

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee January 27, 2025  
Rough Draft

**KAUTH:** Good afternoon, everybody. Welcome to the Business and Labor Committee. I'm Senator Kathleen Kauth from Omaha, representing the 31st Legislative District. I serve as the chair of Business and Labor. This committee will take up the bills in the order posted. This public hearing is your opportunity to be part of the legislative process and to express your position to the proposed legislation before us. If you're planning on testifying today, please fill out one of the green testifier sheets that are on the table at the back of the room-- actually, I think they're on the side of the room. Be sure to print clearly and fill it out completely. When it's your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify, but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name, and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and then finally anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer, if they wish to give one. We'll be using a five-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining, and the red light indicates your time has ended. Questions from the committee may follow. And I am also going to hold committee members' questions to the same time limit so that we don't have long, long, long questions. Committee members may come and go during the hearing. This has nothing to do with the importance of the bills being heard; it's just part of the process, as senators may have bills to introduce in other committees. A few final items to facilitate today's hearing. If you have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. If you don't have enough copies, the page will make sufficient copies for you. Please silence or turn off your cell phones. You may see committee members using their electronic devices to access more information during the hearing. Verbal outbursts or applause are not permitted in the hearing room; such behavior may be cause for you to be asked to leave the hearing. And finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the legislators [SIC] website at [nebraskalegislature.gov](http://nebraskalegislature.gov). Written

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position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. I'll now have the committee members with us today introduce themselves, starting on my right.

**RAYBOULD:** Jane Raybould, Legislative District 28, from Lincoln.

**McKEON:** Dan McKeon, District 41, eight counties in Central Nebraska.

**SORRENTINO:** Tony Sorrentino, District 39, Elkhorn and Waterloo.

**IBACH:** Teresa Ibach, District 44, which is eight counties in southwest Nebraska.

**McKINNEY:** Terrell McKinney, District 11, north Omaha.

**KAUTH:** And Senator Tony Sorrentino is the vice chair of the committee. Also assisting the committee today, to my right is our legal counsel, Thomas Helget, and to my left is our committee clerk, Julie Condon. And we have two pages for the committee today. Pages, please stand up and introduce yourselves and tell us a little bit about yourselves.

**LAUREN NITTLER:** Hi, I'm Lauren, I'm in my second year at the University of Nebraska-Lincoln. I'm studying agricultural economics, and I'm from Aurora, Colorado.

**EMMA JONES:** Hi, I'm Emma. I'm a junior at University of Nebraska-Lincoln. I'm a political science major, and my minor is in public policy in, in, in regards to climate change. And I'm from Ogallala, Nebraska.

**KAUTH:** And with that, we'll begin today's hearings with LB308.

**IBACH:** Good afternoon, Chairwoman Kauth and fellow members of Business and Labor Committee. My name is Teresa Ibach, T-e-r-e-s-a I-b-a-c-h, and I bring for your consideration today LB308 to adopt the Health Care Staffing Agency Registration Act. Nebraska continues to face a substantial shortage of health care workers. As a result, we've seen nursing home and assisted living facility closure-- closures across the state, all in rural areas, and backlogs in the health care system. To ensure the proper delivery of health care, nursing homes and assisted living facilities may engage staffing agencies to temporarily fill vacancies, including those caused by extended medical leave, and even those never filled when employees left due to the efforts of the-- effects of the pandemic. Unfortunately, there are reports of

temporary staff lacking legally-required credentials, background checks, and necessary certifications, putting residents, staff and even facilities at risk. Temporary staffing agencies play a role in delivering health care to Nebraskans, but in order to ensure transparency and accountability, I've introduced LB308, which, number one, requires health care staffing agencies with a physical and digital presence operating in Nebraska to annually register with the Department of Labor, provide specific information, and remit a \$1,500 fee. Number two, it prohibits the use of a non-compete clause and prohibits fees charged to the facility in the event the staff member being placed within the facility is offered a permanent full-time position. Currently, that facility must buy out, buy out that contract from the staffing agency. Number three, it requires the agency to fully guarantee the staff being placed in the facility has the appropriate education, licensure, and meets the requirements to work in a health care facility. Number four, it provides proof of the agency workers' compensation insurance. Number five, it provides oversight for health care staffing agencies that fail to comply with the requirements. And number six, it requires the Department of Labor to create a database accessible to the public on the website. Many health care providers rely on Medicaid and Medicare to cover staff wages. Due to staffing shortages, they are forced to bear the high costs of temporary staffing to ensure that patients and residents receive the care they need. To maximize the effectiveness of public funds and prioritize the care of Nebraskans, it is vital that these measures be implemented. The passage of the Nebraska Health Families and Workplace Act underscores the urgency of LB308. Starting October 1, health care providers will no longer be able to require sick employees to find their own shift replacements, which may further increase employers' dependency on these temporary staffing agencies. The Health Care Staffing Agency Registration Act is structured to function similarly to the Contractor Registration Act under the Department of Labor. It establishes a public database where consumers can check the standing of a business. This is also an avenue for consumers to seek reconciliation when a staffing agency has not upheld their obligations. 16 other states, including Iowa, have passed similar legislation to provide oversight of health care staffing agencies. Several Nebraska-based staffing agencies are registered in these other states. While staffing agencies play a role in the health care system, it is crucial that we establish a process of transparency and accountability to "proedect"-- protect Nebraskans. I'm happy to address any concerns or questions regarding LB308, and will be followed by experts who have-- who can offer specific industry

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insights. With that, I thank you for your time and consideration of LB308.

**KAUTH:** Are there any questions from the committee? Senator Raybould.

**RAYBOULD:** Senator Ibach, thank you very much for this. I don't know if this is a question you can answer, maybe some of the experts. But for the states that have adopted a similar type of legislation, have they seen a drop-off in staffing agencies willing to comply with those new regulations, and just say, "we're done with this state" and leave?

**IBACH:** That's a really good question. But in my opinion, those staffing agencies that have drop-- could or would drop off probably didn't want to meet those requirements to start with, and maybe we didn't want those in our state anyway. So I think it's, it's a way to kind of weed out some of the questionable agencies that might already be practicing in our state, so-- I'm sure someone will address that question, though. Thank you.

**RAYBOULD:** OK. Thank you.

**KAUTH:** Any other questions? I do have one. Do the communities who are using staffing agencies have to sign a contract with that staffing agency already, that goes through these issues that-- that's in their contract?

**IBACH:** I believe that they have contracts with the staffing agency, but I don't know what's incorporated in those contracts. I think someone behind me will be able to answer that question, though.

**KAUTH:** Thank you very much. Any other questions? Thank you. And Senator Ibach, will you stay for close?

**IBACH:** For sure. Thank you.

**KAUTH:** Next testimony. Proponent.

**ANTHONY HATCHER:** Good afternoon, Senators, counsel, committee clerk. My name is Dr. Anthony, A-n-t-h-o-n-y, Hatcher, H-a-t-c-h-e-r. I am the chief executive officer of Hillcrest Health and Living. I am here to testify in support of LB308, Health Care Staffing Agency Registration Act. A little bit of my history, I'm a family physician who spent the first ten years of my career as a flight surgeon in the Air Force. Next 20 years, my career has been dedicated to providing direct patient care in the private sector, and working in senior

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hospital leadership, followed by the last eight years working to serve the seniors in our state. Hillcrest Health and Living offers the full continuum of services for seniors, to include skilled care, memory care, assisted living, independent living, acute rehab, home health care, hospice and private duty. We accept all payers, including a large population of seniors on Medicaid. We employ our 1,400 ten members-- team members with ten communities across eastern Nebraska to include Lincoln, Gretna, Omaha, Papillion, and Bellevue, and we touch the lives of over 200 Nebraska seniors each and every day. Throughout my career, I have been accustomed to working with, utilize-- and utilizing agency staffing to meet the clinical needs of the organization and the people we serve, but on a very limited basis, really as a last resort. Most of the nursing agencies or individuals we would call travelers, or nurses from different states that come to our area for an-- on extended contract, usually lasting 3 to 6 months, to meet the needs of an anticipated or scheduled shortage. With the arrival of the pandemic, health care experienced a mass exodus from clinical team members. Some just typically left the industry to take non-health-care jobs; some retired, others just left the workforce altogether. Select individuals left as they were afraid of personal health risks associated with a COVID infection. It is a highly regulated industry by CMS and DHHS. We had to comply with significant infection control restrictions or face survey deficiencies and potential substantial civil monetary penalties. Understanding that these restrictions were set in place to protect the individuals under our care and our team members, if a team member developed COVID, they had to isolate at home for a minimum of ten days, putting an even greater strain on health care organizations to provide the care for our residents required, and quite frankly, they deserve. Our only option was to contract with staffing agencies to mitigate our staffing shortages. With a change in the market dynamics, we witnessed a significant proliferation of start-up agencies wanting to capitalize on this opportunity. No longer did we see nurses coming from out of state; we saw our former team members and neighbors contracted to work at our company with hourly rates two and three times what health care organizations would normally pay. Many of the local health care workers left for the allure of higher wages and flexibility of hours, giving up paid benefits for short-term gain. Without the support of the federal government and state government, many of the health care organizations supporting seniors in our community would have ceased to exist. Secondary to increased costs, with agency utilization, we simply had no option. While we contracted agency staffing, from a regulatory perspective, we had to treat them as any other employee,

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making sure they had proper training, education, competency-- competencies, licensing, and background checks prior to treating or interacting with our residents. Since we were-- they were not our employees, we contracted with the agencies to ensure they met all the regulatory requirements to be caring for the seniors. We simply had to trust that the contract terms that they had met all the criteria to work in a clinical setting, and perform the duties of the highest quality require--

**KAUTH:** Excuse me, Doctor, you're over your time. Can you finish up real quick?

**ANTHONY HATCHER:** Yeah, I just want to go over two examples really quick. I'm sorry.

**KAUTH:** We probably don't have time, so wrap it up and we'll see if anyone has questions.

**ANTHONY HATCHER:** OK. All right. Two of the biggest issues for us really is the fact that we have no control over these agencies. They provide us the services; they are not-- we are not ensured that these people are licensed to do their job. But through the contract, they are supposed to provide that. We are at risk for anything that they-- all the services they provide, from a regulatory standpoint, including civil monetary fines, and--

**KAUTH:** Thank-- thank you.

**ANTHONY HATCHER:** --and, and the, and the cost associated with buyouts. Yes.

**KAUTH:** Let's-- let's see. Does anyone have a question? Senator Raybould.

**RAYBOULD:** I would like to hear more about the two situations that you had to deal with that highlight your concerns.

**ANTHONY HATCHER:** Yep. We had a state survey, annual survey, they come in and out. They came in, the first thing that the state surveyors asked was, "Could you provide us all the background checks on the employees or the people that are working today?" We had two people that were there working as certified nursing assistants, and when we contracted-- contacted the agency, they said, "We'll get that for you in 48 hours." And I said, "I need it today. I need it now." They said, "We don't have it. We stopped doing that six months ago." So we could

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have-- we-- if these-- any of these employees of that staffing agency, whether they work for us or somebody else, had not had a background check, which means we could have had somebody who had a prior history of a felony conviction, somebody who had a history of elder abuse working in our facility, directly contacting our elders. So that was one example. We fired that agency right away, and terminated those people. If they had-- if we were unable to produce that documentation, we could have had civil monetary fines, and we could have been-- what we call it, a media jeopardy, which, which could have revoked our ability to admission and to bill for Medicare or Medicaid. So that was, that was one situation that we had. We had another one where we had somebody who was proposed-- or, we employed from the contract-- somebody to pass medications, a certified nurse assistant that, that was a medical aide. After a couple of days of being in the facility, we thought that they were not living up to the standard; we checked with the, the company, and they had not passed their medication certification, had not met the minimum requirements, and were not licensed to pass medication, but for two days they'd been passing meds in our facility. So, we terminated that contract with that agency as well. And then, and then the third thing is, obviously-- she's talked about before-- the buyouts. Most of our contracts are \$5,000 to employ maybe a, a former team member of ours that went to the agency. One year contract. We want to hire them back, we have to pay \$5,000.

**KAUTH:** OK. Thank you very much. Any other questions? Senator Sorrentino.

**SORRENTINO:** Thank you, Chairperson Beth [SIC]. Doctor, it would appear that the bulk of your agencies, if not all of them, are in Nebraska?

**ANTHONY HATCHER:** Correct.

**SORRENTINO:** In, in your experience so far, are some, or all, or most of the agencies you work with registered in any way, shape or form voluntarily? I know this law basically says everybody has to register to work with you. Are there some of them that you think are, are registered in other states, perhaps, but just not in Nebraska?

**ANTHONY HATCHER:** They-- several of the agencies are, are multi-state agencies, but they're not registered in the state of Nebraska, correct.

**SORRENTINO:** And in your opinion, the reason they are not registered would be?

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**ANTHONY HATCHER:** They don't have to. And I would-- but there are some companies that I would say, if they were registered, they probably would not be working in Nebraska, based on the restrictions and the requirements to making sure that, that the-- their employees are meeting all the regulations.

**SORRENTINO:** Thank you.

**KAUTH:** Thank you. Any other questions? Senator McKinney?

**ANTHONY HATCHER:** Yes, sir.

**McKINNEY:** Thank you, Chair. Thank you for your testimony. I just got a couple of things. Do you believe in a free market system?

**ANTHONY HATCHER:** Yes, sir.

**McKINNEY:** I ask this question primarily because you have stated that employees leave to go get more pay.

**ANTHONY HATCHER:** Correct.

**McKINNEY:** Which is on the free market. So why do you have a problem with that if you believe in the free market system?

**ANTHONY HATCHER:** I believe-- I, I have no problems with somebody wanting to go work for an agency. There's pros and cons for that individual. They may lose benefits, they may lose other things, but they may gain increased compensation. I have no problem with that. I just want to make sure the individuals that come back, that are contracted from the agency meet all the regulatory requirements in regards to licensing, education, and training and background checks.

**McKINNEY:** [INAUDIBLE] Next thing, speaking of the contracts. Why are you signing contracts without those assurances? It doesn't make sense to me.

**ANTHONY HATCHER:** It's in the contract that they are-- they should be ensured that all this is done. So, the agency is, is representing themselves as we are-- we're providing you with a, a clinical team member that has met all of those requirements--

**McKINNEY:** I guess--

**ANTHONY HATCHER:** --including the background checks.



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**McKINNEY:** I guess where's your checks and balances before that, that person steps inside your door? That-- that's-- it seems something's missing.

**ANTHONY HATCHER:** Background checks can take up to two weeks in the state of Nebraska to get completed. So, if we were to do our own background checks on them, it could take us up to two weeks to get those back, and, and pay for us as well. They pay for a background check, they are support-- they should be provided, and they, in the contract, said they will provide us with those background checks. And in a free market as well, free market wouldn't require us to pay \$5,000 to buy somebody out of their contracts, which is not--

**McKINNEY:** So are you letting people in without the black-- background-- background checks being cleared?

**ANTHONY HATCHER:** I would say the vast majority of agencies do a good job of background checks, but not all, in regards to making sure we-- I gave you two incidences of two different organizations. So I would say there are good agencies out there, and there will always be a need for agencies--

**McKINNEY:** No, but I'm asking. Are you, as-- is your company allowing people from these agencies to walk inside and serve people without making sure that their backgrounds are clean-- are, are OK?

**ANTHONY HATCHER:** I am relying on the contract with the agency that says that these are completed and have been done.

**McKINNEY:** But where's your checks and balances?

**ANTHONY HATCHER:** In the contract.

**McKINNEY:** All right. Thank you.

**KAUTH:** Thank you, Senator McKinney. Anyone-- Senator Hansen.

**HANSEN:** I might expound a little bit on what Chairwoman Kauth was talking earlier, about-- it doesn't sound quite like deceptive practices, but what-- has, has there been much litigation from other states, or in the state of Nebraska when it comes to, maybe, somebody not filling out their contractual obligations?

**ANTHONY HATCHER:** Not that I'm aware of. Once we find, find these situations, we can't-- we terminate the contracts immediately, if

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they're not representing what is on the document. It's honestly-- some-- there's a large proliferation of agencies and there's also, as the number of agency-- or, number of agency staff that we've had to contract with has declined, you've started to see some of the agencies go away. The ones that propped up are-- some of them are, are gone now.

**HANSEN:** OK. OK. Any time we-- I'm always curious. I appreciate your opinion, actually, because whenever we bring bills like this, such as trying to now get the government more involved in the process here, to make sure there, there are no deceptive practices.

**ANTHONY HATCHER:** Correct.

**HANSEN:** Because I think that's kind of part of our job, is to make sure, you know, we're-- people are able to hold their contractual obligations--

**ANTHONY HATCHER:** Right.

**HANSEN:** --thoroughly. You know what I mean? But then, there's also the court system that kind of brings the other part, if they're not going through that first, and I was kind of curious if anybody has gone through that route yet, through the, through the courts before coming to us now to try to figure out the problem.

**ANTHONY HATCHER:** I think some of the agencies that we referred to, the ones that really-- you know, it's always the bad actors that you have to deal with. And I think going after them, from a legal standpoint, would probably put them out of business. Because they, they probably don't have the backing to be able to do it. I could tell you more stories. But-- yeah, but they're--

**HANSEN:** I'm sure there's a few stories.

**ANTHONY HATCHER:** Yeah, there's a few stories. Yes, sir.

**HANSEN:** All right, well, thank you. Appreciate you.

**KAUTH:** Thank you. Senator Raybould.

**RAYBOULD:** You know, I wanted to follow up on Senator McKinney's question, because I think it is actually a pretty good one. So, you know, they are contractually obligated to do all the background checks and make sure that they have met the minimum qualifications. For those

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good staffing agencies, can they say, by the way, we want to just just make sure that your concerns are addressed; here is the list of qualifications of this individual that is going to be working in your facility, so you don't have any doubts? Or is that something that you could re-- require them, you know, please, upon them checking in on their first day, could they just provide, you know, their qualifications and certifications for this type of work? I don't know. I think that would go to some of your concerns about how do you check and verify when there's so much at risk if they send someone, and-- I didn't know if you had any situations with the individual who was dispensing medication, did any of the seniors get ill, or were-- received any of the wrong medication? I, I know that could be catastrophic.

**ANTHONY HATCHER:** It certainly could be catastrophic, and so that's why as soon as we learned that, we, you know, immediately removed those individuals and we terminated the contract with that agency. Most, I would say-- there are some really good agencies that are out there and represent themselves as well and provide the documentation; some do not. During the heightened-- heightened part of the pandemic, I can't begin to tell you how short we were on staff. We were working on-- in, in critical staffing shortage. You had a COVID outbreak, you called an agency and they said, "We'll send somebody right away. They'll be there today for this shift." So, to your point, having to get all this documentation and stuff put us in a pretty precarious position to be able to get all that back, especially when they said from the contract, "Yes, we have all that. We have all that information we'll provide you if and when you need it."

**RAYBOULD:** OK. Thank you.

**KAUTH:** Senator Sorrentino.

**SORRENTINO:** Thank you, Chairperson Kauth. Once your Hillcrest utilized a staffing agency, there's a contract involved. Typically, which party, Hillcrest or the staffing agency, was then subsequently responsible for the professional liability insurance? Is that you, as the employer, or the staffing agency to insure that health care worker?

**ANTHONY HATCHER:** That would be us. Because DHS [SIC]-- CMS and DHHS consider them as our employee, even though they're not. We're paying directly to the staffing agency for the hours. The government considers them, when they walk through that door and provide care to

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anybody in that building, they consider them as, from a liability standpoint, our employee.

**SORRENTINO:** So the employer/employee relationship stays with the staffing agency?

**ANTHONY HATCHER:** Yes.

**SORRENTINO:** They're not paid on a W-2. They're paid-- just, you pay the agency--

**ANTHONY HATCHER:** Correct.

**SORRENTINO:** --who provides them with a W-2.

**ANTHONY HATCHER:** Right. Or, in some instances, they pay them a 1099 where they're just contracted through the, the staffing agency so that there's no benefits for that team member.

**SORRENTINO:** So you have the obligation to insure a worker-- we won't call them an employee-- who you're not quite sure of their training, et cetera. Hasn't this, or doesn't this cause you, Hillcrest, insurance issues? Higher premiums, et cetera?

**ANTHONY HATCHER:** Yes. Our premiums continue to rise.

**SORRENTINO:** And wouldn't your insurance premiums go down if a legislative bill like this passed?

**ANTHONY HATCHER:** I would hope that it will.

**SORRENTINO:** I would think they would, having spent 40 years in the insurance industry--

**ANTHONY HATCHER:** Yes.

**SORRENTINO:** --in professional liability, I guarantee you they would.

**ANTHONY HATCHER:** Yes.

**SORRENTINO:** Thank you.

**KAUTH:** Thank you. Any further questions? Thank you very much for your testimony. Next proponent.

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**JOHN TURNER:** All right. Good afternoon, committee members. My name is John Turner, J-o-h-n T-u-r-n-e-r, and I'm the executive director at Newport House and Immanuel Community that serves 96 skilled rehab and long-term care residents in north Omaha. I'm here to express my support for LB308. I have had the need to work with many staffing agencies, especially during COVID over the last several years, and please know, I'm very grateful for all the resource staff that they have provided when we experienced those needs. At the same time, we need to share with you we have identified staff not qualified to do the job once at our community. And just, quick examples, an example we had, an agency nurse here that came in to perform poorly, and we decided to check the DHS-- DHHS website, and found out that this person was not a registered nursing assistant. Obviously, once we identified that person, we immediately removed that person and notified the agency. We had another agency staff person that wanted to work for us, and she was kind enough to share that she had a record of theft. We were note-- we were not notified by the agency about this at all. Obviously, we removed this person immediately. So overall, our concern was, is what were the staffing agencies doing to ensure the candidates were qualified and in good standing for the protection of the residents we serve? So, one of the things that you already talked about a little bit is what were we doing to make sure that we had that safety in places? Then we started requesting all the documentation to validate those individuals so that they are in good standing from that standpoint. But we did find that some of those investigations were not as thorough, because sometimes, they were doing a background check in just the state of Nebraska, but sometimes those people had issues in out-- out of the state. So, so it just depends on the circumstances that we were getting from that standpoint. The other thing that we wanted to share with you is just we experienced a difficulty in bringing agency staff on, and as Dr. Hatcher had said earlier, too, the buyout was expensive. And actually, we paid up to \$10,000 for the buyout. And obviously, it's a difficult financial burden on a community, especially when when, when our resources are limited by our, our funding through Medicaid and Medicare, from that standpoint, so. And again, our concern is that we feel like the staffing agency should be registered by the state, because they are supporting and providing staff to care for vulnerable adults. And again, the funds which we get from Medicaid and Medicare help pay for those funds. So, so the bill as written, I think, addresses our concerns, and we hope that you'll support the bill. So, happy to answer any questions.

**KAUTH:** Thank you. Any questions? Senator Hansen?

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**HANSEN:** I'm going to kind of reiterate a little bit of what I mentioned earlier. The previous testifier. That one agency who said they were supposed to prov-- what was it, a nursing aide?

**JOHN TURNER:** Mmhmm.

**HANSEN:** And that person was not nurse aide?

**JOHN TURNER:** Correct.

**HANSEN:** What happened to that agency then?

**JOHN TURNER:** Well, we, we--

**HANSEN:** Did, did, did they have a contractual obligation to provide somebody of a certain caliber like that? And then, if they didn't-- like, what's recourse for them? I just-- I'm [INAUDIBLE].

**JOHN TURNER:** The only thing that we could do on our end is notify them that this person was not, and we tried to identify why they didn't validate the person that they were nursing assistant. So, our action is we just didn't use the agency anymore, from that standpoint, so. I can't speak to anything above that, so.

**HANSEN:** OK.

**JOHN TURNER:** We just knew that, obviously, the person wasn't a certified nursing assistant, and we couldn't have them back in, so.

**KAUTH:** Senator McKinney.

**McKINNEY:** Thank you, Chair. I guess what confuses me is the lack of prior validation. And, and the reason I say this is because people that are residing in nursing homes-- like, I got a grandfather right now in a nursing home. So, the fact that some are not validated as individuals prior to them coming inside, then waiting until they pass a med, and then like, oh, this person might be questionable, and then going to check. That-- I don't understand why you wouldn't-- you guys wouldn't be proactive before they step in the door.

**JOHN TURNER:** Well, again, entrusting that the, the agency was doing their due diligence correct, 100% agree with you. And therefore, after we identified that going forward, that's the corrective action we actually did take--

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**McKINNEY:** I guess--

**JOHN TURNER:** To make sure that that-- we--

**McKINNEY:** I understand trusting the, the agency. But you have someone's life in your hands.

**JOHN TURNER:** Correct.

**McKINNEY:** I think it should be a triple check, is what I'm saying. It shouldn't just be let's trust this agency when you're dealing with people's lives. I feel like there should be a heightened-- you know, heightened scrutiny is what I'm saying.

**JOHN TURNER:** Yeah, no. Fair point. Fair point.

**KAUTH:** Other questions? I have one. So you mentioned that there's a registry at DHHS for medical--

**JOHN TURNER:** Yeah, nurse aide registry.

**KAUTH:** --is that just for that-- nurses only? Or?

**JOHN TURNER:** For the nurse aid registry. For this one, yeah.

**KAUTH:** OK. So CNAs, med aides, all the-- so it seems like we already have an agency set up to do this?

**JOHN TURNER:** Right. So whatever this person did to either falsely give the agency information or what have you, this person ended up coming to our community. So, again, once we identified that the service wasn't acceptable, then that's when we double-checked what-- on our end and find out the person wasn't on the registry, and then, obviously, sent the person home, so.

**KAUTH:** So the staffing agency had not double-checked?

**JOHN TURNER:** Correct.

**KAUTH:** --on the DHH-- so the information's available. We're, we're, as a state, already basically registering this information--

**JOHN TURNER:** Correct.

**KAUTH:** --for the individuals.

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**JOHN TURNER:** Correct.

**KAUTH:** OK. Thank you very much. Any other questions? Thank you for your time.

**JOHN TURNER:** All right. Thank you.

**KAUTH:** Next proponent.

**KIERSTIN REED:** Good afternoon, Chair Kauth, and members of the Business and Labor Committee. My name is Kierstin Reed. That's K-i-e-r-s-t-i-n R-e-e-d. And I serve as the CEO for LeadingAge Nebraska. LeadingAge is an association that supports nonprofit and locally-owned providers of aging services, and together, our members serve about 5,000 Nebraska seniors in a variety of settings. We'd like to thank Senator Ibach for bringing this bill forward. The Health Care Staffing Agency Registration Act-- that's a mouthful-- would provide a lot of transparency, and would go a long way to decreasing the costs of staffing in our nursing homes and other aging services sectors. Health care providers have been using temporary agencies to meet their staffing needs for many years; this is nothing new. During the pandemic, as you've heard, staffing agencies became much more necessary, as we were experiencing a global crisis. During the pandemic, when the supply of staff was low, the demand was really high, and these agencies had to raise their prices. But we were in the middle of managing a global crisis. This also meant the staffing costs of health care providers across Nebraska continued to rise. At this point, those prices have not gone back down all the way, and providers just simply don't know who they can trust anymore. So we do really feel that the registry would go a long way in assisting in providing transparency. We also believe the very important part of this bill is addressing the non-compete clause. Many of these staffing agency contracts do use non-compete clause, which can either be assessed to the organization, or to that temporary worker, and there may be a penalty for hiring that worker, or a penalty for that worker going to work somewhere. These fees can be anywhere from 15 to 25% of their first-year salary, regardless of how long they actually worked in that building. It's been reported that health care workers here in Nebraska have actually been shut out of an entire local service area of places where they could work, because they would have to buy out their staffing agency agreements. While the cost of these practices for temporary staffing agencies have cooled over the last year, we have not seen a full recovery to pre-pandemic pricing. Health care providers know that they will be charged a premium for using temporary



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staff. However, the current cost is not sustainable long-term. An average of 30% of health care workers in Nebraska in long-term care are still being covered by temporary staffing. Sometimes, these rates are 2 to 3 times the rate of hiring their own team member. Our other concern includes competent staff, and the liability of these services. Our members have experienced situations where temporary staff have not met the proper requirements or health care requirements for qualifying to work in these settings. They've also experienced situations in which the staff were just generally not competent in what is considered typical nursing protocol. That has resulted in harm level deficiencies and fines to their organization, all when they are paying a premium for these staff members. Implementing the act would ensure that health care providers can do their own research, and high-- and determine which temporary staffing agency they want to contract with, which is currently not an option. It would allow them to find the most reputable organization to work with, to know that they can provide them the best quality care. I'm happy to answer any questions that you have, and we appreciate your consideration of this bill.

**KAUTH:** Thank you. Any questions? I do have one. You mentioned this would decrease costs, and I have questions about how increasing government regulations would actually decrease costs. Won't those costs be passed on to you, the consumer?

**KIERSTIN REED:** Well, I think the, the cost of [INAUDIBLE] registry is relatively low. So I don't think that that's a concern, that that's going to be passed on. And if it is, it's across all of their services. The reason that we really think that this is going to decrease pricing is that all of this information becomes much more transparent. So you could have two different providers contracting with the same agency in the same city, virtually right down the street from one another, and they're getting charged two different rates. So, if there's transparency, if we know what this agency is charging at a particular place, then they should be charging-- you know, the other company would be able to go back and say, "Why is it that you're charging this over here, and this over here?" So, we really feel that that is going to kind of open the door for people to do their own research.

**KAUTH:** So, so-- let me clarify. So, this bill is not just about transparency, about people's education and their certifications.

**KIERSTIN REED:** Correct.

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**KAUTH:** It's also, you would like to know what the staffing companies are charging other people?

**KIERSTIN REED:** Correct.

**KAUTH:** Wouldn't that be considered a, a trade-- in-- something that is a private business matter?

**KIERSTIN REED:** Well, that's one of the things that the bill calls for, is kind of putting that out-- having to report that into the state, and that the state would have a database of all of that information. So not only knowing what the rates-- average rates. I mean, we're not talking down to the nitty-gritty of each facility. But they would know what the average rates are that they're charging, and they would also know what for each type of position. So, whether it's an RN, LPN, a med aide, a CNA, they would know how much each one of those people is making.

**KAUTH:** I--

**KIERSTIN REED:** The other part here is that we don't necessarily know how much of the-- you know, say it's \$100 an hour. We don't know how much of that is going on to that staff person, either.

**KAUTH:** So, are there any other areas of your industry where businesses are required to tell you how much they're charging your competitors so that you would know-- I mean, I-- that seems very anti-business to me that, that you would have that information out there, that they would be forced to say how much they're charging each different business.

**KIERSTIN REED:** I don't think-- I don't think it's going to get down to each different business, but it is going to give them an average to know, am I paying above that? Am I paying below that?

**KAUTH:** Thank you. Any other questions? OK. Thank you very much.

**KIERSTIN REED:** Thank you.

**KAUTH:** Next proponent.

**JALENE CARPENTER:** Good afternoon, Chairman Kauth, and members of the Business and Labor Committee. My name is Jalene Carpenter, J-a-l-e-n-e-C-a-r-p-e-n-t-e-r, and I'm the President and CEO of Nebraska Health Care Association. We represent over 400 nonprofit and proprietary skilled nursing facility and assisted living committee members. We are

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here to testify in support of LB308, and appreciate Senator Ibach for introducing this legislation. I need to clarify a few points quickly. So, number one, the bill-- LB308-- does not do any of what was just described in regards to pricing. The indus-- the-- there is reporting required; it is only available to the department. It is not publicly posted. It's only allowed for if the department receives complaints, in order to complete investigations.

**KAUTH:** Thank you.

**JALENE CARPENTER:** What is posted publicly is the name of the re-- the staffing agency, and things like address, and if they are active on the registry. In your handout, you will see on page 2 there is a listing of staffing agencies registered or licensed in other states. We looked at three states as a sample size. Iowa and Missouri have requirements almost identical to LB308. There is a registry, it removes buyout clauses, it requires basic reporting. But again, only the public display is basic information, such as the name and address. They also have similar grievance processes. We additionally looked at the state of Oregon, a state that has far more stringent requirements. They have an actual licensure, and new this year, they have imposed caps such as a maximum bill rate staffing agencies can charge. Our bill does not do either of those things. At the top of this sheet, you will see the larger Nebraska-based agencies and where they are registered or licensed. You will notice that 100% are registered in Iowa. All but one are registered in Missouri, and all but one are listed in Oregon. Next, list the digital platforms. These are similar to Uber for health care and where they are registered. Finally, we listed agencies that are not based in Nebraska, but that our members report are commonly used, and if they are registered or licensed in those sample states. To address Senator McKinney's concern around what the potential recourse is if there's an individual who is not properly licensed or background check, that is part of the reason for the registry so that there an appropriate grievance process. So, our fear and concern is that if somebody sends an, an individual to a Facility A without a background check, that facility does their due diligence and finds that information out; they can easily send them to Facility B down the street. Without any sort of request or, or any process, the industry can go through to ensure that agency doesn't continue to perpetrate that bad-- that poor practice. That also addresses some of Senator Hansen's questions as well. I want to reiterate: steff-- staffing agencies are incredibly necessary in our industry. We are not looking to do anything overly burdensome, we are simply trying to ensure that we have a safe ecosystem for people who are being sent to

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our facilities to care for Nebraskans. And with that, I think I'll just leave it for any questions, because I know there's a few other testifiers behind me, but I wanted to clarify those few points.

**KAUTH:** Thank you very much. Senator Sorrentino.

**SORRENTINO:** Chairperson Kauth, thank you. Miss Carpenter, I'll just ask you one really quick question. Do you believe, under the current state, without the necessary requirements to register with these agencies-- are seniors and health care facilities at risk?

**JALENE CARPENTER:** I would say absolutely, for a couple of reasons. The pandemic shone a big light on how quickly things can escalate. There are things that are still looming in our industry. CMS still has a minimum staffing requirement that is looming out there. In addition, the new guaranteed sick leave that was passed with the ballot initiative could pose some potential problems. The, the concern is the urgency of times when we need to find temporary workers. There are times where you have a night shift nurse that calls out two hours before her shift, and you need to try and find a replacement. And so, you are relying upon those agencies to fulfill their contracts to send a qualified individual. And so, I do think that there's a continued risk. I also believe, as I've shown, staffing agencies are meeting this requirement in other states, so I would not see it as a burden on their end.

**SORRENTINO:** I'm assuming we will have some people who oppose this legislation.

**JALENE CARPENTER:** I would assume, yes.

**SORRENTINO:** I'll ask you what I ask every lobbyist who asks me to take a bill: who's going to oppose it, and why?

**JALENE CARPENTER:** I would imagine that the staffing agencies themselves would oppose it. I did go back through, we did propose this legislation previously. We worked with the digital platforms to ensure that they were able to meet the requirements. In addition, they went back through the testimony of the opposition before; many of the areas that were opposition, we changed in our bill to ensure that we were accommodating and trying to be, again, working towards a solution, so-- I know we are willing to work with any opposition if there's language that is still questionable in their eyes.

**SORRENTINO:** Thank you.

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**KAUTH:** Senator McKinney.

**McKINNEY:** Thank you. How accurate are the registries in other states?

**JALENE CARPENTER:** As far as how current are they?

**McKINNEY:** Yeah.

**JALENE CARPENTER:** I found them to be incredibly current. There was some nuances in regards to-- I was-- I looked at 2024 calendar year, versus '25, because some of the registries are annual on a calendar, and some of them were once you started working in that state, so you might not have registered in that state until you actually went and started working there.

**McKINNEY:** OK. And my next question. Our state is in a budget shortfall. Our administration is cutting jobs. So do you trust that the Department of Labor can even properly implement this?

**JALENE CARPENTER:** One point that I didn't hit-- so thank you very much. We have a registry for plumbers, roofers, contractors, the Department of Labor already administers. This was modeled after how that is done. So I do have confidence that they would be able to complete that.

**McKINNEY:** With the shortage of employees?

**JALENE CARPENTER:** I, I still have-- you know, what-- we, we are also in a staffing crisis in our industry, so I have confidence.

**McKINNEY:** All right. Thank you.

**KAUTH:** Thank you. Any other questions? Thank you. Next proponent.

**MEGHAN CHAFFEE:** Good afternoon, Chairwoman Kauth, and members of the Business and Labor Committee. My name is Meghan Chaffee, M-e-g-h-a-n C-h-a-f-f-e-e, chief advocacy and legal officer for the Nebraska Hospital Association, here in support of LB308. Health care careers are essential to Nebraska's hospitals, but quarter after quarter, Nebraska's hospitals continue to report they are experiencing a workforce shortage. For critical-access hospitals and dependent PPS and systems, they all report that registered nurses were their greatest workforce need. Second and third across the board are nurse aides and radiology technicians. To address staffing shortages, hospitals increasingly have to rely on temporary workers, including

traveling nurses, while the cost of contract labor has continued to increase. 8.3% of our hospitals FTEs for nurses are filled by staffing agencies. Having a database like that proposed in LB308 creates transparency about pricing. Additionally, requiring the staffing agencies to maintain basic insurance, licensing and certification standards provides trust into these caregivers asked to come into Nebraska's communities to care for their patients. NHA is actively working to address workforce shortages through our Healthcare Heroes program; this is where grade students in school learn about health sciences, and the many career opportunities possible in the health care field, from occupational therapy, surgical technologists, social workers, ophthalmologists, and so much more. As of today, 32 schools across the state and more than 3,100 students are participating in this impactful program. NHA supports LB308. I'm happy to try to answer any questions.

**KAUTH:** Thank you. Are there any questions from the committee? OK. Thank you very much. Next proponent.

**KATIE THURBER:** Chairwoman Kauth, and members of the Business and Labor Committee, for the record, my name is Katie Thurber, K-a-t-i-e T-h-u-r-b-e-r, interim commissioner of labor for the Nebraska Department of Labor. I'm appearing here today on behalf of the department in support of LB308. LB308 creates the Health Care Staffing Agency Registration Act to be administered by the Nebraska Department of Labor. Numerous other states, including Connecticut, Iowa, Illinois, Louisiana and Oregon have all passed similar pieces of legislation. Nebraska health care facilities continue to face a critical staffing problem. In response to this problem, the number of health care staffing agencies have increased. While health care staffing agencies can serve an important purpose, they also have significant power based on the critical need of the health care facilities. The Health Care Staffing Agency Act [SIC] protects both employee and Nebraska's existing health care entities from being taken advantage of, and helps enable health care entities to continue operation throughout the state. Under LB308, health care workers will have the complete flexibility to choose the employment option that works best for them. LB308 will require health care staffing agencies to register annually with the Nebraska Department of Labor. Once registered, health care staffing agencies must file quarterly reports with the department. Health care staffing agencies are required to ensure compliance with all applicable health requirements and qualifications of personnel an health care entity sets, document that each staff worker meets these requirements, maintain all documents

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required by external parties or regulators that the health care entity is required to maintain for its own employees, and maintain or require each staff worker to maintain professional and general liability insurance. Additionally, health care staffing agencies are prohibited from contracting non-compete clauses with staff members. Any violation may result in a civil penalty or revocation of the health care staffing agency's registration for one calendar year. The department is responsible for enforcement of this act. That concludes my testimony, and I would be happy to answer any questions you may have. Thank you.

**KAUTH:** Thank you. Are there any questions? Senator Sorrentino.

**SORRENTINO:** Chairwoman Kauth, thank you. Just one question on one sentence of your testimony. "Under LB308, health care workers will have complete flexibility to choose the employment option that works best for them." Do they not have that flexibility now?

**KATIE THURBER:** They don't, with the non-compete clauses. They're very standard in this industry. And so, once in, it is a lot harder to necessarily then have that flexibility.

**SORRENTINO:** Would you just give us an example of that, and how that works?

**KATIE THURBER:** Yeah. So, with a non-compete clause, sometimes it's geographic-based, most typically. And so, especially in rural Nebraska, where there might not be a ton of facility options, the geographic boundary limitations essentially eliminate you from being able to work in that area any longer.

**SORRENTINO:** Decreasing the workforce pool.

**KATIE THURBER:** Exactly.

**SORRENTINO:** Thank you.

**KAUTH:** Thank you, Senator Sorrentino. Senator McKinney.

**McKINNEY:** Thank you. So how would this eliminate the non-compete clauses?

**KATIE THURBER:** They are no longer by-- as proposed LB308, those are banned.

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**McKINNEY:** OK. So, if I signed a contract and said I couldn't compete for X amount of time once this passes, that contract is not valid?

**KATIE THURBER:** There is a provision within LB308 that addresses the current individuals with non-compete contracts and, before they can register, the health care staffing agency has to agree to allow-- not enforce that provision. So it doesn't completely null and void the entire contract, just that section.

**McKINNEY:** What if they don't agree?

**KATIE THURBER:** The individual doesn't agree?

**McKINNEY:** The agency.

**KATIE THURBER:** Then they can't register.

**McKINNEY:** But could they still operate?

**KATIE THURBER:** Not in Nebraska.

**McKINNEY:** OK. Next question. Do you think your department could actually implement this with budget cuts?

**KATIE THURBER:** So, there is a fiscal note to this bill, but absolutely. So, at the Department of Labor, we haven't decreased in the area that this would go to. Goes to our Labor Standards Division. We have the same staffing levels we had previously in that division last year as well, and they enforce similar laws; the Contractor Registration Act's been talked about. They also have the Professional Employer Organization Act.

**McKINNEY:** So you don't need the three FTEs?

**KATIE THURBER:** We do need the three FTEs with the fiscal note.

**McKINNEY:** All right. Thank you.

**KATIE THURBER:** You're welcome.

**KAUTH:** Thank you, Senator McKinney. Any other questions? Thank you very much for your testimony.

**KATIE THURBER:** Thank you.

**KAUTH:** Next proponent. No more proponents. How about opponents?



**JOSH NORTON:** Good afternoon, Chairman Kauth and members of the committee. My name is Josh Norton. I'm here on behalf of the American Staffing Association in opposition to LB308. I'm also a licensed attorney here in Nebraska. LB308 is the same or substantially similar bill proposed last session as LB335, which we opposed also, and continue to oppose it for a lot of the same reasons. I'd like to reference three reasons why this bill is bad for Nebraska. The first thing, we're creating here a new law with additional bureaucracy, when what we really need to do is to use the infrastructure currently in place. There's been a lot of discussion here about non-competes, and what I-- what I'd like to make clear for, for everyone on the committee is non-competes in the employment context are per se unenforceable in the state of Nebraska. That dates back to the 1987 Supreme Court case, the Polly case in the Nebraska Supreme Court. There's a lot of case law about that. So, non-competes in the employment context are unenforceable in Nebraska; we don't need a new law for that. The next thing that-- there's been references here to bad actors and, and that many staffing agencies are good, but some of them are bad. What I would suggest we need for that is not a new law, not a new framework, but to empower our attorney general under the existing business Deceptive Trade Practices Act to go after those bad actors. There's a structure for that. They have subpoena power, they can request the information that we're asking everyone to file quarterly. So, first point, use the existing laws, we don't need new ones. And, and the addition-- there is a cost associated with that: three FTEs to get all of this paperwork on a quarterly basis from companies, when what we should do is focus on anyone who's a bad actor. Let's protect our Nebraska health care facilities with, with the powers that are already in play. Secondly-- and we've heard some of this already, but the genesis for these laws come from states like Massachusetts and Illinois, passed as a knee-jerk reaction to the pandemic. And I don't think anybody who lived through it, especially in the health care world, would say-- would take it lightly, the crisis that there was for staffing. What you needed was great heroic health care workers to run towards the-- towards the problem, towards a fire, which they did. That was a problem. What's happened in the years since the pandemic is the free market and private enterprise have taken care of this issue in ways that government never can. Many of the companies that jumped into the fray, as we've heard about, fly-by-night companies, they're gone. Why is that? They're pushed out by private enterprise, by-- that's the way the market works; if you're not very good at what you do, you get flushed out. In addition to that, bill rates have come down significantly since 2022, close to 40%

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in the aggregate in some specialties. So I'm happy to share-- I don't have them with me-- I'm happy to email each of you statistics, if you like to see some of that. So we don't need law when, when private enterprise can take care of it. The third thing-- and, and finally, this bill doesn't do anything to address the real problem of staffing shortages faced by health care facilities in Nebraska. If anything, by adding additional government red tape, quarterly filing-- and quarterly filing obligations, it creates additional barriers to-- barriers to entry to the health care staffing here in Nebraska. What I'd say about that is, yes, certainly some other states-- Massachusetts, Illinois, California-- that do have significant, significant more red tape than Nebraska does, staffing companies still go there, they still register. Why? Those are bigger markets than we have here in Nebraska. What I would be afraid of here in Nebraska is, if we create additional red tape, you might have staffing companies that simply decide not to do business in the state of Nebraska. For all those reasons, we stand in opposition in this bill. Happy to answer any questions.

**KAUTH:** Thank you. Are there any questions? Whoo. Senator Raybould.

**RAYBOULD:** Thank you very much for your testimony. Have you, in your research and working with other groups, have-- for example, like in Iowa since they've passed it-- have you heard of, or have you heard about any decreases in their ability for staff? As a deterrent for Iowa, since they passed something similar?

**JOSH NORTON:** I, I have not heard anything personally. Likewise, I have not heard any tangible benefits of this law. Other than quarterly paperwork that requires additional costs to servicing, I don't think there's-- I don't-- I have heard no one in the state of Iowa say this is so much better for us now that we have this new law.

**KAUTH:** OK. Thank you. Senator Sorrentino.

**SORRENTINO:** Chairperson Kauth, thank you. Mr. Norton, thanks for your testimony. As a fellow member of the Nebraska State Bar, it's 100% correct, non-competes are unenforceable in the state of Nebraska. So my question is, having not truly viewed a lot of these contracts, are non-competes currently present and typical in these agreements? If they're unenforceable, I'm, I'm confused as to why they're in there.

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**JOSH NORTON:** I, I think there's probably a wide range of things in contracts. What I would suggest is if you don't like it, don't agree to it. I, I--

**SORRENTINO:** Call your attorney?

**JOSH NORTON:** What's that?

**SORRENTINO:** Call your attorney.

**JOSH NORTON:** Call your attorney. But I don't think it-- I don't see it as an impediment to anyone doing business.

**SORRENTINO:** But if they're in there, they're unenforceable in our state anyway.

**JOSH NORTON:** Yeah, with respect to those clinicians, they are.

**SORRENTINO:** Right, right. And we're talking purely non-competes, not non-solicitation agreements, correct?

**JOSH NORTON:** That's right.

**SORRENTINO:** Thank you.

**KAUTH:** Thank you, Chair-- Senator Sorrentino. Any other questions? Senator Hansen.

**HANSEN:** Just for a little clarity on non-compete. Is that be-- is that due to a court decision, or is that statutory change?

**JOSH NORTON:** It's a, a long line of court decisions, but it's, it's a court opinion.

**HANSEN:** But it's still-- so it wouldn't be to-- I [INAUDIBLE] in, in statute then. You know, in, in a bill like this to clarify.

**JOSH NORTON:** I think what would be-- what would be different is to, is to do it in such a specific way where it's open to ambiguity, and only applies to one industry.

**HANSEN:** OK. Thanks.

**KAUTH:** Thank you. Any other questions? Thank you for your testimony.

**JOSH NORTON:** Thank you.

**KAUTH:** Next opponent.

**TYLER PIEPER:** Hello, my name is Tyler Pieper. I work for Triage Staffing, I'm a co-founder there. We've been in business 19 years, I've been involved in health care staffing for 25. I oppose this bill. Oh, my-- spell my name, I'm sorry. T-y-l-e-r, last name is Pieper, P-i-e-p-e-r. A little bit about Triage. We're, we're the twelfth-largest medical staffing company in the United States; we're the second largest in the state of Nebraska. We oppose this bill because it-- it's just extra work. We're already doing this. And some of you may or may not know, joint commission is the regulatory body that oversees hospitals as well as agencies, and we have to be basically certified with the joint commission if we want to work in any of these situations. So, that comes to an annual expense of about \$50,000 a year. So it isn't-- it isn't cheap. Our job is to make sure that everybody is licensed, and we do online verifications, we do background checks, we do immunizations, but it, it is all in cooperation with the client. So, if the client wants to have county background checks, it's negotiable, we'll do that. If they just want a state background check, we'll do that. So, I think a lot of this stuff is covered from that standpoint. The other point of perm fees, conversion fees, again, those are negotiable on a contract-by-contract basis. In our contract, we have in there, if you work a week as a contract employee, we reduce that fee 1%. So, let's say we start at 20%, and they work 20 weeks, we don't charge them a fee at the end. That's just our standard practice, and that's pretty much standard in the industry. So, that's a little bit of, you know, I guess, from a staffing perspective that I feel like we would run into when it comes to reporting of hours and stuff-- at such like that. We just went through this last month with Washington State, and it took seven different people within our organization a week to accumulate the documentation that they asked for. I was talking to our contracts person on the way down; she feels we're gonna have to hire a full-time employee just to deal with the states like Illinois, California, Washington. They're having these, you know, I'd say, unnecessary burdens put on us. So, you know, when it talks-- I talked to a gal in New York state; she had a small, local per diem staffing company. In the state of New York, you can't have a conversion fee. She sends her people in two days, the hospital ends the contract, they go offer that person the position. So they get nothing out of it. You know, you can't even-- because the contract ended, and there's no conversion fee, so she's basically out of business. So I think, sometimes, you

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know, what looks good on paper turns out to be a negative for the, for the businesses at times.

**KAUTH:** Thank you. Any questions? Senator Raybould.

**RAYBOULD:** So you're the twelfth-largest staffing service in the country for health care.

**TYLER PIEPER:** Yep.

**RAYBOULD:** So do you operate in Iowa and Missouri?

**TYLER PIEPER:** We do.

**RAYBOULD:** You do? And how do you feel about the regulations that are very similar to this law, and how does it impact your operations in Iowa and Missouri?

**TYLER PIEPER:** For us, it doesn't necessarily impact us a whole lot, because at our size we don't have to. But it really impacts others. We can't fill the-- all the jobs in Iowa and Missouri. So, it's going to affect them in some form or fashion. We do limit what business we do in the state of California because of the regulations they have there. We are limiting the amount of business we do in Washington state. We don't do that much perm stuff, so it doesn't really affect us. We're primarily temporary staffing, and that's where it becomes, you know, reporting the hours and that kind of stuff. That's where it would really bog us down.

**RAYBOULD:** OK. Thank you.

**KAUTH:** OK. Senator Sorrentino.

**SORRENTINO:** Thank you, Chairperson Kauth. It sounds like your company-- Triage, I think was the name of it-- is, is pretty thorough--

**TYLER PIEPER:** Yes.

**SORRENTINO:** --as far as what you do. So I would be curious, how do you feel with respect to those agencies who aren't as thorough as you? Aren't they, without this sort of regulation, really getting an advantage in pricing because their quality of care is less? I would think perhaps you would welcome this, because right now they're competing against you and not putting in all the effort that you are.

**TYLER PIEPER:** I don't think so. I mean, we do-- we, we-- we really view this as a partnership. We-- you know, we've been the Pinnacle Award winner for HCA Healthcare, which is the largest, you know, health system in the United States. And there's eight components to becoming that pinnacle partner, and one of them is cancellation rates, and the other one is on-time starts. So, our on-time start with health care-- or with HealthTrust is 97%. So, before we put anybody in, we're sending them the documents that show background, immunizations, whatever they're asking us for. And we send that to them before a person can even start up with their orientation, and we clear that at 97% of the time. The industry average is closer to 91% of the time. So, we feel our name and history, you know, kind of sets us apart. And, you know, a company like HealthTrust, they, they won't put up with, you know, the example you have. They work with a very finite group of people. They have a group of 20, but they really have a group of 10 that they work with. They choose who they work with, and it eliminates a lot of time on their end, if they have to kind of put up with the, you know, the situation you described there.

**SORRENTINO:** Thank you.

**KAUTH:** Any other questions? Thank you for your testimony. Next opponent.

**TRAVIS MARR:** Good afternoon. My name is Travis Marr, T-r-a-v-i-s M-a-r-r. I am in-house counsel for OneStaff Medical. We're a local health care staffing agency in Omaha, Nebraska. We staff nationwide, in all 50 states. We have just over 1,000 nurses that we place amongst those states, and a little over 25 here in Nebraska. I'm here to talk on, on a few of the points that have already being addressed. You know, we are-- we, being the staffing industry, especially in health care-- are kind of a necessary proponent, as some of the proponents have already attested to today. Without us, I would argue that, you know, many of the hospitals, skilled nursing agencies, et cetera, would not be able to function at full capacity. The other thing that's kind of a misnomer is that the rate that staffing agencies charge is just pay rate to the, to the nurse and profit to the, to the agency. With that, you have to understand that these pay rates are all-encompassing. So out of that, you know, hundred dollar bill rate let's use for an example, you get the pay rate to the nurse, which is always competitive for the, the market they're in. Out of that also comes their stipends or per diem reimbursements, and then comes what one of the points we talked-- Senator Sorrentino brought up earlier is actually we are considered the wage employer. We, we actually produce

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the W-2s. We cover the PL insurance on all of our nurses, including worker's comp insurance, as well as unemployment insurance, et cetera. So, there is a huge chunk of the overall bill rate that comes out to pay for those administrative and insurance costs. What that also does is takes the liability, the requirements for training, orientation, out of the hospital, the nursing home, hands, and all on us. Typically, these requirements are already built into the contracts. So, being in-house counsel, I've actually drafted a number of both client contracts the, the agency to the actual facility, and then the contracts with the nurses as well. So I can tell you that, you know, in all of those contracts, we have a compliance list that shows specific details on what is required for us to even submit to-- somebody to a facility for consideration. Amongst those is a-- oftentimes a minimum of a seven-year background check, which is local and federal. There's also OIG searches, other, you know, sex registry searches, et cetera. Many states have their own-- you know, Wisconsin has a health-care-worker-specific background check. So, many of those things are already accommodated within the contract. I'd also like just to speak on the, the non-competes have already been addressed. They're essentially void in Nebraska. But the, the conversion fees, as Tyler briefly suggested, is really to, to protect our business because we are a staffing agency and not a placement agency. And so when we send somebody, the intent is that, you know, they're, they're going to be there typically for 13 weeks working, and that we will be the employer during those 13 weeks. Without a, without a conversion provision, a facility could quote unquote steal that person within just a matter of a couple of days at no cost, no fee to them, after we've already spent the time, money and resources finding this person, developing the relationship, and then placing them, taking care of all of the legwork. That-- like I said, that facility could essentially steal that person as their own full time employee, with no recourse. Most conversion fees are a percentage-based, and they lower as they get throughout the contract. So, once they complete the 13 weeks, most agencies don't even charge, if the, if the facility is interested in hiring that person permanent. I know at least one state, Colorado, who has a health care staffing law, they had put in a provision that started out as a complete ban, and then they tiered it off to be, I think-- you can only charge a conversion-- charge a conversion fee if it's less than 90 days. So, after 90 days, the conversion fees are, are restricted. One, one last point I'd like just to make is-- a lot of talk has been made about the contract re-- registration, how that's-- this bill is kind of similar to that. What I would ask is, does that registration require contractors to reduce their bill rates,

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their pay rates for their subs, et cetera? Because that is one part where this is very overreaching. You know, I don't think there's any problem with transparency. But the, the main thing is-- is the information being submitted? Does the person who is digesting that information fully understand what the context is of those rates and how they affect the overall industry? And with that, I'll open for any questions.

**KAUTH:** Thank you. Any questions from the committee? Senator Sorrentino.

**SORRENTINO:** Very quick-- thank you, Chairperson Kauth. Without giving up any proprietary information that's not my point, are your contracts-- you're in the staffing more than permanent. Are your contracts typical in the industry, or are your contracts different than most of your competitors?

**TRAVIS MARR:** No, I would say contracts are, are pretty similar across the board. You-- I mean, with this industry-- so, there-- just to give a little context, there's a-- probably at least 100 staffing agencies in Omaha alone, ranging from your small, probably 5 to 10 employees to your Triages and Medical Solutions of the world who have probably well over 500. And, and we're talking interim employees. So, so to that point, yes, the contracts are always very similar, because when you're working with big hospital conglomerates all over the country, you know, you can't just throw in random clauses and stuff. It's usually very industry-specific.

**SORRENTINO:** And did I hear you right to say that your organization-- OneStaff?

**TRAVIS MARR:** Yes.

**SORRENTINO:** --provides a professional insurance rather than the facilities [INAUDIBLE]?

**TRAVIS MARR:** Oh yeah. It's, it's one of our biggest costs, is our-- we just did our renewals, so I know that. But yes, it is a very hefty cost to carry the, the professional liability insurance, general liability insurance, and all the nuances of insurances under the umbrella.

**SORRENTINO:** So, you know the next question I'm going to ask you. So, if your workers are licensed and vetted appropriately, I'm assuming that would be reflected in your insurance rates. And if they were not,



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the insurance carrier probably would say that's an unknown risk, and underwriters only know one way to write-- underwrite it--

**TRAVIS MARR:** Correct.

**SORRENTINO:** "Undetected risk." And that's write the-- write them up. Right?

**TRAVIS MARR:** Correct.

**SORRENTINO:** Thank you.

**TRAVIS MARR:** Yes, sir.

**KAUTH:** Senator Raybould.

**RAYBOULD:** So, I did find, to your concern listed in the draft that talks about a detailed list of the average amount charged to the health care entity from each category of staff worker. And the other one, detailed list by licensing category the average amount paid by the agency to staff workers in Nebraska. If those two elements were struck, would you feel more comfortable with this? Because it would probably be similar to, you know, the other states that you're already doing business in.

**TRAVIS MARR:** Yes, ma'am. I think, you know-- we-- most agencies respect and understand the importance of a registration act, because it does give some transparency to, often, ownership, some of the things-- the insurance requirements, making sure that they're following certain protocols. Once you go beyond that, however, and you start restricting, or-- restricting what we can and can't put in our contracts, whether it be a client contract or an employee-- employment contract, that really inhibits the free market, as Senator McKinney's touched on quite a bit, and really does affect our, our business overall. You know, and again, the, the disclosure of the two rates isn't often understood, you know, because then you-- there's a lot of guesswork that goes, oh, well, what's the percentage of profit? But they don't understand the percentage that goes to the admin cost, the insurance cost, the cost to employee. There's lots of pieces to the pie that get taken out of that overall number.

**RAYBOULD:** OK. Thank you.

**KAUTH:** Thank you, Senator Raybould. Any other questions? OK. Thank you for your testimony.

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**TRAVIS MARR:** Thanks so much.

**KAUTH:** Next opponent. Does anyone wish to speak in the neutral?  
Senator Ibach, would you like to close?

**IBACH:** Well, first of all, I would like to thank everyone who testified today for and, and the opposition as well. I don't think I've ever taken as many notes at a hearing for one of my bills before, so that's a really good thing. So, I appreciate everyone that came to testify. The first thing I would mention is that this bill does ensure proper certification and, and qualifications to work in our state, and I think it's important for us to protect that, that right. I would also call your attention to the fiscal note, and if you look at it closely, the revenue outweighs the expense, and so I don't think that this is going to be a major expense to our state to implement. I'd also like to thank the Department of Labor, too, for coming in in favor of this bill, because knowing that their procedures and their oversight is, is a huge advantage to this. So, I would also like to thank them. Then, I also appreciate that the last two testifiers are registered in those three states that we compared to. And so, I appreciate that they noted that from a, from a non-compete standpoint, because I know that in our state, non-competes are recognized; even if they're not enforceable, we do recognize those as, as a valid comparison. So anyway, for those reasons, I would ask for your support of LB308, and if you have any other questions, I would be happy to answer, or try to answer. Otherwise, thank you very much for listening.

**KAUTH:** Senator Raybould.

**RAYBOULD:** Senator Ibach, you know, we heard some concerns from the proponents about having the language of the average amount charged, because it could easily be misinterpreted, particularly for those agencies that are currently providing the liability, providing worker's comp, which is a big burden on them. You know, it increases their administrative overhead on doing something like that. Is that something that you would feel comfortable striking those two lines, about listing the average amount charged?

**IBACH:** I also think in fair competition in our state, it's always good to know what other providers are charging. I think we used, we used that information in, in multiple businesses as a-- as you well know, as a resource. So, we can entertain that. I don't know that that's

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something that, ultimately, will change my approach to this bill, but we would certainly entertain that.

**KAUTH:** One more?

**RAYBOULD:** So I'm wondering, with Iowa and Missouri, is that-- is this language consistent with they have in their registries as well?

**IBACH:** I believe it is--

**RAYBOULD:** I see people shaking their heads right behind you.

**IBACH:** If it is-- yes. I don't think that we would have put it in there without knowing that other states do this.

**RAYBOULD:** All right. Thank you.

**KAUTH:** Thank you, Senator Raybould. Any further questions? OK. With that, we close the hearing on LB308. Oh, sorry. We have letters. There were seven proponents, zero opponents and zero neutral. And next up is LB144. Is Senator Rountree-- is he? OK. Thank you. Thank you. Hello, Senator Rountree.

**ROUNTREE:** Chair, we're [INAUDIBLE]

**KAUTH:** We're going to move to three-minute testimony now. We, we took five minutes for the last one, and it got pretty long. So, three-minute testimony, and then if anyone has questions, we'll ask for more. So please, open up on LB144.

**ROUNTREE:** Good afternoon, Chair Kauth, and members of the Business and Labor Committee. My name is Victor Rountree. V-i-c-t-o-r R-o-u-n-t-r-e-e, and I represent District 3, which is made up of Bellevue and Papillion. Today, I'm very excited to introduce my first bill, LB144, which makes changes to the current hiring preference offered to military personnel and to their spouses. The state of Nebraska currently offers a hiring preference for veterans who are transitioning from their military service to their civilian life. When a veteran applies for a public job within the state government, they are given a slight preference in the interviewing process. This preference is also given to the spouses of 100% disabled veterans. This preference is currently only extended for initial employment, or for return to employment with the state, as long as there was no disciplinary reason for their departure. LB144 aims to grant this hiring preference to spouses of veterans who were killed in the line

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of duty, or died due to his or her service connection, and spouses of service members on active duty, or reservists. According to the 2021 Active Duty Spouse Survey, the military spouse unemployment rate is 21%. As families move across the country to support their service members, it can be difficult to acclimate to their new homes and find employment in the community. The bill also expands preference from not only being applied to an initial employment or return to employment; under LB144, preference would also be a factor when a service member or spouse of a service member is eligible for promotion, receives a reassignment, or transfers to a new position. This change is important because, as currently written, a veteran working for the state who has already been given preference who has gained experience in their field and would be eligible for promotion could possibly be denied that promotion if a similar candidate who has not worked for the state applies. These changes bring the Nebraska veterans hiring preference closer in line with federal veterans hiring preferences. I know that we all believe that our military preparedness as a state and as a country is extremely important. In order to be prepared on a national level, we need to be well-situated at the local level. Ensuring that military families are financially secure helps our service members carry out their duties confidently, without any additional stresses back home. There are some amazing testifiers behind me who can speak to the need for this legislation and the benefits it will have for our state. With that said, I, as a retired veteran also, would be happy to answer any questions that you may have.

**KAUTH:** Thank you very much, Senator Rountree.

**ROUNTREE:** Thank you, ma'am.

**KAUTH:** Any questions? Senator Hansen.

**HANSEN:** Thank you. I see you have in-- on your third page here, about "such preference includes initial employment, promotion, reassignment, transfer to a new position." I get the reassignment and transferred to, to a new position part, why preference should be given to that, in case they do have to transfer. But why promotion?

**ROUNTREE:** If there's a promotion-- take my case, for instance. If I'm promoted from on this grade level to another grade level, it might be a job promotion, and I have to compete for that. If I've already used my veteran's preference on this one, I may not be entitled to compete for it there. While an outside person could also come in, they could

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compete for that same job, and they could get that veteran's preference and have a preference over myself.

**HANSEN:** OK. I think I understand that. Maybe not. But I'll listen.

**ROUNTREE:** Yes, sir. I appreciate that.

**HANSEN:** Sometimes, the testifiers afterwards answer my question differently, so.

**ROUNTREE:** Yes, sir. They most certainly will.

**HANSEN:** All right. Thank you.

**KAUTH:** Thank you, Senator Hansen.

**ROUNTREE:** We have some great testifiers coming.

**KAUTH:** Any other questions? And will you stay to close?

**ROUNTREE:** Yes, ma'am. I will stay to close.

**KAUTH:** Thank you. First proponent. Go ahead, begin.

**MICHELLE RICHART:** Chairperson Kauth, Vice Chairman Sorrentino, and honorable members of the committee, my name is Michelle Richart, M-i-c-h-e-l-l-e R-i-c-h-a-r-t, and I am the Midwest region liaison for the Department of Defense with the state liaison office. Our service members-- active, guard and reserve-- they hold a crucial role in protecting the interests of the United States, both home and abroad, and ensuring our overall national security. Through the implementation of these changes, states can ensure that service members are ready to support the military mission, because Nebraska is supporting their mili-- or, their family members, and creating an environment for military families that enhances recruiting, resilience, readiness and retention. Military spouses bring, bring distinct talents to the workforce. LB144 can create stronger pathways to employment for military spouses, and help address a unique challenge faced by our military families. Due to the-- due to the high demands of military service, a majority of our families relocate to new duty stations every few years. These rates of relocation offer hinder employment and career potential of mil-- military spouses, which in turn, have long-term consequences on both the spouse and the family. Let me give you some numbers. According to a 2021 Department of Defense survey of active duty spouses, 48% of respondents said that finding employment

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was one of the most critical problems they experienced during a move. Undue stress, whether financial or other, has the potential to disrupt the overall readiness of our military units at the local level. But like our civilian counterparts, our military families rely on two incomes to meet their basic needs. Updating and expanding the already-existing military spouse preference in the public sector, and expanding what already exists for veterans as a permissive preference in the private sector, may be the difference maker when looking at ways to reduce the stubbornly high unemployment rate. This policy has the opportunity not only to benefit our military families, but the employers looking to recruit talent. Some additional data: 30-- the active duty military spouse is 32 years old, and 49% of those individuals have a bachelor's degree or higher. The average age of a reserve and guard spouse is 37, and 57% of reserve and guard spouses have a bachelor's degree or higher. A military spouse hiring preference could not only-- could only have-- would also have a positive impact on the state's economy. This bill is a proactive step to support the economic stability and career advancement of these highly-skilled and dedicated individuals. A hiring preference would not only be well-deserved recognition of the sacrifices made, it is a sound economic investment in Nebraska's workforce. Simply put, LB144 offers a framework to serve both our military families and the state of Nebraska. Thank the committee for considering this important legislation, and I'm grateful for the tremendous efforts that Nebraska has historically made on behalf of our military families. We'd also like to thank the bill's sponsor, Senator Rountree, and the additional legislators who have already signed on in support. I stand by for any questions you may have.

**KAUTH:** Thank you. Are there any questions? OK. Thank you for your testimony.

**MICHELLE RICHART:** Thank you.

**KAUTH:** Next proponent.

**AIMEE SALTER:** Good afternoon, Chairperson Kauth, Vice Chairperson Sorrentino, and honorable members of the committee. My name is Aimee Salter: A-i-m-e-e S-a-l-t-e-r. I serve as a flight chief for military family readiness, 55th Force Support Squadron, Offutt Air Force Base. Military family readiness is a critical network of programs and services designed to enhance military family well-being by fostering readiness, resilience and improved quality of life for our service members and their families. Through collaboration and integration, we

work to deliver positive outcomes in key areas of family readiness, including social connectedness, health, community engagement, financial stability and employment opportunities, especially for active duty spouses and transitioning service members. Today, I want to provide a human perspective on the challenges faced by military spouses seeking meaningful employment after a permanent change of station, or PCS. While Ms. Richart has shared statistics, I hope to put a heartbeat to those numbers by sharing three stories that demonstrate real-life impact of these challenges. The first story is a spouse who PCSd for their service member last year. After spending a decade building her education and career, she now has been unemployed for over ten months at a new duty station. To a lack of opportunities in her field, she faces an impossible choice: continuing waiting for an opportunity in her area of expertise, or start over in a new career at the bottom of the pay scale, in a job that holds little meaning to her. But this dilemma is not just about income; it's about dignity, identity and the ability to fully support her family. The second story is a spouse who arrived at Offutt this past summer. Her resume is impressive. She's worked hard to secure a quasi-portable career. Yet, despite her dedication and credentials, she cannot find employment in her area of expertise due to a local job requirement of four years of experience. She only has three years and two months at her last duty station. She now faces a similarly difficult choice: start over in a new field, volunteer for ten months if-- to meet the requirement, or go back to school for a new career, none of which will allow her to fully contribute to her family or provide for the fulfillment she deserves. The third story is my own. As a newly transitioned service member, a newlywed spouse, I struggled to find meaningful employment while supporting my spouse's career. Over the years, I held countless part-time jobs and volunteer positions equivalent to several full-time roles. After settling at Offutt, I finally secured a job in my area of expertise equivalent-- and passion. However, my employment situation directly influenced my spouse's career decisions. Twice during my first three years of employment, my spouse was encouraged to apply for a highly-selective position on a high-profile jet in the DC area, a move that would have significantly advanced his career. He declined both times, choosing instead to prioritize my hard-earned stability. Not all families are fortunate enough to have that flexibility. But this underscores a critical point: when you anchor the spouse, you anchor the family. In many cases, this means the family chooses to settle long-term in Nebraska. These stories highlight the broader issues. It's not simply a lack of employment opportunities, but the lack of a s--opportunity that aligns with the spouse's specific areas

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of expertise in employment. LB144 has the potential to create meaningful career paths to military spouses, if the private sector employers elect to participate. Spouses deserve the chance to build meaningful, fulfilling careers, and LB144 provides that pathway. I urge you to support this important legislation, which would not only strengthen military families, but also foster economic growth and stability in Nebraska. Thank you for your time and your commitment to supporting military families, and I'm happy to answer any questions you may have.

**KAUTH:** Thank you. Are there any questions from the committee? Thank you. Next proponent.

**RANDY NORWOOD:** Good afternoon, Chairwoman Kauth, and members of the Business and Labor committee. My name is Randy Norwood, R-a-n-d-y N-o-r-w-o-o-d, and I'm the associate vice president of military affairs and strategic partnerships for the Greater Omaha Chamber of Commerce, as well as a 24 year veteran of the United States Air Force. I'm here today to express the Chamber's support for LB144. First, I would like to say, Senator Rountree, for introducing this important bill, and for his commitment to advancing efforts that support our military community. We at the Chamber are especially perceptive to policy recommendations from the defense-state liaison office, which you heard from earlier. We know that Nebraska's attention to these recommendations makes a significant difference to decision-makers when it comes to important choices, such as mission locations or base expansion opportunities. Although we are proud of the achievements we make year after year, it is still of key importance to us to do all we can to improve Nebraska's overall military friendliness. Speaking from personal experience, during my 24-year career, my family and I moved 8 times. Each relocation presented significant challenges for my wife, an elementary school teacher, to find employment. If she was fortunate to find a position, it often came with a pay cut, inability to transfer her 401(k), or the need to completely reinvent herself, which she did, whether it be as an administrative assistant, and then she also did medical transcription work for a while when we were overseas. Unfortunately, our experience is not unique. In my role as a first sergeant during active duty, as well as my work post-military retirement, I witnessed nearly-- newly-arrived service members seeking assistance for their spouses' employment struggles. All the-- and these struggles create stress for the whole family. The Chamber is deeply committed to supporting service members and their families. To be effective in this work, we regularly connect with active duty personnel and their spouses, hearing directly from them



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about the challenges they still face. Unfortunately, spouses experiencing discrimination from having a military affilia-- affiliation, whether overt or covert, continues to occur. LB144 is a step forward in addressing this issue by expanding current provisions to include military members and their spouses of all components, active duty, guard and reserve. This bill doesn't just benefit individual families, it benefits our entire state. From my understanding, Nebraska already offers a veteran preference for state hiring, while private employers have the option to implement similar preferences. To those employers who already have a hiring preference, thank you from the bottom of my heart. For those that do not, I urge you to consider adopting one. LB144 is a clear, deliberate action that sends a powerful message: Nebraska values its military community and is committed to being a military-friendly state. While our military families always appreciate kind words, they truly value meaningful action. Please know the Chamber remains a partner to you as you continue exploring ways to make Nebraska even more supportive of our military, veterans, and their families. Thank you for your consideration, and I'm happy to answer any questions you may have.

**KAUTH:** Thank you. Great timing. Any questions from the committee? Senator Hansen?

**HANSEN:** Thank you. I'm still hung up on this promotion part.

**RANDY NORWOOD:** Yes, sir.

**HANSEN:** The state of Nebraska then has to show preference to somebody who's been in the military to promote a position, it sounds like. So, if you have two people competing for the same job, say, in the Department of Transportation, they're forced to give preference to somebody who's been a veteran versus somebody who hasn't been for that promotion?

**RANDY NORWOOD:** So, on the promotion side, from my understanding, the way that this is good-- the way that this bill would work is-- so, I work at the Chamber of Commerce. If I'm applying for promotion to be whatever, as a step up, an outside candidate applies that also has veteran experience, gets to use their veteran preference, because it would be an initial hire. Since that is not an initial, and it is a promotion that I'm applying for, then this bill would allow me to utilize that promotion again, to level the playing field against an outside applicant.

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**HANSEN:** OK. Because I get the initial employment, the reassignment, the transfer. When it-- kind of somebody who was, like, either currently in the, in the military, or has been. It's from-- I, I just-- I'm trying to understand the promotion part. I still don't-- you're talking about an outside hire coming in? Or is this--

**RANDY NORWOOD:** So, there's this-- so, let's say I'm applying for to be a crime scene investigator with the city of Omaha.

**HANSEN:** OK.

**RANDY NORWOOD:** So--

**HANSEN:** Well, can we stick with the, the-- so we're talking about the state of Nebraska hiring, right?

**RANDY NORWOOD:** Yes.

**HANSEN:** And you're talking about somebody who's implemented themselves privately?

**RANDY NORWOOD:** Correct.

**HANSEN:** OK.

**RANDY NORWOOD:** So, either privately or, or as a government employee. I, I could work right here at the Legislature.

**HANSEN:** Yeah.

**RANDY NORWOOD:** And if I used my veteran's preference to get my initial job, and let's say there's a, there's a promotion to inside the Legislature somewhere,--

**HANSEN:** OK.

**RANDY NORWOOD:** --I wouldn't be able to use that, because I'm applying for that next-level position.

**HANSEN:** OK.

**RANDY NORWOOD:** But an outside applicant applying for that, that is also eligible for the veteran preference would then get to use that preference--

**HANSEN:** OK.

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**RANDY NORWOOD:** Where the person who's already in-- you're still a veteran, still meets the requirements. Currently, they're not eligible to use the preference. But this bill would allow them to use that preference.

**HANSEN:** That's pretty, that's pretty typical of what other states are doing?

**RANDY NORWOOD:** It varies state to state. I, I can't really--

**HANSEN:** OK. I'm sorry. I might be a little ignorant, because I'm, I'm unfamiliar with this. I think that's why I'm asking so many of these questions, so. But-- thanks. Appreciate it.

**KAUTH:** Thank you. Senator McKinney.

**McKINNEY:** Thank you. Just to kind of follow up on Senator Hansen, what about the person who's working in the same capacity as, let's say, a veteran seeking the same promotion, but the veteran is a veteran, so the veteran gets a preference.

**RANDY NORWOOD:** So, both of them would be veterans.

**McKINNEY:** No--

**RANDY NORWOOD:** So, it would cancel it out.

**McKINNEY:** One is not.

**RANDY NORWOOD:** Or you're talking internal?

**McKINNEY:** One is a veteran, and one is not a veteran. And we're both going for the same promotion, or we're working for the same agency. I'm just-- the one that's not is pretty much screwed, right?

**RANDY NORWOOD:** I wouldn't necessarily use those words, but I would-- the, the advantage is given to the veteran, given all things are equal.

**McKINNEY:** Yeah. OK.

**KAUTH:** Thank you, Senator McKinney.

**McKINNEY:** Yep.

**KAUTH:** Any other questions? Thank you for your testimony.

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**RANDY NORWOOD:** Thank you.

**KAUTH:** Next proponent. Go ahead.

**RYAN McINTOSH:** Chair Kauth, members of the Business and Labor Committee, my name is Ryan McIntosh, M-c-I-n-t-o-s-h, and I appear before you today on behalf of the National Guard Association of Nebraska in support of LB144. The National Guard Association of Nebraska includes the current commissioned officers and warrant officers of the Nebraska Air and Army National Guards, as well as a large number of retired officers as well. The original framework of the veterans preference statutes in Nebraska was first enacted in 1969, as veterans were returning home from Vietnam. At the time, the civil service exam was the primary instrument of government hiring. I worked with Senator Watermeier in 2014, when he introduced LB588 to update these statutes to create an alternate means for utilizing preference when no exam was used, to require notification by employers regarding preference, and also to extend the preference to spouses of veterans with 100% service-connected disability. Senator Bostelman updated the statutes again in 2017 with LB639, to extend preference of spouses of active duty service members, including reserve component service members while serving on active duty and deployed. LB144 goes one step further in making Nebraska the nation's most veteran-friendly state. The aspects of including preference in addition to initial hiring to also include promotion, reassignment or transfer to a new position are especially important to reserve component service members who continue to serve while also balancing a civilian career. As I stand before you today, I can attest to the challenges of balancing a family, a civilian job and a military career. Senator Hansen, my thoughts on the promotion aspect-- that is significantly important for reserve component service members who may have to step away from being called to either state active duty, or years-- years-long deployment. What I'll note is, under our current statutes, there is a-- you get five extra points on a-- if there's an exam administered for that promotion. If not, all else must be equal. So, you're considering two equal candidates. If one candidate is better, but not the veteran, that candidate would get the position. And with that, I'd be happy to answer any other questions.

**KAUTH:** Thank you. Are there any questions? I have one. So, so--

**RYAN McINTOSH:** Yes.

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**KAUTH:** --to that last statement, you're talking about merit. So, if both candidates have equal merit, then the preference would go to the military veteran or their spouse.

**RYAN McINTOSH:** Correct.

**KAUTH:** If, however, the military person or spouse does not have the same skill set, then the person who actually meets the criteria for the job would get the job.

**RYAN McINTOSH:** Yes. The only caveat to that is if there's a test administered--

**KAUTH:** The test would have five--

**RYAN McINTOSH:** They don't get five extra points.

**KAUTH:** Are there--

**RYAN McINTOSH:** Ten, if they're disabled.

**KAUTH:** Are there many tests administered for these types of jobs?

**RYAN McINTOSH:** I believe law enforcement does some,--

**KAUTH:** OK.

**RYAN McINTOSH:** But by and large, they do not. That's why we brought LB588 in 2014.

**KAUTH:** OK. Thank you. Any further questions? Thank you for your testimony.

**RYAN McINTOSH:** Thank you.

**KAUTH:** Next proponent. OK, there are no more proponents. Opponents? No opponents. Are there anyone testifying in the neutral? Senator Rountree, would you like to close?

**ROUNTREE:** Well, I greatly appreciate all the testimonies that have been given. So, committee, I just want to thank you so much for your attention to this bill, and for the great questions that were asked here today. I think LB144 could be a great step in helping our military families better support themselves-- that's our objective-- and plant roots in our state; we're looking at increasing our population numbers and our tax bases as well. This is a small change,

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but one that I think would have large impacts in our communities. With that, I would be happy to take any other questions that you might have.

**KAUTH:** Any questions from the committee? Thank you, Senator Rountree. Congratulations on your first hearing. There were, for the record, four proponent letters, zero opponent, and zero neutral.

**ROUNTREE:** All right. Thank you so much. Thank you, ma'am. Thank you, committee.

**KAUTH:** Next up is LB100.

\_\_\_\_\_ : Senator Spivey's on her way.

**KAUTH:** Oh, OK. Do you know--is she, like, en, en route?

\_\_\_\_\_ : En route, on her way.

**KAUTH:** She's en route? OK. We're waiting for Senator Spivey to come--

\_\_\_\_\_ : --but-- lack of opponents and lack of neutral testifiers.

**KAUTH:** Do you want to pass out your handouts?

\_\_\_\_\_ : Absolutely.

**KAUTH:** That'd be great. Thank you.

**HANSEN:** You just want to open for her? No, I'm [INAUDIBLE]

**KAUTH:** Not for her first bill. Come on. Senator Spivey knows which room we're in, right?

\_\_\_\_\_ : Yes.

**KAUTH:** OK, good. All right. Committee members, I suggest we use this, like, three minutes to take a break. So, if anybody needs to-- we'll be back in three minutes.

[BREAK]

**SPIVEY:** Hello, Chair. How are you?

**KAUTH:** I'm doing well. OK, you ready to open on LB100?

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**SPIVEY:** Yeah. Are y'all taking a quick break, or just folks kind of moving around?

**KAUTH:** They took a quick break, but I think we've got--

**SPIVEY:** OK.

**KAUTH:** We're only missing two. So, go ahead and get started.

**SPIVEY:** Yeah. Well, thank you, Chair, so much. And thank you, members of the Business and Labor committee. I am Ashlei Spivey, A-s-h-l-e-i S as in Sam, P as in Paul, i- V as in Victor, e-y, representing District 13, which is in northeast and northwest Omaha. I am really excited to be bringing forth LB100, which is really a bold initiative that can propel our great state of Nebraska, not just as a participant in the national, national and global economy, but really as a leader in fostering innovation and entrepreneurship. I have personally spent the last decade of my career before taking on this venture working in the spaces of entrepreneurship and innovation. So, I worked at two private foundations that invested solely in entrepreneur support organizations. How do you build ecosystems? How do you make sure that startups and business owners have what they need? I am, myself, a small business owner, and I really have looked at how businesses support economic growth. And so, this is not only important to me, but I know and have seen what, what it looks like when you truly invest in the startup and innovation community. As we, as a state, take big swings in business and innovation, we need our state government to be the quarterback. And this is really what LB100 does. It builds on current momentum. So we know that the Department of Economic Development and Opportunity has really started to think about business and innovation. And so, this is not to replace what they're doing, or to say that they're doing a, a bad job, but continues to build on the innovation-- the momentum that they have, and doesn't recreate the wheel. DED has made great strides with new grant funding and new programs, but it's not enough. And we really need to focus on startups and the important piece that they play in our economic system. This policy come-- is a model policy. So, this comes from an organization called Right to Start, and they specifically work with government to be leaders in economic development and how do they work with startups. And so, this has been a proven model in other states. And in 2024, there were four states that adopted similar policy to what I'm proposing, including Kansas and Missouri. So it is, again, in our geography, as we are very similar. So, this bill ensures that our commitment to allocate 5% of state contracts to businesses that are 5

years or less is not just a promise but made a reality. It directs resources and attention to these emerging businesses, and will cultivate an environment where innovation is really at the forefront and thrives. And it establishes venture capital funds based right here in Nebraska, dedicated to investing in young companies, those that are, again, 5 years and younger. This is really important, because all new net jobs come from businesses of this age. So, when you think about startups, a lot of the time you think of, like, the "bro" in jeans and t-shirts, and that's what the startup community is, but it's actually not. Our startups are intentional economic drivers that are employing people and creating jobs and employing most of the folks in our community. Research shows that 1% increase in entrepreneurial activity correlates to 2% decline in poverty, so again, we're thinking about the economic impact across all of our communities, and new businesses are leading indicators of GDP growth. And so, the more new businesses that you have that can grow and thrive, it shows that our economy is going to be stronger. This also plays into a part of attracting talent, which has been a conversation across Nebraska for many years, as well as retaining that talent. So, by championing this office, we are sending a clear message as a state that Nebraska is a place where ideas come to life, and where the next generation of leaders can thrive. I want to take a minute to address just some of the concerns and opposition that we will see today, because I have been in contact with both the Nebraska Investment Council, as well as Department of Economic Development. And so, with NIC-- the Investment Council-- I think that there are some opportunities to address some of the fiscal note that they presented. National averages were used, not just Nebraska data. And so, that created an inaccurate financial landscape and projections. And so, we have-- my office started to pull some of those datas and numbers, and started to rework that fiscal note. The fiscal note mentions that 75% of VC investments-- or venture capital investments-- lose money, but failed to mention that only 1 to 2% of the venture-backed companies generate the majority of returns across the industry. So, that means you can bet on some startups that fail, right? Like, we know that. But when you have strategic, intentional investments, you actually sees-- you see outsized impact, and they make up more money for what you have lost, and then, what you plan to gain. And we pulled some numbers around what does that look like from a revenue perspective, not just a loss. The investment council manages billions of dollars, and so this is not foreign to them. They actually have \$106 million already in venture capital assets. And so, why they are mentioned in this bill, and why I think they are important, because they have the expertise. When you do



venture capital investments, you're not just saying, here, here's \$10 million; go figure out how you want to create unicorns, right? Like, it's an actual approach; there's a strategy to it, there's rhyme and reason. And we, right now, are paying as a state for that professionalism and that expertise. And so, I know that as we think about what this investment looks like, that we can address it in a way that minimizes risk. There's opportunities to use [INAUDIBLE] strategy around when you invest, and how, and how you scale that up. And so, I know that those strategies will be deployed to, again, help minimize the risk on what we would lose versus in return. And then, when we look at the performance of the state, we can expect within this \$250 million investment-- that's that 1% mark that's listed in the bill-- they said that there are about predicted 12% of losses. However, the Investment Council did provide a letter to all senators that cites that, within the fiscal note and the data that they use there, that it's only about a 0.37% loss, which is about \$950,000. So again, there's some discrepancies in what was presented in the fiscal note versus what we have seen in another data set, and then what my office is doing. Nebraska currently, right now, invests 11% internationally, and so I do believe that 1% investing in Nebraska talent is reasonable and scalable. We can absolutely do it, and we have seen companies-- you have a letter now from PEI that's here-- think of the Hudls, think of the Monoliths, right? So we can produce more companies like that, because we have the homegrown talent in Nebraska, and I believe that it's worth the investment. And we also know that, in general, and within the legislation, we don't just have to look at Nebraska-based VC funds. And so, the Nebraska council can still invest in the best VC funds across the country, but it would just require a side letter requiring a dollar-for-dollar investment into Nebraska startups. So again, there's different models within that 1% that we can look at. This practice is consistent in many other states' investment programs. Illinois has a growth and innovation fund that's \$1.5 billion that does this; North Dakota is \$100 million, and Indiana is \$250 million. And the last thing that I just wanted to address was some of the feedback from the Department of Economic Development. And so, one of the big things that both Director Belitz and I have talked about: is this the right space for the government to be in? Should they be leading in innovation? And I would say yes. The state has done a really good job in general thinking about business support and entrepreneurship, and this is solely focused and has a keen eye on startups, right? Which is the different segment. And so, again, this is centering and streamlining those processes, and I think we need to send a message that the state is intentional about this and what does

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it look like. And again, it doesn't have to live forever. You see some state programs that start at the state; the infrastructure, as a bill, is cultivated, and then it may go off and live with a nonprofit, or it may not be needed anymore because they addressed that core root issue. But I do think at this time now, the state needs to be a partner and a leader in this space. We also talked about amending this bill to add the business definition in, and there was some concerns about who would consider themselves a 5-year startup or less, and what does that look like? And would somebody just create a new LLC that's been in business for 20 years? So, I've been talking to their team about what that definition would look like, as well as just some of the staffing components. I know that there are some funds that they operate, for example, within ARPA spaces, that we'll be phasing out. So, is there an opportunity to move those staff over, versus adding additional new 3 staff that create a, a larger fiscal note? So, in closing, I really urge you to support the creation of this office. Again, there has been a, a proven track record in other geographies of why this works and why startups are so important, and I would be really happy to answer any other questions that you all have. Thank you.

**KAUTH:** OK. Thank you. Are there any questions? Senator Sorrentino.

**SORRENTINO:** Chairperson Kauth, thank you. Thank you, Senator, for bringing his bill. Just a couple of quick questions. It doesn't appear to me in my reading of the bill that there's a particular threshold that the Department of Economic Development has to have so many contracts awarded to business of less than five years. There's no number.

**SPIVEY:** No.

**SORRENTINO:** It could be one, it could be 100.

**SPIVEY:** Exactly. It's just to track, Senator.

**SORRENTINO:** It's just to track. OK.

**SPIVEY:** So just-- can we see what that number is, not that there is a mandate.

**SORRENTINO:** Secondly, a business less than five years old. So, if a contract is awarded to a business of three years old, and two years from now, they are past that five-year-- does that mean any contract in-- when a-- in existence is null and void and they're on their own after that? What happens at five years?

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**SPIVEY:** No, Senator. So, this is just about being able to ensure the success of startup businesses, and we know that that is true through government contracts. There-- it's sustainable money, they're usually larger contracts that allow for that business to grow. And so, after that-- you know, if they get it-- that contract when they're three years old, and then it ends when they're seven, they-- it doesn't stop when they're five.

**SORRENTINO:** OK.

**SPIVEY:** This is just in their-- that kind of growth infancies space that they're able to secure those contracts, not that it would stop.

**SORRENTINO:** So the contract can go beyond the five-year [INAUDIBLE].

**SPIVEY:** Absolutely.

**SORRENTINO:** A couple more-- in the, in the report, for business of less than five years, particularly in underrepresented demographics and geographic areas. Could you put some meat on that bone? I'm not sure what underrepresented and geographic areas means in this [INAUDIBLE].

**SPIVEY:** Yeah, absolutely. So I talked to DED again, and the language that we're looking at amending that to would be "qualified census tracts." And so, these are areas of economic opportunity that you normally see have lower business development. There might be some housing instability and issues, and so, when you invest in those communities, they are able to thrive and have more vibrancy in a different way. And so, that language would be updated to reflect qualified census tracts, which you "utilly"-- usually utilize in other spaces around economic development.

**SORRENTINO:** One more question. A lot of people cringe when they say the word "venture capital." It's risky, et cetera. But you mentioned in your opening, and I think I missed it. Currently, the state does invest, I think, in some venture funds, and I think you threw out a percentage, but I missed it. [INAUDIBLE]

**SPIVEY:** About \$100 million. \$106 million in assets and venture capital.

**SORRENTINO:** Out of a total of? Is it something like \$42 billion or something [INAUDIBLE]

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**SPIVEY:** Yeah. Yeah. Our total assets that Nebraska Investment Council are managing are a little over \$40 billion. And remember, we also have the arm of like Invest Nebraska, for example, that is doing startup support and looking at some equity-based investment. And so, again, this is not abnormal for the state to participate in, this is just bringing it together in a more intentional way.

**SORRENTINO:** Promise, last question. Will there be an application process specific to this bill for-- to reply for, you know, the-- to the Office of Economic Development, as a party, that it's less than five years old?

**SPIVEY:** So right now, how this is written, there's not necessarily an application process. We left it open enough of how **SPIVEY:** the department would implement it so that it's not as prescriptive. I, I do believe that Director Belitz has done a really good and intentional job-- and again, we've, we've had a couple of great conversations around what they're-- what his team is doing. And so, I do not want to prescribe here is what this office would do in the way in which it would do it. There are some key outputs and metrics that I wanted to make sure were captured, which I think speak to the success of this department or not. But they would have full autonomy and directive leadership to say-- for-- to support, for example, contracts with the state government, we would maybe help them apply, or we would do, you know, a class around contracts at the state level and what you need to be prepared for, how do you get certified as this type of business or not? So, it's less about an application, but more that they would create a strategy around ensuring that startups were able to access and secure those contracts. Does that answer your question, Senator?

**SORRENTINO:** Yes. Thank you.

**SPIVEY:** OK. Absolutely.

**KAUTH:** Senator Raybould.

**RAYBOULD:** Senator Spivey, thank you very much. So, you probably did say this, but I didn't pick up on it, but-- the \$29 million loss projected on an annual basis, does that comport and compare with other states' losses on this type of entrepreneurship?

**SPIVEY:** Yeah, absolutely. So, I passed out-- just so you all have-- it's a one-pager around the fiscal note, which has some different recommendations. So, I am saying that that \$29 million loss is

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inaccurate. So, based on when we looked at the actual model and how you, how you can compute what potential losses versus revenue would be, the national numbers that were inaccurate and not Nebraska-based-- and we do have some of those numbers-- were not used to compute. And so, we are saying that there is about a 0.37% loss, which is also in the letter that the investment council sent out, which is about \$950,000. And ab-- absolutely. Again, as Senator Sorrentino said, you expect in investing in startups that have high growth, that you're going to lose some money. But the ones that you invest in that succeed, they outpace the ones that have lost and have higher dividends and returns.

**RAYBOULD:** OK. Thank you.

**SORRENTINO:** Absolutely.

**KAUTH:** Thank you. Other questions? Senator McKinney.

**McKINNEY:** Thank you. And thank you, Senator Spivey. Just a quick question. Is, is every entrepreneurial or startup ven-- startup successful?

**SPIVEY:** No.

**McKINNEY:** So there's a, a risk with everything, right?

**SPIVEY:** Absolutely. And even when you think about investing in the market, again, the Investment Council has done a really good job. They manage \$40 billion in assets. But if you ride the market, or if you're investing in startups, there's absolutely some loss and risk that you take within that. It's about being calculated and strategic. I know, as a business owner, I'm on, like, my fifth business, right? So I have a restaurant with my husband, but I've had other businesses before that I didn't-- it didn't do well, and I've learned from that, and that made me a better entrepreneur. And then I saw and created a business that actually had better return. And so, when we think about the startup community, again, all startups, businesses that are five years or less are creating the jobs; those are the people that are actually hiring folks, putting people to work. And so, it's really important that we build an ecosystem that allows them to thrive, fail forward and learn, reinnovate. Especially when you think about who are in those startups. They are entrepreneurs, they are not just business owners, because I believe that there's absolutely a difference. An entrepreneur is someone that's innovative, always thinking of the next

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thing. They usually exit out of their company, where a business owner is managing like that day-to-day and kind of keeping it steady.

**McKINNEY:** Thank you.

**SPIVEY:** Thank you for your questions, Senator McKinney.

**KAUTH:** Any other questions? I have a few, but I'll hold off until afterwards.

**SPIVEY:** OK. Thank you, Chair.

**KAUTH:** Proponents, please.

**ANDY STOLL:** Senator Kauth, members of the committee, my name is Andy Stoll. That's spelled A-n-d-y S-t-o-l-l. Today, I am representing myself, as a Nebraska entrepreneur who spends a lot of time thinking about my fellow entrepreneurs. I am-- professionally, I also serve as the executive director-- founding executive director of the Ecosystem Building Leadership Network, which is a new national nonprofit working to advance entrepreneurial and economic development in the practice of entrepreneurial ecosystem building as a key component in approaching economic development. I'm also a recently-returning Nebraskan. I grew up in north Omaha. My family roots are on the West Coast in Mitchell, Nebraska, and on the East Coast in Plattsmouth, Nebraska, but I left Nebraska 25 years ago because the state lacked the creative and entrepreneurial community I was looking for after I graduated from high school. I, I saw that in thriving communities, mostly on the coasts. But a lot of things have changed since then, not just in Nebraska, but globally. Today, thanks to the exponential growth in technology and connectivity, everyone, anyone, anywhere can start and grow a business and reach a global audience. It is no longer necessary to move to Silicon Valley, Boston or elsewhere to succeed; now a business and entrepreneur in Hastings, Lincoln or Ord can compete on the world stage. For the last 25 years, I've dedicated my career to helping communities unlock the entrepreneurial talent hidden in plain sight. I started that work in eastern Iowa, and eventually expanded nationally and globally. Most recently, I served as a senior program officer at the Kauffman Foundation in Kansas City, which is the largest foundation in the world that supports entrepreneurship. There, I led efforts over 8 years to advance entrepreneurial ecosystem building as a key component and a central new emerging approach in economic development. Kauffman Foundation's research highlights a ton of things why the topic of this bill is incredibly important. Here's a

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couple of headlines; you've heard a bunch from Senator Spivey. That entrepreneurship empowers individuals, improves communities, and standards of livings and creates jobs, wealth and innovation in our economy. As Senator Spivey said, almost 100% of net new jobs are created by companies that are 5 years old and younger. For those who are still trying to understand what that means, businesses that are 5 years old and younger create net new jobs; big companies create jobs, they also destroy jobs. If you add it up nationally in net, it's about zero. So if you want new jobs, it's about supporting young companies. Also, as Senator Spivey said, new businesses are leading indicators of GDP growth, according to the research. Nebraska's new business rate has actually been stagnant for about 25 years, so about 2.8 people per 1,000 people, according to the Kaufman Foundation, start a businesses every month, and it's been about that same number for about 25 years. That is actually mirroring much of the national level, but that rate has been increasing nationally in a lot of other states, but has held pretty flat for Nebraska. So, this rise of entrepreneur-led economic development and entrepreneurial ecosystem building is being called the fourth wave of economic development. It's a new model for economic development designed for the 21st century. This approach looks at strengthening the entire system of support that surround entrepreneurs in Nebraska, or the ecosystem. This work is to increase the collaboration across numerous support organizations, investors, mentors, accelerators, customers, policymakers, and anchor institutions. States across the country are really taking notice--

**KAUTH:** Mr., Mr. Scholl [SIC], your time is up.

**ANDY STOLL:** Thank you. So I-- can I-- you let me just wrap up?

**KAUTH:** Yeah, finish up.

**ANDY STOLL:** I am speaking really to support LB100, which is an important step in bringing-- making sure entrepreneurship is a pillar of economic development in the state of Nebraska. Not just to follow current trends, but to really pioneer and innovate in state economic development. Thank you for your time.

**KAUTH:** Thank you. Are there any questions from the committee? Senator Raybould.

**RAYBOULD:** Well, how do we budge off that 2.8 number? What are, what are some of the other states doing that we're not doing, and we're just stuck?

**ANDY STOLL:** Yeah. Well, what's been really exciting returning to Nebraska is there's a lot of-- there's a lot more activity I've seen supporting entrepreneurs across Nebraska. Not just in Omaha and Lincoln, but across the state. And what we see, from the position I sit, is how do you get all of those activities to work together? And so, I think part of LB100 is starting to address that, which is to look at what is-- whose job is it to look at the entire system? Because universities are looking here, and the community colleges are looking here, and Invest Nebraska is looking here. How do we-- who's tracking sort of the, the goals of our ecosystems statewide? And how do we then create and use those-- that sort of statewide platform to get folks to work together? Because at the end of the day, entrepreneurs' single goal is to get them the knowledge and resources they need, regardless of where it is in the state, as quickly as possible. And there's excellent things going along in the state. My sense in my returning is there's an opportunity to find ways to create more collaboration across the state against-- amongst the many programs that already exist to support entrepreneurs.

**RAYBOULD:** So as a follow up-- so are other states doing a more, like you said, consolidated, coordinated effort led by an agency that has oversight and can see what all the other entities that are--

**ANDY STOLL:** I think the solution--

**RAYBOULD:** --doing something similar.

**ANDY STOLL:** I think the solution is not a hierarchical, top-down command and control structure, but an open network, and a connection of existing open networks that already happen. And how do we collectively make decisions together as a state, like we do in many other areas, about what-- where do we need to focus on entrepreneurs? What kind of entrepreneurs are we investing in? But it's really about-- the heart-- the central question and the challenge of this type of economic development is how do you lead when no one's in charge? So, if you're the state, you can't make the mayors do anything, but the mayors can't make the university do anything. But our goal is to work more collaboratively together so that when an entrepreneur says, "I need help importing from Europe," or "I need a marketing director," that wherever that resource is in the state, we have networks that allow them to find those resources. Right now, those networks exist, but in my experience, they're pocketed. And a couple of folks that will be following me in the testimony today



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certainly can speak more directly to the specific conditions and what is going on within the state, and how this bill will support them.

**RAYBOULD:** Thank you.

**KAUTH:** Thank you. Any other questions? I have one. So when you talk about-- I mean, you're talking about networking within the state. That sounds like the job of associations, to work with each other and talk and communicate; it doesn't sound like the job of the state to say we're going to have our Investment Council invest in venture capital funds. That's kind of the part I get hooked up on. So, can you talk a little bit more about that?

**ANDY STOLL:** Yeah, I mean, I think the, the, the primary-- I mean, there's a, there's a, there's a bunch of functions that a government can do, and, like, it has been mentioned multiple states are trying multiple things. But the conditions that exist and work in Indiana don't necessarily-- you can't cut and paste what happens in Ne-- you know, Indiana would have-- to, to what happens in Nebraska. So, my sense of what the bill is saying is that we are going to use a, a, a centralized office to assess and understand what the conditions are in the state for entrepreneurs. And then, my sense is, make decisions about whether we should be investing in startups, we should be supporting support organizations, we should be working on student programs. A part of it is what we need is that convening force to help bring, bring folks together to have those conversations.

**KAUTH:** OK. Thank you. Any further questions? Thank you for your testimony. Next proponent.

**LASHONNA DORSEY:** Good afternoon, Chairperson Kauth and Vice Chair Sorrentino, and members of the Business and Labor Committee. My name is Lashonna Dorsey, spelled L-a-s-h-o-n-n-a D-o-r-s-e-y. I work at the Aksarben Foundation, where I lead the Nebraska Tech Collaborative and InternNE, powered by Aksarben, a collaboration with the Nebraska Department of Economic Development. Our work focuses on connecting businesses across Nebraska to resources that help them grow, attract talent, and strengthen the state's economy. This isn't on my testimony, but I'm also a former business owner who started and sold a company within 4 years here in Nebraska. We hired doz-- a doz-- over a dozen employees during that time, and experienced a successful exit. I'm here today in support of LB100, the Business Innovation and Startup Act, because small businesses are critical to Nebraska's economy. They represent 99% of all businesses in the state and employ

nearly half of our workforce. Yet small business owners face challenges, including access to resources, funding and support, particularly in underserved communities, and I can speak to that experience as a former business owner. Through the InternNE initiative, I've had the opportunity to hear directly from small business owners from across the state, including Kearney, Norfolk-- Norfolk and Omaha, and they've shared how funding from Intern Nebraska [SIC] has been instrumental in helping them grow their workforce and accessing resources that they just don't have access to. Initiatives like LB100, which aim to reduce barriers and expand access to support, have the potential to empower even more businesses to thrive and contribute to Nebraska's economy. The creation of the Office of Business, Entrepreneurship and Innovation under LB100 would centralize resources and improve access for new businesses, especially in underrepresented areas. Additionally, the bill's emphasis on allocating a percent of state contracts to businesses less than 5 years old and encouraging investments in startups will drive growth and create new opportunities across Nebraska. Finally, small businesses are the backbone of our economy, and LB100 provides a pathway to support their success and ensure equitable access to those resources. I urge you to advance this bill and invest in entrepreneurs who are helping shape the future of our state. Thank you for your time and consideration, and I'm happy to answer questions.

**KAUTH:** Thank you. Are there any questions? Senator Ibach.

**IBACH:** I'll ask one, thank you. Because I-- and maybe this is a better follow-up question for the Senator at the end-- but I'm familiar with the entrepreneurial program through the university. And, because I think it would be-- and maybe it wouldn't be-- I think it'd be hard to go to my constituents and say, we're going to invest your tax dollars in some venture capital. Would this not be a great program for Aksarben, or the state Chamber to undertake?

**LASHONNA DORSEY:** That is a great question for the senator.

**IBACH:** OK.

**LASHONNA DORSEY:** Because I don't--

**IBACH:** I just wonder, in, in any of your experience, is that anything that you all would consider umbrellaing so that we-- so that it would be a, a nonprofit or a for-profit, either one, as an umbrella, to really push some of those entrepreneurial ventures out there.

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**LASHONNA DORSEY:** I hear your question. I don't-- I can't speak on behalf of what Aksarben's priorities are, as I'm not the president of the organization. But I do understand your point.

**IBACH:** Thank you.

**LASHONNA DORSEY:** Yeah.

**IBACH:** Thank you.

**KAUTH:** Thank you. Any further questions? Thank you for your testimony.

**LASHONNA DORSEY:** Thank you.

**KAUTH:** Next proponent.

**TOM CHAPMAN:** Good afternoon. Thank you for allowing me to testify. My name is Tom Chapman, T-o-m C-h-a-p-m-a-n. I hate it when people nail me on the nose, but I guess I'm the tech bro that wears a quarter-zip and jeans, so thank you, Senator Spivey. I am the CEO of a company called Peak Pro. I've started six software companies and been party to six more. I've also worked in small businesses around the state. My family is from the state. We've had ag, we've had professional health tech, we've done a variety of things. My current business is a health tech business for which we recently graduated from the Techstars program out of Fort Worth, Texas, and we're based in Omaha. In addition to that, I'm also considered one of the top ten people in the country for measuring entrepreneurial ecosystems because there are only three of us. Don't hold that against me. But I've worked all over the country on these topics. So, I want to specifically address some of the questions around venture capital, but I'm going to start with some stories about being an entrepreneur in Nebraska. Why do we need an office? Number one, because we need somebody to listen to us and speak on our behalf. So, I'll give you a practical example. Last week, I was looking to get my application in for InternNE. That was me doing the work. So I spent-- I have spent no less than three hours advocating to get this application filed. It would be great to have somebody that is my concierge that I can call and say, this is a different problem for somebody that has one or two or five employees than it is somebody that has a head of HR that can go and advocate. Two, we need early customers. The state has a big budget. You're a great early customer. Early customers are a pain, but they're incredibly useful if you're trying to grow a business. I can tell you all sorts of stories about why early customers hurt, but think of

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construction companies in your own communities. How many of them would benefit from a state contract? Now, think of the ones that have been around for less than five years. How many can you name that you're looking to help them? Number three, fewer regulations. I don't think I have to advocate in the state of Nebraska for fewer regulations. But hypothetically, if you're looking for ways to improve, there's a whole bunch of laws that have been set up as licensure laws around Main Street businesses around the state. Most of them are no longer necessary. The Platte Institute has done a beautiful job of going through and identifying those, and helping to remove those, and working with you all to remove those. And lastly, venture capital. So, I've raised venture money multiple times; I've deployed venture money multiple times. So, why do we want venture money in Nebraska? So, I'll answer the question directly from the senator. Right now, you are already spending tax dollars of the state for venture investment in Boston, in San Francisco. That money goes through an organization called Cambridge who advocates for those organizations. The step stone is you need to have had at least three funds. There are nobody-- there is no firm in Nebraska-- Dundee, maybe-- that has had three funds. If you put these barriers of entry that are artificial, you'll never have anyone that has three funds, because the state is the proponent and the one who ends up being the baseline for almost all of these investments. So, if you go around the country and say, where did that fund come from? It originally started with government dollars. So, thank you all. I'd answer your questions.

**KAUTH:** Thank you. Are there any questions? No? Thank you for your testimony.

**TOM CHAPMAN:** Thanks.

**KAUTH:** Next proponent. No more proponents? Opponent.

**ELLEN HUNG:** Good after, Senator-- good afternoon, Senator Kauth, members of the Business and Labor committee. My name is Ellen Hung, spelled E-l-l-e-n H-u-n-g. I'm the state investment officer, and I'm here to testify against LB100, specifically Section 7. If Section 7 was removed from LB100, I would be neutral to the bill. The council oversees \$43.5 billion of state assets across 32, 32 investment programs for the exclusive benefits of the owners of the funds. We are governed by the Nebraska State Funds Investment Act. Section 7 requires SIO to invest at least 1% of state funds into venture capital funds that invest in business in Nebraska that has been in operations for less than 5 years. This requirement violates the Investment Act

that states "no assets of the retirement system, the Nebraska educational savings plan trust or the achieving a better life experience program shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives." Section 7 will require the SIO to make investments that are solely for the economic development of Nebraska. In addition to Section 7 viola-- violating the Investment Act, there are also other reasons why this would not be prudent for state assets. First, there are significant risks in-- to investing in venture capital in general because of its failure rate. Approximately 75% of venture-backed startups fail. This is a true and significant risk to state assets, especially when there are restrictions on geography and sectors resulting in increase in concentration risk. Risk also increases any time the opportunity set for investment is arbitrarily limited. Another reason is that 1% investment is too big for the VC space in Nebraska. A 1% of appropriate investment is \$246 million, given our current assets under management. Why the venture capital activity in Nebraska has grown in recent years, it is still relatively small. In the last 5 years, an average of 42 deals and \$299 million of venture capital were deployed in Nas-- in Nebraska-based companies per year. At 1% of assets, it's almost as much as that amount raised in one year. In addition, the Council has a policy of not being more than 10% in any one private markets fund to reduce risk. This then becomes a sizing issue, as the VC funds in Nebraska range from \$10 million to \$44 million per fund. This would mean we can only invest \$1-4 million in each fund, resulting in about 70 to 90 different VC fund investments. The third reason has to do with asset allocation. The most important decision the Council makes is an asset allocation, as it has been shown to explain about 90% of portfolio performance. The Council conducts an asset liability study on a regular basis to determine asset allocation. It also conducts an annual pacing plan. And in this last placing [SIC] plan, the Council confirmed at hun-- that a commitment of \$106 million to VC funds is appropriate. And that's all we do, globally.

**KAUTH:** Can you wrap up?

**ELLEN HUNG:** Yes. So, the Council is prohibited from making investment in VC funds, investing in startups. The Council and I would be violating our fiduciary duties to the state with LB100. It is prudent for the Council to continue to follow its guidelines and to continue to invest in VC funds only after thorough due diligence and analysis of fit within the portfolios to ensure superior return. If those VC funds happen to be in Nebraska, then all the better.

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**KAUTH:** Thank you very much. Are there any questions? Senator Sorrentino.

**SORRENTINO:** Thank you, Chairperson. Could, could you do this group a favor? You have sig-- I believe you have significant background in the investment field. Could you please detail some of your professional [INAUDIBLE] for me?

**ELLEN HUNG:** Professional--

**SORRENTINO:** Your professional resume for me?

**ELLEN HUNG:** Yes. I've been doing investments for the last 30 some odd years. I've managed other pension funds of other states, I've mentioned-- I've been deputy CIO for a pension fund in Illinois; I've managed pension funds in California; I've managed government money in Washington; and also been involved in private pension fund.

**SORRENTINO:** Does LB100 shock your senses as far as state investment funds, or is this typical in other states?

**ELLEN HUNG:** Section 7 is very shocking. I worked in Illinois as my last-- in my prior job. And Illinois is known for introducing things like this, and they do not have a requirement to invest in venture companies. They do not.

**SORRENTINO:** And there was one other sec-- in your summary-- sorry, let me turn the page here, if I can get it apart. It said "no assets of the retirement systems, the Nebraska educational savings plan trust, or the achieving a better life experience program shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives." LB100, would that fall under the economic development, or the social purposes part, or both?

**ELLEN HUNG:** I take that as economic development.

**SORRENTINO:** OK. So if a, if a bill like this were to advance, and indeed, at Final Reading become law, what happens? Are we--

**ELLEN HUNG:** I think we would have to change a lot of other statutes within the Investment Act.

**SORRENTINO:** So, passage of this would cause changes in these state statutes regarding investments?

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**ELLEN HUNG:** Yes. And it also violates fiduciary duty, because I have a fiduciary duty, as SIO personally, to the fund as well as the Council. And mandating us to invest 1% in a specific asset class is not fiduciary duty, because it's narrowing what we can invest in. If it happens to be in Nebraska, that's great. We don't have anything against investing in Nebraska. Our mandate to our, our advisors, our venture funds, private equity funds is we invest in whatever is the best for our shareholders.

**SORRENTINO:** Violating your fiduciary duty to the state. Does that open up your department for losses from the state, from the voters in the state of Nebraska?

**ELLEN HUNG:** It will open me personally, because my fiduciary duty is-- it's written as my job duty as the SIO. It would open me up for a lawsuit by any, any citizen that's in our plan, any retirement--

**SORRENTINO:** Any citizen?

**ELLEN HUNG:** Any citi-- any citizen that's worked with the state. Senators, you guys are in my retirement system endowment funds. We also have private equity investments in endowment funds that we manage, and all the various retirement systems.

**SORRENTINO:** Are you personally indemnified by the state?

**ELLEN HUNG:** Potentially.

**SORRENTINO:** Potentially indemnified? I've not heard that one. That's good.

**ELLEN HUNG:** But this-- having a requirement of 1%, which means we are almost investing in every single venture fund in Nebraska-- any venture companies in Nebraska. It's a lot. It's a lot of--

**SORRENTINO:** So a violation of your fiduciary duty, whether it's 1% or one millionth of 1%, is still a violation.

**ELLEN HUNG:** Yes, because we only have \$106 million right now in venture capital.

**SORRENTINO:** 106 million?

**ELLEN HUNG:** 106 million invested in venture capital. And that's looking at the entire country, entire world. Is-- and we've only

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invested \$106 million because VC spaces is just very risky. And we do run a very conservative investment program. Our retirement system is 100% funded, and we're 100% funded because of the reason why. We are very conservative in how we invest; we don't take a lot of risk, and it's the asset liability study that determines how we invest.

**SORRENTINO:** Thank you.

**KAUTH:** Thank you. Senator McKinney.

**McKINNEY:** Thank you, and thank you. So, you currently have VC funds investment, right? OK. So how are you getting around this violation that you're saying this bill would do?

**ELLEN HUNG:** There's not-- we don't have a violation currently.

**McKINNEY:** How are you getting around it? What's different in what you're doing versus what you say is a violation in the bill?

**ELLEN HUNG:** The bill requires us to invest 1%, at least 1% just VC funds, VC companies in Nebraska. The \$106 million that we have invested in venture capital fund is all over the country.

**McKINNEY:** I'm still not understanding. So, if she opened it up to the rest of the country, there, there wouldn't be a violation?

**ELLEN HUNG:** So, the-- maybe I'm misunderstanding the question. Because the--

**McKINNEY:** What I'm trying to understand is you're saying this bill violates the, the statutes.

**ELLEN HUNG:** Correct.

**McKINNEY:** I'm trying to understand how are you getting around this and investing \$106 million?

**ELLEN HUNG:** Because that's totally different, it's not specifically in Nebraska. The \$106 million--

**McKINNEY:** But what is the pur--

**ELLEN HUNG:** --that we have in VC--

**McKINNEY:** I guess, what is the purpose of your investment is what I'm trying to understand.



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**ELLEN HUNG:** It's, it's venture capital that is all over-- in different places in the country.

**McKINNEY:** I guess it's not for economic development, social purposes or other, other objectives. What, what is the purpose of those investments?

**ELLEN HUNG:** It's to increase shareholder value.

**McKINNEY:** OK. So, she just switch the language and it'd be cool?

**ELLEN HUNG:** No.

**McKINNEY:** Why?

**ELLEN HUNG:** Because--

**McKINNEY:** It wouldn't violate the Constitution.

**ELLEN HUNG:** Because the language in this-- in the bill states specifically in Nebraska. Venture capital in Nebraska.

**McKINNEY:** But the way I read this is, as long as she do what you just said, that's not a violation of the statute. But to move on, how much is your overall fund?

**ELLEN HUNG:** So, we manage \$43 billion in total. But, out of the \$43 billion, there are restrictions. For example, the operating investment pool is all in fixed income, so it doesn't invest in private equity.

**McKINNEY:** How much do you invest in this state?

**ELLEN HUNG:** In this-- in the state itself? We-- right now we have everything added for-- invested in Nebraska is 30-- about \$33 billion-- \$33 billion. \$33 billion. No, sorry. I can't read my own-- \$368 million is invested in Nebraska.

**McKINNEY:** Out of \$42 billion?

**ELLEN HUNG:** Out of \$33 billion. So it's 1.12%.

**McKINNEY:** Why is it so low?

**ELLEN HUNG:** Well, it's actually not low when you look at-- if you compare the Nebraska's GDP to the total GDP, it's actually a larger

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number. So, at 1.2-- 1.1%, if you compare that to Nebraska's GDP to the total GDP, it's 0.65% is Nebraska's GDP.

**McKINNEY:** OK. And my last question. If 1% is too high, what is a good percentage amount?

**ELLEN HUNG:** I don't think we should have a requirement. If you want to suggest that we do that, we already do that. We already d-- we already try to put ourselves in the best investments possible, because that's our goal: to earn the best return for our share-- for our benef-- for our funds, for our members, for our retirement members.

**McKINNEY:** OK.

**ELLEN HUNG:** For the state. We run state assets. So, it's whatever is the best investment. And that's what our duty is.

**McKINNEY:** All right. Thank you.

**KAUTH:** Thank you, Senator McKinney. Any other questions? Thank you very much for your testimony. Other opponents. Anyone here neutral?

**LAUREL OETKEN:** Chairwoman Kauth, and members of the Business and Labor Committee, my name is Laurel Oetken. It's spelled L-a-u-r-e-l O-e-t-k-e-n, and I serve as the executive director of Tech Nebraska, Nebraska's first technology trade association, which was created in partnership with the Nebraska Chamber and launched in 2023. Our organization aims to convene technology partners, foster a more diverse and inclusive technology workforce, and advocate for pro-growth, tech-focused public policy spanning the full state. We also hope to continue driving industry growth and innovation within Nebraska's core sectors and industries, to position our state as a leader in the future of technology and innovation. Thank you for the opportunity to testify today on LB100, the Business Innovation and Startup Act [SIC], introduced by Senator Spivey. I'm here today and on behalf of my organization, Tech Nebraska, the Nebraska Chamber, Invest Nebraska, the Lincoln Chamber of Commerce, and Greater Omaha Chamber-- so, pretty much every Chamber in the state. I went-- am here also to provide a neutral testimony recognizing both its potential impact and areas for further discussion. At Tech Nebraska, we interface with several emerging technology-based startups. Often, they say, in addition to capital, one of the bigger challenges they face is not having a front door, a clear place to go when they start their entrepreneurial journey. Navigating state resources, understanding

regulatory requirements and finding the right support network can be overwhelming, especially for first-time founders. LB100 seeks to establish the Office of Business, Entrepreneurship and Innovation within the Department of Economic Development, a move that we see could create a structured approach to supporting startups and small businesses in Nebraska. By focusing on improving access to resources, technical assistance and capital, particularly for businesses in underserved communities, this office could serve as a valuable touchpoint for entrepreneurs navigating the challenges of starting and scaling their ventures. Additionally, the bill's intent to collaborate with stakeholders and streamline government interactions for new businesses aligns with ongoing support and efforts to support a strong entrepreneurial ecosystem in our state. The reporting and accountability measures outlined in this bill also provide useful insights into the effectiveness of these initiatives, ensuring transparency and adaptability. As this committee considers LB100, it may be helpful to further explore how this office would integrate with existing economic development efforts and positions within the department, along with what the measured outcomes are that define success. Senator Spivey also addressed some of the items that [INAUDIBLE] had questions on in her opening statement. So thank you for that, Senator Spivey. We often hear that building, supporting and growing an entrepreneurial ecosystem takes years, if not decades, to see the long-term impact and value these programs may bring to the state. LB100 raises important conversations on how Nebraska can continue to support business growth and innovation. And it would be our overwhelming hope that, if passed, this bill would provide long-term support beyond the years of 2026 and 2027. I appreciate the committee's time in evaluating this bill and considering it how it fits into the broader landscape of economic development in our state. I'd also like to give an extended thank you to Senator Spivey for introducing this bill; this is one of the many efforts that I do believe can increase entrepreneurship and innovation across the state. Senator Spivey's intentionality to supporting a growing and thriving entrepreneurial ecosystem in Nebraska is immensely important for our future and our future generations. We're grateful to the Senator for bringing this bill, and for her support thus far. All of the organizations I'm representing today would be happy to work with the Senator to continue to fine-tune this concept and future efforts to support innovation in Nebraska. Thank you for your time and consideration. I'm happy to answer any questions that you may have.

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**KAUTH:** Thank you. Are there any questions? Seeing none. Thank you very much.

**LAUREL OETKEN:** Thank you.

**KAUTH:** Senator Spivey, would you like to-- or are there any more neutral? Senator, would you like to close?

**SPIVEY:** Thank you, Chair. And again, thank you, committee members. As I mentioned, my background and work has been in economic development, specifically looking at business and innovation. And to your point, Senator Ibach, around "does this live better in a nonprofit?" So, in another life I actually worked in a, a, a adjacent department to Andy Stoll, who testified at Kauffman Foundation, and I managed about a \$40 million portfolio for Nebraska, Iowa, Kansas and Missouri regrating money into nonprofit organizations that were looking at entrepreneurship. And one of the things, as I was leading that strategy and managing it, that I've noticed and that Andy lifted up in his testimony is that our ecosystem is fragmented. And so, it becomes very siloed, and folks have their specific lanes, they stick to it, and it's really hard for open networks and collaboration. And so, what this bill does, in my opinion, is really create that quarterback. Think about it as a collective impact approach. You need someone that has the shared vision, the metrics; they can bring folks along that says this is how we're going to do it, this is what this looks like. And I think taking a big swing at innovation and entrepreneurship, we need the state at the table. We need the state and the leadership to be doing that. And, as I mentioned in my opening, DED has done a lot of work around entrepreneurship. This bill specifically looks at innovation in startups and the impact that they have, and having more intentional strategy and touches around that. So, I think that that's the difference. Will this live forever in the government? Probably not. I think governments have the opportunity to rethink their role where they can be innovative, catalyze and put it out into the community. But the work and infrastructure needs to be built first, and we're not there yet, as a state. We are not growing. You heard the numbers from other experts that are up here and have testified. And so, we need an, an intentional investment in how we grow, and that is through the startup community. As I mentioned, I am very open to working with the Investment Council; I think we disagree on some of the approaches in VC, which is OK, but I'm hopeful that we can find alignment that Nebraska businesses are worth it. If you-- would you not want to invest in Tom Chapman, right? And his businesses, and his passion for the community, and what he's investing in right here in

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our, in our great state? That's important. And I don't think we're moving enough dollars. There are lots of folks that do not start, grow businesses, because the money and investment are not there. But they have amazing ideas, and then they move. We lose that talent to other states that are able to build the capacity and infrastructure for what they're doing. And so, again, I am committed to working with the Department of Economic Development on some of their questions and amendments, as well as Investment Council, but I do believe that LB100 is a necessary step to growing our economic future in Nebraska and building brighter futures for our families. So, thank you and I'll be happy to answer any additional questions.

**KAUTH:** Any further questions? Thank you.

**SPIVEY:** All right. Thank you, Chair. Y'all have a good rest of your day.

**KAUTH:** Oh, we have letters. We had one proponent, zero opponents, and two neutral. And now, LB229. Senator Hallstrom. Senator Hallstrom.

**HALLSTROM:** Chairman Kauth, and members of Business and Labor Committee, my name is Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m. I'm a state senator representing Legislative District 1, which consists of the counties of Otoe, Johnson, Nemaha, Pawnee, and Richardson in southeast Nebraska. LB229 defines the independent contractor status of individuals engaged in the marketplace network platform. These are people engaged in services utilizing tech applications, such as Uber and Lyft. The bill specifies the nature of their employment clearly as independent contractors. 21 states have passed this type of legislation, including our neighboring states of Iowa, South Dakota and Wyoming. Drivers on rideshare platforms are independent. They choose if, when, where, and for how long they work. There is no exclusivity, so many workers use multiple apps. Anyone who passes a background check and meets the regulatory requirements can use the app. There is no minimum commitment or obligation to work; drivers decide when they want to turn on the app, and when they want to turn it off. For example, 80% of drivers on the Uber app work fewer than 20 hours a week. The term "flexible work" is often used to describe a diverse range of working models. However, even in the most inflexible working engagements, employers may establish rosters dictating when, where, and for how long someone must work. Rideshare drivers have nothing like that, and their work is critical. Studies have demonstrated that ridesharing can significantly reduce DUIs and drunk driving deaths, which has been on the rise across the U.S. I was

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unable to track down the specific data, but I heard on the radio the other day that Nebraska has an unusually high percentage of drunken drivers, or DUIs, compared to the national average. According to the National Bureau of Economic Research, ridesharing has reduced drunk driving deaths by 6%. And, in a Houston study of Uber's impact, rideshare volume has a-- was associated with a 67% reduction in vehicle collisions. Many bars and restaurants are among the most popular destinations in Nebraska, but Nebraskans also rely on rideshare for everyday needs. I think what we're seeing-- and the reason for this legislation, as we've seen in California-- is an example, and other states that are taking steps, and there's a Department of Labor pending proposed rule that would attempt to treat the rideshare drivers as employees rather than independent contractors, and we simply want LB229 to clearly reflect in state law for Nebraska that they will be treated as independent contractors and provide a guide for our state courts, if there is any uncertainty in the law. LB229 removes the uncertainty, and ensures that workers on rideshare platforms in Nebraska remain independent contractors. I would note that the provisions of Subsection (6)(w)(iii) on page 13, lines 2 to 6, was brought as an amendment to a similar bill last year, LB489, that was introduced by Senator von Gillern. That language, which is now in the initially-introduced LB229, was placed in the bill at the request of the Department of Labor, wanting to make sure that we were clearly in conformity with federal law and did not place any of our federal funds for unemployment insurance programs at risk. In closing, LB229 is a narrow bill that only impacts transportation network companies; it does not change any other industries, or how any other employer operates. It solves an immediate and a critical need. I would ask for your favorable consideration in advancing the bill through the committee. I have also handed out a letter from Mr. Andrew Standley. He missed the 8:00 deadline, so I know it won't be a part of the record, but I did want the committee to be aware that Mr. Standley, along with a lot of drivers from surveys that have been taken, clearly indicate their preference to be treated as independent contractors. They have other jobs, they don't want to be tied down with specific requirements for how many hours they need to work, how many rides they need to take, and the like. So, I think one of the issues that Mr. Standley points out in his testimony is that there may not be a job for him if he was not treated as an independent contractor and retained the flexibility that the job currently provides to him.

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**KAUTH:** Thank you, Senator Hallstrom. Are there any questions? Senator Sorrentino.

**SORRENTINO:** Thank you, Chairperson Kauth. Senator Hallstrom, picking up on your last comment on Mr. Standley. Looking into your legislative crystal ball, if this type of legislation doesn't pass, what is the future of Uber and Lyft in the state of Nebraska?

**HALLSTROM:** Well, I think, I think if you read his, his testimony or his letter, he indicates that he won't have a job. I think when-- if we look back to when the first state legislation was put together, I believe Senator Schumacher from Columbus was the architect of that. And one of the things that he really promoted and pushed is that we have to have flexibility, we have to recognize the uniqueness of this new business model, and provide for less regulation to allow them to, to flourish in Nebraska. And I think if you undo their business model, they probably just will not, will not have at least the number of jobs that they provide for folks right now that provide supplemental incomes, and the flexibility for them to maintain other, other jobs that may be their, their regular 9 to 5 job, if you will.

**SORRENTINO:** So, if they're not classified as independent contractors, they must therefore be classified as employees of Uber or Lyft, correct?

**HALLSTROM:** Correct.

**SORRENTINO:** And if you go through the IRS code, it's these longstanding definitions of independent contractors-- used to be a 20-point test; I think it's a 10-point test now. From what you're saying, and that they don't have control of their schedule or anything else. There's no email, there's no business cards. It seems like a slam dunk that these are independent contractors. I'm missing something?

**HALLSTROM:** Yeah, I, I don't think you're missing anything at all. You're spot on in terms of the analysis that the-- they feel they're independent contractors now, but they've been questioned and threatened in other states. And in-- what happened in California, as I understand it, Senator, is that the California legislature passed something to say, even though they may be working as independent contractors, we're going to statutorily require Uber and Lyft to treat them as employees. And the voters, actually, in an unusual twist to-- Proposition 22, I believe it was, was put on the ballot, and the

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voters elected to, to suggest and, and make the law that they are independent contractors, and that was upheld by the California Supreme Court.

**SORRENTINO:** Thank you.

**HALLSTROM:** Thank you.

**KAUTH:** Any other questions? Are you staying to close?

**HALLSTROM:** I probably will. Thank you, Senator.

**KAUTH:** First proponent.

**KRISTEN HASSEBROOK:** Good afternoon, Chairman Kauth. My name is Kristen Hassebrook. K-r-i-s-t-e-n H-a-s-s-e-b-r-o-o-k. I'm here today testifying in support of LB229 on behalf of Uber Technologies. Uber has been connecting riders and drivers in Nebraska since 2015. Every week, thousands of people in Nebraska use the Uber app to earn income on their own schedule, and tens of thousands of Nebraskans rely on Uber to get to doctor's appointments, visit loved ones, or get home safely after a night out. In fact, just last month, in partnership with the Nebraska Department of Transportation, Uber ran a promotional-- promotion statewide to provide discounted rides to thousands of Nebraskans to help prevent impaired driving. Traditional employment does not work for everyone. The app-based work available through the Uber platform is critical for those who want to work, but night-- but might not want to have a 9 to 5 job. Workers on Uber's platform care for a family member, or may have to handle-- be on call to handle other needs. Others are retirees on fixed incomes who want to make some extra money; others are students who support themselves through school. But at the core of who these people are is the want to work, but the need to do it on their own schedule. That flexibility is even more important as record inflation pushes Americans to look for other ways to supplement their income. LB229 enshrines rideshare drivers' ability to work when, where and how, and on any rideshare platform that they want. In doing so, it ensures that Nebraskans who want to work still have access to flexible work opportunities on the platform like Uber. It mirrors language already in place in South Dakota, Missouri, Texas and Florida. In fact, gig workers are considered independent contractors by law or equivalent agreements in over half of U.S. states. It also reflects the unique nature of app-based driving and work specific to the gig economy. It will not change how any other businesses in the state work. Virtually every



poll and survey has shown that this is what the overwhelming majority of drivers on the platform want. A 2023 Flex/Morning Consult poll found that app-based earners overwhelmingly express they prefer to remain independent contractors. A Pew poll found Americans agree with 62% in a majority across every political party, saying that drivers are independent. And, as you heard from Senator Hallstrom, even voters in California rejected that state's attempt to try to force drivers into an employment status. Flexibility just doesn't benefit workers. That's a big reason Uber is able to support rural and suburban, you know, communities across the state. Nebraska has an important opportunity to protect flexible work for thousands of app-based drivers and a critical service for tens of thousands of Nebraskans. We'd urge you to support LB229, and I would be happy to try to attempt any-- answer any questions you may have.

**KAUTH:** Thank you. Any questions? Senator Sorrentino.

**SORRENTINO:** Chairman Kauth. Thank you for your testimony. Based on Senator Hallstrom's earlier testimony in his opening comments-- if this type of legislation isn't passed, there may not be any jobs for Uber or Lyft drivers. I doubt Uber and Lyft really want employees; there's all kinds of bad things when you're an employer, so it's potential that urban-- excuse me, that Uber and Lyft could go away in the state of Nebraska. What is the economic impact if Uber and Lyft go away? It has to be significant.

**KRISTEN HASSEBROOK:** I do not have that data point at the tip of my fingers, but I would be happy to follow up, sort of what our economic impact is on the state for you.

**SORRENTINO:** Thank you.

**KAUTH:** Thank you, Senator Sorrentino. Any other questions? Thank you for your testimony. Next proponent. Any opponents?

**SUSAN MARTIN:** Good afternoon, Chair Kauth, and the members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, testifying in opposition to LB229 on behalf of the Nebraska State AFL-CIO. For too long, digital platform companies such as Uber and Lyft have pushed to misclassify these workers as independent contractors so that they lose their rights and protections of traditional employment. The proponents of this will focus on a worker's desire to have more flexibility in their work schedules, but they currently have this option now without the need for the bill.

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Digital platform transportation companies like Uber and Lyft are trying to leverage the flexibility myth in an attempt to defend their employment practices. These app-based companies misclassify their drivers as independent contractors, claiming that this is a necessary practice for meeting drivers demands for flexibility. However, this practice deprives drivers of crucial workplace protections, such as unemployment insurance and worker's compensation, just as an example. Experience has shown that companies can easily meet workers' need for flexibility while maintaining their status as employees. The argument that digital platform, or asp-- app ba-- app-based work provides drivers with flexibility overstates the amount of control drivers actually have over their work lives. In fact, Uber and Lyft exercise significant control over how drivers handle their work, and drivers are deactivated, i.e. fired, if they deviate from company policy. According to the Economic Policy Institute, Uber advertises to drivers that they will work for themselves. However, in reality, Uber drivers' experiences are a far cry from the company's marketing narrative. Drivers have no say on setting fares on, on what they're paid, or on the commissions the company takes. Drivers are not shown the passenger's destination, or how much they could earn on a fare before being asked to accept a ride request, and they have limited say on whom they choose to have as customers. Drivers are not even able to choose the route to take. Uber reserves the right to retroactively adjust the fare if it decides that an inefficient route was taken, and Uber also exerts control over drivers through an automated passenger rating system. We can't allow a technology to be used as an excuse to exploit workers. If we want a future of good jobs and raising living standards for all working people, we definitely do not need this bill. Making the right policy choices begins with ensuring that the people who work for marketplace network companies enjoy the rights and protections as employees. I've provided you with a handout from the Economic Policy Institute that will provide you with more information about the subject. Thank you for your time and consideration in opposing this bill.

**KAUTH:** Thank you very much. Any questions? Senator Sorrentino.

**SORRENTINO:** Thank you, Senator Kauth. Could you explain to me, if this law does not pass, the drivers for Uber and Lyft would be employees-- common-law employees of Uber and Lyft. As far as I'm aware, there's-- and maybe I'm not wrong-- maybe I'm wrong here. Is there a, a labor union that would be involved if they were employees of Uber and Lyft? I'm trying to decide what is the interests of the Nebraska State AFL-CIO in this, in this matter? There must be one.

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**SUSAN MARTIN:** Sure, sure, sure.

**SORRENTINO:** OK.

**SUSAN MARTIN:** Actually, so we-- I, I represent all working people, not just union members, right? We, we want to promote good working conditions for all employees and working families in Nebraska. As far as organized, I believe-- so by doing this, you would take away their right to organize, if they choose to do that. I think there are some, I don't know if they're labor unions or just "organations"-- organizations that represent Uber drivers, like, in the New York area, for example, but not here in Nebraska.

**SORRENTINO:** Thank you.

**KAUTH:** Senator Hansen.

**HANSEN:** He took my question, by the way.

**SORRENTINO:** Yours is better.

**HANSEN:** You say: however, this practice deprives work-- drivers of crucial workplace protections such as unemployment insurance and worker's compensation, for example. Are they still-- if they were independent contractors, is Uber still allowed to request that they have that type of insurance before they can hire them as an independent contractor?

**SUSAN MARTIN:** I'm not sure-- you would need to talk to someone from the Uber, but from what I can see on their website, is they do require-- they do have standards that they have when they hire people, and some of the-- and those are private insurance for them. The independent contractor has to have, or the, the Uber driver has to have insurance when they're off schedule. Uber covers them when they're on schedule.

**HANSEN:** So, if-- but if they were an independent contractor, Uber still has a right to request that of them in order to hire them on as an independent contractor?

**SUSAN MARTIN:** That would be a contract between them.

**HANSEN:** OK. And one other thing is the drivers have no say on setting fares, so you have a concern about that. But if they were independent contractors, they're still using Uber software, but they're still

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meeting all the other check boxes of an independent contractor. They can still be an independent contractor and then use the software of Uber.

**SUSAN MARTIN:** Yeah, I don't-- I can't answer that question, but I can find out the answer for you.

**HANSEN:** OK. Thanks.

**KAUTH:** Thank you, Senator Hansen. Senator McKinney.

**McKINNEY:** Thank you, Senator Kauth. Thank you, Sue. Quick question. Do you think, if qualified as employees, that require the, the-- a company like Uber or Lyft to take away the flexibility of hours?

**SUSAN MARTIN:** I think that's the-- Uber and Lyft, these app companies, that is their business model, is to allow them to have that flexibility, so-- and they're doing that right now. So, by-- yeah, so they're doing that right now. So I don't see the need for this bill, I guess.

**McKINNEY:** All right. Thank you.

**SUSAN MARTIN:** Yeah. They're not taking away their flexibility.

**KAUTH:** Thank you, Senator McKinney. Any other questions? OK. Thank you very much. Any other opponents? Anyone testifying in the neutral? Senator Hallstrom, would you like to close?

**HALLSTROM:** Thank you, Chairman and committee members. Just briefly, I, I think Senator Sorrentino's questions identified-- and hopefully, our testimony has identified-- that these are traditional independent contractors. They're treated as such under the current law, but they are at risk with regard to some of the efforts that have been undertaken in other states. And so, this is a pre-emptive or pro-- proactive measure to ensure in statute that they have those protections as independent contractors, and retain the flexibility. I think the other thing to look at is that when the, when the industry came to life in Nebraska, there were statutes that I referred to earlier that were put together. And there are some requirements for the platform that were employed-- and companies with regard to standards for the cars that are operated, the insurance, the commercial insurance that has to be provided by the transportation network company while they're on-the-clock, so to speak. And I think the bottom line is, if you look at their business model, and if you do

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things through regulatory methods that increase their cost of doing business, it is going to impact the flexibility. The more that any individual employee costs the employer, in this case the independent contractor and the transportation network company, the more that they're going to have to get out of them. They may lay some people off, they may not hire some people, and they most certainly may ask them to provide more hours of service for the cost that each individual driver costs the company. So with that, I would address any other questions that the committee might have, and encourage the committee to advance to bill to General File for consideration by the full body.

**KAUTH:** Thank you, Senator Hallstrom. Senator McKinney.

**McKINNEY:** Thank you. Thank you, Senator Hallstrom. I know you say today, some, some of, like, the drivers may want to consider themselves independent contractors. But let's say tomorrow, they wake up and say, hey, I want to be considered a worker because of my experience. If this bill passed, would that prevent that from happening?

**HALLSTROM:** Well, it-- I think in either case, they're, they're treated and, and are, in fact, independent contractors today, by the way that the business is run, and by how they choose to do business with the company. This statute will just actually prevent the opposite from happening, which is the state legislature potentially taking action, as they initially did in California, to say they must treat them as employees. It eliminates that, that potential risk.

**McKINNEY:** Yeah. I guess what I'm saying is, what if the workers have a second thought and say, hold up. We are being treated as such, and would like to be, be considered as workers. If this bill passed, would that be-- would that be prevented?

**HALLSTROM:** I, I, I presume it would. They don't have that right today. And, from the surveys and everything that I've been provided, it would take a collective sea change on behalf of the employees, because they overwhelmingly indicate the, the flexibility and the independent contractor status that goes with that is what they're interested in.

**McKINNEY:** Do you have that data?

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**HALLSTROM:** I, I can get the information from the surveys that were, that were referred to me by the individuals in the companies that are interested in it, I believe.

**McKINNEY:** OK. Thank you.

**HALLSTROM:** Thank you.

**KAUTH:** Thank you, Senator McKinney. Any other questions? Thank you, Senator Hallstrom.

**HALLSTROM:** Thank you.

**KAUTH:** And our final bill, LB197, Senator Storm. And there were no letters for LB229.

**STORM:** You ready? OK. Thank you, Chairwoman Kauth, members of the Business and Labor Committee. For the record, I'm Jared Storm. That's J-a-r-e-d S-t-o-r-m. I'm representing the 23rd District of the state of Nebraska. Today, I present for you-- your consideration LB197. This bill is brought at the request of the Nebraska Department of Labor. As you know, the Nebraska Department of Labor serves as the state agency responsible for the review and processing of claims for unemployment benefits. The Department of Labor is tasked with ensuring its review of claims for unemployment benefits is not only timely and accurate, but is done as efficiently as possible. LB197 supports the Department of Labor's goal of efficiency in its review of claims for unemployment benefits by removing limitations on who and how unemployment claim eligibility is determined. Current law requires an adjudicator issue the decision; this limits the department from using other staff in automation-forward efficiencies. LB197 also supports the Department of Labor's goal of ensuring the payment of unemployment benefits as accurate as possible by allowing the Department of Labor to redetermine claims when an error in the claim process is detected by the department's Benefit Accuracy Measurement Division, or BAM. Think of BAM as an internal auditor that reviews finalized claims filed in the previous quarter. Under LB197, if BAM discovers an error in how a claim was initially determined, the Department of Labor can use BAM's findings as a basis to redetermine the claim and correct the error. In subsequent testimony, the Commissioner of Labor will elaborate on the specifics. I ask for the committee's support on LB197 and it's avat-- advancement to General File. We will answer any questions you may have. Thanks.

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**KAUTH:** Thank you, Senator Storm. Any questions? Are you going to stay for close?

**STORM:** Yeah, I'll stay. I might waive it at the end if there's no opposition, so.

**KAUTH:** OK. First proponent.

**KATIE THURBER:** Chairwoman Kauth, and members of the Business and Labor Committee, my name is Katie Thurber. K-a-t-i-e T-h-u-r-b-e-r, interim Commissioner of Labor. I appear you-- before you today in support of LB197. I want to thank Senator Storm for introducing this legislation on behalf of the department. As Senator Storm indicated, LB197 would assist the department and its mission to ensure individuals who are eligible for unemployment insurance benefits are able to access them in a timely and accurate manner, manner. LB197 provides a valuable opportunity to streamline these processes to the benefit of both the claimants and employers. The Nebraska Department of Labor is currently required to have adjudicators issued determinations on claims; LB197 eliminates the requirement that an adjudicator issue the determination. This gives the department needed flexibility to use other staff resources during periods of high workload, and utilize technology to reach the determination, which means that claims could be processed automatically without requiring manual into-- intervention from department staff in every instance. This is an important step towards increasing the efficiency of the unemployment benefits system. Many determinations are very straightforward, but still require staff review. For example, if an employer shuts down and lays off a workforce of 100 employees, that is a qualifying separation reason for all 100 employees. Currently, NDOL must manually review all 100 claims. Existing technology lets the employer tell NDOL the 100 employees impacted. We can then allow payment without staff intervention, based off of the employer's information. Auto-adjudication would really-- in this instance, would reduce delays for claimants who are eligible for benefits, ensuring they receive the financial assistance they need without unnecessary barriers or waiting periods. LB197 also empowers the department to redetermine previous claims when errors are identified by the department's Benefit Accuracy Measurement Division, also known as BAM. This provision is crucial for ensuring the integrity of our system. The Nebraska Department of Labor is federally required to conduct benefit accuracy measurement reviews each quarter of its unemployment insurance benefit program. The program is designed to be a review of work that was done the previous quarter. This means the BAM review is often reviewing claims that are

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now final. Current law provides specific exceptions that allow redetermination of claims that have become final; an error uncovered during a BAM review is not one of those reasons. LB9-- LB197 would allow the department to utilize BAM reviews as a reason for redetermination. The BAM divisions work to identify mistakes in determinations, whether they involve eligibility, benefit amounts, or other factors, helps maintain the fairness of the unemployment insurance program. Allowing the department to proactively correct errors and adjust previous determinations will ensure that claimants receive the benefits to which they are entitled, while also preventing fraudulent claims from being processed. Do you [INAUDIBLE] finish?

**KAUTH:** Real quick. Wrap up.

**KATIE THURBER:** In summary, the provisions in LB197 align with broader efforts to modernize and enhance the efficiency of state unemployment systems. As the workforce and labor market continue to evolve, it is critical that the system adapt to meet the new demands and challenges. By automating certain aspects of the adjudication process and allowing for more streamlined error correction, Nebraska can position itself to handle future increases in claim volumes and ensure that claims are processed in a way that is both timely, accurate, and cost effective. From an employer's perspective, a more efficient and accurate unemployment insurance system means that businesses can trust the system to properly adjudicate claims and reduce the likelihood of administrative errors. At the same time, employees can be assured they will receive the correct benefits in a timely manner, which is essential for their financial well-being during these periods of unemployment. That concludes my testimony, and I'd be happy to answer any questions you may have.

**KAUTH:** Thank you, Miss Thurber. Any questions? Senator Raybould.

**RAYBOULD:** Yes. Miss Thurber, thank you very much. Was the use of BAM in place during the pandemic?

**KATIE THURBER:** It was, but several of-- BAM only covers regular unemployment, and so the federal pandemic programs weren't covered by BAM, and so several of the claims were never audited by them.

**RAYBOULD:** OK. Thank you.

**KAUTH:** Any other questions? Senator McKinney.



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**McKINNEY:** Are there-- thank you. Are there any other states that utilizes an automated system?

**KATIE THURBER:** Several. And in fact, it's been a push from USDOL for the last two years that started during the pandemic. They started awarding grant funds to switch to automation.

**McKINNEY:** How accurate is it?

**KATIE THURBER:** Very, especially in the instance-- so, just to qualify, we did believe an adjudicator is required for determining fraud. Just so that that's clear. That is not allowed to be automated in this bill. But it is fairly accurate and there are quite a few controls in place in the audit-- the BAM audit, and then the appeal process afterwards. And then, we also have to perform monthly benefit timeliness quality. Michigan, several years ago, was the first state to pilot it, and they did issue overpayments incorrectly. And so, that has-- that was the one example that didn't go well.

**McKINNEY:** OK. And what if there's a dispute between the employer and the employee about how that employment relationship ended?

**KATIE THURBER:** Yes, that's the perfect example, is where automation wouldn't be appropriate. So, as part of the federal requirement, we have quality controls, and we're required, if there there's a disagreement between employer and employee on the separation reason, to do reasonable attempts at due process. We have to try and call both parties, and the claimant, we have to also reach out in writing, I believe.

**McKINNEY:** OK. Thank you.

**KATIE THURBER:** You're welcome.

**KAUTH:** Thank you, Senator McKinney. Any other questions? I have one. So, this, essentially, is streamlining the process at the very beginning, and then if it, it's more complicated later, you do bring the adjudicators back in if there's an appeal, correct?

**KATIE THURBER:** Exactly. Well, even before there's an appeal. Anytime there is a disagreement over the facts surrounding the separation, an adjudicator will be involved.

**KAUTH:** Thank you.

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**KATIE THURBER:** You're welcome.

**KAUTH:** Any other questions? Thank you for your testimony. Any other proponents?

**RYAN McINTOSH:** Good afternoon, Chair Kauth, members of the Business and Labor Committee. My name is Ryan McIntosh, M-c-I-n-t-o-s-h, appearing before you as a registered lobbyist for the National Federation of Independent Business, and I'm also testifying on behalf of the Nebraska Grocery Industry Association. I have very little to add in addition to what Ms. Thurber has already said. This would streamline the process for both employees and employers, improve efficiency by consolidating claims, and allow for proper review of errors. So, NFIB and the Nebraska Grocery Industry Association support this legislation, and thank the Department of Labor and Senator Storm for their work on this. Thank you.

**KAUTH:** Thank you. Any questions from the committee? Thank you for your testimony.

**RYAN McINTOSH:** Thank you.

**KAUTH:** Other proponents? Any opponents? Anyone testifying in the neutral? Senator Storm?

**STORM:** I'll waive my closing.

**KAUTH:** Waiving closing. OK. That's it for today. Thank you very much, everyone, and we'll clear the room and--