

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 4, 2019

**M. HANSEN:** All right. It's 1:30 so we'll go ahead and get started. Good afternoon and welcome to the Business and Labor Committee. My name is Senator Matt Hansen and I represent the 26th Legislative District in northeast Lincoln and I serve as Chair of this committee. We'll start off by having committee members, committee staff do self-introductions starting on my right with Senator Chambers.

**CHAMBERS:** Ernie Chambers, District 11 in Omaha.

**CRAWFORD:** Good afternoon. Senator Sue Crawford, District 45, which is eastern Sarpy County.

**B. HANSEN:** Ben Hansen, District 16: Washington, Burt, and Cuming Counties.

**TOM GREEN:** Tom Green, legal counsel.

**LATHROP:** Steve Lathrop, District 12, which is Ralston and parts of southwest Omaha.

**HALLORAN:** Good afternoon. Steve Halloran, District 33 which is Adams and Hall County.

**KEENAN ROBERSON:** Keenan Roberson, committee clerk.

**M. HANSEN:** And Senator Slama is our seventh committee member. I believe she'll be joining us shortly. Also assisting the committee today are our two committee pages, Hunter and Kaci. This afternoon we'll be hearing six bills and taking them up in the order listed outside the room. On each of the tables in the back of the room, you'll find blue testifier sheets-- they might be yellow. You'll, you'll find yellow testifier sheets. If you are planning to testify today, please fill one out and hand it to Keenan when you come up. This will help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on the committee statement for a particular bill you must testify in that position during that bill's hearing. If you do not wish to testify but would like to record your position on a bill, please fill out the yellow sheets in the back of the room. Also I would like to note the Legislature's policy that all letters for the record must be received by the committee 5:00 p.m. the business day prior to the hearing. Any handouts submitted by testifiers will be included as part of the record as exhibits. We would ask that if you do have any handouts that you please bring nine copies and give them to the page. If you have

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less than nine copies and need additional copies, the page can help you make more. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those speaking in the neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name and spelling them for the record. We'll be using the five-minute light system today. When you begin your testimony, the light on the table will turn green. The yellow light is a one-minute warning. And the red light comes on, we will ask you to wrap up your final thoughts. I would like to remind everyone, including senators, to please turn off and silence cell phones. With that, we'll begin our hearing with our first bill today, LB7, sorry, LB604 by Senator Lindstrom.

**LINDSTROM:** Thank you and good afternoon. I think this is the first time I've been in B&L--

**M. HANSEN:** Great.

**LINDSTROM:** --in five years so thanks for having me. Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, representing Legislative District 18, here today to introduce LB604. An ongoing discussion amongst the Legislature revolves around economic development incentives. It is clear to me that Nebraska is willing to invest in economic development programs that emphasize rural areas and low-income areas, work force development, and wage growth for employees, all while maintaining transparency and accountability for taxpayer dollars. These parties were also expressed in the findings from the 2018 Economic Development Task Force. LB604 is a program that would drive much needed investment in these areas and meet or exceed necessary transparency and accountability expectations. So this is how LB604 would work. The Legislature appropriates \$15 million to the Department of Economic Development to be used in high-wage jobs and Capital Investment Creation Fund. Federally licensed Small Business Investment Companies, or SBIC, or Rural Business Incentive Companies, RBIC, would apply to Nebraska DED, or Department of Economic Development, to participate in the program. The license fund managers must then raise matching private dollars at a 1 to 1 ratio which means that the state's \$15 million is matched by \$15 million dollars of private capital for a total investment of \$30 million raised for

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Nebraska small businesses. The \$30 million must be invested in qualifying small businesses in qualifying areas. Qualifying small business must have fewer than 150 employees, be located in (a) a designated opportunity zone; (b) a census tract with poverty rates greater than 20 percent; (c) median incomes of less than 80 percent of the locality; or (d) being a county with 20-- excuse me, 200,000 population or less. Also the business must not be able to receive a similar loan from a traditional lender. LB604 is targeted to invest in high-need industries. Qualified industries are: agriculture, utilities, construction, manufacturing, transportation, and warehousing, professional, scientific, technical, and healthcare, and social assistance among others. Unlike other programs that lack back end penalties for underperformance, LB604 guarantees job creation because of the 100 percent of the state dollars are repaid if a predetermined number of jobs are not created. Fund managers must diligently track each job created by the small business they invest in along with accompanying wage information and then use the four job creation factors which I'll list below to determine the amount of incentive earned, not repaid at the maturity of the program. So the four factors: Factor 1, new employee paid 150 percent of minimum wage which would create a \$15,000 in a forgivable loan; Factor 2, new employee paid 175 percent of minimum wage would be a \$20,000 forgivable loan; Factor 3, new employee paid 200 percent of minimum wage which would be a \$30,000; then Factor 4, new employee paid at 150 percent of minimum wage and either be a veteran, senior, ex offender, disabled or enrolled in DHHS program which would be \$40,000 forgivable. If these jobs are not created the state funds are repaid on an incremental basis up to 100 percent. The participants in the program are required to report to the-- to DED, direct specific criteria on an annual basis, and the DED directors are required to report to the Legislature on an annual basis. The price tag of this bill is up to the Legislature. I think we would have significant impact. A \$15 million appropriation would make a tremendous impact. Nonetheless, this program is worthy to be implemented and allow the Legislature to fund it in future years. And with that, I'll be happy to take any questions you may have.

**M. HANSEN:** Thank you, Senator Lindstrom. Are there questions? Senator Chambers.

**CHAMBERS:** Senator Lindstrom, what is an opportunity zone?

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**LINDSTROM:** Opportunity zone was created at the federal level and really what it comes down to is areas that, not to bring up TIF, but similar areas where you have blighted areas that could be designated-- was designated by the Governor. The feds are still working through some of the criteria as we speak so we don't have clarification quite yet on what those opportunities are. But you'd imagine where TIF might be would be where those opportunity zones are.

**CHAMBERS:** Is it a geographic area?

**LINDSTROM:** It is.

**CHAMBERS:** OK.

**LINDSTROM:** Yes.

**CHAMBERS:** That's all I have for right now. Thank you.

**M. HANSEN:** Thank you, Senator Chambers. Any other questions? Senator Lathrop.

**LATHROP:** I, I have a few. Thanks for bringing this bill to us.

**LINDSTROM:** Um-hum.

**LATHROP:** When you say high-paying jobs and then you say 150 percent of the minimum wage, what are we talking about 11 bucks an hour?

**LINDSTROM:** And that's one thing we've talked about in the Economic Development Task Force. I think it's a moving target of what the Legislature would be willing to do. Obviously, minimum wage with those median incomes differ from county to county, city to city. And so I'm open to any changes there. But I think what we've, what we've discussed and what we're targeting, yeah, whatever the, the Legislature would deem as a, as a high-paying job would be open to negotiation.

**LATHROP:** Yeah, probably not 11 bucks an hour.

**LINDSTROM:** No, and that's what-- when we talk about the say-- the new incentive program of what Nebraska Advantage didn't do. It didn't really incentivize those high-wage jobs. It, it essentially focused in on the minimum-wage jobs. And so if that's what our goal is also trying to, to make sure that we can quantify what we're spending what we're getting out of it, this does allow that. And I think with

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Senator Kolterman's bill, which we'll hear in Revenue, but we're trying to figure out how we focus in on, on jobs-- job creation that was what Senator Crawford and I worked on during the interim with the task force and trying to address it. So this is what I'd call a piece of the overall discussion. And again, would be willing to work with the committee on--

**LATHROP:** OK. A couple more--

**LINDSTROM:** Yeah.

**LATHROP:** --questions for you. When you have-- you talked about these jobs, are the employers also required to provide benefits?

**LINDSTROM:** Not under this bill, no. It would be up to-- so the fund itself would be these, these-- and, and we'll have somebody behind me that talks about it, but they create this fund and they would put the money to work into certain businesses that meet the criteria on here. But we did not specify whether or not those businesses had to provide any type of benefits. But we-- I'm, I'm not-- I'm open to that. I, I guess we didn't include that in this bill.

**LATHROP:** I'm just thinking-- we talk about all these incentive bills--

**LINDSTROM:** Um-hum.

**LATHROP:** --and trying to create, create good paying jobs and-- you know, 11 bucks an hour with no health insurance probably isn't what we're shooting at right now--

**LINDSTROM:** Right, and I agree.

**LATHROP:** --especially with unemployment somewhere around 2 point something.

**LINDSTROM:** Right. I, I agree.

**LATHROP:** Another question that-- this came up in the context of our-- of other incentives, but I'm gonna ask it in connection with this. Can they pool full-time equivalent employees? So if you have two employees working 20 hours a week, is that the same as one full-time employee?

**LINDSTROM:** No.

**LATHROP:** They got to be honest-to-God full-time employees?

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**LINDSTROM:** Forty hours, yeah, yeah.

**LATHROP:** OK. And this is intended to complement the business incentive bill that you guys are gonna hear?

**LINDSTROM:** Well--

**LATHROP:** Or is intended to be a substitute for a competing program?

**LINDSTROM:** Well, it's, it's-- I, I guess I'm responding to what Senator Stinner said the other day on the floor with regards to the amount of money that we have here.

**LATHROP:** He was very clear.

**LINDSTROM:** Very clear that we don't have money. So when you talk about \$15 million, I know that under the, the Governor's proposal and the replacement of the Incentive Program, is my understanding that that is budgeted within his-- but obviously we'll have that discussion. So with, with no money, there's really only two ways I can see this going. One, you would implement the fund for a later date to be funded; two, it becomes part of kind of the work force development aspect and, and, and wage and job creation under the new incentive, what I'll call umbrella. So I think we'll be hearing, as this committee will, and, and Revenue will be hearing a lot of different proposals out there. I think it's gonna take a lot of moving the different parts and I've talked about these four pillars, we've talked about the incentive and obviously property taxes, on education funding, and then the sales and income portion. They'll all play off of each other in one way shape or form. I don't know if this, this alone could stand with the situation that we're in right now so it's more bringing it to the forefront and have the discussion and see if there's an appetite to roll that into some type of incentive package.

**LATHROP:** OK. And then I think my last question is going to be when you talk about opportunity zones, can you tell us what that means? So is it a zip code? Do we, do we look at a zip code? Do we look at--

**LINDSTROM:** There's an actual map. Yeah.

**LATHROP:** --a block in a, in a neighborhood. For example, Senator Chambers, is his entire legislative district an opportunity zone? Is it a zip code? Can you tell us how you determine those?

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**LINDSTROM:** So the opportunity zone, again, was designated by the Governor and there is a map and I apologize, I can get that to you. But, yes, I would imagine District 11 would have a significant portion of that in an opportunity zone. And really it comes down to-- you know, poverty percentages, wage percentages, things like that is where they're designated. And again, the feds are still coming up with rules and regs with regards to how we can utilize those. Because opportunity zones are-- not to get in the weeds too much, but essentially what you'd have is a small business that sells their company and they could defer some of the capital gains and use that money to invest in opportunity zones for the purposes of delaying or eliminating their capital gains and so it's a part of the discussion. But, yes, there is a map to get your question-- or answer the question. There is a map that has where the opportunity zones are located and it's across the state.

**LATHROP:** And it's based on the percentage of poverty?

**LINDSTROM:** It's-- that and some other things, yeah, yeah. But the Governor at the end of day determines where the opportunity zone borders lie. And, and has done that. So-- but I can get to the map on that.

**LATHROP:** Not out in Old Mill?

**LINDSTROM:** [LAUGHTER] Whoa, I'm, I'm gonna stay away from that.

**LATHROP:** OK. Yeah, I probably should, too. All right, thanks.

**LINDSTROM:** Yeah.

**LATHROP:** That's all I have.

**M. HANSEN:** Thank you, Senator Lathrop. Other questions? Senator Halloran.

**HALLORAN:** Thank you, Chairman Hansen. Thanks for bringing this bill, Senator Lindstrom. Just walk through this with me a little bit. So let's just say-- and they're matching funds, right? So the state would provide-- let me back up a little bit. Level factor three, \$30,000 per employee paid at 200 percent of Nebraska minimum wage.

**LINDSTROM:** Right.

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**HALLORAN:** So let's say an employer comes to you or to us and says, OK, I'm looking at increasing jobs-- 20 jobs at this factory level. All right, so it'd be, it'd be 20 jobs times the \$30,000 per new employee? Am I looking at that correctly?

**LINDSTROM:** You're looking at that right. So the difference-- and, and it's not the employee-- the employer necessarily that is, is-- meaning that you would have, you would have the funds themselves which would be set up under-- like I said that the, the Small Business Investment Companies and also the Rural Investment Companies. So there's-- you would be designated those funds and then those, those fund managers would then invest in a 1 to 1 ratio in those companies.

**HALLORAN:** So the matching funds-- the company would have to match the funds.

**LINDSTROM:** And, and essentially the fund is taking the risk essentially. They're lending their money to the small business with the understanding that there is certain criteria that they need to meet over the course of six years. And it's on an annual basis that they have to report these numbers. If they do not meet 100 percent of what they promised, they would have to pay back the, the difference between what they did accomplish and what the 100 percent is. So say they met 60 percent of it, they would have to pay back 40 percent of what they had taken from the state essentially.

**HALLORAN:** So clarify for me the matching funds. Who's responsible? Where, where, where do-- who's obligated to match the funds?

**LINDSTROM:** The, the state-- DED.

**HALLORAN:** OK.

**LINDSTROM:** Yeah, would match the--

**HALLORAN:** Would fall in the state?

**LINDSTROM:** It, it would half. Well, the 1 for 1. So say we did \$15 million to \$15 million, then the state would put \$15 million to match those funds.

**HALLORAN:** So what after the six-year period of time those jobs are fulfilled and they have to repay some portion of it?

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**LINDSTROM:** They have to repay the entire portion up to 100 percent of whatever they did not achieve.

**HALLORAN:** I have tried-- and I'm not being smart here, but I have tried to collect money from people before they didn't have money, and it's a challenge. So what are we doing then?

**LINDSTROM:** And this is why the fund managers-- that's why it's important is that say the, say the company filed for Chapter 11, it's the fund managers. So those-- the SBICs and the RBICs that would be-- their names would be attached to that. They're the ones lending the money to the company with the understanding that there would be a percentage of interest. And then the state would then come in and essentially pay off whatever they lent up to the \$15 million. So it would depend-- we could have 10 of these companies, we could have 20 these companies, but it doesn't matter how many companies, it's just there is a number, there's a definitive number, the \$15 million that would exhaust up to that point.

**HALLORAN:** OK. Thanks.

**M. HANSEN:** Thank you, Senator Halloran. Any other questions? Senator Crawford.

**CRAWFORD:** Thank you, Chairman Hansen. And thank you, Senator Lindstrom. Just to clarify these entities that you're talking about, the SBICs and RBICs. These are existing entities right now?

**LINDSTROM:** They are.

**CRAWFORD:** OK.

**LINDSTROM:** Yeah, so they're across the country. I know that-- for example, Michigan passed something similar here as of late with regards to this. But, no, they are under the Small Business Administration would be on the SBIC side of things.

**CRAWFORD:** OK.

**LINDSTROM:** So, yes, they do exist.

**CRAWFORD:** Great. Thank you.

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**M. HANSEN:** All right. Thank you, Senator Crawford. Seeing no other questions, thank you, Senator Lindstrom,--

**LINDSTROM:** Thank you.

**M. HANSEN:** --for the introduction. All right. And with that, we'll move to the first proponent of LB604.

**RYAN DRESSLER:** All right. Hello, everyone. My name is Ryan Dressler, R-y-a-n D-r-e-s-s-l-e-r, and I'm here representing Advantage Capital. Thank you for the opportunity, Chairman Hansen and members of the Business and Labor Committee for presenting today in support of LB604. So a quick background on Advantage Capital. I'm based out of Ohio. Our offices are in St. Louis and New Orleans. We are a small business investor and we primarily focus on investing in underserved areas. So that's low-income areas that have high poverty rates. It's rural areas. It's areas in the middle of the country that don't get access to some of the financing that's available on the coasts. And we do it in such a way where we're providing more flexible capital and cheaper capital for a company that is in an expansion stage. So an existing business like a manufacturer that's looking to go and can't get all the financing they need from a traditional lender. So there were a couple of great questions when Senator Lindstrom gave his testimony-- you know, why in a low unemployment rate and in and in an environment where capital is generally inexpensive to get, do we need a program like this? And in talking with Senator Lindstrom in the fall there was the Economic Development Task Force and some of the priorities that came out of that was this focus on creating higher paying jobs with benefits helping people roll off of public assistance programs and gain opportunities that they might not otherwise have. And so that's what this program was intended to do. And there were some great comments on the wages. I did want to clarify, I think in the bill it's Nebraska minimum wage. So while \$13.50 is not a lot higher than \$11, I think the question here is when you look at the areas finding a wage rate that is meaningful, the company that is offering benefits and a wage that allows somebody to be independent. I think that's what the intent is. And so any comments there are definitely valuable. So with the, the task force, the couple things that I think this program does is Advantage Capital looking at it. The job training element-- you know, in the 300-plus companies we have-- we're currently invested in, many of them offer training to their employees. And we find that small businesses end up being some of the best job trainers because they already have the job and they need somebody to do that job and so

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hiring a person and then training them is how a lot of that got done-- gets done and we'd assume it get done through this. I think this program also hits the quality of life in the community by offering those higher paying jobs is usually a worker is supporting up to three or other people besides themselves. And so there's certainly a benefit there, and then the capital formation. Again, driving capital to areas that it otherwise might not be. And on the geography there were a couple of questions-- I believe Senator Chambers on the opportunity zone. So there's two ways to think about opportunity zones. There is an incentive which is capital gains forgiveness that doesn't matter for the purpose of this bill. And that's what they're still working on. The part that matters for this bill is the geography, the map. And that map is based off of-- it was already selected-- there was an area in the state based off of poverty rates, poverty rates of 20 percent or greater. And then a median family income of 80 percent or a little below the local area average. And then the Governor was able to select a quarter of those areas, 25 percent, and identify those as opportunity zones. And so that's what this bill is doing is saying, those preidentified areas-- they are census tract based, not based on district or any other geography. So they are small and kind of scattered. That's what, what those are based off of. So last couple of things-- you know, just for Advantage-- what we do-- what we've actually done in the state so far in our history. So as mentioned, the SBIC license through the SBA and then the RBIC license through the USDA, those are brother-sister licenses. They're not easy to get and they're not easy to keep. And so that is setting a very high bar for participation in the program. They're not start-up funds. These are not people that have-- you know, trying their hand at small business investing. They're institutional investors who have raised money and invested successfully in small businesses. And that's what-- Advantage is a Rural Business Investment Company. So one quick example-- you know, we've invested through the New Markets Program in the state in a company here in Lincoln called Beehive Industries that's kind of a tech company that works with local cities. We help them hire and expand their sales force to spread their product to other companies. And then another company we recently invested in is in Gordon, Nebraska up on the border-- northern border of the state that is a recently reopened custom meat packaging facility. So we are able to find companies like that that may otherwise not get the help that they need. So thank you.

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**M. HANSEN:** Thank you, Mr. Dressler. Any questions from the committee? Seeing none-- oh, Senator Hansen.

**B. HANSEN:** And so just one-- I don't want to berate the map in the question here,--

**RYAN DRESSLER:** Yep.

**B. HANSEN:** --but the opportunity zone map, you say it's already kind of set up already?

**RYAN DRESSLER:** Yeah, so in the bill there are four different potential qualifications for a location. The opportunity zone is one of those. Those are already set up. And it's just been a talk of a lot of states right now because it's a priority area, and so those were included. It's also counties of 200,000 or less to get all in the rural areas. And then you also have some poverty and median income tests as well in there. So it's a way to parse out so that both rural and urban areas are positively affected by this potentially as it's not picking what it's all based off of-- you know, potential for quality of life to be improved.

**B. HANSEN:** That's what I was kind of curious about--

**RYAN DRESSLER:** Yeah.

**B. HANSEN:** --where it's spread out.

**RYAN DRESSLER:** Yep.

**M. HANSEN:** All right. Any other questions from the committee?

**B. HANSEN:** One other thing, too.

**M. HANSEN:** Go ahead.

**B. HANSEN:** So these are institutions or companies that can't really get funding from a bank per se. So they kind of go to somebody like you to get--

**RYAN DRESSLER:** So--

**B. HANSEN:** --difference in interest rates. Like is there a big difference between you and what a bank would provide or is it like--

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would you just charge a lot higher interest rate or are you guys kind of close to-- or does it all depend on the person kind of?

**RYAN DRESSLER:** That's an excellent question, Chairman and Senator Hansen. So when you look at financing there was a-- the Dallas Federal Reserve recently had-- I think it was two years ago, they had a report where funding for small businesses based on if you take all the banks in the country and you look at where their loans go to. It-- at one point 15 years ago, about 40 percent of the lending went to loans of \$1 million or less mostly to small businesses. That today is about 20 percent. So while money is inexpensive today many of these companies we work with they're not asking for \$20 million. And so they can't get that \$20 million at a four and a half percent interest rate, right? So for the companies that we end up working with they can maybe get a portion of the financing from a traditional lender. But if they're going through an expansion phase and you need \$3 million to build a facility, or buy equipment, hire new people, banks can't necessarily lend on a potential future growth. Right? So they're limited. And so what we are able to do is provide that subordinated debt or minority equity to that company at a rate that is less and many cases close to half of what the market would be. Because the market rate for subordinated debt-- we come across companies all the time that are paying 14, 15, 16 percent interest rates, right?

**B. HANSEN:** [INAUDIBLE]

**RYAN DRESSLER:** Right. It's very, very regular that that occurs. So we come in well, well below that. And even more so than that, we are able to provide flexibility. As an example-- you know, we've made an investment recently where it's interest only for the first 18 months and no amortization on the loan because we know the company is cash strapped. They need that cash over that period to get this new customer ramped up. And so that's something that we can do, whereas, a blank-- bank doesn't have that flex-- the flexibility. And that said, we are also very close with banks because we want that partnership and relationship and they have their role, and we have ours.

**B. HANSEN:** OK.

**M. HANSEN:** All right. Any other questions? Seeing none, thank you for your testimony.

**RYAN DRESSLER:** Thank you.

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**M. HANSEN:** We'll take our next proponent for LB604. Seeing none, we'll move to opposition to LB604? Seeing none, does anybody wish to testify in neutral on LB604?

**RENEE FRY:** Good afternoon, Chairman Hansen, members of the committee. My name's Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute and we are here in neutral. One of our biggest concerns about Nebraska's incentive programs is the impact that they've had on the state budget. So therefore, we applaud that LB604 is capped at \$30 dol-- \$30 million making it predictable rather than incentivizing through tax credits that can vary widely from year to year. For example, LB775 and Nebraska Advantage reduced revenue by \$153 million in 2015, then spiked to \$270 million in 2016 and dropped back down to \$162 million in 2017. Furthermore, even after factoring in projected increases in state revenue from the jobs and economic activity created by Nebraska Advantage agreements the Nebraska Department of Revenue estimates that Nebraska Advantage will nevertheless lead to a \$32 million revenue loss in 2018 and cumulative revenue losses of \$997 million by the end of 2027. So we believe that LB604's approach to financing is a huge improvement over other incentive programs. With that said, we do have some concerns. The Center for Regional Economic Competitiveness report conducted for the Economic Development Task Force included many recommendations such as targeting high-impact businesses, responding to current economic conditions and needs, and allowing for discretion to prioritize high-impact, high-impact investments that wouldn't happen but for incentives. And it's just not clear to us if these recommendations would be fulfilled by LB604 and how Nebraska's big-- biggest economic development challenge, work force shortages, would be addressed by LB604. Furthermore, it's universally recommended by economic development experts, such as Timothy Bartik of the Upjohn Institute, as well as by the CREC and SRI that Nebraska specifically should be incentivizing high-wage jobs. And here is where LB604 appears to fall short. LB604 provides some benefit for investment firms that invest in companies creating Factor 1 jobs at 156-- 150 percent of Nebraska's minimum wage. They would pay \$28,000 per year, so a family of three would be eligible for CHIP. And the highest wage level is 200 percent of Nebraska minimum wage or \$37,440. LB604 appears to allow pooling of hours in [sub] Section 14(a) and does not address this loophole founded in Nebraska Advantage by defining employment with full-time equivalent positions. This bill provides incentives for the creation of many part-time jobs as opposed to full-time jobs from our reading of the bill. While LB604 does appear to be more transparent than other

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incentive programs, if passed it should be subject to evaluation by performance audit to see if it's meeting its stated goals which should be clearly articulated in the legislation with the sunset to ensure we have a pause button if LB604 isn't working as intended. In general, we do urge you to clearly identify the intended goals of any incentive program. Dr. Bartik of the Upjohn Institute has been doing research on incentives for decades and finds that business incentives have little correlation with unemployment or future economic growth. The existing research on incentives is that in some cases they can affect business location decisions. But that in many cases they are excessively costly and may not have the promised effects. And if incentives mostly leave business location decisions unchanged then they mainly serve to redistribute income from average taxpayers to capital owners who are mostly upper income. In Nebraska, Timothy Bartik finds that our business incentives are greater than the U.S. average by 79 percent. Nebraska could reduce its incentives and still be very competitive with the rest of the country. Dr. Bartik notes that high incentives have been a hallmark of Nebraska tax policy going back to the 1990s. And according to Dr. Bartik, business taxes have been reduced substantially in Nebraska since then, but incentives have still remained high even as the tax burden on businesses in the state has decreased. Finally, he finds that providing services to businesses, such as customized job training, may be more cost-effective than cash in encouraging local job growth. I've handed out additional information about the use and projected use of LB775 and Nebraska Advantage for your information that was compiled from the Department of Revenue 2017 Tax Incentive Report. And with that, I'd be happy to answer any questions.

**M. HANSEN:** Thank you. Are there questions from the committee? All right. Seeing none, thank you for your testimony.

**RENEE FRY:** Thank you.

**M. HANSEN:** Is there anyone else wishing to testify in neutral on LB604. Seeing none, Senator Lindstrom, would you like to close?

**LINDSTROM:** Thank you, Chairman Hansen and members of the committee. I'm just happy OpenSky came in neutral. Usually, they're opposed to some of my bills. I'm moving in the right direction. So thank you. And, and what I heard were things that we can work on. I, I didn't hear anything that was something we couldn't fix or address and, and make sure that we are doing the things-- you know, in a perfect world incentives maybe wouldn't need to be out there. But the fact is every

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state has them and to compete Nebraska has to, has to have them as well. But this is again a conversation that-- and a bill that I offer as part of a larger discussion. And would be happy to work with-- really this is gonna take a heavy lift on all 49 of us to, to get this thing done. So with that, I'll be happy to, to answer any questions you may have.

**M. HANSEN:** Thank you, Senator Lindstrom. Are there questions from the committee? Seeing none, thank you.

**LINDSTROM:** Thank you.

**M. HANSEN:** All right. And before I close the hearing, we have three record-- letters to read into the record. We have a letter from Carling Dinkler of Enhanced Capital in support; from Mackenzie Ledet in Stonehenge Capital support; and a letter from Dave Rippe of the Nebraska Department of Economic Development in opposition. With that, we will close the hearing on LB604. And we will move on to our next bill which, I believe, is Senator Bolz's LB527.

**BOLZ:** Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Senator Kate Bolz, that's K-a-t-e B-o-l-z. The intent of LB527 was to develop a assessment on the unemployment insurance program for the purposes of providing sustainable funding for the customized job training program. Unfortunately, the intrepid senator from District 29 made an error in bill drafting and so the intended funding stream per your fiscal note did not materialize. So I have communicated with the stakeholders that have been working with us on this bill that we won't move forward with the bill in its current form. The Chairman has graciously offered that if we choose to move forward on an amendment specific to this bill we may have a separate hearing or we may introduce next year. But at this point, at this point I won't take any more of the committee's time regarding LB527.

**M. HANSEN:** All right. Thank you, Senator Bolz.

**BOLZ:** Thank you.

**M. HANSEN:** Any questions from the committee? Seeing none--

**HALLORAN:** No, but our appreciation.

**M. HANSEN:** We appreciate your, your very short time. All right. With that being said, any proponents in LB527. Seeing none, any opponents in LB527. Seeing none, is anybody in the neutral capacity in LB527?

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Senator Bolz, would you like to close? She waives closing. And I will say for the record, we did have one letter from Greg Adams on behalf of the Nebraska Community College Association in support. All right. And with that, we will close the hearing on LB527 and move forward to our next bill which is LB667 when Senator Vargas gets here. When you're ready.

**VARGAS:** You guys move quickly. Did not expect that.

**CHAMBERS:** That means you better behave [INAUDIBLE]. [LAUGHTER]

**VARGAS:** I have to behave? Oh, no.

**CHAMBERS:** Just kidding.

**M. HANSEN:** Welcome, Senator Vargas.

**VARGAS:** Chairman, members of the committee, my name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent Legislative District 7, communities of downtown and south Omaha. We have great hearing today to talk about LB667. This bill is to create the Youth Opportunities in Learning and Occupations Act. This bill was introduced in 2017 by one of our former colleagues, some of our colleagues, that represented District 8, Senator Burke Harr, and was also one of his last priority bills before leaving the Legislature. Senator Harr introduced this bill as an effort to enact some measures that are in line with the main priority of the Governor's office and of our Legislature which is to grow Nebraska's economy, to grow our work force, and to make sure we're prioritizing ways that we can do that. I spent some time familiar-- familiarizing myself with this bill and the debate around it a couple of years ago and I want to make sure to focus my testimony here on being clear about the intent of the bill and what problems we're actually trying to address and will be moving forward with. A couple of the reports commissioned by the Governor show there's a very clear problem. Nebraskans between the ages of 16 and 24 have higher unemployment and greater underemployment and this is specifically true of individuals that are of low-income backgrounds or are in poverty. There are jobs that exist today that go unfilled every year because there is a mismatch in the hard skills needed in the work force. And finally, that many of the soft skills that are critical to finding success as a worker are also mismatched or are not present. For example, things like time management, teamwork, prevent-- problem solving, creativity, interpersonal skills, emotional intelligence. Even things like professional dress and how to, how to engage with

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individuals in communication aren't things that are always taught or always have a spotlight in, in somebody's professional or home life and we want to make sure that this is at the forefront. LB667 is one possible solution to these issues that I think we should explore. It would create a grant program administered by our amazing Department of Labor that will provide a 50/50 matching grant funds to entities. This includes employers, nonprofits that run the programs that teach these employability skills. My intent with this bill is to pick up where Senator Harr left off. My office is currently working on an amendment to LB667 that will align with both his and this committee's amendments from 2017. I'm gonna hand out a brief explanation of what the amendment will include-- and when we have it we'll send it over to you. I know I'm on the clock, just want to make sure you have it.

**M. HANSEN:** Sorry, I just wanted to make sure you hadn't closed and I was looking--

**VARGAS:** No, no, I hadn't closed. That's the most abrupt closing everybody, I apologize. So to be very clear about this we're trying to summarize this so you can read along. I'm not gonna read off it. I'm gonna highlight some pieces. The amendment would do one thing and it's gonna immediately reduce the appropriation from \$20 million to \$2.5 million. Not that we couldn't use \$20 million but I think being a responsible steward and thinking-- you know, not only responding to what Speaker Scheer said about making sure we're, we're considering the fiscal impact of bills. I think this is a much more reasonable approach for this bill, the \$2.5 million. We're also working on identifying funds-- cash funds that can offset the General Fund impact so it wouldn't be completely \$2.5 million from General Funds. It would be a mixture. But I believe this will, will, will be more amenable to the body. Also working on fixing an appropriation issue working that's mentioned in the Department of Labor's fiscal note that you may have seen making sure that there's some clarification on definitions so we can improve clarity of the bill. We're gonna improve the basic reporting requirements because I want to make sure that things get a return on their investment. We're also going to be working on including a cap to the grants so that more people can utilize it. So it's more competitive. I think that's all good. Sunset clause will also be included. I want to make sure that this is something that just doesn't live on. It's evaluated and somebody has to prove its worth and come back and it comes back to the vote of the body. I also wanted to make sure that this actually gets the participants that are the highest need in our state and these are individuals that qualify for

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free or reduced lunch or have received the Federal Pell Grant award, individuals that fit that requirement, students. As a member of the Appropriations Committee, I know our state's financial times have been tough. I recognize that. But I think it's important to make these upfront long-term investments in our young people and our future work force. This is gonna help us shore up revenue in the long-term when we are no longer here because of term limits and also provide us greater stability for Nebraska's financial future when people are working they're supplying our work force, they're creating more opportunities for themselves and their families and they're able to then sustain things. I know you've received a couple letters of support for LB667. There will also be people behind me testifying that could provide more concrete examples of what this can look like. The types of programs that we're hoping to encourage and grow with the YOLO Act. Only one other thing I want to add to this and I don't often say this and I've said this and some people know this but I was on the free and reduced lunch program growing up. I was a Pell Grant recipient. I'm the first in my family to go to college. I struggled mightily for a lot of different reasons when I went to college. And one of the things is a lot of these soft skills that we are looking for making sure people enter the work force are things that I myself struggled with. I was fortunate enough I had programs that helped me in the neighborhood in the city and the state that I grew up in that, that helped me to get to a place where I've been very successful. So I worked on all these things that we talked about in addition to hard skills to make sure that I can provide support and get a degree and then go into the work force and become a teacher. I cannot tell you enough, and if you haven't been exposed to programs that are working with youth that have struggled mightily in high school, how soft skills impact their long-term effectiveness. I know to some it seems like it's a very small thing. It's not about just time management. I'm talking about grit. I'm talking about hope. I'm talking about teamwork, problem solving, these things that we think are intangibles. If they don't exist and they're not there, they're not going to be applying it to their work force and that's what continues to keep people employed and, and getting into the work force. We need to figure out a way to then-- if it's not something present for every single student and they don't have it by the time they graduate. We've missed out. It is too late. That's why we have to start it as early as humanly possible. So with that, I just appreciate the committee for listening to me. And will welcome any questions that you have that I can answer. And if one

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of the people behind me that is testifying in support hopefully they'll be able to answer questions I cannot. Thank you.

**M. HANSEN:** Thank you, Senator Vargas. Are there questions? Senator Crawford.

**CRAWFORD:** Thank you, Chairman Hansen. And thank you, Senator Vargas, for bringing this bill. Just wanting to clarify the-- and understand the link between the job training and then job placement. I think the bill says perhaps that entities that would provide the placement will get priority. If you want to elaborate on what you see as the connection between this job training, training and then job placement?

**VARGAS:** So I want to make sure we're converting as many of these-- we're converting as many of the individuals that are getting some type of soft skills into job placement. So I think it's important that we are giving some sort of a preference to entities that are trying to close that gap. So it's not just giving them soft skills and training but we're actually then doing everything we can to then place them into jobs that exist. So that's why we included that.

**CRAWFORD:** Thank you.

**M. HANSEN:** Thank you, Senator Crawford. Any other questions?

**B. HANSEN:** One.

**M. HANSEN:** Senator Hansen.

**B. HANSEN:** Senator Vargas, I, I agree a lot with you that these soft skills are very important. I think sometimes they're underrated about how to dress, about how to talk, about how to balance a checkbook, about how to deal finances, grit-- you know, values. Do you feel right now that in our high school these are not being taught?

**VARGAS:** Ooh, that's a question. I, I-- and I'm gonna say this really lightly. I don't think it's being taught enough to the level that we need. And if that were the case we would see all of our students not only ready to enter the work force academically but also ready to enter the work force with the soft skills needed. It's not saying that it's not happening. There are additional factors that impact why this might not be happening. I can just speak from my own self like my parents were both working parents they were-- worked two different jobs for most of my life and weren't necessarily always present but they made sure that I did all my work and were present to support me.

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But in in some scenarios, I didn't have as much time to then focus on some of these soft skills. They were just trying to make sure that I was-- you know, surviving and doing everything I need to do. I think there's intangible impacts of poverty that impact a lot of the communities we're talking about and individuals. I also think that teachers are really focusing on making sure that they're learning reading, writing, and math, and science, and more of the emphasis on making sure that we are getting the core subject competency areas in the classroom. I do think-- and I know this for a fact from being on the Omaha Public School Board previously, school districts are focusing on trying to implement these types of competencies and values and soft skills into their-- what they do on a daily level. Amazing teachers do it every single day. But there is more that's needed when we have students that are really facing traumatic real-life problems and we need to do more, not less for them. So I think it's not happening to the folks that it should be. We need to do more. This is why I think programs like this will then help supplement what we're not seeing to the full extent in our classrooms.

**B. HANSEN:** Thank you.

**M. HANSEN:** Thank you, Senator Hansen. Seeing no other questions, thank you for your introduction, Senator Vargas.

**VARGAS:** Thank you very much.

**M. HANSEN:** All right. And we'll move on to proponent testimony for LB667. Taking our first proponent testifier. Seeing-- OK.

**SUSAN MARTIN:** Good afternoon,--

**M. HANSEN:** Welcome.

**SUSAN MARTIN:** Senator Hansen and the members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n. I'm the president of the Nebraska State AFL-CIO testifying in support of LB667. So developing strategies to increase the number of young adults who are career ready with labor market values aligns with our organization's mission and programs. We are committed to statewide enhancement of any type of career education because it creates multiple pathways to real world job skills and economic prosperity. It is our responsibility to maintain and enhance our work force and provide these options to our young people forging a new path to life. We need to coordinate and align so we can create good sustaining

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middle-class jobs. A quote from AFL-CIO Secretary-Treasurer Liz Shuler, she says: work force development is a bridge, a bridge to our future, to the workers, jobs and technology of tomorrow, to our success as individuals and industries, and to our competitiveness as a nation. We believe that adopt the Youth Opportunities in Learning and Occupations Act will benefit Nebraska youth and young adults in the following areas: development and application of career readiness skills, allow a smooth transi-- transition into the Nebraska work force, retain and keep employees in good, economic supporting Nebraska jobs as well as benefiting Nebraska businesses. Not all youth and young adults have access to a college education. By passing this Act it will increase not only their opportunities but benefit Nebraska's employers. It's time to invest in our young workers and provide them with an option for their future. And I thank Senator Vargas for introducing this legislation.

**M. HANSEN:** All right. Thank you. Any questions from the committee? Seeing none, thank you for your testimony.

**SUSAN MARTIN:** Thank you for your time.

**M. HANSEN:** All right. Welcome.

**COLBY COASH:** Thank you, Senator Hansen, members of the Business and Labor Committee. My name is Colby Coash. I'm the associate executive director for the Nebraska Association of School Boards and we're pleased to come in here and support LB667. And I am-- have been asked to put on the record and it was put on the testifying sheet that the Nebraska Council of School Administrators, the Nebraska State Education Association, and Stand for Schools is also in support of this bill and my testimony reflects some, some of their thoughts as well. A little bit of background on this concept and how school board associations, in particular, have been engaged in this issue. Over the past couple of years as we've engaged school board members across the state in areas of interest, one of the top two things that popped to priority happened to have been teen and youth employment and partnerships with local businesses around those areas. And I think that's pretty telling. But then when I backed up and thought about it, it made a lot of sense, school board members across the state are also the business leaders in those communities. They're also the managers and the businesses. They are in the work force as well serving on their local school boards and they've seen the kind of skills that youth are coming to and coming to them with and, and seeing some opportunities for growth in, in that regard. As elected officials and

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community leaders those school board members have been on the frontlines in their community and school advocacy. And those board members are not only, as I said, engaged in education but they're working in those businesses and their perspective is probably is what-- why they've engaged in bills and outcomes that LB667 is attempting to achieve. Job, job opportunities for youth across the state are viewed as a key factor not only-- to not only enhance student success but the vitality of the community where they educate their students. And so school board members have realized they also inherit power of partnerships with nonprofits in the business community. And it really does align with the Association's focus on, on title business and education partnerships and collaborative services to youth. And so we appreciate that Senator Vargas has brought this bill because school board members feel that their engagement as not only community leaders but education leaders, this is a good partnership. We wanted to be on record that this is an issue that they see and they want to engage in this and we appreciate Senator Vargas bringing this so that it can be the priority of the Legislature as well. Thank you.

**M. HANSEN:** Thank you. Any questions from the committee?

**B. HANSEN:** I've got one.

**M. HANSEN:** Yes, Senator Hansen.

**B. HANSEN:** I think this goes back to my previous question I asked Senator Vargas is, maybe I'm outdated, I shouldn't be, but when we were in high school we had home ec class.

**COLBY COASH:** Right.

**B. HANSEN:** And so I thought the purpose of some of these classes that we got in high school was to teach a lot of these life skills about some of the stuff that's, that's pertinent to this bill. And so do we feel like the school, the, the Association of the School Board or the NSEA, that they feel like we're not getting this in high school or if it's they're not being taught like they should be or they just need more of it? Or maybe why don't-- or why aren't we doing this in high school or in the school level instead of spending money to, to, to do this on outside of high schools? So I'm just trying to figure out--

**COLBY COASH:** Well, I think--

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**B. HANSEN:** --where we're missing this, this aspect.

**COLBY COASH:** Sure. So I think what this bill is trying to do is kind of bridge that gap between what is currently happening in schools and what's happening out in the business world and trying to connect those two. There's some things that if you talk to school board members and educators you really-- we can't help. Students are busy and they're not working as much as they used to be. They're in activities five nights a week and it's really inhibiting a lot of their ability to get into the work force and work with employers. This might be a bridge to that. If you look at the compendium of what's being taught in schools, what you have-- will find is that less and less of the home ecs and more and more of, of, of other things-- science, reading, things that tend to, tend to get more focus have squeezed out things like the home ec. There's less home ec happening today than there was 10 and even the last 20 years ago. So we view this as kind of a bridge to that. And certainly school board members see their role as bridging that because again they're not only in the-- advocating for education but they're advocating on behalf of their businesses and their community.

**B. HANSEN:** I think I just-- so then why don't we get rid of one of those other classes and concentrate more on this then instead. If we find that this is such a pertinent ability to learn that makes them successful growing people not for business Nebraska but for just them-- just individually. And it's so important. Why aren't we doing more of this than in the school system instead of just-- instead of-- you know, incentivizing.

**COLBY COASH:** Sure. Well, there's always-- there's only so many hours in the school day.

**B. HANSEN:** OK.

**COLBY COASH:** --and, and things keep getting squeezed out.

**B. HANSEN:** [INAUDIBLE]

**COLBY COASH:** Yeah.

**B. HANSEN:** OK. Thank you.

**M. HANSEN:** Thank you, Senator Hansen. Any other questions? Senator Halloran.

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**HALLORAN:** Thank you, Chairman Hansen. Hello, Senator.

**COLBY COASH:** Hello, Senator.

**HALLORAN:** Good to see you again. I'm, I'm probably not the one to speak about soft skills because I'm sure many people would say I'm lacking in some of those but, but aren't soft skills-- I'm trying to phrase this into a question because I know we need to ask questions, but aren't life skills or soft skills something that we learn gradually over time. I've sat in the back of classrooms all across my district and have watched very good teachers keep decorum in the class and show their students how to act properly with each other and with the teacher. And it strikes me-- don't you-- do you, do you believe it's something you learn over somewhat of a lifetime from K-12? And if we aren't successful at doing that K-12, then to Senator Hansen's point, why aren't we? And I know curriculums are busy and I know there's extracurricular activities but it seems like it should. If it's a priority per this bill, it-- shouldn't it be a priority in the classrooms?

**COLBY COASH:** I do, Senator. With regard to those soft skills, to answer your question, they are important and they're important in the employment context. It's really hard to teach how to behave in a job when you're sitting in a classroom. And so I think what this bill is attempting to do is bridge-- to, to teach those soft skills in the environment in which you're going to use them. And the environment in which these soft skills should be put to work is in the work force. And to the extent that schools can partner with businesses to teach those skills within the environment where that student's gonna use them it benefits the businesses who will be the future employers but it benefits those students as well.

**M. HANSEN:** All right. Any other questions from the committee? Seeing none, thank you for your testimony.

**COLBY COASH:** Thank you.

**M. HANSEN:** All right. Any other proponents for LB667? Seeing none, anybody wishing to testify opposed to LB667? Seeing none, anybody wishing to testify in the neutral capacity for LB667? Seeing none, Senator Vargas, would you like to close?

**VARGAS:** Colleagues, I really appreciate you taking the time to listen on this bill. Maybe just a couple of reactions which I think is a

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great conversation and good questions. As somebody that served on the school board in the past, I'll, I'll be the first to tell you that I, I think that there's always more that we can do with any of our public systems. One of the reasons why I introduced this is because I think-- and, you're, you're raising a great question, Senator Hansen-- Senator Ben Hansen.

**B. HANSEN:** The distinction. Thank you for that.

**VARGAS:** Hey, you're welcome. Twins over here. So this, this-- maybe I, I don't view this as entirely black and white. And I know schools that I've talked to at least, at least the school that I've experienced with the Omaha Public Schools believe it's their responsibility to make sure that our kids are entering the work force as best as they can. The data doesn't support we're there yet. And I think what we've been seeing over the last-- over decades is just been more of an internal focus within school districts to make sure our students are ready. I think we've seen that as a result of some increased testing and accountability. I think we've seen that with increased standards in our schools with better strategic planning, with better resource allocation to make sure more of the funds are going to making sure kids are coming out and being able to read, write, and have some skills in math and science. We're not where we need to be yet. So I think more schools are doubling down on those things. I think the unintended consequences, it means there's less time on some more of these soft skills that we see. They are weaved in so it's not completely absent. But that's why I actually introduced this bill. When I was reviewing and, and thinking through my own personal experiences working in the classroom with students and how much I was weaving it in and how little time there was during the school day. And then when I think about all the opportunities I had outside working with different organizations or entities that were really focusing on improving these. And then even in my time-- been in the nonprofit sector for the last ten years professionally seeing different agencies that do this and the ground work, College Possible, Avenue Scholars, Completely KIDS, they're really trying to make sure that they're catching them as early as possible. And what I think is they're trying to compound on what is already existing within the classroom and I, and I guarantee you if you talk to any school board member, that at least I've talked to, they recognize that there's more that the school system needs to do themselves. And you'll see it written into their strategic plan that this is a line item improvement that they need to do which is improving, and I don't like even calling it soft skills, I

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like calling it to some extent like value competencies. Right? That that is something that they are focused on. But what we're seeing is that the-- so as, as-- is now Chair, former Vice Chair of the Legislature's Planning Committee, we're seeing a change in our demographics and we need to prepare for it. I think this is one step towards that. More individuals-- we're having more individuals that are coming from poverty. Fewer people are actually ready to enter the work force which means that there's more people that are on Medicaid. I represent one of the largest Medicaid populations in the state of Nebraska in my district. I want to make sure more of these individuals are ready to enter the work force as soon as possible. And I don't want one of these things holding them back or to be some of these skills. And we need to figure out a way to compound and make sure they're prepared as possible. The demographics are continuing to move in this direction. If we don't get wise we're going to continue to see-- yes, we have a high unemployment-- we have a, a high employment rate. When you look at the numbers, we're seeing more individuals that are in-- you know, have two or more jobs. They're essentially the working poor. They are working 60-plus hours a week and are not able to sustain themselves and their family. That long-term impact on our state government is felt. And if we don't do something ahead of time we're in for a world of hurt. And I really think programs like this are one piece of a bigger puzzle to make sure that we're doing everything we can to incentivize, not require, programs are gonna to help people into the work force as soon as possible. Thank you.

**M. HANSEN:** Thank you, Senator Vargas. Any questions from the committee? Seeing none, thank you for introducing your bill. Before we close the hearing on LB667, I have four letters for the record. A letter of support from Peg O'Dea Lippert with the National Association of Social Workers; letter of support from Jenni Benson in the Nebraska State Education Association; a letter of support from Ann Hunter-Pirtle of Stand for Schools; and a letter of support from Penny Parker and Completely KIDS. And with that, we'll close the hearing on LB667. And we'll move on to our next bill which is Senator McCollister's. So welcome on up. Go ahead.

**McCOLLISTER:** Good afternoon, Chairman Hansen and members of the committee. I am John, J-o-h-n, McCollister, M-c-C-o-l-l-i-s-t-e-r, and I represent the 20th Legislative District in Omaha. Today I'm introducing LB254. This bill was first introduced as LB420 in 2017. Those of you who are members of this committee then may remember that LB420 was advanced to the General File and remained there throughout

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the 2018 Session. LB254 would create the Fair Chance Hiring Act and prohibit most employers from inquiring at the time of application into an applicant's criminal history. This type of law has been introduced in many other states and is commonly referred to as ban-the-box law to ban the checkbox in the job application that ask about a prior criminal record. According to the EEOC, over 150 cities and counties in 33 states and the District of Columbia have adopted a version of ban-the-box legislation. And these numbers continue to increase. Under current Nebraska law, most public bodies are already prohibited from inquiring about a criminal history at the time of application. This change was made by the Legislature in 2014. LB254 only affects employers with more than 15 employees. Smaller employers or small family businesses are excluded. This 15 employee distinction exists in several other areas of employment law, for example, in antidiscrimination laws. Additionally, other-- larger employers are more likely to have standard paper or on-line application forms that can be easily amended to accommodate this bill. Some categories of employers would be exempt. These include law enforcement or entities that work closely with law enforcement as well as schools and daycare providers. The new language on page 4, lines 2 through 4, represent an amendment language I offered in 2017, 2017 which this committee adopted to include private denominational or parochial schools on the list of exempt employers with regard to an applicant's history of sexual or physical abuse. LB254 would not completely prohibit an employer from inquiring into an applicant's criminal history but would simply bar this inquiry on the initial application. This would allow an applicant who may have made a mistake in his or her past to at least get a foot in the door to meet with a potential employer. LB254 would provide exemptions for jobs which a criminal history is a disqualifier under other state or federal law. For example, think of a history of a conviction for a bank or embezzlement as an allowable disqual-- disqualifier for a candidate for a bank job that requires a state license. LB254 would require a prospective employer to evaluate a job applicant's qualifications without an initial inquiry about the applicant's history of criminal violations. This would eliminate any tendency to prejudge a job applicant based on a criminal record. In effect, it would remove criminal history from a disqualifying impact if the applicant is otherwise qualified for the job. I suspect many of you who have constituents who have told you they have a criminal record and ask about how to get a pardon or a set aside order or a similar remedy that would let them move on and begin again after they have served their sentences. LB254 would create a more positive and

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hopefully more successful pathway to employment for these employees.  
Thank you, Mr. Chairman.

**M. HANSEN:** Thank you, Senator McCollister. Any questions from the committee? Seeing none, we'll move on to proponent testimony.

**McCOLLISTER:** Fair enough.

**GEORGE DUNGAN:** Good afternoon, Senators.

**M. HANSEN:** Welcome.

**GEORGE DUNGAN:** My name is George Dungan, D-u-n-g-a-n. I'm here today as a proponent of LB254 on behalf of the Lancaster County Public Defender's Office. I'm here today in support of this bill for a number of reasons. LB254, the Fair Chance Hiring Act serves as a crucial component in the furtherance of the stated goals of this Legislature by reducing recidivism, providing individuals with the ability to further their rehabilitation and by fully committing to the notion that every individual actually deserves the dignity of being judged for who they are and not necessarily what they've done. First, this bill provides an opportunity to reduce barriers for people with a criminal history to obtain employment. Research has suggested unemployment has a direct effect on recidivism rates and that a criminal history can directly affect the chances that a formerly incarcerated person will obtain employment. In my time as a public defender, I've seen this exact problem where an individual has lost employment for charges that they were not even found guilty of or currently have on their record. I've seen countless people unable to obtain employment due to past criminal charges from years past. LB605, the major overhaul of our criminal laws that was passed in 2015 specifically states in its intention that its statement of intent was designed to slow Nebraska's prison population growth, ease prison overcrowding and reinvest a portion of savings in strategies that reduce recidivism. This bill is a continuance of that goal and it furthers the interests of the state that it has in reducing recidivism for the economic benefit of our state as a whole. Second, this bill allows further opportunities for individuals with criminal history to further their own rehabilitation and reclaim some sense of autonomy in the process of that rehabilitation. Here in Lancaster County, for example, it's common for terms of probation, post-release supervision, and even bonds that are issued by the district court to have a requirement or a provision that requires an individual to obtain employment or seek employment. This bill clearly seeks to allow

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persons to demonstrate self-sufficiency and to reduce barriers to allowing those persons to then fulfill the obligations of the court orders and of other court programs that are existence-- in existence right now such as problem solving courts like Drug Court, Veterans Court, and other courts that seek to aid the rehabilitation of persons. Finally and crucially, the overarching result of this bill is that it restores the dignity and humanity to every person to be judged by the merits of who they are and not necessarily the past events they've done, devoid of context or a discussion of the rehabilitation and often the vast efforts that persons have made to change their circumstances. By requiring an employer to afford the applicant an opportunity to explain the information received from a criminal history check, it gives the-- gives a voice to persons who have made an effort to change their lives and it allows for crucial context to be provided before an employer makes a decision based purely on the past. There's a nun that I often quote, her name is Sister Helen Prejean, and she has a habit of saying that people are more than the worst thing they've ever done in their lives. And that's what it means to have the dignity of humanity. And, Senators, I think that this bill allows a person to have the dignity to speak for themselves rather than allowing their past to do so. Thank you.

**M. HANSEN:** All right. Thank you. Any questions from the committee?  
Senator Hansen.

**B. HANSEN:** I think as an owner of multiple businesses, I'm trying to figure how this lays out for the typical business owner. And this is for over 15 or under 15 employees?

**GEORGE DUNGAN:** Over 15.

**B. HANSEN:** OK. All right. So, so somebody comes in and applies and you are unable to do a background check until after you-- they've applied for it or before?

**GEORGE DUNGAN:** Correct. My understanding of the law is that upon the initial application for businesses that fall under--

**B. HANSEN:** So they come and get an application?

**GEORGE DUNGAN:** Correct. Then they apply and then they, they are prevented from asking about it at that juncture. OK. And later on if there's-- they fall into the certain qualifications then it can be disclosed. But if it is disclosed or if it's requested, that

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information, then the employer must provide an opportunity for that individual to come in. And I believe as the law specifically states, come in to explain the information and the circumstances regarding that conviction or other criminal history including the applicant's rehabilitation. So I think what is most crucial there is it gives them an ability to not only discuss the context of the actual criminal charges or the history providing background perhaps where they were at their point in life when, when that was occurring, whether they were homeless or dealing with addiction issues that they have since overcome. But it allows them to then give the employer further information regarding that rehabilitation they've since conducted allowing that employer to see not only that they're in a different place now but the steps they've taken to get themselves there and what they're gonna continue to do in the future. And so it does provide them that opportunity to actually explain themselves to that employer and I think that's crucial again to both allowing them the chance to get that employment but also to reclaiming the dignity in a time to let that person to be able to demonstrate their willingness to be self-sufficient moving forward.

**B. HANSEN:** OK. That no qualms with the intent of that-- you know, the bill, I'm just kind of figuring out how it lays out for a typical business owner.

**GEORGE DUNGAN:** Right.

**B. HANSEN:** So they-- do they have to do background checks on everyone applying then or is it just certain-- like because they--

**GEORGE DUNGAN:** Certain individuals that meet the qualifications through the statute.

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

**M. HANSEN:** All right. Thank you, Senator Hansen. Any other questions? Seeing none, thank you, Mr. Dungan.

**GEORGE DUNGAN:** Thank you.

**M. HANSEN:** All right. We will take our next proponent in LB254.

**SEAN MILLER:** Good afternoon.

**M. HANSEN:** Welcome.

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**SEAN MILLER:** My name is Sean Miller, S-e-a-n M-i-l-l-e-r, and I'm in support of LB254 simply because I've been adversely affected by the collateral consequences of my conviction. I've been in Nebraska for about nine years now. I'm married. Got two kids. I have a bachelor's degree and when I go applying for-- like the UPS, for example, I was denied that because of my employment. I actually tried to apply for a notary here in the state and I was denied that because of my, my record. Correctional officer, I tried to apply to be a corrections officer. I was denied that because of my record. I'm 38 years old, these convictions happened when I was 16. So to be frank it's kind of messing-- it's kind of putting a wrench in, in my marriage as well because I have to be subjected to low-paying wages and I have a bachelor's as, as a paralegal you know. And I care to work jobs that's more-- that pays more but I can't seem to get one. I can't even drive Uber at this point. I actually was denied that as well. So I would ask if you all would please vote yes for this bill because I know I'm not the only one that this affects. And as the last one-- person that said though is the recidivism rate. That's-- this is what causes it. You know, when people try to go through a good route and they get to a dead end-- you know, survival mode kicks in. So that's all I have. Thank you.

**M. HANSEN:** Thank you for your testimony. Hang on. Are there any questions from the committee?

**SEAN MILLER:** No.

**M. HANSEN:** All Right. Thank you for your testimony, Mr. Miller. All right. We'll take our next proponent for LB254.

**KAREN BELL-DANCY:** Good afternoon.

**M. HANSEN:** Welcome.

**KAREN BELL-DANCY:** I am Karen Bell-Dancy, K-a-r-e-n B-e-l-l hyphen D-a-n-c-y. I serve as executive director of the YWCA of Lincoln. I thank you for allowing testimony today. Committee members, the YWCA of Lincoln is dedicated to the elimination of racism and empowering women. Consequently, we consider it imperative that we express our support for LB254, the Fair Chance Hiring Act. We request this letter be included as part of the public hearing record and that our position of support of this bill be included in the committee statement. One of the YWCA of Lincoln signature program is our Job Outfitters program. In conjunction with Lincoln Goodwill and the American Job Center, Job

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Outfitters offers real world guidance for interviewing, on-line employment resources, money management, and job retention, as well as outfitting our clients for employment success. These services are all for naught if a qualified applicant is blocked from interviewing because they honestly answer a nonqualification related screening question on an application form. Additionally, it is not just the individual with the record who is negatively impacted by such restrictions. Their spouses, children, and communities suffer as well. Employers should also be concerned about making employment decisions based on an applicant's criminal record. As well as possibly eliminating the most qualified applicant, the Equal [Employment] Opportunity Commission, EEOC, has issued guidance suggesting that an employer's use of an individual's criminal history in making employment decisions may, in some instances, violate the prohibition against employment discrimination under Title VII of the Civil Rights Act of 1964 as amended. This guidance is, in part, based upon the fact that national data supports a finding that criminal record exclusions have a disparate impact based on race and national origin. LB254 addresses our concerns because it requires a prospective employer to evaluate a job applicant's qualifications without an initial inquiry about the applicant's history of criminal violations. This provides a second chance to an otherwise qualified candidate who has served their time. Naturally, LB254 provides exceptions for any positions for which under other state or federal laws criminal history is a disqualification. We thank Senator McCollister for introducing this bill, as well as the Business and Labor Committee for consideration. We respectfully request that you vote to advance this bill out of committee. Thank you.

**M. HANSEN:** Thank you. Senator Chambers has a question.

**CHAMBERS:** Maybe if I were President it would still be necessary to have a bill like this. But I would be able to look at people of my complexion and pardon them in the way that the current President is doing and he is pardoning some people who did some pretty horrible things.

**KAREN BELL-DANCY:** Yes.

**CHAMBERS:** There's one individual who was operating a meat-packing operation in Iowa. He was using underage children. He was using undocumented workers. The food being sold was contaminated. It was supposed to be kosher and it was not. There was a lengthy documentary about him on television and the President pardoned him. So in the

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realm or area of employment, that expression different strokes for different folks does obtain and we will never be in a position to have somebody who can pardon us no matter how pardon worthy we may be. So it would be good if the Legislature which is supposed to be representing everybody would at least put that opportunity out there to take the first step. If you're disqualified based on a question that you answered, a very competent individual may not have an opportunity to present himself or herself to a potential employer who if that employer had communed with would find somebody very capable of doing the job and having done something as the previous testifier was courageous enough to tell us about an offense committed more than half a lifetime ago. You can be as clean as a hound's tooth, that's an expression, from the rest of-- from that time until now. And for us they can say, we're not giving you a chance because of your record not your race. But we know it's race and the reason I'm saying this to you is because you are doing things that will bring you in contact with people who deserve a chance who if America is what it says it is trying to be great again. I don't know what they were doing when they were supposed to be great because what would be great in the mind of the one who is saying that I don't know if there would be great for us but I'm trying to get to, to this point. I hear a lot of talk about second chances which I agree with. I support. But there is still the undercurrent of racism which says second chances for everybody except--

**KAREN BELL-DANCY:** Right.

**CHAMBERS:** --there would be signs. All are invited but that all does not include you. So if we can have legislation like this it might cause some potential employers to review the steps they go through in determining whether to give somebody a chance to be successful. So I'm appreciative of the fact that you are testifying here today and you are in a position for what you do will lead you to actually provide people who need this opportunity, with the opportunity. So I'm glad that you came. Thank you.

**KAREN BELL-DANCY:** Um-hum. Thank you, Senator Chambers.

**M. HANSEN:** Yes, thank you, Senator Chambers. Any other questions from the committee? Seeing none, thank you for your testimony.

**KAREN BELL-DANCY:** Thank you.

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**M. HANSEN:** All right, we'll take our next proponent for LB254.

**JOHN KREJCI:** Good afternoon, Senators. I'm John Krejci, K-r-e-j-c-i. That's John with an h, and I come to testify in support of LB254. I always have my handout.

**M. HANSEN:** Hunter or Kaci. Thank you.

**JOHN KREJCI:** I want to thank Senator McCollister for introducing this. It follows up on the bill for banning the box on public employees. And now this expands it to the private sector. I've been working with inmate's prison reform for over 20 years and have some experience with the-- as Mr. Miller mentioned that-- you know, this problem it's, it's a-- if I could use a metaphor of this around building a wall. This is just-- the ban-the-box is just a small step. And you know, somebody gets out of prison they're like faced with the wall and this takes one of the bricks out. And, and programming takes another one, and housing another, and supervision. So we could just say to Director Frakes, you know, tear down this wall. I work also with-- not only with the Nebraskans for Peace but with Reentry Alliance of Nebraska. That's 35 agencies that work to help people when they get out of, get out of prison so that they can-- you know, find jobs, get housing, get programming, and whatnot. This is-- as I say, it's part of a bigger problem. I'm, I'm really interested in the whole prison reform and there's a lot. But this is one thing that-- you know, we, we can support. I worked with a man, he's 50 years old and he got out of prison after 20 years, five years in the hole in, in Tecumseh. He was afraid to walk two blocks to get a hamburger. He was afraid people would be looking at him. He didn't even know how to use a cell phone. And he went to-- you know, interview for jobs and-- you know, it was really-- it's really terrifying and he interviewed with Super Saver. They, they had their ban-the-box was, have you been convicted of a felony in the last seven years. Well, that was a little bit-- he hadn't but he still didn't get the job. What I'm really interested-- this is part of a whole-- and that op-ed that I appended to my testimony talks about-- you know, our prisons are really in terrible shape. You know, we've had riots and bad morale and overtime and fights and whatnot and they closed the yards down a few years ago. And what I really, really want to talk to you about is-- as this is part of it, we talked with Senator Lathrop a couple of days ago. The whole idea of the 2020 that we're supposed to release like 700 inmates and rather than doing that Frakes and the Governor are saying, let's build 384 new maximum security cells at the cost of \$45 million and not put

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as much energy into finding housing and, and employment for, for inmates. We're, we're really in a--in dire shape so I hope that when the Governor's budget comes up you'll look very closely at that \$45 million because that's to build-- we tried at Tecumseh to build our way out 20 years ago. Senator Chambers remembers that. We just couldn't stop them, could we? And, and the Lancaster County Jail, they're both full now. You know, if you keep doing the same thing and not succeeding that's kind of insanity. So I would hope that you put a lot of emphasis on doing something for the 700 people that should be get-- coming out in 2020 and stop that building. I know that's off the subject. But if it's tied to-- this is one brick, and that's, that's really the whole wall. I think that's probably all I have to, to say. If you have any questions-- as I said, that op-ed that I added, added to my testimony is kind of the big picture. So this is a little picture. This is one brick and that is maybe knocking the whole wall down. So thank you. Senator Hansen's my senator so-- University Place, you know. No offense, Senator Hansen. And, and we work a lot with Senator Lathrop for Judiciary. Thank you.

**M. HANSEN:** Thank you. Thank you, John. Questions from the committee? Senator Chambers.

**CHAMBERS:** Mr. Krejci, I'm not going to mention how far back we go.

**JOHN KREJCI:** We're the same age. [LAUGHTER] In 1966, I was in your barbershop and you were telling me what I should do.

**CHAMBERS:** I didn't realize that anybody walking around and talking was my age. [LAUGHTER] But at any rate, I'm aware of the efforts you've been putting forth for decades and I appreciate it. And I think you're well aware of the fact that I never throw anybody away no matter what they may have done at some point in their life. But there is racism in the way that our children are treated, for example. And Senator Ashford did this while he was here. I wish he had never done it. He made it possible for children who commit-- I should say engage in conduct that was considered student misbehavior to now be put into the justice system as it's called and put into detention. Although black people don't make up anywhere near 50 percent of the population of Omaha, sometimes more than 80 percent of the children who are locked up in the juvenile center are black and they're for things that white children are not locked up for. And white children who do things that perhaps they should be locked up for are not. And when some issues come to the floor of the Legislature, I will give people articles, but there was one very recently where a white kid who shot a deputy, shot

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the deputy, not shot at, he was given probation. There are other things like that. So I have a very sour attitude toward these people who say they want to get tough on crime because they don't mean the crime in their own houses. When their children are caught with drugs, they want that child not to be locked up. They want that child to be given treatment. And before the opioid crisis the people who were afflicted with drug habits and did things to support those habits were called dope fiends or horrible people. And it was on the basis of drug crimes that this misguided, heavy sentencing occurred even in Nebraska. But as soon as they found out that it was happening to white children, they said-- and there's a commercial, your addiction is a disease. The things you do have a basis rooted in addiction and that's what we need to treat. Not try to arrest our way out of it. And this is why-- and white people don't care what happens to the black people when they say, black people must commit more crimes because more of them are in prison. White people don't go to prison for the same thing. When it becomes a problem in a white community, it's something that needs treatment. And there are more white people addicted to drugs and committing drug crimes than black people because there are more white people. And I can show where I've fought against those heavy sentences decades ago and Chris Abboud was one of the senators who led in it. Former Attorney General Don Stenberg, Democratic Governor Ben Nelson and I held them off on some of those atrocious bills they tried to get done in Nebraska. I'm saying it for the record here and to somebody who was aware of the work that I've done and can call me down as a liar if what I'm saying is not true. And with prisons all over the world they're finding out that if you build them they will be filled. It's not like this in Europe. As a matter of fact a life sentence in Europe doesn't mean even a life sentence. And in Germany they believe that after a certain number of years have been served the person probably is suitable to be released into society. And I think there is such a harsh attitude in this country because those who are in Legislatures and other places have lived such a raggedy life themselves that they're seeing people not as those people are but as they themselves are. So when I see people who are always eager to punish others harshly their life will not bear looking into. Just one other point. There's a man who is Governor and he has a father who doesn't want to live in Nebraska and has a residence in another state because he doesn't want to pay Nebraska taxes. He owns a very big business called Ameritrade and he owns the Chicago Cubs and he used TIF financing for Ameritrade, his big building in Omaha which was not blighted. He had the money to pay for it in his watch pocket but he got taxpayer money to do it. Then he moved to Wyoming or

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Montana, so he doesn't have to pay Nebraska taxes. Those are the kind of white people who put laws on the books to punish others and those laws would turn around and bite them if they were properly applied. And I say what I say in front of everybody because I want them to know what I'm saying, what they're gonna deal with in the Legislature. The kind of issues that I will fight for and to let people know that if they have no place else to turn, I'm not a miracle worker but I'm not gonna turn anybody away because of what they may be accused of having done, what they may actually have done. So if we could get that idea across-- see what these so-called Christians say they believe is not-- all of it's not bad. The idea of doing to others what you want done to you. Give the second chances, then I might look into religion. But right now I would have to lower my standards to join any religion that I know and I used you because you wouldn't feel I was attacking you by saying these things. So thank you for giving me this opportunity. And I haven't said anything else during the hearing so I haven't taken more time then when you spread it out others have done. So that's all I have.

**JOHN KREJCI:** Thank you, Senator.

**M. HANSEN:** Thank you, Senator Chambers. Any other questions from the committee? Seeing none, thank you, Mr. Krejci.

**JOHN KREJCI:** Thank you.

**M. HANSEN:** All right. Any other proponents for LB254? Go ahead.

**SPIKE EICKHOLT:** Thank you. Good afternoon, Sen-- Chairman Hansen and members of the Business and Labor Committee. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska in support of LB254. I want to thank Senator McCollister-- we want to thank Senator McCollister for introducing this bill. You've got a copy my written statement so I'm not going to read from it and you've really heard both from Senator McCollister and the other proponents what the bill does. I'll just summarize my statement generally. One of the lowest-- the most-- how do I say this? The common denominator for someone not likely to reoffend when they leave jail or prison is employment. That is the most likely indicator whether someone's gonna return to the criminal justice system. A job-- full-time job particularly means that person is that much less likely to reoffend. I've got a study from Chicago cited in my statement. You can see that, that the trend is clear. This bill does not require private employers to hire people with records. It simply bans the box

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and to state the simplicity of it for employers with 15 employees or more their standard whether it's a written application or an on-line application they cannot ask about that person's criminal record at the initial interview or the initial application part. So long as that applicant meets the minimum qualifications-- and the example I was thinking of an us sitting in the audience, say you've got a law firm that's got at least 15 other employees and they're hiring a paralegal full-time, that qualifications for that example would be the ability to type, perhaps the ability to know justice, some knowledge about legal requirements and you can't ask about the-- that person's prior record. If they don't have that requisite training-- if they don't know anything about legal documents or don't know how justice system works, whether they have a record or not doesn't matter. But if they have those qualifications they at least get to the door. They at least get a chance to be interviewed or further considered for that job. And that's what this asks for. It's a reasonable proposal in our opinion because it only applies to employers with 15 or more employees. It doesn't apply to the smaller businesses, the home-based businesses, or that sort of thing. It excludes those applications-- or those positions in which a criminal record is required or dispositive whether someone is hired, agencies that work closely with law enforcement and that sort of thing. And even if a person does have a record and they meet that first sort of hurdle or that first stage they need not necessarily be hired. They at least need to be considered. And to answer maybe what Senator Ben Hansen asked before, if a person meets those qualifications, the employer then can acquire and do a criminal history check. If that person has a record, all the bill requires is that person at least contact that applicant and the applicant has an opportunity to explain him or herself. And that's what's meant-- and I think that's why the bill called a Fair Chance Hiring Act. It just gives a chance to have someone have a fair chance at a job. You know, we've heard from some people who struggle. When you look at someone and you see they've got a record, all of us kind of have a mental image of what that person may have done. What that person is. What that person sort of is like. I suspect when you went door-to-door in your districts when you were running you may have contact with somebody when you ask for their vote and they may have told you about a felony conviction. And that may have been surprising to you. You may not have realized that when you were first talking to that person because you didn't know. And until you sort of know that many times you can't tell just from looking at somebody with a record. It's like-- you know, when you see it on paper it looks altogether different in many respects. We would support the bill. We think it's a

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good proposal. We'd urge the committee to advance it to the floor. It doesn't have a fiscal note. And one other thing, we've had this bill or this law on the books since 2014 and public employers and we would argue it's gone well. There's been no efforts to repeal that or amend that since it was introduced and passed by the Legislature five years ago. Thank you.

**M. HANSEN:** Thank you, Mr. Eickholt. Senator Chambers.

**CHAMBERS:** Mr. Eickholt, are you aware of the fact that in certain states if a person has committed a felony he or she cannot be allowed to practice law?

**SPIKE EICKHOLT:** Yes.

**CHAMBERS:** Are you familiar with a person who did commit crimes at least he was convicted? And while in prison he studied the law, wrote briefs, handled cases for inmates that won Supreme Court decisions and altered the course of American justice. And when he got out somebody gave him a chance and he's now a renowned professor at one of the most distinguished law schools in the country. Had he not been given that chance, all of that which he knew and could contribute to the law would have ended ironically when he left prison.

**SPIKE EICKHOLT:** That's right.

**CHAMBERS:** And prison is where he gained it. So I'm not sure of this-- do you know whether Nebraska allows a person who has been convicted of a felony to practice law?

**SPIKE EICKHOLT:** I don't know of a felony conviction. I would say probably it does automatically bar someone from practicing law. I'm not certain of that I should say. It certainly would be something you have to disclose if you're applying to sit for the bar just to be licensed. I think I know someone who may have actually been convicted of a felony who does still practice so perhaps it is not an automatic bar.

**CHAMBERS:** And I know some people who are now practicing law and if that-- if their conduct were known they would be barred based on that.

**SPIKE EICKHOLT:** That's right.

**CHAMBERS:** But that's all that I, that I had. Wanted to point out that this person at least was given a second chance. It has benefited the

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whole law. He teaches law students and people are not-- well, that's all I'll say. Thank you.

**M. HANSEN:** Thank you, Senator Chambers. Any other questions?

**B. HANSEN:** I've got a question.

**M. HANSEN:** Yes, Senator Hansen.

**B. HANSEN:** Maybe just a little more clarifi-- you already clarified some of that stuff from before. But from an employer standpoint-- so somebody comes in and they apply for a job. How do you tell if they haven't ran a background check on them beforehand?

**SPIKE EICKHOLT:** If they, it they have?

**B. HANSEN:** Yeah, because I think the whole point is to not to-- you can't run a background check and tell them before or after they turn the application? I think that's where I'm confused.

**SPIKE EICKHOLT:** Well, I don't know if that does anything necessarily in the bill or even anything in law prohibiting an employer from running a background check on everyone that calls about a job or even applies for a job with--

**B. HANSEN:** OK. That's OK. That's fine.

**SPIKE EICKHOLT:** I mean if you, if you want to-- those background checks cost money. I suppose if every employer wants to do that all the time you could just do that. I suspect that's not done as a matter of practice. This bill would prohibit an employer from asking about-- inquiring about a person's criminal history check and by inference I think that would also include being-- running a criminal history check on them without asking them.

**B. HANSEN:** OK. All right. Yeah, that's where I'm confused [INAUDIBLE].

**SPIKE EICKHOLT:** I mean that would sort of defeat the purpose of the law. But at least narrowly construed it doesn't-- I think it does actually prohibit employers from doing a background check because that would just be-- it would nullify the purpose of the law. You could always-- even with the bill if you look on page 4, lines 12 through 15 of the bill. The bill says that, this section-- meaning this was being amended here, does not prevent an employer from conducting a criminal history check after the employer has determined that the applicant

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meets the minimum employment qualifications. So if the person sort of gets in the door-- if the person has what the qualifications that you're looking for to hire that person, then you can do a background check. If something comes up on him, you have to give that applicant an opportunity to explain.

**B. HANSEN:** OK.

**SPIKE EICKHOLT:** And explain what's changed since then. Here's what I've done since then. I was-- for instance, I was-- I'm sober now. I wasn't sober then, that was ten years ago. Here's what I done with my life. It gives them a chance to explain themselves. As opposed to what, what happens all too often now. They check that box. They don't even consider them.

**B. HANSEN:** OK.

**M. HANSEN:** Thank you, Senator Hansen. Senator Halloran.

**HALLORAN:** Thank you, Chairman Hansen. Appreciate your testimony. As-- I'm gonna try to phrase this and work it into a question. So there's no question about me asking no question. But having owned and managed restaurants, I rarely gave a second interview. I would give an interview for a number of applicants and then I would review those privately with-- you know, I would look through those interviews and make a judgment on which one I thought was the best applicant. So I rarely gave a second interview in which I could ask the question whether someone had a previous conviction for example. And let me preface this by saying that-- and I'm not sure if anyone else in this room has ever done this, but I have, I have employed employees on work release programs. Just as an understanding that it did not bother me to have people with a record. But I look out for the well-being of the other employees that I have. So for example, just like it's excluded for schools and it probably should be in regard to someone having a criminal record for history relating to sexual or physical abuse. My employees are under my safeguard at some level of making sure that they work in a safe environment. And so my-- I guess my question is how do I maintain that safe environment for my employees if I don't do a second interview and ask the question and I can't-- I can't afford a background check on everybody? They are quite expensive.

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**SPIKE EICKHOLT:** So I think what you're saying is as an employer is this going to cause you to have more second and third interviews. Is that--

**HALLORAN:** No. As an employer I probably, in my business, I probably won't give a second interview.

**SPIKE EICKHOLT:** I see. OK.

**HALLORAN:** First impressions are lasting impressions. I'll, I'll look at the first interview and say good, bad, and not so good. I might interview five, ten people. So I won't give a second interview typically and ask the question if they had a previous conviction. And my question is how do I safeguard the rest of my employees in the event that someone applies, gives me a very good first impression, does a terrific interview, and it turns out that he had a conviction for physical abuse or sexual harassment or sexual abuse. How do I safeguard the rest of my employees in that situation?

**SPIKE EICKHOLT:** I understand. I think I understand the question. I mean, one answer is, is that if you're not doing a background check now then that's a risk perhaps that you are assuming to a certain extent. I don't say that dismissively. Even with a prior record, even with a prior conviction, even for something that sounds bad that's not necessarily indicative or descriptive or predictive of what someone's gonna on down the road. It's not always a good measure. Even if somebody has an assault conviction, it could be a bar fight when the person used to drink. They're sober now. You know, the, the act-- the assault of act was related to the person's drinking. They're not drinking. That's one possible explanation. I don't know that anyone ever has any guarantees what someone's going to do. And I understand it's a valid concern but I don't know if the bill is going to remedy or fix that risk. That might just exist. I understand the concern but I don't know that the bill is necessarily going to-- either if the bill passes or not, is really gonna address that specific issue of what could happen.

**HALLORAN:** OK. Thank you.

**M. HANSEN:** Thank you, Senator Halloran. Any other questions? Senator Lathrop.

**LATHROP:** Just to be clear. Basically what this says is that if whether, whether I'm applying for a job at a fast food place or any

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other employer with 15 or more employees, the initial process-- you can't have a box on there that says have you ever been convicted of a felony.

**SPIKE EICKHOLT:** That's right.

**LATHROP:** After that-- as soon as I come in for an interview you can go, well, you know, have you ever worked at another fast food place before, Lathrop? And, yeah, I did. You know, I've got 20 years in the fast food industry. Ever been convicted of a crime? Yes. It just allows that person to get in the door and have the first interview.

**SPIKE EICKHOLT:** That's right.

**LATHROP:** It doesn't stop any employer from asking the question once they come in.

**SPIKE EICKHOLT:** That's exactly right.

**LATHROP:** It's just on the-- literally on the application whether that's on-line or, or on paper.

**SPIKE EICKHOLT:** That's right.

**LATHROP:** People will still do that.

**SPIKE EICKHOLT:** That's exactly right.

**LATHROP:** Thank you.

**HALLORAN:** Thank you. That helps clarify.

**M. HANSEN:** Thank you, Senator Lathrop.

**CHAMBERS:** Just to, just to put a cherry on top of that. I think with what Senator-- I don't know if he wants me to repeat his name, but Senator Halloran what he was talking about, in certain sensitive jobs whether a person has a conviction or not due, due diligence they require inquiry into the background of the people that you're going to hire. So I hope nobody gets the idea that the aim of this job-- this bill is to lower the standards that would be required for the job and prohibit an employer or potential employer from exercising due diligence. The failure to do that could lead to liability if something did happen which an employer could have discovered may happen during an interview process. It's only to let the person into the door. If

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they have that box and the person does not check it, then further down the line the failure to check it can lead to being kicked out. If you're not required to check it, it just means that you're now in the interview room and whatever way the interview is conducted, provided it's not blatantly discriminatory like gender or religion or whatever those things that are prohibited, I think that one with the record would be subject to that kind of scrutiny and in fact should be just like I would-- well, no, don't scrutinize them like you'd scrutinize me. I think that the employer would be protected.

**M. HANSEN:** Thank you, Senator Chambers. All right. Seeing no other questions, thank you, Mr. Eickholt.

**MARGE SCHLITT:** Good afternoon, Senators. I'm Marge Schlitt, M-a-r-g-e S-c-h-l-i-t-t. I'm not here representing anybody but myself in my experience. I am active in Nebraskans for Peace, Reentry of Alliance Nebraska, and other organizations. I've been a volunteer in prisons for 30 years. I started in New York State when my husband and I lived there for 15 years. And this issue was big time on the screen in New York then, 15, 20 years ago. Since then Nebraska has been closing prison-- I mean New York has been closing prisons. Not just because of this bill, there are other reasons. But they-- it is one baby step toward our long-term goal of helping people who want to be rehabilitated, to get their jobs, to live normal lives in the community. I've known and an awful lot of people who are currently in prison or have been in prison who desperately want good jobs. They desperately want to be a good person in the community. They've learned their lesson. They really want to go on-- go home and they need to be encouraged. I'm glad Senator Chambers brought up the issue of Shon Hopwood, the bank robber from David City. I got to meet him when he was here in Nebraska last fall and he was a very impressive young man. He worked very hard to get where he is now. He worked extremely hard and he was lucky he had good breaks. But it was-- he is actually-- because he had some luck and some hard work, he is where he is now as a professor at Georgetown Law School. This is an issue that I've cared about for a long time and I really hope that we can expand it from just employees of government to employees of all businesses. I wish it was not an issue that we even had to have a law on. I wish it was something that people would just do because it's the right thing to do. That's all. I'm finished.

**M. HANSEN:** Thank you, Ms. Schlitt. Any questions from the committee?

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**MARGE SCHLITT:** Thank you.

**M. HANSEN:** Seeing none, thank you for your testimony. Are there any other proponents to LB254?

**SUSAN MARTIN:** Good afternoon again, Senator Hansen and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, and I am testifying in support of LB254 on behalf of the Nebraska State AFL-CIO. We believe that labor has a responsibility to help the formerly incarcerated re-- reintegrate into the economy. The more than 600,000 people released from prison each year face hurdles to rebuilding their lives and livelihoods. Various state and local policies prevent them from voting, from obtaining student loans, and receiving public benefits, and other services. They have very few opportunities for advanced education, job training, or good jobs, and they desperately need labor protections. We know that education, healthcare, and fair pay are the three fundamentals that reduce or prevent individuals from becoming a part of the criminal justice system. The Nebraska State AFL-CIO actively supports criminal justice reforms including removal of employment obstacles for the formerly incarcerated. With that being said, there are an estimated 70 million U.S. adults with arrests or convictions, many of whom are turned away from jobs despite their skills, skills and qualifications. By including a criminal history box or question on a job application it has an intimidating effect that discourages, discourages people from applying. It also artificially narrows the applicant pool of qualified workers when employers toss out these applications without further investigation regardless of the applicant's merits or the relevancy of the conviction-- conviction to the job. Both the employer and applicant lose out. Research affirms that a conviction record reduces the likelihood of a job callback or offer by nearly 50 percent. Removing job barriers helps the economy and is also good for business. The reduced output of goods and services of people with felonies and prison records is estimated at \$78 to \$87 billion in losses to the nation's economy in one year. Allowing people to work increases their tax contributions, boosts sales tax, and saves money by keeping people out of the criminal justice system. A fair-chance policy has a real impact. Research indicates that once an employer has had the chance to examine the qualifications of an applicant the employer would be more willing to hire the applicant. In the United States, 29 states have embraced this policy with 9 extending it to private employers. At last count, over 150 cities and counties have adopted the policy. This is a great opportunity for Nebraska to implement a fair-chance policy that

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includes both public and private employees-- employers. We thank Senator McCollister for introducing this legis-- legislation and asks that you support LB254 and move it out of committee. Thank you.

**M. HANSEN:** Thank you, Miss Martin. Any questions from the committee? Senator Lathrop.

**LATHROP:** This really isn't so much of a question as a statement. You know, when our-- we're struggling with these folks that are coming out of prison and trying to deal with the recidivism rate, lowering that so that they don't return to prison. Unemployment rates somewhere in the 2 percent. I mean it's very, very low. And it occurs to me when I see a bill like this that we have an awful lot of employers that have never met someone with a felony conviction or they don't know that they've ever met one. And there's such an opportunity to take advantage of this group of people as employees. And an employer is free to make that, that judgment of whether they want that person or not. But it's, it's just better made after they've had a chance to visit with them and explain their circumstance.

**SUSAN MARTIN:** Absolutely.

**LATHROP:** Thanks for being here, Sue.

**SUSAN MARTIN:** Yeah.

**M. HANSEN:** Thank you. Any other questions? All right. Seeing none, thank you for your testimony.

**SUSAN MARTIN:** Thank you for your time.

**M. HANSEN:** All right. Any other proponents for LB254? OK. All right. Seeing none, that'll close out proponents. We'll move on to any opponents of LB254?

**ROBERT HALLSTROM:** Chairman Hansen, members of the Business and Labor Committee, my name is Robert Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the National Federation of Independent Business to testify in opposition to LB254. For many small businesses even those over 15 employees, LB254 would propose another step in the hiring process. I think similar to what Senator Halloran noted in his own business, generally, without an HR-- a cadre of HR human resources folks, one-step process is what most small businesses are employing. They're not looking to have to wait and delay decisions that may be impacted had they known that information in a-- at an

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earlier time in the application or qualification process. What I'm talking about specifically similar to the exemption that you have for school districts with regard to physical abuse or sexual abuse, there are also other small businesses that have the type of business where those types of situations are just as important if you have an applicant for a position at a daycare center or as a security guard with a prior criminal record or history relating to sexual or physical abuse. That would certainly be the type of situation where knowing that information up front would avoid delay for all of the parties to the transaction. Similarly with regard to an applicant for a server or retail clerk position, if they have regular access to cash and credit cards, if they've been convicted of embezzlement or identity theft that may also be something that would be valuable to know earlier in the process. I've noted in my written testimony that there is Title VII of the Civil Rights Act provides protections by prohibiting employers from applying blanket rules that automatically disqualify applicants with convictions from employment. And I've gone through the prongs of that particular test that provides protections. In closing, I would suggest that there's a number of states and I think Texas and Georgia in particular-- excuse me, Texas and Ohio that I've referenced in my testimony have taken a little bit different approach. They reply to a carrot rather than a stick in terms of suggesting that if there are people that have been in prison that are coming out that have through their incarceration received certificates of compliance. For example, in some states that the states provide statutory immunity from liability for employers who hire those individuals who could be subject to negligent hiring types of lawsuits and liability associated with that. I know and Senator Lathrop knows full well that maybe we don't have the, the funds to be able to provide those types of programs but that would certainly be something that might be a-- due consideration by the committee if we can get to that point. Be happy to answer any questions that the committee might have.

**M. HANSEN:** Senator Chambers with a question.

**CHAMBERS:** Mr. Hallstrom, are you aware of the fact that in this country convicts-- people who were in prison were leased to businesses especially railroads, road building, farming, and other types of enterprises, while convicts? Are you aware that businesses did lease those people to work? They leased them from the prisons.

**ROBERT HALLSTROM:** I'm not familiar with that, Senator, but I'll take your word for it.

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**CHAMBERS:** You haven't heard of convict labor that was used.

**ROBERT HALLSTROM:** Oh, certainly, certainly.

**CHAMBERS:** OK.

**ROBERT HALLSTROM:** I didn't know that they were leased for that.

**CHAMBERS:** They, they-- it was called leasing them. The businesses would pay the prison so much to have these locked-up men turned over to them to do this work. So it seems to me that businesses were not concerned about those who were in prison when they could get them for a cheap rate. But when it comes to-- I'll let that stand. I think to the point may have been made. That's all I'll add. Thank you.

**ROBERT HALLSTROM:** Thank you, Senator.

**M. HANSEN:** Senator Chambers, thank you. Senator Lathrop.

**LATHROP:** Just briefly, Bob. I think your testimony may illustrate the problem which is if you run a daycare there are certain felonies that would absolutely exclude you from being a qualified candidate. Maybe some that wouldn't but the fact that the box doesn't discriminate between those that do and those that don't, it's kind of why we're, why we're here-- why we are here. If I'm, if I'm trying to hire somebody that's not gonna have access to money but they may have access to little children then I may be interested in certain criminal activity but able to overlook other criminal activity. And the, the box doesn't discriminate against that. It simply says, do you have a felony conviction or don't you? And it may not be the kind of felony conviction for a particular employer that would be a disqualifying felony conviction but none of it stops the employer from asking the question. And I think that's maybe the basis for-- or the reason we're here on this bill. But I'll let you respond to that if you care to.

**ROBERT HALLSTROM:** When you say discriminate, you mean differentiate?

**LATHROP:** Differentiate. Yeah.

**ROBERT HALLSTROM:** Yeah, I-- Senator, I, I, I don't dispute your statement. I don't know that I have a particular response. I think the issue is at what layer of the application process. And are there going to have to be two layers or two steps in that process for small businesses that aren't well-equipped to, to handle those delays? I think in today's market environment, I would certainly hope that all

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of those individuals are being considered because employers need employees. And irrespective of their, of their status that the employers are gonna give them a fair shake. I think one of the things that's kind of disturbing news, similar discussions are going on in Colorado. And some of the groups that support the ban-the-box have come out, some of the think tanks have come out actually suggesting that ban-the-box has had the opposite effect in terms of potentially resulting in discrimination because you don't have the information. That's disturbing to me. I would hope that's not the fact. But those are Brookings Institute and others that are coming out with that type of suggestion.

**LATHROP:** When we put an, an ad in the paper for-- to hire somebody in our office, we don't, we don't have a box or anything where we ask somebody if you've been convicted of any kind of criminal activity but we might get 15 applications. And, and I think it's important to talk about that process in this context. You get 15 applications for a fry cook at a, at a Wendy's, for example, and you're gonna ask these questions that have to do with the job itself. Have you ever done it? Do you have experience? How long? You know, where have you worked in the last ten years? Those kind of questions that allow for somebody to say, these people go in this pile, I'm not gonna consider them. But it's not because there's a-- somebody checked a box. It's because they don't have any experience or don't bring anything to the position that you're looking for. And if somebody can make it to the interview process, and typically-- and I'm a small business owner, typically you narrow it down to three or four people and you have them in for an interview and you're gonna interview three or four people for that position if they're qualified anyway. And I don't know that it-- I don't see that for me, as a small business owner, as a, as a burden to take up the question of whether they have a felony conviction that might be inconsistent with or relevant to whatever position I'm hiring.

**ROBERT HALLSTROM:** And, and if it is relevant, it's better to get it earlier in the process.

**LATHROP:** Well, yeah, I think that, I think that getting it-- true, but that can happen at the interview process when they can come in and-- you know, there are a lot of people and I've run into them too where they say, you know what, back in 2000 I got convicted of X whatever that-- whatever it may be. I had a problem. I've been sober since then. I've held jobs. I've done responsible things since then. I've

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gotten married and I have three kids. And there might be a whole list of things that somebody would go, oh, yeah, you're not a, you're not a risk at all. But we can't get them through the door.

**ROBERT HALLSTROM:** Yeah, and, and, Senator, I, I--

**LATHROP:** And I don't mean to be argumentative.

**ROBERT HALLSTROM:** No, you're not, you're not. But I, I, I don't know what the statistics are in terms-- I, I would submit that you probably don't have everybody that's denied getting in the front door just because of the ban-the-box checkmark. And there are plenty of individuals I would imagine that are being hired by small businesses that have criminal records and are good employees. So I, I don't know that the existence or nonexistence of the, of the box results automatically and everybody that would happen to check the box not getting a second chance to get a job. But there are many situations where knowing that information earlier in the process in the types of businesses that I referenced would, would make a significant difference and would avoid taking all the individuals through the process that maybe aren't gonna be qualified because of the particular type of business that's involved. I think one of the other things that's at least out there and worthy of consideration is if I get two applicants that are equally qualified without the ban-the-box and I end up hiring the one that doesn't have a criminal record, have I exposed the business to more potential liability from a claim that will-- yeah, now that you got me down to the final stage of the process and then you found out that I was a criminal under a prior, prior conviction for a felony and you didn't hire me. Am I more subject to being sued because--

**LATHROP:** For what?

**ROBERT HALLSTROM:** --I discriminated at that point because of your criminal record?

**LATHROP:** Well, you can discriminate against people that have had felony convictions. That-- that's not a protected class of people like race or religion, national origin. I don't know on what basis somebody would have a cause of action if I chose between two candidates and elected not to hire the guy with a felony. Right?

**ROBERT HALLSTROM:** No. I don't, I don't--

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**LATHROP:** We're both lawyers. I think I'm right. You can admit it.  
[LAUGHTER]

**ROBERT HALLSTROM:** Well, two lawyers can argue about anything, Senator.  
But--

**LATHROP:** All right. Well, I'm not gonna get an admission out of you  
today.

**ROBERT HALLSTROM:** Not, not this afternoon.

**M. HANSEN:** All right. So, Mr. Hallstrom, so I'm thinking about it from  
the job applicant site, it's one of the critiques you had was the, the  
kind of time commitment on the business process. But as somebody who's  
filled out a job application recently, there's a current trend to have  
it be a multi-stage, multi-web form process that requires me uploading  
documents, retyping the formulation of that document, and so on and so  
forth. So which, which is kind of my point for the applicant there's a  
substantial amount of time invested in a lot of these applications. Is  
any of this-- do you, do you-- first of all, do you find that common  
in your industries you represent?

**ROBERT HALLSTROM:** Probably not for the smaller employers. I wouldn't  
necessarily imagine that that's the case.

**M. HANSEN:** Well, the reason I bring this up is because where we're  
talking about kind of like a, a, a sunk time of whether or not you're  
investing time in candidates that you ultimately can't hire. But  
there's also the other side that there's a lot of applicants who go  
through the application process and then, frankly, if it's HR software  
and HR person get eliminated because of a word or a box they've  
checked. So I think that's kind of a similar thing that I would, I  
would be coming from and want your perspective on how to handle that  
is we're worried about time and matching people up correctly. What can  
we do to be proactive from the business side to let applicants know  
whether or not they're actually going to be considered? If there's  
anything you want to--

**ROBERT HALLSTROM:** Yeah, the, the folks that I represent I don't think  
probably use that process a great deal so I'm not familiar one way or  
the other, Senator.

**M. HANSEN:** OK. Thank you.

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**ROBERT HALLSTROM:** Thank you.

**M. HANSEN:** Senator Crawford.

**CRAWFORD:** Thank you, Chairman Hansen. And thank you for being here to testify. I just wanted to drill down on that-- the point that you made earlier about getting sued for not hiring someone with a record. On what basis would you be liable for that?

**ROBERT HALLSTROM:** Well, I just-- I, I think there-- you know, we-- as Senator Lathrop knows, we end up being a litigious society and you can sue for most anything. And sometimes just going through the lawsuit whether or not there's a 95 or 25 percent likelihood of success puts the small business owner at risk in terms of having to defend a lawsuit or, or settle the lawsuit for some nuisance value if you will. And so-- you know, it just occurs to me that if, if I've, if I've got two candidates who have made the final cut and one of them proclaims that I wasn't hired because I had a criminal record there's nothing that's gonna prevent them from filing suit against you and then having to figure out how much am I gonna pay my attorney to get to the result that Senator Lathrop suggest would happen which is there's not gonna be any liability.

**CRAWFORD:** There's not liability in that case. So it would just be a nuisance lawsuit if it, if it happened at all.

**ROBERT HALLSTROM:** Even if it's just a nuisance lawsuit, you're gonna have to decide whether you want to settle it or pay the attorney to get to the, to the finish line with a victory.

**CRAWFORD:** But that could happen with any other personal characteristic as well. Couldn't it, a nuisance lawsuit like that?

**ROBERT HALLSTROM:** In certainly in your area.

**CRAWFORD:** Yeah, thank you.

**M. HANSEN:** Senator Chambers. Thank you, Senator Crawford.

**CHAMBERS:** I'm not a lawyer unless you were going to say one trained in the law with a law degree is a lawyer having studied it. Are you familiar with the demurrer and its first cousin summary judgment?

**ROBERT HALLSTROM:** Yes, I am, Senator.

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**CHAMBERS:** And when you move for a summary judgment, that doesn't take a lot of time. It doesn't cause an expenditure of money. And unless somebody can demonstrate that under the law they belong to a protected class, they would have no basis for a lawsuit. Even if what they say is true that they were turned away because they had a felony conviction, that would not be a basis under the state of the law now to have a successful lawsuit because people have been allowed to refuse to employ felons. You, you represent bankers, but you're not a banker yourself?

**ROBERT HALLSTROM:** That's correct, Senator, I'm not here, I'm not here representing the bankers today just for the record.

**CHAMBERS:** But I meant-- so you know about banking generally and the nature of the work.

**ROBERT HALLSTROM:** Yes.

**CHAMBERS:** Do you think a bank could be successfully sued for not hiring a bank robber or an embezzler?

**ROBERT HALLSTROM:** Well, Senator, that's one of the exceptions to the bill in terms of those particular convictions are not-- they are required to be followed under federal law by a bank. That's why the banks are not subject to this bill. They can refuse to hire on that particular basis under FDIC, Section 19.

**CHAMBERS:** Is the medical profession one of the exceptions?

**ROBERT HALLSTROM:** Not that I'm aware of.

**CHAMBERS:** Could somebody be refuse a job as a nurse because he or she had deliberately injected poison into patients?

**ROBERT HALLSTROM:** I-- Senator, I don't know what the--

**CHAMBERS:** Mr. Hallstrom, I'm gonna stop you. We've been around each other and around the block many, many times. And you know good and well that what you're talking is nonsense. It is as the British would say, rubbish. If that's the best argument you have against this bill, I think it would be subject to a demurrer or a summary judgment motion. And as the judge, I say you lose on both counts. If you're the one representing these people and say that they were somehow unfairly denied a job under the circumstances I mentioned. But let me ask you

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this in all seriousness. Why have a background check if based on what you discovered, you cannot refuse to hire somebody?

**ROBERT HALLSTROM:** Well, you have the background checks, Senator, to determine whether they have committed crimes or activities that would disqualify them for the, for the position.

**CHAMBERS:** And the mere commission of a crime is enough to disqualify.

**ROBERT HALLSTROM:** In, in some areas.

**CHAMBERS:** But anyway, I won't proceed with that. You know what I'm talking about. You know what Senator Lathrop was talking about. But I don't want anybody to read this record, and they say I know Chambers was there, was he so dumb that he didn't know that a, a felon is not a protected class so I'm-- I vindicated myself and that's all I have to address to you today.

**ROBERT HALLSTROM:** Thank you, Senator.

**M. HANSEN:** Thank you, Senator Chambers. Any other questions? Seeing none, thank you, Mr. Hallstrom.

**ROBERT HALLSTROM:** Thank you.

**KRISTEN HASSEBROOK:** Good afternoon. My name is Kristen Hassebrook, K-r-i-s-t-e-n H-a-s-s-e-b-r-o-o-k. I'm here today on behalf of the Nebraska Chamber of Commerce and Industry in opposition to LB254. You've heard from a couple of the testifiers about the burdens. We similarly have concerns about the bill in terms of how it impacts employers and their ability to hire and make those decisions in a timely and efficient manner in terms of getting that information earlier that may ultimately disqualify someone. The other point I wanted to make sure that I brought up was one of the proponents actually addressed it and, and Mr. Hallstrom was going down this path, but the Title VII of the Civil Rights Act has been interpreted by the EEOC to prohibit the outright or automatic disqualification of applicants with convictions from employment. The standard they've set is that there must be a justifying business necessity or otherwise an automatic disqualification violates Title VII and is illegal. So Title VII of the Civil Rights Act does actually-- you know, directly address this and so this just-- you know, the ban-the-box on top of the Title VII actually then adds an additional layer of burden on business employers. With that, I'd be happy to answer any questions.

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**M. HANSEN:** Thank you. Are there questions? I have a question. So, so going off of that, how does, how does that Title VII ruling by the EEOC work with the actual check this box if you're a felon? So all of those been-- all of those resumes can't just immediately be discarded then.

**KRISTEN HASSEBROOK:** So basically that's the-- that's, that's what would provide an employee the ability to sort of file a discrimination suit and there's a three-part test that employers have to-- you know, consider to prove that they haven't automatically-- you know, discriminated. They have to consider the nature of the crime. The time since it's, it's elapsed, and also provide an opportunity to show or hear why-- you know, it shouldn't impair their ability to do the job. And so when you think about putting that on top of a ban-the-box, they're-- number one, there's-- that's an additional burden in terms of-- you know, getting to, to, to satisfy their burden under the Title VII. But then also it could increase employer liability because if you haven't asked the question on the application and then you have to dig it out and further-- you know, processes, interviews, those sorts of things. And if someone is eventually eliminated you could actually increase the likelihood that they might file a claim on an employer as well.

**M. HANSEN:** But-- and so the liability is the same either way. So if all the, all the resumes that are marked, yes, I been convicted of felony are discarded, that would get you in trouble just the same way as if you turned down every candidate who came in and told you in person. Correct?

**KRISTEN HASSEBROOK:** I can't say exactly but I would imagine that if you could prove that, that you might have a claim.

**M. HANSEN:** OK. Thank you. Any other questions? Senator Chambers.

**CHAMBERS:** I missed what you said when you started. Are you an attorney?

**KRISTEN HASSEBROOK:** I am an attorney, but I'm not a practicing attorney.

**CHAMBERS:** OK. That-- that's-- can you cite me a case that holds what you said.

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**KRISTEN HASSEBROOK:** I cannot. I can just tell you that it's available on the EEOC Web site, it's a position they adopted in 2012. I'm happy to, to follow up with the link to their, their information.

**CHAMBERS:** You said you will find a case that was decided in 2012?

**KRISTEN HASSEBROOK:** So what I was referencing was a decision by the EEOC in 2012 with their guidance that they issued it when interpreting Title VII. I can--

**CHAMBERS:** Will any--

**KRISTEN HASSEBROOK:** --certainly follow up with that.

**CHAMBERS:** Excuse me, the EEOC is not a court. Their decisions don't have the weight of law. They might have given an opinion. I'm talking about the state of the law. If you can cite me to a case then I'll accept what you're saying. So I still maintain that the state of the law does not say that you have committed a discrimination against a protected class by refusing to hire a felon. But I'm not gonna argue. If you do your research and find such a case, bring it to me and I will publicly acknowledge that I was mistaken. And that's all that I have.

**M. HANSEN:** Thank you, Senator Chambers.

**LATHROP:** Just briefly.

**M. HANSEN:** Senator Lathrop.

**LATHROP:** I'm a little surprised that you brought this up. To me, all I would have to do as a plaintiff's lawyer-- I don't do civil rights cases, but as a plaintiff's lawyer is just find an employer that has the box and never hires people that check it. And then every one of them now has a cause of action against your member or your business for discriminating because the civil rights cases are all proved by a pattern of behavior. And if I am one single person, I apply for a job at somebody's, Joe's Market, and Joe's Market has 50 employees, it's six blocks from the Lincoln Correctional Center and guys get out and they go over there and apply for work all the time. And Joe's got this box and everybody checks it and none of them get hired. Then, then they get sued by all those guys. I, I don't see where that, that argument supports your position. In fact, it seems to me-- and I, I don't mean to be argumentative, that's not my purpose, but to make this point. If you have some basis other than their felony conviction

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then you can defend one of these cases and say, I have a legitimate business purpose for my decision that is independent of this person's felony conviction which is how these things go. Then the burden shifts back to the employee, and the employee asked to show that there is a pattern or practice of behavior that's-- that proves that the employer is basically not hiring people that check the box. So I'm not sure the argument about Title VII supports your opposition. In fact, I would think you'd want to stop using the box so that you could make a business decision independent of someone's felony conviction. So that you're not subject to liability under the Civil Rights Act. Just saying if I did civil rights work I might. I mean, this is no place to start expanding my practice. [LAUGHTER] Honestly, if I found an employer, given your testimony and protections under the Civil Rights Act, if I found an employer that had the box and never hired a felon, I would think that person would be subject to liability, a lot of it, for a lot of people that they didn't hire or even talk to or consider and that getting rid of the box is probably more advantageous to employers given Title VII liability that you've described here today.

**KRISTEN HASSEBROOK:** I guess I would just reiterate that on behalf of the State Chamber, our business employers,--

**LATHROP:** Yeah, you guys are opposed. Got it.

**KRISTEN HASSEBROOK:** --it's important, and we think that the EEOC decision also holds us to a standard that-- you know, that banning the box would as well. So--

**LATHROP:** OK.

**KRISTEN HASSEBROOK:** --it's not necessary.

**LATHROP:** Thank you.

**KRISTEN HASSEBROOK:** Thank you.

**M. HANSEN:** Thank you, Senator Lathrop. Any other questions from the committee? Seeing none, thank you, Miss Hassebrook.

**KATHY SIEFKEN:** Wow.

**LATHROP:** Welcome here to Joe's Market. [LAUGHTER]

**KATHY SIEFKEN:** You are right. Good afternoon, Chairman Hansen and members of the committee. My name is Kathy Siefken, K-a-t-h-y

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S-i-e-f-k-e-n. I'm here today as the executive director and registered lobbyist for the Nebraska Grocery Industry Association. I am also representing the Nebraska Retail Federation and the Nebraska Restaurant Association and we are here in opposition of LB254. In our industry, we hire for specific things. So when you go into a grocery store you will see a sign at the front of the store that says, we're hiring cashiers or we're hiring deli workers or we're hiring meat cutters. Our position is that when we are hiring someone to work as a cashier or as an office worker-- excuse me, that counts cash in the back room, we need to know if there are any convictions because we do not want to put those people in positions where they will be handling cash. Now if it's a meat cutter, it's a whole different story. So the way our industries work is that we hire specifically for specific positions. Now when you hire someone to stock shelves, interestingly enough in the grocery business, those people that were hired to stock shelves many times become the owners of grocery stores or they become the store managers. We tend to hire from within and train from within and move people from position to position. So, so it's important that we know, it's important that we know early on if-- where we can put these people. Another thing that I would like to bring up is the fact that the labor market isn't-- the labor market today is not what it was back in 2008 or during a recession. Where you have one job opening and you have anywhere from 30 to 50 people applying for that job. Our industry is made up of many small independent Joe's Markets. We actually do have a Joe's Market that, that is a member. They do not have HR departments. These are people that are already working 60, 70, 80 hours a week to keep their doors open in rural Nebraska. And if you, if you add another burden to their hiring process by making them jump through more hoops and double the interviewing process those are the things that put them-- and this isn't-- it wouldn't be-- this would put them out of business. But when you keep piling those things on it harms those small businesses. So, so as I said, today the employment market is, is different than it was back when we had all of those, those applicants. So today you put up a, a, a job opening list and you might get one person to fill one position. And so the environment that we're in today is not like it is-- and we're cyclical. It-- it's a cycle that we've all seen over and over where unemployment is low and then it's high and then it's low and it, it, it goes with the recessions. If you pass this bill, it's forever, even during those downturns. So we would ask you to help our industry and not move this bill out of committee. If you have any questions, I'd be happy to answer.

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**M. HANSEN:** Thank you. Are there-- Senator Chambers.

**CHAMBERS:** You're aware that there is a threshold in terms of numbers of employees who that affected.

**KATHY SIEFKEN:** Yes, 15.

**CHAMBERS:** So-- OK. Now I get the impression that the stores you're talking about are not gonna be hiring more than 15 people. And if they are--

**KATHY SIEFKEN:** That's not-- it's 15 employees.

**CHAMBERS:** --all they, all they do is not put that box or ask that question at the point laid out in the bill after that then anything can be asked but I doubt that a policy would be adopted by the Legislature simply because people and business who might be affected by it say, we don't like that. Do you represent Walmart?

**KATHY SIEFKEN:** No, I do not.

**CHAMBERS:** Say it again.

**KATHY SIEFKEN:** No, I do not.

**CHAMBERS:** None of the big stores?

**KATHY SIEFKEN:** I do represent big stores but the bulk of our membership are the small independent retailers that average probably 20 to 25 full and part-time employees.

**CHAMBERS:** OK. Well, I'll see if Walmart sent somebody here today. But that's all that I would have.

**KATHY SIEFKEN:** Thank you.

**M. HANSEN:** Thank you, Senator Chambers. I would have a question unless somebody else. Thank you for testifying, Miss Siefken. I'm a little confused by your-- a couple times you brought up the economic downturn, you said kind of the rise and dip in the number of applicants. And I, I guess I'm not sure why that's relevant. Why would having a lot of applicants or a few applicants matter under this bill?

**KATHY SIEFKEN:** Because when you're an independent store owner you are the HR department.

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**M. HANSEN:** Sure.

**KATHY SIEFKEN:** You're already putting in 50 to 60 hours a week.

**M. HANSEN:** OK.

**KATHY SIEFKEN:** What this, what this bill does is it doubles the time that you would spend on the hiring process because today we'll get one application for one job opening. When there's a recession and people are out of work. We'll get 30 applications for one position.

**M. HANSEN:** OK.

**KATHY SIEFKEN:** So you can go through the 30 applications when you're hiring a cashier. And you know that you really don't want someone that's been convicted of a felony to be in your back room counting cash.

**M. HANSEN:** OK. You see that's the reason I ask is because your testimony implies that your members are violating the law that Miss Hassebrook just said was already in place by ruling out all [INAUDIBLE]--

**KATHY SIEFKEN:** I didn't testify-- that, that wasn't my testimony.

**M. HANSEN:** I know it wasn't your testimony. I'm trying to correlate the two between the two of you. So you're indicating that your members would want to disqualify all members for cashier jobs of all felonies when there's plenty of applicants which we've just been told would be illegal in a civil rights suit. And we've been trying-- I'm-- you both, both-- two testifiers made the same claims in my mind contradict and you happened to be the second testifier so I'm kind of giving you the chance to respond and clarify if you think I'm wrong.

**KATHY SIEFKEN:** I really can't, can't clarify anything that the EEOC is-- I can only tell you what I can tell you that my small members would find this overly burdensome to hire someone in cashier's position or in the back room counting cash.

**M. HANSEN:** Sure.

**KATHY SIEFKEN:** And if they do not know upfront about felony convictions, it will, it will make it more difficult. And it will be more time consuming for them to do-- to go through the hiring process. Now as I said earlier, if it's a meat cutter or if it's someone that

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is, is certified to, to drive a forklift it really probably doesn't have an impact and they don't need to know those things. But there are certain positions where you don't put people in those job slots and, and tempt them and provide a temptation that, that they can't get through.

**M. HANSEN:** OK. Thank you. I think Senator Chambers has a question.

**CHAMBERS:** You don't put the box there to prevent somebody from applying. Once they apply, you can ask them anything you want. How much time does that take? And before you answer, let's say you have a box and a person refuses to check it. The only way you're gonna know that the person lied is during your interview process or you undertake further investigation. So your testimony really is baseless. It means nothing. There is nothing about the amount of time it takes that is relevant to what we're talking about because whether a person checks the box or not, if the person is lying he or she will not check the box so he or she will be allowed to get the interview. And if you think the interview is not what the person should be giving then maybe you initiate a background check. If you don't have the box the same person comes and applies for the job--

**M. HANSEN:** Yeah.

**CHAMBERS:** --and you do the same thing anyway. What you say might have the sound of logic but it-- it's-- it has no basis in logic at all in my opinion and I don't want to be argumentative. You gave your opinion. I'm giving my opinion. And if you give yours again I'll give mine again and we'll take a lot of time. But I just want that in the record from my side and I don't have any other questions.

**KATHY SIEFKEN:** So you don't want a comment back?

**CHAMBERS:** But if you want to respond, you can.

**KATHY SIEFKEN:** I, I would like to respond.

**CHAMBERS:** OK.

**KATHY SIEFKEN:** Because if there are 30 applications for one position, those 30 applicants will not get an interview. They won't. There isn't enough time in the day for an independent retailer to interview 30 people if they can find someone that's qualified.

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**CHAMBERS:** [INAUDIBLE]

**KATHY SIEFKEN:** So they, they won't go through the interview process.

**CHAMBERS:** That doesn't have anything to do with what you and I are talking about.

**KATHY SIEFKEN:** Yes, it does because those people--

**CHAMBERS:** What would reduce, what would reduce the number if you're gonna have 30 applicants? What will reduce the number [INAUDIBLE]--

**KATHY SIEFKEN:** If it is a position for a cashier or someone counting cash in the back room and someone checks the box, they won't probably get an interview.

**CHAMBERS:** Well, there--

**KATHY SIEFKEN:** However, if it is a position for a meat cutter chances are-- and, and they've got the skills or someone to drive a forklift and they've got the skills and, and they're certified they would get an interview.

**CHAMBERS:** Let's stay with the cashier. The person does not check the box and is not telling the truth. That person who lied gets the interview anyway.

**KATHY SIEFKEN:** But if they were--

**CHAMBERS:** And he or she says--

**KATHY SIEFKEN:** --found to have lied they would not get hired.

**CHAMBERS:** Exactly, but they took a shot at it because they're desperate for a job. So having the box does not reduce the amount of time involved in my opinion. But that's all that I have.

**M. HANSEN:** Thank you, Senator Chambers. Are there any other questions from the committee? Seeing none, thank you, Miss Siefken.

**KATHY SIEFKEN:** Thank you.

**M. HANSEN:** Welcome.

**ERIN EBELER ROLF:** Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Erin Ebeler Rolf and I'm an

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attorney with Woods and Aitken here in Lincoln. And I'm here today to speak on behalf of the Lincoln Independent Business Association commonly known as LIBA. I'm going to try not to restate some of what others have stated but instead respond to some of the things that I've heard during the hearing initially and also address what I believe may be some misunderstanding about the EEOC guidelines which seems to be a matter of concern. First off, with regard to the number of employees it should be noted that under this bill as it's currently written when counting employees there is no difference between counting a full-time employee and a part-time employee, someone who simply works five hours a week. The only question is whether or not there are 15 or more people on the payroll for 20 or more weeks. So for instance in the nature of a construction business employees who are only on the payroll from mid-April to mid-September, prime construction season, would count and that employer even if they're a small employer would be subject to this bill for the entirety of the year. That's relevant because this particular bill does impact small businesses as has been testified before by some prior workers. The other part that seems to be people recognize both Senator Lathrop and some of the comments he's made as well as Senator Halloran in terms of recognizing that there are some convictions that may legitimately be viewed as a disqualifying basis for someone in the interview process or the application process. And I think the issue is that Section 3 which is 48-202, Section 2 makes a ban on any type of issue at the application stage even if it is a legitimate limited inquiry based on legitimate business concerns. So for instance in the instance of a cashier that was just discussed under this bill as currently drafted it would be inappropriate to ask a basic question of, have you ever been convicted of a felony relating to theft, embezzlement? Or in the instance of an accounting firm who hires clerks or has someone who has access to credit cards, have you ever been convicted of identity theft? It would be impermissible to ask those basic questions that are limited and tailored under this bill. And, therefore, you would be requiring small businesses who do have limited resources and time to go through an interview process and consume their resources to interview candidates who otherwise would be, I think according to the testimony and the comments I've heard of the senators today, legitimately not considered for moving forward in the job hiring process. There seems to be no reason to impose those costs on businesses. I would also note with regard to the EEOC conversation that has been held, federal EEOC guidelines-- and I would tell you that they are available on the EEOC's Web site. That guidance already addresses the review of arrest and conviction records of-- by employers in the consideration of

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applicants. That guidance requires that employers provide employees the opportunity to explain the facts and circumstances of an arrest before it is the basis for denying an oppor-- an employment opportunity. In such a situation, however, the EEOC's guidance does allow employers to review applicant's conduct underlying such an arrest to determine if the conduct makes a person unfit for the position in question with regard to convictions. The EEOC recognizes that the procedural safeguards that accompany an actual conviction or guilty plea will, and I quote, usually serve as sufficient evidence that a person engaged in particular conduct that may be considered by the, may be considered by the employer. So in deciding who to bring in for an interview considering such conduct in evaluating a potential employee is just as relevant as considering a person's prior job history, prior community service, or other things that you consider about any applicant in determining who to bring in for an interview. LIBA believes that employers should have-- should be able to decide what policies are appropriate for screening their applicants in a manner that is consistent with current state and federal laws and regulation. And it is the employer's reputations that are on the line when they hire employees who represent them to the public. So with that, LIBA would request that the members of this committee oppose LB254.

**M. HANSEN:** Thank you. And first and foremost, can we have you spell your name real quick for the record.

**ERIN EBELER ROLF:** I apologize. Erin, E-r-i-n, Ebeler Rolf, E-b-e-l-e-r space Rolf, R-o-l-f as in Frank.

**M. HANSEN:** All right. Thank you. Are there any questions from the committee? All right. I, I would have one just because we're drilling down on this EEOC language and I, I appreciate your attempt to clarify. So let's say a business has a-- as they currently do, a box on the form that says check here if you've ever been convicted of a felony and they choose to hire or extending-- hire nobody who checks that box, they don't even give interviews to anybody who checks the, yes, I've been convicted of a felony box. Would that violate the EEOC guidelines?

**ERIN EBELER ROLF:** I read the EEOC guidance as I was sitting back in the room here listening to folks and my understanding from the EEOC's guidelines-- guidance is that they say in some instances it would be required for a businesses-- for a business to ask further clarifying questions of the applicant about that conviction. So for instance, if

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there is a question of whether or not the conviction has been purged, if the applicant notes somewhere else on the app-- application that there are unique facts and circumstances. However, the EEOC flatly recognizes that there are certain states and localities who have passed ban-the-box legislation. The EEOC did not go that far. They said, we recommend it, that you ask of these inquiries even of convictions but they did say expressly in their guidance that the procedural safeguards that go along with a conviction-- and I want to make sure I get the quote correct, usually serve as sufficient evidence that a person engaged in particular conduct. And so if that conduct is relevant to the position, that's certainly something that businesses ought to be able to consider at an early stage of the process before they incur the costs and time involved with background checks which can cost anywhere from \$65 to \$100 a pop. Before they incur the time of having multiple people interview that person especially when we're talking about things that are related to the particular job at issue which I believe everyone on this panel that I've heard today seems to recognize there are some things that are relevant and that a business ought to be able to consider. So why not recognize that fact? As written, this bill goes far beyond that path and simply says, you can't ask a question at all even when everybody seems to be recognizing that there are some things that are worth asking about and validly considered.

**M. HANSEN:** OK. I think my question is just more basic of, if a business-- let me just put it this way, if a business has a policy of never hiring anybody convicted of a felony, is that in violation of the EEOC rules?

**ERIN EBELER ROLF:** I don't know that answer with certainty and it would require research and I would bet without looking that most-- that the circuits in the United States may have decided that question differently.

**M. HANSEN:** OK. Thank you. Are there any other questions from committee members? Senator Chambers.

**CHAMBERS:** If you prohibit the asking of that question when you put out, whatever you call it, a blurb or a request for employees, that is not gonna cause these businesses all the heartburn you're talking about. You are trained in the law. The other lady was trained in the law and I can feel your straining trying to stay within your ethical requirements to speak honestly and professionally correctly when you're testifying before a legislative committee. And you know from

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reading this bill all it says is you cannot put the box there and have that when a person is trying to initially apply. Once the person comes-- in other words, if you say, we have an opening for 30 people. Then if the people come there cannot be a paper that says at the door, have you ever been convicted of a felony? And you have to check that. And I'm trying to make it as simple as I can. What you said is irrelevant to what the bill says. And I think that were you not in the position you're in, you wouldn't give that testimony. And I'll tell you why, that maybe we're not seeing the bill the same way. Based on what the bill says, what do you think that these potential employers are prohibited from doing under the bill?

**ERIN EBELER ROLF:** As I read the bill, Senator Chambers, it says in Section 3, which I believe on page 3 of the legislative text--

**CHAMBERS:** Take your time.

**ERIN EBELER ROLF:** --that, "Prior to determining whether an applicant meets the employment qualifications"-- excuse me, I'm one off. "An employer or employment agency shall not ask an applicant to disclose, orally or in writing, information concerning the applicant's criminal record or history, including any inquiry on any employment application, until the employer or employment agency has determined the applicant meets the minimum employment qualifications." And so that is a blanket prohibition from any question about any criminal history. Even though the testimony that I've heard today, everyone seems to be in agreement that there are certain felonies or other criminal activity that relate to certain jobs that could very well this qualify somebody and--

**CHAMBERS:** There's a word that is prior and what you read is the word prior. There can be none of this prior to.

**ERIN EBELER ROLF:** Says: An employer shall not ask an applicant to disclose, orally or in writing, information concerning the applicant's criminal record or history, including any inquiry on any criminal-- any employment application, until the employer or employment agency has determined the applicant meets the minimum employment qualifications.

**CHAMBERS:** OK, it didn't say prior to until. So you look to see whether or not this person would be qualified to have the job. If the person is not qualified to have the job, it could be a disqualification without reference to a conviction. We are talking about a person who

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is qualified in every respect to do the job. And that's what you would try to find out anyway. The question after that relative to any criminal history can then be asked because if the person doesn't have the qualifications he or she doesn't get the job on that basis. But you're talking about somebody who meets all of the qualifications and you cannot use the criminal background as a basis to deny that person the opportunity to a fair shot at the employment. But see we read these things differently. We always will. But I think from the language that is in that bill, the people on this committee understand what it is saying. And I understand what you're saying but I disagree with it. And you know as well as I do especially when you see what the current administration at the federal level is doing that EEOC and other agency rules, regulations, or practices can be swept away like that. And these things that you mention with the EEOC, whether state or national, are not court holdings. That is not a holding by a court. If you can show me where a court gave the holding that you're giving then I will agree. But an agency's recommendation-- and even their recommendation you said is that they ban-the-box.

**ERIN EBELER ROLF:** That's not what I said, Your Honor-- or excuse me, it's not what I said actually, Senator Chambers.

**CHAMBERS:** Well, what did you say they recommend?

**ERIN EBELER ROLF:** The EEOC expressly has not gone as far as banning the box. They have recognized--

**CHAMBERS:** You said-- I thought you said they recommend that states do this.

**ERIN EBELER ROLF:** They certainly recommend that employers-- they can't mandate what states do, but they have recommended as a back-- best practice that employers are willing to make inquiry into even a conviction. But they don't even require that, they only require inquiries to be made.

**CHAMBERS:** I didn't say inquire. I said you said they recommend and you just said it again.

**ERIN EBELER ROLF:** They recommend that you make an inquiry. They don't say at what stage and they do allow the inquiry to be made on the application. And the purpose of that is so that we don't impose unnecessary costs on employers including these small businesses. Because again, the count of how employees are counted here it's not 15

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full-time equivalents, it's fifteen part-time employees. So if you're a construction company and you hire part-time workers maybe after school or during summer months and you just happen to hit that prime construction season you could easily hit the 20 weeks where you have 15 full or part-time employees and then you're subject to this throughout the entirety of the year.

**CHAMBERS:** If, if the bill said 15 full-time employees that wouldn't change your view and your opposition anyway. So that's a red herring. Or would you change your view if we-- if the bill said 15 full-time employees?

**ERIN EBELER ROLF:** You certainly have to look at the bill in, in its entirety and there are many issues with this bill as have been testified by multiple business owners and representatives of businesses throughout the state of Nebraska.

**CHAMBERS:** So that argument about equivalency or full-time was just a throw away to try to win your argument with that?

**ERIN EBELER ROLF:** It's certainly not a throw away. It's one of many issues. I come from a family that owns a small business. I myself am an owner in a small business. It's not a throwaway. It matters when you're talking about businesses who don't have Walmart-sized budgets. This matters.

**CHAMBERS:** Then if we change that you're acting like it doesn't matter. You're acting now like saying full-time doesn't matter. If it matters and the language specified full-time, it should have an impact on what you said against the bill because you raised that issue.

**ERIN EBELER ROLF:** There are many issues with this bill and that's just one of them.

**CHAMBERS:** OK, I--

**ERIN EBELER ROLF:** The fact that one issue is correct, it does not make this bill acceptable.

**CHAMBERS:** OK, I don't have anything else. The record will speak for itself.

**M. HANSEN:** Thank you, Senator Chambers. Any other questions? Seeing none, thank you for your testimony. All right. Anybody else wishing to

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testify in opposition to LB254? Seeing none, anybody wishing to testify in a neutral capacity in LB254? Welcome.

**MARION MINER:** Good afternoon. Thank you, Chairman Hansen, members of the Business and Labor Committee. My name is Marion Miner, M-a-r-i-o-n, Miner, M-i-n-e-r, and I'm here on behalf of the Nebraska Catholic Conference. The Catholic Conference advocates for the public policy interests of the Catholic Church by engaging, educating, and empowering public officials, Catholic laity, and the general public. I'm here to testify in a neutral capacity regarding this bill on behalf of the Conference. Just to point out a constitutional issue that should be addressed through any committee amendment that advances the bill. So we do appreciate that some of the concerns we have regarding constitutionality have been taken into consideration already in the context of private denominational or parochial schools. However, we believe this exemption should be more broadly applied by striking this language and in its place excluding within the definition of employer, quote, a religious corporation, school association, or society, end quote. This would alleviate our concerns. Those concerns to be more specific with regard to existing First Amendment jurisprudence on the estab-- regarding the Establishment Clause and the Free Exercise Clause of the First Amendment. Judicial precedent interpreting those clauses have laid out some distinct but closely related requirements with regard to church-hiring practices. Those include the internal church governance and ecclesiastical abstention doctrines forbidding undue state interference with the church's internal affairs and disciplines. The ministerial exception forbidding state interference with the church's control over the hiring, firing, and policies regarding employees who will personify its beliefs and the excessive entanglement doctrine forbidding undue state participation in a church's faith-based determinations. And in addition, I think it's important to point out that courts do generally require that if a state policy provides valid exemptions for secular reasons, as LB254 does, it should allow valid exemptions for religious reasons as well. So with all of that said, again as I stated earlier, striking the language regarding exemptions for schools and in its place inserting an exemption that's more broad that would encompass any religious corporation, school associate-- association, or society would alleviate those concerns. And that's all I have. So thank you for your consideration of the issue and I'm happy to entertain questions and answer them if I can.

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**M. HANSEN:** Thank you. Are there questions for Mr. Miner? Seeing none, thank you for your testimony.

**MARION MINER:** Thank you.

**M. HANSEN:** Anybody else wish to speak in neutral? Seeing none, Senator McCollister, would you like to close?

**McCOLLISTER:** Yes. Thank you, Chairman Hansen. It's been a most interesting afternoon. [LAUGHTER] Thank you very much for the legal education that I received today. But in terms of the practical application of this bill, speaking as a small owner myself and I did this for 35 years. You know, we didn't have a ban-the-box on our original application. Besides, after looking at that application no matter what-- you know, we would do an interview where these kinds of questions can be asked. In addition to that, we would do a background check and a drug test. So we did a more comprehensive evaluation after we looked at the, the application. You know, the job application. I'm anxious to follow up on some of these legal issues that were raised today. You know I may, may follow up this carefully. And, and talking to the lawyers on this committee, I think we, we may have some interesting discussions. So with that, I would answer any questions. And I would appreciate your approval of this bill and move it onto the floor.

**M. HANSEN:** Thank you, Senator McCollister. Are the questions from the committee? All right. Seeing none, thank you for, thank you for closing. I'll read into the record. We have a series of letters. We have a letter from Schuyler Geery-Zink from Nebraska Appleseed in support; Tessa Foreman from Nebraskans for Peace in support; Juliet Summers from Nebraska-- Voices for Children in support; Jasmine Harris from Omaha in support; Michelle Greenwood from Grand Island in support; we have Robert Hallstrom from the National Federation of Independent Business, opposed; Zachary Wahab Cheek from Lincoln, opposed; and Rocky Weber from the Nebraska Cooperative Council, opposed. And with that, we will close the hearing on LB254. Before we move on to LB-- can I see a show of hands for LB305 on who's planning on testifying? OK. Can I see a show of hands for LB311 on who's planning on testifying? OK. As a courtesy to our staff, we are going to take a ten-minute break and we'll come back at 4:40. So we'll stand at ease until 4:40.

[BREAK]

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**M. HANSEN:** All right, and we are back from our recess and we will be moving on to the next two bills on our agenda, LB305 and then going to LB311. Just out of courtesy for the fact that it's already close to five and the amount of testifiers, we will be moving down from five minutes to four minutes for these, starting with LB305. With that, Senator Crawford, if you would like to open an LB305.

**CRAWFORD:** Yes, thank you. Good afternoon, Chairman Hansen and fellow members of the Business and Labor Committee. For the record, my name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt at eastern Sarpy County. I am honored to bring LB305, the Healthy and Safe Families and Workplaces Act, before you today. As Nebraskans, we value hard work and we prioritize our family responsibilities. However, almost half, 46.3 percent, of the Nebraska work force does not have access to a single paid sick day to stay home with a kid with the flu or to recover from the flu or other illness themselves. Access to sick leave is even more limited for some of our most vulnerable families. Seventy percent of low-wage workers across the country do not have any sick days. Seventy percent of low-wage workers across the country do not have access to any sick days and 26 percent of Nebraska jobs are considered these low-wage jobs. LB305 creates the Healthy and Safe Family and Workplaces Act to ensure that hardworking Nebraskans can earn up to a week of paid leave to care for themselves or a family member or to deal with situations of domestic abuse or stalking without having to worry about losing their jobs. Under the provisions of LB305, employers with 4 or more employees are required to provide employees with access to sick and safe leave. Employees accrue a minimum of one hour of paid sick and safe time for every 30 hours worked and can start using this leave starting on their 60th day of employment. Although employers must allow employees to accrue up to 40 hours in a calendar year based on hours worked, nothing in the bill prohibits employers from providing additional paid leave. It is also important to note that employers with paid leave policies like paid time off that make available an amount of paid leave that's sufficient to meet the accrual requirements in the bill and that can be used for the same purposes as the paid sick, and safe leave time under the Healthy and Safe Families and Workplaces Act are not required to provide any additional paid sick and safe time. Under LB305, leave can be used for employee's own mental or physical illness, injury, or health condition; to care for a family member with a mental or physical illness, injury, or health condition; or an absence necessary due to domestic abuse, sexual assault, or stalking. In addition to the

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obvious benefits to individual workers and their families, being able to stay home when it is critically important to public health. According to a study conducted by NPR, each week about 1.5 million Americans without paid sick leave go to work despite feeling ill. At least half of employees of restaurants and, excuse me, of restaurants and hospitals, two settings where disease is easily spread, go to work when they have the cold and flu. Safe leave is critical, safe leave is a critical tool in ensuring that victims of domestic abuse, sexual assault, and stalking have the support and job stability that they need to escape and begin to recover from violence. According to the National Partnership for Women and Families, survivors of domestic violence are at an increased risk of harm during and shortly after separating from an abusive partner. It is essential they are able to find shelter, file restraining orders, attend court dates, or receive counseling to prevent further abuse while also being able to continue working. LB305 does put protections in place for employers. The bill requires that the request include the expected duration of the absence, if reasonably possible. If the use of paid sick and safe time exceeds more than three consecutive work days an employer may require reasonable documentation that the paid sick and safe time has been used for its permitted purposes. When utilizing safe leave, one of the following forms of documentation must be provided: a police report, a court protection order, or documentation affirming that the individual or the family member is victim signed by law enforcement, a health professional, a social worker, or a member of clergy. Finally, LB305 also explicitly states that paid sick and safe leave benefits for an employee conclude upon the conclusion of the employee's employment with that company. In other words, employers are not required to reimburse employees who quit or are fired with unused leave. Paid sick days actually benefit employers in a number of ways. In fact, studies show that offering paid sick days save employers money by reducing turnover, increasing productivity, greater work force stability, preventing the spread of illness, and lowering health care costs. Eleven states and 21 localities have passed laws requiring paid sick leave and studies conducted in these cities and states are showing that these laws have worked for both employees and employers. For example, Connecticut was the first state to enact a paid sick days law in 2011. A survey of employers in Connecticut found that though this law had had minimal effect on cost and the vast majority of employers have not reported making changes such as increasing prices or reducing employee hours because of it. Employers identified several positive effects, including improved employee productivity and morale, and more than three-quarters expressing support for the law. Further data from

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the Connecticut Department of Labor showed job growth across industries since the law's implementation, including in the most affected industry: leisure and hospitality. They've had job growth in those, in those sectors. Two years after New York implemented its paid sick days law, 86 percent of employers expressed support for the law. Unemployment was at its lowest in six years. The number of businesses grew, consumer prices fell, and labor participation was at its highest on record. That's two years after New York implemented its paid sick days law that had those positive effects occurred. A meta-analysis of all states and localities with sick leave laws did not find any evidence that wages or employment significantly changed after the laws were implemented. This bill does have a fiscal note. LB305 gives the Commissioner of Labor investigative enforcement powers. The commissioner may assess an administrative penalty of \$500 for the first violation of the act by an employer and not more than \$5,000 for a second and subsequent violations. Any person aggrieved by a violation of the act may also bring civil action against the employer and may recover the full amount of any unpaid sick and safe time and, and attorney's fees and costs. The Department of Labor has estimated they will need three additional full-time equivalents to create a complaint system and process such complaints. Although we are in a budget shortfall, one of our biggest economic challenges right now as a state is recruiting and retaining our work force. During my time as chair of the Economic Development Task Force I heard over and over again that investing in our people is key to getting them to stay and to work in the state. Nebraska needs to think critically about cuts but also about investments and how investing in ways to grow our work force will be a key to economic prosperity in the coming years. As you will see from the testifiers behind me, the provisions in LB305 are supported by many Nebraskans. Colleagues, LB305 will ensure that Nebraska workers have the ability to earn a week of sick and safe leave to care for themselves or family members. Employers who already provide these benefits will not have to make changes to their policies if LB305 passes. With that, I encourage you to all think critically about the values we hold as Nebraskans and advance this file, this bill to General File. Thank you for your attention to this important issue and I'm happy to answer any questions that you may have.

**M. HANSEN:** Thank you, Senator Crawford. Are there questions from the committee? Seeing none, thank you for your opening. And we will move to proponent testimony, so the first proponent for LB305. Welcome.

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**ROBERT SANFORD:** Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Robert Sanford, R-o-b-e-r-t S-a-n-f-o-r-d. I am the legal director for the Nebraska Coalition to End Sexual and Domestic Violence. We work to make certain that every individual seeking assistance in overcoming domestic violence, sexual assault, dating violence, or stalking is served. This is accomplished by ensuring a strong network of programs that provide support services to victims of domestic and sexual violence, dating violence, and stalking. These services include immediate transportation to a hospital or safe location, crisis counseling, and shelter services. While these support services are important, they would be useless if a victim of these acts is unable to obtain the assistance offered. LB305 is an important step toward meeting the needs of victims and their family members. LB305 requires that employers allow an employee to use paid sick and safe time to receive medical attention for physical or psychological injuries or disabilities caused by domestic abuse, domestic assault, sexual assault, or stalking. To use safe or sick time seeking, to seek assistance from a victim service organization, to use safe or sick time for relocation due to these violent acts, or to obtain legal services and participate in civil or criminal proceedings related to these acts. Linda Olson, the executive director for Bright Horizons, which is one of the local service providers in our network of programs, submitted a letter of support for LB305 to this committee last week. In her letter, Ms. Olson tells of an individual who has been seeking assistance from Bright Horizons who was forced to choose between attending a court hearing or losing her job. The story Ms. Olson shared is not uncommon. Attorneys with our within our own office often end up scheduling meetings with clients during a client's break at work, over lunch, or after hours. Placing those victimized by these acts in a situation where they have to choose between continued employment or finding help ultimately renders the help available through the courts, medical providers, or victim services useless. LB305 is a step toward helping victims who are trying to overcome the abuse committed against them. The Nebraska Coalition wishes to thank Senator Crawford for her work on this bill, and I would encourage you to advance LB305 for further debate by the full senate. Thank you.

**M. HANSEN:** Thank you, Mr. Sanford. Any questions from the committee? Seeing none, thank you for your testimony.

**ROBERT SANFORD:** Thank you.

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**M. HANSEN:** We'll take our next proponent. Welcome.

**KELSEY WALDRON:** Thank you, Chairman Hansen and members of committee. My name is Kelsey Waldron, K-e-l-s-e-y W-a-l-d-r-o-n, and I'm a research and policy fellow with the Women's Fund of Omaha. The Women's Fund testifies in strong support of LB305, securing workers' access to paid sick and safe days. As an organization that promotes the economic well-being and health of Nebraska's women and girls, the Women's Fund believes no family should ever have to sacrifice between their health, their safety, and their financial security. Almost all workers will require brief leave from work to respond to personal illness or injury or to care from a, to care for a family member. Yet, nationally, one in three private sector workers do not have access to paid sick days. Access is particularly limited among low-income workers with 7 in 10 low-income workers lacking access to paid sick days. This neglects the reality that low-income workers are likely least financially able to miss pay or risk job security. Lack of paid sick days particularly disadvantages women and people of color with 54 percent of Latinx workers denied access, 38 percent of black workers denied access, and nearly half of Native American workers denied access to paid sick days. Women constitute the majority of caregivers and are thus disproportionately impacted when needing to take brief time off work to accompany a loved one to medical appointment or respond to a medical emergency. Nebraska currently holds the eleventh highest rate of private sector workers nationally that do not have access to paid sick days. We know that this lack of paid sick time dramatically impacts our work force with increased economic stress and job uncertainty. Nationally, one in four workers have either experienced job loss or been threatened with job loss for taking time off work due to personal or family illness. LB305 would also provide survivors of domestic violence crucial time from work to ensure their safety and seek services. We know that economic stability is a primary barrier for survivors leaving an abusive relationship. And even after leaving the relationship many survivors may lack the time or money necessary to seek services to ensure their continued health and safety. This economic impact incurred from physical and emotional injury can persist long after the abuse ends, with 50 percent of survivors of sexual assault experiencing loss of employment or being forced to quit in the aftermath of violence. We find paid sick and safe time also becomes a matter of public health and economic concern. LB305 would decrease costs incurred by emergency room visits by providing family time during regular medical hours to receive treatment. This bill would curb the increased health costs and increased health problems of

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delayed care as workers without paid sick days are currently three times more likely to forgo medical treatment for medical concerns. This bill may elicit concern from small businesses, and I don't mean to diminish those concerns, but employers do stand to benefit from the bill as well. LB305 would alleviate financial stresses from higher rates of employee turnover as well as lost productivity. It est-- it is estimated that access to paid sick days can reduce job separation by 25 percent. So, as a matter of financial stability, gendered and racial equity, supporting survivors, Nebraska's public health and Nebraska's economy, I urge this committee to support LB305. Thank you, and I'd be happy to answer any questions.

**M. HANSEN:** Thank you, are there questions? Seeing none, thank you for your testimony.

**KELSEY WALDRON:** Thank you.

**M. HANSEN:** I will let the record know that we've been rejoined by Senator Slama. So welcome back. All right, we'll move on to our next proponent for LB305. Go ahead.

**PETE GALVAN:** Chairman Hansen, members of the Business and Labor Committee, my name is Pete Galvan, G-a-l-v-a-n. I'm a legal intern with the Women's Center for Advancement in Omaha. The WCA dedicates itself to providing services and resources for survivors of domestic violence, sexual assault, stalking, or human trafficking. I'm here to represent the WCA in support of LB305, the Healthy and Safe Families and Workplaces Act. From a national perspective, one in three women and one in seven men on average have experienced domestic violence, sexual assault, or stalking at some point in their life. In Omaha, these crimes happen daily. According to our most recent data, the WCA has provided services to more than 4,200 clients and received more than 8,500 hotline calls in one year alone. For someone who's trying to leave an abusive situation have-- having access to paid time off is critical. Survivors often in crisis mode urgently need to address responsibilities such as filing protection orders, completing affidavits, negotiating with landlords, finding a new place to live, and taking care of their own physical and mental health and trauma, as well as that of their children. While the WCA strives to be a one-stop shop for resources, search-- social services, legal help, and financial support, most of these tasks such as visiting courts, banks, and rental locations require time during traditional 8:00 to 5:00 work hours. This leaves many survivors without, with making a choice between leaving an abusive relationship or keeping their job. On top

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of everything else they're facing, we shouldn't put up one more barrier and we shouldn't force individuals to have to make that choice. Some life events shake us to the core and require time, understanding, and support to help us rebuild our lives and remain productive workers. LB305 would provide financial as well as employer support at a time of the greatest need. With this bill, Nebraska employers can show it recognizes the challenges survivors face, as well as their commitment to them as employees and as individuals. I thank Senator Crawford for bringing this important bill and I urge the committee to support and advance LB305. Thank you, and I'll try and answer any questions.

**M. HANSEN:** Thank you. Are there any questions? Seeing none, thank you for your testimony. All right, we'll take the next proponent. And before you get started, I would encourage anybody else who wishes to testify to feel free to come up and sit in this front row. Go ahead.

**ANGIE LAURITSEN:** Thank you, Chairman Hansen and the rest of the committee members. My name is Angie Lauritsen, A-n-g-i-e L-a-u-r-i-t-s-e-n, and I'm here representing Survivors Rising. I am, we represent survivors of domestic violence and we have many survivors that have a lot of telling stories. And so I'm here today to, today to share a story of a survivor that was unable to be with us today. Her name is Sakura Yodogawa-Campbell, and this is her story. Members of the committee, thank you for hearing us. It is unfortunate that I cannot be here in person to share my experience, but I felt it important enough that my words still be heard. It was not so long ago I found myself in the shoes of so many women in our state. The shoes of having to choose between my job and my safety. The abuse had become so bad, and in order to leave I would have to quit my job. And the financial impact that would have had is immeasurable. My company had paid to relocate me and to leave that situation. I would not only lose my job but also be required to pay the company back the expenses for moving me: over \$4,000. When the injuries and abuse became more severe, I started missing a lot of days at work. That impacted my performance, as well as the trust the company had in my abilities. My mental health declined and I turned to unhealthy coping mechanisms to numb the pain. Work was not a safe place because we worked in the same building, so he had 24/7 access to me. He used his position of power to stalk and hurt me. He was-- it was his final attempt to kill me by strangulation that led me to the realization that my life was more important than a career. But we should never have to choose between our life and careers and be an abuser. Taking time off to seek help

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was never an option. I was a manager and we were expected, expected to be there no matter what. And I didn't want my employer to know what I was going through. It's not like I had the flu. I speak in support of LB305. Having paid leave to allow employees to seek safety for themselves or to care for a loved one will not hurt business. It may inconvenience the employer for a moment but the positive impact is far longer lasting for the employee and the business. This opens the door to honest conversations and reduces the stigma to those who find themselves needing time off to seek safety. The message this sends is that this is a safe place to work because we care about your safety. For many of us, we seek safety in our workplaces. Having paid sick and safe time shows respect and value to employees and accountability to the employers. I ask that you support LB305 and move Nebraska and its employers forward in supporting and valuing employees to their safety. Thank you. I would also like to add that being on the board of directors for Survivors Rising we get these stories all of the time. Our job here is to make sure that their voices are heard. And so we are also submitting a letter from the organization for you to consider also. And I can take any questions that you may have.

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

**ANGIE LAURITSEN:** Thank you.

**M. HANSEN:** All right, we'll take our next proponent.

**KAREN BELL-DANCY:** Good afternoon. My name is Karen Bell-Dancy, K-a-r-e-n B-e-l-l-D-a-n-c-y, executive director of the YWCA of Lincoln. The YWCA of Lincoln is writing in support of LB305 to adopt the Healthy and Safe Families and Workplaces Act. As an organization that is dedicated to eliminating racism and empowering women, we find that LB305 will not only protect individuals that we serve but will also allow them the proper time off to ensure that their safety comes first. We request that this letter be included as part of the public hearing record and that our position of support of this bill be included in the committee statement. We find it crucial to require employers to support their employees during a time of need. As an organization that works directly with women and families, we know the importance of ensuring safe housing is found and finding adequate resources after being violated by a family member. The paid leave policy will be imperative in allowing access to community resources and serve as support during a time of need for the employee. We would like to thank Senator Crawford, Senator Cavanaugh, and Senator Quick

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for the introduction of LB305. The YWCA of Lincoln stands in support of LB305.

**M. HANSEN:** Thank you. Thank you for your testimony. Any questions from the committee? Seeing none, thank you.

**KAREN BELL-DANCY:** Thank you.

**M. HANSEN:** And we will take our next testifier.

**JINA RAGLAND:** Good afternoon, Chair Hansen and members of the Business and Labor Committee. Or maybe I should say good evening.

**M. HANSEN:** We've switched, yeah.

**JINA RAGLAND:** My name is Jina Ragland, that's J-i-n-a R-a-g-l-a-n-d. I'm here today in support of LB305 on behalf of AARP Nebraska. It is AARP's policy position that employers should offer a wide range of workplace accommodations and flexible schedules to enable family caregivers to fulfill their caregiving and paid work responsibilities. According to a 2015 AARP report, approximately 200,000 family caregivers in Nebraska provided 182 million hours of uncompensated care resulting in an estimated \$2.5 billion of care annually to their parents, spouses, partners, and other adult loved ones. In that same caregiving survey of Nebraskans over the age of 45 we found that 40 percent of the respondents were either currently-working caregivers or had been in the past. Of those caregivers, three in five said that they experienced stress and trying to balance the demands of their job with the demands of being a family caregiver for a disabled individual. In addition to the stress of balancing sometimes conflicting responsibilities, caregiving exacts a financial toll on caregivers. It's estimated that the out-of-pocket costs of family caregivers on average is \$6,954 annually. In addition to out-of-pocket spending, many employed caregivers also face work-related strain. This may be in the form of taking additional time off, whether paid or unpaid, reducing their work hours, or leaving the work force altogether to accommodate for the caregiving responsibilities. This can often result in reduced job security, reduced employment benefits, and reduced retirement savings. The financial impact on working caregivers who leave the labor force due to caregiving demands can be severe. Estimates of income-related income losses sustained by family caregivers aged 50 and over who leave the work force to care for a parent are on average \$304,000 in lost income and benefits over the caregiver's lifetime. The November 2016 AARP Family Caregiving and

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Out-of-Pocket Costs report showed that more than half of employed family caregivers experience at least one work-related strain and that 2 in 10 experienced three or more strains. Caregivers who report three or more work work-related strains are spending \$14,298 per year on caregiving. This is more than three times the amount of caregivers with no work-related strain at all. We believe it is time to give working caregivers a break. A 2015 survey, in a 2015 survey we asked respondents about different options for making life easier for working caregivers. One of the questions we asked was if they believe there should be a policy in Nebraska to require employers to provide some paid leave to all employees that can be used for family caregiving purposes. Forty-four percent of those strongly supported, while 27 percent somewhat supported, which is 71 percent overall supported the con, the concept. We would ask you to consider and keep in mind the hardship that exists and is being borne for family caregivers presently. It is these caregivers that are taking the responsibility of providing care for a disabled or aging family caregiver and often at extreme emotional and financial costs. It is these caregivers that are allowing people to age in place, keeping costs to the state at lower levels. We would urge you to support an advance LB305 to General File and, of course, thank you for your time. And thank Senator Crawford for her ongoing efforts in advocating for caregivers and their families and introducing this bill. I'd be happy to answer any questions.

**M. HANSEN:** Thank you. Are there any questions from the committee? Seeing none, thank you for your testimony. Welcome.

**KEN SMITH:** Thank you. Good evening, Chairman Hansen and members of the Business and Labor Committee. My name is Ken Smith, that's K-e-n S-m-i-t-h, and I'm a staff attorney with the economic justice program at Nebraska Appleseed. Nebraska Appleseed as a nonprofit law and policy organization that works for justice and opportunity for all Nebraskans and Appleseed supports LB305. I'm going to give somewhat abbreviated testimony in the interest of not repeating what has already been stated but I did want to share a little bit about the perspective that we've gained from having the opportunity to speak with hundreds of workers every year through our worker safety trainings across the state of Nebraska. In addition to concerns about injury on the job, one of the most prominent issues raised by Nebraska workers for many years has been the pressure of working without any paid time off to care for a sick child or oneself. Workers also describe concerns in the conversations we've had with them about

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working in food production when they cannot take a day off for illness. They worry about the effect on the quality of the product, describing both the financial difficulties of taking sick time that this bill seeks to address, as well as company-imposed penalties like point systems for take, for missing a day of work. So, just as a few examples of what we've heard from workers, one said, quote: At my work we can arrange in advance for time off for something more serious, like a surgery. But if I'm sick one day, I can't take the day off. There is no paid time off, and they'll give me a point penalty as well. Another worker who worked in the industry of food production said, quote: What happens is if you're sick and working on the line, we're wiping our nose on our sleeves to try to make sure it doesn't drip on the food. If I have a fever, in addition to a running nose, they'll let me go home, but they'll give me a half-point penalty and it's not paid time off to get better. End quote. Another worker shared that they didn't believe that their employer cared about them. The health of the workers and the, even less if the person at issue is your child. So we think that paid sick leave would make a substantial difference for Nebraska workers to stay healthy, to go to the doctor, to take care of a sick family member. And for employers, paid leave can also significantly improve the retention of employees, promote higher employee morale, and help maintain a healthy and productive workplace. So with that, we would just echo the points made by previous testifiers. We want to thank Senator Crawford for bringing LB305 and we would respectfully urge the committee to advance this bill for Nebraska workers. I'd be happy to answer questions if there are any.

**M. HANSEN:** Thank you. Are questions from the committee? Seeing none, thank you for your testimony.

**KEN SMITH:** Thank you.

**M. HANSEN:** All right, we'll take our next proponent for LB305. Welcome.

**SUSAN MARTIN:** Good evening, again. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, testifying on behalf of the Nebraska State AFL-CIO and all working families in the state of Nebraska in support of LB305. LB305 propose-- proposes a simple but effective policy measure to help ensure that workers in Nebraska have a basic level of paid leave for sickness or other time off. The paid leave provided is earned by the employees based on how much they work and is a fair means to help rectify an otherwise unfair circumstance we currently have in Nebraska

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and the United States. One hundred and sixty-three other countries have laws that guarantee paid sick leave, but in the U.S. an employer can dock pay or fire a sick worker for staying home to recover. Nearly 42 percent of all U.S. workers do not earn any paid sick leave and 80 percent of the lowest-paid workers don't get a single, a single paid sick day. Workers without paid sick days handle our food at our restaurants, they drive our buses, they bag our groceries, care for our kids at daycare centers, and nurse the sick and elderly. Forcing workers to work sick poses a public health risk and lack of earned paid sick leave threatens the economic security of working families. A minimum standard for earned paid sick days will increase protection for our families and communities and strengthen our economy. Needed sick time deprives workers of pay or pushes them to show up on the job while sick and delaying treatment for themselves or their dependents. While the United States continues to be behind its international peers in providing this basic protection, many state and local policymakers understand both the health risk of leaving workers little choice but to show up to work sick and the reality that, that lack of paid sick time imposes a disproportionate burden on lower wage workers. Earned sick time is a wise investment for employers, workers, and the general public. The many employers who already provide paid sick days would have a more level playing field with their competitors if more workers were given the opportunity to earn paid sick time. Additionally, businesses would be able to be, to more easily maintain a healthy workplace. We want to thank Senator Crawford for introducing this legislation and thank you for considering our views. These are very real and important reasons to support the paid time off components contained in LB305. The benefits would convey themselves to all Nebraskans, workers and businesses alike, through increased security and flexibility for workers, alongside increased productivity in the workplace. We ask that you support LB305 and advance it from this committee for consideration by, by the full Legislature.

**M. HANSEN:** Thank you, Ms. Martin. Any questions from the committee? Seeing none, thank you for your testimony.

**GREGORY C. LAUBY:** Good afternoon, Senator Hansen and members of the committee. My name is Gregory C. Lauby, G-r-e-g-o-r-y C. L-a-u-b-y. I support the concept of paid sick leave that is at the core of this bill, and it may be time for the state to impose that requirement on private employers. But I have reservations about some of the specific features that I would hope that consider, the committee would consider before referring the bill out to floor. The bill applies this

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requirement to any employer with four or more part-time employees working over 20 hours a week in a calendar year unless the employee is a minor working for a parent. The state and political subdivisions are excluded from the requirements of the act. Now is not the time to impose any new financial obligations on any agricultural operation, at least not until market prices return to a level that allows property taxes to be paid from profit instead of equity. And so any application of this bill that increases the financial burden for any agricultural operation, I think is, is ill-timed. For time employees, part-time employees can be a very small startup business made up largely of adult family members and this requirement may increase the failure rates of those types of businesses as they sort out. As I understand it, the Affordable Care Act was only mandatory for employers with 50 or more employees. That may be a better level to test out this requirement. In my experience, most small businesses have an informal policy to handle problems that their employees face that may require them to be absent from work. And those policies and employees may not be counted in the statistical data that has been presented. I get, I also tried to point out some of the things that I think should be looked at to ensure that the employer has adequate notice and an ability to contest any kind of false claim. And finally, I would suggest that a domestic abuse, domestic and sexual assault or stalking to be considered cause for paid leave, the impact and time demand residing from other crimes and other traumatic events requiring work absences also be considered cause for paid leave, rather than I think the common practice now is to deal with those under policies allowing for a personal or vacation time leave. If there are no questions.

**M. HANSEN:** Thank you. Are there questions from the committee? All right, seeing none, thank you for coming down.

**GREGORY C. LAUBY:** Thank you.

**M. HANSEN:** All right, do we have any more proponents for LB305?

**SPIKE EICKHOLT:** Good evening. Chairman Hansen and members of the committee, my name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska in support of LB305. You've got a copy of my written statement so I'm not going to read from that or even refer to that because, really, most of the points that I was going to make have already been made today. And I think the committee's heard all those and it's getting late. I just wanted to make one additional point. I think it's important in case it wasn't made before. Not only is this bill good because it provides for paid

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sick and family leave for safe time, or paid sick and safe time leave for certain things that happen to an employee and also people who are close to the employee in the employee's family; it allows for paid sick and family leave or safe time if a person is a victim of domestic violence, sexual assault, or domestic assault. And on pages 5 it explains, the bill explains, what's meant for "time off" for those victims or people who are close to victims of those types of crimes. What's important I think in this bill is that it includes the category of legal services. I can tell the committee being someone who practices in this area, that domestic cases, sexual assault cases, those are tried. And because they are tried there's many pre-trial hearings, this miss, missed times or lots of times where the victims in those cases or witnesses have to take time off to meet with prosecutors. They have to take time off for pre-trial court hearings, for depositions, and ultimately in many instances trial. That's not vacation time. That's not insignificant burden in and of itself for victims in these situations. They shouldn't have to take a financial loss in addition to that. So I just wanted to make that additional point because I think the bill appreciates that point. And I would refer the committee to the statement that I had distributed earlier for the balance of my testimony. I'll answer any questions anyone has.

**M. HANSEN:** Thank you, Mr. Eickholt. Are there questions from the committee? Seeing none, thank you for your testimony. Any other proponents for LB305? Seeing none, we will move to opponents for LB305. Welcome.

**JOHN ALBIN:** Thank you. Good evening, Chairman Hansen, members of the Business and Labor Committee. For the record, my name's John Albin, J-o-h-n A-l-b-i-n, and I am the Commissioner of Labor. I'm appearing here today in opposition to LB305. LB305 is a rework of last session's LB844. As written, LB305 creates a new type of leave that employers are mandated to provide employees. Employers must provide paid sick and safe time to employees at an accrual rate of one hour for every 30 hours work. The amount of the required accrual is capped at 40 hours per calendar year. Assuming an employee works at a standard 40 hour a week, the employee will stop accruing paid sick and safe time leave after 30 weeks. Employees are not eligible to use the leave until the 60th calendar day of employment. This would be a completely new area of enforcement for the department. The department anticipates several questions from employers and employees on how this would impact existing sick, vacation, and paid time off accruals. The department's best comparison to this program is the Wage Payment and Collection

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Act. Currently, the department has one manager, one staff assistant, and eight investigators handling all labor standard issues. The largest of these programs are the Wage Payment and Collection Act, the Contractor Registration Act, and the Employee Classification Act. Last year, the department had 1,205 wage complaints filed. The department is anticipating a similar volume under this new law as well. As such, we believe these additional, three additional investigators will be necessary. The department will also need to modify its existing wage complaints system to work for both laws. The department will need one contract IT position for four months. The Department is anticipating costs of \$304,246 in year one and \$251,558 in year two, which would all be new general funds. That concludes my testimony and I'll try and answer any questions you might have.

**M. HANSEN:** Thank you, Commissioner. Are there any questions from the committee? Seeing none, thank you for your testimony.

**JOHN ALBIN:** Thank you.

**M. HANSEN:** We'll take our next opponent.

**ERIN EBELER ROLF:** Members of the committee, my name is Erin Ebeler Rolf and I'm an attorney at Woods & Aitken LLP. I'm here today to speak on behalf of the Lincoln Independent Business Association commonly known as LIBA, as well as the State Chamber of Commerce and the National Federation of Independent Business. These organizations each oppose LB305, the Healthy and Safe Families and Workplace Act for a number of reasons. First, this bill applies to small businesses that may not have full-time employees. Small businesses are the ones who are most impacted when employees take a sudden leave of absence and are the least likely to be able to cover the gaps that are created with other workers. Under this bill, all employers who have at least four full-time or part-time employees who work at least 20 weeks per year are covered. So an employer with only four part-time employees who work mid-April through mid-September is covered by this act during the entirety of the year, even if they only have one employee during the rest of that year. Second, this bill far exceeds the current provisions of federal law. While Executive Order 13706 will provide for paid sick and safe leave to certain federal contractors and subcontractors, no federal law provides for paid sick leave with regard to private employers who are not federal contractors. The federal Family and Medical Leave Act applies to businesses with 50 or more employees but does not mandate that employers must provide paid leave. Further, as compared to FMLA, LB305 is exceptionally broad with

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regard to who may be a beneficiary of the bill. For example, FMLA applies to employees who have worked at least 1,250 hours for the employer during the prior 12-month period immediately preceding the leave or approximately 24 hours per week on a 52-week basis. Further, an employee must work at a location where that employer has at least 50 employees within 75 miles. None of these limitations exist in LB305. The definition of a family member under LB305 far exceeds what is currently in federal law. Other than for military base leave, a covered family member under FMLA only includes a child, spouse, or parent. Those terms are further limited by federal regulation and law. A child, under FMLA, is one who is under the age of 18, absent physical or mental disabilities. This act has no such age limit. Under LB305, a 35-year-old who is otherwise mentally and physically fit has the same protections as a 12-year-old. While FMLA applies to spouses, including same, same-sex spouses, this bill applies to both spouses and domestic partners. However, LB305 provides no definition of what it means to be a domestic partner. And it does not inform employers of how to determine if someone legitimately falls into that category. LB305 further expands the beneficiaries to parents-in-law, grandparents, grandchildren, and siblings, categories excluded by FMLA. These are meaningful additions when one considers that employers oftentimes employ multiple members of the same family. So essentially an employer could lose employees at the same time or on a consecutive basis to the same sick family member's situation. LB305 also provides very limited protections for the employer. Under this bill, employees have limited obligations to timely notify employers of the need for leave, to work with the employer to minimize the impact of the leave on business, or to timely provide documentation supporting the need for the leave. For example, under FMLA, certain forms must be completed and medical certifications can be requested to ensure that the leave is being appropriately requested. Very few of those protections exist here. For example, FMLA requires that certification of a serious health condition be provided within 15 days. This bill would give an employee 30 days to provide a basic doctor's note. Further, it's not always easy for an employer to cover employees' missed shift. Temporary workers are not always available where the work requires special skills or in smaller communities and or in an environment such as Nebraska that has a very low unemployment rate. Many smaller employers have never worked with a temp agency and workers may not be willing to travel from urban centers to rural communities for a temporary position-- if I may finish my thought-- if they don't have temporary housing options or travel available to them.

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And so for those reasons we request that this bill be opposed. Thank you.

**M. HANSEN:** All right, first and foremost, can we have you spell your name again?

**ERIN EBELER ROLF:** I apologize. Ebeler, E-b-e-l-e-r, Rolf, R-o-l-f. First name is Erin, E-r-i-n.

**M. HANSEN:** Thank you very much. Any questions from the committee? Senator Hansen.

**B. HANSEN:** One question. I think this is the hang up that I had in one other bill from Senator Crawford is when it comes to a domestic partner. Is there any-- I understand what a domestic partner is, you know, but is there like a legal, anywhere legally that it's, that there's a definition of what it is that we could use for this? Or like Department of Labor or federally or--

**ERIN EBELER ROLF:** I believe LB311 actually includes a, the definition of domestic partner within that bill. That same definition, however, is not included within LB305. And as I recall the definition from LB311, it includes a partner who is in an intimate relationship, living in the same location as the employee at issue, and I believe there's a third factor that I'm not remembering off the top of my head. But I'm sure it will come out during the testimony of LB311. But I believe that's one of the issues, is that how is an employer supposed to reasonably know if somebody is in a domestic partnership? I mean, obviously now same-sex marriage is allowed. And so marriage is a clearly defined, you can show a marriage certificate. It's a way for an employer to know without asking, are you really in an intimate relationship with somebody? We don't want employers to have to ask that question or question employees in that regard.

**B. HANSEN:** Thank you.

**M. HANSEN:** Thank you, Senator Hansen. And I guess, I guess, I think I know the gist of your testimony. Sorry, I have a question as well, is you described a lot of the ways that Senator Crawford's proposed bill differs from the current federal, federal law. And kind of that's the point, that I believe her intent of her bill is to expand to cover things that aren't already covered. So I take it your, kind of the

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fundamental position is that it is too burdensome to employers, the new additions that Senator Crawford is proposing?

**ERIN EBELER ROLF:** I think it's extremely broad and extremely burdensome on a large number of employers. Again, the very definition of what employers are covered. It's not just employers who currently have four employees, it's employers who have four full-time or part-time employees in at least 20 weeks in the current year or the prior year, I believe. And so, again, you have an employer who maybe ramps up during the summer months but they only have one employee the rest of the time. They're still covered by this bill the entirety of the year. And so that one employee leaves, that employer, who maybe in a small community that doesn't have a temp service, that's 60 to 70 or more miles away from an urban center, what exactly is that employer supposed to do? Because most employees-- or most applicants in such a situation aren't going to be willing to take on a temporary position when they have a full-time option over here. Because, again, Nebraska is fortunate in that we have a low unemployment rate. That's a great position to be in, but it makes it very hard for this bill to actually be implemented from a employer perspective.

**M. HANSEN:** Thank you. Any other questions? All right, seeing none, thank you for your testimony. Welcome back.

**KATHY SIEFKEN:** Good evening. Chairman Hansen and members of the committee my name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, here today representing the Nebraska Grocery Industry Association as its executive director and registered lobbyist. I've also been asked to testify on behalf of the Nebraska Retail Federation and the Nebraska Restaurant Association in opposition to LB305. I'm trying to be very quick since it is getting so late in the day. Our industry is one that runs on profit margins of approximately 1.5 percent. This bill would require us to pay our 14-year-old shelf stockers paid time off. These are high-school kids. When you're working on 1.5 percent margin there is no money to pay for time off to high-school kids. That's why they're hired, because they don't have skills and we are trying to train them. This-- we train them. We, we tell-- we teach them how to clock-in to a time machine. We teach them that they have to show up for work. And now what this bill would do would be required that we pay them for time off. And this is a business killer. Rural stores, our small, independent stores can't afford something like this. If you have any questions, I'd be happy to answer.

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**M. HANSEN:** Thank you. Are the questions from the committee? Senator Slama.

**SLAMA:** Hi. Thanks for coming out today and for keeping it brief. One of the concerns I had with this bill is, in terms of the employment of younger people, is that the employee, the employer cannot make the employee search for someone to cover their shift as is very typical when you're employing young people or working in a setting like a grocery store. What are your concerns to that requirement?

**KATHY SIEFKEN:** That happens all the time because high-school kids have a tendency to be involved in after-hour activities and so a lot of times they'll just switch. And sometimes our people don't even know, our, our department heads don't know that they've switched until they show up. So it-- I don't know how this would work. In the, in the real world, in a real grocery store, I don't know how it could work.

**SLAMA:** Thank you.

**M. HANSEN:** Seeing no other questions, thank you for your testimony.

**KATHY SIEFKEN:** Thank you.

**M. HANSEN:** Any other opponents to LB305? Seeing none, anybody wishing to testify neutral on LB305? Seeing none, we'll invite Senator Crawford back up to close.

**CRAWFORD:** Thank you, committee members, for your patience on this long day. And I want to thank all the proponents who came to testify. I'm sure you found, as I did, their compelling testimony as to the need for paid sick and safe leave. I was also struck by Mr. Lauby's comments that other criminal victims may need this kind of protection as well. I thought that was an interesting comment that he made, that I will take into consideration. One of the testifiers spoke of the assumption that most businesses have policies that accommodate the need for people to take leave. So I just want to repeat again what we know from Department of Labor studies, that almost half of workers don't have sick days. So that's very important. I think many of us, because we are in professions that have sick days, we don't realize the condition that most people are in, that almost half of workers don't have sick days. And 70 percent of low-wage workers do not have sick days, so those are important factors, facts that I want you to recall. Now, colleagues, I think that in Connecticut in 2011 and New York City in 2014 I'm sure that the Connecticut Chamber of Commerce

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and the Connecticut NFIB groups presented similar challenges and talked to their elected officials about how such provisions would be broad and burdensome and how they would be job killers. But, colleagues, I want to remind you what we found in those states after paid sick leave was put in effect. In Connecticut, more than three-quarters of employers expressed support for the law. And in New York City, two years after it implemented the paid sick days law, 86 percent of employers expressed support for the law. Again, unemployment was at its lowest in six years and the number of businesses grew, consumer prices fell, and labor participation was at its highest on record. So I think we can see in that state and that city that put in place paid sick leave they did not see those disastrous effects from the law. And instead, in fact, employers expressed support for the law once it was in place. I think that is important to recognize that dynamic that happens, I think, in the case of paid sick leave. That there is opposition at the beginning but once it's put in place the employers recognize and see the benefits of it. And we see economic benefits from it as well once it's in place. So I just want to urge the committee to take that into, into account, to recognize those positive effects that we see in those two places that have already put it in place. And I think, really, I, it's fair to ask what should be the appropriate number of full-time employees in place. And that's an issue that I'm willing to look at and consider. Perhaps four time, four employees, full-time or part-time is too low of a bar. So that's a valuable comment for us to consider in terms of where is the appropriate line. However, I don't think that the line of 50, as in FMLA, is the appropriate line for us if we're trying to really make this a factor that will impact our workers across the state because that, that line leaves out many of our employers. And as Senator Hansen noted, one of the reasons that we're looking to impose a state policy is that we're wanting to look for something that is more comprehensive than what we already have in federal law. Those protections that are already in federal law are already there. And so the question is, what might we want to do in a state that goes beyond what's allowed, what is provided through federal law? So with that, colleagues, I will end my closing and I'll try to answer any other questions that you may have.

**M. HANSEN:** All right, thank you, Senator Crawford, for your closing. Are there questions from the committee?

**B. HANSEN:** I just have a couple questions.

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**M. HANSEN:** Go ahead, Senator Hansen.

**B. HANSEN:** I'm unfamiliar with the Connecticut version. Is it very similar to what we have here? What they've implemented in Connecticut, is it very similar to this bill. Like kind of-- like, I don't know, like full, same amount of full-time hours or one hour for every 30 hours kind of thing?

**CRAWFORD:** So I, I do not know if it's the same exact number of hours as our bill. It's a similar paid sick leave policy. But I could look into that and let you know.

**B. HANSEN:** And I just had a couple of questions on maybe some linguistic things.

**CRAWFORD:** Sure.

**B. HANSEN:** Like on page 5 it says, "Absence necessary due to domestic abuse, domestic assault, sexual assault, or stalking, regardless of whether a charge has been filed or a conviction has been obtained". I just, that's, I don't know if that's a sticking point with me.

**CRAWFORD:** So you're required to show some evidence.

**B. HANSEN:** OK.

**CRAWFORD:** So by a, by a counselor or clergy member if there haven't been charges filed.

**B. HANSEN:** Oh yeah, because that was on one of the pages, the employee, the employer has the option to request that.

**CRAWFORD:** Right.

**B. HANSEN:** OK. OK, there's one other thing. It was something on the last page: The department shall administer and enforce the act and may adopt and promulgate rules and regulations to carry out the purpose of the act. Does that mean they can kind of change any of the rules and regulations to this to enforce it the right way they want to?

**CRAWFORD:** So that's a common, commonly the way we implement laws once we pass them, is we pass the law with the broad parameters and then the department, the departments are required to issue rules and regulations that identify the particulars.

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**B. HANSEN:** OK.

**CRAWFORD:** So it's their job to still stay within what we have authorized them to do. So they cannot issue rules and regulations, or they should not, issue rules and regulations that contradict what's in the law. But they would be defining and may, and maybe more precisely defining and, and discussing the particulars of how the law would be carried out in the rules and regulations. So it's possible, like for example, a rule or regulation might define what a domestic partner is if we don't define it in the law. The Department, the Department of Labor would be required to define it and they might define that in the rules and regs.

**B. HANSEN:** OK, thank you. Appreciate it.

**M. HANSEN:** Thank you, Senator Hansen. Senator Slama for a question.

**SLAMA:** Senator Crawford, outside of Connecticut and New York City do you have any other examples of states or governments that have implemented similar, bills similar to this one?

**CRAWFORD:** So we have, I have in my testimony 11 states and 21 cities have implemented, have passed paid sick leaves-- paid sick laws. I don't have off the top of my head what those 11 states and 21 cities are.

**SLAMA:** Sure.

**CRAWFORD:** But it has been other states, other cities in addition to those two.

**SLAMA:** Thank you.

**CRAWFORD:** You're welcome.

**M. HANSEN:** Thank you, Senator Slama. Any other questions? All right, seeing none, well, thank you, Senator Crawford. And before we close the hearing on LB305 I have a few records to read in. We have a letter from Peg O'dea Lippert of the National Association of Social Workers in support; Tessa Foreman, Nebraskans for Peace in support; Ivy Svoboda and the Nebraska Alliance of Child Advocacy Centers in support; Sakura Yodogawa-Campbell, who is from Omaha; Aubrey Mancuso from Voices for Children in support; a letter from the Nebraska Child Health and Education Alliance in support; Linda Olson from Bright Horizons in support; letter from Bob Hallstrom of the National

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Federation of Independent Businesses, opposed; and a letter from Rocky Weber of the Nebraska Cooperative Council, opposed. And with that, we will close the hearing on LB305 and we will move over to LB311. Welcome back, Senator Crawford.

**CRAWFORD:** Thank you. Good evening, Chairman Hansen and fellow members of the Business and Labor Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I'm honored to bring today LB311, the Paid Family and Medical Leave Insurance Act, before you today. In Nebraska we value our families and our workers who contribute to a growing economy and thriving communities. Most of us choose to live here because Nebraska offers a great quality of life, because of family ties, or because it's an affordable and safe place to raise a family or for our kids to get a great education. For most of us, the well-being of our children, spouses, family members, and loved ones is our top priority. Many of us have or will need to provide care to a loved one at some point in our lives and for some of us it will be our own health that requires extra care. All of us can then potentially benefit from paid family and medical leave, whether it's a new parent spending critical early bonding time with their newborn, a worker who needs time off to recover from a surgery or a serious medical condition, or a mid-career professional who provides care for an ailing elderly parent. Family, paid family and medical leave provides workers with the time and wages they need to deal with some of life's most special or difficult moments so that we can retain a skilled work force, healthy children, and strong families. Year after year when the State Chamber asked businesses about their greatest challenges, work force shortages comes up as a top concern. We simply don't have the work force we need to fill jobs, attract business, and grow our economy. Our young people are leaving for cities and states where they see better opportunity. Adopting paid family and medical leave is one compelling way to draw and retain work force to our state. Let's let young people looking to start families or experience mid-professional careers with aging careers-- with aging parents know that if they come to or stay in Nebraska they don't have to worry about taking care of a baby or their mom. In listening sessions over the summer, we heard from several Nebraska employers who already offer some amount of paid family leave to their employees, those in the narrow minority in the state, that when asked about their experiences with offering paid family leave benefits they said that their benefits packages, including paid leave, are part of their competitive edge that allow them to hire the best candidates. This is

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how businesses are able to attract the best and the brightest. By passing this bill we'll be helping businesses to offer these incentives to recruit work force. And just as businesses use paid family leave to attract the best and the brightest, as a state we can use paid family and medical leave to attract and retain the best and brightest to our state. Additionally, the vacancies left by workers on paid family leave creates a whole new market and job training opportunity for temporary employers, interns, and college students to begin gaining valuable job experience and honing their workplace skills. Colleagues, I have pages of evidence from studies that demonstrate the positive effect of paid family and medical leave on children, parents, the elderly, and caregivers. However, I believe that you'll hear many of these arguments from the advocates who have waited patiently to testify this afternoon. So, in the interest of time, I will allow the advocates to make those arguments and I'll just point to two important factoids that are important to know. One is that in the state of Nebraska you can only get a license for licensed daycare for children who are six weeks and older. So it's just true in Nebraska that licensed daycare only exists for children six weeks older. And the second that we have seen in states that have adopted paid family and medical leave, that the use of long-term care goes down by 11 percent. So those are my two factoids, but I'm leaving most of the rest of the testimony to the people coming behind me. However, Dr. Sophia Jawad Wessel was wanting to testify and was unable to stay. And so I would ask that the clerk pass out her testimony so that you have access to her testimony since she was not able to stay. So I will instead focus in my testimony on what we know from studies of businesses in those states that have already implemented paid family and medical leave. In the three states that have implemented paid family and medical leave programs for any time-- that's California, New Jersey, and Rhode Island-- evidence shows that the programs increase productivity, improve retention and morale, and have positive or no impact on businesses' bottom lines. In California, the majority of employers surveyed perceived a positive effect on employee productivity, profitability, and performance. The California Society for Human Resource Management, who originally opposed paid family and medical leave, has since declared that the law is less onerous than expected and that few businesses in their research reported challenges from workers taking leave. In New Jersey, the majority of both large and small businesses say they have adjusted easily and have reported no increase in administrative costs as the result of the state, of the state's paid leave program. The survey of Rhode Island employers found that the majority of employers reported favorable views on the law one

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year after it went into effect. Colleagues, the results from businesses in states that had paid family and medical leave demonstrate that, despite initial opposition from businesses in those states, once paid family leave is implemented businesses adapt easily and many businesses actually benefit. In past conversations I've heard concerns about the impact a paid family and medical leave law will have on small businesses. Presently, small businesses that cannot, cannot afford to offer the same generous family leave benefits that larger companies are able to do so and are at a competitive advantage in hiring. Providing paid family and medical leave insurance through an employer, through and through, through the paid state program levels the playing field for these small businesses, allowing them to compete for talent. The reality is that small businesses are already paying the price somewhere. Maybe it's having to pay for recruitment, hiring, and training when an employee has to quit due to caregiving needs or exhausted, unhappy employees showing up unem-- unproductive and uninspired do a good job when their mind is at home with a new baby or a sick parent. Maybe it's one employee taking off work when, when, work of two-- taking on the work of two, excuse me, when a family member falls ill. Under this program, those costs would be reduced through contributions to the insurance fund. Employers can retain happy, productive employees who come back to work motivated to do a good job. Since the employer is not paying the employee's salary while on leave, those funds are available to pay the salary of a temporary worker or intern. The majority of small businesses surveyed in California reported positive or neutral outcomes for profitability, productivity, retention, and employee morale as a result of the state's paid leave program. And being mindful of the wishes of the business committee to have the option to providing leave on their own and insurance companies wishing to compete to provide leave insurance, LB311 lead-- includes an opt-out provision that allows employers that provide substantially equivalent benefits to employees on their own to opt-out of paying into the fund. According to our estimates and figures provided to us by local employers, we expect it would be cheaper for most businesses to administer benefits through contributions to the state fund rather than provide benefits, for benefits on their own. But the opt-out option is there for businesses to provide on their own and for insurance companies to compete. This act will lend businesses, particularly smaller businesses, a helping hand by providing an efficient cost-effective mechanism for companies that do not otherwise have the funds or administrative capability to administer paid family leave benefits. Those who choose to provide benefits on their own or by purchasing from a private insurance will

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still have the option to do so. In light of all these arguments for paid family and medical leave, let me now just briefly explain some key components of LB311. The bill creates an insurance fund like unemployment insurance for paid family and medical leave that's administered, administered by the Department of Labor. All employers who pay unemployment insurance would be required to pay into the paid family and medical leave fund or provide comparable benefits without accessing the pay, paid family and medical leave fund. The bill defines "serious medical conditions" as defined in the federal FMLA but it defines family more inclusively than in the federal FMLA. I think that's important to our definitions of family and who's providing caregiving has changed over time and so I think that more inclusive definition of family is an important component as we move forward in understanding what workers need in terms of paid family and medical leave at this time. The bill allows for up to 12 weeks of paid leave for an individual caring for himself or herself or a new child and 6 weeks to care for a family member with a serious medical condition. When an employee takes family or medical leave he or she receives a partial wage replacement from the fund at about two-thirds of their salary up to two-thirds of the average weekly wage for the state. So this is still a sacrifice for workers to take this leave it. It's a partial wage replacement and they'll still have to have savings or and sacrifices on their own, which is part of why I believe it will not be overly used, because it's still a sacrifice for people. But it does give them some funds when they need to take this leave to be able to pay the bills. The bill also allows for military exigency leave that provides military members and their families, that allows military members and their families to take leave to address needs before or after deployment. When an employee takes leave, the business will not be paying wages for that employee. However, the bill allows businesses to provide additional benefits should they choose to do so. So if a business choose, chooses to use the paid family and medical leave to subsidize leave that they want to provide, it would allow them to provide full wage leave at a much lower price than they can now. The bill provides job protections to all employees in qualifying businesses who take family or medical leave like those currently provided to select employees and large companies by the federal FMLA. Colleagues, you should have, I think, an amendment, a copy of an amendment in your book. The amendment makes some clarifying changes requested by the Department of Labor that will help with their implementation of the act. Another addition was requested by the Nebraska Public Employees Retirement Board to clarify that payments under the act are not considered compensation under the PERB's

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retirement laws. Finally, the amendment puts in a dollar amount to be borrowed from the Health Care Cash Fund which will eliminate the General Fund impact. After paid family and medical leave is up and running, it pays for itself. The costs that need to be addressed are those that occur in the startup of the program and the bill is written to allow the money needed for the startup of the program to be borrowed from the Health Care Cash Fund and then repaid in two years. And I have an updated fiscal note from the Department of Labor that demonstrates this, that shows the bill would have no General Fund impact. In summary, a large body of data continues to show that paid family and medical leave provides measurable benefits to employees and employers and that the need for those benefits continues to grow. With public pressure mounting, no action in sight on this issue at the federal level, and a lack of initiatives from business community to adopt these policies independently, it's time for Nebraska to step up and provide paid and medical family leave. After listening to the compelling testimony we'll hear from advocates behind me, I urge you to advance the LB311 to the floor for a vote. And with that, I'm happy to answer any questions you may have now or at closing.

**M. HANSEN:** Thank you, Senator Crawford, for your opening. Are there questions from the committee? Senator Slama.

**SLAMA:** Thanks, Senator Crawford. So you referenced the large body of data to support paid family medical leave, a few times referencing California, New Jersey, and Rhode Island as success stories, right? OK. So California, New Jersey, and Rhode Island both have significantly smaller-- let me rephrase it. California and New Jersey both offer six weeks paid family medical leave, Rhode Island offers four weeks, California and Rhode Island and New Jersey are both at about 60 to 70 percent of wages. This bill takes that a little bit farther. You get 12 weeks and then up to 95 percent of the individual wages. What was the reason in taking it a step farther from those states that you had seen as success stories?

**CRAWFORD:** Sure. The 95 percent of wages is only for low-wage workers. So what the bill as written now lives, allows for a sliding scale. So that the very low-wage worker would get more percent, a higher percent of their wage so they could afford to take the leave. But for most workers it would be more than 60 percent, two-thirds of their wage. And actually, for folks that make higher than the median wage, it would be higher than two-thirds percent. I mean, it would be lower than that because it only goes up to two-thirds percent of the median

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wage. So I think the wage component is pretty similar to what's found in those states. The weekly, the week, the weeks of leave, really the 12 weeks of leave for the new child is really what we keep seeing over and over again as the standard of what makes a difference in terms of outcomes for the health of the child and the parent. So that's why that was left at six weeks-- 12 weeks, excuse me. We left the care for a, care for a family member at six weeks which is comparable to those other states. So the one that's left is the one of caring for yourself, and we went back and forth whether to make it six weeks or 12 weeks. Right now in the bill it's 12 weeks. One could argue with some of the what's happening to some of the other states that six weeks is a reasonable limit for that. That's something we can discuss.

**SLAMA:** OK, thank you.

**CRAWFORD:** Sure.

**M. HANSEN:** Thank you, Senator Slama. Are there any other questions from the committee?

**HALLORAN:** Thank you, Chairman Hansen. Senator Crawford, would you go through the fiscal note again?

**CRAWFORD:** Sure. You know, I handed out copies of--

**HALLORAN:** This was the most recent--

**CRAWFORD:** --the most recent one that I handed out just now. I think I handed out all my copies but I'll do my best to do it without it in front of me.

**M. HANSEN:** We'll make sure you get a copy.

**CRAWFORD:** Sorry. OK. Now, I'll try to answer your question.

**HALLORAN:** OK. You ran through it rather quickly, can you explain?

**CRAWFORD:** Sure.

**HALLORAN:** And I misunderstood.

**CRAWFORD:** Absolutely. All right, so. So actually with paid family and medical leave, like unemployment insurance, it pays for itself once it's up and running. It pays for itself with the contributions, all right? So what the, the cost that's needed before is the cost that it

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takes to set up the program and hire people to get it started. So that's the startup costs. And so what we've done in the bill is we have provided for the startup costs to be borrowed from the Health Care Cash Fund and then repaid. So instead of taking those funds from, instead of requiring a General Fund investment, which we don't have, it takes, it takes the investment from the Health Care Cash Fund and then repays that investment within two years. And that's possible to do with contributions and still stay under a 1 percent contribution level.

**HALLORAN:** So it's not a drag on the General Fund?

**CRAWFORD:** Correct.

**HALLORAN:** And Senator Stinner is OK with all that?

**CRAWFORD:** Well, I hope he'll be very happy with this provision. Yes.

**HALLORAN:** Well, I'm not questioning if he'll be happy. Is he OK with it?

**CRAWFORD:** I haven't talked to him about the use of the Health Care Cash Fund specifically.

**HALLORAN:** OK, thank you.

**M. HANSEN:** Thank you, Senator Halloran. Any other questions from the committee? Seeing none, thank you for your opening. All right, and let me just start off by thanking all of the testifiers for, against, and neutral who have waited to come up. With that being said, we will move to proponents on LB311. Come on up. Welcome.

**JENNIFER VILLOTTA:** Hello. This is regarding LB311 for Paid Family Medical Leave Insurance Act. Chairman Hansen and members of the Business and Labor Committee, my name is Jennifer Villotta, that's J-e-n-n-i-f-e-r, Villotta, V-i-l-l-o-t-t-a. I am here today in support of LB311, the Paid Family Medical Leave Insurance Act. This is my story. In 2003, at 45 years of age, my mother became paralyzed from the waist down. The doctor's prognosis was permanent paralysis and they wanted to send her to a nursing home unless I moved back home due to the fact that my brother was 15 years old and couldn't take care of her at the time. For the last 16 years I have been my mother's sole care provider. I've had to get her to and from multiple types of therapy: outpatient, inpatient, aquatic, countless doctor's appointments for bloodwork, procedures, and tests. She is on Coumadin

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for a blood clot and gets tested every two weeks. During the last 16 years I have had a son, I have attended school and maintained, and obtained a paramedic license here and worked at multiple jobs just to make ends meet. I did not know family, FMLA existed for families until 2014. Prior to that, I've had to call in sick or schedule time off to get my mother to her appointments or treatments. When I have asked for help for my two brothers, I have always been told that they were married, they had their own lives. And since I was single, I had to do it myself. My sister-in-law eventually got her nursing degree but she refuses to help since my mother is not hers. Over the years, my mother has been able to regain limited mobility. She is diagnosed as having cauda equina syndrom. In 2014, she had an emergency gallbladder surgery. My employer at the time had convinced me that FMLA was not needed since they were a 24/7 operation. So I called in sick. In 2015, my son and I were hit head on by a drunk driver. We stand, sustained injuries, several doctor's appointments, physical therapy, and I ended up having to have surgery. My employer did offer EIB, which is an extended illness bank for employees only and FMLA to cover for my surgery in 2016. Later that year, we were hit by a distracted driver; and more doctor's appointments, physical therapy, and another surgery in 2018. Between 2016 and 2018, my mother got very sick. In 2017, she became septic and I was approved for FMLA. And I was told that the EIB was a nontransferable. I was approved for one month, but since I was the sole financial provider and my PTO bank was depleted for my own therapies, I had to go back to work early after one week. My mother opted to be a guinea pig for a new procedure because the infectious disease doctor said she would never survive her surgery and the team of doctors needed me at the hospital in case anything went wrong. They were not happy I had to return to work so soon. Because of the extent of her sepsis, she lost her ability to walk again and was sent to an acute rehab facility. That rehab facility would not release her home because I was not able to help them with her therapies. She was then transferred to a subacute rehab for wound care and more physical therapy. After three months she was finally able to return home. Since then, the extended illness bank is no longer offered for employees. I have a zero PTO balance and I've had to take FMLA unpaid. My mother has gotten sick again and was ordered to have home health come in along with home physical therapy. Instead of being able to attend home health and the physical therapy to help them, I have had to work. This bill would have helped out and helped out-- this bill would have helped out and would help out a lot of people who take care of their family and not have to worry about how they would get food for their family or how the utilities were going to get paid. This bill is

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needed for the aging population and the fam-- the family members who care for them. My situation is a prime example of what happens to family members who care for their parents. I am a single mother who gets no assistance from my son's father or my own family. Families need this, especially with the shortage of healthcare providers plaguing this nation. Thank you for the opportunity to share my story. And thank you, Senator Crawford, for introducing this important legislation. I ask that you support LB311 and advance this bill onto the floor.

**M. HANSEN:** Thank you. Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you for coming down and sharing your story.

**SHEENA HELGENBERGER:** Hello, Senators, my name is Sheena Helgenberger, S-h-e-e-n-a H-e-l-g-e-n-b-e-r-g-e-r. I support LB311. I'm here to speak today as a citizen, but I do work in the field of public health and I study policies that contribute to healthy children and families. We do know that paid family leave is a recommended best practice to foster positive child and family health outcomes. I also have first-hand experience taking leave from work. I'm a mother and a full-time professional. I took 12 weeks off when I had my first child in 2017 and will be doing the same this May when I have my second child. In order to take leave both times I saved up some paid time off, some sick hours, and then took a majority of unpaid leave. I want to emphasize that I had the privilege of being able to take unpaid leave and there are many mothers and parents out there who don't have a way to still make ends meet. I did end up needing a full 12 weeks to recover myself, let alone take care of my infant. I developed Bell's palsy at week 38, which caused muscle paralysis on the left side of my face. I wasn't able to chew well, I wasn't able to speak well. In addition, I did have an emergency C-section as part of my birth, which is major surgery and takes up to 12-- 6, sorry. Takes up to six weeks to heal. The Bell's palsy took a number of weeks of outpatient rehab. So as you can see, there were multiple complexities that a lot of us face when we're taking leave: caring for our newborn, our own healing, and then any health complications that happen on top of that. For those reasons, I can't fathom returning to work any sooner than 12 after giving birth. I really needed each of those days to heal and figure out how to take care of this new person. When I did return to work, it took time to recover financially from the missed paychecks. You know, I had to juggle that with immediate childcare costs and then paying back the hospital bills. I think too many workers in our state

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are forced to choose between their jobs and being there for their newborn child or other family members during fragile times because of a lack of paid leave policy. So I speak for them and from my own experience. Please support LB311. Thank you.

**M. HANSEN:** Thank you. Are there any questions from the committee? Seeing none, thank you for your testimony.

**AMANDA SULLIVAN:** Good evening.

**M. HANSEN:** Welcome.

**AMANDA SULLIVAN:** Chair Hansen and members of the Business and Labor Committee, my name is Amanda Sullivan, that's A-m-a-n-d-a S-u-l-l-i-v-a-n. I'm here today testifying in support of LB311 on behalf of myself and my family. I never imagined in my 30s that I would identify with the content of AARP magazine. I haven't even reached the recommended age for my first mammography. Nonetheless, I was religiously seeking comfort and advice from this amazing organization. No one warned me in early adulthood I would be a full-time caregiver for multiple generations. Sure, I had a husband and two kids to care for, but I was also a registered nurse for our community's public schools. Yet, as fate would have it, in the fall of 2010 the rug was pulled out from underneath myself and my family. A new reality was thrust upon us. Whatever we had predicted for our future was shattered. A broken femur and a post-surgical stroke sandwiched me into something I had never tasted before. The next six months were spent helping my grandma through rehab and mourning the loss of her independence. By the spring of the next year, with full-time care split between my mother and myself, my grandma was able to live the next six years in the comfort of her own home in rural Hall County. I had a new normal. It made me sad, it made me angry, it made me anxious and overwhelmed. I had to find a way to juggle my young family without abandoning the two women who cared for and loved me throughout my entire life. So I did the only thing I knew to do. I put my nursing career on hold to focus on everyone else's needs. At night, I would lie awake lie awake worrying about what kind of person I was going to become at the end of this: A tired bitter person with outdated nursing skills? Perhaps. Assuming that your elder loved ones are shrouded in protection by retirement savings, current government programs, and insurance policies could leave you and them feeling a cold draft on an exposed backside. My parents went from dipping an occasional spoonful of money from their retirement to shovels full of cash towards whatever was the next impending crisis. At night, again,

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I would lie awake worrying about my parents' financial future. My husband and I would chip in where we could, all the while juggling our children's expense needs. As a family, our caregiving journey led us in and out of a variety of care facilities as grandma's health began to decline. We were lured to beautiful brick and mortar buildings but quickly came to learn that the inviting exterior concealed a less-credible reality. Developers invested the majority of their capital into the structure, leaving a budget to support only a bare minimum staff. We got a front row seat watching nursing staff jeopardize their license, juggling too many patients, resulting in failure to deliver safe care and preserve quality of life. Because of these experiences, it became crystal clear that our decision to assume the role as caregivers was the right choice. Thank you for the opportunity to tell my story and voice my support for LB311. This bill would have been extremely helpful for me and my situation and could provide so much more for those facing similar situations moving forward. I would ask you to please support LB311 and advance it to the floor for full debate. I would like to add that I also handed in to the committee my mother's testimony, as she was unable to be here today. And her name is MaryAnne Carson.

**M. HANSEN:** Thank you. Are the questions from the committee?

**B. HANSEN:** Thanks for your testimony. Are you like an author too? It just read like a short story, like a whole thesaurus came out of here.

**AMANDA SULLIVAN:** Actually, through this experience, because I was, I was home, I was trying to create another career. Because in case something happened to my husband, a nursing career is not something you can jump in and out of. Because, I mean, as it shouldn't be, to protect the public. I would have to go through a lot to get my credentials back. So I was, became a freelance writer and talked about my experiences.

**B. HANSEN:** Thank you for your testimony.

**AMANDA SULLIVAN:** Thank you.

**M. HANSEN:** Thank you, Ms. Sullivan. Any other questions? Thank you.

**CATHERINE HUDDLESTON-CASAS:** Good evening, Chairman Hansen, members of the committee who have been in this room all afternoon. My name is Catherine Huddleston-Casas, C-a-t-h-e-r-i-n-e H-u-d-d-l-e-s-t-o-n-C-a-s-a-s. I am here to ask you for your support

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of LB311, and I'm doing so on behalf of Dr. Sam Meisels, as well as myself. Dr. Meisels submitted a letter of support which you are being handed now, and it was also provided at the end of the week. And so what I would like to do in the time that you have with me is to just highlight a couple of things that Dr. Meisels has laid out in his letter, as well as some information that I know from my own expertise. I have a PHD in family science and I have specialized on family economics and family policy and caring labor. So I'm interested to, to share some ideas with you. The first thing that I'd like to identify from Dr. Meisels is that early relationships shape the architecture of the developing brain. And this is something that we know more recently but there's definitely research evidence about it. Research has confirmed that it's healthy, trusting relationships and positive daily interactions with caregivers and teachers throughout the first years of life that have a profound impact on children's long-term development and success. Further, we know that learning how to interact with a baby and becoming skilled in providing an optimal relational and physical environment for development requires knowledge and skill experience and social support. LB311 is an attempt to make it possible for working parents at critical moments in the life of their children to take time away from their work in order to develop the skills and the relationships that they need to do their most important job of parenting that child and raising another great Nebraska citizen. The second thing that I would like to point out is that Nebraska parents are employed. Nebraska is among the top states in the nation with young children who have working parents. In the past five years alone, Nebraska has placed among the top 10 states reporting that children under the age of six have all available parents in the work force. Nearly all single or two-parent families are in the work force and almost 80 percent of children under the age of 5 are in some form of paid care. If we want parents to be able to care for their infants and young children then we must make it economically possible for this to occur. Senator Crawford's proposal acknowledges the very real needs that parents are struggling to address and to form last relationships, or lasting relationships with their babies at a crucial time, laying the foundation for all the future parenting that they will do over the course of their child's life. The last point that I wanted to make is that, as a society, I believe we have never truly recognized the value, the economic value of caring labor. And now, what we know about early brain development, we are coming to understand what's truly at stake when we don't value caring labor. We've heard from other testifiers about what is happening with caregivers who have, who are providing care to young as

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well as older family members. There's a lot of science that also tells us that when we don't attend to the needs of the developing brain of a child that we are losing a lot of opportunity. So I thank you for your time. I'll take any questions that you might have.

**M. HANSEN:** Thank you. Are there questions from the committee? Seeing none, thank you for your testimony today. Welcome.

**SEAN FLOWERDAY:** Good afternoon, Chairman Hansen. Not gonna get used to that-- the members of the Business and Labor Committee. My name is Sean Flowerday. Sean is spelled S-e-a-n, Flowerday is F-l-o-w-e-r-d-a-y. I'm a member of the Lancaster County Board of Commissioners. I've also spent much of the last decade as a caretaker for my mother, Sally Herrin. I'm here today to testify in favor of LB311. My mother was admitted to BryanLGH West with acute sepsis, an infection of the blood, on December 23, 2008. She would be put in to an artificial coma within the next 48 hours and spent the following month on the Brian West intensive care unit as they cleaned the infection from her body. It would be another year and a week before she was able to return to her home. Her illness left her permanently in a wheelchair and with immune system complications that continue to this day. When she became sick, I was 21. I was employed here, in fact, as an administrative aide to Senator "Cap" Dierks from LD 40. If any of you ever knew Senator Dierks, then you already know there's no kinder or more understanding employer. He made every accommodation in his power to help me. And yet, I still didn't have the time or the resources I needed to take care of her. It's hard for me to conceive now of the immense difference paid family medical, family and medical leave could have made for my life at that time. I struggled through the 2009 Legislative Session, spending days here in this building and nights at the hospitals or the nursing homes. Late nights were particularly ugly. Things didn't get easier when her, when she finally transitioned home a year later. When I think about how my family could've been helped in particular, it would be that six weeks just when she transferred home initially, that would have just been of the absolute value to my family. Senator Dierks worked with me for the first three months when she was back home. He let me split my lunch hour in half so that I could run home once at 10:00 in the morning and once at 2:00 in the afternoon so that I could help her from her bed to the bathroom and back before coming back here to work. I would live with and care for her over the next five years, until late 2013 when her health finally progressed to a stage where independent living was finally possible again. As a young professional who has already spent

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years as a caretaker, I can promise you that paid family and medical leave is a major asset in attracting and retaining a strong work force here in Nebraska. This legislation is an opportunity for our state to do more than pay lip service to happy, healthy families and really make it clear where our priorities lie. Thank you for listening to me. I would be happy to answer any questions if anyone would like.

**M. HANSEN:** Thank you. Are there questions for Commissioner Flowerday? Seeing none, thank you for coming down.

**SEAN FLOWERDAY:** I was asked by my mother when she found out that I was testifying to pass on her warm regards to Senator Chambers. So, Senator Chambers, mom says hi. She made me promise to do that. Matt, she likes you too.

**CHAMBERS:** Tell her it made me smile.

**SEAN FLOWERDAY:** Thanks much.

**M. HANSEN:** Thank you. Welcome.

**GARY BREN:** Senator Hansen, fellow members of the committee, good evening and thank you for the opportunity to speak. My name is Gary Bren, G-a-r-y B-r-e-n, and I am the managing partner of Turner Technology, an IT services company with locations in Omaha and in Holdrege. And I'm here to speak about the employer's perspective of the impact of family leave. I was asked to speak because of a, of a family, paid family leave we gave 25 years ago. That particular event, we were three years old as a company. We had five employees and we needed to hire our first additional network engineer. We hired Matt, and about eight weeks after we came on board Matt told us that he needed to get six to eight weeks of unpaid leave. And we asked him why. And he explained that he and his wife had been trying to have a baby for seven years with no success. They put it for an adoption for a Vietnamese boy, and they didn't think it was very likely but they wanted to try. And they just found out that they had been awarded the adoption but they had to be in country for three to five weeks. We told Matt, we'd like you not to take three to five weeks of unpaid vacation, we'd like you to take eight weeks of paid vacation. And he had been with us for eight weeks at that point. And go to Vietnam, pick up your son, come back, become a family, come back to work. As a short-term business decision, that was probably crazy. But what that turned into overtime was one of several lessons that we've learned as business people about the effect of actions like that. And the two

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primary lessons we've learned is, one, there is a bottom line profit to ethical and compassionate treatment of employees. No question about it for us. Then the second thing is that the cost of a decision is less important than the value of its execution. Matt's case is a good example of that. Until he decided 14 years later that he didn't want to be in IT anymore, he was one of our most loyal and hardworking employees. As a small business, we have many challenges in recruiting talent and retaining talent and those things that we do with that kind of leave and approach to employees have a big impact on our ability to be able to protect, attract and retain employees. Our retention rate, our turn rate is about 5 percent per year, industry average is about 15 percent. That difference saves us between \$80,000 to \$100,000 a year in hiring costs. The satisfaction level of our employees. We have an engagement level about 95 percent of engaged and highly-engaged. That's well above the national average. These things that we do for employees create that environment. And what that equates to are happier customers, a better working environment, happier employees, and a greater degree of success for us. And that's really the lesson we've learned out of this process is that compassionate care actually does have a bottom line value. So we hope that you consider passing this legislation. Thank you. Do you have any questions?

**M. HANSEN:** Thank you, Mr. Bren. Are there questions from the committee? Seeing none, thank you for your testimony.

**MADDIE CUNNINGHAM:** Hi. My name is Maddie Cunningham, M-a-d-d-i-e C-u-n-n-i-n-g-h-a-m, and I'm a junior attending the University of Nebraska at Omaha. I would like to thank the chair and members of the committee for the chance to speak today. I'm here to urge your, your support for LB311. When I was five years old, my great-grandma Carr-- my great-grandma Carry [PHONETIC] started showing signs of Alzheimer's disease. And navigating this horrifying disease as a family is an experience I will never forget. It is an experience that so many Nebraskans are fighting through each day. My mom made sure we visited my great-grandma often, but raising three kids, running a household, and working a full-time job while being a caregiver is something nearly impossible. This sandwich generation of individuals we are seeing is so common, and having to take care of elderly parents or grandparents while raising young children is happening each day. Witnessing my mom, her siblings, and my grandma go through this experience instilled in me that while we always want to do-- that while we always want to, we can't do it all. This Paid Family and Medical Leave Insurance Act would truly lift some of the stress that

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goes along with being a caregiver. I truly see the Paid Family and Medical Leave Insurance Act as an opportunity to support these adults who are offering unpaid care to their loved ones and a chance to boost Nebraska in its entirety. I will soon graduate from college and enter the work force. And knowing that Nebraska would offer paid family and medical leave is such an advantage when thinking about where I will live and work in the future. It's no surprise that poor health is sometimes inevitable. And knowing that I could take care of my loved ones without having my own financial burden to worry about is a huge relief. And I believe that other young adults will feel, will feel the exact same way. Passing this bill into law serves as a chance to keep young talent in Nebraska. Productivity in the workplace is all a business could ask for of their, could ask of their employees, excuse me. Being a caregiver is a 24-hour-a-day, seven-day-a-week role. Working a full-time job on top of these caregiving responsibilities only leads to an unmeasurable amount of stress. Providing paid leave to these individuals would lead to a more productive work force, as these people would have the chance to focus on their personal lives without the financial burden and could come back to their jobs refreshed and ready to work. I undoubtedly see the benefits associated with this bill and all the positives that will come out of it in the years to come. I urge the committee to advance this bill. Thank you.

**M. HANSEN:** Thank you. Any questions from committee members? Seeing none, thank you for your testimony.

**TERRY STREETMAN:** Hello my name is Terry Streetman, I'm here from the Alzheimer's Association. My name is spelled T-e-r-r-y S-t-r-e-e-t-m-a-n. Alzheimer's Association Nebraska Chapter serves the state of Nebraska through support groups, educational resources, research, and public policy. I'm here speaking in support of LB311 both in my professional role but also as someone who has a family experience with Alzheimer's disease. My grandfather passed away from the disease in 2005. My grandmother, his primary caregiver, passed away from her own health issues shortly after. And I'm actually wearing his cufflinks today in their memory. In 2018, 82,000 Nebraskans provided more than \$1 billion of uncompensated care to the 34,000 people in this state over the age of 65 with Alzheimer's. Sixty percent of these caregivers were employed in the last year while providing care. Approximately 25 percent of these caregivers are "sandwich generation," caring for an aging parent and a child under the age of 18. These caregiving responsibilities have an impact on caregiver employment, opportunity, and productivity. Fifty-seven

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percent of caregivers say they've had to go in late, leave early, take time off work because of their responsibilities. More than one in six, excuse me, had to leave work entirely either to become a caregiver or because of the increasing burden of their caregiving responsibilities. Of those who remained employed, 8 percent had to turn down a promotion due to caregiving responsibilities and 7 percent received a warning about performance or into-- or attendance. Every day caregivers are forced to make a difficult choice between continuing to work and providing the necessary attention to care responsibilities for their family. Those who remain at work experience reduced productivity and job performance due to having to cover medical appointments and other responsibilities during business hours. While we understand that the business community has concerns about productivity and potential impacts on businesses, we would argue that their productivity is already suffering from employees who are burdened with caregiving responsibilities and who do not have time to manage them. In fact, a 2014 study by the Institute for Women's Policy Research for the U.S. Department of Labor stated that legislated paid leave has a positive effect on worker productivity and a greater effect than unpaid leave. Additionally, providing this access can help keep employees in the work force, reducing turnover and therefore training and staffing costs. There are resources available for caregivers who need time away from work, such as the Family and Medical Leave Act. However, as we've heard, these can leave caregivers in an even more difficult position as FMLA provides time away from work and the opportunity to return to your previous job, but is unpaid leave which many vulnerable caregivers can ill afford. In 2016, dementia caregivers reported spending more than \$10,000 per year out of pocket on expenses for their loved one, ranging from food to adult diapers. Adding to this financial strain, Alzheimer's and other dementia caregivers spent an estimated \$11.4 billion in increased costs for their own health in 2017. Providing all Nebraskans with access to paid family and medical leave would allow the people of our state the flexibility and security to provide the best possible care for Nebraska's seniors, represent a competitive advantage for talent attraction and retention and work force development, and provide Nebraska businesses with happier, healthier, more productive employees. Nebraska's dementia caregivers are already leaving-- relieving more than \$1 billion burden from our healthcare and senior care systems. I urge this committee to advance LB311 and provide them with the flexibility and security they need and deserve. And I thank you for your time, and Senator Crawford for introducing this bill.

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**M. HANSEN:** Thank you for your testimony. Any questions from committee members? Seeing none, thank you.

**KAREN BELL-DANCY:** Good evening. I am Karen Bell-Dancy, K-a-r-e-n B-e-l-l-D-a-n-c-y, with the YWCA Lincoln. Senator Hansen and committee, it is a privilege to present testimony supporting the LB311 that adopts the Paid Family and Medical Leave Insurance Act. This legislation strongly aligns with the mission of the YWCA Lincoln. Our agency's focus was to eliminate racism; empower women; and promote peace, justice, freedom, and dignity for all. This bill would provide partial wage replacement for parents of new infants and children; for women recovering from childbirth; for those who provide care for family members following an illness; and for those needing leave for military exigency. This letter focuses on the overpowering demands on parents of new infants. Ensuring a steady and uninterrupted income would greatly relieve stresses on all parents bringing home new infants and or children. Currently, employed parents-- usually this falls to the employed mother-- must forfeit some or all vacation days and personal leave days in order to have time off work to recover physically from giving birth and to provide care for the infant. Situations vary of course but this example focuses on professional women employed by public schools. In the case of public school teachers the employee may use any or all vacation and personal leave days to stay home after giving birth and to care for their child. If the employee has not accrued enough vacation days to cover the entire leave, the employee is docked at a per diem rate for each contract day not worked. So, for example, if a teacher takes an extra 10 days for maternity leave beyond what vacation days they may have accrued, paychecks for the remainder of the academic year could easily be more than a \$1,000 less per month. So in addition to losing vacation and personal days the parent, usually the mom, loses income. The decision to have a child is an overwhelming personal sacrifice for a woman. The simple act of dropping off for the first time a six to eight-week-old infant is difficult in and of itself. As one mother said to me in one of our groups that we work with: To drop off that teeny, tiny baby was excruciating. And I personally can relate to that. There are so many other factors that exist that influence a woman's decision to give birth. The economy has kept low and middle-income wages stagnant so building savings for most people is tantamount to impossible. Giving birth is exceedingly expensive even with insurance. And giving birth is an enormous health risk with the U.S. having the highest maternal mort, mortality rate of all developed countries. In addition, childcare costs are as much as monthly rent or a mortgage payment. Add

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to all of this the fact that Americans have no national mandate for paid paternal leave. Isn't it obvious why there is a declining birth rate in the U.S.? So there it is, Nebraska. This must change and it has to be done on a state level. And I do have some language on the back but I will stop at that point. I saw the yellow light.

**M. HANSEN:** You have about 30 seconds.

**KAREN BELL-DANCY:** That's all right.

**M. HANSEN:** All right, thank you for your testimony and for your time consideration. Any questions from the committee? Seeing none, thank you for your testimony.

**KAREN BELL-DANCY:** Thank you.

**TIFFANY SEIBERT JOEKEL:** Chairman Hansen, members of the committee, my name is Tiffany Seibert Joekel, T-i-f-f-a-n-y S-e-i-b-e-r-t J-o-e-k-e-l, and I am here on behalf of the Women's Fund of Omaha. Many of the testifiers that have preceded me have really made the arguments that I think are important today. From the Women's Fund perspective, paid family and medical leave is absolutely best practice to helping women maintain their professional roles and their wages as they move throughout their career. It's also important to our work force. Women in Nebraska represent almost half of workers; 80 percent of Nebraska kids have a working mother. The economy has changed significantly in such a way that most families require all available workers to remain in the work force. And what this often does is women tend to fulfill the role of primary caregivers in our families, and when caregiving needs arise women are often forced to choose to sacrifice their careers or, or care for their families. I would also say that paid family leave is becoming more and more available in large employers in particular, but it should not be a luxury benefit. It should not just be that some, some jobs offer the benefit while others don't. And those, quite frankly, who can least afford to take unpaid leave often have the lowest level of access. Nationally, the lowest 10 percent of wage earners only have access to paid leave at 5 percent. So we think this is incredibly important. I know we will hear concerns from businesses about the cost of providing this leave and I'm not here to diminish that. I have provided with my testimony a spreadsheet, because I'm into spreadsheets, of a hypothetical employer with three employees. It incorporates the estimated 1 percent of wages that the fiscal note anticipates will be required for the premium. So we believe this problem is not going away, right? Women in particular

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will remain in the work force and we need them to. And so we think this provides a solution that hopefully all will see it as an opportunity. It's an opportunity to share the cost of leave. So an employer pays into this premium pool and when that employee needs to access leave, if they need to access leave, it's the pool that pays to that employee, not the employer. The employer is not responsible for the full cost of wages during that leave. So I think that's an opportunity. It's also an opportunity for businesses to compete. Large businesses know that this is increasingly a benefit that employees are looking for. And so it's this gives an opportunity for small businesses to participate in a pool to provide this same benefit to their employees. I would also say as a, personally as an employee, as a young-ish professional, as an expectant mother with a toddler at home, and as a daughter whose mother just had emergency open triple heart bypass surgery last week, I can tell you that paid benefit leaves are central to my consideration of employment opportunities. And I would encourage this committee to look at this as an opportunity to make Nebraska the best place to work and also care for your family. Thank you.

**M. HANSEN:** Thank you. Thank you for your testimony. Any questions from the committee? Seeing none, thanks for coming down.

**AUBREY MANCUSO:** Good evening, Chairman Hansen and members of the committee. My name is Aubrey Mancuso, A-u-b-r-e-y M-a-n-c-u-s-o, and I'm here on behalf of Voices for Children in Nebraska. Again, I know that the day is grown long, so I won't repeat a lot of the points that have already been made. But I will reiterate that our current FMLA structure leaves out a lot of families, especially those who are most likely to leave-- to meet this leave. It's estimated that only about 50 percent of working parents in Nebraska are eligible for even the unpaid leave under the FMLA. Of those, only about 41 percent of that 50 percent can actually afford to take the leave. I'll also note that we've seen trends both in the growth of single parents and in our aging population so. And people are continuing to have children and so we'll continue to see the need for this leave exist in the future. And finally, I'm the executive director of a small nonprofit which is, in some ways, is more like managing a small business than some people appreciate, myself included probably when I first took the job. But it also includes managing a budget and overseeing a small staff of seven employees, most of whom are women of childbearing age. I've also in my 10 years of my job had three children myself. And so I fully appreciate the employer perspective on the challenges that an absence

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of a single employee creates. But I also have seen that during those times my staff have come together in creative ways to address that unfilled need for a temporary time and that workers were able to return and bring them full, their full selves back into the work force after taking that leave. In fact, one of my staff members, when we were talking about this bill today, was just reflecting on having twins in the NICU and being one of the only parents present for most of the time when her kids were in the NICU. And in talking to other families, finding out they couldn't be there because they had to go back to work. So, you know, for me as an employer, it's not acceptable to ask my employees to choose between the families they love and the job and income they need. And I don't, I don't wish that choice on any individual Nebraskan and their family. So thank you for your time.

**M. HANSEN:** Thank you for your testimony. Any questions from the committee? Seeing none, thank you.

**JINA RAGLAND:** Good evening again, Chair Hansen and members of the Business and Labor Committee. Again I'm not going to belabor the point. I think we've had some great testimony behind us, as well as those that are yet to come. AARP, obviously caregiving is a major point of contention for us this session and will continue to be. You've heard the number, 200,000 Nebraskans providing uncompensated care that's valued at \$2.5 billion. The big point there is those are the people that are providing and also working full-time jobs. Oftentimes taking care of people, helping them age in place, remain in their home which in result obviously will save the, save the state money as well. Our aging population is continuing to age. And as we see that there's no way the state can continue to pay for people in institutions and higher levels of care. So we need to provide and support those caregivers as well. There is a statistic I wanted to also throw at you, 63 percent or two in three of our caregivers in Nebraska caring for people, are caring for the people that are 65 and older. And we're going to continue to see that number increase as well. Elder care, the other point I would make is elder care, again, those needs often are abrupt. If people break a hip, have a stroke, maybe it's a cancer diagnosis, those, those situations occur abruptly which puts older caring adults having to take care of those people in their homes at risk as well. And again, I've said this before too, but Nebraskans work. They want to work and they want to continue to work, and so this would give them the opportunity to provide that either on the intermittent or in that six-week period if they're taking care of their family members. The last item I would mention, Jen, Mandy, and

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then Commissioner Flowerday I think gave you some really good across-the-board issues of what we're seeing with caregivers. I've also provided, we have some stories that we've collected from different people across the state in all different levels: those that have had paid leave, as well as those that could have used it in their situations as well. And then the last thing I would just mention, Devaroh Lanner was not able to join us today, who is a caregiver who does receive paid leave. There's a letter in there for you as well to read that further supports why this is an important concept for Nebraskans. So with that, I would open it up. If anyone has any questions, I'd be happy to answer those.

**M. HANSEN:** Thank you. And first and foremost, can we get you to spell your name?

**JINA RAGLAND:** I'm sorry. Jina Ragland, it's J-i-n-a R-a-g-l-a-n-d, and we are supporting LB311 on behalf of AARP Nebraska.

**M. HANSEN:** Perfect, thank you.

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

**M. HANSEN:** Are there any questions from the committee? Seeing none, thank you for your testimony. All right. Hi.

**EDISON McDONALD:** Good evening, committee. My name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, and I'm the executive director for the Arc of Nebraska. We're a nonprofit with 1,500 members advocating for people with intellectual and developmental disabilities. We strongly support LB311. This bill will help to support our members and their families. Roughly one in five Americans currently live with a disability and roughly one in four households include a child, adult, or senior with a disability. In addition, 43.5 million adults in the U.S. provide unpaid support to a child with a medical condition or an adult. And that number is expected to rise. As a significant portion of the U.S. population ages, paid leave is increasingly relevant to those workers in the "sandwich generation" as we've heard here today. We really want to ensure that we offer these benefits, especially for our members. This is so absolutely vital. Our members are exhausted, attempting to fill in whenever they can. From the time a family discovers that their loved one has a disability they have a lot more to take on, whether it's extra doctor's visits, supportive equipment or care when they're unavailable, there is a significant burden. These caretakers are kind and supportive people who help to make a world of

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difference for these individuals. The extra trips; thoughts of activities; even, you know, finding a dentist can be difficult; extra spending, all of this provides a mountain of extra burdens upon these caring and supportive folks. So when things aren't going well and an individual gets sick, they have a stroke, they have MS, and for individuals with disabilities this is a constant occurrence and typically it's cyclical. This really increases the necessity for this. For our members with disabilities themselves this provides further support for those who have attempted to hold steady jobs and employers who want to go and hire people with disabilities. We do a lot of business trainings in terms of disability sensitivity, and this is typically one question that we're faced with. And when we want to go and find a good way to address this issue, I think that that is a tremendous benefit. Also, within the general paid family leave study and research field, one of the things that I did in my preparation was specifically looking for disability issues. Of course there isn't as much information specifically on that. But luck would have it, our national organization just released a study today specifying some more disability-specific instances. And a few facts over that: number one, over two years of this study following up with these participants, 71 participants took leave for more than a few days, 26 percent for themselves, 62 percent for their family, and you'll notice there's a 17 percent overlap. Few, quick improvements we would suggest: keep simple application process, covered self-employed and public employees, allow for hourly paid leave, ensure reasons for paid leave include disability needs, broadening the language a little, invest in outreach and education, and work to support employers, providing resources to employers about documentation process, and allow for remote working systems. And that's it. Thank you very much.

**M. HANSEN:** Thank you, Mr. McDonald. Any questions from the committee? Seeing none, thank you for your testimony. All right, do we have any further proponents to-- oh, there's Spike.

**SPIKE EICKHOLT:** Good evening, Chairman Hansen and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the ACLU of Nebraska. It's getting late. You've got a copy of my written testimony. Many of the points that I was going to make have been made. So I'm only going to summarize just one point that, that we want to make with respect to this bill. We see this in many respects as a gender equity issue. And you've heard some testimony earlier, but women are more likely to be caregivers of family members. Whether the family member is a newborn or an, or an

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elderly parent, the majority of caregivers are women. Women should have equal access to employment opportunities that are free from disadvantage or discrimination, and strong family and medical leave policies like that are contained in this bill are a key part of ensuring equal opportunity for women in the workplace. So, for that reason, and the reasons that you've heard earlier and that I have contained, that are summarized in a letter I wrote the committee, we would urge the committee to advance this bill. I'll answer any questions you may have.

**M. HANSEN:** Thank you, Mr. Eickholt. Any questions from the committee? Seeing none, thank you for your testimony. Hi, welcome.

**KEN SMITH:** Hi. Good evening, again. My name is Ken Smith, K-e-n S-m-i-t-h, and I am still a staff attorney with the economic justice program at Nebraska Appleseed, which is a nonprofit law and policy organization that works for justice and opportunity for all Nebraskans. I will be brief. I think there are three just quick points that I want to make that haven't been made already. We've heard a lot about the economic benefits of a paid leave program. I wanted just to bring up another one which is work force attachment. So in other words, how quickly somebody who has to leave the work force for one reason or another can rejoin the work force. Paid leave programs make it more likely than not that a person is able to timely rejoin the work force after needing to take some time away. In my written testimony I cite to a study that shows how this is true, especially for new moms. Paid leave programs make it more likely than not for new mothers to be working again 9 to 12 months after giving birth. I also wanted to just bring up the effect that paid leave has on safeguarding income and the retirement savings of people who, who leave the work force to take care of an ailing parent. I include some information from a study that details the not-so-uncommon occurrence of somebody 50 years old or older, 50 years old or older needing to take time away to take care of their parents and a substantial amount of income and retirement savings they stand to lose when, when they don't have a paid leave program in place. Just another instance of somebody having to choose between taking care of a loved one and keeping, keeping a good care of their own financial security. I think lastly I just want to point out, and this is just kind of an initial assessment of the fiscal note, the Department of Labor, who I see may be testifying after me, so I hope I'm not wrong in my analysis, but it seems that the Department of Labor has has determined that the actual cost of the program over a year's time would be about a sixth of what the max

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contribution-- about a sixth of the amount that would be collected if the maximum 1 percent contribution were enforced, which I guess is just as to say just because the, the Department of Labor may be empowered to go up to that 1 percent contribution level based on the numbers in the fiscal note, that may not need to occur. With that, I would open it for any questions and thank you for your time and would, would also urge the committee to pass this to General File.

**M. HANSEN:** Thank you, Mr. Smith. Are there questions from the committee? Seeing none, thank you for your testimony.

**KEN SMITH:** Thank you.

**SUSAN MARTIN:** Good evening. Again, my name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, testifying on behalf of the Nebraska State AFL-CIO and working families in support of LB311 because the hour is getting late and you've heard from me several times today, I'm just going to submit my testimony for the record. The previous testifiers have done a magnificent job of explaining the reasons to support this bill and why we should all support this bill. And we thank Senator Crawford for introducing this legislation. By passing LB311 we are valuing our workers and allowing Nebraska's businesses to attract and retain a productive work force. We ask that you support LB311 and advance it from committee.

**M. HANSEN:** Thank you, Ms. Martin. Any questions from the committee? Seeing none.

**SUSAN MARTIN:** Thank you.

**M. HANSEN:** All right. All right, any other proponents for LB311? All right, seeing none, we'll move to opponents. Just trying to expedite things.

**LATHROP:** We were pretty sure that was what was happening.

**M. HANSEN:** I was a little surprised, yes. Welcome.

**JOHN ALBIN:** Chairman Hansen, members of the Business and Labor Committee, good afternoon. Good afternoon-- good evening now, I guess. For the record, my name is John Albin, J-o-h-n A-l-b-i-n. I am Commissioner of Labor and I'm appearing here today in opposition to LB311. LB311 is a rework of last session's LB305. I don't-- I do want to acknowledge that over the interim Senator Crawford worked with the department to make the process of paid family and medical leave more

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closely mirror the department's existing unemployment insurance benefit process, and as a result of that, Senator Crawford's work, the department projects a reduced IT cost as opposed to LB305 last year. Our administration continues to try and be innovative and generous when it comes to maternity leave and we support the concept of paid family and medical leave. However, the coverage provided for in this bill is very broadly drafted, so I'm going to explain the mechanics of it in more detail. The overwhelming share of the program's costs will be the benefits paid. The department is projecting almost \$300 million per year in benefit costs. Rhode Island has now released the 2017 annual statistics for its program, we've handed those out to you so that those numbers are available to the members of the committee. In 2017, Rhode Island received a total of 45,132 applications, 33,979 were for temporary disability leave and not-- and for serious nonwork-related injuries or illnesses exceeding seven days in length. And of those, 27,000 were approved. Rhode Island only received 11,153 initial applications for temporary caregiver insurance, of which 600-- 6,224-- 244 were approved. Rhode Island's temporary caregiver law includes care for a family member with a serious health condition and bonding with a new child. However, it should be noted Rhode Island only allows four weeks maximum benefit for that. In financial terms, Rhode Island paid out about \$172 million in paid leave, temporary disability, and caregiver benefits in 2017, which averaged about \$492 per week. Of that total, approximately \$12 million was for caregiver benefits. To estimate benefits costs paid under LB311, the department closely examined Rhode Island's annual statistics. LB311 only applies-- or provides benefits for individuals employed in covered employment. Rhode Island in 2017 had about \$477,305 people and covered employment. And based upon the 45,132 initial applications, approximately 9.5 percent of the covered work force filed a claim for paid leave benefits and approximately 74 percent of those benefits were received. For the fourth quarter of 2016, the Nebraska Department of Labor had 100-- 1,055,160 SSNs in its wage records for covered employers. So in terms of wage, of work force were about twice as big as Rhode Island. I'm running out of time quickly, so our estimate for payments made was for 9 payments. We, in the fiscal note, we gave a range for 3, 6-- 3, 9, and 12 weeks and give the amounts of benefits that would be paid under that. One other important thing to note is that in the unemployment system a political subdivision, the state of Nebraska, if a benefit claim is filed against them and they pay the benefit, the department pays the benefit and then sends a bill to the political subdivision or state agency. Under this bill those agencies would actually begin paying a quarterly payroll tax for the Family and

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Medical Leave Act. So we wanted to point out that important difference. Mechanically it works the same on my end but I'm sure there will be the school superintendents will be calling when they get their, they have to file their first quarter. Just one quick thing. I know I'm out of time so I don't want to-- we're estimating the first year tax, first twelve months of tax, will be about \$436 million. It's a pretty quick payback period in this in the sense that we collect taxes for one quarter and then start paying benefits before we even receive the tax in the second quarter. And by before, and before we receive a third quarter's worth of payments we're reimbursing the cash fund. So it's a pretty accelerated process. We will have to be at that 1 percent for the first year. Thank you. And I'd be happy to answer any questions.

**M. HANSEN:** Thank you, Commissioner. Are there questions. I just have one. So why was Rhode Island chosen as the example to base your fiscal estimates on?

**JOHN ALBIN:** You know this is the third time we've come through with this bill, so I can't remember who pointed to Rhode Island first. It was one of the states that we identified, and as we looked at their law in terms of the mechanics of eligibility they have, it fairly closely tracks what's in now LB311.

**M. HANSEN:** OK, thank you. Any other questions from the committee?

**B. HANSEN:** I've just got one question.

**M. HANSEN:** Senator Hansen.

**B. HANSEN:** This might be for Senator Crawford, but we're getting all these numbers and fiscal notes and also the kind of stuff thrown at us. So and kind of not in layman's terms, but what will this cost the taxpayers of Nebraska?

**JOHN ALBIN:** The first year tax we estimate at \$436 million.

**B. HANSEN:** That's the number, OK, that, that employers will be paying for this?

**JOHN ALBIN:** Yes.

**B. HANSEN:** OK.

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**JOHN ALBIN:** And if you're, I believe you're a small employer on your, of your own. If you want to figure it out for your own business, take your payroll for last year, multiply it times 1 percent and that would be your first-year tax on your business.

**M. HANSEN:** Thank you, Senator Hansen. Any other questions? Seeing none, thank you for your testimony. All right, any other opponents of LB311? Go ahead.

**ERIN EBELER ROLF:** Good evening. My name is Erin Ebeler Rolf, E-b-e-l-e-r R-o-l-f, first name Erin, E-r-i-n. I am an attorney with Woods & Aitken LLP and I'm here today to speak on behalf of the Lincoln Independent Business Association, commonly known as LIBA, as well as the State Chamber and the National Federation of Independent Business. These entities oppose LB311, which establishes the Paid Family and Medical Leave Insurance program because it, it imposes unfunded burdens on small businesses through, throughout Nebraska in the form of monetary contributions to an insurance pool. We just heard from Director Albin that it's \$436 million in the first year. Only seven other states that I've identified have paid leave programs. Of those states, we've talked about three of them today. California, Rhode Island, and New Jersey, I believe, were brought up by Senator Crawford. And in particular, I would like to note that during the initial introduction of this bill the statement was made, quote: That there is no impact-- that these particular states, California, New Jersey, and Rhode Island had seen no impact on the business' bottom line. There may be a reason for that. California and Rhode Island's programs are funded solely by deductions from the employee wages. This bill, the employer is paying the fee. In those other two states, California and Rhode Island, it's wage deductions from the employees. New Jersey is funded through combination of the employer and employee contributions. In particular, disability insurance portion, so for the employee's own illness, there's a split of who's having to pay those percentages. But the family care portion of the New Jersey bill is funded entirely by the employee. And that information is from the National Partnership for Women and Families, a study that they did in 2018. And there is a PDF that is available on their Web site that details that information. I would also note that of the other four states, we also have New York, Washington State, and New Jersey, which are funded through a combination of employer and employee contributions. Only Washington, D.C. mandates that the program be funded solely by employers as the Nebraska LB311 is. The other comment was made during the introduction that this bill pays for itself.

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Again, as we know, that's fundamentally false. This bill is paid for by a tax on employers and that needs to be acknowledged. This program proposes to pay employees who take covered leave between 66 and 95 percent of their average weekly wages, depending on their income levels. This entitlement payment percentage exceeds even that of California's program, which pays workers between 60 and 70 percent of their weekly wages. And even D.C., which is the only current program to require funding solely by employers, only funds up to 90 percent of all workers' wages. And I believe there's already been some discussion about how our particular program offers a broader range of benefits than many of these other states. We've noted during the conversation on LB305 that the Family and Medical Leave Act is much more narrow than LB305, and the same is true here, so I will not repeat that testimony. But I would also note that while these organizations' members understand the predicament faced by employees handling family matters, I'd also point out that many businesses are doing the best that they can in trying to balance the needs of their employees with the needs to pay their expenses and keep the doors open. We heard testimony from some business owners that talked about the benefits that they give to their employees because they view it as a value add, as a way to attract employees. But we need to let the market and these employers determine what is best for the environment they have while balancing some very difficult questions. Thank you.

**M. HANSEN:** Thank you. Thank you for your testimony. Any questions from the committee? Senator Slama.

**SLAMA:** So could you go into a little bit more depth as to how this one per-- up to 1 percent tax could impact small businesses. I know there's a lot of employers, especially in my district, that operate on a very narrow bottom line. So could you just better illustrate what the impact would be for small businesses?

**ERIN EBELER ROLF:** Well, I think one example was in Mr. Albin's testimony he said the way you calculate what the impact is going to be is take your annual payroll times 1 percent and that's the amount you get to cut a check for. Most employers' payroll, by a time you include benefits, etcetera, it's one of the largest expenses, if not the largest expense. You're now imposing this unfunded liability onto employers that can be a fairly large amount. When you're a small business owner, and this particular act, I believe, applies to every, everyone who is subject to the Employment Security Law, which means if you have one employee who is paid at least \$1,500 in wages or

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something like that. So this is virtually every employer. You're suddenly increasing what it costs to have an employee. We already know that the cost of benefits, the general concepts that we have to provide some benefits to workers in order to attract workers in a marketplace that has a low unemployment rate. You're now adding on an additional 1 percent to that person's annual wages.

**M. HANSEN:** All right, thank you. Any other questions? Seeing none, thank you for your testimony.

**ERIN EBELER ROLF:** Thank you.

**KATHY SIEFKEN:** Good afternoon.

**M. HANSEN:** Welcome.

**KATHY SIEFKEN:** Whoops. No, good evening. It is getting late. Chairman Hansen and members of the committee, my name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association and I'm also here representing the Nebraska Retail Federation and the Nebraska Restaurant Association in opposition to LB311. This is a very expensive package. And in a perfect world, we wouldn't even be here and everyone would be taken care of. However, it's not a perfect world and this is very expensive. In the grocery industry, labor is the most expensive, it is the highest expense that we have. And when you would add 1 percent of total payroll, the money isn't there. I understand the objective of this kind of a plan. And, and while it sounds wonderful, nothing is free. Someone has to pay for it. And businesses do not have the additional 1 percent to pay for something like this. Our margins in the grocery store average 1.5 percent per year. Things are tight out there. In rural Nebraska, it's even tighter. We would, we would ask you to not move this on. If you have any questions, I'd be happy to answer.

**M. HANSEN:** Thank you. Are there any questions? Seeing none--

**KATHY SIEFKEN:** Thank you.

**M. HANSEN:** Thank you. All right, any other opponents to LB311? Seeing none, anybody wishing to testify in a neutral capacity?

**FERNANDO WILSON:** Thank you. I am Fernando Wilson, F-e-r-n-a-n-d-o W-i-l-s-o-n, a faculty member in the UNMC College of Public Health and acting director of the UNMC Center for Health Policy. I am testifying in regard to LB311, which seeks to provide paid family and medical

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leave benefits for employees in Nebraska. I am here speaking for myself, I do not speak for the university Nebraska and my comments do not represent an official position of the University of Nebraska. According to the U.S. Bureau of Labor Statistics, although 74 percent of all workers have paid sick leave only 46 percent of workers have paid personal leave, 34 percent have paid military leave, and only 17 percent of U.S. workers have paid family leave. There are also large differences in family paid leave benefits by income. For instance, only 5 percent of low-wage employees have any paid family leave benefits. Among workers with paid sick leave the allowed, the allowed leave is generally too short to address serious medical conditions. Among all U.S. workers employed at least one year, the median number of annual sick days available is six days. Unfortunately, comparable data for employees in Nebraska were not provided by the bureau. However, it is likely that a similarly low percentage of workers in Nebraska have access to paid family leave. Currently, six states and D.C. have implemented or recently passed legislation creating state-funded family leave benefits programs. These states include California, Massachusetts, New Jersey, New York, Rhode Island, and Washington. There is evidence that these policies improve maternal, maternal and child health, health outcomes. An evaluation of California's family leave policy reported a 10 to 20 percent increase in breastfeeding attributed to paid family leave. Breastfeeding is correlated with lower infant mortality rates. Other research reports decreased hospital admissions of infants for upper respiratory illness, a 33 percent decrease; and gastrointestinal infection, a 0.8 percent decrease; and other improved child health outcomes following implementation of the California paid family leave program. A recent systematic review of 109 peer-reviewed articles on paid family medical leave in the U.S. and internationally found consistent evidence that paid leave improved child health outcomes including significant decreases in infant mortality rates of about 2.5 percent. Based on these prior findings, LB311 is expected to have a positive impact on population health within the state of Nebraska. Thank you for providing me this opportunity to testify.

**M. HANSEN:** Thank you, Dr. Wilson. Any questions from the committee? Seeing none, thank you for your testimony. Anyone else wishing to testify as a neutral capacity? Seeing none, Senator Crawford, would you like to close?

**CRAWFORD:** Well, thank you, everyone, for your patience and thank all the testifiers for staying around. We did have many more people who

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wanted to testify and we urged them to turn in letters. So we were trying to be judicious with who is, who offered to testify. I do want to just respond to a couple of the points that were raised by opponents. The 1 percent estimate as the, as the commissioner noted, is, is in part because the bill as it is right now has a very steep return, a steep slope in terms of collecting contributions and then turning right around and paying, and a very steep and aggressive schedule in terms of repaying the Health Care Cash Fund. And so one way of reducing that initial cost would be to repay the cash fund over a higher, another number of years. To move the deadline, move the date slightly so we have two quarters of investment before we have the first, first payout. So those are adjustments that can be made to bring that cost down. The 1 percent is again the maximum at 1 percent that first year because of those dynamics of timing that make it hit that in the first year. So those are things that can be adjusted to reduce that cost. We did look at other states and saw that many states have the employee pay or a mix of employee, employer. One of the reasons that this bill goes with an employer payment is to allow the opt-out provision. So if you're going to allow employers to opt out and provide it on their own instead or allow the private market to compete with the public option, the only way we could think to do that logically was to have it be an employer responsibility because the employer pays so the employer can choose not to pay. It does-- could not figure out how to make it make sense for employees to pay when their employer might opt out. That didn't, we couldn't logically make that makes sense. And so that's why this bill it has an employer paying and as a result of that we then are able to have the opt-out provision and then the private competition provision in the bill as well. So over the, it's despite strong public support for paid family leave and persistent evidence of its positive impact on children, workers, and employers as you've heard today, in many ways, the federal government has not moved beyond unpaid family and medical leave as provided by FMLA. Over the past years that I've worked on this issue, I have heard arguments that the private market should take care of providing paid family leave without government intervention. Yet, the private market has not stepped up. Only 16 or 17 percent of workers have access to paid family leave benefits, compared to 13 percent in 2014. So, so the, the percent who have leave is not stepping up substantially. In that time, pressure on companies and politicians to adopt paid family leave policies has been mounting at the state and national levels. According to a recent public opinion research conducted by the Holland Children's Institute, 79 percent of Nebraskan voters across party lines support paid family leave. While

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FMLA was a good first step, it's out of date and incomplete and 82 percent of voters surveyed feel that FMLA needs an update. With a lack of action at the federal level to provide additional protections for workers beyond those offered in FMLA, it's up to states like ours to fill in the gap. And if we do so now, we can have the competitive advantage of being a state that can attract the brightest and best of our own state, like Maddie Cunningham, who you heard from today. With that, I'm happy to answer any other questions that you have.

**M. HANSEN:** Thank you, Senator Crawford. Are there questions?

**SLAMA:** I'll be incredibly brief with this one. So just to clear something up as I'm reading this bill, we've heard a lot of references today about the benefit to the mother and the child in developing that relationship in the first 12 weeks after birth. But the way I'm reading this is that both the mother or the father or both could take those 12 weeks off when a new baby arrives, correct, under this bill?

**CRAWFORD:** That is how it's written, yes.

**SLAMA:** OK, thank you. That's all.

**CRAWFORD:** Thanks.

**M. HANSEN:** Thank you, Senator Slama. Any other questions?

**B. HANSEN:** I have--

**M. HANSEN:** Senator Hansen.

**B. HANSEN:** --just only 10 questions.

**M. HANSEN:** Sure.

**B. HANSEN:** I'm just joking. She already answered one of them for me. So that's what I was curious about, if both mother and the father both get 12 weeks off. That's-- just was my question there. And this might just be a typical FMLA question, but as an employer, I'm just trying to think of it as devil's advocate as an employer.

**CRAWFORD:** Absolutely.

**B. HANSEN:** If someone takes 12 weeks off for taking care of a parent, does the employer then have to rehire them back on after 12 weeks?

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**CRAWFORD:** So the bill allows in that case a six-week provision instead of 12, just to clarify. But the bill does have job protections too. Yes, that you are required to provide the same or similar kind of job on their return if they're taking this as a family leave.

**B. HANSEN:** So as an employer then you probably have to go to a temp agency or something to cover those six weeks to make it work within that?

**CRAWFORD:** Yes, and during those six weeks you're not paying their wage. So it does give you some funding that you could use to hire a temp employee or pay an, pay an intern.

**B. HANSEN:** OK, thanks.

**CRAWFORD:** Thanks.

**M. HANSEN:** Thank you, Senator Hansen. All right, seeing no other questions, thank you, Senator Crawford.

**CRAWFORD:** Thank you.

**M. HANSEN:** I will read into the record a series of letters. We have-- these will all be in support. So in support is Rob Heggen from Omaha; Sydney Butler from Lincoln; Jenni Benson of the Nebraska State Education Association; Samuel Meisels of the Buffett Early Childhood Institute; Deborah Levitov from Lincoln; Jerry Cardigan-- Jerry Carrington from Omaha; Peggy Reisher from Brain Injury Alliance of Omaha; Lisa Schoenberger of Omaha; Diane [SIC] Dinkel of Omaha; Nebraska Child Health and Education Alliance; Shannon Hilaire from La Vista; Kathy Leeper from MilkWorks; Kathleen Uhrmacher from the Women's Foundation; Andi Curry Grubb from Planned Parenthood of the Heartland; Lindsay Neeman from Omaha. Jessica Blayney from Omaha. Priscilla Rogers from Omaha; Marcus Pierson from Lincoln; Catherine Hall from Omaha; Natalie Scarpa from Omaha; Dr. Sophia Jawed-Wessel from Omaha. And then in opposition we have Wendy Birdsall and David Brown from the Omaha Lincoln Chambers; Robert Hallstrom with the Nebraska National Federation of Independent Businesses; and Rocky Weber from the Nebraska Cooperative Council. And with that, we will--

**CRAWFORD:** Aren't you glad we encouraged them to write letters?

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**M. HANSEN:** I am very glad, Senator Crawford, that you encouraged other people to write letters. And with that, we will close the hearing on LB311 and our hearings of the day. Thank you to everyone.