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Business and Labor Committee
April 13, 2011

[LB397]

The Committee on Business and Labor met at 12:00 noon on Wednesday, April 13, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a special public hearing on LB397 and AM1116. Senators present: Steve Lathrop, Chairperson; Tanya Cook, Vice Chairperson; Brad Ashford; Tom Carlson; Burke Harr; Jim Smith; and Norm Wallman. Senators absent: None.

SENATOR LATHROP: If I can have your attention for a minute, my name is Steve Lathrop. I'm the Chair of the Business and Labor Committee and we appreciate everyone who is in attendance today coming here to share your thoughts on LB397. Before I begin, I want to introduce my committee members who have been involved in this process with me and I'll begin to my right with Senator Tom Carlson, and next to Senator Carlson is Senator Brad Ashford, then Burke Harr, and to my immediate right is Committee Counsel Molly Burton, who many of you know who have been involved in this process with us. To my left is Senator Cook, Senator Norman Wallman, and then Senator Jim Smith from Papillion. And to my far left is my committee clerk, Kate Wolfe. Many of you are experienced at the process of sitting through a committee hearing. For those of you who have not been here before or not participated in a committee hearing, I want to visit with you a little bit about the process. Today we will have some introductory remarks by Senator Utter and then I will introduce the committee amendment and the bill, followed by Senator Harms who will speak. He has another matter he has to get to but he asked for an opportunity to be heard. We will then take the proponents. We are going to try to divide the time equally between proponents, those who are here in a neutral capacity, and those who are here in opposition. We want to give everybody an opportunity but I hope you'll appreciate that we are doing this during a legislative recess or a lunch break. The Speaker has extended it from noon to 2:00 to accommodate as many people as we can. Because there are many people here who wish to speak, we are going to employ the light system, which is common in committees. We will have a five-minute light system, which is longer than normal; because there is five minutes doesn't mean you need to use all five minutes, all right? There are a lot of people and if everybody uses five minutes, there will be some people that won't have an opportunity to be heard and that's not what we want today. The way the light system works is you'll be given a green light when you sit down. The light will turn yellow at four minutes, and at five minutes the light will turn red. I hope you'll appreciate that we want you to stop when the light turns red. And when we're up on the floor we get five minutes and when our five minutes are up we have to stop, and I'll ask you to observe the same thing today so that I don't have to interrupt you and ask you to terminate your remarks. If you are going to speak, we appreciate that you fill out a form for speakers, all right? You'll hand this to my committee clerk and then have a seat and you may begin your remarks. Your five minutes is not affected by, nor are you charged with time, if you're being asked questions by the committee. There will be, in the event we do not get a chance to have everyone heard or you do not want to speak but you'd

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like your position to be recorded, we have a sheet where you can indicate your name and whether you support or oppose the bill. That will be helpful for those of you who will not have an opportunity to speak or those of you who do not wish to speak. And with that, I'll think we'll begin with Senator Utter. Welcome, Senator Utter. [LB397]

SENATOR UTTER: Thank you very much, Chairman Lathrop and members of the committee. It's indeed a pleasure to be here today and to participate in this process. I want to say up-front that I have been privileged to serve on this formation process of this legislation for some time now and I have appreciated the opportunity to have participated. My name is Dennis Utter, spelled D-e-n-n-i-s U-t-t-e-r, and I represent District 33 in the Legislature, which is the Hastings, Adams County, part of Hall County area. I'm here today not only as a state senator but as a citizen of Nebraska, a businessman, and someone who is interested in efficient and fiscally responsible government. I'm not an attorney so I think I've brought a nonlegal citizen's business perspective to the formation of this legislation. I believe that public employees should not be the lowest paid in our state with inadequate benefits, nor should they be the highest paid with the best benefits. Wages and benefits combined into a total compensation package should be fair and reasonable. This CIR reform legislation is not an indictment of, nor is it an endorsement of, collective bargaining for public employees. Initially, I supported abolishing the CIR. Then I discovered there would be no process for impasse resolution or for addressing other labor practices. Although political subdivisions are now exempt from the National Labor Relations Board, we certainly do not ever want our political subdivisions to be subject to the NLRB if Congress decided to remove the exemption for those states that have no impasse resolution process like the CIR. They don't do anything better in Washington, D.C., than we do in Nebraska. We need to resolve these issues here at home. Some have said that LB397 is CIR on steroids. To the contrary, I believe LB397 is CIR in a straitjacket. The changes proposed, in my opinion, are significant, meaningful, and comprehensive. The CIR in the past has been criticized for having a lack of clear definitions and rules, which has led to inconsistent decisions and a lack of predictability of outcomes. LB397 includes and improves LB482, the bill I introduced, and makes, in my opinion, among others, the follows significant improvements in the CIR. It clearly defines the rules under which the CIR operates. It requires Nebraska job matches and comparisons. It provides for public-private job comparisons. It reduces salary, health insurance, and pensions to an hourly rate value for comparison purposes. It provides for an economic variable adjustment if an out-of-state comparison is necessary to adjust for differences in cost-of-living factors. Because of these improvements, this will increase the predictability of decisions. This will lessen the necessity to take disputes to the CIR. This will reduce costs to governmental units and to taxpayers. Thank you very much. [LB397]

SENATOR LATHROP: Thank you, Senator Utter. Are there any questions? Senator Ashford. [LB397]

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SENATOR ASHFORD: Senator, thank you for your comments, and I just, as a person who's been serving in this Legislature for 13 years, my 13th year is this year, representing Omaha, I cannot remember any individual senators other than Senator Lathrop and Senator Utter who have committed the kind of time and effort that you two have committed, maybe coming at this issue from different directions possibly when we started, but I've been at the table with you on how many occasions I cannot count and I have never been more impressed by any individual on an issue more than I have been by your commitment, coming to this without particularly past experience in working with the CIR. So I just get it on the record, I just want to applaud your incredible commitment to our state. [LB397]

SENATOR UTTER: Thank you. [LB397]

SENATOR LATHROP: Thank you, Senator Utter. [LB397]

SENATOR LATHROP: (Exhibits 16 and 17) Good afternoon, colleagues from the Business and Labor Committee. My name is Steve Lathrop. I'm the state senator from District 12 in Omaha. I'm here today for the purpose of introducing LB397 and AM1116, and for the purpose of holding a hearing on that to provide an opportunity for the public to hear what LB397 includes, maybe talk a little bit about the process, and certainly to allow for further input from the public. And I would begin maybe by talking a little bit about process. LB397 is the result of many, many months of work, work that began in the last legislative session when I was approached by Mayor Beutler and the League of Municipalities, and asked to address concerns that the cities have had for many years relative to the CIR. And as a consequence of their concern, sometime this summer we formed a working group. And it was not an exclusive group; it was not a closed group. It was a group made up of the interested because the issue, I will tell you, came to us and we began our work long before it became the subject of national media. Before anyone else was concerned about the CIR or collective bargaining by public employees, this group began its work. And the group has not been a group exclusive, it has not been intended to keep people from participation. To the contrary, it was a group formed by the interested and the knowledgeable. Those who understood the subject matter were...participated in the process and I want to visit a little bit about how the process unfolded, because in order for us to address the concerns regarding the CIR it was necessary that we understood what the concerns were. And Senator Ashford certainly understood the CIR, as a former commissioner. His help was invaluable. And Senator Utter, as he's indicated, came at this from a different perspective, which is, while he participated, he came in with the idea that we should repeal the CIR and abandon collective bargaining and allow whatever would happen to happen. And as we began this process, we spent many, many hours listening to the concerns of the political subdivisions to find out what problems do they have with the CIR and the collective bargaining process in Nebraska, and those concerns drove the solutions that you'll find

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in LB397. And I will tell you, as we listened to the concerns and listened to the political subdivisions and the associations that represent the political subdivisions and the state of Nebraska across the state, we did not hear a call for repeal of the CIR, nor did we hear a call to abandon collective bargaining. What we heard was a call to reform the Commission on Industrial Relations. And let me talk to you about the concerns and what we've done to address them. A significant concern for the political subdivisions has been predictability and I won't go into the long history lesson but I will suggest to you that when the CIR was formed the direction to the commission is found in one section of statute, which is 48-818, and that statute simply directs the commission to determine what prevalent wages are for like work under like conditions. And the CIR and the commissioners of the CIR were given very little direction or substance beyond that. And as a consequence, most of the rules of how they proceed, most of the rules that guide the decisions they make have been established by case law. That means decisions have been appealed from the CIR, they've gone to the Court of Appeals and to the Supreme Court, where we've...where they've established case law, and that has been what has directed the CIR and their processes since the beginning of this...since the beginning of this institution. And as a consequence, because we don't have these criteria in statute and because the CIR seemed to rely on one case in one controversy and another case in a different controversy, the results seemed, to the political subdivisions, to be inconsistent, and that's very difficult if you're trying to negotiate labor contracts if you don't know what the rules are and they're not clearly defined. LB397 and the amendment that was moved by this committee addresses predictability by doing the following: We have addressed job match, which is one of the criteria. If you are...and a little background may be in order for those who don't understand the process of the CIR and I suspect there's some out there that don't. The CIR is simply in place, it's an institution in place to resolve differences between employees and employers in the public sector. The function of the CIR is to arrive at an average wage, not a wage that's higher than average but to arrive at an average. The average wage for a particular position is arrived at by finding similar employers and finding people that do work for those employers that match the job of the collective bargaining unit in controversy. Now that process makes a good deal of sense and, in fact, the CIR has been characterized as an institution that has been responsible for above market increases in wages and, in truth, it's quite the opposite. The CIR is actually a check against the political process so that city councils who might have wanted to favor a collective bargaining unit actually have a check on that process so that they don't, in effect, give the farm away. They're not going to get above average under this bill. The bill sets the criteria for choosing those comparators, or what we call the array. We establish a 70 percent job match. We establish a preference for geographically proximate, as well as a preference for Nebraska comparators. We set the array or the number of people that you will...institutions that you'll be compared to at 7 to 13. We also establish a public and private comparison which, while is available to the CIR, to this point in time they haven't in practice actually done it or done it rarely. And we set size limits on the size of the communities that you'll be compared to. Let me talk about some of those things in more

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detail. First of all, the bill provides for private sector comparisons, and I will tell you that the private sector comparisons are a check to ensure that public employees are making what the market is, not the market for public employees but the market for the kind of work they do, and in the future, the CIR will be directed to, where appropriate, compare to the private sector. Now I've heard criticism and you have too that the private sector comparisons, which is what the political subdivisions wanted in this bill, is causing some concerns in the business community, and I will tell you I hear the concerns and they are legitimate concerns. I understand the concerns about intruding into the private sector, into businesses and trying to get information and having that end up in the public domain. We will amend this bill to address that concern, probably the easiest concern to address going forward. But the comparisons to the private sector will ensure that employees in the public arena are paid what a job is worth and no more. The cities and the political subdivisions also had a concern about how big of a political subdivision they were compared to. Let me give you an example. If you are the city of Lincoln, historically when they have had controversies with their fire and police they've gone up to St. Paul and been compared to St. Paul, Minnesota, in a very, very big...in a very big metropolitan statistical area. And what happens, as you bring the data back for the averaging and it is...the political subdivisions at least suggest that the data is...reflects a difference in cost of living, so what we've done for the political subdivisions is set a limit on how big of a city you'll be compared to and how big of an MSA you'll be compared to. So the cities will not be compared to another city, if you have to go outside the state in particular, you will not be compared to another city that is less than half your size nor more than twice your size. And the same is true with metropolitan statistical areas, which is the problem they have with the Minneapolis, St. Paul area and comparisons to that metropolitan statistical area. If you are Lincoln, you will not be compared to a city that is situated in a metropolitan statistical area that's less than half your size nor more than twice your size, and that's really a big deal to the cities and the political subdivisions. The bill provides for a preference for in-state comparators. One of the concerns we hear from the political subdivisions is that the comparisons are going too far away from the state of Nebraska and we're bringing back data that reflects a difference in cost of living. So a preference for in-state comparators is important to the political subdivisions that actually use this process. The next thing that we addressed was still if you're leaving the state of Nebraska and you must, to find proper comparators, go to a community away from Nebraska, that we need to adjust the numbers coming back in before we use them in the averaging process. I call it "Nebraskatizing" the numbers. What happens in that process is that each side, if you get data, for example, from Wichita, Kansas, in a comparison with Omaha, Nebraska, if there's a difference in the cost of living between Wichita and Omaha, the parties can show that to the court so that we essentially back out of the data the difference between Wichita and Omaha that's a difference that reflects the difference in cost of living. So what we're going for or what we're going to get down to is what's the average pay for the kind of work we're talking about? Another concern expressed by the political subdivisions is that they have not, to this point in time, received credit for health

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insurance and pension benefits. And a little example may help illustrate their concern. If you are...and I'll use the city of Lincoln and you negotiate a contract with your collective bargaining unit and they agree to remain at 0 and 0 for two years, no wage increase for two years, and in exchange they get a bump in their pension, maybe a greater contribution by the employer, maybe more benefits in some respect or a better deal on your health plan, then the next time the contract comes up for renewal the cities have not been given credit for having a better than average health plan or a better than average pension plan. To address this...and, frankly, it's already in the statute that they should do this, right? They should take into account total compensation but, as a practice, the CIR has not taken into account generally the value of the health plan or the value of the pension. To address that, we are directing the CIR in this bill to reduce the employee benefits in the collective bargaining unit and in the comparators of the array to an hourly rate value. That will require that you determine what the wages are, the hourly rate value of the health insurance benefit and the hourly rate value of the pension benefit. This is not uncommon in the trades so it's not a particularly unique concept but it fixes a problem that the political subdivisions had in this case. With the hourly rate value determined, you can then compare yourself to the array. And now the cities will be given credit for the pensions that they believe, and they've represented, are better than average. So for example, you can have a city that has an hourly rate value of \$35 and you compare them to the array and it may be \$30, so now they're \$5 better than the array, where historically they've just been moving up in wage increments with their counterparts in the array. The expectation is that with this new process, with the reforms, that actually the political subdivisions will find themselves doing better than their counterparts in the array. And the next question we addressed was what do we do for the political....for the collective bargaining units who are doing better than their counterparts in the array, and the answer is to freeze them. The bill freezes their wages for twice as long as it takes for the array to catch up with them. Let me explain the concept if I can. If a political subdivision is at \$32 an hour and the array is at \$30 an hour, they're doing \$2 an hour better than the array. They would...they have...they may be frozen for as long as it takes for the array to come up to \$32 and that much time going forward--twice as long as it takes for the array to catch up. Or they can negotiate with the political subdivision to reduce their hourly rate value. That can happen by changing the health insurance benefit or changing their hourly rate wage or they can negotiate a change in their pension, and that is an important, a very significant feature of LB397 is the opportunity for the political subdivisions to negotiate changes to their health plan, their pension plan, and to have the hourly rate value of the employees' pay and benefits reflect the private sector and that the cities be given credit for their pensions. There was also concern expressed by...that the process is too expensive. That process generally requires experts to determine who is a suitable member of the array. We've relaxed the rules of evidence. We haven't...the CIR is still able to weigh the weight of the evidence, whose evidence is more persuasive, but we do not need to send experts to Cleveland to watch a guy get on a fire truck in order to come back to the CIR and testify about job match. They can do this by more conventional means. Those were

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the concerns expressed by the political subdivisions. Those are the highlights of the piece that relates to the political subdivisions. We also attempted to address or did address the concerns of the state of Nebraska. Senator Harr will testify after me or speak after me to address the concerns of the state of Nebraska and what this bill does relative to the state. Let me visit for a second about the schools. We also invited the associations of school boards and administrators to meet and to confer with me and a separate working group of the interested to address the concern school districts have, and we've worked out a language in the bill that sets a time line. It deals with ability to pay and it deals with deviations from the salary schedule. One representation that has been made regarding the bill is that it rewards failing teachers. That's not it. Let me explain the deviation so that we can disabuse those who are representing it as a rewarding failing teaches. The school administrators and the school boards asked, not the teachers, the school boards and the school administrators asked to be able to deviate from the salary schedule to provide an incentive in two circumstance: one, to get hard-to-place teachers into small community schools, that's in the bill; the other is to have the option to offer a financial incentive to get good teachers into underperforming schools. Now the bill requires that the school district negotiate what that incentive is going to be, but the school doesn't have to offer it and, in fact, the bill clearly indicates that the school districts can offer it or not offer it. It's completely up to them and it doesn't prohibit or change the ability of a school district to direct a teacher to any particular school if they choose to. Those are the highlights of the bill. Senator Harr will speak to the state piece. Let me suggest to you that we have...about further process. Since this amendment has been introduced and the bill has been released from the committee to the floor, I've received a number of calls from political subdivisions who have concerns with a particular provision. In some cases...in every case, in every case the calls that we've gotten in my office have thoughtful, they have been constructive. The concerns have come with solutions and we continue to work on the bill and my door remains open. The door of this committee remains open to those who have thoughtful concerns and thoughtful suggestions. I'm not sure when it's going to be scheduled on the floor but those who have thoughtful suggestions and want to be heard regarding their concerns, we're happy to talk to them and to incorporate them where consistent with the overall framework of LB397. Thank you. [LB397]

SENATOR COOK: Thank you. Are there any questions for Senator Lathrop? Senator Carlson. [LB397]

SENATOR CARLSON: Thank you, Senator Cook. Senator Lathrop, just a couple of items. In economic variables, if one party wants to include them and another doesn't, they don't have to agree. Is that correct? [LB397]

SENATOR LATHROP: True. [LB397]

SENATOR CARLSON: It will be included if one party wants it. [LB397]

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SENATOR LATHROP: It will be included if one party wants it. They do not have to agree on including it. If one party wants to offer evidence on economic variables, it comes in. [LB397]

SENATOR CARLSON: Okay. So that becomes a "shall" and not a "may." The other is in the evaluation of benefits and we look at the results, and you used a couple of examples, hourly equivalent. So the average is \$30 and it turns out the group averages \$33. Now at that point, nobody knows how long it's going to take the average to reach \$33, so at that point there can't be any decision, well, you're going to be frozen for two years plus two; they have to wait and see. [LB397]

SENATOR LATHROP: They will not know specifically because we can't predict how quick the array will rise up to the number that our collective bargaining unit finds it at, but however long that is, they'll be set there for twice as long as that takes. [LB397]

SENATOR CARLSON: So if it takes two and a half years to reach the average, then it would be frozen for two and a half years more. [LB397]

SENATOR LATHROP: That's true. [LB397]

SENATOR CARLSON: Okay. Okay. [LB397]

SENATOR LATHROP: And the other thing about that, Senator Carlson, is that the political subdivision can say, look, collective bargaining unit, you're going to be stuck here for probably five years; would you like to talk about your deductible on your health plan; can we get more help with you for the pension; would you like to lower the hourly wage rate? They can negotiate, bringing themselves down to where the array is. [LB397]

SENATOR CARLSON: And I happen to think that's maybe unlikely but it may not be unlikely. But the point is, I think it's important that this gets into the realm of comprehensive and meaningful and significant because there's no argument. At that point, it's either going to be wait a few years or negotiate down. There's no other answer to it. Is that correct? [LB397]

SENATOR LATHROP: That will be the process. [LB397]

SENATOR CARLSON: Okay. Thank you. [LB397]

SENATOR COOK: Thank you, Senator Carlson. Senator Smith. [LB397]

SENATOR SMITH: Thank you, Senator Cook. Senator Lathrop, thanks for going

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through quite a few of the specifics of the legislation and I'm going to probably rise up to more of a 10,000-foot level in this question. As I read through the legislation and some of the questions that are being directed towards me is related to the comprehensiveness and the consistency issues with the treatment of public sector employees in this legislation. And you touched on this a little bit, but can you reiterate what are the reasons that we cannot have consistent treatment of all public sector employees in this legislation? And then as a follow-up to that, specific to the education sector, with such a large portion of property taxes going towards personnel, how do you see this helping the school districts control their costs? [LB397]

SENATOR LATHROP: Good question and I appreciate it. When we met with...I have to tell you my background. While I'm Chair of the Business of the Labor Committee, I'm not a labor lawyer and I don't negotiate labor contracts. So the process necessarily required, as it has in other things that I've worked on in my five years here, that I bring in people that understand the issue better than I. And I worked with the folks at the state school board association and the administrators association to find out what their concerns were, and I have to tell you that if you looked at the different sectors in the...you know, the cities versus the school districts versus the state of Nebraska, they all had a different list. And what we tried to do was be responsive to each public sector's list and the list that we had, I appreciate that there's some concern with whether or not the school districts are getting as much out of this as, say, the cities are, for example, and I've heard that criticism. I will tell you that the cities, in my estimation, the school districts started out closer to peer comparison anyway because they all are on...and it's not accurate to say they all are on but for the most part most of them are in the same health plan, so the health plan issue kind of takes care of itself. And so as a consequence, the list of things that the administrators and the supervisory or the administrators for the schools was different than the list we got from the cities. And what we tried to do was be responsive and provide legislation that was responsive to the concerns that were expressed. Now I've said this from the beginning: My door isn't closed, right? So if people want to talk about some improvements or some thoughts for making changes, I'll listen to thoughtful suggestions. That's been the history of this committee and I think my history in the Legislature has been to receive thoughtful suggestions from any of the political subdivisions that are, you know, involved in using it, not just the political subdivisions. If there is the business community now wants to...I understand they have some things that they want to see different, I'll listen to it and see if it's something that we can incorporate into it without abandoning the work that we've done to this point in time. [LB397]

SENATOR SMITH: Thank you. [LB397]

SENATOR COOK: Thank you, Senator Smith. Are there other questions from committee members for Senator Lathrop? Seeing none, thank you very much, Senator. [LB397]

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SENATOR LATHROP: All right. Thank you. Senator Harms, welcome to the Business and Labor Committee. [LB397]

SENATOR HARMS: Well, thank you very much, Senator Lathrop. It's a pleasure and an honor to be back. This would be the second time I've been here and I would have to say, after looking at the work you've done, you've done some really great work. Thank you very much. I know the amount of time that it's taken for you to do this has been staggering. [LB397]

SENATOR LATHROP: John, just one second. Can everybody in back hear okay? I know we got the window open. I'm going to ask you just to make sure you try to speak up because... [LB397]

SENATOR HARMS: Well, you know, I've never been accused of not speaking loud, so I will... [LB397]

SENATOR LATHROP: No, people that know you wouldn't accuse you of that, John. [LB397]

SENATOR HARMS: Yeah. I can do that. Thank you very much. Senator Lathrop, my name is John N. Harms, H-a-r-m-s. I represent the 48th Legislative District and that's in Scottsbluff, Nebraska. As usual, thank you very much for giving me the opportunity to come back for the second time and to visit with you. The last time I was here, I introduced LB555, representing the executive branch, and I've now reviewed LB397 and your amendment, AM1116, and I believe the bill, as currently drafted, addresses all the concerns regarding the CIR process that we had in higher education. I thank you for that. I appreciate that. LB555 has been in large measure incorporated into your bill, as proposed in this amendment. Senator Lathrop, what I'd like to do just briefly is just touch the high points of what we wanted and what were a concern. Keep in mind, this is dealing with higher education. This is dealing with the State College System and the university system. First, you eliminated the Special Master and I think that's really important for us because the more that we can streamline it the less money we spend. It's more cost-effective, it's more efficient, and you simply get done with the process quicker. So we've eliminated the Special Master, so if you have an impasse you go directly to the commission, and from the commission you also eliminated for us the Courts of Appeals. It goes right directly to the Supreme Court. Other areas that we had concerns about were some of the dates and you clarified the dates in Section 81-1382 and 81-1383 that they now are jurisdictional, which really helped us because there was a split between a decision the Supreme Court made, what the commission made, and there was a division and people really didn't know for sure whether it was jurisdictional or not. This does correct that. The other thing that we had some interest in and you've included in it, that no issue should go to the commission that has not been a subject of

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negotiation, so that there are no surprises later on, all of a sudden they'd like to change the direction but they take it to the commission, and this prevents that. The other thing you've done that we appreciate is you really tightened up the time lines. It was just a little bit too lengthy and by tightening these up it made a big difference for us in the process, because I think the thing that you want to have accomplished if you're at an impasse, the quicker you can get the thing...get it resolved, the easier it is on your staff, the easier it is on your organization. It just constantly keeps that organization, whose ever deal it is, or the state college, university in turmoil, and this prevents that. I think you've tightened it up to a point where it moves right along and I think that's critical to this. The other thing that we had concerns about which you have corrected is that the commission's decision will be based on comparability, which before it was basically reasonability. There was a division between reasonability and comparability, and comparability is really where we want to be and you've included that. For the purpose of determining peer employers and comparability factors will now be in the law and the commission will be forced to follow that, and I think that's important. There was always some concerns about, well, was it or was it not part of the policy or the rule, and since historically we've never had that in the law, it was just too much flexibility for the commission, and I think this really has helped. And then the rules of evidence will be followed. You can actually go ahead and get some of your information or information through the electronic media or other sources, as long as it has the authenticity of it and it's certified and approved. And that's basically the highlights of what I wanted to bring forward. I wanted to thank you and the committee for this. I appreciate it. And I think we'll find that when we're successful in completing this and getting this bill approved on our floor, we will find that it will be cost-effective for the great state of Nebraska, and that's what this is about. I do want to go on record in closing, Senator, in saying I do support collective bargaining. I do support the commission. I do believe very strongly that when you have an impasse you need to find a solution to it, both for management's purposes and both for the employee purposes, and I think this gives us the best of both worlds. And so I thank you for doing that. So this completes my testimony, Senator Lathrop. Appreciate it. Thank you. [LB397]

SENATOR LATHROP: Very good. Thanks, John. Anyone have questions for Senator Harms? And just so that folks that are here appreciate, John, you put in LB555 that dealt with the college piece or the state piece, is that right? [LB397]

SENATOR HARMS: That's correct. [LB397]

SENATOR LATHROP: And LB397 has essentially incorporated your bill. [LB397]

SENATOR HARMS: Your amendment has incorporated all of our concerns and issues we had. I appreciate that. Thank you. [LB397]

SENATOR LATHROP: Okay. Very good. [LB397]

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SENATOR HARMS: Thank you. [LB397]

SENATOR LATHROP: Thank you for your testimony and your time. [LB397]

SENATOR HARMS: You're welcome. [LB397]

SENATOR LATHROP: It is now 12:45 and I will take proponents for one half-hour and then we're going to take neutral testimony for 15 minutes, and then opponents for a half-hour. We'll begin with...I was going to say Senator Beutler, it's Mayor Beutler, who will also be on the clock. Good afternoon. [LB397]

CHRIS BEUTLER: I'm always on the clock, Senator. [LB397]

SENATOR LATHROP: I know. (Laugh) I meant the timer I guess. [LB397]

CHRIS BEUTLER: Good afternoon to you all. [LB397]

SENATOR LATHROP: Good afternoon. [LB397]

CHRIS BEUTLER: My name is Chris Beutler. I'm mayor of Lincoln, Nebraska. I'm happy to be before you once again on this issue, testifying in support of the amendment as it applies to the municipalities of the state of Nebraska. And I, too, would like to begin by thanking members of the committee, particularly the Chairman, Senator Ashford, Senator Utter. I would add to your perspectives, Senator, a similar note. I don't know when I've ever seen a bill that's been worked on so long and so hard with a great deal of creativity. The hourly value rate was a big idea that was a missing component of the CIR. It's been addressed with fair-mindedness and the result has been a very meaningful piece of legislation. I also want to thank Lynn Rex, the League of Municipalities executive director, who has spent many years trying to bring about reform in this area; and Bill Harding, who worked with the league and who is a longtime labor management lawyer. So and finally I think I would like to thank the members of the public sector unions during these negotiations. This has been a tough, tough subject for them. They've worked hard, too, at compromise and they've demonstrated I think again their commitment to helping the communities and the taxpayers of the state to get through these very difficult economic times, and I think we're very fortunate, frankly, to have so many public-minded people involved in organized labor. I believe AM1116 is a good amendment. I believe it to be a reasonable amendment. It certainly proposes significant change to the CIR system. It responds to many of the concerns that I've heard from the citizens of Lincoln over the past several years. With the amendment, we will definitely have a much higher measure of predictability by codifying all of those things that have come down over time as guidelines, codifying those as they relate to array selection and to a great many other topics that are matters before the CIR. We will

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have an opportunity to utilize public sector data in a meaningful way now which would address the...or through which it would enable us to address the business community's concern that public wages are out of whack with wages in the private sector, and we will have the ability to "Nebraskatize," I think that's the word you used, Senator, wasn't it, out-of-state comparators by introducing evidence of economic variables. That's going to be important. So if a particular community has a much higher standard of living than we have in Nebraska, the CIR will be able to offer offsets to account for that fact. Despite these and several other very significant changes, I suspect some folks here today will urge you to scrap the entire CIR altogether because AM1116 does not go far enough. I respectfully disagree. Could AM1116 have done more? Yes, certainly. It doesn't address every concern raised by the cities. But as you all well know, having been involved in the process, that compromise is the nature of how we all get along and how we move ahead a society to make progress. This failure to address all problems all at the same time all at once should not be a reason to reject meaningful, meaningful reform. History has repeatedly demonstrated, I believe, the wisdom of addressing these sorts of complicated issues incrementally over time. This process, a continual and studied effort at reform, allows us to avoid the waste of repeatedly shifting our efforts from one extreme position to another. It is always finding the center of things, finding the balance that is the art of the democratic process. The CIR system has been in place without substantial revision for 40 or more years. During that time there have been very few significant efforts at reform. Now real reform has been offered; real reform is on the table; real reform will be before the body as a whole. Unfortunately, a frenzied national debate on the topic has overshadowed and, in a way, overtaken the local process, which, as the committee Chair indicated, began in time long before Wisconsin and those other matters raised their heads around the country. I feel that these are exactly the times where I believe it is most important to pause and to evaluate what we want to achieve. At the most basic level, I think we can all agree that we want to treat our public employees fairly while maximizing the deference we afford local decision makers. I do not believe these interests are mutually exclusive. They can and they should be balanced. As I waited to testify here today, I was listening to the children in the courtyard, young children. They could be your children or our grandchildren. And you know, we don't know whether they're going to grow up to be city employees in unions or whether they're going to be managers or middle-level managers on the other side of the game, and don't you want to think that all of those children are going to grow into situations that treat them fairly and is a balanced situation? And I believe AM1116 approaches that balance. Is it lengthy? Yes, but that's what happens when you codify a series of rules that have come down over the year and given them certainty. Is it overly complicated? No. Although it introduces several new ideas to the CIR process, it also explains clearly, I think, how those ideas will work in practice. Is it the equivalent of a state aid formula for schools, as some have suggested? Let me tell you, I've worked with the state aid formula for many, many years and I assure you this amendment is no state aid formula. Again, AM1116 strikes a balance, both in form and substance. It represents years of work on the CIR reform effort and it embodies real change for

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municipalities. And I hope you will support it and get it through the legislative process for us. Thank you, Senator. [LB397]

SENATOR LATHROP: Appreciate that, Mayor. Does anyone have questions for Mayor Beutler? I see none. All right. [LB397]

CHRIS BEUTLER: Thank you. [LB397]

SENATOR LATHROP: Thank you very much. We'll take proponents' testimony next. Good afternoon. [LB397]

ALVIN GUENTHER: (Exhibit 1) Good afternoon, Chairman Lathrop, the rest of the members of the Business and Labor Committee. My name is Alvin Guenther. I am a retired Nebraska educator. My 35-year educational career was at both the secondary and community college level teaching economics, business finance, and accounting. I am currently living on the family farm or ranch, raising Hereford-Angus cross cattle. I come before you today to strongly support the Commission of Industrial Relations and/or LB397 as amended. My career in education began in 1962. Boards of education at that time presented a somewhat different profile than they do today. Members of boards of education sought their positions for varying reasons. Some board members sought election to get rid of the football coach, to keep property taxes at a minimum, extend the length of their obituaries, to fulfill the obligation of the round robin approach to board selection in the neighborhood, and lest we not forget the state mandated obligation to educate the youth of their districts. Educators, to summarize, were cast on their own to negotiate a contract. Educators were at the mercy of inflation, hatchet man superintendents hired by boards of education to rid the district of teachers with longevity. No maternity leave existed, professional leave, personal leave, contract or personal conflict resolution instruments, no instruments to aid in the resolution of personal or substance abuse or time lines for insufficient job performance notification and possible termination, possible reduction in force notifications, or any time lines of contract negotiations. The Court of Industrial Relations was originally authorized by the Nebraska Legislature in 1947. The 1960s saw the beginning of the increased membership in the Nebraska State Education Association, increased membership in the National Education Association, and perhaps most importantly the formulation of local educational associations. Educators, however, were still essentially without unity to seek and obtain new contracts to keep pace with their counterparts in the private sector of employment. The Court of Industrial Relations in 1969 had its jurisdiction extended to include education. That, members of the committee, was the cornerstone needed to bring the career of education to the level of professionalism that it is today. I come before you today as an economist to issue a strong statement. Committee members, the condition of the United States' economy, the Nebraska economy, and the projected \$900 million-plus budget shortfall is not the fault of public employees or the Commission of Industrial Relations. The condition of the national and state economies is a result of

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misguided tax policy and subsequent insufficient household consumption. President Ronald Reagan's trickle-down or voodoo economics do have merit; however, the profits realized through the tax credits and exemptions to create new jobs offering a living wage and economic growth were cannibalized. Deregulation, lack of transparency, and corporate greed created a promiscuous environment perpetrating the creation of part-time jobs with few benefits, job outsourcing, golden parachutes, speculation in commodities markets, hostile takeovers, leveraged buyouts, stockholder wealth maximization, corporate stock buyouts, and the proliferation of the greatest disparity in wealth creation and household income in recent history. Ironically, through partisan rhetoric and demagoguery, these tax policies are being vigorously promoted and implemented today at the state and national level. All this while, the average household has had to absorb a decade of stagnant wages, quadrupling energy costs, lost jobs, exploding healthcare costs, food costs going through the roof, and now greater property tax burdens to educate their youth or their children. The Commission of Industrial Relations, as it became known in 1979, was and is the instrument that allows for the professional negotiations that we have grown to know and appreciate today. However, it has come under extreme pressure from various groups promoting the trickle-down or voodoo economics to promote a short-term profit at the expense of the Nebraska household. We have lived under this demagoguery for the past three decades and are now living its consequences. The abolishment of the Commission of Industrial Relations would result in education and other public employee professionals taking a 50-year regression in professionalism its members have struggled so diligently to obtain. If I were a Nebraska lawmaker, that's part of Nebraska history I would not want to be part of. [LB397]

SENATOR LATHROP: Thank you. [LB397]

ALVIN GUENTHER: Thank you very much. [LB397]

SENATOR LATHROP: We appreciate your remarks. Let's see if there's any questions from the committee. I see none. Thanks for coming down. We appreciate hearing from you. [LB397]

ALVIN GUENTHER: Okay. Thank you. [LB397]

SENATOR LATHROP: Steve, how are you? [LB397]

STEVE OLTMANS: (Exhibit 2) Good afternoon, Senator Lathrop, fellow members of the committee. I'm Steve Oltmans, spelled S-t-e-v-e O-l-t-m-a-n-s. I'm here today on behalf and I'm the chief of staff for Mayor Suttle and I'm here on behalf of the Suttle administration. I appear here today in support of the amendments to LB397, calling for CIR reform. The city of Omaha has been working with the city of Lincoln and other sister cities through the Nebraska League of Municipalities to address issues of concern

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regarding the Nebraska Commission of Industrial Relations. The city of Omaha will continue to carry out this effort through the League of Municipalities, enabling a common voice among Nebraska cities to achieve reform of the CIR. City of Omaha is interested in and always has been interested in three major areas in reform: one, usage of MSA, metropolitan statistical areas, as the basis for comparison, which is in the legislation; two, inclusion of dollar value for benefits, to establish a total wage basis for comparison, which is in the legislation; and three, the use of both private and public wage comparisons, which is in the legislation. We believe that LB397 before us today, as amended, has the provisions addressing the city of Omaha's primary concerns. I'd be happy to respond to any questions if you have any. [LB397]

SENATOR LATHROP: Okay. Thanks, Steve. Any questions for Mr. Oltmans? [LB397]

STEVE OLTMANS: I would just conclude, thank you for all the efforts. We've been involved in this process and many of you have spent beaucoup hours making this get to this...helping this get to this point, and we thank you. [LB397]

SENATOR LATHROP: Thanks. We appreciate that, Steve. Sheila. I'm sorry. [LB397]

JERRY PIGSLEY: I'm not Sheila. [LB397]

SENATOR LATHROP: Well, come on up. I'm trying to work off a list. [LB397]

JERRY PIGSLEY: I believe Sheila is going to testify, Senator. [LB397]

SENATOR LATHROP: Okay. [LB397]

JERRY PIGSLEY: My name is Jerry Pigsley and I'm a labor and employment law attorney here in Lincoln. [LB397]

SENATOR LATHROP: Just a little bit louder so everybody can hear you, Jerry, if you don't mind. [LB397]

JERRY PIGSLEY: Okay. As I said, my name is Jerry Pigsley. I'm a labor and employment law attorney representing public employers in the state. I come with the experience of working at the Commission on Industrial Relations a little over 30 years ago and when I was there I remember Senator Ashford appeared before the commission and is very familiar with how the CIR practices... [LB397]

SENATOR ASHFORD: I did a pretty good job, didn't I, Jerry, when I was there? [LB397]

JERRY PIGSLEY: You always did a great job. [LB397]

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SENATOR ASHFORD: Thank you. I thought...(laughter) I mean I think if you were to add that as part of your point that would be well received. [LB397]

JERRY PIGSLEY: Touche. The reason why I'm here is just to support the amendments. In representing public employers, one of our aims is to try to reach a contract with the labor organization and not have to go to the Commission on Industrial Relations. Commission on Industrial Relations is the last resort. The problem in representing public employers and I would say with labor organizations is sometimes you don't know what will happen in the Commission on Industrial Relations, and so this legislation would give some predictability, as everyone understands. There's going to be some standards that will help the parties when they go to the bargaining table as to who they're going to be compared to and, in essence, the guidelines will no longer be guidelines. They'll be rules. So the hope is that when we go to the negotiation table we will be able to come in with the numbers that will likely be the numbers when you go to the Commission on Industrial Relations. There is...obviously I've read a lot of criticism about the legislation. I think the amendments address some of those criticisms. One of the items that I've heard is that there's concern about private sector employer information being disclosed by subpoena, and I believe that there is clearly an interest in our representing public employers when we go out and do a wage survey, and the same with the labor organization. The subpoena can be opposed by whoever receives a subpoena and I think there's going to be process set forth that if you want your information protected from disclosure in the public eye, there will be that process. There's another concept of a minimum staffing concept, which I know has been attacked, and that minimum staffing concept for the senators is that it should be considered to be a permissive bargaining subject, that you don't negotiate minimum staffing. Well, the Commission on Industrial Relations just last January just issued a decision. Commissioner McGinn, who's a former district court judge here in Lincoln, and the other commissioners ruled that minimum staffing is not a bargaining subject unless it impacts safety. And what the legislation, as I understand it has been proposed, would be to codify that ruling by the commission so that when there is future rulings there can't be a commissioner or commissioners overruling that decision by Commissioner McGinn. And so the whole attempt that I believe these amendments do is they try to codify the rules and make sure that everyone understands what the rules are. So I am here to support it and if there's any questions, I'd be more than happy to answer them. [LB397]

SENATOR LATHROP: Very good. Thanks for your testimony and for coming down here. [LB397]

SENATOR ASHFORD: I don't have any question. [LB397]

SENATOR LATHROP: Senator Ashford, you're recognized. [LB397]

SENATOR ASHFORD: Yeah, just very briefly, and I do certainly, Jerry, remember

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fondly those days when you were at the commission and we had numbers of cases there. I do recall though in those days that...and I absolutely agree with you, that what we would do when we tried to figure out where we were going on wages and comparability and especially in the area of private employers, it was necessary really to look at the precedence of each case and then guess at where we were going. And I recall those conversations ad nauseam. But when I was looking at this, this time--actually Senator Beutler was there with me when we looked at it a little bit years ago but didn't really do any definitive work on it--was to try to address...it's not Senator Beutler's fault, Mayor Beutler's fault, but there just wasn't the pressure at that time to get into this. But there was clearly a problem as you recall, correct? I mean... [LB397]

JERRY PIGSLEY: No question. It's been a public to public employer comparison. The commission has rejected the private sector comparisons simply because there hasn't been, in my view, the guidance from the Legislature that that should be the comparison. There have been Supreme Court decisions that have indicated that you should look to the private sector but then, once again, it really comes down to the parties. Are they offering private sector comparators or not? And more often than not, I've seen parties do not offer the private sector because it, frankly, has not gone very well. [LB397]

SENATOR ASHFORD: Right. And Senator Lathrop's idea behind the compensation including pension benefits and insurance is a total rewrite, is it not? [LB397]

JERRY PIGSLEY: Oh, it's been my experience it's keep it simple, stupid, approach when it comes to comparison. [LB397]

SENATOR ASHFORD: Not Senator Lathrop. [LB397]

JERRY PIGSLEY: No. [LB397]

SENATOR LATHROP: Let's hope not. [LB397]

JERRY PIGSLEY: No. You know, the attorneys who present these cases have presented it in a very elementary manner and have...and when they have presented expert opinions as to pension comparisons, you wonder if it was worth the effort. [LB397]

SENATOR ASHFORD: And it's my experience, and tell me, you were there quite...how long were you, you were there quite a while at the court. [LB397]

JERRY PIGSLEY: Well, I was there for three years... [LB397]

SENATOR ASHFORD: Three years. [LB397]

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JERRY PIGSLEY: ...and then I went into private practice in '83. [LB397]

SENATOR ASHFORD: But, you know, my recollection, and I haven't done work in this area for, you know, 15 or 20 years, but my recollection was that what would happen is, certainly in the area of benefits, it was quite sloppy by the parties and the court didn't have much to go on and because it was felt that there really wasn't going to be hard work done on those issues. And that was my recollection in those days and maybe it's carried over. There wasn't that in-depth analysis that this bill requires and that clearly is a rewrite. You cannot define it any other way. It is a total rewrite of how we...I'm going back a few years, but how we addressed these issues 20 years ago. [LB397]

JERRY PIGSLEY: The analysis will be raised from what I consider an elementary level to a college level. This is nowhere the way that you see cases being tried in the commission currently. Under this legislation, clearly as to pensions, it's going to be a different type of comparison, not to say that it hasn't been done already... [LB397]

SENATOR ASHFORD: Or it's been tried. [LB397]

JERRY PIGSLEY: ...but it hasn't been done very often and also because of the cost of having experts come in. [LB397]

SENATOR ASHFORD: Thank you, Senator. [LB397]

SENATOR LATHROP: Thanks. Senator Wallman, you're recognized. [LB397]

SENATOR WALLMAN: Thank you, Chairman Lathrop. Yeah, thanks for coming down here. This is quite a committee, you know. We try to please both sides. And as far as public safety, I was intrigued by that. Do you have a magic number for police and fire then for safety issues, you know? Is there an issue there if I'm on a city council or mayor? [LB397]

JERRY PIGSLEY: You know, I think my experience has been that working with the public entities the issue of public safety is of prime importance. That is often maybe a campaign issue as to saying that we are going to have more police officers in our town or more firefighters and so...and that's always subject to coming up in negotiations as to what our priority is going to be. [LB397]

SENATOR WALLMAN: Okay. Thank you. [LB397]

SENATOR LATHROP: I think that's it. Thank you very much for coming down, Jerry. [LB397]

JERRY PIGSLEY: Thank you. [LB397]

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SENATOR LATHROP: Lynn Rex. [LB397]

LYNN REX: Senator Lathrop, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And first and foremost, I'd just like to indicate to you that the league has been working on this issue for a period of years. In fact, our last serious effort was in 1988 when Senator Tyson introduced LB519 and that bill did not make it out of committee, but we tried to pull the bill out of committee notwithstanding. And that brings me to an issue that I think is very important for those in this room to understand, which is we have never, never had a Chair of this committee or, frankly, any committee put the kind of time and effort into negotiating on an issue and trying to address our interests as Senator Lathrop has done, and along with that, of course, Senator Utter and Senator Ashford because, as Senator Ashford would tell you and I'm sure Senator Lathrop and Utter, just countless hours. And for those of sitting in the room like myself, we're paid to represent the interests of municipalities. Your \$12,000 I'm sure doesn't cover...begin to cover the amount of time that was spent just on this bill. So it's been extraordinary and this is an extraordinary amount of time and effort. We had approached Senator Utter this summer and there were conversations that were had on behalf of the league with Senator Utter, and as he indicated at that time, his position was that we really should do away with the CIR, and he has since obviously modified that dramatically because of his experience and what he's learned throughout this process. I think it's very important to realize that as we developed interests with cities over the last several years in terms of talking to our members through our league legislative committees, with our mayors and others, the kinds of things that they want to see happen with the CIR, that's how we developed our list of interests and our recommended solutions. And I will tell you that every interest that we brought to the table was addressed. Now we didn't get it in the way perhaps that we wanted it in the first instance, but the issue was addressed, because that's part of the give and take of a bargaining process. And when Senator Utter was kind enough to work with us and we approached Senator Lathrop with a list of concerns and issues and what we thought would be possible resolutions to those, he was able to get union attorneys to the table to sit down with us for the first time ever. I've been with the league for over 30 years. We have never had the opportunity to have a structured negotiation of this magnitude to address an issue of this kind. And in fact, I think Senator Ashford made an analogy which perhaps the Omaha Chamber and others can relate to, which is in terms of the significance of this bill to labor-management relations, the only comparison I can think of in an economic development world is the LB775 negotiations, which included Senator Ashford, Nick Niemann, the Omaha Chamber of Commerce, and Governor Kay Orr, and that was the group and they came forward with something that was really changing and was a real game-changer for the state of Nebraska. This will be that in the area of labor-management relations. Senator Lathrop has done an outstanding job of outlining for you today what the changes are in this bill and these kinds of changes will be serious cost savings for municipalities. The League of

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Nebraska executive board voted unanimously to support this measure. I think it's important to note that the league has always supported the concept of comparability. That's never been the issue. The issue is we can never determine what this moving target...where this would take us and what was comparability, because of a lack of definition and a lack of standards. So those who would criticize the length of the bill need to look at the flip side of this, which is if you want to have standards and you want to have definition and you want predictability, you have to put it in writing and you have to make requirements that the CIR follow those directives. In fact, the Nebraska Supreme Court repeatedly has said that the reason why they couldn't really reverse the decision of the CIR was because the Legislature had provided no clear directives to the CIR. This legislation, this amendment does that. I think it's also important to note the league strongly supports the right of collective bargaining. We think that's a very important piece to all of this. That being said, of the 530 cities and villages across the state of Nebraska, there are only about 30 that have unions. So it is very important that not only the unionized cities and their interest be represented but also those municipalities, the hundreds of them, that don't have unions but want to provide fair wages for their employees. Because these are the public employees, again, that make sure that when you turn on the lights, you have...basically, when you turn it on, you turn on the switch, you have lights; when you decide that you're going to drink water, you can be assured that it's going to be safe. These employees provide us safe streets. These employees provide very important elements for all of us. I would just like to again underscore the importance of this process and that as the negotiations began with Senator Lathrop and the team that he put together in October 2010 and concluded, in large part, the middle of March 2011, so I just want to underscore how much we appreciate the time and effort, Senator Lathrop, that you and your committee has put forward on this. It has been extraordinary. And I know that there have been a lot of accusations, a lot of misinformation. We intend to address those in writing because they've been willing to put this business information in writing and so we're going to address it in writing. We think that's only fair so they can understand how this process has developed. Because one of the things I think is very interesting is that those that have, and I'll close with this, those that have criticized this process, and have done so especially in writing, show that they don't understand the process. And so we hope with a written response we can clarify for them how the process works, how this bill will save cities money. We do have at least one city that we've heard of that has got issues with the bill, the city of Grand Island. I think the mayor is here today. He may be testifying. There were issues that were put directly in this piece, as you know, Senator Lathrop, to accommodate Grand Island. But notwithstanding, everyone is entitled to their own opinion, but our board unanimously supports this. I'd be happy to respond to any questions that you have. [LB397]

SENATOR LATHROP: Very good. Senator Harr, you're recognized. [LB397]

SENATOR HARR: Thank you, Senator Lathrop. And mine is less of a question, more of

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a comment, and it's thank you. I know this is a very complex issue that we're addressing here and, as you stated, there is give and take. And I want to thank you for staying at the table and agreeing to work even when you didn't get everything your way, that you just didn't take your bat and go home. So...and I think that goes for both sides of this party. And I want to thank Senator Lathrop for keeping, and Senator Ashford and Senator Utter, for keeping all the parties at the table and working out what I think is a very good compromise that addresses many of the issues that you do have. So thank you very, very much. [LB397]

LYNN REX: You're welcome. And again, thanks to Senator Lathrop and the committee for your willingness to make this happen, because there were times our team wanted to leave the table, there were times I know the unions wanted to leave the table, and Senator Lathrop, Ashford and Utter kept us all there, because it is important that we get predictability for cities in this state. It is important for taxpayers, it is important to have cost savings, and it is also important to pay municipal employees fair and comparable wages and this bill will do that. Thank you very much. [LB397]

SENATOR LATHROP: Thanks. Oh, Senator Smith has a question for you, Ms. Rex. [LB397]

SENATOR SMITH: Thank you, Senator Lathrop. Ms. Rex, you know, the last few days in the Legislative Chamber we've been dealing with issues such as sales tax options and tax rollbacks or turnbacks for sewer separation issues, and been hearing from colleagues and hearing from a lot of people in the public and constituents concerns about equipping local government entities with the ability to manage their own expenses before we go into some of the other increase in spending and...or taxes, potential taxes. And so I'm just curious from your perspective, how can we get to providing...with this legislation, how can we get to providing more local control for government entities to be able to control their spending and bring that into balance with this legislation? Any thoughts? [LB397]

LYNN REX: Yes. I think this legislation goes a long way to provide local control. And as Senator Utter said, and I think it's a great quote, which is that this is not about the CIR on steroids. This is about putting the CIR in a straitjacket so there are rules and regulations for them to follow. And the reason why that's important from a cost-savings standpoint, Senator Smith, is because that way it's not a moving target at the local level. That way cities will understand what the rules are for determining comparability. That way they can save money. They're not putting money into attorney's fees and going to the CIR and going through this elongated process to find out that at the end maybe they're not even going to follow the precedent that they used in the last few cases. So that's an important element. I think the HRV, for hourly rate value, is important. This will help dramatically in terms of for the first time valuing pension benefits and healthcare benefits. Heretofore, those have not been valued. They've really been dismissed, if you

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will, from that context. Having economic variables when you're leaving the state of Nebraska for comparisons is extremely important for cities like Lincoln, Omaha. And for Grand Island there's good news and bad news. The good news is Grand Island is growing in population. The bad news is when you grow in population, eventually you're going to leave the state for comparables, at least certainly for police and fire, so with that for them as well, a protection for economic variables. A protection in here to make it abundantly clear there's a bright line that you cannot go more than twice as big or half as small when you're looking at cities so that you know which municipalities to which you will be compared, making sure that on the MSA for the statistical areas that there's a presumption that for Omaha, for Lincoln, for the Grand Islands of the world, for the Ralstons, obviously the area you represent, that those municipalities...well, yes, he does but he represents... [LB397]

SENATOR LATHROP: He used to live there. [LB397]

LYNN REX: I understand. I know you were neighbors. (Laugh) So but certainly the Sarpy County area and other areas that are going to be impacted by this bill that live in MSAs, that there are protections for them as well. The issue of freezing salaries is extremely important because I think we're looking here at a dramatic sea change in terms of what these rules are going to be, and there does need to be fairness to employees, Senator. And with that, we met them halfway and we said, as Senator Lathrop outlined in his opening, that if there are going to be freezes there will also be, on the back end, a credit given to municipalities for that extra time. And when we're looking at sales tax increases and things of that nature, again, the reason why we're so strong on that, as I know you are aware of and we appreciate all your support on that bill, is because local voters we think deserve the right to determine the destiny of their cities, determine...have the opportunity to basically make the decision on whether or not they're going to attract industries and do other things for job creation and special projects. [LB397]

SENATOR SMITH: Just for clarification, local control, I support local control over responsibility. [LB397]

LYNN REX: We do too. We do too. We absolutely support local control and this empowers local control. This empowers local elected officials to control up to 75 percent of their budget. By control, what I mean by that is having actual standards so you know that you're meeting the requirement of the law. Section 48-818 is the largest unfunded mandate on municipalities and that mandate is this: The CIR is required...can require municipalities to pay comparability. We support comparability. We want those standards fair. For the first time in the 30 years that I've been with the league, this is a fair and equitable process. [LB397]

SENATOR SMITH: Thank you. [LB397]

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LYNN REX: Thank you for your question. [LB397]

SENATOR LATHROP: Thanks, Lynn. [LB397]

LYNN REX: Thank you. [LB397]

SENATOR LATHROP: We appreciate it. We will need to go to the neutral folks and I have some school folks that have indicated an interest in testifying in a neutral capacity. I'll let you guys come up one after the other. And then I think I have somebody here from...Mary Ann Borgeson, commissioner from Douglas County, who will testify. We may ask you to shorten it up, if you wouldn't mind, just because I want to give the opponents a better opportunity. [LB397]

SHEILA SCHUKEI: Sure. Sure. Chairman Lathrop and members of the committee, I'm Sheila Schukei, human resources director from the city of Norfolk. I appreciate the comments about the complexity of this issue because it certainly is one. Every year, I work with first- and second-class cities and villages in Nebraska who participate in a salary survey. Information is gathered on over 100 different job descriptions. Fringe benefits and various other working conditions are surveyed. The municipalities use the information during their budget process. This gives the communities data to utilize in making adjustments when preparing their budgets to achieve or maintain comparability. The purpose of this work is to allow cities to make decisions in the best interests of their community, utilized ultimately to avoid going to the CIR. In doing this for Norfolk, I review the information from first-class cities that are neither more than half or less than twice the size of Norfolk. I do not compare any cities in the Omaha metro area and this seems to be common sense and I've made this comparison in this manner for many years. However, I can't be assured that this standard that I should be using is the correct one, as those rules have never been codified. The lack of definition in defined standard has the potential to lead to inconsistency and arbitrary decisions. I believe it's important to provide uniform known standards for both municipal employers and employees in determining comparable wage rates and benefits. At the present time, the CIR might be reviewed like this. You're driving down the highway and you get pulled over for speeding and neither you or the police officer know what the speed limit is. Thank you. [LB397]

SENATOR LATHROP: All right. Thank you. Any questions? [LB397]

SENATOR ASHFORD: Just a comment and I won't belabor this. Thanks, Mr. Chair. [LB397]

SENATOR LATHROP: Sure. [LB397]

SENATOR ASHFORD: That is very helpful information and it was, you know, short and

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to the point and very accurate. That is the...that's the point of all this year exercise that we've been going through is exactly getting to where you need to be so that you do have the control locally and not only the control but you have the ability with information that you know is going to be utilized to come up with a solution so you can get to the next budget year. [LB397]

SHEILA SCHUKEI: Uh-huh. [LB397]

SENATOR ASHFORD: So that's very helpful information. Thanks, Mr. Chair. [LB397]

SENATOR LATHROP: Thanks for being here. Come on up, John. And Commissioner Borgeson, we'll have you in two people, if that's all right. We're going to hear from Mr. Dulaney after Mr. Bonaiuto, and then we'll have you testify. [LB397]

JOHN BONAIUTO: Senator Lathrop, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director of Nebraska Association of School Boards appearing in a neutral capacity today because my members, which are the school boards, were not ready to support this amendment because they would have liked to have seen something that would have been more substantial in the area of cost containment or a cost slowdown piece. And, you know, we came to this work a little later than the other groups and I can tell you that Senator Lathrop has been very patient and very gracious in working with us. Because when you work with the education community, we're not easy. We don't always know what we want and we can't easily come to consensus. And so I would take some of the responsibility for not having a clear idea of what that cost containment piece might be. We've got some ideas but part of the process that we're working under is trying to reach consensus. And when you're working with three separate groups that have three different positions on things, getting that consensus and everybody moving in the same direction has been difficult. At no time do the school boards want to derail bargaining or the overall collective bargaining process. We believe that there's an opportunity and the CIR piece can be improved. We want to continue to work with this. And I will promise to bring some better ideas and more clear ideas to Senator Lathrop in the very near future. Because the school piece may be seen as a little weaker maybe than the cities and the other areas where they have put more time and really more effort in than we have, we don't want the fact that our area does not reflect as substantial of changes as theirs to in any way diminish or detract from their work. The school piece, like everything we do in K-12, is...I think is even more complicated than some of the other areas. We have been more refined and we have had more predictability in our area of working with the CIR because all but three districts in the state have the same insurance plan. And you're right away thinking large districts. Well, no, it isn't necessarily the largest districts. The largest districts are part of our insurance plan. All the districts have the same retirement plan. So as we look at this, we're going to have to look at some things that are more unique to schools that would not impact cities or the state. So again, I say that some of the problem, without

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question, has been on our part in not having a clear enough vision of where we wanted to get. And with that, I will conclude my testimony. [LB397]

SENATOR LATHROP: Thanks, John. Any questions? Senator Carlson. Oh. [LB397]

SENATOR ASHFORD: Yeah, I appreciate... [LB397]

SENATOR LATHROP: Go ahead, Senator Carlson. [LB397]

SENATOR CARLSON: Thank you, Senator Lathrop. John, you indicated that the schools were late in coming to the table, but I see in here that one item that was of concern was the ability to pay and that's included in there. You mentioned that most of the districts have the same health plan. That simplifies things rather than complicates it, I think. However, I would imagine there are some differences in whether the employees pay for a portion of that premium or not out of salary. But why were the schools late in coming to the table? [LB397]

JOHN BONAIUTO: We had not started, Senator, we just had not started working on this issue until after session began. We, you know, we did not...I'm sorry to say that this was not on our radar to get involved as soon as the league did and the other groups. [LB397]

SENATOR CARLSON: Okay. Thank you. [LB397]

SENATOR ASHFORD: John, that's just not good enough. [LB397]

JOHN BONAIUTO: Uh-huh. [LB397]

SENATOR ASHFORD: And I think that this issue has been out here for a year and we need your comments and solutions and we need them in a hurry. And this is no disrespect and you do have a difficult job representing 252 school districts in the state, but it is a critical part of this issue and we need your solutions. The ability to pay issue was brought, we talked about that within our group and it was an idea that was brought to us early by the business community. We tried to refine it to address an issue, for example, if a school district is up against a lid and were going through a reduction in funding or if a school district were to lose a large business. And it's not going to happen but if Sidney were to lose Cabela's, what would that do to your tax base in Sidney? And it seems to me that...and it's \$1.6 billion in state money and much more than that, and that's 30-some percent of the overall funding for schools, and the additional over \$2 billion comes from property tax. I respect what you do and you're a good representative, but really this is very, very important work. We need some ideas and if ability to pay is not the right standard then refine it and tell us what the right standard is. So appreciate it. Thanks. [LB397]

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JOHN BONAIUTO: Thanks, Senator. [LB397]

SENATOR LATHROP: John, in fairness or by way of further explanation, you and I have had many conversations about this, and I start to get a sense of what Greg Adams' life is like working with TEEOSA, and that is you have many different school districts with many different interests and when you come up with one solution that might make the eastern half of the state happy, you have problems out in the western half. And that's been the difficulty you faced... [LB397]

JOHN BONAIUTO: That's true. [LB397]

SENATOR LATHROP: ...trying to develop a consensus within your organization so that you could come to us. And that illustrates maybe something about this that may be lost on some people, and that is we haven't tried to come up with an Omaha bill or a Norfolk bill or a Lincoln bill but we've tried to work with associations who can come to us with solutions that work in every community, and that's the trouble you've had. Am I right? [LB397]

JOHN BONAIUTO: Yes. Absolutely, Senator. [LB397]

SENATOR LATHROP: And I will share Senator Ashford's sentiment that time is running out. Okay? [LB397]

JOHN BONAIUTO: Understood. [LB397]

SENATOR LATHROP: Okay, good. [LB397]

JOHN BONAIUTO: Thank you, Senator. [LB397]

SENATOR LATHROP: Thank you. Senator Smith. [LB397]

SENATOR SMITH: Thank you, Senator Lathrop. And, Mr. Bonaiuto, I don't want to pile on, but I'm going to agree with Senator Ashford and Lathrop that this is a real gapping hole in the legislation. And I think probably one the biggest things that I've heard about is the lack of the comprehensiveness of this legislation as it affects all public sector employees. And I guess I'm going to challenge my colleagues, as well. You know, at some point you need to move with or without input, and you certainly want to get input here but there's a lot of play, and we need to have a comprehensive...that's one of the key requirements of having successful legislation, is that it is comprehensive. And we've got to get on this. And I'm going to just toss this out there, and say, you know, in the private sector there's a lot of things that come down from, in terms of legislation, that impact the private sector, that hamstring the public sector...or the private sector from

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what they need to do. And we don't sit around and try to get agreement from the private sector as to whether we're going to agree to the legislation or not; it's imposed upon them. So with that, I'll just leave it. Thank you. [LB397]

JOHN BONAIUTO: Thank you, Senator. [LB397]

SENATOR LATHROP: Okay. Thanks, John. [LB397]

JOHN BONAIUTO: Thank you. [LB397]

SENATOR LATHROP: Mike, I understand your remarks are brief. [LB397]

MIKE DULANEY: They are. [LB397]

SENATOR LATHROP: Okay. Good. I'm not trying to cut off the opponents, but some of the questions went longer than we thought. And we have about two or three more neutrals, and then...and I am trying to get a little more time from the Speaker if he'll allow us. Go ahead. [LB397]

MIKE DULANEY: Thank you, Senator Lathrop, members of the committee. My name is Mike Dulaney, M-i-k-e D-u-l-a-n-e-y. I am the executive director for the Nebraska Council of School Administrators, and I want to...you know, I heard loud and clear what you all had to say. I want to tell you just, and I have a very brief time, but the process involved has been very good, and if it had not been for Senator Lathrop and for Molly keeping us on task it may not have come to even what you see before you. But they did a very good job and I want to commend them for that effort. I also want to say that the teachers, school boards, and administrators' group, all three, never once did any group say, "No, we don't want to meet." We did this on our own. The teachers didn't have to do that but they did. And that's certainly to their credit. I give them that credit. The proposal is what it is as it stands. And we have pledged to Senator Lathrop as recently as this morning that we're going to continue working. We do have some ideas. We want to explore those further. And so, Senator, I'm just going to leave it at that unless there's any questions. [LB397]

SENATOR LATHROP: Okay. Thanks, Mike. I see no questions. We're going to take Commissioner Borgeson next, who has been kind enough to wait. And I see her getting up and fanning herself from time to time. It is hot here; I appreciate that. Thanks for coming down. Welcome to the Business and Labor Committee, Commissioner. [LB397]

MARY ANN BORGESON: Thank you. Good afternoon. Mary Ann Borgeson, B-o-r-g-e-s-o-n. I am the chair of the Douglas County Board of Commissioners and I thank you for having the hearing today. And after listening to a lot of the testimony, I also want to thank you for the time that you've spent on this bill. We're testifying in the

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neutral position today on the bill because it's my duty, as representing the taxpayers in Douglas County, to point out some of the concerns that we have with the bill and the amendments, and I'll be very brief with those today. The first one is freezing of wages and benefits. Currently, the public employers have the ability to reduce wages and benefits if the CIR determines to be above the midpoint of comparability. Freezing the wages and benefits for current employees would be expensive for Douglas County because the county would have to increase the below-comparable wages and benefits but could not mitigate the costs by lowering the above-comparable wages and benefits. Unlike wages which increase each year, benefits generally stay the same, so there would rarely be a case where frozen benefits would be brought back to comparability. Douglas County proposes to keep the current process in place whereby the CIR orders increases and reductions and then the parties can negotiate the actual implementation of the order. The second one is the array size. Currently, five to seven comparables have always worked for Douglas County and for the unions that we have negotiated with and gone to the CIR against. Douglas County would prefer to leave it in that range because the larger the array, the more likely the parties will have to go further out geographically to find comparabilities. Array composition: The amendment limits Douglas County to using only one public sector comparable within the Douglas County's MSA. If the county can only use one public sector comparable, then it would most likely be limited to using the city of Omaha and couldn't use any other jurisdiction, like Sarpy or Bellevue or Pottawattamie County, because there is a presumption for public sector jurisdictions that are one-half the size to twice the size of the county. Although it is only a presumption, presumptions at the CIR are extremely difficult to overcome--sometimes impossible. The county proposes to reduce the minimum size limit from one-half to one-third and change the presumption to preference. Pension and health insurance comparability: The cost to actuarially determine the comparability of the county's defined benefit pension plan would be prohibitively expensive to the county thus negating any benefit that the provision would provide. Given the number of jurisdictions in a given comparability array, it would likely cost over \$100,000 to conduct such an analysis--and that's a pretty good chunk of money. Health insurance and pension benefits should be considered permissive rather than mandatory subjects of collective bargaining because it is much too complicated and expensive to determine comparability of these benefits. And lastly, although not addressed in AM1116, the issue of layoffs. We ran across this in last year's budget process that the employers on the CIR ruled that we could not conduct layoffs during the pendency of an industrial dispute even if we could show the CIR that the layoff was a legitimate budgetary reason. The counties, we feel, should be at least allowed to make that argument to the CIR. Again, I thank you for the consideration of Douglas County's concerns. We stand...I stand before you on behalf of the board today willing to continue to work so that we can get to a support position on the bill with you, Senator Lathrop. [LB397]

SENATOR LATHROP: And I will say I appreciate your thoughtfulness and the fact that you've come to me with solutions. And almost from the time this amendment came out,

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Douglas County has been there at my door, every day, with their concerns and proposals...reasonable, thoughtful solutions. So I appreciate that very much, Commissioner. Any questions from the committee? I see none. We're going to have one more...thanks, Mary Ann. [LB397]

MARY ANN BORGESON: Okay. Thank you. [LB397]

SENATOR LATHROP: We're going to have two quick...we got 15 more minutes from the Speaker, so we can go to 2:15. I'll still have a half-hour for opponents. I didn't know... [LB397]

SENATOR ASHFORD: We don't turn the air conditioning on till June, do we, Senator Lathrop? (Laughter) [LB397]

SENATOR LATHROP: No, and I have no control over that. Mr. Maas, briefly; and Mr. Hoffman. And then we'll go to opponents. And Ken, I'm going to cut you well short of five minutes if you can. [LB397]

KEN MAAS: (Exhibit 3) Yes, Mr. Chairman. My name is Ken Maas. I'm president of the Nebraska AFL-CIO. And to Senator Lathrop and the members of the committee, it's a pleasure to be here. For several months, which has been addressed, a working group consisting of labor and management have met under the leadership of Steve Lathrop. And when this working group was formed, the labor movement was asked to participate--and when the labor movement is asked to participate, we do. As has been stated, it was tough keeping everybody on the same corral, and there were a couple times labor did want to leave and they were brought back in. But anyway, in dealing with LB397 as amended, the labor movement is not happy with parts of the compromise. But fairness dictates the public sector be allowed to engage in collective bargaining for salaries, benefits, and working conditions. Corporate greed and recklessness caused our current economic collapse, not collective bargaining for all public employees in Nebraska. Eliminating collective bargaining and the CIR, as some groups have stated is the answer, would only give politicians complete control over salaries, employee salaries, and benefits. The most compelling argument for keeping the CIR is that salaries and working conditions should be based upon an average among those public agencies that have been chosen for comparison: public agencies serving communities that are in fact similar in respect to population, demographics, crime, job responsibility, and other dimensions. Nebraskans overwhelmingly agree with the following: collective bargaining is essential in order to protect the middle-class Nebraskans, and (2) workers throughout Nebraska deserve a fair wage. In closing, Nebraska State AFL-CIO and the labor movement may be unhappy with different parts of this compromise. But I can tell you, the labor movement has not popped any corks on champagne and we're not jumping off any 40-story buildings. Thank you. [LB397]

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SENATOR LATHROP: Thank you, Mr. Maas. Are there any questions for Ken? I see none. [LB397]

KEN MAAS: Thank you. [LB397]

SENATOR LATHROP: Thank you for your testimony. Mr. Hoffman, you will bat cleanup in the neutral category, and we will then go to opponents till 2:15. [LB397]

JERRY HOFFMAN: Thank you, Chairman Lathrop and committee members. My name is Jerry Hoffman, J-e-r-r-y H-o-f-f-m-a-n. For the record, I'm representing the Nebraska State Education Association. Quickly, NSEA's long-held position is that the municipalities' issue with the CIR is not the same for schools, as we've heard already today. Rarely is the CIR used in schools. In fact, 253 schools successfully reach an agreement each year, and one case per year in the last ten years, generally where there have been schools going before the CIR to settle an industrial dispute. When Senator Lathrop brought us to the table to address issues raised by both the school board and school administrators, we came to the table. We worked hard on developing proposals to address issues raised by both groups and also issues raised by Senator Ashford with respect to teachers in the low-performing schools. And we agreed to those changes that were raised by all groups, and you see that before you in the amendment: the bargaining calendar, the negotiations on any incentives for teachers rather than having it be capricious or based on so-called principal's pet, the probationary period for a teacher who shows exemplary performance in the classroom is able to move to permanent status within the three-year time period, and then of course the ability to pay. Now in terms of comparability, Nebraska teachers' salaries rank forty-third in the country. And if this were about cost containment, the legislative body moved, this morning, LB235 to Final Reading. That cuts state aid by a net \$70 million and limits the budget growth and provides levy caps. That is cost containment for schools. NSEA does not believe changes to the CIR process for schools is necessary. Frankly, we believe the CIR works fairly and it works well for our schools. But we came to an agreement and we stand behind our word and we remain at the table. Thank you very much. [LB397]

SENATOR LATHROP: Thank you, Jerry. I appreciate your testimony. Any questions for...? Senator Carlson. [LB397]

SENATOR CARLSON: Thank you, Senator Lathrop. And this is really just a statement, because when Jerry indicated that we were forty-third in the nation in teachers' salaries, and I'm concerned about that and I know that we rank very high in academic achievement and we want to stay there. At the same time apparently we are forty-fourth in the nation in cost of living. And I think that just shouldn't be ignored. That doesn't mean that we ought to work toward improving teachers' salaries. We need to do that. But it brings back into a part of what's in this process with the CIR, and that is the cost

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of living being a factor that's considered, and I think that's important. Thank you.
[LB397]

JERRY HOFFMAN: Appreciate those words, Senator. Thank you. [LB397]

SENATOR LATHROP: Very good. I think that's it. Thank you, Jerry. [LB397]

JERRY HOFFMAN: Thank you. [LB397]

SENATOR LATHROP: We will now move to opponents. And I see a lot of people with paper in their hands looking like they're poised to speak, which is great. We welcome your thoughts and we did get an extra 15 minutes so we have a half-hour for opponents. To be fair about it, I will suggest that in order to give everybody an opportunity--because we don't want to short anybody who's traveled some distance to be here--that while you have five minutes, you're welcome to use less. Welcome to the Business and Labor Committee. [LB397]

TONN OSTERGARD: (Exhibits 4 and 5) Well, good afternoon, Mr. Chairman and members of the committee. My name is Tonn Ostergard, spelled T-o-n-n, last name O-s-t-e-r-g-a-r-d, and I serve as chair of the Lincoln Chamber of Commerce. With me today are Barry Kennedy, president of the State Chamber, along with Jim Krieger, chair of the Greater Omaha Chamber. As a unified coalition, I am proud to say that collectively our statewide organizations represent 5,290 businesses and individuals with over 460,000 employees. We certainly appreciate the hard work the committee has put forth on LB397, but we do not feel, as drafted, the bill adequately addresses our concerns as it relates to comprehensive CIR reform. On behalf of our joint membership, I am here today to speak in opposition to LB397 with the proposed amendments. Our four primary areas of concern where we feel the bill needs to be enhanced are as follows. (1) Comprehensive reform should impact all facets of government; (2) comprehensive reform should result in an opportunity for cost saving and/or cost containment for every facet of government; (3) comprehensive reform should allow elected officials to manage their budgets that they were elected to manage; and (4) comprehensive reform should provide for a transparent means to resolve labor disputes. In the interest of time I will submit a letter that broadly outlines the changes we feel will enhance LB397 as drafted. I'm also submitting a letter on behalf of the State Farm Bureau Federation whereby they are outlining their recommendations as well. Thank you again for the efforts today and for the opportunity to share the input of the State, Omaha, and Lincoln Chambers. The impact of this legislation is critical to the future of our state and local communities, and we appreciate your leadership in finding a solution that will protect the long-term financial structure of our state. Thank you.
[LB397]

SENATOR LATHROP: I see no questions...oh, I'm sorry. [LB397]

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SENATOR ASHFORD: Tonn, just very briefly. I mean I do...and I, of course, obviously can't (laugh)...I have not read this, but I do appreciate specific solutions and suggestions because we can work off those, so thank you. [LB397]

TONN OSTERGARD: Good. Well, hopefully it will...thank you. [LB397]

SENATOR LATHROP: I think that's it. Thank you. Next opponent. [LB397]

JAY VAVRICEK: (Exhibit 6) Good afternoon. My name is Jay Vavricek, last name spelled V-a-v-r-i-c-e-k, here on behalf of the people of Grand Island where I honorably serve as mayor, and appreciate the opportunity to go ahead and address you once again. And once again, I think there's a lot of agreement in the sentiments that are expressed based on leadership that's been accepted so far, and extend that to Senator Lathrop as well as Senator Utter and each of you, in the opportunity to weigh in on this matter. This is a giant issue to what degree we put our arms around it in Grand Island. And so I want to remark about our situation, the history. But also with respect to my colleagues in the League of Municipalities, we differ in the assumptions of the impact of this bill, so I'm proposing to you different information and suggestions relative to the legislation going forward. And I've just uniquely seen how legislation can start, as you've seen at a committee level, and evolve through that process. So I just know it's not over with. So at this point I can't promote and maintain the interests of this are in harmony with the best interests of the taxpayers that I represent. First, I think that when you talk about where you started...and you can look back at 48-818 and that comparability law. Indeed, I don't look at that as where you try to end a dispute. And from the city's standpoint, that's where you start and base your wages. So indeed that's the starting point that determines, in our case, the lion's share of our general fund and the lion's share of our constancy to government. The realities are much different that 1969. In our city, revenues are not increasing fast enough to offset expenses. So we're on a sustainable...unsustainable course based on even renewing what we have in compensation right now of our work force. So something has got to give. We have ample capability and ability to pay. We're lower than average when it comes to our property tax rate. But once again, at this point I would have to go ahead and recommend to the council that we would increase property taxes three cents each and every year just to maintain the level of the work force. So our motivation of being here today is to be a solution, and I appreciate the open door opportunity to extend legislation for yourself and Senator Utter to identify. There's some deal breakers and there's also some unintended consequences as a result of the legislation. So if you can allow me, I'd like to remark about that. [LB397]

SENATOR LATHROP: Sure. [LB397]

JAY VAVRICEK: Staffing levels. I'm sorry? [LB397]

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SENATOR LATHROP: No, I said "sure." Go ahead. [LB397]

JAY VAVRICEK: Okay. Staffing levels has long been a management right. And when you talk about the management right, that so far has been determined relative to safety. When you talk about fire and police, obviously when we bring in that component in the potential legislation in law, that is a huge, huge cost-driven consideration. Secondly, the array size. Right now, we're typically in as such that going forward we may not even know which array will impact others, let alone which we would go ahead and compare to. And right now we have five arrays that we generally try to embrace. And just so you know, Grand Island is unique not only in population--on the brink of an MSA, 48,520 as determined by the census--quite honestly, today we don't know if we are in an MSA if the other outlying population trigger us into now a different way that other folks would compare to. We don't know if we're going to be compared to urbanized centers. That is a whole different ball game in terms of benefits but also compensation. When you look at also the things that currently are in legislation, I would ask your consideration to change in harmony with all the interests here, also need to know some of the unintended consequences. But nonetheless, the MSA language needs to be determined because you're proposing law that will be in place in such a way that we will be living with, but also we will have a domino effect of other communities. In terms of cost of living, we're just going to go ahead and recommend an alternative that once again provides an opportunity to look at a cost per living increase as opposed to really what's driving increased work force costs now, which is comparability. Comparability is driving the degree...the work force costs, not cost for living. And right now we're also in a situation, as you can imagine, with the lion's share of our work force being public employees obviously, but being represented by unions and also those nonunion individuals, the unintended consequences of this, of the private sector involvement, would indeed open up a certain portion of private sector matches in a small portion of the city's budget. The lion's share of the majority of costs, which is fire, police, utilities, are outside of the private sector comparisons. And when you look at the private sector comparisons, in conclusion it's just one of several things that I'd like to bring to your attention because it has the risk, Senator, of almost having a division of classes of employees where you have certain more highly compensated individuals and fewer compensated individuals based around a private sector comparison. And yet we need everyone, great people, all working together on the same team. So in the time I have I'm honored to make the comments, and thank you for your diligence, your efforts. Please extend these suggestions to you. [LB397]

SENATOR LATHROP: Okay. And Mayor, just so that I'm clear, you are a member of the league, is that right? The League of Municipalities? [LB397]

JAY VAVRICEK: The city of Grand Island, yes, we are a league member. [LB397]

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SENATOR LATHROP: Okay. And your comments today are relative to how this bill would impact your city and concerns that you've expressed are relative to the city of Grand Island. [LB397]

JAY VAVRICEK: Well, it's relative to the legislation. While we're a league... [LB397]

SENATOR LATHROP: No, I understand that, but your concerns are... [LB397]

JAY VAVRICEK: While we're a league member, once again I've got to stand up for the taxpayers that I represent in harmony with the recommendations coming to the council and the inability to control the budget based on work force costs. To this point I would disagree that they haven't been adequately addressed. It did not, of course, challenge the assumption of comparability. And maybe that's, in essence, the heart of this discussion. But yes, the city of Grand Island is a league member. And probably 98 percent of the time policies would be in agreement; however, we'd like to suggest ways to modify legislation going forward. [LB397]

SENATOR LATHROP: Okay. Good. We're glad you're here. We appreciate your testimony. [LB397]

JAY VAVRICEK: Thank you. Appreciate you. [LB397]

SENATOR LATHROP: All right. Thank you. [LB397]

DAVID NABITY: Good afternoon. My name is Dave Nabity. I represent the Omaha Alliance for the Private Sector. And we have taken a position that we feel like the CIR should be abolished and that Nebraska will get along just fine like most of the other states in America. But if this legislation is going to happen and the Legislature is committed to putting something out, we want to have some influence on the legislation and give you some suggestions like you're talking about. And obviously you've all gone to a great deal of work and I have a lot of respect for that. Hours and hours of thinking about how to put it all together with all the diverse parties I know is very difficult. So great respect to you for doing that. I'm going to speak just on behalf of what we see in Omaha. Many of us in Omaha feel like the CIR has been that safe harbor for the labor unions to rush to, especially when they've worked very hard to elect politicians that won't negotiate very tough with them. And the end result is, is that they say, "Jeez, I can't be tough on the negotiations. Let's just go to the CIR, and we don't want to do that." So they give away too much. The end result of that or the fruit of that has been that if you look at the Omaha labor contracts--and I'll just speak on behalf of what we studied with the police and the fire departments. And let me tell you, we did a tremendous amount of research on the labor contracts with police and fire in Omaha. We went to all the Midwestern cities. We went to national cities like New York and Los Angeles and so on, and tried to see whether or not our contract looked anything like

their contract. And what we found is that if you did add compensation, benefits, and pensions, we're probably the most expensive in the United States. I think that fact will be borne out if people do the research. The other thing that we found was that the language, and particularly in the fire union contract, was horribly punitive against management, because the contract spelled out how many firefighters you needed to have, how many people you needed to have on a truck, and exactly, precisely how much equipment that you need in service. And what that does is it puts the union in charge of the fire department and not management. You don't even need a fire chief in Omaha. All you need is an administrator of the contract because the contract tells the fire department what they need to do. So when I look at the language that you have on page 11, I see that as a huge red flag. The CIR just ruled to eliminate the staffing and the equipment mandates in their recent ruling, and they clearly said it's a management prerogative. Why you would put restrictive language back in, after the CIR just put it out, is...I don't understand that. And frankly, you put management at a huge disadvantage. You ought to be able to hire a fire chief. They ought to be able to look at the footprint of the city and decide what public safety requirements are needed. That's why they get the big bucks. That's why they go to the academies and the schools. They ought to be able to decide what needs to happen with staffing with regard to public safety. Now, there's no question the politicians of Omaha put us in the position that we're in. No question. I don't blame the labor unions. They went for everything they could get. The politicians gave it away--but the CIR keeps it there. And so when I look at the plans that you have in place where, sure, we'll include wages, pensions, and benefits...and, oh my gosh, if Omaha is more expensive than the rest of them, guess what? Everybody gets a pay freeze and we'll just wait until all the cities catch up. There's only one problem with that. Many of the other cities across America are probably trying to find ways to cut expenses. They might be lowering their benefit costs. They might be lowering their pension costs. It could be 10, 15 years before other cities would catch up to Omaha. And Omaha is in an emergency situation. And I think we're going to find out as a year or two goes on, we're going to see how bad the economics in Omaha are. But we are in an emergency situation. The language that you have in here that says you freeze wages is catastrophic to a city like Omaha that's hemorrhaging money the way it is. They ought to be able to do performance audits, bring in the right kind of management, look at the footprint of what's happening in their different departments, determine what fair compensation is. And if you do end up having the CIR say, "Look, you know, you guys are way above the others," they ought to be able to cut costs. Omaha needs to cut costs. So I think the modifications that you've come up with, it's just not enough. And I respect the pressure. I really, really do. But Omaha is in an economic crisis and we need to have your team provide ways that we can put skilled, talented people in the right places and they can look for ways to reorganize government and lower costs. This does not do that. It keeps costs exactly where they are and we see that as a huge, huge problem. With that, I'll open it up for any questions. [LB397]

SENATOR LATHROP: Senator Harr. [LB397]

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SENATOR HARR: Thank you, Senator Lathrop. Mr. Nabity, you're from the Omaha Alliance for Private Sector? [LB397]

DAVID NABITY: Yes, sir. [LB397]

SENATOR HARR: Okay. And I'm not familiar with that group. Can you tell me, how many members do you guys have? [LB397]

DAVID NABITY: Approximately 250. [LB397]

SENATOR HARR: Okay. And where does that...those members consist of? [LB397]

DAVID NABITY: Small business owners, primarily. [LB397]

SENATOR HARR: Okay. And now you say you want to get rid of the CIR, is that correct? Ideally, you would like to get rid of the CIR. [LB397]

DAVID NABITY: We think that Nebraska could get along just fine if they operated like other cities. And our big primary concern is... [LB397]

SENATOR HARR: All right. Let me restate that. [LB397]

DAVID NABITY: ...we feel that we... [LB397]

SENATOR HARR: Let me restate the question. Yes or no, you would like to get rid of the CIR? [LB397]

DAVID NABITY: Yes. We'd like... [LB397]

SENATOR HARR: Okay. My next question is then... [LB397]

DAVID NABITY: ...the control put in the hands of local elected officials. [LB397]

SENATOR HARR: ...if you say you want to get rid of the CIR--and I understand that and I can appreciate that, and I...and that's good. But then out of the other side of the mouth I hear something different. And what that is, is you say local politicians don't want to go to CIR, so they give away the farm. Is that correct? [LB397]

DAVID NABITY: What's happened in Omaha is many of the people that have been making the decisions on labor contracts were elected by those very labor contracts, and they don't want to negotiate very difficultly. And what they'll say is, "I have to give them this because if I don't give them that, they'll just go to the CIR and it will be worse." So

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the CIR becomes the scapegoat, the boogie man for the local politicians. [LB397]

SENATOR HARR: Ahh. So you would...but that would mean that they're paying less than what the CIR is giving them. And yet I heard you say we're paying more than what the CIR would give people. Please explain that. [LB397]

DAVID NABITY: Very clearly...this is very, very simple. Our politicians gave away the store when they changed the pension formula that's bankrupting the city. And so because we're spending so much on pensions and benefits, and yet the CIR doesn't rule on pensions and benefits--they rule on wages, the politicians have been scared to death at having wages or those issues come back and haunt them. Now... [LB397]

SENATOR HARR: Okay. [LB397]

DAVID NABITY: ...thank goodness for the CIR, that they recently allowed you to have management prerogative over staffing, which is something that's been a huge, huge fight. What the bottom line is, is the Omaha pension contributions is 35 percent of salary. It's double... [LB397]

SENATOR HARR: Okay, so if this... [LB397]

DAVID NABITY: ...the average of the other cities in the array. [LB397]

SENATOR HARR: Okay. And I guess I'll try to, because there are other people speaking after you... [LB397]

DAVID NABITY: Sure. [LB397]

SENATOR HARR: ...I'll try to keep this...limit my questioning as much as possible, because I'm trying to get at what you're trying to say--and I'd ask that you keep your answers short also. So this hourly rate value that we're introducing in the CIR reform would help address some of those issues on pension and healthcare, would it not? [LB397]

DAVID NABITY: Only if you could reduce overall costs... [LB397]

SENATOR HARR: Yeah. [LB397]

DAVID NABITY: ...instead of freezing wages. [LB397]

SENATOR HARR: Okay. But, I mean, what you said was we're overpaying because we don't take into account pension and benefits. Well, now we are. [LB397]

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DAVID NABITY: Yeah, I think it's... [LB397]

SENATOR HARR: So now we can look at it... [LB397]

DAVID NABITY: I think you're at the forty... [LB397]

SENATOR HARR: Please don't interrupt me. [LB397]

DAVID NABITY: Oh, I'm sorry. [LB397]

SENATOR HARR: Okay, thank you. I'm not trying to be rude but I'm trying to again be brief on this. And so what I'm saying is that we've now introduced that into the bill. And that's great. You know, that's what you were looking for. So now we introduced it into there. And I hear that that's bad at the same time, and I don't understand how it can be bad because it's now in there. Now we can take that into accountability. And if we get rid of CIR, we now have that in there and now there's nothing to go back to. There is no way...if the city...your argument is the city doesn't have the moxie to do it on their own, so that they go after...they blame CIR. Okay. Well...and then they give away the store. Well, now CIR will take this into account so that if they do go back to CIR, CIR is going to say, whoa, whoa, whoa, you're getting paid too much. So that's good. Now if we get rid of CIR, which you have admitted that you'd like to do, my question is: who does the city look back to? If these politicians are bought and paid for--which I do not agree with for one minute--but if they are... [LB397]

DAVID NABITY: I didn't say they were bought and paid for. I said they were elected by the unions. That doesn't mean they're bought and paid for. They're not willing to make tough decisions. [LB397]

SENATOR HARR: Okay--and that's fine. And that's the beauty of the CIR, because now someone can make the tough decision for them. And so that's the beauty and that's why we need to keep CIR around. If the unions elect--according to you--all these local officials, there's no one to...there's no backstop to prevent spending to go up. And so that's why my personal opinion is that... [LB397]

DAVID NABITY: There is a backstop. If I can respond? Can I respond? [LB397]

SENATOR HARR: When I ask a question I suppose you can. (Laugh) And so I guess that's my issue with this, is there is a backstop. And that's what the CIR is. Now you can say there are elections down the road and I understand that. But again...I mean if unions are buying the elections, it doesn't...this provides a way around that. And I'll give you a couple minutes to respond. [LB397]

DAVID NABITY: Okay. Let me restate this all over again. If this is going to make it

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through, if you guys are going to put out legislation I'd like you to make two changes. One, I'd like you to remove the language that refers to staffing being mandated as a collective bargaining, and number two, I would like you to modify what you're doing with regard to freezing wages and give the local community the ability to cut costs. Because the overall salary benefit and pension costs of employees in Omaha is so astoundingly above the other cities that it will be ten years before you would ever see these other cities catch up, if they do. Now the backstop is the people. It's the taxpayers. It's the elections. [LB397]

SENATOR HARR: Okay. [LB397]

DAVID NABITY: And, you know, I'd rather put it back in the hands of the people. [LB397]

SENATOR HARR: Okay. And you'd... [LB397]

DAVID NABITY: Thank you. [LB397]

SENATOR HARR: ...you would agree with me that you would like a good police department? [LB397]

DAVID NABITY: Absolutely would. Why would you think otherwise? [LB397]

SENATOR HARR: I would never think that. That's why I said you'd agree with me. [LB397]

DAVID NABITY: Of course I would. [LB397]

SENATOR HARR: Exactly. And you would like a good fire department, is that correct? [LB397]

DAVID NABITY: Absolutely the best. [LB397]

SENATOR HARR: That's right. And you would love good people working for government, is that correct? [LB397]

DAVID NABITY: No question. [LB397]

SENATOR HARR: Exactly. So my question is: what's wrong with paying under the average then? [LB397]

DAVID NABITY: Well, my question is: what's efficient? Where is there excess... [LB397]

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SENATOR HARR: Fortunately, I get to ask the questions and you don't. [LB397]

DAVID NABITY: What is the need, you know? Maybe the average for Omaha is far more expensive than what it needs to be. The local officials need the ability to make those decisions. [LB397]

SENATOR HARR: Okay. So you don't have a problem with the average for the best workers. You...Omaha Alliance for Private Sector, you guys... [LB397]

DAVID NABITY: I don't know if I'm going to go down this line and go along with you on what you're trying to get at. So I mean... [LB397]

SENATOR HARR: Well, okay. Well... [LB397]

DAVID NABITY: ...if you want, there's other people that would like to speak. I'm more than happy to step back.... [LB397]

SENATOR HARR: Well...and okay. Well, you don't have to get adversarial with me. [LB397]

DAVID NABITY: Oh, I'm not. [LB397]

SENATOR HARR: Oh, okay. [LB397]

DAVID NABITY: I'm being respectful to the other people... [LB397]

SENATOR HARR: Okay, well, thank you. [LB397]

DAVID NABITY: ...that want to speak. [LB397]

SENATOR HARR: I guess my question is...I mean in the private industry--since you're for the private sector--you pay the best. The best. Is that correct? You would agree with that, wouldn't you? [LB397]

DAVID NABITY: I...define best. [LB397]

SENATOR HARR: Well...the best is... [LB397]

DAVID NABITY: You know, business owners look at their revenue and they look at their cash flow and they make decisions on what they... [LB397]

SENATOR HARR: Okay, so... [LB397]

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DAVID NABITY: ...can afford to pay. The city needs the same ability. [LB397]

SENATOR HARR: Okay, so....well, I guess what I mean by the best is those employees that you think do a better job than other employers you pay probably a little better, don't you? [LB397]

DAVID NABITY: Yeah, it's called merit pay. Do you agree with merit pay? [LB397]

SENATOR HARR: What's that? I can't... [LB397]

DAVID NABITY: Do you believe in merit pay? [LB397]

SENATOR HARR: And Mr. Nability, when you get elected you can ask the questions. [LB397]

DAVID NABITY: Oh. [LB397]

SENATOR HARR: But, uh... [LB397]

DAVID NABITY: Oh, excuse me. [LB397]

SENATOR HARR: I mean, I'm not trying to be condescending, but the rules are the rules and I get to ask the questions here, so. [LB397]

SENATOR SMITH: Mr. Chair. Mr. Chair. [LB397]

SENATOR HARR: I'm not...honestly, Senator Smith, I'm not trying to be...but he's being argumentative with me and I'm just trying to enforce the rules. [LB397]

SENATOR SMITH: (Inaudible) question. [LB397]

SENATOR HARR: If you have a point of order or...? Okay. What I'm trying to get at is we pay the best, the best. If someone does a good job, I think we should be able to reward them as they see fit, and that's my only point, so. There isn't a question so there's no need to follow up. [LB397]

DAVID NABITY: I'm fine with that. [LB397]

SENATOR HARR: I'm not... [LB397]

DAVID NABITY: You know, management, staffing should be... [LB397]

SENATOR HARR: Yeah. [LB397]

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DAVID NABITY: ...chosen locally. It should not be a part of this. [LB397]

SENATOR HARR: Yeah. And again, I'm not trying to be adversarial with you and I wish you wouldn't take it that way. [LB397]

DAVID NABITY: I'm not. I'm fine. [LB397]

SENATOR HARR: Okay. Okay, good. Let me...thank you. [LB397]

SENATOR LATHROP: I appreciate these guys have a question. I'll let them ask them. But I do want to make this comment. And the bill, what we deliberately tried to do was to reduce the holding, the most recent holding from the CIR to codify it so it wouldn't change. And it didn't. And I know people appreciate that that was... [LB397]

DAVID NABITY: And I may be misinterpreting it, but it looked to me like... [LB397]

SENATOR LATHROP: I think you are, Dave. And I'm not critical. I'm just suggesting to you that the bill actually codifies the very case that you believe we're undoing. And so the case... [LB397]

DAVID NABITY: Is that right? [LB397]

SENATOR LATHROP: Yeah, the case has a holding. The holding deals with staffing. And that holding is now going to be law, so it won't be a moving target or it won't change on anybody. [LB397]

DAVID NABITY: Great. Thank you. [LB397]

SENATOR LATHROP: Okay. Senator Ashford had a question. [LB397]

SENATOR ASHFORD: Well, I actually, Dave...and I've known you a long time and I agree with you. I think that we are here because, for whatever reason, whether it's political influence or just...it was interesting. I read...and I'll be quick, Mr. Chair, and I appreciate the time. I read The Economist this week, and it has an expose on pensions. I think it's about the third time this year they've done a pension study. And it's clear...I mean elected officials and businesses are different because it's not their money. It's the taxpayers' money, and the...we get that. I mean it's...we spend \$4 billion every year. It's not our money; it's the taxpayers' money. And I don't think...I don't disagree with that and I think it, to some extent...and some of the assumptions that we make in the pensions--8 percent assumptions that have been ongoing for, I think since the '90s. And in fact, in Omaha--and you remember this. In Omaha, I think it was 1991 when the actuaries initially came back--and I was here and you were involved at various things at

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that time--came back and said, look, this is not sustainable at 8 percent assumptions. And The Economist is arguing for bond interest rates or other standards to apply to assumptions so that you can get those contribution levels up and make those unfunded mandates go away over time. And I--no question. Your arguments that you've made over the last couple years on that issue are...I agree with them. [LB397]

DAVID NABITY: We increased our pension contributions 20 percent in the last year, and we need to be able to credit that toward the overall cost. [LB397]

SENATOR ASHFORD: And that's why and what I'm getting at is I agree...I agree with your points, and your suggestions are valid. Because I don't know if I agree with the solution, but you're offering a solution and I appreciate that. What I disagree with slightly--and maybe I've been doing this too long--but I don't...at least I've been doing it here longer than anybody else. But basically, you know, political influence in local races is significant--and it's not just unions. It's lots of other groups. And I think it just depends on who the candidate is and what the times are and so forth and so on. And that's fine. But my view of the CIR has always been...and I don't know what influence...because I wasn't in city government, I don't know what the influence of those unions have been over those negotiations over the last 20 or 25 years. But I will agree with you that we haven't made the tough decisions. And we have a \$642 million--or whatever the number is--unfunded mandate. So bringing those issues to the city, as you have done, are not at all inappropriate or invalid. And I... [LB397]

DAVID NABITY: We need to reduce costs. [LB397]

SENATOR ASHFORD: Well, I...but what I will...I agree. You've got to contain costs. Here's what I would...what I believe. And that is that I think...and I would disagree...I know you've done the study, but I think there are numbers of cities that are in the same boat Omaha is in, and probably worse to some extent, because of unfunded pension liabilities. There's \$3 trillion... [LB397]

DAVID NABITY: Yeah. You won't find a pension formula like ours. [LB397]

SENATOR ASHFORD: Well, I don't know, but I mean I'd have to go look at them. But I mean there's \$3 trillion in unfunded pension liabilities in this country because, starting in the 1960s, we didn't fund them appropriately. Certainly in Omaha, since '91, we didn't. So I buy all that. Where I...the reason I like the CIR...and we've had this conversation before, sitting on the sidewalk. Where I like the CIR is because it is that check and balance. If it is appropriately constructed and if the rules are appropriate, it does act as that check. If you don't have the CIR...and many other states have arbitration that don't have standardized rules. The CIR does have some rules and we're trying to get more in there. We could disagree, or maybe not even disagree, but we could put forth solutions on what those should be. But it seems to me that if we have that check and balance,

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you're still...let's say if we didn't have the CIR, you're still going to have political organizations, whether it's...whoever it is, on the right or the left or the middle, actively engaged in city politics. So to me the idea of having an independent group--and I know we're going over our time--but independent group to me is important to evaluate those facts. So I guess, very briefly... [LB397]

DAVID NABITY: Yeah. You know, we were initially in favor of Tony Fulton's bill, and that bill kept the CIR...kept it in an advisory role but put the control at the local level. And we were prepared... [LB397]

SENATOR ASHFORD: But how does that remove the...? [LB397]

DAVID NABITY: ...to support that bill. [LB397]

SENATOR ASHFORD: I get that. But how does that remove the politics? Because in the end you're not getting that check and balance. [LB397]

DAVID NABITY: Every other state manages to get by doing it. We can too. [LB397]

SENATOR ASHFORD: They have arbitration though, Dave. Twenty-two states have some form of arbitration, and I'm not...and they don't have the requirements that exist in the CIR. I mean it's a debatable point. [LB397]

DAVID NABITY: Okay. All right. I really feel like I need to let some other people talk. [LB397]

SENATOR ASHFORD: Well, but that's okay. I get to...I'm not...I don't disrespect your points is what I'm saying. [LB397]

SENATOR LATHROP: I appreciate your sensitivity to time and so am I. Senator Smith has a question for you, however. [LB397]

DAVID NABITY: Okay. [LB397]

SENATOR SMITH: Thank you, Senator Lathrop. Mr. Nabity, you know, I think we've pretty much killed the time we had to hear from proponents here. But, you know, when you came in I felt that you came in, in a constructive manner. I don't agree with you on everything, but I felt like you came in here and you were up-front and you said you would prefer to abolish the CIR but given this piece of legislation, here are your concerns, and you laid those out very clearly. And I'm sorry to hear that we have turned this into a debate and made this a Dave Nabity show and made this into a debate on Dave Nabity... [LB397]

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DAVID NABITY: Yeah, I am too. [LB397]

SENATOR SMITH: ...and took it down the wrong road. I think we were here to hear some constructive debate on what we can fix with the current legislation. And we gave the courtesy to those that were in opposition and those that were in neutral testimony, and there were some...I believe some over-the-top comments that were made, and we did not engage those individuals, but we listened to them and we kept the open door. And I would hope that my colleagues would do the same thing with you. So with that said, I have nothing else. [LB397]

SENATOR HARR: Yeah. If I did go too far, I apologize. It was not the intent. It's just that I was trying to figure out what was behind the policy, so. [LB397]

DAVID NABITY: No harm. Let's have lunch and we'll chat about it. [LB397]

SENATOR HARR: I like that. [LB397]

SENATOR LATHROP: Sounds like a deal. [LB397]

SENATOR ASHFORD: I know we've run over time, Mr. Chair, but... [LB397]

SENATOR COOK: I'm hungry. [LB397]

SENATOR LATHROP: We are a little on overtime. [LB397]

SENATOR ASHFORD: ...and maybe we can go later. But I want to make this point. And this is...you've brought up...this is the first testimony we've had today that's talking about the pension underfunding in a real way. And I think...I appreciate that. I think you're bringing up an issue that needs to be addressed. So it's an important discussion. [LB397]

DAVID NABITY: Thank you. [LB397]

SENATOR LATHROP: Okay, this is, I'm afraid, going to have to be the last one. We're already on overtime, so. Let me suggest to the people that are shaking their head, I can tell you this is the time that I've been allowed by the Legislature to conduct a hearing. I'm already on overtime. And if you'd like to submit written testimony, we will gladly accept it. Sir, welcome to the Business and Labor Committee. [LB397]

PAUL MEYER: Senators, my name is Paul Meyer, M-e-y-e-r. I'm retired. Big deal, right? Well, to me it is a big deal. I worked for over 50 years to get to this point. But right now I am also in the process of selling my trailer, hopefully, because I cannot afford it any more because I can't afford to go anyplace. And it's not just a matter of high gas prices.

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It's high taxes. I cannot afford all these taxes. Now I am just representing myself and a number of retired people in my neighborhood. Because of what I have decided, I have also decided to run for the Millard school board because we have a vacancy on the board. What does this have to do with the reason we are here today--LB397, the CIR? With 60 percent of my property taxes going to the school system, we need to cut expenses. With personnel costs, including wages and benefits, taking 80 to 90 percent of the budget, it's hard to cut expenses. Local governments elected by the people don't have the control over these expenses anymore. The unions just say, if you don't give us what we want, they basically say we will just take it to the CIR, and nonelected union-favoring members give them most of what they want, and we, the taxpayers, who have no say in the matter now, get stuck with the bill. LB397 may have moved the pendulum somewhat to the center, but it still has a long way to go and it will take a long time to get there. And those 50 years? If I didn't like what the boss paid me or the working conditions, I could leave. I was not an indentured servant. None of our union members were indentured servants. Neither are any teachers, police, fire, civil, or other employees indentured servants. If they don't like what they are getting, they can find another job. LB397 is nothing more than another big gift to the unions and an "up yours" to the taxpayers. The CIR, at best, needs to be eliminated or at the very least needs to be neutered. Their rulings must no longer screw the taxpayers considering what local governments in other cities or states pay their employees is asinine and completely laughable. It is nothing more than a gimmick to increase union wages and benefits. The fact of the matter is the CIR has increased wages and benefits higher than government or taxpayers can afford. Union members can bargain over working conditions, hours, and different miscellaneous items, but not over wages and benefits. In closing, I would just like to say I hope you senators and your fellow senators take into consideration the average taxpayer out there and not just to special interest groups that constantly have lobbyists, paid and unpaid, bombarding you guys all the time. The general taxpayer out there has...doesn't have the voice that these people do. And I'm going to get confrontational over here for just a second. Senator Harr, I would just like to remind you and all public servants, we the people are the employers. You guys, when you elected to run for office, are the employees. [LB397]

SENATOR HARR: Thank you. [LB397]

PAUL MEYER: Thank you. [LB397]

SENATOR HARR: I appreciate that. [LB397]

SENATOR LATHROP: Fair enough. [LB397]

PAUL MEYER: Any questions? [LB397]

SENATOR LATHROP: Mr. Meyer, let's see if anybody has any questions for you before

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you leave. Senator Smith does. [LB397]

SENATOR SMITH: Thank you. [LB397]

PAUL MEYER: Thank you, Senator. [LB397]

SENATOR HARR: And I...if I could? Thank you. [LB397]

PAUL MEYER: Yes, Senator. [LB397]

SENATOR HARR: I did overstep my boundaries. I apologize. And I think that was a perfect way to end it, so thank you very much. [LB397]

SENATOR LATHROP: (See also Exhibits 7-15, and Exhibit 18) I regret that I don't have more time to provide. The Speaker gave us till 2:00. I imposed on him for an extra 15 minutes. We're now 8 minutes past that. It is the very nature of public hearings during the middle of the legislative process that we essentially do them...give up our lunch hours to do them. And we're happy to do that. And we were, in fact, provided more time--that we've gone over. Please, let me--before everybody gets up and leaves, just a moment. Let me suggest to you that because the hearing is at an end--and it is--that doesn't mean that we're done listening to people. Feel free to contact us. Feel free to communicate. And above all, if you have constructive criticism and thoughts on how to improve LB397, or the process, we'd welcome those suggestions. Okay? Thank you very much. [LB397]