

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 5, 2024

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**RIEPE:** So at 1:30 I'd like to get started on time. We have more than a quorum and so we're in good shape. We only have to have a quorum for the vote. We don't have to have it to have the meeting. But today is the 5th day of February, I am Merv Riepe, I'm Chairman of Business and Labor Committee. My district is the Omaha, metropolitan area. It's District number 12. I'm going to start with self-introductions. I was going to wait until maybe the end when the others will arrive, but I'd like to go ahead and get started and I'd like to start with the good senator here to my far right.

**BLOOD:** Oh, is there somebody else sitting here?

**RIEPE:** Yeah.

**BLOOD:** Good afternoon. Senator Carol Blood. I represent District 3, which is part of Bellevue and Papillion, Nebraska.

**HALLORAN:** Good afternoon. Senator Steve Halloran, District 33, which is Adams, Kearney, and Phelps County. Kearney, not to be confused with the town of Kearney, but the county of Kearney.

**McKINNEY:** Good afternoon. Senator Terrell McKinney, District 11, north Omaha.

**HUNT:** I'm Megan Hunt and I represent District 8 in the northern part of midtown Omaha.

**RIEPE:** And the other member of our committee is Senator Ben Hansen who should be here momentarily. The research analyst for the committee is Micah Chaffee, he's a law graduate. And also our committee clerk is Logan Walsh. And please share your name.

**CAMERON LEWIS:** Cameron.

**RIEPE:** Cameron. Cameron, last name?

**CAMERON LEWIS:** Lewis.

**RIEPE:** Cameron Lewis from Omaha. That I know. My request would be is that you please silence all phones, beepers, or other distractions to this hearing. Today, and before each hearing, all bills will be heard-- will be posted outside the hearing room and heard in the order

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posted. On each of the tables near the doors-- in this case, singular-- one door, not the back door-- you will find green testifier sheets. If you intend to testify today, please fill out one and legibly print all information and hand it to the page when you come in to testify. This will help us to keep an accurate record of the hearing. If you are not testifying at the microphone but want to go on record as having a position on a bill being heard, there are white sign-in sheets in each-- in the entrance where you may leave your name and other pertinent information. Also, I would like to note if you are not testifying but have a position letter to submit, the Legislature's policy is that all letters for the record must be received by the committee by 8 a.m. on the morning of the hearing. The senator introducing the proposed legislation will first present and will be given the time needed. The purpose of the recorded record-- we ask for each presenter to state one's name, spelling it, and state who you represent. Senators who serve on the committee are encouraged to ask questions for clarification. That said, the presenter and those testifying are not allowed to ask questions of the senators serving on the committee. I will add, too, senators may have computers or laptops at their disposal regarding the hearing so please understand they are paying attention. In the Business and Labor Committee we will use the light system to promote maximum engagement of those wishing to express positions as proponents, opponents, and neutral. Each testifier will have 3 minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have 1 minute remaining. And when the light turns red, it is time to pull your thoughts together and to conclude your testimony. And I may find it-- I will try to gently ask you to pull your final thoughts together. The 3-minute rule may change based on the number of people wanting to speak on each bill. As Chair, I will seek to hear citizens who have traveled some distance to each hearing. We will also acknowledge letters received from all concerned parties. We have a strict no-prop policy in this committee. Should you have handouts you wish to share with the committee members, please provide 10 copies or ask our page to make copies. Please be aware that any handouts submitted by testifiers will be included as a part of the official record as exhibits. The pages-- a page will then distribute any and all handouts to the committee senators. Following all proponents, opponents, and neutral testimony, the bill presenter is offered an opportunity to, quote unquote, close with final remarks. As a committee, we will work diligently to provide a fair and full hearing. We will make every

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effort to accommodate special needs. Short of an emergency, this committee will not take action on a bill the day of the hearing. At this hearing, we will ask you to be respectful of the process and to one another. With that, I will ask Senator Hansen to share with us his district or whatever you'd like to say.

**HANSEN:** Whatever I'd like to say?

**RIEPE:** Well, within 3 minutes, turn on the light.

**HANSEN:** OK. Senator Ben Hansen, District 16, which is Washington, Burt, Cuming, and parts of Stanton County.

**RIEPE:** Very good. With that, we will begin today's hearing with LB961 and we welcome Senator Dungan. And if you would, kind sir-- you've been to enough of these, you know-- your name, spell it, and then the show is yours.

**DUNGAN:** Thank you, sir. I appreciate the reminder. I'm still new enough, I forget sometimes. Good afternoon, Chair Riepe and members of the Business and Labor Committee. I am Senator George Dungan, G-e-o-r-g-e D-u-n-g-a-n. I represent District 26 in northeast Lincoln and today I'm here to introduce LB961. The purpose of LB961 is to prohibit non-compete agreements for employees making less than \$100,000 annually. A non-compete agreement between an employer and an employee restricts the employee from performing any work for another employer for a specified time or another employer in a similar field or market. If adopted, LB961 would forbid employers from including a non-compete clause in the employment contract of any employee who makes less than \$100,000 a year, and would hold any non-compete agreement entered into after the effective date to be void and unenforceable. Those in support of non-compete clauses often argue that they help companies protect intellectual property, maintain their customers, and incentivize investments in employee training. While non-competes may have these impact, there are-- there are alternatives to non-compete clauses that would have the same impact without compromising an employee's mobility. An employer could include a nondisclosure agreement in the contract to protect intellectual property or a non-solicitation agreement that prohibits a former employer from soliciting customers of their previous employer. These alternatives to non-competes allow employers to protect their business interests while protecting the interests of employees. Additionally,

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non-competes have had significant adverse side effects. Research has increasingly shown that non-compete clauses depress wages, and that wages go up when an area bans non-compete clauses. An analysis by the U.S. Department of Treasury in 2016 found that stricter non-compete enforcement leads to lower wage growth and lower starting wages. As the cost of living rises, we must ensure Nebraskans have access to high-paying jobs, and we can help by removing restrictions that depress their wages. On top of depressing wages, non-competes have been shown to limit the amount of workers applying for jobs. Nebraska is facing drastic workforce shortages, with 89% of employers reporting difficulties hiring enough staff to fulfill their needs, and 91% of those employers listing a lack of applicants as the primary problem. Banning non-competes would increase the pool of individuals applying for new jobs, helping to alleviate this issue for employers. One area that we've seen this in particular is rural healthcare systems. Often, doctors and nurses in these areas sign non-compete clauses with a geographical provision, meaning they either have to work at the facility they're currently employed at, or move out of the rural area to work in healthcare. Doctors and nurses who wish to move to a new facility or start their own could stay in these rural areas and increase access to care in these healthcare deserts by prohibiting non-competes. Non-compete agreements negatively impact urban healthcare workers as well. If a doctor or nurse has a non-compete agreement with their employer, that would bar them from picking up a shift at a local clinic or family practice. This removes a valuable tool in their ability to care for the families and communities. Five states have banned non-competes entirely: Colorado, North Dakota, Minnesota, California, and Oklahoma. Several other states are considering banning non-compete clauses. Over 20 states have some sort of restriction on non-competes, such as prohibitions on non-competes for certain industries or prohibitions on non-competes for low-wage workers. On the federal level, the FTC is considering a rule that would ban all non-compete agreements completely. I would also note this bill does not have a fiscal impact. This concludes my opening testimony on LB961. I'm happy to answer any questions you might have.

**RIEPE:** Thank you. Are there questions from the committee? You're not going to get off that easy, I have a couple questions. My first one, I guess, is do doctors and nurses really qualify as low-income?

**DUNGAN:** I think it depends on what the actual wage is. Certainly with cost of living increasing over time, I think we see low-income

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changing and shifting. And I think it also depends on where you live. The \$100,000 threshold and cutoff-- I mean, I don't want to say it's arbitrary because it's not, right? We're trying to delineate between high-income and lower income. But the whole concept here is that lower-income workers generally have a higher need to look at other places of employment. And, for example, the American Medical Association has come out nationally saying they are against non-compete clauses. The issue with that is you'll have nurses or doctors, sometimes in one hospital, who want to go pick a shift up at another hospital, but by virtue of the contract they've signed, it says they can't do that. So, say, here in Lincoln you're working for Bryan and you are a nurse, and you want to go pick up a second shift over at St. Elizabeth's; if that were in your contract, you'd be unable to do that. So that's kind of where it links back to the workforce shortage issue.

**RIEPE:** The other question I would have is if there was consideration given to them that would make their argument null and void.

**DUNGAN:** When you say consideration, in the contract?

**RIEPE:** Yeah, in the contract. If, if their-- if their non-compete agreement has provisions for consideration that says that, you know, we'll give you \$50,000 [INAUDIBLE].

**DUNGAN:** I think that part of the difficulty-- well, two things about that. Part of the difficulty here is you can't necessarily monetize the difficult issues that you'd have with regards to trying to have a geographical provision be worked around. This is important to say, and I kind of want to just preempt, I think, some of the testimony we're likely to hear from opponents. In Nebraska, the Supreme Court case law is fairly clear that currently, non-compete clauses are generally unenforceable. There are certain criteria that they have to look at to determine whether or not a non-compete clause is enforceable. This bill seeks to essentially codify current practice that's performed by the Supreme Court. I think there's a conflation of terminology here. A non-compete clause is different than a non-solicitation agreement. And so what we're seeking to ban here are parts of contracts that specifically say you cannot go work in this field of employment. But this does not seek to say you cannot solicit employees from that prior employer. And so I think that's an important delineation to make that we might hear from some of the testifiers here. I'm happy to answer

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more questions about that in closing, but I wanted to make sure I got that in there as well.

**RIEPE:** OK. Are there any other questions? Hearing none, thank you very much. Will you be around for closing?

**DUNGAN:** I-- probably, yes.

**RIEPE:** OK. Thank you. Do we have proponents? Thank you for being here. If you'd be kind enough--

**JOSEPHINE LITWINOWICZ:** Thank you, too.

**RIEPE:** --state your name and spell it and then--

**JOSEPHINE LITWINOWICZ:** All right, Senator-- Chairman Riepe and members of the committee. My name is Josephine, J-o-s-e-p-h-i-n-e, Litwinowicz-- legal name Vincent-- Litwinowicz, L-i-t-w-i-n-o-w-i-c-z, and I represent the Higher Power Church. I put it on the sheet every single time, but I never mention it. Anyway, I think this bill-- I think non-compete agreements are mean. I think they are not-- they're not productive as far as the overall capacity and production of the workforce and in my particular-- in the low-wage workers that do my healthcare. And we, we just, you know, in the past, you just blow it off. You don't tell them, because otherwise it's so problematic for some to make enough money. I mean, I can tell you about my own personal situations in recent history but, you know, I'm not-- obviously not going to go into that. If you want to ask, you can. But it is-- it's nasty. It's actually mean. You don't see CEOs signing non-compete agreements or upper-- a lot of upper echelons. I mean, in the middle, you have-- you actually have non-compete agreements very high up the food chain, high enough. But I mean-- and that's bad, too. I think that there should be a-- I don't care what the-- I mean to tell some-- you know, to monopolize you basically, you got a slave. I mean, de facto, because-- well, not, you know, committed to, you know, busting rocks, you're tethered. I mean, you, you can't-- it's like freedom. And it's just the why not-- like in the healthcare and health aides, why not let them do it? Because for-- actually, you know, reasons of time or certain times they can work or whatever, it's an issue. And so it actually affects people and I see it. And so, you know, they annoy me. I never had to sign one. Years ago, you know, I

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was an engineer. But if I would have been told to, you know, I would have told them, you know, shit on it. I mean-- and-- so thank you.

**RIEPE:** OK.

**JOSEPHINE LITWINOWICZ:** That's it.

**RIEPE:** Thank you. Let's see if we have some questions from the committee.

**JOSEPHINE LITWINOWICZ:** No we're not. Have a good day.

**RIEPE:** Not seeing any, thank you very much. Thank you for being--

**JOSEPHINE LITWINOWICZ:** Thank you.

**RIEPE:** --here. Additional proponents? Thank you.

**KIERSTIN REED:** Hi. Good--

**RIEPE:** If you'd be kind enough to state your name and spell it and then who you represent, please.

**KIERSTIN REED:** Absolutely. Good afternoon, Chairman Riepe and the Business and Labor Committee members. My name is Kierstin Reed. That's spelled K-i-e-r-s-t-i-n R-e-e-d. I serve as the president and CEO for LeadingAge Nebraska, a nonprofit association supporting long-term care providers. The proposed legislation will go a long way in addressing a problem that long-term care has been having for several years. I'm here to testify today in support of LB961. As we all know, we have a healthcare worker shortage in Nebraska. In an effort to address this need for workers, providers are often relying on temporary staffing agencies. In this arrangement, a contract exists between a staffing agency and their worker, as well as the staffing agency and facility in which they are working. These contracts almost always contain language that creates a non-compete agreement for the healthcare worker. I'd like to highlight a few examples of how this has been experienced by our members and employees or potential employees. In regard to restriction (A) listed in the bill as: any work for another employer during a specified period of time, contracts may prohibit an employee from working at any facility that they've been placed at on a temporary work order for a specific period of time, typically 1 year. This prohibits the facility from being able to hire that worker

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outright that willingly wants to come work for them directly. In regards to restriction (B) listed in the bill as: any work for other employers with a specified geographical area, employees may be restricted from working at a long-term care facility that is in a geographical region. This not only prohibits the facility from being able to hire that employee, but also wan-- if someone wants to work for them, it also restricts the employee from being able to secure employment outside of their contract in their local area. In regards to restriction (C) listed as: any, any work for another employer that is similar to such employee's work for that employer included as a party to the agreement, employees may be restricted from going to work for another employer that completes similar work. So this could include another temporary agency, but it also could include another healthcare provider. This prohibits the worker from having the right to choose where they want to work. All workers should have a right to choose where they want to work and who they want to work for. This also puts protections in place that have prevented long-term care facilities from being able to hire a staff person that otherwise would be willing to come work for them directly. We appreciate this important legislation and thank Senator Dungan for bringing this forward, and I'd be happy to answer any questions.

**RIEPE:** OK. Thank you. Are there questions from the committee? My question would be this, is-- do you, the nursing homes, actually issue non-compete clauses?

**KIERSTIN REED:** We do not. But the problem that we have is that many workers are under a non-compete because they are working for a staffing agency. So if that person comes to work at that long-term care facility, skilled nursing home, whatever it is, and they say, boy, I really like it here; I'd like to stay here. But unfortunately they can't; because they've worked in that facility, they may be barred from taking a job there for the next year.

**RIEPE:** Would you have the opportunity to buy out their restriction?

**KIERSTIN REED:** You can for about 25% of their annual yearly salary.

**RIEPE:** OK. OK. Are there any other questions? Hearing none, thank you for being here.

**KIERSTIN REED:** Yeah. Thank you.



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**\*LACY SMITH:** Good afternoon Senators, I support this bill. Thank you.

**RIEPE:** More proponents? Any more proponents? Any opponents? Those in opposition? Thank you, sir. You know the drill so we'll give it to you.

**RYAN McINTOSH:** Good afternoon, Chair Riepe, members of the committee. My name is Ryan McIntosh, M-c-I-n-t-o-s-h, appearing before you as registered lobbyist for Nebraska Bankers Association and the National Federation of Independent Business in opposition to LB961. I have also-- I'm appearing and signed in on behalf of the Nebraska Chamber of Commerce and Industry. In highly competitive industries like banking, covenants not to compete, or perhaps more appropriately in Nebraska, covenants not to solicit, serve a useful purpose. Small businesses engaged in sales like insurance, investments, and real estate have historically made more prevalent use of these non-compete agreements. Non-compete agreements are designed to protect an employer from unfair competition and are primarily in place to protect an employer's customer base, trade secrets, and other information for its success. Here in Nebraska, the Nebraska Supreme Court, we're one of the most restrictive states on the ability to use non-competes. I, I do take issue with the statement that this somehow codifies current case law in Nebraska. If that were the case, this legislation would be of no benefit whatsoever. So we do not believe that to be the case. Traditionally in Nebraska, we've used-- no longer than 1 year would be unreason-- anything longer than a year would be unreasonable. Traditionally limited to customers that that employee actually had contact with and also protection of trade secrets. So additional protection of Nebraska law is that an unreasonable non-compete agreement is the fact that the Nebraska Supreme Court has consistently held that a court will not be allowed to make any modifications or blue pencil the agreement after it's been executed. As a result, any covenant not to compete will not be modified by a court. Instead, it'll be thrown out in its entirety. So this means that a court cannot amend a non-compete agreement if any single provision is not consistent with Nebraska law. The main reason the non-compete agreements should be-- should not be prohibited for certain employees is that such agreements are necessary to protect the employer from unfair competition. Employers have a legitimate business reason for protecting themselves against unauthorized use of customer relationships by a departing employee through the solicitation of clients with whom the employee had personal contacts and actually did

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business. The well-accepted, much-litigated position of Nebraska courts is that non-compete agreements or customer non-solicitation provisions must be very limited. I would be happy to continue to work with Senator Dungan to find common ground on this, particularly with regard to preservation of non-solicitation provisions. I know he stated in his opening that this would not apply to non-solicitation. However, I do not believe that that is clear in the bill itself, and so that would go a long ways to improving this legislation. For these reasons, we do believe that utilization of non-compete agreements by employers should be retained in the state. Thank you.

**RIEPE:** Thank you very much. Are there questions from the committee? Seeing none, thank you--

**RYAN McINTOSH:** Thank you.

**RIEPE:** --very much. Additional opponents? Are there additional opponents? Anyone testifying in the neutral? Seeing none-- with that, I'd like to read into the record that there were-- for LB961, there were 11 proponents, there were-- and this is in written letters or electronic transmissions-- and 3 opponents, there were zero in a neutral capacity, and there was 1 with an ADA testimony for LB961. With that, I would like to invite-- is that a waive?

**DUNGAN:** OK.

**RIEPE:** Well, it's going pretty quickly. Thank you very much. So with that, that concludes the hearing on LB961. We will now move to Senator Walz on 11-- LB1139 or is it LB1112?

**WALZ:** LB1213.

**RIEPE:** Oh, OK. Thank you. Welcome.

**WALZ:** Thank you.

**RIEPE:** Just go ahead and [INAUDIBLE].

**WALZ:** OK. Good afternoon, Chairman Riepe and members of the Business and Labor Committee. My name is Lynne Walz, L-y-n-n-e W-a-l-z, and I represent Legislative District 15. Today I'm very excited to introduce LB1213, which is a straightforward bill. It provides that parents and guardians can receive up to 20 hours of paid time off a year to attend

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school-related activities for their children. I think we can all agree how vital-- we talk about it all the time-- parental involvement is in our child's education and that parents want their children to be successful in school. Research shows that parental involvement leads to reduced absenteeism, promotes better behavior, and increases student achievement. However, the reality for a lot of parents right now is that they are overwhelmed with work, paying rent or mortgages, putting food on the table, affording medical bills, and other multiple factors that affect everyday life. Even the most dedicated parents are experiencing these barriers while trying their hardest to support their children and their education. I introduced this bill because I think that we should consider a new approach to supporting our parents and children of the state, especially when it comes to their educational needs. We should make sure that parents are afforded the time to get in a classroom to volunteer, get off an hour early to attend a school project or presentation, or to attend parent-teacher conferences. I want to briefly go over LB1213. It's a 1-page bill because I wanted there to be enough room for any adjustments that this committee and/or the business community would like to suggest. I know that there is such a vast array of work situations and, in particular, how this would affect manufacturing plants. And I have several manufacturing plants in my district so I know that this was a concern of mine as well. One suggestion I have heard is for parents to submit a time-off request ahead of time and if it's not accepted, to allow that time to flex then throughout the year. I want to be clear, I'm not trying to make things more, more difficult for businesses. I see this bill as a piece of our state's workforce development. By supporting our students today, we are supporting our workforce of tomorrow. This is an investment in our state's economy and forward-thinking to the challenges we will be facing today, 10, and 20 years down the road. And with that, I'd be happy to answer any questions.

**RIEPE:** Thank you very much. Are there questions from the committee? Can you talk about the fiscal note a little?

**WALZ:** I haven't even looked at it. Hopefully, I have it. I don't think I have it. I'll look-- I'll look-- I'll look. Can I-- can I look at it after--

**RIEPE:** Oh, sure.

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**WALZ:** --and we can talk about it on my closing?

**RIEPE:** Absolutely. The other question that I would have is, many organizations use PTOs, which-- a PTO, which is paid time off in lieu of sick time and, as you know, it's fundamentally if you decide, you schedule it, you can take the time off; you don't owe your boss a reason why you're doing it. You could be going to a school thing.

**WALZ:** Right.

**RIEPE:** It-- I'm just trying to figure out if it's-- I think it's less administratively. It's more individual to the employer. To me, I, I have the experience with this in a couple hospitals I was in, worked very well. We didn't need to know if someone was going to their kids' this, or if they just needed a mental health day. They would take it as long as we scheduled it.

**WALZ:** Right. Yeah. No, I would think that this would apply for those organizations or businesses that already offer PTO, this would be something that, that they could use it for. We just want to make sure that we're having a conversation about how important it is that parents are allowed and have time to be involved in their child's education. So I brought this bill just to start a conversation on, you know, how can we get parents into the school supporting their kids?

**RIEPE:** That's a big question. Yes. Are there other questions from the committee? Seeing none, we'll go to proponents.

**WALZ:** Thank you.

**ELIZABETH TURNER:** My name is Elizabeth Turner, E-l-i-z-a-b-e-t-h T-u-r-n-e-r, go by Becky, and I'm speaking as a private citizen. I work in the schools as a school psychologist. I'm speaking as a private citizen here today to speak in support of Senator Walz's bill, LB1213. As an educator, having a few personal days included in our negotiated agreement is a wonderful benefit for our educators as well as supporting our district by encouraging attendance and participation in our students' district activities. This has allowed staff to attend their children's school-sponsored activities that they may not have been able to attend in the past and has increased morale and participation. This leave allows me and my coworkers to attend children's field trips, coffee and donut activities, volleyball games,

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Wayne State's honors choir contests, Fun Run fundraisers for school, the Pancake Man, kindergarten graduations, and so many more upcoming activities as they age and continue through Fremont Public Schools. LB1213 is an amazing way to help families support children-- support their children and their schools, to be present and build that strong school community bond, which in turn helps with the mental health and achievement of our students. While I attend my children's activities as a parent or as a professional, I'm acutely aware of the students who have no parent or no other adult outside the school that can be present and to support them. I have seen firsthand the tears. I have seen dejection. I've seen the faces-- the brave faces they put on to cover sadness and disappointment at activities, as it is hard for children to look around and see other students who have someone special present, but they do not. It's heartbreaking. Doesn't every child want to look up in the stands or among the crowd and see that one person who is there for them, someone who is present to love and support them? Every child deserves to have someone present just for them. LB1213 would allow parents time to attend crucial meetings such as multidisciplinary team meetings, we call MDTs, where we discuss assessment results and whether a student meets guidelines as a student with a disability who is in need of special education services. We have yearly IEP meetings, individual education plans, where school teams meet with parents to develop goals and discuss special education services for a child with a disability, meetings to problem-solve and develop plans to support students for a wide variety of educational, physical, behavioral, and mental health reasons. As a school psychologist, I can speak to the number of challenges some of our parents face in getting time off to attend these meetings that are very important for their child, whether that meeting is held in-person, virtually, or via phone. Some parents have expressed that their employer will not allow them time off, and they are worried that they will lose their job. Often, these are the parents who are struggling financially and they cannot afford to lose their job. I do feel LB1213 is an important bill and worthy of your time and consideration. Thank you.

**RIEPE:** OK. Thank you very much for being here. Are there questions from the committee? OK. And I thank you very much for being here.

**ELIZABETH TURNER:** Thank you.

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**RIEPE:** Additional proponents? Oh, I'm sorry. If you would, kind sir, state your name, spell it please, and who you represent.

**JUSTIN HUBLY:** Sure. Good afternoon, Senator Riepe and members of the committee. My name is Justin Hubly, J-u-s-t-i-n H-u-b-l-y. I'm the executive director of the Nebraska Association of Public Employees/AFSCME Local 61. Our union represents over 8,000 state employees who work for 43 different code and non-code agencies. They perform over 350 jobs on the front line in all 93 of Nebraska's counties. We'd like to add our support to this bill today for the reasons that the previous speaker said and I won't belabor all those points, but to share a couple of other items. To Senator Riepe's point is a question about PTO or vacation time, some of our new employees, if they're brand new or even within their first year of service they have a hard time to earn any PTO or vacation time yet, so those folks sometimes don't have the accrued leave to attend their child's functions and we want to make sure that they have that ability to do so. The second item that I would just share for the committee, we partnered with the Governor's office earlier this year to change our contract to add 52 hours a year of leave for mentoring programs, and we've seen a number of our employees access that small amount of leave in order to help mentor students in, in schools in all of Nebraska's counties. And so that trivial amount of 52 hours of leave-- and in this case in Senator Walz's bill, 20 hours-- it may be a trivial amount to the employer, but it's really valuable time for our kids. And so for those reasons, we support this bill and I'd be happy to answer any questions you might have.

**RIEPE:** OK. Are there questions from the committee? Would the 52 weeks [SIC] that you did negotiate, would that-- would the 20 weeks [SIC] conceivably fit in there, that they could use 20 weeks--

**JUSTIN HUBLY:** 20 hours.

**RIEPE:** --20 hours of those 52?

**JUSTIN HUBLY:** It'd be additional, because the 52 is very specifically limited to mentoring programs; they have to be certified mentoring programs, whereas this would allow other types of leave for school activities.

**RIEPE:** OK. So it's a separate category.

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**JUSTIN HUBLY:** Correct.

**RIEPE:** OK. Any additional questions? Seeing none, thank you very much.

**JUSTIN HUBLY:** Thank you.

**RIEPE:** Additional proponents, please. Are there any more supporters-- proponents? If not, any in opposition-- opponents? Yes, please go ahead.

**RYAN McINTOSH:** Good afternoon, Chair Riepe, members of the committee. Once again, my name is Ryan McIntosh, M-c-I-n-t-o-s-h, appearing before you today as registered lobbyist for the National Federation of Independent Business and the Nebraska Bankers Association. I'm also appearing on behalf of Nebraska Chamber of Commerce and Industry, Nebraska Grocery Industry Association, the Nebraska Petroleum Marketers and Convenience Store Association, and Nebraska Retail Federation, and, last, Nebraska Hospitality Association in opposition to the bill. While we are very mindful of the positive impact that involvement of parents can have on their children, we do not believe a one-size-fits-all approach to paid leave is the right answer. This would be-- requirement would be burdensome, particularly for smaller employers. Time-off issues for school-related or other activities are currently worked out in many small businesses every day without the need for additional government intervention. While many employers do provide paid time off for various reasons, some employers just can't afford to do so in all situations. The extent of school-related activities qualifying for paid leave under LB1213 can result in an employer having to hire a temporary replacement worker or having to pay workers overtime when work is redistributed. Parents could potentially take paid time off for several days at a time, for example, to attend another town's sports tournament in which a child is participating. More importantly, LB1213 would also impose the cost of the program on those employees who do not have children or do not have children who participate in school events during work days and, thus, do not derive any benefits from the state mandate. These employees who will have to pick up the burdens of the other employees taking paid time off would likely prefer to have an increased wage or some other type of fringe benefit which an employer may not be able to afford either. For these reasons, we would request the committee indefinitely postpone the bill. Thank you.

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**RIEPE:** OK. Thank you. Any questions from the committee? Seeing none, thank you very much.

**RYAN McINTOSH:** Thank you.

**RIEPE:** Additional opponents? Anyone speaking in opposition? Any speaking in-- want to take a neutral position and make statements? Seeing none-- oh, neutral? Come on up. I recognize you, thanks for being here.

**ISABELLA MANHART:** Yes. Hi, Senator Riepe. I'm--

**RIEPE:** If you would please be kind enough to state your name and spell it for us, please, for the record, and then tell us who you represent.

**ISABELLA MANHART:** I'm Isabella Manhart, I-s-a-b-e-l-l-a. I live in District 5, and I'm here representing myself. I'm late-- I would love to be a proponent, but I'm late because I was at school. But as a young person in Nebraska, I wanted to be here because I'm studying to be a teacher and I think that this bill is so important. I know that teachers really struggle to build relationships with students. And what I'm learning now in my Nebraska state teacher preparation program is that those relationships are so important to student success, to their well-being in school, that we can connect with parents and have meaningful relationships that can help them to learn at home as well as at school. And because families are often not able to attend parent-teacher conferences or come to school for curriculum nights, our, our most vulnerable families are not able to build those connections and build those relationships to help their student succeed. So I would love to see this bill pass as a future teacher in Nebraska so that I can really do my job successfully and support my students as best I can. That's all.

**RIEPE:** I sense you're going to be a very good teacher.

**ISABELLA MANHART:** Thank you.

**RIEPE:** Any questions from the committee? Seeing none, thank you again. Thanks for testifying. You did a nice job.

**ISABELLA MANHART:** Thank you.



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**RIEPE:** Is there anyone else that wants to testify in a neutral capacity? Seeing none, that will complete our hearing on--

**HUNT:** Does she want to close?

**RIEPE:** Yeah, I am-- I'm just wanted-- but, but before-- and I'm sorry-- before I do that, though, I want to read into the record, we have 20 proponents-- that electronic or written correspondence-- we had 13 opponents, and we had none on the neutral capacity. And with that, Senator Walz, would you like to close, please?

**WALZ:** Thank you, Chairman Riepe, and thanks to all who came to testify today. I think Ms. Turner said it so well when she talked about how a kid feels wherever they are in their school. You know, it's a, a concert or a-- you know, just parent volunteer day and you're looking for your mom and dad and you can't find them. I think we've all seen the faces of kids who are at concerts or at school and the minute they do find their parents how excited they are to, to see them. So really, really appreciate that, that testimony. I want to thank the business community for showing up on this bill and discussing the particular issues that they see with it. I'm planning to work with them to help make this bill more accommodating for them and their parents. I just think that this bill is one more piece-- and it's a really, really, really important piece-- in addressing parental engagement in our schools and how we get our kids to succeed. We have put in so many other policies when it comes to schools on how we can help our kids succeed. But I think that this is really a key, key piece. We have to have parental involvement. We have to have our kids' parents in the schools. School employees across the state have been trying to engage more parents in school, but we need to also address the reality that the parents are dealing with. Again, this is a good faith effort to help support our parents and the future of our state. I want to take a moment again to thank the businesses who are already doing this or providing more flexibility for parents. In addition, I like to encourage businesses who aren't doing this to consider to start. Thank you again and I'd be happy to answer any other questions.

**RIEPE:** Any questions from the committee? Senator Halloran.

**HALLORAN:** Thank you, Mr. Chairman. Thank you for this bill, Senator Walz. Have you had time to reflect on the fiscal note?

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**WALZ:** Not too much. I mean, I understand that the fiscal note's high. I did not have too much time to look at it. I just know that, you know, I was hoping that he explained it a little bit when he came up.  
[INAUDIBLE]

**HALLORAN:** Well, I've just-- I, I understand the question on fiscal notes can be kind of dubious at times, but this was just the Department of Administrative Services, doesn't necessarily reflect the fiscal note for, for businesses and expenses that they would incur. So anyway,--

**WALZ:** No.

**HALLORAN:** --I appreciate it.

**WALZ:** Yeah.

**RIEPE:** OK. Are there any additional questions? Senator McKinney.

**McKINNEY:** Huh?

**RIEPE:** Oh, wait, I'm sorry. I just thought that--

**McKINNEY:** No, I was just setting that down.

**RIEPE:** It's like an auction, you have to be careful with the hands.  
[LAUGHTER] You might end up walking out of here with an antelope. Are there any other questions from the committee? Seeing none, thank you--

**WALZ:** Thank you.

**RIEPE:** --very much. With that, that concludes the hearing on LB1213. Moving right along, we'll move on to LB1139, Senator Machaela Cavanaugh, the one and only.

**M. CAVANAUGH:** Thank God for that. Hello.

**RIEPE:** I think you know the rules of starting and so I will let you go.

**M. CAVANAUGH:** You want me to start?

**RIEPE:** Yes.

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**M. CAVANAUGH:** Good afternoon, Chairman Riepe and members of the Business and Labor Committee. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I represent Legislative District 6 in west central Omaha, Douglas County. I am pleased to be here with all of you today to introduce LB1139, which adopts the Paid Family and Medical Leave (Insurance) Act. To those of you who have served on this committee for several legislative bienniums, this legislation may feel like a rerun. But it is my hope that today's iteration will bring together a new opportunity for Nebraska to be a leader in workforce development and investment. The act will create a paid family medical leave program through the Department of Labor to provide partial wage replacement for participating workers to care for themselves or a family member experiencing a serious illness or to care for a new child through birth, foster care, or adoption. Leave can also be taken for military-- I can never say this word-- exigency-- you know what I mean-- purposes. The biggest change in LB1139 as compared to previous versions introduced, is that the program will be-- would be 100% voluntary participation for the employer and the employee. The program is financed through employee contributions to the program. Employers can also choose to contribute to the program. The federal medical-- the federal family and medical leave is taken concurrently with any state benefits. The employee would have the federal job protection along with the state job protection, plus the state partial wage replacement program. I went through the online comments there-- to look through what some of the concerns were, so I'm going to try and address those now. On page 4, line 8 of the bill, it talks about what a qualifying event is. There was some concern of what is a qualifying event? It is actually established in the federal statute of the federal, federal Family and Medical Leave Act. So it is already defined, and any company that currently has to abide by FMLA is already abiding by a qualifying event. So if you are a company over a certain size, I believe it's 50 employees, this already applies to you. This is just an opportunity for you as an employer or for your employees to pay into a program so when they have that qualifying event, they can get a partial reimbursement for lost wages. By making the program optional, is essentially a pilot project. It is my hope that by creating a path for employers to voluntarily participate in a paid program, they will come to see the value and benefit of a paid leave program. Additional concerns was for small businesses. Since this is completely voluntary, if a small business doesn't feel like this program works well for them

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and their business model, they don't have to participate. They can participate and they would have to participate with a 3-month termination notice. But they can begin the process and if they decide that it isn't working for them as a business model, then they can terminate. But they do have to give 3-months' notice, but that's sort of a safety for their employees that they can't just all of a sudden think that they have this benefit and then it's immediately taken away. Intermittent leave concerns. That was one that I heard a lot of. As the program is optional, again, a small business employer who feels they cannot accommodate intermittent leave should not participate in the program. However, if you are an employer who currently has to abide by FMLA, you will have to abide by intermittent leave. So you're already doing this. Your employee just is not receiving any compensation for that intermittent leave. So if you have an employee who has a major illness, any sort of cardiac illness that requires, you know, maintenance, or cancer, or other illnesses for a child or an elderly caretaker, the intermittent leave is already covered under FMLA. This would just create a path forward to reimburse them a portion of lost wages. Another thing that I read in the concerns was that it's bad for working women. This is not maternity leave. Yes, maternity leave would be a part of it, but this is so much more than maternity leave. This is military family leave. This is caretaker leave. This is parental leave. It is so much more than just a woman taking time off. Not just, but it's more than a woman taking time off after she has a newborn. And so just want to make that clear that it is for all workers, not just pregnant workers. Pressure on coworkers to pick up the work. That was a concern that was expressed in the opposition-- online opposition. So, again, if you are an employer who has to abide by FMLA and you choose not to replace an employee who you're holding a job for and you put that workload onto their colleagues, this does not change that in any way, shape, or form. This only means that you have made an agreement with your business, with your employees, that you think that they should receive some sort of compensation when they have to take that time off. They're taking the time off regardless. This is about giving them the means to do it without risking financial security. Federal family medical leave is a placeholder to keep a job and benefits, but does not have a reimbursement mechanism. It helps save the job you want to return to or an equivalent job, but does not help with the partial replacement wage. LB1139 proposes a statewide plan that would have many of the same definitions and protections as the federal law, but it includes a

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partial-wage reimbursement. The program administration agency is the Department of Labor. The Commissioner of Labor will promulgate rules and regulations, create forms, handle complaints, issue related notices, and make determinations related to Paid Family Medical Leave (Insurance) Act. All individual employees would be eligible for paid family and medical leave, and you will see that the department did send in a letter of neutral, which is like a Christmas present to me because normally they have in the past had very strong opposition. So, very excited about that. So some of the facts: there would be a 1-week waiting period. The leave could be granted up to 12 weeks, full-time or intermittent, for serious health conditions of family members, military exigency leave, or when new family members arrive. Family members are defined to include the covered individual employee, spouse of covered individual, a child of the covered individual, or their spouse for their biological, foster, adoptive, step, legal ward, or person to whom the covered individual or their spouse stood in loco parentis regardless of their age: grandparent, child-- grand-- grandchild, sibling, whether biological, foster, adoptive or step relationship, legal ward, newborn, biological and newly placed foster or adopted child, military family member for qualifying exigency leave-- how many times do I have that in my word-- in my opening-- I should have probably edited that word out-- other persons as designated by the covered individual as a family member. Paid family medical leave benefit for and responsibilities of covered employees. The employee is assured the same job or a similar job with equal pay upon return. The employee may take leave under the federal FMLA concurrently with the paid FMLA allowed by this act. A covered individual found to be presented false statements or misrepresentations is disqualified from the paid leave benefits for 1 year. Benefits paid erroneously may be reclaimed by the Commissioner or used as an offset for future [INAUDIBLE]. Employer responsibility. Employer must, must provide information to all employees. Employer shall maintain health benefits for individual employee if covered individual continues to pay the covered individual's share of costs as required prior to commencement of leave. Employer cannot require an employee to exhaust accrued vacation or sick time prior to FMLA. Retaliatory personal action by employer against employee for taking FMLA is prohibited. An employer found to be in violation of these requirements may be issued a citation that could result in a fine up to \$500 for violation and up to \$5,000 for subsequent violations. Calculation of benefits. Paid family medical leave benefits are

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calculated a percentage of the individual's average weekly wage as compared to the state average wage. Example, if the average state weekly wage is \$671, the FMLA benefit for individual wages at or below that could be calculated at 90%. Wages above \$671 would be calculated at 50%. And-- oh, this is-- this is important. Page-- an amendment. So if you look at-- I appreciate you looking at fiscal notes. I'm a big fan myself as Senator-- Chairman Riepe can tell you. If you look at the fiscal note, the start-up costs for this are borrowed from the Health Care Cash Fund. However, this amendment would eliminate that borrowing of the funds and it would tap into the medical-- if it's state-- sorry. Yes. The State Unemployment Insurance Trust Fund, which currently has a balance of \$70 million, that is-- that particular fund is funded by employers already paying in penalties and fees into that fund. And also a portion of payroll tax goes into that fund. So instead of using the Health Care Cash Fund to borrow, we could just allocate funds from the trust fund to go to start this program. I think I've bored you enough, or, gotten you really excited. I'm happy to answer any questions.

**RIEPE:** Thank you. I see that you're going to raid the State Unemployment Insurance Trust Fund.

**M. CAVANAUGH:** "Raid" is such a strong word, Chairman Riepe. I want to--

**RIEPE:** Is this, like, shifting?

**M. CAVANAUGH:** It's utilization of a fund that employers already pay into that they are not getting a benefit from. So this fund is sitting there unutilized. It is funded by employers. And if we were to use it to start up the paid family medical leave program, it would benefit those employers who have funded that fund.

**RIEPE:** I think in the legislative business we call it, is it germane?

**M. CAVANAUGH:** Is it germane? Absolutely. What is germane anyways?

**RIEPE:** OK. Let me see if there are questions from the committee. It's a quiet group today. Yes, Senator.

**HALLORAN:** Thank you, Chairman Riepe. So-- and I don't know this, but you probably do and that's why I ask you.

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**M. CAVANAUGH:** Well, that's so generous of you to think I know something already.

**HALLORAN:** Well, no, actually I got much confidence in you, Senator. So the, the state unemployment insurance trust, do you know what the stated intent was for it?

**M. CAVANAUGH:** So it is utilized for some programming. And I have-- my brain is a little bit of mush because I've been reading all of this over the, the weekend, but there-- it's-- there's a labor training program I think that it funds, and there are some other things. But it, it accrues so much money that it is now at, at over \$70 million. And I believe that there is a budget request from the Governor to shift that money into Property Tax Relief Fund, which we can have a more robust conversation on my thoughts on that at another time. But, but even if we were to pass the Governor's request for the funds, there would still be funds remaining to cover the cost of this.

**HALLORAN:** Well-- but, again, I guess my question is was the State Unemployment Insurance Trust Fund-- its intent, would it cover what you're asking for?

**M. CAVANAUGH:** Yes. So the intent-- the intent would still be covered of the trust fund. It is, in my view, and in probably many employers' views as well, it is overfunded. And we have lots of opportunities of what we could do about that. But primarily the mechanism for the unemployment fund is such that-- I wish I could have my staffer come testify because she explained this really well to me earlier today. But, but, essentially, money goes into the unemployment fund and the unemployment trust fund is a different fund that's sort of a stopgap; if that fund were to have some sort of emergency, it funds other programming and it has funds going into it, still. Clear as mud.

**HALLORAN:** Maybe clearer.

**M. CAVANAUGH:** Maybe clearer than mud.

**HALLORAN:** So would this be vulnerable to the Governor-- Governor's efforts to potentially pull funds that are unused from various agencies?

**M. CAVANAUGH:** Well, he is already trying to pull funds of, I think, \$60 million from this fund.

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**HALLORAN:** That's my question. Would this be vulnerable to that?

**M. CAVANAUGH:** Well, I suppose that's up to us, as the Legislature, if we want to make it vulnerable to that or not.

**HALLORAN:** Good point. OK. Thank you.

**RIEPE:** Additional questions? Thank you very much. Will you be staying around for closing?

**M. CAVANAUGH:** I will. I feel like you are letting me off easy on all the financial questions, so. I expect an onslaught at the--

**RIEPE:** I know you're a fiscal hawk so I--

**M. CAVANAUGH:** What?

**RIEPE:** I know you're a fiscal hawk so I respect that.

**M. CAVANAUGH:** Well, of course I am.

**RIEPE:** Yeah.

**M. CAVANAUGH:** Thank you.

**RIEPE:** Thank you. Do we have proponents? Welcome.

**ERIN FEICHTINGER:** It's my first time in this room ever.

**RIEPE:** If you would state your name, spell it please, and--

**ERIN FEICHTINGER:** Same as every other committee. You got it. Chair Riepe, members of the Business and Labor Committee, my name is Erin Feichtinger, E-r-i-n F-e-i-c-h-t-i-n-g-e-r, and I'm the policy director for the Women's Fund of Omaha. We offer our support for LB1139, the Paid Family and Medical Leave Insurance Act. We support a paid family and medical leave insurance program because 80% of Nebraska workers do not have access to paid leave to be there during a dying parent's last days, to care for a newborn child, or even to care for oneself during an unexpected illness. Paid leave allows women, often the primary caregivers in a family, to remain in the workforce, supports their economic stability and reduces the gender wage gap. Access to paid family and medical leave is an important tool for women to help them build and maintain their economic security. In Nebraska,



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we represent almost half of the full-time workers in the state, and the great majority of children in our state have working mothers. Beyond responsibilities to our jobs, women continue to fulfill the role of the primary caregiver within their families. We have to balance these 2 important sets of responsibilities to our careers and to our families, and we are often put in the position to sacrifice career advancement or our earning potential to care for our families. Paid leave allows women to maintain their economic stability while caring for their loved ones without losing ground after they return to work. Research shows that women experience a 7% decrease in pay for each child they have. This is called the motherhood penalty and it's a direct consequence of the wages women lose during unpaid leave. Women who return to work after paid leave are more likely to stay employed years later, benefiting both their careers and the workforce as a whole. Women who return to work after a paid leave have a 30-- 39% lower likelihood of receiving public assistance, and a 40% lower likelihood of food stamp receipt after returning to work. Paid family and medical leave is a solution for employees and employers, and for Nebraska. We are not insensitive to the new cost to employers who do not currently provide any leave, but it is our hope that employers, as much as employees, want to put families first, and LB1139 provides them with the tool to do that. We believe this is a critical policy solution that will help provide long-term economic stability for women and their families. And we would urge you, once again, to support paid family medical leave in the state of Nebraska. And I'm happy to answer any questions to the best of my ability.

**RIEPE:** Thank you very much. Are there questions from the committee? Seeing none, how does this relate to the federal medical leave?

**ERIN FEICHTINGER:** Well, it's interesting you would ask that, Senator Riepe. Today is actually the 31st anniversary of the federal Family and Medical Leave Act passing. That is unpaid. So that would be unpaid, that federal act.

**RIEPE:** OK. OK. Any other questions? Seeing none, thank you very much. Additional proponents? If you would, kind sir, and you know the routine.

**JUSTIN HUBLY:** Thank you, Senator Riepe, nice to see you again. Members of the committee, my name is Justin Hubly, J-u-s-t-i-n H-u-b-l-y. I'm the executive director of the Nebraska Association of Public

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Employees. Our union represents over 8,000 state employees who work for 43 different code and non-code agencies. They perform over 350 frontline jobs in all 93 of Nebraska's counties, and we are in support of this bill today. As the previous testifiers and Senator Cavanaugh said, the Family Medical Leave Act, the federal law is unpaid leave. If you qualify for it under the 6 conditions that you met and you've worked for your employer for a year and 1,250 hours in that past year, you qualify for the leave. This bill doesn't do anything with that. What this bill, is fixes the biggest problem with the, the federal law, which is the, the leave by definition is unpaid. And that's a rude awakening to employees when they come up with a serious medical condition that requires leave from work. Not a day goes by in our office that the phone does not ring with a state employee who's trying to navigate utilizing FMLA leave, and for many of them it's a-- it's a surprise when they learn it's unpaid. While you can supplement that leave with sick leave or vacation time, if you have an illness, or a family member with an illness that's going to take you out for 4 or 8 weeks, the FMLA protects your job; it doesn't pay you any cash, and you can quickly deplete all of your sick leave and all of your vacation leave. And so this is actually a kind of unique approach. Instead of just giving pay for family medical leave, it gives-- it's an insurance deduction, you contribute to it. So for those of you that are interested, the state of Connecticut adopted a very similar law to this about 4 years ago, and I talked to my colleague in Connecticut this morning. The state employees don't qualify in Connecticut, municipal and county employees do. And she was able to talk me through a little bit about their law. And the Connecticut Department of Labor's website is a great resource to learn a little bit more about this. The state of North Carolina took a different approach. Instead of passing a law like this, the state of North Carolina gives their state employees 4 weeks of just paid FMLA leave. If they qualify for FMLA, they pay the state employees for 4 weeks of that leave. Some other states, like Oregon, New York, and New Jersey have adopted similar laws. And we're starting to see more of these types of bills introduced in legislatures across the country. I encourage you to support this. We want to retain employees. Very few people want to be out on a family medical leave, ever. Maybe if you're having a child, you want to be out on that leave. But other than that, it's pretty typically a dire situation that requires your attention. And we don't want to compound that by having people lose income during that period,

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so we encourage you to support this bill. I'd be happy to answer any questions.

**RIEPE:** OK. Are there any questions from the committee? Seeing none, thank you very much.

**JUSTIN HUBLY:** Thank you.

**RIEPE:** Very informative. Additional proponents?

**JINA RAGLAND:** Good afternoon, Chair Riepe and members of the Business and Labor Committee. My name is Jina Ragland, J-i-n-a R-a-g-l-a-n-d, testifying today on behalf of AARP Nebraska in support of LB1139. As the famous quote from Rosalynn Carter notes: There are only four kinds of people in the world. Those who have been caregivers, those who are currently caregivers, those who will be caregivers, and those who will need a caregiver. Family caregivers are the backbone of Nebraska's long-term supports and services system. Over 179,000 Nebraskans provide 168 million hours of unpaid care, valued at \$2.8 billion annually and growing. Family caregivers are the first line of assistance for most people, helping to make it possible for older adults and people with disabilities to remain at home and out of higher levels of care settings. Caregivers allow the loved ones to age in place. These caregivers are the most important source of emotional and practical support for older persons or adults with a serious illness or disability. Many family caregivers, including adults sandwiched between caregiving for older family members and children at home, are struggling to manage both their caregiving responsibilities and the jobs they need. More than 1 in 5 workers aged 45 to 64 reports being a caregiver to a parent, and more than half of these workers report that caregiving negatively affects their work. Paid leave would provide a critical lifeline to working family caregivers, yet just 21% of workers have paid leave through their jobs. Unlike previous generations, many families today do not have a non-working family member to provide daily care to an older relative with self-care needs, in large part because of the increase in the labor participation rate of women, especially older women. 73% of millennial family caregivers are employed while also providing care for an adult with a disability or an older adult with chronic care needs. Family caregiving responsibilities impact people across their working lives, often creating a stressful juggling act between work, their caregiving role, and other family responsibilities. When work requirements

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conflict with family obligations, some employed family caregivers must make difficult decisions that can lead to lost wages and missed career opportunities. Many workers simply cannot afford to just take unpaid leave. We're facing a caregiving and workforce crisis in the United States, and specifically in Nebraska. As both the workforce and the Nebraska population age, the workplace will include more employees who need to combine eldercare responsibilities with their jobs upon which their economic futures depend. Research shows that family caregivers who disrupt their careers or leave the workforce entirely to meet full-time caregiving demands can face substantial economic risks and short-term and long-term financial consequences. More than 4 in 10 employed caregivers have experienced at least one financial setback. Almost 28% of those use up their personal short-term savings, while 25% took on more debt. It's also important to note income and benefit losses borne by family caregivers age 50 and older who leave the workforce to care for a parent are nearly \$304,000 over that caregiver's lifetime. Paid leave increases employee loyalty and retention, which often saves an employer money by avoiding separation costs, as well as the costs of recruiting, hiring, and training new workers. Without paid leave and flexible workplace policies to support caregivers, vulnerable seniors could be forced to move to higher levels of care with increased costs not only to themselves and their families, but the state in providing them that care. I will stop.

**RIEPE:** OK. Thank you very much. Are there questions from the committee members? Seeing none,--

**JINA RAGLAND:** Thank you, Senator.

**RIEPE:** --thank you for being here. Additional proponents?

**ANAHÍ SALAZAR:** Good afternoon, Chairperson Riepe and members of the Business and Labor Committee. My name is Anahí Salazar, A-n-a-h-í S-a-l-a-z-a-r, and I'm a policy coordinator for Voices in-- Voices for Children in Nebraska. Nebraskans are hardworking and committed to building better futures for themselves and their families. We also have the strong value of caregiving, taking care of our children, and taking care of our loved ones as they age. It is important to consider the relationship between caregiving and workforce participation in order to ensure that grown ups can, can be there for children-- for their children-- sorry-- during life's most treasured, stressful, or critical moments. Voices for Children in Nebraska supports LB1139

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because paid family and medical leave means Nebraskans don't have to choose between family and secure employment. Paid leave helps families build secure relationships with their babies that are so important to children's long-term learning and success. Since the enactment of paid leave policies in other states, there is ample evidence that paid family leave contributes to lower rates of infant mortality and decreases post-neonatal mortality. Paid leave allows parents to stay home and care for their child, which is imperative for both the baby and the birthing person's health and well-being. And the benefits also accrue for children who join families through foster care or adoption. Paid leave ensures families have time to care for new children and seamlessly integrate them into family without sacrificing long--long-term economic security. Children and families who most need paid leave are currently unable to access it. Currently, families across Nebraska have difficult decisions to make. Do they take care of their newborns, new children, sick children, ill family members, even themselves? Or do they go back to work because they need the money for their basic or medical needs? Only about 40% of families in Nebraska can afford to take unpaid leave under the federal Family and Medical Leave Act. Access to leave is highly determined by income, and those in the lowest wage jobs do not have the financial capacity to take the needed time from work. Investing in families is an investment in Nebraska's workforce. Employee turnover, the loss of institutional, institutional knowledge, absenteeism and "presenteeism," and temporary hiring are all already affecting businesses' bottom line. A recent survey found that 1 in 3 workers have left at least 1 job due to caregiving responsibilities, and the most experienced and highest-paid workers were most likely to be affected. Family values are at the heart of Nebraska values. LB1139 would ensure that all Nebraskans can be there for the most important moments in our family's lives, and that our children will have the best start to life. Thank you, Senator Machaela Cavanaugh, for your leadership on this important issue. And thank you, committee, for your time and attention.

**RIEPE:** Thank you very much. Are there questions from the committee? Seeing none, thank you--

**ANAHI SALAZAR:** Thank you.

**RIEPE:** --for being here. Additional proponents? If you would be so kind to state your name, spell it please, and then who you represent.

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**DIANE AMDOR:** Thanks. Good afternoon, Chairperson Riepe, members of the Business and Labor Committee. My name is Diane Amdor, D-i-a-n-e A-m-d-o-r, and I'm the senior staff attorney for the economic justice program at Nebraska Appleseed. Nebraska Appleseed supports LB1139 because Nebraska needs a state-level paid family and medical leave program. We would like to thank Senator Cavanaugh for her ongoing leadership on this issue. As others have stated on the federal level, the Family and Medical Leave Act provides a minimal level of the social infrastructure that we need to prevent millions of people from being fired for taking care of their families or themselves. In the absence of a federal paid leave option, LB1139 would fill in what the FMLA leaves out, and would create a statewide insurance program to support workers and help businesses in the long run. 13 states and the District of Columbia have passed comprehensive paid family and medical leave laws, and this bill, LB1139, would include most of the key elements of a strong paid family and medical leave law, as evidenced by those existing programs elsewhere. I'm not going to read this to you verbatim. You can read the details for yourself. There's a really helpful chart that I've provided a link to that gives an overview of how this works in other states. There are a lot of ways to do this. This is a great one. We would just like to see this happen in some way in Nebraska. This is social infrastructure that is needed here and now. A few highlights of that. A strong paid family medical leave law would cover all workers, while LB1139 wouldn't cover all workers because it is voluntary. It is a very important step in that direction. A paid family medical leave law should cover, at the very least, workers' own serious health needs, bonding with a child, caring for a seriously ill loved one, and addressing the impact of military deployment. This bill checks all those boxes. It should have a definition of a family that is as inclusive as possible, which this bill would, would provide. It should provide wage replacement rates that are high enough to ensure that workers can actually afford to take the leave that they need, should include at least 12 weeks of leave for all covered purposes, and would set accessible eligibility standards and employment protections. We appreciate your attention to this issue and would encourage this committee to advance LB1139. I'd be happy to answer any questions.

**RIEPE:** Thank you. Are there any questions from the committee? Seeing none, thank you for being here.

**DIANE AMDOR:** Thank you.

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**RIEPE:** Additional proponents? Welcome back.

**ISABELLA MANHART:** Thank you. I'm Isabella Manhart, I-s-a-b-e-l-l-a M-a-n-h-a-r-t, and I am speaking on behalf of myself as a proponent of this bill. I've lived in Nebraska all my life. I was born here and I've grown up here. And I've watched my parents care for my grandparents and care for my siblings as they're growing up. And that has often required time off work. A lot of you have-- most of you, I assume, have run on and spoken on the issue of brain drain in Nebraska, which we all know is a big problem. Young professionals like me are getting our degrees here and leaving, or leaving to get our degrees because we're not sure that this state is the place that we want to, you know, work and raise our families and live in the future. And currently I'm a college student in Nebraska, so I'm really thinking about where I want to go next. I think that this bill is a great way to prevent brain drain and keep people like me here because I want to know that when I have, you know, situations come up with my family, when I have situations come up with my health that I will be able to take time off without it being an economic detriment to me. That's a really important thing as I'm thinking about raising a family, as I'm thinking about where I want to work and live in the future. I also want to note that this state is passing bills that are making it harder for families like mine to get healthcare. LB574 passed last session, and that means that my family has to take excess time off to travel to get healthcare to fill requirements that were stated by the chief medical officer. And, you know, that's not why we're here, but I know that that bill is impacting my family. That's a reason that my parents need to take time off to make sure that my brother gets the care he needs, and it wasn't a problem before last session as much as it is now. So really thinking in the future, I want to make sure that my family can do that and that we're not going to suffer more because of, of the regulations we're under. So I think that this bill is a great thing to pass to support families right now, to support young people who are looking at where they want to live in the future, and I'd encourage you to vote to advance LB1139. Thank you.

**RIEPE:** Thank you. Very good. Let's see if we have any questions from the committee. Seeing none, good job. Thank you very much for being here.

**ISABELLA MANHART:** Thank you.

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**RIEPE:** Additional proponents?

**SCOUT RICHTERS:** Good afternoon.

**RIEPE:** If you'd be kind enough to state your name and spell it for us--

**SCOUT RICHTERS:** Of course.

**RIEPE:** --for the record, please, and then who you represent.

**SCOUT RICHTERS:** Yes. My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska in support of LB1139. As you've heard, many Nebraskans lack paid family leave. This means that when health issues inevitably arise, it can force people to make an impossible choice between caring for themselves and their family or keeping their jobs. This choice disproportionately affects low-wage workers, who most often lack paid leave. These low-wage jobs are disproportionately held by women and people of color. Compounding this fact is that caregiving work, although essential to society, tends to be undervalued and is often unpaid or underpaid. Therefore, increasing the availability of paid leave for workers via this voluntary program expands equal opportunities for workers. I think this was also already mentioned, but I think it's worth reiterating: establishing a paid leave program is particularly important in Nebraska, as Nebraska consistently has extremely high rates of women's workforce participation, consistently ranking in the top 10 of all states. In short, we know that many Nebraskans both work and care for their family. We know that the population in Nebraska is aging, which obviously increases the need for care. And we know that choices between jobs and families hurt the economy by forcing people, more often women, out of the labor market. Paid leave means a stronger economy and fairness for all workers. And for those reasons, we urge the committee to advance this legislation.

**RIEPE:** OK. Thank you very much. Are there questions from the committee? Seeing none, thank you--

**SCOUT RICHTERS:** Thank you.

**RIEPE:** --very much. Additional proponents? Any additional wanting to speak in favor? Are there any opponents? If you would be so kind, please, state your name and spell it for us, then who you represent.



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**MARILYN ASHER:** Hello, Senator Riepe and the Banking and Finance or the Labor Committee-- Finance and Labor. Is it Finance and Labor?

**BLOOD:** Business and Labor.

**MARILYN ASHER:** Business and Labor. Sorry. My name is Marilyn Asher and I live in Omaha, Nebraska. I am president of the Nebraskans for Founders' Values. Ironically, even though I am opposed to LB1139, we have dear friends that are going through the exact situation for which this bill was written. Louie and Angela have a daughter who just gave birth to her second child, and during the process found out that she has Stage 3 cancer with a 30% chance of survival. The daughter is now partially paralyzed from cancer surgery and is not able to care for her children by herself. That is a crisis. Louie and Angela do not live in Omaha, and they have had to take off almost a month to help their daughter. But instead of depending on Louie's employer to pay for an extended leave without working, Louie has made arrangements with his employer to continue working. The same is true for the daughter's husband. In the meantime, friends, relatives, and church communities have come around them to give the support that is needed. If Louie and Angela were living in Nebraska under LB1139, Louie would have the right to suspend his employment until he-- and still get paid. The government would step in to direct the human resource functions of the covered employer. There is no doubt that continuing work under these circumstances is a severe inconvenience, but Louie is not depending on his employer to absorb the cost of his crisis. He is keeping his commitment to work, even though this would appear to be an approved event under LB1139. Life is not fair. And as we see in Louie and Angela's situation, bad things happen to good people. But this bill seems to be trying to provide guarantees for employees at the expense of the enrolled employer and by the over-involvement of the government. As the old adage says: There is no free lunch. Employees have an obligation to perform the work to which they were called and employers, in turn, should grant leniency to those who find themselves in a family crisis. But there is nothing in the U.S. Constitution or Nebraska Constitution that says that employers or taxpayers should be responsible to provide the safety net that this bill is demanding. Employers who own small businesses would be most challenged by this law. And in many cases, employers who have small businesses would have to reduce services or hire more employees in order to keep their businesses afloat. If employers, employers are cowed into submitting to this act, my concern is that more women of childbearing age may

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find it difficult to get employment because they would represent a higher liability than men do for employers. Because women managers in the United States account for 40% of the workforce, young women could become suspect because of this bill, and it would achieve exactly the opposite end for which I believe the bill was written, and that is to protect them. In closing, this is not a win-win proposal. Our state, and that includes all families, does not need more government interference to slow down production among businesses that remain, especially in small communities. This law would be hard enough on a big corporation, but it could mean the death of a small business. And I know that Senator Cavanaugh just addressed small business, but it appears that there would be a significant investment of administration and finances coming from the state of Nebraska. Thank you.

**RIEPE:** Thank you very much for being here. Are there-- Senator Blood.

**BLOOD:** Thank you, Chair Riepe. I'm sorry, what organization did you say you were with?

**MARILYN ASHER:** Nebraskans For Founders' Values.

**BLOOD:** And what is the mission of Nebraskans For Founders' Values?

**MARILYN ASHER:** We defend the First and Second Amendment. We, we highly stand behind that. And then we also care about children, protecting children. But we also uphold free enterprise.

**BLOOD:** So how-- I-- I'm-- and you'll have to excuse me, I am, like, really ill today. So I apologize, it's taking me a while to get my words out.

**MARILYN ASHER:** OK.

**BLOOD:** So how would you say that this violates free enterprise? You're saying-- are you saying this because we're saying that-- we're suggesting they, they utilize paid family medical leave?

**MARILYN ASHER:** Have you read the bill?

**BLOOD:** Yes, I have--

**MARILYN ASHER:** OK.

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**BLOOD:** --read the bill.

**MARILYN ASHER:** OK. It's extensive, extensive government involvement in any employer that agrees to sign onto this and--

**BLOOD:** So, so would your organization also be against things like OSHA?

**MARILYN ASHER:** I can't say we're against OSHA, but I--

**BLOOD:** Not in support of. Is that better?

**MARILYN ASHER:** Pardon me? Not in support--

**BLOOD:** Not in support. Is that better?

**MARILYN ASHER:** We haven't taken a particular stand one way or, or the other on OSHA.

**BLOOD:** But would you say that it's fair that because government's job really is to protect the public, that it's not unusual for government to play roles like this?

**MARILYN ASHER:** To do what?

**BLOOD:** To not play roles such as this where we're protecting the public?

**MARILYN ASHER:** So I, I guess the definition of protection of public is what is in question. And any time government is overextended or over-- overreaches or just gets into private business. And all-- and I did not realize until Senator Cavanaugh clarified this, this is a voluntary program.

**BLOOD:** Yeah.

**MARILYN ASHER:** But my concern is that it could evolve into a mandatory program at some point in time, just knowing how government works. And I'm also opposed to the idea of, of taking funds out of the, the fund that she mentioned. I'm glad there was an amendment put on there, but it's still go-- you know, is going to cost taxpayers or people that are working with money because it goes into that unemployment fund-- that unemployment fund.

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**BLOOD:** Thank you.

**MARILYN ASHER:** OK.

**RIEPE:** Other additional questions? Senator McKinney.

**McKINNEY:** Thank you, Senator Riepe. You said you represent Nebraskans For Founders' Values?

**MARILYN ASHER:** Yes.

**McKINNEY:** So which founders' values do you represent?

**MARILYN ASHER:** Well, the, the values to pursue life, liberty and-- well, to pursue life, liberty, and happiness. And just what is mentioned in the Declaration of Independence. When our country was founded there was no security net that was put under people. And my friends here are a perfect example of those who need help. I'm not against helping people, but there is a role for government and I don't believe that it is to take-- to make sure that everything is OK for everyone.

**McKINNEY:** So if you-- on, on that point of not for everyone, so if you represent the founders' values, so then that-- so that means you represent then, the enslavement of my ancestors.

**MARILYN ASHER:** I don't support enslavement of your ancestors.

**McKINNEY:** But you represent the, the, the founders' values.

**MARILYN ASHER:** And I-- that's where we disagree. I don't believe the, the founders necessarily--

**McKINNEY:** But they-- but they owned slaves.

**MARILYN ASHER:** Some of them did. Yes.

**McKINNEY:** A lot of them did.

**MARILYN ASHER:** Yes.

**McKINNEY:** Even presidents.

**MARILYN ASHER:** Yes, they did.

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**McKINNEY:** So you-- but you said you represent the founders' values. It's either you do or you don't.

**MARILYN ASHER:** The founders were--

**McKINNEY:** So do you represent the founders' values or not?

**MARILYN ASHER:** I, I represent the founders' values, but I do not represent any-- represent slavery or endorse slavery at all.

**McKINNEY:** But the founders--

**MARILYN ASHER:** In fact, I, I-- in my genetics there are-- there is some African heritage, so. I agree with you.

**McKINNEY:** I mean, every-- everybody in this room is a descendant from Africa. But what I'm saying is, you say you represent the founders' values and if you represent the founders' values then you represent the enslavement of Africans.

**MARILYN ASHER:** I, I disagree with you respectfully, and I don't think that is pertinent to this discussion.

**McKINNEY:** But you came up here and said you represent the founders' values so it is pertinent to the discussion.

**MARILYN ASHER:** You, you need-- we can have another discussion.

**McKINNEY:** You came up here--

**MARILYN ASHER:** OK.

**McKINNEY:** --and spoke on the record.

**MARILYN ASHER:** I'm-- I represent the founders' values and I have studied a lot of American history. I endorse George Washington, Thomas Jefferson,--

**McKINNEY:** Who owned slaves.

**MARILYN ASHER:** --Abraham Lincoln.

**McKINNEY:** Yeah.

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**MARILYN ASHER:** And they were not the only people in the United States that owned slaves. That was common throughout that era. And now, thank goodness and thanks to the sacrifices of the Civil War that is no longer in place in this country.

**McKINNEY:** But it's still in the constitution.

**MARILYN ASHER:** That's not my issue to deal with right now.

**McKINNEY:** Yeah, but you represent the founders' values. Thank you.

**MARILYN ASHER:** I represent the founders' values. Yes. Thank you.

**McKINNEY:** Yeah.

**RIEPE:** Thank you, Senator. We appreciate it. Are there any other questions? Hearing none, thank you very much. Are there any other opponents? No more in opposition? Is there anyone in a neutral capacity? Welcome.

**BRUCE BOHRER:** Good afternoon, Chairman Riepe and members of the Business and Labor Committee. I'm Bruce Bohrer from the Lincoln Chamber of Commerce. For the record, my name is spelled B-r-u-c-e B-o-h-r-e-r. I'm here today in a neutral capacity on behalf of the Greater Omaha Chamber, the Lincoln Chamber of Commerce, the Nebraska Chamber of Commerce and Industry, and Nebraska-- or, excuse me, National Federation of Independent Business. We-- our, our groups have been here before the committee many times on this issue, although today is the first time we've been here in a neutral position. So first, we would want to thank Senator Cavanaugh for continuing the conversation and being receptive to our input and bringing LB1139 to the committee today. We applaud the voluntary compliance approach to 1130-- in LB1139. We've always maintained that businesses are the best suited to design their benefits packages in the way that best suits their employees' needs. The scenario imagined in LB1139 presents another option for businesses and employees to choose. One caution we would raise is to make sure that the needs of our smallest businesses are fully accounted for in this approach. We have always favored an incentive approach to this concept, so perhaps the addition of a targeted incentive to our smallest businesses would be something for the committee to consider. We know this is an ongoing effort, and we commit to partnering with Senator Cavanaugh as this legislation

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progresses. However, I would say this is the first time we've heard of the amendment and would oppose this shift as we oppose the Governor's shift effort under LB1413 just last week, opposing that shift in the unemployment trust fund. And so would also-- were just there last week defending that fund. I would close with that, and would be happy to answer any questions that you might have.

**RIEPE:** Thank you very much for being here. Are there any questions? Seeing none, thank you very much.

**BRUCE BOHRER:** Thank you.

**RIEPE:** With that, we would invite Senator Cavanaugh to return for closing. And while she is doing that, I would note that there were-- in letters or communication, there were 14 proponents and a total of 46 opponents and 1 neutral. Senator.

**M. CAVANAUGH:** Thank you, Chairman Riepe and members of the committee. I apologized to the Chamber that I did not give them a heads-up on the amendment. It's more of a proposed idea that was brought to me by a member of the chamber, actually. So I think it's something worth entertaining and we can have further conversations with them offline. I certainly do not want to lose their neutral support of the bill. OK. A few things. In Nebraska, you cannot get short-term disability on your own. I can't-- you can't go get Aflac. I can't get Aflac. You have to have employer-sponsored short-term disability. I have had this conversation with the insurance industry since my freshman year in the Legislature. People have said if you want to have coverage for maternity, maternity, get short-term disability. Unless I had an employer sponsoring it, I couldn't. This is to create a path forward for individuals and businesses to work together to have a funding mechanism that they can pay into that is essentially a short-term disability program, but it doesn't require the employer to pay into it. That is an added benefit that the employer could provide to their employee if they agree to participate in the program. As a small business-- and I, I wholeheartedly agree that I'm open to any ideas to make this more workable for small businesses. But if a small business chooses to participate in this program, they are choosing to abide by the FMLA qualifying regulations. That is 100% their choice, and then they are creating an opportunity-- they are saying to their employees at the small business that we are choosing to make this available to you so that you know conditions of your working here will include you

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to be able to take time off. If you pay into this fund, you will be able to take paid time off. It won't be your full salary, but it will be a portion of your salary that you are paying into a state fund that you will then receive funds back if necessary. It's an insurance policy, essentially, that is completely voluntary for everyone. It is a portion of your wages, it is not 100% of your wages. So it is not intended to incentivize people not to return to work. It is intended to help stopgap for when you have to miss work because you have a medical emergency, or you are a caregiver in a medical emergency. As Dr. Feichtinger stated, FMLA turns 31 today. I feel like the committee clerk staff must have known that and that's why I was scheduled for today. It was really just a nod-- thank you for that. As-- also Dr. Feichtinger mentioned the-- that when we have these types of programs, we see a reduction in receiving public assistance and food assistance, which, again, speaks to how this creates stability in our workforce. We have fewer people leaving the workforce when they feel like they can economically afford to stay. If you cannot afford to stay home with your child because of missed wages, you have choices to make. Do you stay at that job? Or do you quit that job and go-- start the intergenerational cycle of poverty where you have to get government assistance? I would prefer for our workforce to be able to be strong and stay in the workforce, and I believe that employers will feel the same way. It is obviously-- I'm not going to hide my intent, I would love to just have a massive social safety net where the state just pays everyone's leave. But that's not realistic. And as a fiscal conservative myself, I know that is not a realistic approach to things. That's just more of my compassionate heart. So dealing with the compassionate heart and realism, I think having a volunteer program that is managed by the state that has-- clearly has the infrastructure to manage a program like this is a great opportunity for us. And I believe once we start this program, we do not have to make it mandatory. I think it will be so popular, the economic benefits to employers will be so great that it will maintain as a voluntary program that people will participate in. Let's see, did I miss anything? Yes, I did. I would like to thank Senator-- former Senator Sue Crawford for her mentorship and her dedication to this issue. When I was a freshman senator, my priority bill was LB311 and it was Senator Sue Crawford's bill on paid family medical leave. She had worked so hard with all of the interested parties, she had brought forth every iteration under the sun except for, I believe, this one. So this is the last-ditch effort of creativity and how to create a



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path forward to have, have a strong and healthy, thriving, vibrant workforce in Nebraska. I think that's it, maybe, probably not. But I can talk to you all separately if needed. Thank you.

**RIEPE:** Let's see if there are some questions. Are there questions from the committee? Senator Ibach.

**IBACH:** I just have a comment. And I remember sitting through the hearing last year, and I just really appreciate you tweaking it up a little bit and coming in with a thoughtful approach to the voluntary piece of this. And I will have a couple questions for you when we meet in the hallway, I'd like a little clarification. I apologize, I missed the first part of the hearing, and so you may have answered them during your opening, but I will visit with you outside the room on a couple of questions that I might have.

**M. CAVANAUGH:** Terrific.

**IBACH:** Thank you.

**M. CAVANAUGH:** Yes.

**RIEPE:** Are there other questions? I have great confidence that you know where every dollar in the fund is in this building, and I know that I can learn from you. The one question that I-- or one of the questions I have, is it seems to me like this is almost like the employer offering short-term disability insurance.

**M. CAVANAUGH:** It is. Essentially, it is-- the state is creating a short-term disability insurance program. That is essentially what this--

**RIEPE:** Would this be a substitute for that?

**M. CAVANAUGH:** Well, I would love to talk with insurance companies about how to create a different-- a different program. That is something that I have actually put out there in the past that we could create. If we wanted to really, really dig into this, we could create a program where we basically do it for better or worse, like Managed Care Organizations where this-- we collect a pool of money and we partner with insurance companies to manage the program. There are so many opportunities moving forward on how to work on this issue that I'm open to all of them. It's-- I just-- we need to start somewhere,

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and I believe creating the fund is an excellent place to start. I don't-- I'm not opposed to working with private entities to bring it forward. I think it might ultimately be more cost-effective to do that because purchasing power in bulk sort of thing. But for right now, this is the avenue that I'm trying to pursue. I did have answers to Senator Halloran's question. I phoned a friend, Ms. Buck, and the fund is 3 times what they need for 1 year of unemployment claims. And we are asking for \$5.5 million to start this fund. Two, the point of the Health Care Cash Fund-- the way it is written, it goes from the Health Care Cash Fund and over time the fund itself pays that back to the Health Care Cash Fund. And I-- I'm sure most of us know how former Senator Sara Howard feels about the Health Care Cash Fund. She did tell me that she would not come after me for this. But that might be because it pays the money back. But so the intention is not to have those being on the backs of taxpayers. The intention is to find a path forward to work with the business community and their employees.

**RIEPE:** OK. So the HHS would not come after you for going after the health funds but the Business and Labor Committee might come after you for going after the unemployment funds.

**M. CAVANAUGH:** Well, the unemployment funds to me makes sense as a-- as a funding mechanism for this because it's the same-- it's the same sort of area. We have our--

**RIEPE:** Kissing cousins, so to speak.

**M. CAVANAUGH:** Sort of. Well, I have a cousin in here. We're not kissing cousins, though. Sort of. I, I mean, I'm, I'm-- again, I'm open to other suggestions, the Health Care Cash Fund is a totally fine way. It would then-- I, I would think we would have to reimburse the Health Care Cash Fund to ensure its stability. The Unemployment Insurance Fund doesn't need that reimbursement for stability, but it also could be reimbursed as well.

**RIEPE:** My experience coming out of the hospital business is short-term disability insurance is very expensive. So I don't know whether-- not that it couldn't be approached, but it just-- it might be out of reach or out of reasonableness of an individual employee--

**M. CAVANAUGH:** Yeah.

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**RIEPE:** --to be able to match that. Then we're kind of back to the starting gate, if you will. The other thing that I would-- and this was from the Commissioner of Labor Department said-- and I paraphrase here or I-- well, I'll, I'll jump in the middle. It says: as drafted-- now maybe with your amendment it makes-- LB1139 is fiscally unsustainable and the cash fund will likely be insufficient to pay benefits provided for under the program.

**M. CAVANAUGH:** Yes. So it-- as, as drafted, it does allow for private contributions. So there is an opportunity for the Legislature, employees, chambers of commerce to look for private entities to put money into the fund so that it can be sustainable. So I wanted to have that flexibility. I will also point to another note in the department's letter about administrative complications. It's in the third paragraph. And I just want to note for the committee that these are very legitimate complications and concerns that we will have to work on an amendment to address. I guess in my head sometimes I don't want to be super prescriptive to state agencies in how they conduct their business, but they maybe need slightly more administrative guardrails in the actual statute for them to properly promulgate rules and regulations. So I will be working with them on that.

**RIEPE:** Are you referring to the line where a mother might wait until sort of before her delivery?

**M. CAVANAUGH:** Well, I'm not actually concerned about that, but I do think that that is a practical concern that an employee might participate in the program for a very short period of time, which would definitely make the fund unstable. So we would-- there's-- I think there's options of a time period in which you have to stay in the fund after you've utilized it, so that you're not just popping in and out. We-- I think less--

**RIEPE:** Cherry-picking.

**M. CAVANAUGH:** --less flexibility in participation is a reasonable request.

**RIEPE:** We know you're reasonable, Senator, and we appreciate that.

**M. CAVANAUGH:** I'm so-- I'm, I'm-- you know, that's-- I've often been told by my colleagues I'm very reasonable.

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**RIEPE:** Very much so. OK. Are there other questions? Hearing none, thank you very much.

**M. CAVANAUGH:** Thank you.

**RIEPE:** So with that, that closes our hearing on LB1139. And we will now move on to LB1170, which happens to be my bill. And because of that, I will surrender the Chair and turn it over to now-Chair Ibach and put her in charge.

**IBACH:** Thank you, Senator. This will open the hearing on LB1170. You're welcome to go ahead with your opening, Senator Riepe.

**RIEPE:** Thank you, Chairman Ibach and members of the Business and Labor Committee. I am Merv Riepe, M-e-r-v R-i-e-p-e, representing the 12th Legislative District in the Omaha metropolitan area. Today, I present LB1170, a bill that adjusts the current unemployment benefit to the 24-- 2024 economic and employment environment. Unemployment insurance benefits both the employers and employees. Employers benefit as it allows for workforce adjustment, and a reasonable and orderly transition. Employees benefit as it allows for an orderly, otherwise difficult transition, often through no fault of their own. Society, and all parties are well-served by the unemployment safety net, unemployment insurance. The challenge becomes the correct level of benefits at a given time. LB1170 proposes to adjust the maximum benefit from 26 weeks to 16 weeks, with the current trigger for extended benefits should the economy experience a major decline. The front page of the weekend-- that was the Saturday-Sunday edition of the Wall Street Journal, page 1 noted, and I quote, Employers added 353,000 jobs last month. That was January of 2024, strongest in a year and nearly double what economists surveyed by the Wall Street Journal expected. The Journal goes on to say investors have become more confident that a strong labor market is sustainable, rather than a problem, undercutting the widely-held view that it was becoming harder to find a job. End of quote. The national unemployment rate is 3.7%, and Nebraska's rate is 2.3%, fifth lowest in the nation. Employers across Nebraska struggle to fill positions every day. The current maximum unemployment payout is \$546 each week. While we recognize the value of a social safety net, we must also be mindful of the merits of employment. Should economic conditions deteriorate, the 26-week benefit now in, in law may be reinstate-- reinstalled. This provision ensures our system can effectively respond to an economic crisis akin

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to the recent COVID-19 pandemic. LB1170 has no fiscal expenditure. In fact, the Nebraska Department of Labor will expend 26 million fewer dollars each year under the proposed plan, which will serve us, us well should and when economic conditions deteriorate. Proponents for LB1170, while not a strong presence today, are the main-- are the many employers who pay this tax and many more consumers who experience the tax in the products they purchase. With that, I conclude my opening remarks. I would share this before I actually conclude, and that is the states around us-- Iowa has a 16-week program, Kansas has 16 weeks, South Dakota happens to have 26 weeks, Missouri has 20 weeks. Some other states that are a little further removed-- Alabama, 14; Arkansas, 12; Florida, 12; Oklahoma, 16. Gives you a flavor for what other states are doing. And the most recent one that I'm aware of was the state of Iowa that went from 26 to 16 last year. With that, I will now invite questions if you have some.

**IBACH:** Very good. Thank you very much. Are there questions? Senator Blood.

**BLOOD:** Thank you, Vice Chair Ibach. Just a couple quick questions.

**RIEPE:** OK.

**BLOOD:** Where did this bill come from? Was this brought to you by Mr. Albin's office or was this an idea that you guys came up with on your own?

**RIEPE:** This was brought to me by the Chairman of the Business and Labor Committee. My own.

**BLOOD:** All right. Fair enough. So we talk about brain drain all the time and the things that we, we talk about the brain drain. We have people from the chamber here that have put this up for public information, so I'm not saying anything that we don't all know, just things like childcare, transportation, housing. By shortening the allotted time that somebody can utilize unemployment, are we not making it more of a struggle for these families that might be lower income that are-- now have-- we're just forcing them to get a job as opposed to maybe the right job for them?

**RIEPE:** Well, I think it's probably one component that plays among many, many, many. I also think in the brain drain, it goes way beyond

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because most of the brain drain, as I see it, is-- happens to be the college graduates that often receive a degree that there isn't necessarily that same opportunity that matches up with what their educational training is in the state of Nebraska. Plus, having a son that was in Nebraska ended up not being in Nebraska, it's called career opportunities that just don't exist in Nebraska.

**BLOOD:** I don't argue with any of that,--

**RIEPE:** Yeah.

**BLOOD:** --but I-- the data is also showing the other issues as well. I think it's a combination of, of many things.

**RIEPE:** Yeah.

**BLOOD:** So, again, my concern is, based on how many people I've had to help with our unemployment office-- which has been a substantial amount of people who haven't been able to get the services that, actually, they deserve-- why are we so willing to, to rush people to find jobs? Yes, there is workforce shortage, but won't the, the rate of return be better if they find the job that's actually better for them as opposed to the job that we're rushing them to find?

**RIEPE:** Well, I think a lot of it goes back to the idea that sometimes it's to their advantage to take an interim job, rather than waiting for what might be considered the perfect job. And there are plenty of those opportunities out there and I-- you know.

**BLOOD:** But wouldn't an interim job be the same-- the same secondary issue where they're unhappy? It's not the job that they want, then they have to go look for another job, and they have to go look for another job-- it's the whole childcare, transportation, income issue all over again. Are we creating the secondary problem by doing this?

**RIEPE:** Well, I guess-- I had an administrative assistant one time, and I go back to that story and that was a different generation, but she talked about how her father, in between jobs, went and found a house to paint. I mean, he found some work,--

**BLOOD:** Right.

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**RIEPE:** --and that was probably before unemployment insurance was even, maybe, available. I think there's merit in your, your concern, but I'm not sure that that concern outweighs the \$26 million that, that is-- that can be captured or not, not paid out.

**BLOOD:** What is our unemployment rate in Nebraska, did you say?

**RIEPE:** 2.4, with a 3.7 at the national level, we're fifth in the nation. So we're, we're, we're doing well.

**BLOOD:** Right.

**RIEPE:** Part of our job-- part-- in my opinion, part of our challenge is, is not having enough high-paying jobs in the state.

**BLOOD:** Well, that goes back to economic development where we didn't measure what we treasure or have any metrics on all that yearly legislation. Right?

**RIEPE:** Yeah.

**BLOOD:** So-- and that's what I worry about, is we're, we're constantly picking at things and trying to find ways to cut corners, which we absolutely should be doing. But we always seem to be able-- we always seem to be doing it on the backs of the, the working men and women. And this is one of the bills that I'm concerned about because of that. And you understand what you're doing,--

**RIEPE:** Well--

**BLOOD:** --but I, I am worried, especially for our families that have a 2-income family, and how they're going to figure out how they're going to make this, this shorter window of time happen.

**RIEPE:** And I think the going to the 16 week doesn't necessarily play just simply to the lowest of low incomes as well.

**BLOOD:** No, but they struggle more with things like childcare, housing, and transportation than, than upper middle class and upper class. Thank you.

**RIEPE:** My, my-- part of my piece philosophically comes from the standpoint that if, if you're going to cut down your sources of

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revenue by tax, tax cuts, I don't care whether they're property or income or anything else, at some point in time, just like at home, you have to look at your expense side, too. This happens to be an expense for business.

**BLOOD:** That's a conversation we should have in the hallway, because I, I think that would be a 20-minute conversation, but I, I, I, I see families in poverty all the time and I don't see them living outside their means. I see them living from paycheck to paycheck and trying to figure out how to feed their families. So I think it's kind of insulting if we're not careful what we say about those families, because there are a lot of families struggling in Nebraska.

**RIEPE:** OK.

**IBACH:** Thank you, Senator Blood. Other questions? Senator Halloran?

**HALLORAN:** Thank you, Vice Chair Ibach. You know, we rely very heavily on statistics, and we rely pretty heavily on the unemployment rate that's been mentioned several times. And the definition of unemployment-- the federal definition of unemployment is if you currently don't have a job and have been looking for a job for 4 weeks-- been looking for a job for 5 weeks, you're no longer counted as unemployed. It's, it's, it's unfortunate that we, we, we put these kind of definitions into unemployment. There's far-- there's far more people unemployed now than the definition would suggest. There are people that have been unemployed for 4 weeks. Beyond that, they're not defined as unemployed so they don't-- they don't measure-- they don't come up on the measurement scale for unemployment for the state or for the federal government. I guess the point I'm making is it's hard to make decisions when we really don't have data that accurately reflects what the unemployment rate is.

**RIEPE:** You're saying comparable information.

**HALLORAN:** I'm sorry?

**RIEPE:** You're saying comparable information.

**HALLORAN:** Well, that at least a definition that accurately defines what the percentage of unemployment is. Right? There are far more people unemployed than that, that percentage would imply. And I see job-- I see signs everywhere for people looking for someone to fill a



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spot of employment. And, you know, I think that's an important, important aspect of this conversation is those jobs could be filled temporarily by someone until they have an opportunity for a better job if they're looking for the perfect job. I didn't, until 2 years ago, give up my aspirations to be a professional basketball player, but I finally realized that that probably won't come to be, so I settled for a lot less. I think you know why.

**RIEPE:** I would encourage you to hang on to that dream.

**HALLORAN:** I appreciate that. Thank you.

**IBACH:** Thank you, Senator Halloran. Are there other questions from the committee? Seeing none, thank you for your opening. We will invite proponents of this bill to come up. Welcome. If you could state your name for the record.

**RON SEDLACEK:** Yes, I will. Thank you, Madam Chair and members of the Business and Labor Committee. For the record, my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. I'm here on behalf of Nebraska Chamber of Commerce, and I've also been authorized to speak on behalf of the National Federation of Independent Business in Nebraska, the Lincoln Chamber of Commerce, and the Nebraska Grocery Industry Association as well. The organizations would like to be on record in support of the legislation. In reviewing this bill after introduction, we had quite a vigorous discussion in that regard, was kind of a surprise. But we decided to take a position in favor and develop-- essentially 3 core reasons why. First of all, the bill, at least, begins a conversation and recognizes what's going on in the states at this time of, particularly, low unemployment and the workforce issue that's always before us and that's what we can do to enhance our workforce and, and training and so on. So that's, that's one, one reason. We also looked at, of course, our neighboring states who have been reducing their time period, as well as some of the growth states like Idaho, Florida, North Carolina, and so forth, that have also reduced this. So the data is mixed in regard to how this affects, let's say, what you'd call employment migration. OK? So that's the first reason. The second is that, with the environment that we're faced at-- faced with today, the question becomes are we-- is this an ability to incentivize workers, at least, to look for employment, money on a little bit more urgent basis, perhaps? As the senator mentioned, perhaps to find something temporary along the way to get people engaged-- to continue to be

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engaged in the workforce. Obviously, I think you identified very legitimately some issues in regard to some employment. And it can work both ways, because if you're an aerospace engineer in Lincoln, Nebraska, and you happen to be laid off, there's not a lot of opportunities out there to look for equivalent employment. But I do know that, as a matter of fact, one particular aerospace engineer found a position at a community college to teach courses that were, at least, suitable for his training. That's not the solution, but I'm just mentioning it. Legitimate points. But third of all, LB1170 could also be viewed as a path to accelerate the replenishment of the trust fund and the work, and that is the State Unemployment Insurance Trust, as well as the worker training fund that was presented in the previous bill. And I better stop.

**IBACH:** Thank you, Mr. Sedlacek.

**RON SEDLACEK:** If there's any questions, I'd be happy to finish.

**IBACH:** Are there questions from the committee? Seeing none, thank you for your testimony.

**RON SEDLACEK:** Thank you.

**IBACH:** Are there other proponents for LB1170? Are there opponents for LB1170? Is there anyone here in the neutral? Seeing none, Senator Riepe, we'll ask you back to close. And in the meantime, we will note that online comments, we had zero proponents, 1 opponent, and zero in the neutral. Waiving closing. That will conclude our hearing on LB1170. Thank you.