBIN: Sure, would be glad to talk to you.

BLOOD: But I, I do ask that you, that you think about some of the questions that were asked today and how there weren't any solid answers because they were-- it was information that you don't usually keep track of, and that's outside of the federal government. It's just kind of a commonsense approach where you have that information in front of you, it's just a matter of delving into it and maintaining it in a database or whatever. So that's, that's where I'm coming from,

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because I feel that a lot of the instances that we've talked about today, we can better delve into, we could better research if we actually knew-- had more accurate information. And I don't, I don't feel we're getting that. We're getting a lot of great percentages that were within federal guidelines. I appreciate all of that information and the fact that you can say it off cuff. Good for you. But I feel like we're still not getting at the cusp of what the problem was. And I also want to go on record as saying that I was not-- when I said how many complaints that we had handled, it was not to say that any other senators' offices were not doing their jobs today. I want to make sure that that's really clear and on the record, but we did find that, that there were some offices that unfortunately were not serving as well as others. And, and you're right, word got out that we didn't turn anybody away because I serve all Nebraska. So with that, I'm actually going to put aside the rest of my questions so other people can talk.

B. HANSEN: OK, good. Appreciate your testimony today, Mr. Albin. Thanks for sticking with us and--

JOHN ALBIN: No problem.

B. HANSEN: --providing all the information, so. Just want to clear in my opening as well. I kind of-- don't want to confuse anybody, but I still have my head wrapped around legislative bills during session. But during interim legislative resolution studies, we will be taking invited testimony only. So will not be taking a testimony from the public. So with that, is Nebraska Appleseed here to testify? Welcome.

KEN SMITH: Chairperson Hansen and members of the Business and Labor Committee, my name is Ken Smith. That's K-e-n S-m-i-t-h, and I'm the economic justice program director at Nebraska Appleseed. Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans. We want to extend our sincere appreciation to Senator Blood for introducing this important interim study. We also at the outset want to acknowledge what has been acknowledged already today, but which is the unprecedented influx of need for critical unemployment supports during the course of the pandemic due to the economic downturn that it caused and the amount of work that the Department of Labor did to provide that support to Nebraskans when they needed it. We, we know that record numbers of Nebraskans applied for unemployment insurance throughout the pandemic and relied on those benefits to ensure that they could pay their rent

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or their mortgage, buy food, and pay for other expenses that support their family. But now too many unemployment insurance recipients have been told they were overpaid benefits or that they shouldn't have received benefits and that they must now repay the state the alleged overpayment amount. And the bulk of my testimony, which I will keep relatively short this morning, will focus on kind of the, the back end of that process after an alleged overpayment is established and the decisions that we've made in terms of how to deal with overpayments on a broad scale. Even in unprecedented conditions, Nebraskans should be able to rely on the expertise of the department. It is not the Nebraska public's duty to know whether or not they're eligible for unemployment insurance. It's the duty of the Department of Labor to determine whether an applicant is eligible to receive benefits and if so, at what level. Nebraskans have to rely on the department to make those determinations accurately because without accurate determinations, they can't rely on the benefit payments without fear they might have to later repay them. As was discussed earlier today, while state law makes every person who receives an overpayment liable to the department, collection efforts remain under the department's discretion. The department may seek to recover an overpayment by initiating a civil action against the recipient by offsetting the overpayment against future benefits, or by offsetting the overpayment against state or federal income tax refunds. Such election-- such collection efforts can devastate unemployment recipients and are generally against the purpose of the employment security law, which is to provide security to those who face unemployment through no fault of their own. Why the department is electing to aggressively pursue agency error driven overpayments of federally funded pandemic unemployment programs is unclear, and doing so is unnecessary and harmful. According to federal law, states may choose to waive collection of federally-funded unemployment programs. Guidance from the federal Department of Labor allows states to provide a blanket waiver in two circumstances. The first is when an individual eligible for payment under an unemployment benefit program through no fault of the individuals were paid incorrectly under either the PUA or PEUC programs at a higher weekly benefit amount. And the PUA is the Pandemic Unemployment Assistance. I think that's the program the commissioner referred to that is there for people who are not eligible for state benefits. And the PEUC is, I believe, the Pandemic Emergency Unemployment Compensation, which is the federal supplement that was received for a, for a time over the course of the pandemic. The second

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circumstance is when an individual receiving PUA received an incorrect weekly benefit amount due to confusion in federal guidance. However, despite the ability to provide these blanket waivers, Nebraska is requiring each individual to apply for a waiver through a somewhat complicated application process and, and ultimately get an individualized determination of whether collection of the overpayment would be against equity in good conscience. While these individual determinations would be required in some circumstances, such as when a recipient is later determined not to have been eligible for federally-funded pandemic unemployment programs, providing a blanket waiver under the allowable circumstances would have drastically reduced collection efforts, including department time needed to review waiver applications and all of the additional staff and contractors needed for that process. And it would have drastically reduced the negative impact on unemployment recipients, which it sounds like beyond our organization many, many of your offices were also hearing about throughout the last several months. And I think it's, it's also, I think, worth noting that the department has restricted the window of time in which people with preexisting overpayment determinations have to apply for the waiver to one month and they get the window for that application-- or that waiver process time began on July 1 and closed at the end of July. It was also unclear who exactly could apply for such a waiver and whether a person had to have appealed the underlying overpayment determination in order to begin that process. And in the event that an, an appeal was necessary in order to be eligible for participation in that waiver process, somebody would have to within that one-month time frame if they had a preexisting overpayment determination go through that appeal process, you know, in order, in order to kind of have the door open for them and have the waiver available. Again, I, I don't-- I, I guess I can't as I sit here today, say with certainty whether or not that was a condition. But it's something that we have heard confusion about in speaking with people who are, who are impacted by this. In short, I think the state could have and should have issued a blanket waiver. But even in administering the individualized waiver applications, the process was largely inaccessible and unnecessarily abbreviated. I should say, I think for, for folks who are, you know, who have-- who are receiving notification of alleged overpayments after that period of time, they still have a window of time to complete that waiver process. So what I'm speaking to is people that have had preexisting, preexisting overpayment cases established. Just wanted to add to the kind of

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chorus of voices talking about the scope of the issue, the amount of Nebraskans that we've heard from who are impacted by this is, is great. It sounds like-- or is-- in that I mean, the amount is significant, not that it's good. And it sounds like the senator's offices were also getting notifications. And I know from being on the state bar association's pro bono listserv that it's been dominated by people asking for assistance and sorting through alleged and unexpected unemployment overpayment. So it's hard to overstate the number of people that we've seen from various kind of-- from various means and various kinds of channels of communication that have been impacted by this, by this issue. Overpayment collections seriously impact unemployment recipients and Nebraska currently pursues more overpayments than we are required to by federal law. Overpayments also undermine public confidence in these benefits, which makes people less likely to apply for and receive the support they need. We think that changes should be made to ensure payment accuracy, even in times of increasing caseloads. And we also think that the system the department uses to pursue and collect overpayments is in need of reform. So with that, I would be happy to try to answer any questions.

B. HANSEN: Thank you. Any questions from the committee? Thank you for coming to testify.

KEN SMITH: Thank you.

B. HANSEN: And we do have one more final invited testimony if they would like to come forward.

ANN MANGIAMELI: Good morning, Senators.

B. HANSEN: Morning.

ANN MANGIAMELI: Short chair. My name's Ann Mangiameli. And for the record, that is A-n-n M-a-n-g-i-a-m-e-l-i. I'm not sure the senators are aware of how dangerous it is to tell an attorney that they have any unlimited time to speak. But I will try to keep myself brief. I am an attorney with Legal Aid of Nebraska. I'm the director of our public benefits unit at Legal Aid of Nebraska. And what that essentially means is that any unemployment case that would come to our office would come through me. I ran some numbers before I came this morning. And as of March 1, 2020, Legal Aid received 560 requests or more. I think we received a couple more than that for individuals asking for

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representation in unemployment cases. Those cases are split somewhere between individuals that were completely denied unemployment benefits when they applied for them and asking for representation in getting them and individuals who got benefits or paid benefits and suddenly later there was a redetermination by the Department of Labor telling them that they shouldn't have been eligible for those benefits that were paid. Those are the cases that result in those overpayments. And those are the cases that I'm going to focus on today. I do want to say that I have a great deal of respect for Commissioner Albin. I know how many cases they had to process during the pandemic. I know that it is unprecedented. I know that I can't imagine with thousands of cases that Legal Aid processes a year if someone put four times as many and said here handle these, how that would be done. However, what I'm here to do is talk about the cases that I'm seeing and kind of how we got to the overpayments that my clients are seeing and the effect that it-- that it's having on them. So unemployment cases, typically the ones that I would deal with where there's an overpayment should have two levels of appeal. First, my client should get a notice that says that they were wrongfully paid benefits and that their benefits are going to cease. They have the right to appeal that determination. They only have 20 days to appeal it, but they have a, they have a right to appeal that determination. Only after that determination has been successfully where the department says, yep, you've appealed that, we have found that you really shouldn't have been paid those benefits, only after that should they then receive a notice that they have been overpaid. They also have a right to appeal that unemployment notice. So there should be two levels of appeal on cases where folks have been overpaid as a result of the department going back and determining that they shouldn't have been paid those benefits in the first place. I will say that we were seeing that individuals who applied for benefits were waiting five, six months for determination to even start to get paid for those. Once they filed an appeal, they were waiting somewhere between six and eight months or longer for those appeal hearings. And at times they weren't receiving benefits while they were waiting for that appeal hearing. So we were talking, you know, in general almost a year between the time that they originally finally got a determination and where they had their hearings. So we were getting Legal Aid clients where they weren't getting that first level notice at all, where they weren't being told, by the way, your benefits are ceasing because we wrongfully determined that you got benefits and you got paid. So they missed that line of appeal. That line of appeal where

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they were determined they shouldn't have gotten benefits in the first place, which actually causes the overpayment, we had clients who weren't getting that first notice. So they missed that appeal period. In instances where they were getting notice of ineligibility, that notice didn't include any language that said, if you don't appeal this, you may have an overpayment, have to pay us back. So in other words, they were not told if they failed to appeal that initial appeal or that initial denial, that they would be required to pay back all the benefits that they received. A lot of my clients had gone back to work. So by the time they would get a notice from the Department of Labor that said you're no longer eligible for benefits, which is what the notices typically said, they ignored those because they no longer needed benefits because they had gone back to work. Because there was no language in that notice that said and by the way, we're going to ask you to pay back everything you were ever paid, a lot of them didn't appeal it. And they ended up not knowing that there was that possibility until they then received an overpayment notice from the Department of Labor, sometimes saying they owed \$15,000 or more in back pay. Some of them didn't find out that they had a case or an overpayment at all until the federal-- or until their income taxes were seized. That was the first time they ever learned that their income taxes were seized. We can sidestep for a minute and say, how is that possible? How did people not know? A lot of the notices that were going out were going out on the Department of Labor, their website. And so people were told regularly check that website, regularly check that website, they weren't sending out paper notices to clients who would get that in the mail. Folks that went back to work, they weren't checking the Department of Labor website because there was no reason to because they shouldn't have been getting any notices. They were no longer receiving benefits. And a lot of my clients ended up with overpayments that they weren't able to appeal because they missed their 20 days, because they didn't check the website, because they had gone back to work. So that's how a lot of these overpayments, at least the very expensive overpayments have happened for my clients. They were granted benefits. They thought that they should have been getting benefits. They would get benefits for six or more months at not only their payment, but then the additional \$3 or \$400 a week. Then they received something from the Department of Labor that says, oops, we were wrong, you shouldn't have been paid. Pay us everything back. For those who have appealed, the ones that did get to us and did realize that they had an appeal, the Department of Labor at times have started

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collection efforts while the case is still on appeal. We had one gentleman who we were appealing his overpayment, and while we were in that period waiting for a hearing, they actually seized his tax benefit. We were successful in setting aside the overpayment and then he had to wait to get his money back from the Department of Labor after the hearing. As far as the hearings, they are supposed to give a decision, I think it's within the 30 to 45 days. We have gone well beyond that period. And in my office have at a couple of times been to the point we were going to file writs of mandamus to get an actual decision. So the decisions aren't being made timely. And I understand it's because of understaffing, but that then results in folks who have an overpayment, who wait much longer than they're required to by statute, by regulation in order to get their hearing and a decision from the hearing officer. So our client gets his money seized. He doesn't get that money for a while. For you and I, that probably doesn't make a huge bit of difference. We get our tax returns and go out and, you know, buy new clothes. These are folks that live day to day waiting for that tax return. The majority of people that come to Legal Aid of Nebraska live just above the poverty line, and they rely on those tax returns to pay past due bills, to pay pass due mortgages, especially during the time of unemployment caused by COVID. So the seizure of their taxes can have a devastating effect. They cannot afford food. They cannot afford their medication. And a lot of times they can't afford their housing, which just precipitates the problem of homelessness and the possibility of them being evicted. Our clients relied on the Department of Labor when they filed their applications to properly process their application. They waited that five to six months with no income, finally got approved for benefits and finally got paid. The Department of Labor then came back in many instances and said, we've redetermined and determined that you should not have been paid that money. Please pay us back. They demand that people pay back \$15, \$20,000, a lot of them, while they're still unemployed or have gone back to work, not making a lot of money. As I've said before, a lot of my clients are very blue collar and they live paycheck to paycheck to begin with. So any extra thing that they have coming out can really put them behind in other bills. My clients, we've talked a little bit about collection efforts, and I was making notes while Commissioner Albin was talking, we talked a little bit about collection efforts and what they will do is take tax returns, which means if you owe \$15,000 and they're taking your tax return, depending upon how much you're getting, my clients are never going to climb out

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of that debt. That debt is never going to go away or it'll be 10, 15 years before they're able to pay off the amount that's owed back to the Department of Labor. I think that's probably all I have to say. I'll, I'll conclude there and answer any questions that you may have.

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

BLOOD: Thank you, Chairman Hansen. Thank you for coming today. I want to thank you for helping me put a human face on this. I don't feel like we ever accomplished that during this hearing today. I know from all the people that we've helped that there are people who fell through the cracks. And we weren't talking about a few hundred dollars. We were talking about \$10, \$15,000, which is usually more than half of the income that they're making for that year, to put it into perspective. So I appreciate you walking the committee through the, the, the people that you've been helping. I appreciate the fact that you've been there and helping. You heard me ask-- I am leading to a question, Commissioner Albin, what we could do as policymakers to prevent people from falling through the cracks. And I heard you have a few suggestions. Can you revisit those just to make sure that we have them on record if we were to look back and say what we can do better? What can we do better to make sure that this doesn't happen to Nebraskans who are already suffering?

ANN MANGIAMELI: I think the difficulty with the pandemic and I, I pointed this out, is the number of claims that the Department of Labor got and trying to process those number of claims. And I think that there has to be, in those instances, some inaccuracy and the inaccuracy has to go up because of the number of claims.

BLOOD: Absolutely.

ANN MANGIAMELI: The problem is, is that the number of claims that are inaccurately determined falls upon the Department of Labor and not upon my client. And so I think the only policy that will work, because I don't think that we're going to be able to fix the inaccuracy when you have that amount of claims. I think in general, the Department of Labor, I get not a lot of unemployment requests during the typical year because I think in general the Department of Labor does a pretty good job up front. But in instances like this, where there's so many and there's going to be inaccuracy, I think that has to not fall back

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on the taxpayer. We would all like to say, well, they should take a little longer to make sure that they're right in the beginning. But as I pointed out, some of my clients were waiting five, six, even more months to get that money. So that's not a-- it's not a responsible way to go about that, because if we do that, we then have individuals who are going even longer without any sort of necessary money to pay just really for food and, and clothing and necessities. So I think the only way that you can address it is to have a waiver process where it more robustly forgives those debts, where it really wasn't on the part of, of our clients for getting that debt. And I will say I did make a note. So, so Commissioner, Commissioner Albin did point out that there are times where they have overpayments based upon failed work where they haven't reported their work. The cases that I got were very, very minimal in that range. I would say 99 percent of the cases that we got were individuals who really were told, they applied for benefits, that they were approved. And then months and months down the road, we're told that they had to pay that back.

BLOOD: Fair enough. Thank you.

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

ANN MANGIAMELI: Thank you.

B. HANSEN: Appreciate it. All right. And with that, we will close the interim study for LR158. And for curiosity and time purposes, I'm just kind of curious for LR170, I will actually ask this after Senator McKinney comes to open, so. With that, we'll open up with LR170 and welcome Senator McKinney to open.

McKINNEY: Good morning.

B. HANSEN: Morning.

McKINNEY: Thank you, Chairman Hansen and members of the Business and Labor Committee. My name is Terrell McKinney, T-e-r-r-e-l-l M-c-K-i-n-n-e-y. I represent District 11 in the State Legislature, which is north Omaha. We're here today for LR170, an interim study to examine the potential impact that innovation hubs could have in the state of Nebraska. During the first legislative session of the One Hundred Seventh Legislature, our office decided to introduce a bill to establish an innovation hub in the state of Nebraska. While doing

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research looking for ways to improve the economic conditions in District 11 before the session, the, the innovation hub program in the state of California stood out to me. The concept stood out to our office mainly because we believe that our duty as representatives of the people in our community is to provide them with resources and opportunities. District 11 has been the most impoverished and neglected area in our state for decades. This neglect has had a trickle-down effect in our community, which has increased crime, mental health, trauma, poverty, and, and decreased our constituents' life expectancy. Under the current iteration of LB450, which is the Innovation Hub Act, innovation hubs will function as a space to facilitate economic growth and small business and innovation and economic redevelopment areas and enterprise zones. Innovation hubs could serve as a vital resource for stimulating and supporting entrepreneurship and technology-based small business in Nebraska. The Department of Economic Development shall designate innovation hubs within the iHub areas to stimulate partnerships, economic development, and job creation by leveraging assets to provide an innovation platform for startup businesses, economic development organizations, business groups, and venture capitalists. More than one iHub may be designated in the same iHub area to the extent that there is a clear distinction between the focus areas of the iHubs. Focus areas will be decided by the iHub partners, not the Department of Economic Development. An innovation hub in north Omaha would do multiple things to provide a vehicle to erase a sense of hopelessness for many that have-- that may have an idea or currently in the business-- or currently in business to get hope that they need to be successful, potentially. It will also show that our state innovation hub partners care about decrease in poverty. Innovation hubs are not the silver bullet, but they can be the catalyst for change not only in north Omaha, but across the state of Nebraska. If our motto is the good life, we must ensure that we hold up our end of the bargain. There are significant disparities impacting the economic stability among communities of color in Omaha, Nebraska. For instance, Omaha's unemployment rate for BIPOC individuals is almost twice that rate of their white counterparts. Moreover, while looking at job access, there is a disconnect between the jobs available and the skill set of the labor force seeking employment. COVID-19 exacerbated these challenges and created new obstacles for those who, who were self-employed or operating small businesses. Nebraska Enterprise Fund, a CDFI, found that during the pandemic, many of the small businesses that they serve

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were ineligible for PPP loans, not because their businesses were not bona fide, but because of bookkeeping mistakes and an inability to fill out the applications to the extent that they needed to be. Issues like this are preventable. While entrepreneurship empowers individuals and create jobs, it can take years to understand, understand the nuances of operating a business, especially with-- without resources and support. Investing in business development infrastructure can address some of these concerns. Centralized innovation hubs would help provide vital resources to help fill some of these deficits and access in economic wealth. This study has tasked the Business and Labor Committee to consider three points: One, the need for innovation hubs to assist the growth of small businesses and entrepreneurs. Two, the benefit that collaboration between multiple government and community agencies could have in assisting growth and innovation of small businesses and entrepreneurs. And three, the centralization of resources necessary to successfully implement an innovation hub for small businesses and entrepreneurs and a variety of industries across Nebraska. Hopefully, we can better understand the potential impact innovation hubs can have in Ainsworth and in north Omaha, when we walk, when we walk away from here today. Thank you.

B. HANSEN: Thank you, Senator McKinney. Are there any questions from the committee at all? All right. Seeing none, thank you. All right. So with that, we'll take our first invited testimony and for this, for this study, we will be using the light system like we typically do. So with that, the green light when it starts, your time will start in five minutes. When the yellow light goes, you got one minute left. And when the red light goes, we please ask that you close your final thoughts. So with that, we'll take our first invited testimony, whoever wish to come up. Welcome.

MICHAEL DIXON: All right, thank you. Good morning, Chairman Hansen and members of the Business and Labor Committee. For the record, my name is Dr. Michael Dixon, M-i-c-h-a-e-l D-i-x-o-n. I serve as president and CEO of UNeMed, the technology and development and commercialization arm of UNMC and UNO, and I'm appearing here today on behalf of the University of Nebraska in support of LR170, an interim study exploring the potential impact of innovation hubs in Nebraska. I'd like to thank Senator McKinney for introducing the study resolution and the accompanying LB450 that seeks to create innovation hubs. To start, I'd like to share a little background on myself and UNeMed. I moved to Nebraska in 1998 to pursue a PhD at UNMC and have

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been involved with technology commercialization at the university since I graduated in 2003. I am fortunate I get to see Nebraska's entrepreneurial ecosystem from many angles, including the university, industry, and venture. UNeMed is focused on improving healthcare by fostering innovation, advancing research, engaging entrepreneurs and industry to commercialize novel technologies. At UNeMed, my colleagues and I work with really brilliant scientists at the ground level as they discover new biomarkers, research tools, and therapeutics for some of the most difficult diseases. We have more than \$170 million worth of biomedical research each year, leading to more than 100 discoveries, each with the potential to have a significant impact. However, more than a technology portfolio, UNeMed employs people that are experienced in science, business and law and we work to find the right partners to make sure that these innovations make it to the market. In addition to my role at UNeMed, I'm on the board of directors for Bio Nebraska and Invest Nebraska, a nonprofit venture development organization that advises and invests in early stage Nebraska businesses. To date, Invest Nebraska has invested in over 80 Nebraska high-growth companies, helping to generate more than \$225 million in follow-on capital. Entrepreneurship and the development of new startup companies are critical for jobs and a strong economy. In his book, *The Coming Jobs War*, Jim Clifton talks about-- shows that almost all new jobs come from small businesses and startups. For Nebraska and the U.S. to continue to grow and add good paying jobs to our economy, we must find a way to create, nurture, and grow more startup companies. Nebraska's fledgling startup ecosystems has gained great momentum over the past decade. The creation and continued support of the Business Innovation Act has led to more startup companies receiving investment and an increase in high wage jobs. In fact, a 2020 review of the economic impact of the BIA, it was determined that there's almost \$10 earned for every \$1 of BIA investment. In addition, the 1,100 jobs that have been created have an average wage of over \$67,000. It's a fantastic start and solid evidence that entrepreneurial support yields positive results. However, to have a robust startup ecosystem, we need more programs working to build, connect, and develop startups. I'm optimistic that the study authorized by LR170, will help us understand how an innovation hub could help fill the gaps in our current ecosystem and ultimately get more entrepreneurs connected and engaged. A recent research paper by a group from Harvard, MIT, and the London School of Economics showed that the environment which surrounds innovators is

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critical to optimize success. They show that there's a group of lost Einsteins that live in areas where entrepreneurship and innovation isn't modeled or celebrated. Developing programs that have the potential to reach into different socioeconomic and geographic groups allows us to better connect with these groups, with mentors and resources that can help build the companies of our future. As geographically flat as Nebraska is, we still have rural and urban areas that are not yet optimized to produce the number of entrepreneurs and innovators that we need for the state to have a robust startup ecosystem. In the United States, places like Silicon Valley and Boston place a high value on innovation and entrepreneurship. They create and develop more high-growth startup companies than anywhere else in the world. Learning how they capitalize on talent and how they have built their startup ecosystem will give us an opportunity to replicate effective programs in Nebraska. As a leader of UNMC and UNO's technology development commercialization efforts, I'm excited about the opportunity to build programs and connections that will help us identify, recruit, and support more entrepreneurs to lead our life science startup companies. I believe developing a program, program like the innovation hub will be synergistic with our current efforts in developing the Omaha steel mill property and will allow us to have better access and exposure to the talent that is spread across Omaha and the great state of Nebraska. In conclusion, I'm excited for the future and grateful for Senator, Senator McKinney's leadership with LR70 [SIC] and LB450. The university will continue to grow research and is deeply committed to seeing the results of that research developed into products by Nebraska companies. We'll continue to build our internal innovation programs and look forward to working with public and private partners to link those programs with our community and state. Thank you. I'd be happy to answer any questions you might have.

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

GRAGERT: Thank you, Chairman Hansen. Yeah, thank you for your testimony. I was just wondering how will you determine how many hubs and where they'll be located? How, how will that be determined?

MICHAEL DIXON: So if I understand what California does, they've linked the hubs with research institutions and then those research institutions help build the partners from there. I think as we get

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into the study, we can see what would be best optimized in Nebraska. Just because California does it one way doesn't mean we have to replicate exactly what they do. I think we look at our strengths, where do we have entrepreneurs, who are our connectors, and how do we make sure that we connect the parts of Nebraska that need connected? Right now, we aren't getting enough entrepreneurs and innovation out of areas in north Omaha, south Omaha, and western Nebraska. How can we build better connections to those regions so that we're mining and getting the right people engaged with the, the innovation and the mentors that are necessary to help them build companies?

GRAGERT: So how big a company are you talking of what they hub? And I, and I, I heard small businesses.

MICHAEL DIXON: Yeah, so, so these startup companies would be brand new. They would be built on innovations or ideas. So they start with zero to one employees. And Kauffman Organization has a term they call, they call them gazelle companies. The idea is they rapidly grow and add employees and hopefully revenue as they build products. So they start off as an idea. They build, they identify their customers. They build products, hopefully with a proprietary advantage and then grow hopefully their customer base to, to grow into the companies that we know today. A lot of these companies started as a startup, Cabela's started as a startup company at one time. They had an idea. They built it into a fantastic company. We need instead of 5 or 10 a year, we need 100 of those a year so that we can start to see more growth.

GRAGERT: Thanks.

B. HANSEN: Yes, Senator Halloran.

HALLORAN: Thank you, Chairman Hansen. So how-- let's get down to the, to the grass roots of this. The old expression is build a better mousetrap and they will come. Right? So said that it takes capital. Is there anything built into this to help generate or encourage capital to north Omaha?

MICHAEL DIXON: So I, I think I, I agree to some extent with build a better mousetrap and they will come. But there's a lot of innovations that aren't making it to the market because they lack the, the know-how to get to that point. So I think a lot of what we're talking about here is, is helping provide a ladder for the people that have

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the better mousetraps to climb up and resources so they can get to the point where they're, where they're able to, to sell that mousetrap and, and monetize it. The idea of, of getting into north Omaha, south Omaha or even western Nebraska is to make sure that these-- a lot of these entrepreneurs and innovators live on an island. They don't, they don't have colleagues. They don't have teacher colleagues or business banker colleagues. They're, they're trying to build businesses on their own. And the idea of creating networks like the iHub would give them a resource where they can reach into, ask questions, get connected with other entrepreneurs who, who know how to build and grow companies. And so my hope for a program like this is it would identify those entrepreneurs in north Omaha that need mentorship, that are, are-- want to be connected. And, and even within Omaha, we have mentor networks. We're just not well connected at this point to get those people to, to the right mentors.

HALLORAN: OK. Thank you.

B. HANSEN: I have maybe one question. How is this different than what-- like, I think the UNO business school right now currently has a program such as this where if you're thinking about starting up a business, you can go there and you can actually get connection with somebody. I myself have done it at, at one point when I started one of my businesses. I went there and they help you with their business plan. They kind of get you in connection with people that kind of tell you to fill out grants and applications and, you know, at a local, you know, money that might be there. And so how is this different than what UNO is currently doing?

MICHAEL DIXON: So I, I think there are some similarities there. So this is the, the Nebraska Business Development organization, and, and they do fantastic work. I think the idea of the hub would be to bring individuals from some of these different regions in that understand the region. So right now, there isn't a, a north Omaha entrepreneurship person in the NBDC and, and they have a very wide mission. They're helping all sorts of businesses from I want to start a, a restaurant or insurance business to high-growth companies. I think the focus of the iHub would be very much on the high-growth businesses, the ones that have the potential to add ten jobs in a year and then grow from there. Companies like Flywheel or, you know, a company like Buildertrend in Omaha, the companies that can generate a lot of revenue over time. And so NBDC does a, a good job with that.

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But having something more specific and creating better linkages throughout the state would, would be an advantage to us right now. It's difficult to ask NBDC to do everything. And having different programs which help connect into NBDC and utilize some of those resources would-- I could see NBDC being a member of the iHub and providing their resources, but also linking to other groups that provide resources to help connect and, and grow, build. One of the things NBDC probably doesn't do much is, is create the mentor networks that are, are needed for a lot of these high-growth companies. They'll help with your business plan. They'll help identify grants. But if you want to know, you know, who's someone who's built a business like I want to build, they, they may not have that group of connections. So bringing individuals or groups in that have those connections into the hubs, I think would be a huge advantage.

B. HANSEN: And I think that's kind of one of things I was trying to understand when I was reading the bill. It's a lengthy bill. There's a lot of, there's a lot of information in it. So when reading through the bill, it seems like there is then going to be some specificity on who you're going to pick and choose to help and it seems like more of a kind of a tech or a high-growth company. So you guys are the ones or whoever is involved with the hub will be the ones determining who is going to be high growth and who is going to be helped. So if somebody comes along and you determine that they are not a high-growth gazelle, was it a gazelle--

MICHAEL DIXON: Yeah.

B. HANSEN: --gazelle type business, will you, will you turn them away or will you say, look, we can't help you because we don't feel like you're the right kind of business that we want to help or will you at least connect them with some other kind of resource that they can maybe use?

MICHAEL DIXON: So I think that would be one of the goals of the hub. And again, I, I-- it's still exploratory study to look at it all, but I, I, I would never see wanting to turn someone away. I think if someone comes into the hub and they're not a great fit for the mentors we have or, or the connections we have, I think identifying the resources to make sure they get to the right people. NBDC would be a great organization to refer into because they do a lot of small business work that, that isn't necessarily always high growth, but

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it's the lifestyle businesses that we, we need to continue to keep growing. But if the innovation hub is focused on high-growth companies and someone came in with a lifestyle business, having that right connection for the lifestyle business would, would absolutely be something that they, they should do.

B. HANSEN: OK, good. Well, thank you for answering those. Appreciate it. Are there any other questions from the committee? All right. Thank you for your testimony. Appreciate it.

MICHAEL DIXON: Thank you.

B. HANSEN: All right, we'll take our next invited testimony. Good morning.

DANIEL DUNCAN: Good morning. It still is morning, almost.

B. HANSEN: You got about ten minutes.

DANIEL DUNCAN: Yeah, exactly. Good morning, Chairman Hansen and members of the Business and Labor Committee. My name is Daniel Duncan, D-a-n-i-e-l D-u-n-c-a-n. I serve as the executive director of Nebraska Innovation Campus Development Corporation, the private company developed by the Board of Regents of the University of Nebraska to develop Nebraska Innovation Campus or NIC. I'm appearing today on behalf of the university in support of LR170. I want to thank Senator McKinney for including-- for introducing this study resolution and his accompanying LB450. Governments at all levels can greatly impact the environment and culture necessary to spur innovation. Research has shown that you can't design innovation, but you can create environments in which it's far more likely to occur. NIC is a campus designed to facilitate new and in-depth partnerships between the University of Nebraska and the private sector businesses. We provide organizations access to culture, talent, and resources. We are able to do this by creating unique spaces to work and interact, access to university resources, by creating and hosting social activities and, most importantly, through partnerships. Our major partner, of course, is the University of Nebraska-Lincoln. They have a significant presence on our campus and provide partners on NIC with access to core facilities, programming, and access to talent, faculty, staff, and especially student talent. Being located next to a Tier 1 research university accelerates our innovation environment. I want to highlight

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another partnership that's developed over the years at NIC. Every month Invest Nebraska, the Nebraska Department of Economic Development, the Lincoln Partnership for Economic Development, the Nebraska Business Development Center, NUtech Ventures, and UNL Industry Relations and Innovation Campus meet to discuss coordination and collaborative strategies surrounding company recruitment and startup support. Today, I would like to highlight a few of the specific things that NIC provides that I think are relevant to creating an unique working environment to encourage innovation. Nebraska Innovation Studio is one of the nation's top makerspaces providing a space for artists to create alongside of engineers and is open to the public. The Biotech Connector is Nebraska's first wet lab incubator, providing incubation space and services to bioscience startups and high-growth businesses. The Combine is a, a statewide food and ag focused incubator run and operated by Invest Nebraska. The Suite Spot provides office and R&D space for UNL's Food Processing Center and private companies to work side by side. We also have spaces that are designed to mix and socialize people. The Mill Coffee and Bistro provides a warm and welcoming and collaborative environment for NIC partners and the community. The NIC Conference Center gives us a place to convene small to large groups for conferences, meetings, and social events. It enables a large segment of the state and region to engage with Innovation Campus. The Scarlet Hotel, which will open in a few weeks is going to provide further amenities for guests and NIC employees. Culture is critical component to spur innovation. In short, what we try to do at Innovation Campus is gather diverse, talented people and mix them together to facilitate real innovation, exactly what LR170 and LB450 are seeking to establish. At NIC, we would not be where we are today without the critical public-private partnership support of the state of Nebraska and UNL, as well as-- as, as initial funders. We have come a long way on NIC, but I will tell you there are still a lot more work to do. I think this is an example of how bringing various people together can spur innovation and move innovation forward. Thank you and I would welcome any questions.

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

HALLORAN: Thank you, Chairman Hansen. Thanks for your testimony, Mr. Duncan. Can you-- I, I think what would be encouraging to us is if you could give us a short list of some of the success stories--

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DANIEL DUNCAN: Sure.

HALLORAN: --from the Innovation Campus.

DANIEL DUNCAN: Sure. So probably our biggest success story was to date was Quantified Ag. They are a company that made a biometric ear tag for feedlot cattle that predicted illness and notified operators three to four days in advance of sick animals. That company was developed on Innovation Campus. It recently sold to Merck Animal Health for several million dollars. The amount was undisclosed, but it was tens of millions of, of dollars. Virtual Incision is a UNL and UNMC faculty startup. They're making the first robot-- surgical robot that's actually inserted inside a human being to perform surgery. And just two days ago, the first U.S. trial of that instrument was carried on here at Bryan Hospital. To date, they have accumulated about \$35 million in outside investment and are working on a series C round to accumulate more. Another success story is Adjuvance. Adjuvance is a vaccine company. They make an adjuvant that makes vaccines more effective. They have secured a \$23 million round of investment as well. So those are just, just a few, a few of the examples.

HALLORAN: Any small business success stories?

DANIEL DUNCAN: So small businesses, you know, they take a while to incubate. I would say that Virtual Incision started with two employees in a, a growth chamber room in our greenhouse because we didn't have any other space for them and have grown to about 35 employees. So that's a small business success. We've got two companies that have come-- are coming out of the Combine that Invest Nebraska is taking an investment in. They've gotten to that stage. One is called Birds Eye. It's a robotic mechanism that goes through chicken barns and finds dead chickens. So people don't have to do that and also rakes the manure as it goes through as well. They're starting to receive a lot of investment interest.

HALLORAN: Dead chickens.

DANIEL DUNCAN: Dead chickens, not, not a pleasant job for humans.

HALLORAN: OK. Thank you very much.

B. HANSEN: Any other questions at all? All right, thank you for coming. Appreciate it.

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DANIEL DUNCAN: Thank you.

B. HANSEN: Welcome.

KIRK ZELLER: Good morning. I'm Kirk Zeller, that's K-i-r-k Z-e-l-l-e-r. I like to say I'm half sandhillier, half central Nebraskan resident of central Nebraska, fifth-generation farmer that seem predestined to farm until the farm crisis of the 1980s. I found myself displaced and went off into the world to find another way forward. I built a career in, in the medical device industry, specifically in medical device startups, spent a lot of time overseas studying in various countries and working in various countries, really learning what it took to, to successfully build a medical device company studying at Imperial College London in their specialized program, and later at the International School of Management in, in Paris. I was in Silicon Valley struggling, as many of us do as entrepreneurs, to build our business in the very difficult California business environment, the high cost of everything, the tight labor market. When one day I received a call asking me to come back and, and give a speech for the 30th anniversary of the International Business Program in which I was in the first intake of that. I had a long-term vision of making a bunch of money in Silicon Valley, doing startups and coming back to Nebraska and kind of building my own investment fund and incubator. And when I came back to give that talk, I got a tour of Innovation Campus, had a chance to meet Dan Duncan and, and his colleagues, saw their, their biolab there, got to connect with my high school classmate, Shane Farritor, who is on Innovation Campus and learned what UNeTech and UNeMed is doing and started to realize maybe I don't have to go and make those tens of millions and maybe I can get started on this with the ecosystem we already have here, particularly as I learned about Bio Nebraska and Invest Nebraska and, and the Business Innovation Act and how it all tied together. So in 2018, just literally a couple of months after coming back to give that talk about a building in Nebraska, I bought another building in Nebraska and rented two more buildings and have built the Silicon Prairie Center. And I founded the Silicon Prairie Center, founder of, of the companies that we incubate there. And the idea is to have an entrepreneur live-work community in a much lower cost base than the coast, a place where Nebraska Innovation can be grown here in Nebraska and not licensed out to one of the coasts and hopefully contributing in some way to a vision I think many of us share here of creating opportunities. So, you know, people, if they're displaced farmers,

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they don't have to leave the state of Nebraska like I did. They can pursue other careers, a variety of careers right here in Nebraska. We've built a number-- we have a few different companies in there. Progressive NEURO is probably the most notable one where Invest Nebraska is our biggest stakeholder. In that, we were recently featured on the, on the cover of a magazine where we're taking a completely different approach to pulling clots out of the brain when people have strokes and we're collaborating with UNMC, our physician advisors from UNMC, we do testing in conjunction with them, we'll have future testing at UNMC. Our other startup, ATS.Solutions, we've developed the proof of concept with interns from, from UNL. And then we have some other projects, including two independent films which are about to be released and we're collaborating, we have interns from the University of Nebraska at Kearney for those. So we're trying to do everything we can with what we have here available to us here in Nebraska. In some cases, and very-- for [INAUDIBLE] specialized skills. We still have to reach out to folks on the coast. But I'm hopeful over time, as our-- we all work together to develop the ecosystem, we'll have to do less and less of that. So I'm very passionate about creating a future for my children and my children's children that involves them being able to pursue their dreams without having to leave the state of Nebraska. Thank you.

B. HANSEN: Thank you. Are there any questions from the committee? All right. Thank you. Appreciate it.

KIRK ZELLER: Thank you.

B. HANSEN: Hello. Welcome.

SCOTT HENDERSON: Hello. Thank you for the invitation to speak today at this hearing. My name is Scott Henderson. I was born and raised here in Nebraska and returned last September, September, having spent the past 20 years of my career working in support of entrepreneurs across the United States and Haiti. I will support any bill in this legislative body that supports entrepreneurs. Entrepreneurs are problem solvers who create jobs, financial security, and generational wealth. And the challenge can be daunting. One of five new businesses fail in year one. One in three, one in three are dead by year two, and only three out of ten still exist after ten years. Various reasons, but the very-- but the key here is the sooner an entrepreneur can find traction with customers, the better they become. Every moment matters.

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Currently, I'm the NMotion managing director for gener8tor, where I helped create and accelerate high-growth startups. We operate in over 25 cities, having directly invested in over 100 companies and helped accelerate another 500-plus nationally. Here in Nebraska, we have built and accelerated 61 companies, including Quantified Ag and Birds Eye Robotics, which you just heard about, and liveby.com. Quantified Ag and liveby.com both created jobs and financial windfalls for the founders and investors. You can see the logos of the four new startups here on my laptop and five existing startups we've helped in the last ten months since I returned, including three black-led founding, black-led companies-- black founders, excuse me, including three black founder led companies. We operate thanks in part to the Nebraska Business Innovation Act in support of private sector investors. In fact, the NMotion and Invest Nebraska collaboration was highlighted in a federal report for how we multiplied every dollar invested with six additional dollars of private sector dollars. Nationally, gener8tor has achieved a multiple of one dollar equaling 20 extra dollars of outside investment. Those dollars create jobs. They generate taxes. That's why this is important. My great, great grandfather, Peter Fledman [PHONETIC], emigrated from Sweden and arrived in Omaha in the late 1800s where he built a sizable business located at 15th & Capitol and now lies buried in Prospect Hill Cemetery in north Omaha. My great, great grandfather, William Henderson, arrived in Omaha also in the late 1800s. An entrepreneurial carpenter, the homes and structures he built are still standing, including two of our family homes on John A Creighton Boulevard in north Omaha and parts of Saint Cecilia Cathedral. My grandmother, Mary Novakovic [PHONETIC], was from a Polish peasant immigrant family and operated a beauty salon out of her south Omaha home to supplement my grandfather's postal service income. She even had time to manage the successful state senatorial campaign of my uncle Pat Venditte. They raised four children in a stable home and so many of their grandchildren and great grandchildren graduate with university degrees. My father and grandfather were both, both retired self-employed physicians who treated thousands of patients helping welcome babies and families navigate mental health challenges. These are but a few of the stories here in Nebraska of entrepreneurs who solve problems, create jobs, and provide financial security for the communities in Nebraska. I spent the better part of the past 20 years helping to build stronger entrepreneurial communities. And I've seen how to do it right and how to do it wrong. Commerce is a universal feature of the human species and an amazing source of food

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security and wealth. And free enterprise works best when the rules are the same for everyone and anyone can step forward into the gap to solve problems through commerce. Working on the ground as a private sector entrepreneur, working in partnership with the public sector in Atlanta, Georgia, Baton Rouge, Louisiana, and West Lafayette, Indiana, I've seen how entrepreneurs can thrive with the help of private-public partnerships that help those willing to start their own companies gain access to physical, social, and financial networks. We can increase the success of entrepreneurs here in Nebraska by connecting them to those who have been down that path before and those who attend the grants, investments, and educational resources that can help them. Entrepreneurs are like bees. You don't have to tell them what to do, but you can help create the conditions for them to do their jobs better. With folks from the public and private sectors working together to reduce bureaucratic friction, promote mentoring and educational resources, and encouraging those with a capital to invest, we can help the bees create more honey to feed their communities to commerce, which is a pragmatic, sustainable approach. I've met with hundreds of entrepreneurs from north Omaha and greater Nebraska and Lincoln, Nebraska, over the past ten months. All of them want to provide for their families and have the dignity that comes with self-sufficiency. It reminds me of my time in Atlanta intentionally connecting the black and rural tech talent into the entrepreneur community to generate jobs and generational wealth. We can do the same here in Nebraska.

B. HANSEN: Thank you. Any questions from the committee? All right. Thanks again for coming.

LAUREL OETKEN: Hello, Chairman Hansen and members of the Business and Labor Committee. My name is Laurel Oetken, that's L-a-u-r-e-l O-e-t-k-e-n, and I'm the program manager for the Startup Collaborative, a program within the Greater Omaha Chamber. I'm here today to offer support from the Chamber on LR170. First, let me thank Senator McKinney for introducing this resolution and for his interest in pushing forward efforts that will support Nebraska's entrepreneurial ecosystem. My goal, first and foremost in my role at the Chamber is to support entrepreneurs and startups throughout the greater Omaha area and within Nebraska. Entrepreneurship is an ever-changing world. If we don't stay on top of the latest trends and developments around the country in this environment, we risk falling behind. We applaud this committee for holding this hearing to

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determine the potential for innovation hubs. And we need to remain competitive when it comes to attracting, retaining, and supporting the growth of businesses and entrepreneurs. Most importantly, this resolution could lead to policy changes which provide the necessary assistance and resources to grow small businesses and support entrepreneurs in Nebraska. When entrepreneurship is paired with investments, relationship, and support, it is-- it can lead to significant job growth, but also opportunities to attract and retain our state's top talent. This, as you may have guessed, also can lead to a healthy and growing economy across our state. When we talk about the future of Nebraska and how to advance our state, there is no future if we have no builders, folks who are working to create, innovate and problem solve, building the solutions that solve today's problems. New innovation hubs could become vital resources to stimulate and spur entrepreneurship and small businesses that in return could make long-term lasting impacts on our ecosystem and foster statewide efforts that support these builders. We can help to build up and support our talent, builders, and innovators, and we can be ready to compete with other states and communities showing that Nebraska is the place to start and grow businesses large and small. Further, new innovation hubs could provide a wealth of resources, educational tools, and enhanced accessibility that would be shared throughout the greater Omaha community and states. In many ways, this could support small businesses and entrepreneurs in parts of Omaha, specifically, and I'll highlight north and south Omaha, where these resources are not always as easily accessible. Therefore, allowing for more accessibility for all. I hope that you, like me, can see the vast impact at the state level supporting this research and further the development of innovation hubs can have on our entrepreneurial ecosystem. It's more important now more than ever to see support and partnership from the state to make a large and necessary impact to move things forward in relation to entrepreneurship. Entrepreneurship at its core needs to be supported and stimulated, and we hope the Legislature can be an ongoing partner in this effort. Thank you. I would be happy to answer any questions that you may have.

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

LAUREL OETKEN: Thank you.

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B. HANSEN: Thank you. Appreciate it. Take our next invited testimony if there is one. All right. Seeing none, Senator McKinney, would you like to close? It's up to you.

McKINNEY: Thank you. In my closing, I hope that, you know, the committee could see and those that are watching can see that creating innovation ecosystem in our state is vital for the future success of our state no matter if you live in western Nebraska or urban Nebraska. I think if we create the innovation hub program, it'll do wonders for the future of our state. We won't have so many debates about, you know, losing talent and the lack of, you know, people leaving and keeping people at home. I think if we create the environments to, to, you know, allow individuals to manifest their ideas and things that they're thinking about, it'll, it'll go a long way to retain talent in our state, build our state, and be, be an attractive state for individuals that are seeking to come to our state or stay in our state. So I'm hopeful that, you know, once we get back into session in January, the-- LB450 could be passed, it's currently on General File. And I'm sure I'll have to probably come up with another amendment to the bill to, to make it work for everyone and, and get support from all the senators. But I appreciate the hearing and look forward to the future. Thank you.

B. HANSEN: All right. Thank you. And with that, we'll close the hearing for today. So appreciate it. Thank you. And with that, that will close all of our hearings for this morning and I think for the day so thank everyone for coming.