

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee February 14, 2022

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

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

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

B. HANSEN: Also assisting the committee is our legal counsel, Benson Wallace; our committee clerk, Christina Campbell; and our committee pages, Kate Kissane and Kennedy Rittscher, Rittscher, Rittscher. OK, just making sure I get that right. I always guess myself every time, so. All right, a few notes about our policy and procedures. Please turn off or silence your cell phones. This afternoon, we, we will be hearing six bills and we'll be taking them in the order listed on the agenda outside of the room. On each of the tables near the doors to the hearing room, you will find green testifier sheets. If you're planning to testify today, please fill one out and hand it to Christina and when you come up to testify. This will help us keep an accurate record of the hearing. If you are not testifying at the microphone but want to go on record as having a position on the bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. Also, I would note if you are not testifying but have a position letter to be-- to submit, the Legislature's policy is that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handout submitted by testifiers will also be included as part of the record as exhibits. We would ask if you do have any handouts that you please bring ten copies and give them to the page. We're using a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will turn green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony, and we will ask you to wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly in the microphone and then spell both your first and last name. The hearing on each bill to begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, and those in opposition, followed by those speaking in a neutral capacity. The introducer of

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the bill will then be given the opportunity to make closing statements if they wish to do so. We have a strict no-prop policy in this committee. With that, we will begin today's hearing with LB1040 and we will welcome Senator McDonnell up to introduce.

McDONNELL: Chairman Hansen, thank you. Members of the Business and Labor Committee, good afternoon. My name is Mike McDonnell, M-c-D-o-n-n-e-l-l. I represent Legislative District 5, south Omaha. I appear before you today to introduce LB1040, which proposes to change the definition of a law enforcement officer as it relates to the In the Line of Duty Compensation Act, as created by LB255 in 2021. This important piece of legislation provides a one-time death benefit of \$50,000 to the family of a firefighter or law enforcement officer or other first responder who dies in the line of duty. The act currently defines a law enforcement officer as any member of the Nebraska State Patrol, any county or deputy sheriff or any member of the police force of any city or village. Unfortunately, and inadvertently, an unintended consequence of this definition is such that a number of law enforcement officers were excluded as being eligible for this benefit. The definition does not include officers employed by certain government entities such as state, local, or regional educational institutions, airport authority police, or deputy state sheriffs not employed by the State Patrol, just to name a few. LB1040 proposes to use the definition law enforcement officer found in Section 81-1401, which would include those deserving and serving officers who were unintentionally left out. Dave Friend is, is going to testify after me. Dave has served 25 years on the Omaha Police Department. He's currently serving for the last 17 years as the chief of the metro community police force. He's the one who brought this to me. And I believe when you guys voted unanimously on LB255, there was no opposition and, and speaking with Senator Matt Hansen about this, it was just a mistake with the definition. No one was intended to be, to be left out. So basically today it's cleanup language with no fiscal impact to the bill.

B. HANSEN: All right. Thank you, Senator McDonnell. Is there any questions for Senator McDonnell? All right, seeing none, thank you. So with that, we will take our first testifier in support of LB1040. Welcome.

DAVID FRIEND: Good afternoon, Senator Hansen, members of the committee. My name is David Friend, D-a-v-i-d F-r-i-e-n-d. I'm currently the police chief at Metropolitan Community College in Omaha. When LB255 was passed, one of the things that came out from the state was the forms that one would fill out to qualify or to make sure that

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they were qualified for this benefit. When the form came to my office, I looked at it and I looked at the definition. I sent an email to Mr. Simpson with the department, I think Department of Administrative Services with the state. And he said, sorry, your department does not qualify based on the language that the bill selected to define police officer, which I, I completely believe was inadvertent. There are probably ten different definitions or more of what is a peace officer, police officer, law enforcement officer found in various parts of state legislature-- state legislative language. Excuse me. So in those various statutes, the one that was plucked did not apply. I had talked to the director of the Crime Commission, and he and I both agreed that 81-1401 is the most broad standard that-- legislative language that covers what a law enforcement officer is. As Senator McDonnell testified, Metropolitan Community College Police Department, UNL Police Department, UNO Police Department, UNK Police Department, anybody who works for the state as a law enforcement officer, not for a law enforcement agency like Department of Revenue, Department of Motor Vehicles, Brand Inspectors, Airport Authority police in Lincoln or Omaha were all unintentionally excluded from LB255's language. And so that's why I asked Senator McDonnell with the blessing of my boss, the president of Metro Community College, if this is something that he could support. He did, so I contacted Senator McDonnell and that's why I'm here today in support.

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

DAVID FRIEND: Thank you.

B. HANSEN: All right. Anybody else wishing to testify in support? Seeing none, is there anybody that wishes to testify in opposition to LB1040? Seeing none, is there any that wish to testify in a neutral capacity? All right, Senator McDonnell, you're welcome to close.

McDONNELL: I know you have a busy schedule. Unless you have questions, I'll waive my closing.

B. HANSEN: All right, seeing none, thank you very much. All right, well, good. Well, that closes the hearing on LB1040. And, and with that, we will welcome Senator Bostar to open up on LB935. Welcome.

BOSTAR: Thank you, and good afternoon, Chairman Hansen and members of the Business and Labor Committee. I am Eliot Bostar, E-l-i-o-t B-o-s-t-a-r, and I represent Legislative District 29. I'm here to present LB935, a bill that provides county boards with the ability to

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set a minimum wage for their respective county that may be different from the statewide minimum wage. This legislation is about local control and understanding that it may not make sense to have the same minimum wage in every corner of the state. LB935 acknowledges that economics and the cost of living are regional, and what may be appropriate in one area may be a poor fit in a different part of the state. The cost of housing, dining out, and groceries is fundamentally inconsistent from one community to another. The cost of living in Douglas County is very different than the cost of living in Box Butte County. The intent of this legislation is to equip county leadership with the flexibility necessary within the bounds of state statute to set a minimum wage that makes sense for the distinct economic characteristics of their county. LB935 would not permit counties to go below the established minimum wage. Instead, it empowers them to increase the minimum wage rate above the state rate if they believe it is appropriate for their location. This legislation also empowers counties to set different rates for employees compensated by gratuities or for student-learner employees, which is consistent with current state minimum wage statutes. Additionally, the bill provides for employers that have employees working in multiple counties to seek an exemption if they can demonstrate that paying different county minimum wage rates would be unduly burdensome. LB935 empowers and tasks county attorneys in counties that decide to engage this option with enforcement of the county minimum wage ordinance. This legislation places no additional financial burden on the state and only impacts county budgets if that county chooses to set a minimum wage for their own county. Passage of this legislation would not automatically result in an increase in the minimum wage. A county would have to proactively make the decision to pass an ordinance to increase the minimum wage. If a county board does not feel that an increase would be appropriate for their community, absolutely no action is required on their part. This legislation simply provides local leaders who know the needs of their community best with the opportunity to fine-tune minimum wage rates to meet the needs of their county. With ballooning inflation, rising property valuations, and the real cost of food and fuel increasing in recent years, there's growing pressure in our state to see another statewide minimum wage increase either in legislation or through the petition process. But that economic pressure is not equal in every corner of our state, and a likely unintended consequence of a statewide mandate is that communities may be matched with a state minimum wage rate that is not appropriate for their discrete economic factors of their community. LB935 allows each county to simply do what is best for their community without unduly impacting their neighbors. I encourage you to support

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local control and advance LB935. Thank you again for your time, and I'd be happy to answer any questions you might have.

B. HANSEN: All right. Thank you, Senator Bostar. Are there any questions from the committee at all? Seeing none, see you at close. So with that, we'll take our first testifier in support of LB935. Welcome.

KEN SMITH: Good afternoon, Chairman Hansen, members of the Business and Labor Committee. My name is Ken Smith and I am the director of the Economic Justice Program at Nebraska Appleseed. Nebraska Appleseed is a nonprofit law and policy organization that works for justice and opportunity for all Nebraskans, and Nebraska Appleseed supports LB935. LB935 would explicitly provide Nebraska counties the authority to adopt ordinances to raise their county minimum wage above the minimum wage rate established by state law. Currently, as the committee probably knows, the minimum wage in Nebraska is \$9 per hour, though there is a current ballot initiative that seeks to raise the minimum wage to \$15 per hour by the year 2026.

B. HANSEN: Can I interrupt you for one second real quick?

KEN SMITH: Yes, sir.

B. HANSEN: Can you spell your first and last name for me, please?

KEN SMITH: So sorry. Ken, K-e-n, Smith, S-m-i-t-h.

B. HANSEN: Thank you.

KEN SMITH: Regardless of what the state minimum wage is, LB935 would pave the way for counties to be able to determine, based on their particularized needs, whether the state minimum wage rate is sufficient for residents of the county and to implement their own higher minimum wage if it is not. Counties would have good reason to exercise this authority if they find that the state minimum wage is not meeting the needs of their residents. Increasing wages has widespread positive economic impacts from increasing consumer spending, boost-- boosting worker productivity, reducing turnover, and helping efforts to recruit and retain a talented workforce, to name a few. Raising the minimum wage also addresses well-established racial and gender pay disparities. If counties were to increase their minimum wage, not only would people in businesses within that county benefit, but the positive economic impacts would be felt by the state as a whole. LB935, although it does not itself raise the minimum wage in any counties, just allows any county the authority to do so, it would

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open the door for counties to ensure that their minimum wage rate that is applicable within their county is responsive to the needs of those who live and work there. Higher wages are good for workers and good for the economy. And so Nebraska Appleseed supports LB935 and would urge the committee to advance it. With that, I'd be happy to answer any questions.

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

GRAGERT: Thank you, Chairman Hansen. Thank you for your testimony. Up here you say it's going to go from \$9 to \$15, and the county-- can the county then go \$14?

KEN SMITH: I think the way that this is structured, suppose-- if the current initiative were to pass and then the-- Nebraska's minimum wage would transition from \$9 to \$15 over that period of years. After the minimum wage rate-- rates in statute reaches that \$15 threshold, the county wouldn't have the ability to go below that. My understanding is the minimum-- the state minimum wage is a floor. This bill would explicitly give counties the ability to go over that floor.

GRAGERT: OK, thanks.

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

KEN SMITH: Thank you.

B. HANSEN: All right, anybody else wishing to testify in support? Welcome.

JOEY ADLER: Thank you. Good afternoon, Chairperson Hansen and members of the Business and Labor Committee. My name is Joey Adler, J-o-e-y A-d-l-e-r, and I am the director of Strategic Engagement for the Holland Children's Movement, a nonpartisan, not-for-profit organization that strives to fulfill its vision for Nebraska to become the national beacon in economic security and opportunity for all children and families, appearing in support of LB935. In the latest Nebraska Voter's Outlook, it was found that 51 percent of Nebraskans support raising the minimum wage to \$15 an hour. And of that, 35 percent strongly support the increase and 16 percent favor it, but not so strongly. The same research found that 64 percent of Nebraskans believe that we should eliminate the tipped minimum wage. While LB935 does not raise the state minimum wage for either the hourly wage or the tipped minimum wage, it would allow counties to raise the minimum

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wage to higher than the state minimum wage. The Holland Children's Movement has supported legislation in the past that has raised the regular and tipped minimum wage. The Legislature has not had the will to follow the people's lead on the state level, so instead LB935 allows for an opportunity to increase the minimum wage at a local level. According to the Center for American Progress, increasing the minimum wage would boost spending by consumers. The Institute for Policy Studies determined that for every \$1 that goes into the pocket of a low-wage worker, almost \$1.21 is added to the overall economy. The Center for American Progress also points out that the higher the minimum wage, the less need for social safety programs exist. We at the Holland Children's Movement would much rather see an increase in the minimum wage at the state level. But if the Nebraska Legislature won't increase the minimum wage, then it should at least allow counties to provide their citizens with an opportunity to increase their minimum wage to a livable wage. It's for these reasons we support LB935 and ask the committee to advance it to the floor. I'd be happy to take any questions you may have.

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

JOEY ADLER: Thank you.

B. HANSEN: I might mention, too, all the testifiers who are going to come up, if we could maybe speak up just a little bit louder. I think the, the air conditioning or the heat, whichever one they have on, seems-- it's a little bit louder in here, sometimes a little hard to hear, so. With that, we'll take our next testifier in support. Welcome.

TIM MUSSACK: Good afternoon, Chairman Hansen and members of the committee. My name is Tim Mussack, spelled T-i-m M-u-s-s-a-c-k, and I'm here today to testify on behalf of the Center for Rural Affairs as a proponent for LB935. Setting a minimum wage is a complex problem with many variables and the outcome of raising them is not always clear. How many people will be lifted out of poverty? What if our main street businesses close and are replaced with a chain dollar store? Will the cost of food increase and how much further will I have to drive if my local grocery store closes? These are some of the questions rural residents consider when discussing a minimum wage increase. Urban residents may share some of these same concerns, but the challenge of losing one of a limited number of main street businesses or the threat of having to drive over an hour to get groceries are uniquely rural problems. Allowing for more local control

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of minimum wage will help ensure that if an increase were made, it would be to the appropriate rate where negative impacts are minimized and all workers have an opportunity to earn a living wage. The table on the back of your handout shows the living wage for a single individual working 40 hours per week. It's only serving to help show the cost of living differences that do exist in Nebraska. And this data comes from the Massachusetts Institute of Technology Living Wage Calculator. The model they use is a conservative estimate that slightly exceeds the level at which an individual would need to make and not need public assistance. So it doesn't include things like eating out at restaurants, entertainment, vacations, personal savings, buying a home, or retirement provisions. So you'll see in that table that counties with the lowest cost of living in the, the state is around \$12.89 an hour, and on the higher end, we have counties at \$14.93 per hour. Obviously, it gets more complex if you start adding children or other people to the household so I just left it in there at a single person working 40 hours a week. We acknowledge that at any level of government the decision of whether or not to raise the minimum wage is difficult, complex, and often can be divisive. Granting local control of the decision can help you mediate these challenges to some degree. County leaders are in a position to best understand economic and wage issues facing businesses and residents in their county. They are members of the communities they serve. They are accessible to and held accountable by their friends, family, and neighbors. These leaders are regularly trusted to make hard decisions, and we believe are most capable of deciding on an appropriate minimum wage for their county. The Center for Rural Affairs believes LB935 is a reasonable answer to the minimum wage question. Rural and urban communities will be impacted in different ways if the minimum wage to-- were to increase statewide. We have varied costs of living and different economic challenges that ultimately make one minimum wage inequitable. A county or a regional approach to setting minimum wage would help solve this problem. Thank you for your time, and I'll be glad to answer any questions.

B. HANSEN: Thank you for testifying. Are there any questions from the committee? Seeing none, thank you very much. We'll take our next testifier in support.

SUSAN MARTIN: Good afternoon, Chair Hansen--

B. HANSEN: Welcome.

SUSAN MARTIN: --and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, submitting testimony on

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behalf of the Nebraska State AFL-CIO and all working families in the state of Nebraska in support of LB935. The rules that govern the labor market determine whether our wages stay flat or whether they rise as working people become more productive and create more wealth. For the past 35 years, politicians have made policy choices that keep wages flat and allow people at the top to capture the gains from economic growth. When under-- when unemployment stays low for a long time, employers compete for workers by offering higher wages. The result is rising wages for all working people. Full employment was an economic policy priority before 1979, and the result was that wages grew in line with productivity and inequality shrank dramatically. The erosion of minimum wage is another important way the rules of the labor market have been rewritten at the expense of working people. From 1946 to 1979, Congress periodically expanded coverage of the federal minimum wage and increased its value to track both inflation and wage growth. As a result, not only did wages rise in line with productivity, but poverty for African-American families also fell dramatically from 65.6 percent in 1965 to 39.6 percent in 1969. Since 1980, by contrast, policymakers have allowed inflation to eat away at the value of the minimum wage. In 2016, the federal minimum wage was worth 25 percent less than its peak value in 1968. If the minimum wage had risen since 1968 at the pace of productivity growth, it would be twenty-one point-- \$21.36 in 2024. Since more women have joined the labor market, a higher minimum wage is crucial to closing the gender pay gap and boosting income for middle-class families that rely more on the earnings of women. To rewrite the rules of the labor market, we need to increase the minimum wage to account for inflation, the entry of more women into the workforce, and the vastly increased, increased productivity of working people. I know we're not talking about the federal minimum wage here, that we're talking about Nebraska's minimum wage, but the comparisons are the same. This bill, as introduced, is not saying that all counties in the state of Nebraska have to adopt these policies, but what it does do is allow those counties in more urban areas to keep up with the rising costs of inflation and job shortages by allowing them to increase the minimum wage to a more livable wage. It gives local control to the county when evaluating the workforce in their area and the flexibility to make an increase in the minimum wage that benefits working families in their counties. We see this as an opportunity for counties to deal with worker shortages in their areas, to make sure that workers in low-wage jobs and their families can thrive, and that counties can have the flexibility to make decisions for their economic situation. For these reasons, we ask that you support this legislation and we thank Senator Bostar for introducing this bill.

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

SUSAN MARTIN: Thank you.

B. HANSEN: We'll take our next testifier in support. All right, seeing none, are there any that wish to testify in opposition to LB935? Welcome.

JON CANNON: Chairman Hansen, members of the Business and Labor Committee, good afternoon. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I am the executive director of the Nebraska Association of County Officials, otherwise known as NACO, here to testify in respectful opposition to LB935. You've heard, traditionally, counties have talked about local control and certainly heard that in the testimony so far today. That is a conversation that we're always willing to have, and certainly we want to have that conversation when we talk about the outer limits of local control. You've heard NACO come before various committees and the Legislature as a whole and talk about what its version of local control is. We're responsible for roads, bridges, law enforcement, jails, courts, and elections. That's what we've been responsible for ever since we've had counties. This is something that is a novel approach. This would be in addition to the authority that counties have, and it's something that, quite frankly, is a policy discussion that we think needs to be vetted a bit more fully before NACO is able to commit to it. As you know, Nebraska is what's referred to as a Dillon's Rule state in that the counties do not take any authority greater than what has been given to them by the Legislature. So the authority that's granted-- been granted to counties in Nebraska has been what I've already enumerated. But I will note that these are almost entirely related to the infrastruct-- infrastructure of what government provides its citizenry: those public goods, which are a cost that we think should be borne by the community. When the county is asked to interject itself into main street business decisions, that's something that we've traditionally not been allowed to do. That's not a power that we've asked for. The jobs we've been given by the Legislature to do are those sorts of things that when done right hardly anybody notices. Those roads, those bridges, when people are able to drive on them they're-- they usually don't send a note to the, the county assessor or the county board saying, thanks for the good roads and bridges. But if there's something wrong, you can bet we hear about it. This, again, is just something that we're not typically involved in. Those few instances where we do get involved in main street business decisions like planning and zoning are really usually more in a quasi-judicial context. Now, this is not to say that the

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ideas itself is unsound. It's novel. We know of two counties, at least, in, in our great country that have adopted a minimum wage of their own in excess of their state minimum. That would be Montgomery County in Maryland and Sonoma County in California. We would encourage the committee before rushing headlong into a particular decision to at least take some time to devote to studying of this issue. The questions that we would have would be what sorts of effects could one reasonably anticipate? Would a host county that had a higher minimum wage, would it be stealing workers from surrounding counties? We're not in the business of, of creating competition amongst counties, that's for sure. Would it create a de facto economic zone? And so if that were the case, well, let's say using my own home county, Lancaster County, might decide that it's going to have a higher minimum wage than in surrounding counties. What effect is that going to have on Gage and Saline and Seward and Butler Counties? We'd like to find out what, what those answers are. For those counties that sit on the border of neighboring states, what sort of ripple effect might it have on interstate commerce with our neighboring states? These are all things that we think need to be studied in order to have a fuller view of what a County Minimum Wage Adoption Act would look like. This is not to gainsay the wisdom of a particular policy. It is not to gainsay the wisdom of whether or not we should devolve that sort of authority to the counties when the Legislature is either unwilling or unable to act in raising the minimum wage for all Nebraskans. This is merely to say that we believe this requires further study before we should proceed any further. With that, I'd be happy to take any questions you may have. Thank you.

B. HANSEN: Thank you for testifying. Are there any questions? Yes, Senator Blood.

BLOOD: Thank you, Chair Hansen. It's nice to see you again today. I got a couple of quick questions for you.

JON CANNON: Yes, ma'am.

BLOOD: First of all, have you met one-on-one with Senator Bostar at all on this and kind of walked through what might be acceptable for the counties or is it more just today that you've been here?

JON CANNON: I have communicated with Senator Bostar's office that NACO was going to be in opposition to this. Had some good discussion, mostly via text. And again, that, that is one of the reasons that I want to stress that I don't gainsay the wisdom of a policy that, that talks about the minimum wage. We're not here to say the minimum wage

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should be higher, lower, or whatever. I'm certainly not questioning the wisdom of, of whether or not we should have that sort of local control. The, the concept itself, however, is novel to all of my board members and most of the members that we have of NACO, such that they said, can we actually do that? And I, I don't know. And then that's the question that we need to answer, I think, before we really move any further.

BLOOD: And that, that was clear in your testimony. So I'm going to go back to the question I just asked.

JON CANNON: Yes, ma'am.

BLOOD: So because it is novel and because you represent so many counties and I know that everybody has a different opinion on this, if you have not done so already, would you be willing to work with Senator Bostar to see if you could find some kind of compromise on this?

JON CANNON: Absolutely. And, well, I mean, from, from my own part, Senator Bostar is my senator and I voted for him in the last election, so I'm always happy to have a conversation with the guy that's representing me.

BLOOD: There you go. And then the second question I have is, you know how I feel about local control. You know, I'm a fan. All right.

JON CANNON: Yes, ma'am.

BLOOD: But this case, I kind of feel that that's what the bill does. Like it's giving-- and I, I heard you explain like roads and, and bridges and-- but you did-- I mean, there are gray areas, like, when we do CUPs or, you know, and, and I'm not really clear on why, why not minimum wage? Why, why shouldn't that be a local control issue? I mean if there is border bleed, I mean, that's a benefit to you if you don't have the workers in your county and if the other county can't jump on it, then they're the ones that are behind, you know, not on, on the bandwagon. So I'm a little confused by that. And that's, by the way, my last question just so you know.

JON CANNON: So again, just to reiterate, you know, we're, we're traditionally concerned about local control as far as how are we going to fund the necessary services of government that we're providing?

BLOOD: Right.

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JON CANNON: So local control over the levy rate and, you know, the assessments that we do and, and the actual levy that, you know, that we're using to raise the taxes necessary for providing those essential services. And again, we traditionally really don't get into those sorts of main street business decisions that, you know, I'm, I'm not sure that, you know, for instance, the county board in, in one of our more rural counties that they're going to be wanting to make that sort of decision as to something that's going to affect the entire local economy. And--

BLOOD: But they don't, they don't have to [INAUDIBLE]. Correct?

JON CANNON: They, they don't. That's true.

BLOOD: So it's, it's optional, not a, they don't have to do it, so they have the option to do it if they want to be more competitive--

JON CANNON: Yes, ma'am.

BLOOD: --and bring-- and keep workers in their county.

JON CANNON: Yes, ma'am, and we certainly recognize it. We, we just would like to see-- I mean-- and, and I'm not suggesting that we take a study, you know, to say, well, let's, let's stall this out and, and not have anything happen to it. I would love to study it. I, I think it's-- I mean, it's, it's a, it's a novel idea. I mean, and I'm not, I'm not just spitballing when I say it's novel. It's something that when this was dropped, you know, in the, the first ten days of bill introduction, I thought, huh, that's something that I had, had not really been expecting. And so I, I just think that it's something that we really, we really need to study before we're able to really move forward.

BLOOD: Fair enough. I appreciate your answers. Thank you.

B. HANSEN: All right. Yes, Senator Matt Hansen.

M. HANSEN: Thank you, Chair Hansen. And thank you for being here. Just to kind of clarify. When, when you talk about wanting to study, like, what piece of information? Kind of list off just the effects of the minimum wage generally. Like, what piece of, what piece of information are you hoping to come out of this study?

JON CANNON: Sure. So we know that there are at least two counties. And again, I, I have not done a comprehensive study myself. I contacted the National Association of Counties and asked them if they have a

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position, what they know about it, and they said, this is not something that we've, we've actually researched. I found through my own research that there are, there are at least two counties: Montgomery County in Maryland, Sonoma County in California that have a minimum wage. I-- from what I understand, there are about 40-some municipal, municipal-- pardon me, municipalities which have adopted a minimum wage that's higher than, than their state minimum wage. And from my, my perspective, I, I think that what the counties would want to see is what effects does it, does it have with Sonoma County, which I, I think is bordered by Napa and, and a few others? What effect does that have that they have a higher minimum wage than the, than the rest of the state? Is it, is it-- is it causing more workers to, to move over into their counties? Are they stealing workers from Napa or from any of the surrounding counties? Is it having that intended effect, which Senator Bostar very eloquently and adequately explained in his opening, which, you know, would, would create a, you know-- or recognize a regional economy? Well, OK, is, is that regional economy-- that's a-- I mean, it's, it's a, a recognition that it's not just Lancaster County, it's going to be Lancaster and Seward and Gage and Saline and Butler, etcetera. And so we would want to see, well, what effects does that have if we have a regionalization of our economy, but we're allowing one county to drive that, that regionalization?

M. HANSEN: So what you're interested in is kind of studies or examples in other states of different minimum wage levels [INAUDIBLE] different locations?

JON CANNON: How it drives the economic decisions that are made in those communities.

M. HANSEN: Thank you.

JON CANNON: Yes, sir.

B. HANSEN: Yes, Senator Gragert.

GRAGERT: Thank you, Chairman. Thank you for your testimony. I'm just wondering if you know up in northeast Nebraska, you've got this reported here in a couple of my-- couple of the counties. How do, how do you see this, and let's get back to Nebraska instead of California, but how do you see this with the shortage of workers that if Dixon County can go to \$16 and our other four counties can't do that? They get-- I mean, that's not that far to drive.

JON CANNON: Well, and, and again--

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GRAGERT: How do you see that work?

JON CANNON: --and again to go back to what Senator Blood was saying, you know, the surrounding counties don't have to adopt a minimum wage at all. I mean, that, that, to be sure. And frankly, what it would do is it would, it would-- I'm not an economist, I'm, I'm the last person that should be testifying about this, but I'll, I'll take a stab at it all the same. What it would likely do, however, is it would, it would be an economic driver for those businesses in the surrounding counties that we'd better raise our wages if we don't want to keep losing workers to all those businesses over in Dixon County if, if that's indeed what happened. And again, I'll, I'll, you know, conclude by saying, I'm not an economist, I'm probably the last person that should be speculating on that.

GRAGERT: Yeah, thanks.

JON CANNON: Yes, sir.

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

JON CANNON: Thank you very much. Happy Valentine's Day, everyone.

B. HANSEN: All right, is there any-- anybody else wishing to testify in opposition?

ROBERT J. HALLSTROM: Chairman Hansen, members of Business and Labor Committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. Appear before you today as registered lobbyist on behalf of the National Federation of Independent Business in opposition to LB935. I've also been authorized to sign in on behalf of the Nebraska Chamber of Commerce and Industry, the Nebraska Grocery Industry Association, the Nebraska Retail Federation, the Nebraska Hospitality Association, and the Nebraska Petroleum Marketers and convenience stores. I go into more detail in my written testimony, but since I've used most of my allotted time to announce the groups that I'm here on behalf of, I'll summarize for the committee's benefit. The business owners that I represent have a different perspective on the impact of the minimum wage. The supporters outline some positives that they think occur when a minimum wage increase is implemented. We believe there are adverse impacts. When a minimum wage is increased, it inhibits job creation by small businesses, specifically. Small firms are impacted by increases in wages more than larger businesses. They tend to operate on thin margins, and as a result, they're faced with a number of difficult

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choices when their payroll increases. They can reduce hours, they can increase prices, they can reduce wages, or they can completely eliminate jobs. We also have a ripple effect that causes even more significant harm to businesses when there's an increase in the minimum wage. If the minimum wage goes up for someone earning \$9, if a county were to adopt an ordinance to go up to \$12, somebody that was earning \$14, that was previously seen as being \$5 an hour more productive than someone earning the minimum wage most certainly is going to feel that they should get an increase as well. That ripple effect also has an impact on things like workers' compensation cost, unemployment insurance cost, Social Security, Medicare, etcetera, etcetera. And finally, I think the minimum wage has been shown to have the most impact on those workers who may be lower productivity workers or the students and the new entrants into the workforce. I'd also note there were some comments made about some cities and counties across the country that have raised their minimum wage above the level of the state minimum wage in those particular jurisdictions. There are quite a few legislatures that have come in quickly and prohibited local ordinances of that, of that kind. With regard to the specifics of the bill, just a couple of things I'd like to note, even though the ordinances are optional for the counties and there is a provision that says if a particular business with operations in multiple counties can show that it would be an undue hardship for them. And I think the specific talks about the criteria that would be used by the county board. I think that's fraught with uncertainty. It raises the specter of the potential for politics to come into play. No clear cut rules on how those would be determined to allow one company to be exempted and perhaps another company not to be exempted. I think it would also raise some bookkeeping nightmares for small businesses that operate in multiple counties. Would they make a decision to only pay an individual the higher minimum wage or the higher wage that's adopted in a county that has adopted one of these ordinances? And if so, then, then they've got problems of that nature as well. So with that, we'd again echo our opposition to the legislation and would be happy to address any questions that you might have.

B. HANSEN: Thank you for testifying. Yes, Senator.

GRAGERT: Thank you, Chairman. You talk about the ripple effect. I'm-- you know, in District 40, most of the communities, 65 percent of the people are over 65 years old living on Social Security. How do you see this-- are we that far behind that we've got to raise the minimum wage by \$1.20 a year-- an hour per year of within five years, wasn't it? [INAUDIBLE] I think it was-- I thought it, it was five years, but we're going to raise it up from \$9 to \$15?

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ROBERT J. HALLSTROM: Under the initiative.

GRAGERT: Under the initiative.

ROBERT J. HALLSTROM: Yeah, proposed initiative.

GRAGERT: Are we that far behind in minimum wage that we've got to raise it up so fast? I mean, that's \$2,080 a year.

ROBERT J. HALLSTROM: Senator, I, I haven't looked at-- I just glanced at some of the comparisons to go up to \$15. There have been more cities and communities, perhaps, across the country that have, that have jumped up to \$15 an hour minimum wage. I think the states that are too much far out ahead \$9 an hour are, are probably more limited in number.

GRAGERT: OK. All right, thank you.

ROBERT J. HALLSTROM: Thank you.

B. HANSEN: Any other questions from the committee? All right, seeing none,--

ROBERT J. HALLSTROM: Thank you.

B. HANSEN: --thank you for testifying. Anybody else wishing to testify in opposition?

BUD SYNHORST: Good afternoon, Chairman Hansen and members of the committee. My name is Bud Synhorst, B-u-d S-y-n-h-o-r-s-t, and I'm the president and CEO of the Lincoln Independent Business Association, also known as LIBA. I'm here today representing our over 1,000 members and business owners here in Lincoln, primarily based here in Lincoln and Lancaster County. LB935 would allow counties to implement a minimum wage that is higher than the state's established minimum. This would be detrimental to our businesses across the state and our economy. The confusion and burden this would place on employers is unacceptable. After two years of restrictions, closures, and revenue uncertainty due to COVID-19, the last thing our local business owners need is the potential for 93 different minimum wage laws. Section 4 of this bill attempts to provide a way for businesses to opt out of the imposed minimum wage if they work in multiple counties, attempting to address the obvious confusion the bill presents, but this does little to offset the negative implications of LB935. For small businesses that operate across county lines, the process of appealing to the local county board is incredibly burdensome, and it would be-- LB935

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remains unneeded and harmful to business. Time and again, our members express the biggest problem they currently face is staffing. Due to the shortage of available labor, wages have risen drastically. Because market forces have increased wages across industries, there is no need for this legislation. Allowing county boards to increase their minimum wage will open doors for blunt government involvement in our local economies. Under the false veil of local control, businesses will suffer. The result of this legislation will be higher prices for consumers, fewer jobs available, and less growth in our communities. Now more than ever, it is the duty-- duty of our policy makers to create an environment of opportunity in our communities and govern with a growth mindset. LB935 does the opposite, layering an additional burden and unnecessary regulation on businesses. For these reasons, LIBA asks that you oppose the advancement of LB935. I'd be happy to take any questions.

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

BUD SYNHORST: Thank you very much.

B. HANSEN: Anybody else wishing to testify in opposition to LB935? All right. Anyone wishing to testify in a neutral capacity to LB935? All right, seeing none, Senator Bostar, you're welcome to close.

BOSTAR: Thank you, Chairman Hansen and members of the committee. So I want to clear a few things up. This bill does not raise minimum wage, just doesn't do it. No matter how hard you try to look at it, it doesn't. The point of this bill is recognition of the fact that regardless of what your personal philosophy is about what the minimum wage is, what it should represent, and what it should provide for people because there's a tremendous amount of variation. This bill acknowledges that whatever your philosophy is about minimum wage, it doesn't make sense for that wage to be the same in the middle of Omaha as the middle of Alliance. That's all this is. There's talk about a ripple effect, some sort of runaway wage inflation from government action. States can set their own minimum wages. Are we looking around over our shoulder every day at Colorado going, uh-oh, they raised it again, we better get on this and raise ours, too? Of course not. Why do we imagine that counties would be different? I certainly don't think they would be. It's a, it's a strange feeling when I conclude that I have more trust in county officials than the Nebraska Association of County Officials. What we heard from NACO, and in truth, it's not Mr. Cannon's fault. He has a board, they make decisions. He is sent here to be the front man of what is a-- trying

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to be polite. I'll leave that statement right there. What we heard from NACO was that local control exists in a box that apparently someone else built. And that anything that falls with outside of roads and the other list of three things is power that the county doesn't want. Just doesn't want it. Let's imagine that that was true, that that's how counties and county officials actually view local control. OK. So if we pass this, they would have the ability to change their minimum wage rate for their county and all these people who feel like they shouldn't have that power, what-- wouldn't exercise it. It doesn't force them to do a thing. But of course, because that's not the real reason. That doesn't make any sense. And I would say, because I certainly hear about it on the committees that I'm on. The next time NACO talks about local control, I'd ask them to clarify what they mean when they are opposing a bill that would erode local control. Because here this bill offers it to them. No costs, no mandates, all the options. They get to decide whether or not to use it. But no, that crosses some kind of line. It's fascinating. With that, I'll answer any final questions. And again, thank you to the committee.

B. HANSEN: All right, thank you, Senator Bostar. Are there any questions from the committee? All right, seeing none, thank you.

BOSTAR: Thank you.

B. HANSEN: Yes. And so with that, we did have some position comments and we had two proponents: Aubrey Mancuso from Voices for Children in Nebraska, and Brennen Miller representing Lancaster County Board of Commissioners. And then we also had two opponents: Rocky Weber representing Nebraska Cooperative Council, and Kathy Wilmot representing herself. So with that, we will close the hearing on LB935. And we will have a slight change in the schedule here. What we are going to do next, Senator McKinney asked if we could push his bill just to the next one after Senator Hunt's because he had to be introducing a bill in General Affairs, so. So with that, we will now start with LB1028. And welcome, Senator Hunt.

HUNT: Thanks, everybody. This is a different type of conversation, so nice to have a transition. Good afternoon, Chairman Hansen and my colleagues on the Business and Labor Committee. I'm Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I represent District 8 in Omaha. I'm bringing LB1028 before you today to create protections for tipped workers in Nebraska and to ensure that they're being paid what they're statutorily owed. Nebraska's current minimum wage statute states that for tipped workers, the sum of wages and gratuities paid must meet or exceed the standard minimum wage for all other workers. Nebraska's

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minimum wage is currently \$9 an hour and the tipped wage is \$2.13 an hour. So that means that if a tipped worker's wages plus tips adds up to less than \$9 an hour, the state minimum wage, the employer is statutorily, legally required to make up the difference. However, the current statute is vague and does not provide for any enforcement of this part of the law, nor does it provide a process or any protections for employees who believe they are not receiving their proper wage. That's why I'm introducing LB1028. Under this bill, the statute would be amended to (1) make explicitly clear that it is the responsibility of the employer to ensure that tipped employees are being paid an equivalent of the regular minimum wage, (2) establish a process and protections for employees to submit complaints to the Department of Labor if they reasonably believe that they aren't receiving the proper wage, and (3) require employers to keep records of the amount paid each pay period to employees and their hours worked and to provide these records to the Commissioner of Labor upon request if an investigation ever occurs. The Department of Labor would be authorized to take enforcement actions or to forward credible complaints to the appropriate county attorney. Research from U.C. Berkeley found that over one-third of workers, 35 percent, report that their tips plus wages did not bring them up to the state's minimum wage. Wage theft is most rampant in the restaurant industry, with federal Department of Labor investigations finding at least 84 percent of investigated restaurants have some kind of minimum-wage violation. Employees are discouraged from pointing out missing wages due to fear of retaliation from their employer and the intimidating and confusing reporting process. There's also a backlog of complaints that we know that employees in the Department of Labor have struggled in the past to handle. And that's not a knock on them, it's just speaking to the actual resources that we have in the state for them. Tipped workers are three times more likely to live in poverty than the general workforce, two times more likely to be on SNAP or Medicaid, and a majority are women. So we know that when employees-- you know, to say nothing of raising the wage, this bill doesn't do anything to raise the wage. It doesn't do anything to require employers to pay more than they're already statutorily required to pay, but we can't forget that when a worker is not paid the wage that they're owed, it ends up being the taxpayers that make up for that lost wages in Medicaid and SNAP and other benefits that they're-- that they qualify for. Research has shown that relying on a tipped wage exacerbates racial inequity, inequities for workers because customers of all races tend to tip black workers less than white workers. If the employer is not keeping track of how all employees are compensated-- they keep payroll for wages, but not for tips-- black workers are more likely to be the ones

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who will take home less than minimum wage, further entrenching existing systems of inequality. Workers across the state have told us that some employers are not following the current law, but due to vagueness of the statute, it's very difficult to track and enforce. I've introduced bills year after year to increase the tipped minimum wage. Senator Hansen introduced it in the past. It's been brought up, you know, for decades here in Nebraska. And one common argument of the opposition is that, well, employers are required to pay up to \$9 an hour so there's no problem. But we hear testimony and we hear from people that the law isn't being followed by some employers and this bill just puts a mechanism in place to make sure it is being enforced. The bill language was developed in collaboration with legal experts at Nebraska Appleseed and reflects an approximation of language from other states that have similar laws, drawing mostly from Missouri's statute. The tipped minimum wage has not been increased for over 30 years in Nebraska, since 1991, and all recent efforts to do so have been unsuccessful. Yet the regular minimum wage has been increased seven times since the last time the tipped wage was changed and there's an effort underway now to increase it again. Every single neighboring state provides a better tipped wage than Nebraska does. With this bill, we're taking a very agreeable, minimal step by not increasing the, the tipped wage, we're just adding clarity and enforceability and due process to the existing law. This will contribute to more tipped workers being assured that they are receiving the wages they're owed and it gives them the power to advocate for themselves if they are not. By providing sanctions for employers who violate the law, employers who aren't following the law can be held accountable. The pandemic put in stark relief the fact that our service industry workers are truly essential and we all reply-- we all rely upon them to maintain the services and quality of life we enjoy and expect. Since the pandemic, 75 percent of tipped workers report their tips have decreased. Over half of all restaurant workers are saying they're leaving the industry. Eight in ten workers say they will only stay if they receive a full, livable wage plus tips. We keep hearing how the restaurant and other service-based industries are suffering from a loss of workforce and here in Nebraska, where we have record low unemployment, restaurants are struggling to keep their doors open in many cases. If restaurants want to retain the workers that keep them open, the least we can do is make sure that the employees are being paid at least the minimum amount that they're legally entitled to, because we've seen the alternative, and that's a service workforce that's continuing to dwindle as tipped workers opt to leave the industry entirely for better opportunities. Let's give a little more protection to the people working at these

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establishments we enjoy and make sure that they can stay in their jobs. The majority of employers who are already doing the right thing by paying their workers up to \$9 an hour, they won't be harmed. This won't change any behavior that they have to make. And those who do not wish to comply will be hard-pressed to publicly assert that they won't comply with what's already existing law. This is one of those bills-- we, we debate bills like this frequently where you see what the law says, but there's misunderstanding about it or there's no enforcement mechanism or there's no due process included within it. And it leads to these unintended consequences, which is the law not being followed to the letter. And, you know, as I said, this doesn't do anything to increase the wage. It's just-- gives some peace of mind to workers who are, you know, afraid that they may experience wage theft. And for employers who are not committing wage theft, they have nothing to worry about. Thank you.

B. HANSEN: Thank you. Is there any question from the committee? Seeing none, we'll see you at close. All right, is there anybody that wish to testify in support of LB1028? Welcome back.

KEN SMITH: Thank you, and good afternoon, again, Chairman Hansen, members of the Business and Labor Committee. My name is Ken Smith and I will spell it this time. K-e-n S-m-i-t-h and I am the director of the Economic Justice Program at Nebraska Appleseed. Appleseed is a nonprofit law and policy organization that works for justice and opportunity for all Nebraskans and we are here in support of Senator Hunt's LB1028. As the senator mentioned, Nebraska has not raised its minimum wage for tipped workers, which still stands at the federally established minimum rate of \$2.13 per hour. LB1028 would ensure pay equity for tipped workers in Nebraska by strengthening enforcement of Nebraska Revised Statute 48-1203, which is the statute that currently provides that tipped workers' total wages must equal or exceed the standard state minimum wage, which is currently \$9 per hour. There have been numerous attempts by Senator Hunt and others before her to increase or eliminate the tier-- the tiered wage system that treats tipped workers differently. Industries who benefit from this lower wage threshold have consistently opposed these measures, citing the requirement in 48-1203 that tipped workers must be compensated at least up to the standard minimum wage as the reason that raising the tipped wage or eliminating it is unnecessary. In previous testimony in front of this committee, spokespeople for those industries have claimed that instances of tipped wage theft or noncompliance with 48-1203 are extremely infrequent. However, there is ample evidence that tipped workers are particularly vulnerable to wage theft because they are treated differently under wage laws, both state and federal.

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First, and most importantly, we have heard over the years from tipped workers themselves who have publicly shared their experiences of employers failing to pay what the worker is owed. The issues they have raised are corroborated by national studies that have examined economic outcomes for tipped workers. A 2014 study by the Economic Policy Institute found that workers subject to a lower tipped minimum wage have lower total hourly take-home pay, have greater gender pay disparities, and experience poverty at much higher rates than nontipped workers. And I know that Senator Hunt went through a, through a summary of the relevant data so I won't duplicate that here. But currently, enforcement of the requirement that tipped workers be compensated at a rate at least equal to Nebraska's minimum wage is left largely to the tipped workers themselves. In order to succeed in holding their employers accountable, a tipped worker would need to carefully track their weekly hours and tips to know the amount of other wages they're owed. And Nebraska's tipped wage law does not specify the period of time over which weekly tips are supposed to be calculated. The current state of Nebraska's tipped wage statute makes it difficult for tipped workers to know how to enforce their rights if and when they are the victim of wage theft. LB1028 would make it easier to enforce the existing protections that Nebraska's tipped workers deserve. It clarifies that tipped workers' wages must be at least equal to the state general minimum wage in each instance of payment. It requires employers of tipped workers to maintain records that would allow for the proper determination of wages owed. It increases transparency by ensuring that the Department of Labor has access to those records when necessary and it codifies a straightforward process by which tipped workers have-- who have been victims of wage theft can submit a complaint to be investigated. Lastly, it does provide anti-retaliation language to protect workers who come forward to report unlawful conduct on the part of their employer. Passing LB1028 is a necessary step towards wage equity for tipped workers and would help ensure that all employers of tipped workers are abiding by the long-established requirement that tipped workers be compensated at a level that equals or exceeds the general minimum wage. For these reasons, we appreciate Senator Hunt bringing LB1028 and urge the committee to advance this bill. I'd be happy to answer any questions.

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

GRAGERT: Thank you. Thank you for your testimony. Do you, do you feel that worker-- tipped workers would rather work for \$9 an hour than \$2.23 and get their tips?

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KEN SMITH: I don't-- I can't-- I'm not a tipped worker. I don't know if I could speak for tipped workers, but I know that the many that have come forward over the years that have spoke with our office that have testified in front of the committee would at least expect that the state minimum wage would also apply to them in, in all cases.

GRAGERT: OK. If, if an employer paid \$9 an hour, does he or she have to give up tips to the employee?

KEN SMITH: Sorry, the question is if an employer pays \$9 an hour, does he or she have to give up tips?

GRAGERT: Yeah. Could you-- can they, can they, in any event, keep those tips then?

KEN SMITH: I'm not sure. I think that, that if an employer chooses to operate kind of through this tip structure such that they are subject to that \$2.13 minimum wage, whatever way they choose to compensate beyond that is, is-- so long as they reach the established minimum wage threshold at the state, I think--

GRAGERT: Thank you.

KEN SMITH: --it's up to them.

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

KEN SMITH: Thank you.

B. HANSEN: Take our next testifier in support. Welcome.

JOEY ADLER: Afternoon again, Chairperson Hansen and members of the Business and Labor Committee. My name is Joey Adler, J-o-e-y A-d-l-e-r, and I am here on behalf of the Holland Children's Movement in support of LB1028. [INAUDIBLE] of our polling before, but just to remind you all that it's 64 percent of Nebraskans support eliminating the state's tipped minimum wage in favor of higher earnings for service workers. And just to go over a few of the points again that Senator Hunt had pointed out; 84 percent of people who reported had wage violations reported against them were found to having committed some form of a violation, which is, I think, is an important part of this bill with its aspect to help clarify and make it easier for us to find that. If you look at the bottom of the testimony that's going around, the same report from OFW indicates that 35 percent of tipped employees report that their wages didn't bring them up to their

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minimum wage. And at the second page of the testimony, there's a key part that I think is important in this discussion. We have to do something about supporting our tipped minimum wage employees because they're starting to leave the industry in droves, whereas 54 percent of workers saying that they're going to leave the industry and eight in ten say they will only stay if they receive a full, livable wage with tips on top. And so I think those are important parts to point out in this discussion and we really thank Senator Hunt for all of her work on this and everyone else who's been involved in this process. And I'd be happy to take any questions you have.

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

JOEY ADLER: Thank you.

B. HANSEN: --thank you. We'll take our next testifier in support. Welcome.

SCOUT RICHTERS: Thank you. Good afternoon, Chair Hansen and members of the Business and Labor Committee. My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska. The ACLU works to end discrimination in the workplace and ensure that all workers, regardless of gender, race, national origin, age, or disability, are able to bring home every dollar they rightfully earn. As a result of discrimination, including employers' reliance on gender stereotypes, women lack parity with men in earnings, which we all know. In addition to wage discrimination, women often lack full access to traditionally male-dominated occupations and are steered into lower-paying sectors. Industries dominated by women remain the least valued and women are disproportionately represented in lower-paying and less powerful jobs, including those jobs that rely on tips. The ACLU of Nebraska offers its full support of LB1028 to add protections to ensure that tipped workers are earning at least the minimum wage for each shift worked. And this support is based on three primary reasons. First, economic justice is critical to gender equity and combating sexual harassment. Two-thirds of tipped workers across the country are women and according to one study, 80 percent of female restaurant workers reported being sexually harassed on the job. And I think it's important to note that one reason for this is that tipped workers don't want to jeopardize their tips by speaking out when harassment does occur. The second reason that the ACLU of Nebraska supports the bill is that economic justice is critical to advancing racial justice. According to data from the National Women's Law Center, overall, women of color working in tipped jobs in states where

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tipped workers must be paid the regular minimum wage before tips experience a poverty rate nearly one-third lower than the poverty rate for their counterparts in states with a separate lower tipped minimum wage. Finally, the ACLU supports the bill because ensuring fair wages is actually a smart justice strategy to end our crisis in mass incarceration. Evidence suggests that a 10 percent increase in wages for non-college-educated men actually results in approximately a 10 to 20 percent reduction in crime rates. So for all these reasons, the ACLU offers its gratitude to Senator Hunt and its full support for LB1028 and we urge the committee to advance the bill.

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

SCOUT RICHTERS: Thank you.

B. HANSEN: Take our next testifier in support. Welcome back.

SUSAN MARTIN: Tied up in my mask. Good afternoon again, Chairman Hansen and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, testifying on behalf of the Nebraska State AFL-CIO and all working families in the state of Nebraska in support of LB1028. I want to start with the policy on the Wage and Hour Act, Nebraska Revised Statute 48-1201. It is declared to be the policy of this state (1) to establish a minimum wage for all workers at levels consistent with their health, efficiency, and general well-being and (2) to safeguard existing minimum wage compensation standards which are adequate to maintain the health, efficiency, and general well-being of workers against the unfair competition and-- of wage and hour standards which do not provide adequate standards of living. The pandemic has taken a toll on those employees working in the service sector, those employees who rely on tips to make ends meet. First, it was the restaurants cutting hours or completely closing due to COVID-19. Once they reopened, employees returned to work did so at the risk of their health, but they had to work. Many restaurant owners implemented mask mandates for their employees and for their business. Often it was the server who took the brunt of customer unhappiness about their business mandates, not the owner. Food service workers have become essential workers and public health marshals enforcing critical mask and social-distancing protocols in one of the pandemic's most dangerous spreading environments. Unfortunately, like all other essential workers, they are not routinely guaranteed a standard minimum wage and thus live at the mercy of customer tips. I appreciate the approach Senator Hunt is taking to ensure that these employees working for \$2.13 per hour are

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actually receiving the \$9 per hour minimum wage. I think the proposed legislation cleans up and clarifies the Nebraska Wage and Hour Act and further ensures accountability, particularly when it comes to tipped workers. This legislation provides an avenue for tipped workers to take if they feel they have not been compensated fairly. We do not see this as to be an additional burden on the Department of Labor, as they field similar complaints with the Nebraska Wage Payment and Collection Act. We do not see this as an additional burden on employers who are already required to keep employee and payroll information on all employees. We do not see this as a burden on employees to post the information, as they are required by law to post other information such as employees' rights in workers' compensation reporting. You earn a day's wage, you should get a pay-- you should get paid that wage. And if an employee feels that hasn't happened, by updating the Wage and Hour Act, an employee compensated by way of tips will also have the option to seek what is rightfully theirs. This is an extremely important bill that will ensure worker protections and further updates and clarifies the law pertaining to tipped workers. I thank Senator Hunt for her creativeness and for introducing this bill and ask for your consideration in making this a priority bill and passing this on to General File.

B. HANSEN: Thank you. Are there any questions from the committee? Seeing none, thank you. Anybody else wishing to testify in support of LB1028? Is there anybody wishing to test-- testify in opposition to LB1028?

RICH OTTO: Good afternoon, Chairman Hansen, members of the committee. My name is Rich Otto, R-i-c-h O-t-t-o. I appear before you today in opposition to LB1028 on behalf of the Nebraska Hospitality Association, the Nebraska Retail Federation, the Nebraska Grocery Industry Association, and the National Federation of Independent Business. While agree-- while we agree with the stated intent of LB1028, we believe each of these goals in the statement of intent are already being addressed by the Department of Labor. The statement of intent goes through three major purposes. First, LB1028 makes it explicitly clear that the responsibility of the employer to ensure that tipped employees are being paid an equivalent of the regular minimum wage. I refer you to page 1 of the handout that I gave to the page. The Department of Labor requires employers to place the poster in a clear, visible location to all employees. You can see on the poster that it states Nebraska minimum wage is \$9 per hour and the first bullet point states if the employee is compensated by way of gratuities, the employer shall pay wages at the minimum rate of \$2.13 per hour plus all gratuities given to them for services rendered. The

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sum of wages and gratuities received by each person compensated by way of gratuities shall equal or exceed \$9 per hour. The second page of the handout is the Spanish version of the same required poster. We believe these posters already make it very clear to employees that it is the responsibility of employers to ensure that tipped employees are being paid an equivalent to the regular minimum wage. Second, LB1028 establishes a process and protections for employees to submit complaints to the Department of Labor if they reasonably believe they aren't receiving the proper wage. Page 3 of my handout is a picture of the wage complaint form that pops up when you Google Nebraska wage complaint. It's the first thing. A complaint can be filed by computer, smartphone, or by call, or by calling the Department of Labor's number. We believe the existing process is clear and accessible. Third, LB1028 requires employers to keep records of the amount paid to each employee and to the employee's hours worked. Page 4 of the handout shows that the Department of Labor already requires for employers to deliver or make available to each employee, by mail or electronically or shall provide at the employee's normal place of employment during employment hours for all shifts, a wage statement showing; first, the identity of the employer in the pay period ending date, the hours for which the employee was paid, the gross wages earned by the employee, all deductions made from each check. Once again, this is already required. The statement of intent of LB1028 goes on to say that legislation will require these records to be provided to the Commissioner of Labor upon request for investigation and the Department of Labor is authorized to take enforcement actions or forward credible complaints to the appropriate county attorney. While I can't speak for the Department of Labor, I know the Department of Labor has taken enforcement actions for years. Violators are listed on the website with the fines given. In conclusion, we believe LB1028 is unnecessary, as the intended requirements of this bill are previously required and already in place. Happy to answer any questions you may have.

B. HANSEN: Thank you for testifying. Are there any questions from the committee? Seeing none, thank you. Anybody else wish to testify in opposition?

BUD SYNHORST: Good afternoon, Chairman Hansen and members of the committee. I'm back and I'm going to veer just a little bit off my testimony because it reaffirms several of the things that Mr. Otto just pointed out. But I think one of the things that, that we've heard from, from our business owners and especially those in the hospitality industry is that they are paying at or above what these wages are right now. Several of their workers are doing it. They're already in

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for-- they're already taking care of it. And their big issue, as Mr. Otto stated, is we're already taking care of this. We're already doing this. So with that, I would answer any questions and we would oppose advancing this bill.

B. HANSEN: And if you could, could you please say and spell--

BUD SYNHORST: Oh, sorry about that. It's Bud Synhorst, B-u-d S-y-n-h-o-r-s-t, president and CEO of Lincoln Independent Business Association, also known as LIBA.

B. HANSEN: Good, just need that for the record, so.

BUD SYNHORST: Thank you. Sorry about that.

B. HANSEN: That's fine. Are there any questions from the committee?

BUD SYNHORST: You'd think I wouldn't mess that up by now.

B. HANSEN: All right. Seeing none, thank you.

BUD SYNHORST: Thank you.

B. HANSEN: All right. We'll take the next testifier in opposition. All right, seeing none, is there anybody that wishes to testify in the neutral capacity? Seeing none, Senator Hunt, would you like to close? While she's coming up here, we actually did have some position comments: five as proponents coming from Jill Heggen, representing herself; Mary Sullivan, representing Nebraska Chapter of the National Association of Social Workers; Kathleen Uhrmacher, representing the Women's Foundation of Lincoln; Jo Giles, representing Women's Fund of Omaha; and Christine Funk, representing Center for People in Need; and one in opposition, Ron Sedlacek, representing Nebraska Chamber of Commerce and Industry. Good to go.

HUNT: Thank you. So love my proponents, great advocates in Nebraska. I hear the opponents. I, I get your general opposition to the idea of raising the wage, but let me remind-- you know, from both sides, let me remind the committee what this bill is really about. It's not saying anything about the values or morality of what the wage ought to be. It's, it's not about values. It's not about what most businesses do already or what's already normal and the case. As long as there are workers in Nebraska who are coming to us and coming to the Department of Labor and saying I'm experiencing wage theft, we are-- we see that we have an opportunity to solve a problem, right? And, you know, for the people who ask why is this type of bill needed, it really puts

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some clarification in statute that isn't currently there. For an individual to get any justice right now, they'd have to bring a legal action against their employer, probably in small claims court, and realistically, most people are just not going to do that. It takes a lot of time. It takes a lot of resources, money to take legal action and they'd have to hire an attorney or they'd have to represent themselves. And with this bill, LB1028, we authorize the Department of Labor to do that initial layer of investigation and oversight. And if they find that the complaint is credible, they can send it to a county attorney to determine if it should be prosecuted. With our bill, with this bill, if you're an employer who steals your tipped employees' wages, you need to make them whole by paying a civil damage amount and you can also be criminally sanctioned for wage theft. Currently, we don't have that. We do know that wage theft happens in Nebraska. There's a recent example of tipped wage theft from January 20, 2021. The headline of this news release from the U.S. Department of Labor is U.S. Department of Labor investigation results in Nebraska restaurant paying \$145,000-- \$145,987 in back wages and damages. And this was at an Omaha restaurant. So, you know, this is because there was a U.S. Department of Labor investigation, but this isn't the kind of thing that we're seeing at the Department of Labor in Nebraska. I want to speak to Senator Gragert's question, if I understand it. And please correct me if I'm not addressing your question as you meant to ask it. It is already the law in Nebraska that we have to pay \$9 an hour. Like, that's, that's here. On page 3 of the Wage and Hour Act, which is already in statute, you know, it says every employer shall pay to each of his or her employees a minimum wage of \$9 per hour. So that we already know. And it also says already the sum of wages and gratuities received by each person compensated by way of gratuities-- so the sum of the wage and the tips they get-- shall equal or exceed the minimum wage provided in subsection (1) of this section, so \$9 an hour. We-- nothing in this bill would make an employer pay more than \$9 an hour. And I think it's very telling and weird if there are restaurants and employers that are opposed to this bill because if you're following the law, there should be no problem with it. All it does is it makes it easier for employees that experience wage theft to get justice for that. And that's what opponents to raising the minimum wage have been telling me all these years is well, would it-- maybe a good compromise, something better would be just to give the Department of Labor the resources they need to prosecute wage theft or we need to do more to prevent the wage theft. And I'm calling you on that. I'm saying, sure, here's your bill. This is going to do something about wage theft. It doesn't do anything about what the actual wage is and it isn't making a values claim on what it should be. So it's just

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saying this is what the law is. Evidently, some employers are breaking the law, not most by a mile. But if even one Nebraskan experiences wage theft in our state and we can do something about it, why wouldn't we? Thanks.

B. HANSEN: Any questions from the committee? I have just maybe one quick question. On page 6, line 14, when you start talking about the responsibilities of the employer, is that language from previous statute that we have? Is that new?

HUNT: This is new and this was drafted in cooperation with Nebraska Appleseed. And this just provides the enforcement for the Department of Labor to investigate the employer. And I'd be happy to work with any of you or the department more or-- I mean, my goal is to get this policy changed and to make sure that we have recourse for employees. And if there's any language anybody wants to amend, I'm totally open to that.

B. HANSEN: Any, any other questions? Thank you very much.

HUNT: Thank you.

B. HANSEN: All right. So with that, we will close the hearing on LB1028 and we will open on LB1018 and welcome Senator McKinney to open. Good timing.

McKINNEY: Good afternoon, Chair Hansen and members of the Business and Labor Committee. We are here today to discuss LB1018, which would set a minimum wage for employees of a, of a Class IV school district. Under LB1018, all employees of a Class IV school district shall be paid a salary or wages equal to at least 70 percent of the Nebraska state-- statewide average hourly wage as defined by Section 77-6814. The changes to the minimum wage is necessary because our education system is at a crossroads, which some might argue has been sped up because of, because of the COVID-19 pandemic. It is my hope that we all see that Nebraskans, especially those deemed as essential workers, need to be paid a livable wage. If not, districts will lose more and more employees to other industries, which will cause more issues for our public schools. Those tasked with, with educating, transporting, feeding, securing, and assisting our classrooms deal with many things that a lot of us will shy away from, from the day-- from, from a daily life perspective, which are commendable. During talks over the interim, I spoke with many public school employees that don't feel appreciated. Money is not always the answer, but increasing the wages will be a step in the right direction. In a district like OPS that has

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many schools in high-poverty areas, not having competitive wages makes it that much harder to compete and attract local residents to take those essential positions that are needed to make sure our schools are running smoothly. In other-- in the words of Omaha native Malcolm X, "Education is the passport to the future, for tomorrow belongs to those who prepare for it today." If that is something that's still true to this day, we must ensure that at a minimum, we compensate public school employees properly to ensure that our students can take full advantage of their passports to the future. Since we already require other entities to pay 70 percent of our state's average minimum wage and OPS gets half of its funding from the state, we should at least match that from what we require from the business community. I've spoken to representatives from Omaha Public Schools and they too understand that change, changes need to be made to address this issue. Although they're in opposition, I believe we can find a way to address this issue. I also handed out a letter from another individual that wasn't able to make it today that works in security at OPS. Thank you.

B. HANSEN: All right, thank you. Are there any questions from the committee? All right, seeing none, seeing-- I assume you're going to close, right?

McKINNEY: Yeah, I got two hearings going on at the same time, so--

B. HANSEN: OK, well--

McKINNEY: --I'll try.

B. HANSEN: --if you're not here, we'll just have you waive closing then.

McKINNEY: All right, thank you.

B. HANSEN: Yep. All right, so with that, we'll take our first testifier in support of LB1018. Welcome.

LARRY RUSSELL: Good afternoon, committee. My name is Larry Russell, L-a-r-r-y R-u-s-s-e-l-l. I am an OPS security officer. I'm here on behalf of some of my fellow employees. We are asking the district to do the right thing as far as we have-- we're missing a lot of officers in the district that don't want to do the job because of certain elements that deal with students, high risk. I've been a security officer for the district for six years. I experienced some misfortunes doing my job. You know, it's kind of hard when my building is supposed to have three officers and we have only one in two and a half years.

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We get an outside agency that come in that want to help, then they quit two days later because they can't deal with the problems that we deal with as far as dealing with behaviors, parents. You know, it's just multiple things that add up every day where when teachers tell us, hey, you know, we commend you for doing the job, but we don't want to be here either. I go because I love my job. I love giving back to the kids. I used to be those kids. But I want to see them prosper, graduate, and become our next leaders. So, you know, it's-- we're, you know, trying to get it where we get more officers that want to come and do this job to help out the district, but it's kind of hard because they're deterred because of the wages. And, you know, it's-- you know, it's a catch-22. You want to be here, but you don't want to be here and that's what it gets down to it. And I appreciate you guys hearing me. Maybe we can get something done, you know? Senator Blood, I want to thank you for your comments for my wife on our building that you sent out. So that's it for me.

B. HANSEN: All right, thank you.

LARRY RUSSELL: Yep.

B. HANSEN: We'll, we'll ask a few questions here, maybe possibly. If you want to hang out for one second.

LARRY RUSSELL: Yeah, go ahead.

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

BLOOD: Thank you, Chairman Hansen. So now we have to make sure it's clear for the record. I, I didn't realize that was your wife, but I was thinking about that. Your wife-- how many times have cars driven into her [INAUDIBLE]?

LARRY RUSSELL: Five times.

BLOOD: Five times.

LARRY RUSSELL: Um-hum.

BLOOD: I'm sorry for that. I'm sorry, I just wanted to clarify so [INAUDIBLE].

LARRY RUSSELL: Yeah, thank you.

BLOOD: Thank you.

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B. HANSEN: Well, I got one--

LARRY RUSSELL: Oh, go ahead. My bad.

B. HANSEN: I know it's hot in here, but--

LARRY RUSSELL: Yes, it is.

B. HANSEN: And are there any other questions from the committee? Yes, Senator Halloran.

HALLORAN: Thank you, Chairman Hansen. Just more of an observation than a question, but looking through this handout from Stanley Pfeifer [PHONETIC]-- maybe someone can help me-- treasurer for ENSSU-- I'm not sure what that stands for, but anyway, he goes through the-- he goes through a list of incidences that you all were dealing with, and you expressed some of it yourself. Seems to me you should be getting hazard pay for what you do. I mean, this is extraordinarily risky, risky work that you do.

LARRY RUSSELL: Can I--

HALLORAN: Sure.

LARRY RUSSELL: --elaborate on that? So I just had surgery here two weeks ago from an injury that happened back in September of 2021. A young man assaulted our administrator. They called for help. I came in and helped him. As I was helping him, the student assaulted me numerous times. I got hit in the hand over 100 times. I got bitten three times. But the student is still in my building today, threatened our teachers that he's going to kill them. But there's nothing the district has done, you know, as far as, you know, the discipline side because their hands are tied. Because if you have an IEP, you, you can do anything and say anything to anybody and the most you can get is maybe three to five-day suspension. But like I say, you got teachers that always say, well, I don't feel like coming to work today, but they have to come to work because they have a family they have to take care of. So at some point, like I'm saying, we're trying to get some changes where we can have enough people to support us in our buildings when we have a situation when students, as you've heard, decide to act crazy, want to fight, don't want to do the right thing. When you have one, one security when it's supposed to be three, it's kind of hard. So I can't be everywhere. Administrators can't be everywhere. So you have to go by the most important call that comes on the radio during that time. So if there's a fight, we have to go to that, but if there's a kid acting up, throwing stuff in the classroom, just doing

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nonsense stuff-- so now you got to take away from going from the fight to go there to help a teacher because she can't do something with the student and go to the front door when it's a parent acting a fool at the front door. You know, so-- you know, you get to a catch-22. Like I say, there's not enough officers to go around with the district. And if they do get hired, they quit because they see all the stuff that's going on in our district. And they-- you know, I get a lot of emails and texts from a lot of people. They don't know how I do it. They say, why do you do it? Well, I do it because of the kids. That's why I do it. I would like to have more people to come in and say, OK, I want to do it for the kids too, so--

HALLORAN: Let me ask you a few questions.

LARRY RUSSELL: Um-hum.

HALLORAN: And you kind of answered them already, but do you feel like you get any support from any parents?

LARRY RUSSELL: The-- from the parents, from the PTA side. But if we have a problem with a student and a parent comes up, they want to jump on you because well, you're doing my, my, my, my student "disjustice." No, we're just asking them to do the right thing. And like I say, I spend a lot of time with our students to get to know them. I know when there's a problem in my building before anybody else knows because I see them, I talk to them every morning. I'm the first person they say good morning to. I'm the last person they say good evening. I'm at my building from 6:45 in the morning to usually 6:30 at night dealing with all of our school programs that we have going on and I'm the guy that's there.

HALLORAN: Do you get any support from your board?

LARRY RUSSELL: I didn't hear you, sorry.

HALLORAN: Your school board? Do you get any, do you get support from your school?

LARRY RUSSELL: Well, our union, all I can do is write stuff up, give them to our union guys, and they go to the district with them, just like all the, all the other security guys. Anything we have a problem with, we just give it to the union. Let the union try to get-- you know, find clarity in it or my principal. My principal is on my side, but we don't have the personnel. So I get a lot of support out of my principal, yes. There's just no support from the parents.

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B. HANSEN: Yes, Senator Gragert.

GRAGERT: Thank you. Just one quick question. You don't have the personnel because of-- you feel because of the pay or because people weren't applying for the job?

LARRY RUSSELL: Well, first thing they say is the pay. Nobody wants to engage because of the pay. That's what nobody is putting in applications. And it's been this way probably for the last four years. And then people-- like I said, though, the ones that do get hired, they usually quit within a week because they say, hey, I can't deal with it. How do you deal with it? I say, it's not about me coming to work just dealing with the problem. I try to get to the root of the problem. I talk to the student so I can get to know what's going on with them. How can we change their behavior? By "conversating" and getting to know the student.

GRAGERT: Thank you.

LARRY RUSSELL: Um-hum.

B. HANSEN: I might ask one quick question--

LARRY RUSSELL: Um-hum.

B. HANSEN: --just because of your unique experience. Besides the pay, what other, what other things, what other-- yeah, what other things could the state or your school do to help your position?

LARRY RUSSELL: I couldn't really hear you because of the--

B. HANSEN: Yeah, what other-- I just told everyone else to speak up and I don't, see? What other, what other things do you think the state or even your school could do to help your position, make it safer? Is there-- or is it-- because I've got the pay part here, which makes sense. I don't know, is there anything else-- like you would say, man, I wish they would just do this one thing.

LARRY RUSSELL: I-- me personally-- and I've-- we need to get more parents engaged with the students. That's kind of hard. So the only thing I see parents really doing in my district where I'm at-- school-- north Omaha, you've got kids-- low income, we're probably 95 percent low income. So if a kid can get a new pair of Jordans, a new iPhone-- and this is what I go to classrooms for every day, taking cell phones from kids, disturbing the teacher from giving their lesson to kids. I have-- and now-- this is the truth. In my car right now,

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just from this year alone, I have over 200 cell phones that I've taken from kids that their parents are supposed to come and get, but they haven't come and got to it. What I do at the end of year, I donate them to the, to the ladies shelter. So that's what I'm saying, it's more important for a kid to have a cell phone, to be on social media than be in class doing their work. And then when the teacher say, can you put that away, then they want to make a big scene with the teachers. And that's why they call security. Hey, can you come-- OK, we take their phones. Your parents, you can come and get it, but the parents don't come and get it. They come to school with a new phone the next day, so.

B. HANSEN: OK. I was just kind of curious and I appreciate, appreciate your opinion.

LARRY RUSSELL: Um-hum.

B. HANSEN: All right. So with that, I don't see any more-- other questions from anybody, so I appreciate you coming and testifying.

LARRY RUSSELL: Thank you, guys. Have a good day.

B. HANSEN: All right. Anybody else wish to testify in support? OK, is there anybody wishing to testify in opposition to LB1018? Is there anybody wishing to testify in a neutral capacity? Welcome.

KATE ALLEN: Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Kate Allen, that's K-a-t-e A-l-l-e-n, and I'm the Nebraska Retirement Systems Committee legal counsel and I've been asked by the Chairman, Mark Kolterman, to testify on his behalf. Senator Kolterman is not taking a position on the bill. He wants to make sure you're aware of the secondary impact on retirement. Omaha is the only Class V school district, and the retirement system is the Omaha School Employees Retirement System, known as OSERS. Compensation is one of the factors that's used in calculating retirement benefits. And in order to calculate retirement benefits and project what that funding cost is going to be over 30 years and more, the actuary makes assumptions and those assumptions are reviewed every four years. There are economic and demographic assumptions. One of the assumptions is compensation and compensation growth, and this would impact that factor because it would be higher than what the current compensation assumption is. And so in order to calculate that, you need an actuarial analysis. It's the only way to get-- to identify what that number would be. The Nebraska Legislature, back in 1997, passed-- enacted or I guess, adopted a legislative rule,

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which is Legislative Rule 5, subsection (15) (b). And what that requires is if there is a bill introduced which may impact the structure or the funding of a retirement system, then an actuarial analysis has to be conducted on that bill and handed out to all the members of the Legislature prior to the Final Reading vote. The Retirement Committee generally, when this issue is-- or when this rule is invoked, once the bill is advanced from committee on to General File, gets an actuarial analysis done at that time so it's available through all three levels of debate. And with that, I'd be glad to answer any questions.

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

KATE ALLEN: OK.

B. HANSEN: Anybody else wishing to testify in a neutral capacity? Seeing none, Senator McKinney, you're welcome to close. With that, before-- there were some position comments: one is a proponent from Mary Bahney, representing Nebraska Chapter of the National Association of Social Workers; and one in opposition, Kathy Wilmot, representing herself. With that, you're-- it's all yours.

McKINNEY: Thank you again for those that came to testify, rather proponents or neutral. I think it was good feedback and dialogue. I really think that LB1018 is important. I think we have to ensure that we're having competitive wages, especially in our public schools, to keep individuals that are willing to work with our kids and have a passion to work with our kids stay inside of our schools. If we start to lose those individuals, I see more issues on the horizon. So I definitely think it's an important issue to address. I've spoken with representatives from Omaha Public Schools and they understand that it's an issue that needs to be addressed and they're working on some things as well. So regardless of if this goes forward, I think the district is aware of the issue and are trying to do what they can to address it as well.

B. HANSEN: All right. With that, are there any questions from the committee? All right, seeing none, thank you.

McKINNEY: Thank you.

B. HANSEN: With that, that will close the hearing on LB1018, and now we will welcome Senator Williams to introduce LB1069. Welcome.

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WILLIAMS: Good afternoon, Chairman Hansen and members of the Business and Labor Committee. I'm Matt Williams, M-a-t-t W-i-l-l-i-a-m-s, and I'm here today to introduce LB1069, which would update the Rural Workforce Housing Investment Act. And I've let you know that I have chosen this as my personal priority bill for this session. Over the past several years, Nebraska has been battling the issue of workforce shortages. It is estimated that there are over 50,000 unfilled jobs and only 20,000 people seeking employment. That's a problem before COVID, and now it's even gotten worse. In addition to a worker shortage, we also have a significant shortage of available workforce housing. Again, with COVID, we have seen increased building costs, supply chain delays and fewer contractors amplifying this problem. We clearly have a continuing need, particularly in the rural areas of our state, and we have a proven method of addressing this need through the Rural Workforce Housing Investment Act. I'll give you a little bit of history. In 2017, I introduced LB518, which created the act and used \$7 million from the Affordable Housing Trust Fund. This committee heard the bill at that time and advanced it, using a committee priority. That bill was passed by the Legislature and went into effect shortly thereafter. Thank you. In 2018, DED, under that plan, awarded the \$7 million to 14 different nonprofit development companies across the state in rural areas. By 2021, over \$110 million of property had been built in our state, including over 800 housing units, from that initial investment of \$7,000. I'd also point out that nearly all, not quite all, but nearly all of that property is on the property rolls for property tax. Those building the properties pay income tax on it, and sales tax was certainly charged on almost all of the inputs going into those, those properties. I'd say we've been well rewarded for our \$7 million investment. The program at that time was oversubscribed. In fact, it was oversubscribed three to one. So we stepped up, meaning the Legislature stepped up again in 2020, and appropriated \$10 million in general funds to do a second round of grants through the same program. Again, the program was fully subscribed, and I believe there were 17 awards this time that were granted. We don't have the statistics yet because the awards were just granted in 2021. So the money is now out there being used. Because most of the projects that are using these funds use them in a revolving manner, which I can describe if you would like to later, this program just continues to grow. It's the gift that keeps growing because each community builds a house with their grant money, sells the house, recoups their money, and does it again, over and over. Today, we are back, asking for your help to continue the program. I've introduced three bills this year: LB1069, which we are hearing right now: LB1070; and LB1071, to give us the flexibility to use ARPA funds,

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coupled with some additional cash fund dollars, to continue the program. LB1069, that is in front of you today, simply updates and makes a few changes to the act. LB1070 and LB1071 are the funding vehicles that are being heard in the Appropriations Committee. One was heard last week and the other one is heard Thursday-- no, excuse me-- tomorrow of this week. Now that DED has operated this program for several years, we have discovered a few changes that we believe will enhance and improve the program. During the summer and fall, we held several stakeholder meetings with grant recipients, those that didn't receive grants before, and DED staff. Several of the changes are cleanup and technical in nature. Those particular ones include: first, a clarification in the definition of matching funds and insures statewide political subdivisions-- may contribute matching funds; 2) a clarification in the definition of nonprofit development organization that enables a nonprofit development organization to be included; 3) a clarification in the definition of workforce housing that ensures that funds from the National Housing Trust Fund are excluded from this program, and 4) removes an unnecessary requirement that nonprofit workforce housing investment funds be certified annually by the Department of-- DED. The substantive changes, which are the ones that are, are really important here, is that, number one, it extends the program through fiscal year 2026-2027. Currently, the program ends at the end of the fiscal year that we are in right now. This would extend the program for five years. Number two, it increases the limit on the construction cost of owner-occupied homes to \$325,000 and rentals to \$225,000. What we have absolutely seen happen over these last few years with the increased cost of COVID is the limit that we had set before, which was \$285-- \$285,000 for an owner-occupied house, is almost impossible to build now in our rural areas with the size of these, these homes. Number three, with the substantive changes, we worked with the DED and the other developers, and are proposing to lower the local match from what has been one-to-one to a, what is defined as a 50 percent match or \$1 from the local for every \$2 from the, the grant program from the state. Number four, it lowers the standard of oversight, financial oversight from an audit to a financial review. We've discovered that using an actual audit performed by a CPA is overkill, it's expensive for our communities to do, and there is a lack of CPAs willing and capable of doing audits in the prescribed amount of time that we've dealt with. And number five, it allows the department to make a determination relative to the cumulative amount an individual grantee may receive. I'm also introducing an amendment, which has been passed out to you. Interestingly enough, when we got going through this, as I mentioned in 2017, the original \$7 million came from the Affordable Housing

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Trust Fund. The current legislation states that, if there is any money left over that goes-- that is not used, it goes back to the Affordable Housing Trust Fund. That \$7 million has been used many times over. The \$10 million, the second time, came from general funds. I don't necessarily think that should go back to the Affordable Housing Trust Fund; that isn't where it came from. So we are clarifying that. The second thing is, when this went through Bill Drafters, we wanted to correct the language on the matching fund to make it absolutely clear that it is \$1 of local match for \$2 from the state funds. I would be happy to talk about the program, which I can do. We have a couple of people behind me that can tell you how they've actually used the program a little bit, and the success of that. This has clearly been a program-- DED would tell you it is one of, if not the most successful program that they've ever conducted. There's been a 15-1 return to the state on the money invested and is something that we need to continue because the need is still there. With that, I'd be happy to answer any questions that you might have. And I'll remain here to close.

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

LATHROP: Where are these houses getting built?

WILLIAMS: I could give you an exact list of where they are, but--

LATHROP: No, just generally.

WILLIAMS: --they're, they're all over the rural areas. The original 14 grants, the first time, the furthest west the first time was actually North Platte. The second grant of \$10 million went clear out to Scottsbluff. North, I've been to ribbon cuttings in St. Paul and north of that. South, Holdrege-- lots of communities that you would recognize the names.

LATHROP: So do we think that, that it is addressing worker shortage just because of the price range of the houses,--

WILLIAMS: I think what we're having--

LATHROP: --given the price range, that's going to be a worker, or is it bringing workers to the McCooks or the Scottsbluffs?

WILLIAMS: I think it's a combination, Senator Lathrop, of both. This, this is not to be confused with low-income housing or those kind of definitions. These houses are being built for the new nurse at the hospital, the new teacher that's recruited to town to fill those kind

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of jobs. One thing that we've clearly seen happen with COVID, that I don't like-- a factor that's happened-- we've seen higher levels of retirements in the medical community and higher incidence of retirement in the educational community. Those people are retiring, but they're still staying in their house, in the town where they worked. So the new teacher that's hired in Gothenburg to move in, can't find a house to live there. We had a situation in my district in Broken Bow this fall. The hospital hired a new head of one of their nursing departments. The young lady moved there, lived in the hotel for about two or three weeks, couldn't find a place to buy or live. Had the income to do it, nothing available. She left. Those are the kind of situations we're attempting to--

LATHROP: Are we limited, like we're not going to sell them except to somebody that's moving into the community or do you just think we-- this is the sweet spot for workers and the more of these houses we have, the more workers we're keeping?

WILLIAMS: One of the real beauties of this plan is that each community gets to tailor it to their own particular needs. And each plan-- and that's why the grants that have been approved have been a competitive grant that the Department of Economic Development has looked at the applications. So each community can choose what your target is. Almost all of the communities are using it in a revolving fashion. You don't have to. You could use your money for down payment assistance if you wanted to. We've seen that done in one of the first grants that was awarded in North Platte the first time. But since then, the revolving nature is what communities are looking at because it keeps growing. You can get that initial grant that you might-- for instance, the grant that my home community of Gothenburg received of the second go of this. They're building five homes right now. They're putting all of their money out there. But when they sell those homes, that money comes back in, and they'll be able to hopefully do four or five homes again next year, four or five homes the next year.

LATHROP: OK. Thank you.

B. HANSEN: Yes, Senator Gragert.

GRAGERT: Thank you. Just wondering, you know, what size of towns actually compete for this money? Because I got, I got, I got towns that are, you know, 1,200 people, some of the largest-- and probably without a grant writer, you know, to be able to get on top of this, this process. How does that money get distributed, when I'm hearing one, one community is getting four or five homes, and then turn around

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and get another? And I haven't seen that they've [INAUDIBLE]. I, you know--

WILLIAMS: Two, two things that are happening. There are organizations like South Central Development Corporation, that headquarters in Holdrege, that covers a broad spectrum of that part of the state. They have done single homes. They were the grant applicant. They received a grant, they are then using that. They've built a home in Holdrege, they've built a home in St. Paul, they've built a home in several other of those smaller communities. But to directly address your question, when we had our stakeholder meetings last summer and last fall, it became apparent that the DED was awarding the grants based on the application. It was, you know, it was-- they scored the applications, and they had more applications than they had dollars. Part of the problem was, some of our smaller communities, the ones that have talked to me, did not feel they could be competitive against the grants that were being written by others. You mentioned it. They didn't have a grant writer, they didn't have the organization. That is why we are proposing to lower the match. We think that is part of the problem, that if we lower that match to a 50 percent match, that will open it up more. The other thing I would tell you is-- and I'll go back because Gothenburg received an award the second time. I doubt if communities that received awards will be back in, asking for additional awards, because of how they're using it in a reuse manner. They have-- they're satisfying their needs with that, so they'll be continuing. I think the way we've redesigned the program, eliminated-- lowered the match, eliminated the requirement for the audit, and some of those things will have it so smaller communities will have the opportunity to apply and be successful.

GRAGERT: Are the monies-- or the money that-- just seems like a \$325,000 home in Creighton, that's one hell of a home. Are the monies competitive also on a lower, on a lower-valued home? Would that compete with monies and get this done?

WILLIAMS: The \$325,000 is the maximum. You can build-- you, you will hear that-- Mr. Mesner is going to talk to you, I think, about townhomes that they are building in communities for \$189,000. So the \$325,000 is, is a max number.

GRAGERT: All right, thank you.

B. HANSEN: Any other questions from the committee? I have one-- well, one small question. So the funding that we're getting for this program now, will that be kind of perpetual, like is there any concern that's

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like the, the fund that's being used to provide this money will not be there in the future? I can't remember if you said you were using ARPA money for this.

WILLIAMS: We are applying the two other bills, LB1070 and LB1071, both going to Appropriations. We're requesting \$20 million of ARPA money in one of those bills. This clearly qualifies, if you are using the money for infrastructure development-- streets, water sewer-- that falls under ARPA, and the economic damage issue. The Governor, in his proposal, put \$50 million actually to go to this specific program. I don't see any way that we can use that amount of money in the time that you have to get ARPA money out and spend it. So that's why we reduced that to \$20 million. On the other side, we are requesting \$30 million of Cash Fund money, so a total of \$50 million between the two to fund the program for a five-year period of time instead of-- and then again at that period. And again, if funds are not used, if they can't find homes for them, they, they come right back to the source that they were taken from.

B. HANSEN: OK. OK, thanks. All right. OK.

LATHROP: Can you clarify something?

B. HANSEN: Yes.

LATHROP: So if there's-- if this is for a five-year stretch, and you build five homes in Gothenburg, they sell them, they put the money back in the fund, is it-- so is this number each year? Or is-- what happens at the end of five years, because you've sold some homes and the money is coming back?

WILLIAMS: One, once--

LATHROP: Do we allow that to continue to be perpetually--?

WILLIAMS: Yes.

LATHROP: I got you.

WILLIAMS: Once it's in the hands of the, the nonprofit development corporation, they continue to use it. On the front end there isn't--

LATHROP: That doesn't end in five years.

WILLIAMS: Doesn't. That doesn't end.

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LATHROP: OK.

WILLIAMS: The, the act itself ends. Right now, if a, if a nonprofit development corporation is awarded a grant, they are required to fully spend all of that money within a two-year period of time. If they don't, that's when it comes back to the state, the original to the Affordable Housing Trust Fund with the amendment that I proposed, back to the state, to the general public.

LATHROP: Thank you.

B. HANSEN: Any other questions? All right. Seeing none, see you at close. We'll take our first testifier in support of LB1069. Welcome back.

ROBERT J. HALLSTROM: Thank you, Chairman Hansen and member of the Business and Labor Committee. My name is Bob Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as a registered lobbyist for the Nebraska Bankers Association, in support of LB1069. Senator Williams has covered most of the ground in my written testimony, but I would like to just focus and highlight, underscore the fact of what Senator Williams started out, that he indicated that this is his priority bill. The sunset that currently exists with regard to the Rural Workforce Housing Investment Act, is significant. We were in the hearing before the Appropriations Committee last week on LB1070, which would appropriate \$30 million for this particular act. Interestingly enough, the fiscal note had zero impact, and that is because the act will sunset and they may appropriate it, but it won't be spent. So it's vitally important, for that reason and others, to, to renew the act and to extend it for an additional five years. I think, if you look at, Senator Lathrop, with regard to your question, we have a specific example in Laurel, Nebraska, where a banker currently has two openings and there's only one house on the market in Laurel. And so those types of issues occur across the state and, and are problematic. Just by way of background, the Nebraska Bankers Association initially had put together a workforce housing task force back in 2015, and that task force had identified this very issue as one that was high priority. We worked on not only the Rural Workforce Housing Initiative, but other issues regarding tax increment financing and property tax assessments to provide beneficial changes to the state law to address these types of issues. In my testimony, I addressed some of the other issues. I think increasing the caps is important. We had problems that were identified under a 2017 UNO study that indicated that we were having trouble keeping pace with the need for workforce housing, high occupancy rates and the supply of new homes

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not keeping pace were the underlying reasons. And I would suspect that the pandemic supply chain issues and inflation have or only will exacerbate that problem. The matching grant issue, I think Senator Williams also identified as something that is necessary, particularly Senator Gragert, for the smaller communities, those serve to be impediments for full, beneficial use in some of the smaller communities, and we think that that will open up their ability to benefit from the program as well. The return on investment has been overwhelming with regard to this program, and we think it should be continued, and the funding that's going to come in from the Appropriations Committee. Hopefully, Senator Hansen has got one, one provision for some ARPA funds to go into a series of workforce housing projects; we're supportive of all of those, but this bill is the underlying bill that is of great significance to continuing the funding to do the good things that have been done to this point. So with that, I'd be happy to address any questions of the committee.

B. HANSEN: All right, thank you. Yes, Senator Lathrop.

LATHROP: Can I just ask this question? Why is the free market not taking care of this? Like, whoever is going to build these homes is a builder, right? So why, why does that builder not say, Gosh, they need a bunch of homes in Creighton, I'd better get up there and build five homes, and I will sell them all?

ROBERT J. HALLSTROM: I think, Senator, our identification of that issue, early on, was that it's a question of the supply and demand of contractors. And while I think we found that, while the contractors that are out in the rural parts of the state may have the capacity to build those occasional \$400,000 and \$500,000 and \$600,000 homes, and make good money on those types of homes, that the houses that are more in the sweet spot for the teachers that are coming into town, and the nurses and the younger couples, have to have a little bit of a jump start, if you will, in terms of this program being beneficial in helping out in those areas,

LATHROP: So if I'm building it under this program, am I making less?

ROBERT J. HALLSTROM: I--

LATHROP: Is their profit margin less? Or do I [INAUDIBLE]?

ROBERT J. HALLSTROM: I don't know that I can answer that question, Senator. I think it has provided the, the incentive, if you will, or the motivation for those houses to be built. And I would assume that,

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that the folks that are building those houses are not doing it at a loss. And there have been many innovative programs, as Senator Williams noted, that each community or each nonprofit can develop and innovate to provide different types of incentives for the contractors that make it, make it work. And I think that's what's happening.

LATHROP: Are the contractors coming out of Omaha and Lincoln [INAUDIBLE]?

ROBERT J. HALLSTROM: I think some of them, some, some of them are, Senator, and I think that's, that's what, what makes it work because you still have the potential for a, for a lack of contractors outstate, unless it's, it's, it's worthwhile for those contractors to make it work.

LATHROP: OK. I, I know this is the big problem all over the state, particularly in rural parts where you're trying to grow a community, and you can't bring people in 'cause there's no housing. So I get it. I just--

ROBERT J. HALLSTROM: And we've got middle-income workforce housing in, in the nonrural areas, which I think is filling a need, as well.

LATHROP: OK, thank you.

B. HANSEN: Any there any other questions from the committee? All right, seeing none. Thank you.

ROBERT J. HALLSTROM: Thank you.

B. HANSEN: I'll take our next testifier in support. Welcome.

KORBY GILBERTSON: Good afternoon, Chairman Hansen, members of the committee. For the record, my name is Korby Gilbertson; it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Realtors-- Nebraska Realtors Association and also the Home Builders Association of Lincoln and the Metro Omaha Builders Association coalition-- say that in one breath. I wanted just to start by first thanking Senator Williams because he has been spearheading this project, and it has, in fact, turned into an extremely successful project for the state of Nebraska. When you look at, statewide, what it's been able to do as far as a return on, return on investment and really helping out with providing the ability for builders to do projects like this-- rural areas, I don't think you could find anything that's worked better. So-- and it will provide a benefit for the state for years to come. I'm not going to repeat

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everything that Mr. Hallstrom said, but I will try to address Senator Lathrop's question. What Senator Hallstrom said-- Senator Hallstrom, [INAUDIBLE]. What Bob said was that it is difficult for the free market to take care of this because builders simply can't afford to take the risk. So especially in light of the costs of building out in rural areas and then, especially with the pandemic and the massive increase in the cost of inputs, many builders have had losses because they can't-- once, you know, you sign a contract to build a house for somebody and all of a sudden the drywall quadruple, drywall quadruples in price, you can't then go ask for the contract price to raise, to be raised. So this grant process at least allows them to re-- become, remain whole. I don't think anybody's getting rich off of these projects. And to answer your question about our builders coming out of Lincoln and Omaha, yes, some. But from what I have heard out there, every single contractor in the vicinity that is able to work on these projects is part of the project. So it's not taking anything away from the open market, but it's helping everyone in that area to benefit from the projects. So with that, I'd be happy to try to answer any other questions.

B. HANSEN: Are there any other questions for the committee? All right. Seeing none, thank you.

KORBY GILBERTSON: Thank you.

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

CLIFF MESNER: Senator Hansen, members of the committee, my name is Cliff Mesner, C-l-i-f-f M-e-s-n-e-r. My wife and I are the owners of Mesner Development Company. I'm here to represent that, but I've also been asked to speak on behalf of the Housing Developers Association. And I would just like to read into the pair-- into the record, a statement that they asked me to read: The Nebraska Housing Developers Association is a membership organization with over 70 members from across the state. Our mission is to champion affordable housing. It is our goal that Nebraskans of every income have the cornerstone foundation of a healthy and affordable home. Our members include both nonprofit and for-profit developers and organizations. Our organizations support the update and changes to the Rural Workforce Housing Investment Act, as provided in LB1069. The current housing market throughout our state is making it difficult for workers of all income levels to find decent housing. The extension of this investment to Nebraska housing development for our rural areas is essential. The change that will allow the fund to be used more easily by our smaller communities are a good improvement to the program. We ask that you

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advance LB1069. That came from Carol Bodeen, from the Housing Developers Association. I'll skip around here just a little bit. Our company is doing its eighth and, possibly, its ninth rural workforce housing program at this time.

LATHROP: Will you speak up just a little bit? That fan is blowing, and it's hard for me to hear you.

CLIFF MESNER: OK.

LATHROP: If you don't mind.

CLIFF MESNER: I will try. I have some, I have some hoarseness in my voice. Our company is doing its eighth and, possibly, its ninth rural workforce housing project right now. We are doing projects that simply could not have been done without rural workforce housing funds. Housing is more critical today than it's ever been. The senator talked about the fact that we've had 50,000 unfilled jobs for a decade. Now we're facing problems because we have rapidly rising costs, and we're going to see rising interest rates, and that's going to make it more and more difficult to get housing done. The magic of this program has been its flexibility. We've been able to use the same program in Pender, Nebraska, and in Hastings, Nebraska. The housing that we've built in Schuyler is for a very different group than the housing we've built in Aurora. But this program has the flexibility to do that, and that is magical because most of the government programs that we do, you're trying to find out how to make that box work in your community. This program is based on the concept that the people in the community know best what they need, and it doesn't get in-- the program doesn't get in the way. It is, without a doubt, the most effective program I've seen for workforce housing in the 30 years that we've been doing this work. There are a couple of things that I want to stress. Communities are still out there raising money. I've spoken to five communities in the last three weeks that are trying to gear up for this, trying to get ready for it. They're excited about this program because it no longer looks like a one-time shot. And a lot of them are saying, Well, it's a lot of money. You're going out, you're asking people to put money into the pot. And if you can't raise the money then-- or you don't get it funded, then it's embarrassing and it's a waste of time. Now they're taking an approach of, if I don't get it this year, we'll get it next year. So they're starting that process and they're starting to work into it with the idea that they can, can make it work. The other thing that I'm seeing that's happening, that I think is really exciting, is that the employers are getting much more involved. I'll give you an example. In Schuyler, the first go round,

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Cargill put \$200,000 into the program, and that was based on some money that they kind of felt they owed the city anyway. So when it came around the second time, the people at Cargill, the people in Schuyler went to Cargill and said, would you put some money in? And they looked at what happened the first round and said, we'll put \$500,000 in this time. And they stepped up. We have a community out west that has a very large employer that needs help in that community. We were trying to talk to them about helping them raise some money and their response was, no. We're the largest employer, we'll be the largest contributor. We will raise the rest of the money for the community. And they've stepped up and done it. They see this program as locally controlled by a group in which they have a representative, the development corporation-- they have a member there-- and it has state guidance. And they really like that combination, and it's become inviting for them. That's the first time they've had an opportunity to really participate in workforce housing. I think my time is up. I'll be happy to answer any questions.

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

CLIFF MESNER: Senator Lathrop, if I may, I'd like to speak to your question about why some of this stuff isn't happening without the program. And one of the key issues, from our perspective, is risk. When we do these, my wife and I go to the bank, borrow the money, sign a note, and personally guarantee the construction in these eight communities. And sometimes we're, we're building things that don't appraise out. In Schuyler, we were building an apartment that cost \$2.5 million and it appraised at \$2.2 million. So it's hard to go to the bank and borrow that money and take that risk. Are we willing to go to Schuyler and build a house or build an apartment and not make any money on it? Yes. Are we willing to go to Schuyler and build an apartment and risk my own home? No. So what we've made the communities do has put this in as a second loan, non-recourse. We're saying don't give the money away, but you've got to put it at risk because that's what entices people to go in and move forward, is reduce the risk that we, as developers have to take.

LATHROP: Thanks for your answer to that question.

B. HANSEN: All right. Thank you for your testimony. Anybody else wishing to testify in support? All right. Is there anybody wishing to testify in opposition to LB1069? OK. Seeing none, is there anybody who wishes to testify in a neutral capacity? Senator Williams, you are welcome to close.

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WILLIAMS: Well, thank you, everybody, for your attention to this, this issue. I appreciate Cliff Mesner addressing your question, Senator Lathrop. It, it has to do with speculation and risk. If a community is fortunate enough to have lots that are available, infrastructure there, and a local developer that can do it, that's still the best way. Problem is, there's very little of that available right now where that situation is there. And it has that development context, it has to happen. If that person were there to do that, why would a community raise their own grant money to do this? You wouldn't need to. But that simply doesn't happen, and that's, that's our problem right now. It's hard enough to find contractors, but it's virtually impossible to find the developers that will do this. One of the beauties of this program is the nonprofit development company that is there can risk some of this money. They can buy the land, put in the infrastructure to develop the lots, and then hire a contractor to build the house. So what we're looking at today, we clearly have this continuing need that we have seen before. We have a proven method with the Rural Workforce Housing Grant Act program, and LB1069 simply makes these changes that we're asking you to make, to update the plan to be more serviceable, and extends the date to the end date. So with that, again, this is my personal priority. I hope you will move it forward as quickly as possible, and I'd be happy to answer any additional questions.

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

WILLIAMS: Thank you.

B. HANSEN: And just to make sure, I've got some position comments, four in support: one from Michelle Weber, representing Nebraska Economic Developers Association; one from Eric Hallman, representing the Nebraska Independent Community Bankers; Gary Person, representing the North Platte Area Chamber and Development Corporation; and Rocky Weber, representing the Nebraska Cooperative Council, Council. All right. With that, then we will close the hearing on LB1069, and open up on-- for LB1098. And welcome, Senator Halloran.

HALLORAN: Good afternoon. I'm sure we're all excited to wait this long in a hot room to talk partially about boilers. Good afternoon, Chairman Hansen and members of Business and Labor Committee and thank you for this hearing. For the record, my name is Senator Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. LB1098 is a technical cleanup bill brought to me by the State Fire Marshal. LB1098 makes changes in four key areas. One, first area makes changes to the language of the open burning

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permit. Second areas-- area addressed is the submission of paperwork for the water-based fire protection system program. Third, it makes changes to the Boiler Inspection Act; and fourth, updates the Conveyance Safety Act. Following me will be in the State Fire Marshal, Christopher Cantrell, who will explain each of these items in detail. He can answer any questions you may have. I don't think there's anything really controversial in here, but if you want to pick a fight, pick a fight with this guy. I thank you for your attention and hopefully your support for LB1098. I'll attempt to-- if there's questions. Yes?

B. HANSEN: Yes, Senator Lathrop.

LATHROP: I have one for you. So in Section 1, when they talk about the fire chief of the local fire department, they waive an open burning ban. Is this the same process that people apply for when they want to burn their fields or are we talking about burning something in the trash barrel?

HALLORAN: Well, I would suggest-- and I may be corrected later, but I would suggest it's any, any open burning of any kind.

LATHROP: OK. We had a bill in the Judiciary Committee dealing with those--

GRAGERT: Prescribed burns?

LATHROP: --field burns. Yeah.

GRAGERT: Prescribed burns?

LATHROP: Yeah, prescribed burns. And I just wondered if we're talking about the same thing here.

HALLORAN: Well, we'll find out, we'll find out.

LATHROP: I'm sure that will be answered in the testimony to follow.

B. HANSEN: All right, any other questions?

LATHROP: Thank you, Senator Halloran.

B. HANSEN: All right, seeing none, thank you. We'll take the first testifier in support of LB1098. Welcome.

CHRISTOPHER CANTRELL: Thank you. Good afternoon, Chairperson Hansen and members of the Business and Labor Committee. My name is

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Christopher Cantrell. C-h-r-i-s-t-o-p-h-e-r C-a-n-t-r-e-l-l, and I am the Nebraska State Fire Marshal. I'm here today to testify in favor of LB1098 and I would like to thank Senator Halloran for introducing this bill on my behalf. LB1098 contains four major areas affecting operations within the State Fire Marshal Agency. First, I would like to discuss the requested changes to the language regarding the open burning permit. Currently, the agency produces, purchases, and distributes a paper permit to all fire departments upon request so that the fire departments may waive the open burning ban for bonfires, outdoor rubbish fires, and fires for the purpose of clearing land within their fire districts. Many of these departments also have additional permitting requirements for open burns within their jurisdictions. The bill requires the agency to develop a model permit that lists minimum requirements for open burning permit content. This model permit will be accessed and utilized electronically by any department if they so choose. The changes proposed in LB1098 will allow each department to develop a more efficient open burning permitting process that meets each department's specific needs. The second section of the bill addresses the submittal of paperwork to renew certificates required by the water-based fire protection system program. Currently, individuals holding certificates are required to submit an annual renewal application to the agency 30 days before their certificate expires. The agency is requesting that the time frame to submit a renewal application be reduced from 30 days to 10 days to allow the submitters more flexibility. The agency now uses more effective and efficient electronic processes, making the 30-day time frame unnecessary. Section 3 of the bill addresses amendments to the Boiler Inspection Act regarding exemptions for certain types of boilers. Improvements in technology, engineering, controls, and safety devices for these types of boilers have made them safer. These more easily understandable exemptions, which apply to all units in the state, will make compliance easier for boiler owners, installers, and users. Passage of this expanded exemption will result in approximately 600 fewer boilers being inspected on an annual basis and will result in about 200 fewer new install inspections annually across the state. And the final section of the bill addresses updates to the Conveyance Safety Act. This section makes changes to the role of the conveyance advisory committee and allows for the use of an equivalency process rather than a variance process. An equivalency process will allow customers to propose alternative methods of construction and installation that will achieve the same level of safety compliance that is required by the adopted codes and standards. There is also a change to clarify that stairway chairlifts and platform lifts in noncommercial buildings are exempt from inspection requirements.

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Lastly, this section updates the information applicants for an elevator mechanic or elevator contractor license must submit to reflect industry updates. Thank you for your time today. I would be happy to answer any questions the committee may have.

B. HANSEN: Thank you. Yes, Senator Lathrop.

LATHROP: What did you just say we're going to exempt from inspections?

CHRISTOPHER CANTRELL: For the Boiler Inspection Act?

LATHROP: No, I think it was the conveyance. Do you say manlifts or-- what was--

CHRISTOPHER CANTRELL: Stairway chair lifts and platform lifts. So the stairway chair lifts would be the chairs on the side of stairs to help mobility-limited people--

LATHROP: Ones they advertise on TV?

CHRISTOPHER CANTRELL: Yep, they go up the stairs. And then also the platform lifts are those where someone in a wheelchair would wheel onto those and they would be able to go up, specifically designed for that purpose. So we're exempting-- we're clarifying the exemption that currently exists to say that we are exempting those in noncommercial settings.

LATHROP: So if I have a family member that is wheelchair bound and I have one of these lifts that get them up to the driveway and then-- or the front porch and it lifts them up, is that what we're talking about?

CHRISTOPHER CANTRELL: That is what we're talking about, that those would be exempt, as they're installed at a private residence. Those would be exempt from inspection and they currently are exempt from inspection.

LATHROP: OK, so that's nothing new?

CHRISTOPHER CANTRELL: The new--

LATHROP: Why is it in the bill if we're already-- if it's already the case?

CHRISTOPHER CANTRELL: We're reducing the exemption to only have those be exempted. We're actually-- where the public can come in and

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interact with these devices, those devices would now be subject to inspection.

LATHROP: OK. Thank you.

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

GRAGERT: Thank you. Thank you for your testimony. Going back to paragraph one and just clarify-- I was familiar with-- unfamiliar with prescribed burns where they--

CHRISTOPHER CANTRELL: Correct.

GRAGERT: --like clearing cedar trees. Where-- may be waived-- may waive the open burning ban. So there has to be a, like, maybe a drought or a dryness going on that you ban that type of thing or--

CHRISTOPHER CANTRELL: Open, open burns are permanently banned in the state of Nebraska. The open ban-- open burning ban is in effect at all times under, under our statutes and currently fire chiefs waive those open burning bans for the outdoor rubbish fire-- fires, the bonfires, and the purposes of clearing land. The semantics that we have to get into is there's range management burning specifically to develop or prepare a field in a certain way or to, to remove nuisance vegetation or there's the rate-- the burning, the open burning that occurs when a landowner just simply wishes to clear the land of the vegetative matter that's on there. So the first three that we're talking about are the open burns, the bonfires, the rubbish-- outdoors rubbish fires and that means where they're putting all the vegetative matter into a pit and burning it and then the those for clearing land. The range management burning is handled under a different section of our statute and then those permit requirements are much more detailed where we have to have, you know, we have to have crew bosses and a real plan. How are you going to keep that fire on your land and all of those things that go along with the larger, typically much larger and more involved fires that are involved with the range management burning.

GRAGERT: So you just-- you require a burn plan along-- to, to get a burn permit.

CHRISTOPHER CANTRELL: We require that the local fire chief, who is more intimately familiar with that--

GRAGERT: Right.

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CHRISTOPHER CANTRELL: --location issue the burning, the open burning permit--

GRAGERT: Gotcha, thank you.

CHRISTOPHER CANTRELL: --for these items. But it's entirely separate from ranch management burning, which you both heard the other day.

GRAGERT: Yeah, I don't-- it really hasn't changed the requirements from earlier then to get a burn permit to go out and burn your--

CHRISTOPHER CANTRELL: We're just--

GRAGERT: --rangeland for cedar tree control.

CHRISTOPHER CANTRELL: Right, so your rangeland permit is in the other section of our statute where they're talking about-- what they were talking about, I believe it's a liability issue where that was being discussed. It's totally separate. The fire chief still has to be involved with that. The fire chief still has to, to approve that, but that is not the subject of this bill.

GRAGERT: All right.

CHRISTOPHER CANTRELL: The subject of this bill is for that waiving the open burning ban and it doesn't change the direction or the authority therein. We're getting rid of our triplicate permits and we're allowing the fire departments, instead of having to use those triplicate permits-- so you have to push hard to get through all three-- we're going to create the model permit, allow them to adopt that model permit, and then tailor it to meet their needs as long as it contains our minimum requirements.

GRAGERT: Thank you.

B. HANSEN: Any other questions from the committee?

LATHROP: [INAUDIBLE]

B. HANSEN: All right, seeing, seeing none, thank you for your testimony, appreciate it.

CHRISTOPHER CANTRELL: Thank you.

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

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JERRY STILMOCK: Chairperson Hansen, members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, testifying on behalf my client, the Nebraska State Volunteer Firefighters Association, in support of the legislation, LB1098. That part, of course, is in Section 1, which you most recently have been discussing with the Fire Marshal. OK, so there is another bill over in Judiciary that that committee is dealing with. Senator Cavanaugh introduced it and it's a little bit reversed. Just to put it in context, it's important for your discussion. That bill would require all of the 490 fire departments to submit their burn permit application and actual permit to the Fire Marshal's Office for the Fire Marshal to have to review all those, see if they meet the requirements of, of the office, and then send it back to the department for their use. So this is much better in our belief and opinion. The Fire Marshal will put together-- I'm just going to hypothetically say five items of bullet points that they have to be included in that burn permit in order to be approved, the information from the applicant. Those five items have to be approved. If that local department wants to add item six, seven, and eight, they'll be able to do that on their own, but that base is going to come from the Fire Marshal. Pretty, pretty clean, great idea. What's the other thing it does? Some areas are able to handle email electronically. Others, because of everything else you know about broadband and where it's good and where it's bad in parts of the state, it fails. So that may not be the answer, but it would be up to the individual department to say whether or not it's going to be in writing or whether it could be submitted and approved electronically. In parts of the state, electronically is going to be great. Other parts, it's, it's not going to work and actually, I had a group call me before the, the bill in front of Judiciary Committee was-- Senator Lathrop's committee-- say, oh man, we don't like this law because we don't have the ability to do this electronically. And so this, this allows the department to decide how they're going to submit it. Think in terms of your predecessor. Senator Dubas was the last one to touch this legislation back in the '90s and before her, it was Senator Wickersham. Senator Wickersham, of course, realized that where he was at in the northwest part of the state-- for context, he's the one who brought in the rangeland area, the requirements of barometric pressure and humidity and all the different elements of wind and all the elements that were so critically important. This is a really big deal to the volunteers. It's a really big deal-- and to a career as well in that-- in those parts of the state. Think Grand Island, think Norfolk, even Omaha with the-- rural settings, suburban areas of Omaha. I'm always amazed at the number of departments, excuse me, the number of reports of Omaha fire out-- putting out a fire that got away from--

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you know, from crops or from CRP grants. So the last point I want to share, CRP, how often does this happen? And senators, you've asked questions of what does this apply to? It applies to everything, whether it's, you know, a farmer putting together waste trees and piling them up for five years, letting them dry out. Yes, burn permit applies. If the, the farmer or the landowner has a contract with USDA through the Department of Ag ten years, CRP program every five years, we know that farm-- that landowner has to burn that off every five years. So this would be where this, this permit would be very helpful and of benefit to the volunteers. Senators, I've exhausted my thoughts. I hope I've helped a little bit and I ask you to advance the bill. Thank you.

B. HANSEN: Thank you. Are there any questions from the committee? OK, seeing none--

JERRY STILMOCK: Very good. Thank you, senators. I appreciate your time.

B. HANSEN: We'll take our next testifier in support. Anybody else wishing to testify in support? Seeing none, is there anybody wishing to testify in opposition to LB1098. Welcome.

JOSH JOSOFF: Chairman Hansen and the rest of the Business and Labor Committee, thank you for your time today. My name is Josh Josoff, J-o-s-h J-o-s-o-f-f, and I represent the elevator constructors in the state of Nebraska and that is 90 percent of the men and women that work either install, maintain, repair, or service elevators across the state of Nebraska. The first part of the bill, I really have no input on or no knowledge base on it as far as the boilermakers or the fire. But when it comes to the Safety Conveyance Act, I do consider myself a bit of an expert and I've been around since it was first introduced and it used to be under the Department of Labor. Recently, it's changed hands under the State Fire Marshal, which we were completely on board with because we think it is part of public safety. I have two major issues with, with this bill-- the way it's written. And my first part has to do with the licensing disciplinary actions, and I feel it's taking away power from our conveyance board. So under the Safety Conveyance Act, you, you have a board of experts, so to speak, and they're the ones that are going to give their-- they're going to advise the State Fire Marshal with their opinion on, on this bill. State Fire Marshall wears a lot of hats and so while he's a very sharp person and knows a lot, maybe not an expert in our industry and so he would take advisory from that committee. The first part I have an issue with is it says that "the State Fire Marshal shall adopt and

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promulgate rules and regulations for the procedure to obtain a variance. The committee shall make recommendations to the State Fire Marshal regarding each variance requested." The other part that's kind of in the same realm right here, the committee is crossed out and it says "within fifteen days after the hearing, the committee shall make recommendations to the State Fire Marshal or his or her designee of appropriate penalties, if any, warranted under the circumstances of the case. The committee does not have the power to suspend or revoke licenses or impose civil penalties." And then the State Fire Marshal, after their advisement, would, would make the decision. So he's basically-- we're trying to cut out the committee on this and, and the State Fire Marshal would unilaterally be able to make the decision on this. So we have to ask why? He already gets the decision, the final say in why-- and the only thing I can come up with is when a board of experts makes an opinion or a decision on something and they tell you this is, this is the way we would like to see you go, it's hard to make a 180 degree difference of opinion on the record against what the board says and that you would unilaterally like to make the decisions. So I have a really hard time with, with-- and nothing against the State Fire Marshall Cantrell right now. He's a great person. My job is to enforce, for, for the long, foreseeable future, whoever wears that hat and, and so whoever has that, I think, would be wise to garner counsel from the committee in front of them when they're making their decisions and then to scratch that out makes no, no sense to me. The other part of this, it gets into third-party inspections. So right now, the Nebraska inspectors that fall under the Nebraska State Inspection Program that falls under the State Fire Marshal goes out and does the conveyance or the testing of elevators across the state of Nebraska annually. They do not have enough inspectors to meet their needs right now and so the state has went to third-party inspecting to helping them. I don't like third-party inspecting, but if we did go down this road, I would like some safeguards put in place because right now, third-party inspectors are incentivized to-- the more inspections they get done in a day's time, the, the more, the more money they make. And, and I would like it to be, I don't know, structured in a way where there's some safeguards put in place with all this. And so I would rather see more state inspectors hired, that manner, but the way it's written right now, there's no safeguards in place for the third-party inspectors right now. We've had times before where we've had third-party inspectors doing 25 inspections in, in a day's time. And coming from my world, you're not doing your job. You're "pencil-whipping" that stuff is what we call it, and you're just filling in the blanks on some paperwork. Thank you for your time.

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B. HANSEN: Thank you. That's the first time I've heard the term "pencil-whipping." Yeah, I've never heard that term before. Are there any questions from the committee?

LATHROP: I got one.

B. HANSEN: Yes.

LATHROP: So are they doing 25 elevators?

JOSH JOSOFF: Yes.

LATHROP: Like when I think elevators, I'm thinking over at the Cornhusker Hotel and it goes up ten floors. They're inspecting those that quickly?

JOSH JOSOFF: Yeah. So, so-- I mean, we have all kinds of elevators, right? We have two-story elevators to 10, 20, 40-story elevators in the state of Nebraska and they all could take different amounts of time. But even if you took the simplest of elevators, like a two-story elevator, most of the time, there's like one or two in a building, so you're going to be driving to multiple buildings throughout a day. You are not doing a proper inspection and it's putting the safety of every Nebraska [SIC] in jeopardy when, when you're doing that.

LATHROP: Thank you.

B. HANSEN: All right, thank you for your testimony today. Thank you. All right, is there anybody else wishing to testify in opposition? All right, seeing none, is there anybody who wishes to testify in a neutral capacity? Seeing none, Senator Halloran, would you like to close?

HALLORAN: This is one of those occasions where I wish we would start with-- and, and I respect your testimony very-- he did a very nice job-- where we would start with the opposition first. And you can never tell, you know, from bill to bill, which, which order that might be best. But in this case, there were some questions raised and I wished I could bring up Mr. Cantrell for a counterpoint in front of you all. But, but just in the meantime, he and I and Mr. Josoff will have to sit down and iron out some of these questions and get back to the committee. But in the meantime, that's not to discourage you from execing on LB1098.

B. HANSEN: All right.

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LATHROP: Oh, I don't know if I'm being discouraged.

HALLORAN: No, it's not encouragement. We'll make it better, but--

LATHROP: It feels like it, though.

B. HANSEN: Is there any questions from the committee.

HALLORAN: That's enough from the popcorn section.

B. HANSEN: All right, seeing none, thank you, Senator Halloran. That will close our hearing for LB1098 and it will close our hearing of the Business and Labor Committee for today. Thank you.