

Transcript Prepared by Clerk of the Legislature Transcribers Office

Business and Labor Committee February 9, 2026

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KAUTH: OK. Welcome to the Business and Labor Committee. I'm Senator Kauth from Omaha, representing the 31st Legislative District. I serve as chair of the committee. The purpose of the public hearing is an information-gathering endeavor in which senators on the committee are seeking information about the proposed legislation that they do not know or have not thought about. It allows individuals representing themselves or a group to share their unique perspective on a proposed measure. It also serves as a record about the proposal for future historical and legal purposes. A key component of the process is the ability for senators to engage directly with testifiers, to ask questions, and elicit clarification on the information provided. The committee will take up the bills in the order posted. If you're planning to testify today, please fill out one of the green testifier sheets for each bill that you're testifying on. These are on the table at the side of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your first name and last name, and then spell both to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We will be using a three-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining. And the red light indicates your time has ended. Questions from the committee may follow. Also, committee members may come and go during the hearing. This has nothing to do with the importance of the bills being heard. It is just part of the process, as senators may have bills to introduce in other committees. Senator McKinney is gone. Senator Sorrentino will be presenting here. I will be stepping out and turning it over to Senator Sorrentino. So it's gonna be a busy day in here. Let's see. If you have handouts or copies of your testimony, please bring at least 12 copies, give them to the page. If you don't have enough, the page will make sufficient copies for you. Please note that thumb drive CDs, DVDs, oversized documents, books, lists of signatures, and similar will not be accepted as exhibits for the record. Please silence or turn off your cell phones. You may see committee members using their electronic devices to access

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more information. Verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of sub-- of submission is via the Legislature's website at legislature.nebraska.gov [SIC]. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. I will now have the committee members with us today introduce themselves, starting on my right.

SORRENTINO: Tony So-- I'm sorry, Fred. Go ahead.

F. MEYER: Senator Tony Sorrenti-- Senator Fred Meyer, District 41.

SORRENTINO: Senator Tony Sorrentino in Nebraska, Legislative District 39: Elkhorn and Waterloo.

IBACH: Senator Teresa Ibach, District 44: eight counties in southwest Nebraska.

RAYBOULD: Senator Jane Raybould, Legislative District 28, which is central Lincoln.

KAUTH: Also assisting the committee today: to my right is our legal counsel, Thomas Helget; and to my far right is our committee clerk, Julie Cash. We have two pages for the committee today: they are Luke Lawton from Omaha, who is a senior at UNL majoring in business and law; and Maddie Banks from Rochester, Minnesota, who's a sophomore at UNL and majoring and poli-sci. Thank you guys for your assistance today. And with that, we will begin our hearing on LB813.

SEAN FLOWERDAY: Good afternoon, Chair Kauth and the members of the Business and Labor Committee. For the record, my name is Sean Flowerday. That's S-e-a-n F-l-o-w-e-r-d-a-y. And I'm staff for Senator Bostar, who regrets that he cannot be here before you today. I'm here to introduce LB813, legislation that makes a narrow practical change to our employment security law related to net-- marketplace network contractors. This is a cleanup remedy to provisions which passed last year in LB229 that inadvertently forbade brick-and-mortar micro-fulfillment centers. The goal here is simple: to correct a definition to accurately reflect how modern app-based and platform-based work arrangements operate and bring Nebraska in line

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with neighboring states. LB813 is a simple fix that clarifies that marketplace network contractors can step into facilities operated by a marketplace network platform without running the risk of being misclassified as employees. The language that was passed in LB229 contained a provision that a marketplace network contractor does not perform services at a fiscal business location operated by the marketplace network platform, inadvertently preventing contractors from entering that location for something as simple as picking up goods for delivery. Rectifying this language will open up new investments and services, such as a DashMart facility that DoorDash is currently exploring here in Nebraska, which can expand convenience for consumers and create additional earning opportunities for local workers under a clear and consistent set of rules. Enterprises such as DashMarts are delivery-focused, local, micro-fulfillment centers-- small stores that stock groceries, household essentials, and convenience items for rapid delivery rather than traditional walk-in retail. In other states, these sites have generated more delivery opportunities for drivers and have given neighborhoods fast, reliable access to everyday items, often during extended hours that typical brick-and-mortar grocers can't offer. By ensuring that our law clearly recognizes how marketplace network-- networks operate, LB813 helps Nebraska compete with-- compete for these kinds of investments while maintaining appropriate protection for workers. To date, there are nearly 50,000 Nebraskans working as Dashers and nearly 3,000 Nebraska businesses or merchants relying on-- upon these services. That doesn't change within-- with a DashMart opening. The economic value in Nebraska from DoorDash alone i-- from DoorDash participation alone is over \$240 million. The purpose of a DashMart is to further streamline a business structure that works while also bringing in their investment of brick-and-mortar facilities in Nebraska. This legislation simply corrects language passed in LB229 to allow a Nebraska business operator to develop brick-and-mortar in our state in order to generate more options for consumers and facilitate further investment in our state. I urge you to support LB813. Thank you for your time and consideration. Happy to answer any questions.

KAUTH: Thank you. And since you're staff, we're not going to have questions asked. So we will-- are you going to stay and--

SEAN FLOWERDAY: I'm-- I am not. I'm gonna go run, run at Appropriations so that we make sure we have someone there to read that one because--

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KAUTH: Very good.

SEAN FLOWERDAY: --we are triple-booked.

KAUTH: Thank you.

SEAN FLOWERDAY: Thank you.

KAUTH: First proponent. Good afternoon.

TYLER ST. CLAIR: Good afternoon, Chair Kauth and members of the committee. My name is Tyler St. Clair. That's T-y-l-e-r S-t C-l-a-i-r. And I'm manager of government relations for the central region for DoorDash. And I'm testifying in support of LB813, which clarifies that app-based delivery workers-- or marketplace network contractors-- can pick up orders from stores operated by app-based delivery platforms or marketplace network platforms like DoorDash. I want to thank Chair Kauth, Vice Chair Sorrentino, and members on the committee for considering this bill. And I want to thank Senator Bostar for his continued support for independent workers and local commerce as well as for his leadership on LB813. By way of brief introduction, DoorDash is a local commerce platform and technology company that connects consumers with their favorite local businesses, including right here in Nebraska. We're proud members of the Nebraska Grocery Industry Association, the Nebraska Retail Federation, and the Nebraska Chamber of Commerce. Last year, this Chamber passed legislation to protect independent workers like Dashers while they are performing delivery services in so long as several conditions are met. For example, the law ensures that these workers aren't required to work set schedules or for a minimum number of hours. It codifies the ability of app-based workers-- called marketplace network contractors in the law-- to work in any lawful business or occupation and even their right to work with competing app-based companies at the same time. In other words, it protects the flexibility that is core to app-based work. After all, flexibility is why many app-based workers choose this type of work in the first place. LB813 does one thing: it clarifies that app-based workers like Dashers can pick up deliveries at stores operated by marketplace network platforms. This includes DashMarts, which are virtual convenience stores where customers shop the aisles for everyday essentials as well as goods sold by local merchants without ever setting foot in the stores. DashMarts are managed and staffed by employees who sort and prepare delivery orders that are picked up and delivered by independent Dashers. In addition to well-known brands, DashMarts help local businesses get access to critical pipelines to

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new customers. That means DashMarts can create jobs for associates who work in the DashMarts themselves. But more importantly, they help family businesses thrive by enabling them to get their goods to customers and their communities. LB813 ensures that Dashers can deliver these goods. In other words, LB813 represents a simple yet meaningful change to the legislation that passed last year. Thank you for the opportunity to testify. We look forward to continued conversation. And I am happy to answer any questions.

KAUTH: Are there any questions from the committee? I have a couple.

TYLER ST. CLAIR: Sure.

KAUTH: So you said that you are a member of the Nebraska Grocery Industry Association. They came out in opposition to this bill. Do you have any idea why?

TYLER ST. CLAIR: So we have had conversations with the grocers last week talking through some concerns that they have with this bill. I think there are larger concerns about impacts that this could have on independent grocery stores, particularly in rural areas. But we view DashMarts, one, primarily in urban areas, dense areas where we can facilitate deliveries quickly. We view it as a different customer base, right? Like, if you imagine your weekly grocery store run, right-- you probably have a list of 20, 25 items. DashMarts are really targeting the folks that-- you know, they go out, purchase an order, and get home and realize, oh, shoot, I forgot bread, I forgot eggs, I forgot whatever it may be. And so it offers them the convenience to then place that order on DoorDash and have it delivered to them. So we view it as a different customer base. And again, we're exploring locations in Omaha and Lincoln. But we have spoken to the grocers about that, yes.

KAUTH: And then would-- so the employees who are working in the Door-- DashMarts--

TYLER ST. CLAIR: Right.

KAUTH: --do they have employee benefits? Because they're a full-time employee.

TYLER ST. CLAIR: Yep, they are employed.

KAUTH: --they're employees.

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TYLER ST. CLAIR: Right.

KAUTH: And so-- then these grocery stores would not be open to the general public.

TYLER ST. CLAIR: Correct.

KAUTH: Just to your DoorDash.

TYLER ST. CLAIR: Yeah.

KAUTH: So my question is, would this be giving a competitive edge to DoorDash because you're not paying for the employee benefits of the delivery drivers but a grocery store would be paying their deliver-- because some grocery stores do deliver. So is it-- I'm just wondering if we're creating an unfair advantage.

TYLER ST. CLAIR: We don't see it as an unfair-- we just see it is addressing customer need in these areas, right? Obviously, a lot of grocery stores can also get deliveries through our app as well, right? Because whenever a customer goes on to the DoorDash app, they have the option to pick from, hey, I want a delivery from this CVS or I want a delivery from Kauth's Groceries or DashMart, right? So we're also still facilitating deliveries from grocery stores to individual customers. We just see it as addressing a need of--

KAUTH: So the grocery stores use DoorDash or allow DoorDash to come in and get-- OK. Got it. Thank you very much. Anyone-- yes, Senator Sorrentino.

SORRENTINO: Thank you, Chairwoman Kauth. Thank you for your testimony, Mr. St. Clair. Could you answer just a couple of questions for me? These DoorDash workers that might go to these DashMarts--

TYLER ST. CLAIR: Sure.

SORRENTINO: --do they have any cubicle or office space within that building?

TYLER ST. CLAIR: No.

SORRENTINO: They do not. Do they have a business card that might indicate a relationship to DashMart that they carry or hand out?

TYLER ST. CLAIR: No, sir.

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SORRENTINO: Do they appear on any marketing or advertising website for DashMart--

TYLER ST. CLAIR: No, sir.

SORRENTINO: --as drivers? So they don't hold themselves out to the public as employees, correct?

TYLER ST. CLAIR: Correct.

SORRENTINO: Are you familiar with the-- Department of Labor has what, what I've call an economic realities test. They call it the six-factor test. Are you familiar with that?

TYLER ST. CLAIR: Somewhat.

SORRENTINO: OK. So if I ask you some questions on that, you coul-- you could help me?

TYLER ST. CLAIR: Sure.

SORRENTINO: And one of the things that would delineate an independent contractor from an employer-employee relationship is, does this driver in this case have an opportunity to profit or loss depending on any managerial skill that he has to-- or she has to use?

TYLER ST. CLAIR: No.

SORRENTINO: No. OK. How about a degree of permanence relationship that they've-- they-- it's indefinite and continuous as opposed to just project-based? I would assume this is project-based. They go there when they happen, right?

TYLER ST. CLAIR: Yeah. Yeah, that's how I would think about it as well, is they can log into the platform when they want, log out when they want.

SORRENTINO: Do-- does DoorDash have any control over the performance and how this person does their job, the routes they take, et cetera?

TYLER ST. CLAIR: So the routes that they take are optimized through Google Maps, right? But we-- the drivers at any point can decide to take a different road. We don't mandate that they take certain routes.

SORRENTINO: Is there any "spurcific" skill or initiative that the worker uses as a specialized function other than a driver's license?

TYLER ST. CLAIR: No, sir.

SORRENTINO: No further questions.

TYLER ST. CLAIR: OK.

KAUTH: Thank you, Senator Sorrentino. Any-- Senator Raybould.

RAYBOULD: Thank you so much for testifying. Can you tell us some of the states you're in now? And then-- you said you're primarily in urban areas, and so are you in any rural communities?

TYLER ST. CLAIR: Sure. So-- this is not going to be an exhaustive list of states, but I can follow up with you following this. For this specific kind of law-- it's passed in nine other states-- the closest being our neighbors, Iowa. So we have DashMarts in Iowa. I'm based in Chicago. We have DashMarts located there as well. We have DashMarts in Florida, Virginia, and a handful of others that-- again, I can follow up with you on those states specifically. To my knowledge-- and again, I will circle back with your office on this-- we're primarily focused on urban areas because part of what makes DashMarts valuable is the quickness with which things can get delivered right. And so that's why we're focused on dense urban areas, where we can get deliveries from point A to point B much quicker.

RAYBOULD: OK. Thank you.

KAUTH: Senator Meyer.

F. MEYER: How-- compared to a traditional grocery store, how expensive is your inventory product line, or is it just basic essentials or is it complete?

TYLER ST. CLAIR: So it's basic essentials. I think about it closer to-- rather than, like, a full-service grocery store, I think about it closer to, like, a 7-Eleven or maybe a CVS in terms of offerings. So-- you know, there are some produce items. There are some meat items, dairy, et cetera. But you're not going to have the wide range that you might find. Like, it's not a full-service produce section at a grocery store, right? So you have limited options as compared to, to grocery stores. And as for pricing-- I don't want to say the wrong thing, but I would say it's comparable to your re-- regular, average grocery store. Obviously, with the delivery that comes with it, that's an extra cost with the total cost of the order. But I would say it's comparable to current grocery stores.

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F. MEYER: So, so if you would have an order from a, a home that would have the door-- your store would have half of the products, the other half they would have to go to a B&R store, something like that.

TYLER ST. CLAIR: Yeah. So how ordering works on the DoorDash platform-- and I think this addresses your question. So whenever you open your phone and go on the DoorDash app, you don't decide, hey, here's a list of ten items that I want to order, right, and then we delineate where those are fulfilled from. So you would say either DoorDash-- or, a DashMart, maybe a grocery store or a CVS, whatever location it is, and you would order from that specific location. And so all the order is fulfilled at one location. Now, if you-- can make a second order at a DashMart for something maybe the grocery store didn't have-- or vice versa. Those would be two separate orders.

F. MEYER: So, so your, your list of, of available products would be an-- online and they know they can order those things there--

TYLER ST. CLAIR: Yes.

F. MEYER: --and the rest at somewhere else? Thank you.

TYLER ST. CLAIR: Yep.

KAUTH: Senator Raybould.

RAYBOULD: One last question. How--

TYLER ST. CLAIR: Sure.

RAYBOULD: So tell me about the, the, I guess, screening and security checks for DoorDash as well as those that would be working for a DashMart. What does that look like?

TYLER ST. CLAIR: Sure. So we do background checks on our drivers, on our employees. Again, we want to make sure that those who are working for DoorDash, everyone is staying safe with their interactions with DoorDash and between customers. So we do look into-- do-- excuse me-- ID verification and background checks on folks who work with us.

RAYBOULD: And then when they're in the course of delivering something, do you cover insurance for their vehicle or do you require them to have, in addition to their insurance, a separate insurance on their vi-- vehicle?

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TYLER ST. CLAIR: Sure. So whenever a Dasher accepts an order, right, they are at that point in the active delivery period-- quote, unquote-- what we call the active delivery period-- and we have insurance coverage that covers their vehicle during that time, from the time an order begins to a time the order is fulfilled.

RAYBOULD: And is that a-- an agreement or contract you sign with any potential person that wants to do DoorDash or work for a DashMart?

TYLER ST. CLAIR: So that comes with every Dasher that we have. And as for the employees at DashMart, I don't think the same thing would apply to them because they're not the ones out doing deliveries. But that covers all of our Dashers.

RAYBOULD: OK. Thank you.

KAUTH: Any further questions? Seeing none. Thank you for your testimony. Next proponent. Going once, going twice. First opponent. Move it along. Good afternoon.

FELICIA HILTON: Good afternoon, Se-- oh-- Chairman Kauth and, and other senators on the Business and Labor Committee. My name is Felicia Hilton, F-e-l-i-c-i-a H-i-l-t-o-n. I'm the political director for the North Central States Regional Council of Carpenters, and we're opposed to this bill. The reason we're opposed to the bill is because the language is pretty clear in the original bill, is that if you are employed through an app service, that doing physical labor at an actual brick-and-mortar facility would make you an employee, not an independent contractor. The fact that they're supplying insurance for drivers says to us that these drivers are employees if they're driving for DashMart. If they're driving for DoorDash and picking up food that isn't operated by the app, then they would be considered independent contractors. But if they're going to be DoorDash employees of DashMart and DashMart is the app employing them and has a physical space, these drivers would be considered employees under our assessment of who an employee is and who an employee isn't. They do give them their routes. They can change routes. They do have the option to pick and choose when they, you know, perform work. But the law was clear in making sure that, if you are hired through an app service, that the app service is not performing brick-and-mortar work. And that is to make sure that we don't have people literally employed under this guise of, we're hired by the app, but they're actually employees in a brick-and-mortar space and they're not paying into unemployment, health insurance, work comp, all the other things that all other

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employers are paying into for their legitimate employees. So we do respect the worker that wants to work independently, set their own hours, determine when they want to work and when they don't want to work. But if you're going to work for an app service and that app service begins brick-and-mortar physical work requirements within that shop where they're packing up groceries and doing all these things, they also have drivers that they insure. They have drivers that they in-- they insure. They're the, the DashMart drivers. Can they opt to go to another store? Sure. But if they're picking up food at this hybrid grocery store-- which I understand why the grocery stores are opposed to this bill-- then they are employees of, of the app. That's what we-- we believe that's our position.

KAUTH: Thank you. Good timing. Right, right under. Hold on. Let me see if there's questions. Are there any questions from the committee?
Senator Sorrentino.

SORRENTINO: Thank you, Chairman. You, you referred to the-- which, which law are you referencing?

FELICIA HILTON: The, the actual-- well, I'll find it in the bill. It's the-- what they're revising-- hold on one second. What the bill proposes to do is to amend the definition of the marketplace network contractors. And that language pretty much says that they cannot in LB13 [SIC]-- which is what they're, they're cleaning up-- what they're saying they're cleaning up. But it is the requirement in the original statute that says that the physical business-- they cannot do this work if it's a physical business for an app. So that's what I'm referring to, the original language that they're cleaning up with LB--

SORRENTINO: So there may be a physical bricks-and-mortar building in this case in the case of a DashMart--

FELICIA HILTON: Mm-hmm.

SORRENTINO: --but your interpretation is that it's-- they can't even visit to go pick it-- I, I could be considered an employee of Hy-Vee. I go there a lot and pick up things. Why am I not an employee?

FELICIA HILTON: No. You're a customer of Hy-Vee.

SORRENTINO: I'm a customer.

FELICIA HILTON: You're a customer.

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SORRENTINO: OK. But no other customers can go to this bricks-and-mortar. Just these individuals but--

FELICIA HILTON: No, we're not talking about the customers. We're talking about the employees.

SORRENTINO: I'm saying these DoorMarts--

FELICIA HILTON: Yes.

SORRENTINO: --they're not open to the general public. They're just basically a depot to stop by. So if I'm a trucker and I stop on Interstate 80 to a depot to get something-- and there's truck depots all over the pla-- do you think that makes me an employee? Freight carrier, Werner transportation. They have those depots all across the country. And their drivers are required to stop there. Yet these are independent contractors. I don't see the logical nexus of your argument.

FELICIA HILTON: No, the nexus is if you are an app, if you're a workplace platform and-- we're in construction. So if you're a workplace platform and you go on the app and you're saying, I'm looking for someone in the trades, a plumber or something like that, that plumber is be-- is being put to work through the app. And so what we're saying is that plumber is an independent contractor and-- his app pings, he accepts that as part of his independent contracting, then he goes and performs the service. What we're saying is the app, though, isn't an employer that's brick-and-mortar, that's actually hiring other plumbers to do this work. But then if you're a plumber that somehow has some delivery aspect to it, you don't work for the app. What we're saying is the app. We're only contesting that this is an app employment service. And now they have a brick-and-mortar, what they're calling-- what are they calling it-- the data da-- I mean the, the market dash. But what we're saying is the app itself, them having the app, that is what takes away their ability to have a brick-and-mortar service.

SORRENTINO: Did you say-- early on in your testimony, are you affiliated with a collective bargaining unit?

FELICIA HILTON: Mm-hmm.

SORRENTINO: Which one is that, please?

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FELICIA HILTON: That's the North Central States Regional Council of Carpenters. We're a multiemployer con-- contractor.

SORRENTINO: Would these workers, we'll call them, if they were categorized as employees versus independent contractors, could they be a target of membership of a collective bargaining unit in Nebraska?

FELICIA HILTON: Anyone that's considered an employee can be.

SORRENTINO: So they could be?

FELICIA HILTON: Yeah.

SORRENTINO: Thank you.

FELICIA HILTON: Yeah. They can be.

KAUTH: Any other questions? Seeing none. Thank you for your testimony. Next opponent. Going once, going twice. And anyone speaking in the neutral? No? OK. That concludes our testimony for LB813. And we will move on to Senator Guereca. LB879. Oh. Excuse me. There were 2 opponents and 0 proponents for LB813. Whenever you're ready.

GUERECA: All right. Good afternoon, Madam Chair, members of the Business and Labor Committee. LB879 starts from a simple reality that everyone in this room understands: Nebraska's economy depends on a workforce that is reliable, present, and able to work legally. Agriculture, food processing, manufacturing, construction, and health care all rely on immigrant workers that have been part of our communities for decades. These are families who raise children here, attend our churches, pay taxes, and keep our essential Nebraska industries running. At the same time, we can agree on something else: Nebraska is not in the business of ignoring federal law. LB879 does not attempt to do that. This bill is modeled after a trickle-law approach, meaning it only becomes operational if and when the federal government authorizes or expands a lawful employment pathway. In other words, this is de-- this des-- thi-- it is designated to work with federal law, not around it. This model is not theoretical. It exists, exists elsewhere for more than a decade and has been reauthorized multiple times and has provided stability for employers and workers alike when federal permission is granted. Why does this matter now? Because Nebraska is experiencing real disruption and real anxiety in its workforce. We've seen major employers shut down operations, leaving uncertainty in entire communities. We've, we've seen heightened federal enforcement activity that, regardless of one's

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views, has created fear amongst workers or otherwise contributing members to our-- of our economy. That uncertainty doesn't just-- that uncertainty doesn't just affect individuals. It affects producers, employers, local government, and the broader economic health of this state. LB879 is about preparation and responsibility. It says that Nebraska should be ready with guardrails, oversight, and legal structure and the federal government provides an opportunity for lawful work authorization. This bill does not grant status. It does not bypass federal authority. It does not weaken enforcement. What it does is acknowledge that Nebraska workforce stability matters and that when lawful options exist, Nebraska should be ready to implement them in a way that is orderly, transparent, and consistent with our values. This is not about politics. It's about employers needing workers, families needing certainty, and the state needing lawful, sensible work frame instead of chaos and fear. I look forward to the testimony today and welcome good faith discussion and questions. Thank you.

KAUTH: Thank you, Senator Guereca. Any questions? Senator Sorrentino.

SORRENTINO: Yes, please. Thank you, Chairwoman Kauth. I've got a few.

GUERECA: All right. Let's go.

SORRENTINO: So I want to try to get a level set here. When we're talking about the folks that we're talking about here, unlike official guest worker programs that utilize immigration visas, the guest workers are not authorized by authorities like the U.S. Citizenship and Amer-- and Immigration Services to hold employment, correct?

GUERECA: The, the, the folks that these would be seeking to bring into the fold?

SORRENTINO: The folks that we're talking about--

GUERECA: [INAUDIBLE] correct. Yeah.

SORRENTINO: OK. It's not. There are individuals who either, one, entered without inspection or entered legally but overstayed their visa--

GUERECA: Right.

SORRENTINO: --resulting in a loss. OK. So for references, because we've got a lot to talk about here, sometimes those folks, right or

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wrong, are fre-- referred to as illegal immigrants, correct? Not saying it's right or wrong, but.

GUERECA: Some folks--

SORRENTINO: OK.

GUERECA: --would refer to that--

SORRENTINO: So let's, let's jump into the bill here. Did, did you work with an outside organization to draft this bill or is this just something that came to you and--

GUERECA: I think the concept is something I had been shopping around. I know we've worked with some folks that are going to come, I believe, after me.

SORRENTINO: [INAUDIBLE] some testimony.

GUERECA: Yeah, that cou-- that can come speak to specifics of it. But, you know-- again, it's, it's, it's a conversation that I'm sure you've had. You know, I know I heard it all the time on the campaign trail. You know, whether it be, you know, trade associations, big corporations, hospitals, builders. We need workforce, period, right? So all this does is, is a creative solution that-- again, it's not, it's not something new. It's not something novel. It's something that has been used before. But again, it, it, it, it does require fed-- federal authorization. So all it's saying is let's gets our-- get our duck in the row. Should it happen, let's be ready to-- again, our, our, our businesses need workers. There's just no denying that. And it's just a creative solution to, to help bolster our great economy.

SORRENTINO: In, in trying to get some parallels to maybe what some other states have done-- and not very many states have it. Some are considering it-- are you familiar with the 2012 California agricultural jobs and industrial so-- industrialization program period? That's a lot.

GUERECA: I am not, no.

SORRENTINO: You're not. OK. That, that is a bill that I studied when I read through this bill a few times, and there's a lot of similarities, so. I wonder. I'm gonna jump into the bill. I'm on, I'm on Section 2, page 1 of the bill. And this becomes relevant later in my questioning,

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but Section 2(1), basic health insurance plan means a health plan that is actuarially equivalent to a federally qualified high-deductible health plan. Can you tell me where that definition came from?

GUERECA: No, I can't. But I can get you that information.

SORRENTINO: OK. Well, I was going to ask you wha-- exactly what it means and why it was included, but I'll offer my suggestion.

GUERECA: Always welcomed, Senator.

SORRENTINO: I believe it comes almost word-for-word straight out of the Affordable Care Act enacted in 2010-- March of 2010, and that is a, a fairly high standard. It includes essential benefits, wellness benefits, certain co-pays, cert-- certain deductibles, relaxation of annual lifetime limitations. It basically is the equivalent of [INAUDIBLE] what you would get now in the marketplace. So it's a fairly extensive basic health insurance, which, which we'll get to. That, that same Section 2-- this is where I'm, I'm really getting-- starting to get confused a little bit. It says employer means a person-- I've circled the word-- employer means a person for whom an undocumented individual has agreed to perform services under a contract for hire. So we're not talking about these folks being hired as employees. We're talking about them being hired by me or you to do some work on my house or my auto or some personal property. Is that correct?

GUERECA: No, that's something that we could probably expand the definition of.

SORRENTINO: Well, I don't know if I want it expanded. I'm just-- in this particular case--

GUERECA: Well, I'd want to expand it, Senator.

SORRENTINO: What, what-- is it applying to an independent con-- we just had that discussion-- an independent contractor or an employer? Now, I-- because it says employer, which means standard W-2 employee, common law employee, means a person-- well, then I go to contract-- and then it says contract for hire. But here in Nebraska, we are, of course, a employee at will. I'm-- so I'm, I'm struggling on person. I don't know what person means.

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GUERECA: Well, that's certainly something that we, we could talk about. I, I think-- you know, I, I, I kind of understand your, your train of thought, Senator.

SORRENTINO: All right.

GUERECA: So it's something we could smooth out and--

SORRENTINO: I'll, I'll move down.

GUERECA: --talk about it.

SORRENTINO: When I see-- when I see-- I always get a little concerned when I see bills that-- and we see a lot of them, in fairness-- that have a lot of definitions upfront because typically they're straightforward. The next one says family member means-- now, I'm-- I thought, you know, my practice for 45 years, a family from a tax standpoint, is me, I have-- if I have a spouse, any of my dependent kids. That's what I would think would-- a family would be. This says family member means a spouse, a child, a parent, a grandparent, a sibling, a grandchildren, a nephew, a niece, and any spouse of those individuals. And I thought my little family of six was big. I just counted mine up yesterday. I would have 103 people in my family. And that's important later on when we talk about family rights to work here. I, I-- any thoughts on that? That's a very expansive definition of family for me.

GUERECA: I, I think the vacancies in this state are expensive, Senator. So I think the, the, the broader net we cast, the more folks we get into the workforce-- again, this, this is a-- the job vacancies and unemployment-- or, the, the, the job needs of thi-- of this state is vast and, and cuts across industries and across, across the state, so.

SORRENTINO: OK.

GUERECA: More, more folks-- you know, if we need to tighten up that net, I'm certainly always, always open and willing to have that discussion with you, Senator.

SORRENTINO: A, a little bit later, you do-- immediate family member means spouse, a child, if the child is-- and here's my concern here-- if the child is under 21 years of age and unmarried. When I was looking at other bills, specifically California, they have a similar line, but it says 18. My concern here-- we're talking about a child

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that would be now covered under the father's mother's sister brother's work permit, but they're 21. The voting age in Nebraska is 18. And when I see age gaps like that, I-- I want to make sure. Are we expanding the voting rolls by having that three-year gap? Or is that a typo or is that intentional? Help me out there. Why 21 and not 18?

GUERECA: I think it goes back to my previous answer. We need workers in this workforce. That, that number, to, to my understanding, was not placed there with the intention of expanding the voter rolls.

SORRENTINO: OK.

GUERECA: Again, this goes back to our conversations that we need workers in the workforce, Senator. And if it's a little bit of a wider net that I'm casting to, to make sure we get those folks working, then that's, that's what we're here for. Grow the Nebraska economy.

SORRENTINO: I'm going to move over here. Over on page 2, there's a-- we talk about these folks shouldn't have a criminal background. 100% agree. 100% agree. Page 2, on lines 11 to 28-- and there's a long, long list of felony violations that we wouldn't want somebody to be. And I agree. I actually--

GUERECA: It's page 3. OK.

SORRENTINO: That's-- well-- I'm sorry. I'm on page 3. Page 3. I apologize. There's 67 different violations there. I did look all these up. I must have been bored this weekend, huh? And I looked them all up. And I-- and I'm OK with that. But I just wondered, did you look at those-- kind of have an idea what the flavor of those are? There's some pretty bad stuff in there, right?

GUERECA: Well, we didn't want bad actors.

SORRENTINO: We want to keep those out.

GUERECA: Right. Yeah.

SORRENTINO: All right. So I'm going to go over to page 4. I'm going to be in Section 3 on page 4, line 10. It says the department-- I'm assuming we're talking about the Nebraska department here-- under the direction of the Governor shall seek any federal waivers, exemptions, and authorizations necessary to implement the guest worker-- could you provide me with a little bit of detail as to what waivers, exemptions, and authorizations might be necessary? Because I don't know.

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GUERECA: [INAUDIBLE] ob-- obviously, you know, the-- we don't want to pre-- we can't, we can't preempt federal law, right? So we want to seek, you know, whatever exemptions are, you know-- push for federal change to make sure that we can make this happen, because, again, we need a workforce here in Nebraska. So-- and this language is really to, to, to ensure that, you know-- as a state, we're pushing to make sure that we can get these folks employed, we can get them on, on the voter rolls, we can get them on, on payroll, campaign taxes, and continue to grow the Nebraska economy.

SORRENTINO: Same section, subparagraph 2, the Governor shall actively participate-- I have a note to myself. What does that mean? How do we-- or I guess Governor Pillen or whoever it might be, how do we define actively participate? I-- not a term of art that I'm aware of.

GUERECA: Well, I think in a-- in, in, in a role that is participating actively, but making sure that we're, you know, talking to our federal delegation, you know, talking to the executive branch, saying, hey, this is a real need we have in Nebraska, right, making sure that that is being communicated, that we're pushing for solutions. We, we need creative solutions, right? That-- at the end of the day, the workforce need is there. And if we just do nothing, if we're just stagnating and do nothing-- so I think, you know, a little motivation across the state, it's something that we're hearing from [INAUDIBLE], we're hearing from the Chamber, we're hearing from, from CEOs. Now, you and I were, were in a couple meetings where we're hearing that, right? So this is just making sure that everyone here in the state-- we're working towards the, the, the shared purpose of growing the Nebraska economy, providing a good economy for all.

SORRENTINO: All right. Thank you. Let, let-- let's move down a little further, line 27, page 4. What we're talking about applies, you know, [INAUDIBLE]. They-- certain things that have to happen. We say an undocumented individual should obtain a permit. Under (b), it says no later-- I want to make sure I've got this right and isn't a typo-- no later than 30 days after the day on which the undocumented individual enters into a contract for hire. So first, they go out and enter into a contract for hire, which makes me think that we're talking about independent contractors, not employees. So I'm Joe Citizen and I've contracted with somebody. I have no idea if they are or are not legal and have one of these permits. And I won't know until 30 days after and-- project's probably done. It-- that's not a typo? It's 30 days after?

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GUERECA: It's, it's an or-- it's entering into the service, right? So it's-- I think-- and, and again, I can get you the exact rationale behind that language, but it, it is an or. So I think it's just making sure that folks come out of the shadow to get that permit to, you know, to, to get those fees paid, to get that money into the General Fund, and to get them on, on, on the tax roll.

SORRENTINO: It seems like, if, if it was their want, they could work for 30 days, get their money, move on to the next one, the next one, the next one, and never get a permit because it's always a 30-day gap. But that's just my reading of it. Let me, let me ask another question. It says-- the way I interpret is basically--

GUERECA: Well, Senator, if they, they keep jumping like that, then they won't have the [INAUDIBLE].

SORRENTINO: Yeah. If they're cur-- certainly caught doing it. Basically, the 30 days of undocumented work is sort of OK unless you-- until you, you might get caught. I'm on page 5, line 14, to obtain work and provide service in a state other than Nebraska. I, I think we would need a (c) there because we talked a little bit about voting and undocumented individuals should not use a permit, (c), to vote in the state of Nebraska. Are you concerned about that at all?

GUERECA: Well, Senator, if you're not a citizen of the state of Nebraska, you cannot vote in Nebraska elections.

SORRENTINO: But--

GUERECA: And in-- under our voter ID laws, there is a list of documents that-- where you have to prove citizenship to be able to obtain that document before you can then cast your ballot box. So--

SORRENTINO: And one of those is a driver's license, correct? It is.

GUERECA: It is. Correct. Yeah.

SORRENTINO: So if I have a driver's license, I could probably figure out a way--

GUERECA: But this is not a-- this is-- shall not use-- I mean-- and, and if that's something we would-- we need to add in there to clear up any, any confusion to make sure that our, that our Se-- Secretary of State and our county registrars doesn't get mixed up in there, more than open to do that.

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SORRENTINO: I only bring that up because later on it talks about driver's license. At the very, very bottom of page 5, line 30, the application-- this is the application for the document-- a statement that an individual satisfies the requirements of subsection (1) of the second-- any supporting documents by the department's rules. It goes on after that on page 16 under subsection (e).

GUERECA: Page 16.

SORRENTINO: This is, this is more up my alley. I've kind of done this for a while. Documentation that the individual is covered by a basic health insurance plan-- which is why I asked for the definition earlier-- or evidence satisfactory to the department the individual has no medical debt and is not past due and agrees to have no medical debt that is past due. I am not aware of any insurance carrier in this state who would write insurance policy for an undocumented worker. And I went so far as to talk to the Department of Insurance and some other folks, and they agreed with me. They don't write that. So I'm not sure how one would get that, but the alternative is to make sure that they had some sort of writing saying they don't have any medical debt. Who writes that? I mean, I would-- somebody came to me and said, hey, would you write me a letter saying I don't have any medical debt if-- no, I don't think I'd do that. How do we satisfy (e)? Because they can't get insur-- and by the way, if they go to the Nebraska exchange, they are not eligible for the federal subsidies because they're an undocumented worker, not a citizen of the United States. So even if they could, they're gonna pay \$4,500 a month for family coverage. That's pretty pricey. I couldn't afford it. Can you explain what (e) is there?

GUERECA: Certainly something-- you know, and if, if, if that's something that I-- it isn't workable, always open to, to smoothing it out, to, to make sure that-- you know, if, if this does pass and it's implemented and it's fully compliant with Nebraska law, always open to have discussion, Senator.

SORRENTINO: Thank you. The paragraph down, (f), prove that the individual holds an authorization to provide a [INAUDIBLE] in this state. Well, in Nebraska, you have to be a U.S. citizen, lawful status. You have a Social Security number and two documents of your address. I'm assuming most of these folks don't have Social Security numbers. I don't know. If they do, I guess I'd wonder how they got them. So I'm trying to figure-- so if they don't have a-- can't operate a motor vehicle-- then it says, evidence satisfactory to

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department the individual will not operate a motor vehicle. So I'm not sure the who, what, when, where, who off-- who offers-- who says, hey, so-and-so's not driving.

GUERECA: That might be something we have to clean up, Senator.

SORRENTINO: OK.

GUERECA: Appreciate you flagging that.

SORRENTINO: I'm getting there.

GUERECA: Hey. We got, we got, we got ten more page-- or, four more pages.

SORRENTINO: We got, we got-- have four more questions. So I'm on page 7.

GUERECA: All right.

SORRENTINO: Line 3, small (i). There's a fee to be paid once you, you qualify this. It's \$1,000 if they entered legally, \$2,500 if they didn't. It doesn't say in here who could-- could someone pay this on their behalf? Could an organization that, you know, was, was for this kind of legislation, either here or there, or, or, or a potential employer, could somebody pay this on behalf of them? Like you could pay a COBRA premium. Anybody can pay a COBRA premium. Who can pay the \$1,000 into \$2,500 besides the actual permit applicant? Can somebody else pay that on their behalf?

GUERECA: [INAUDIBLE] kind of glancing, but I'm not seeing any-- a-- a-- anything prohibiting, say, an employer or someone that wants to bring--

SORRENTINO: So somebody else could pay on their behalf.

GUERECA: Potentially, yeah.

SORRENTINO: All right. Just making sure. Same page, line 17, line 6, an application for renewal of a guest worker permit shall include documentation the applicant is making an effort to comply with Section 10. Section 10 is, they should be making effort to learn English. What a-- again, what's the threshold of compliance making an effort? What, what does that look like?

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GUERECA: I mean, I think there's, there's, you know, a lot of ways to do that, Senator. Obviously, I think the sort of the easiest one is showing documentation of not just enrolling but showing progress in a language course. Right? I think we're, we're, we're striving for sort of maybe an intermediate level of, of English understanding, right? So showing a natural progression and seeing that, that advancement and making that good faith effort and, and actually advancing in those courses.

SORRENTINO: OK. I, I, I-- that-- that's good. I want to go over to page 9, line 7, section (c), the department may issue an immediate family permit if the applicant has agreed to pay the fee provided in this subsection. Does that-- agreed to pay, does that mean there's actually a contract or a promissory note or-- yeah, sure, I'll pay it. I mean, I hope it's more than that, right?

GUERECA: Well, and they-- I, I think the idea is that they pay, they pay that fee. So we need to tighten up that language and make sure that that's clear. One of the programs actually [INAUDIBLE] do that, Senator.

SORRENTINO: I don't want to keep you all then. Moving over to page 10. I'm on line 13. For a guest worker permit, the permit holder does not provide services under a contract for hire for more than one year or-- and it goes on. How will the department know if a contract for hire is 8 months or 18 months or 11 months? How-- because they're not-- I assume they're not going to file the contract with the department and they're going to follow up on that. How do we police that, please?

GUERECA: You know, I thi-- I think the-- I believe there's an enforcement mechanism later on down the line. And, and, and if [INAUDIBLE], we, we can definitely add that. Again, we want to make sure that-- we do want to limit the scope of, of the program to folks that are, that are here and that are working. So if we need to add enforcement mechanism-- and if that-- they're not present [INAUDIBLE] we can, we can add that. But definitely that, that accountability to, to make sure that the, the, the folks are, you know, working and they're contributing to society. Absolutely.

SORRENTINO: Same page, line 10. Excuse me. Page 10, line 21. If a permit holder is not issued a Social Security number-- I'm going to stop right there [INAUDIBLE]. How would an illegal immigrant, illegal worker already have a Social Security number?

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GUERECA: You know, if they--

SORRENTINO: I mean, is-- maybe there's a way that--

GUERECA: Through a, through a work status that the [INAUDIBLE].

SORRENTINO: I'm sorry, which, which status?

GUERECA: Huh?

SORRENTINO: Which status?

GUERECA: They-- if they have-- previous work status where they received a Social Security number. That status then lapses. So they, they keep that Social Security number.

SORRENTINO: OK. So I'll, I'll continue. If a permit holder is not issued a Social Security number. The Department of Revenue shall provide a means for a person who receives services-- that would be-- let's say me. I'm hiring somebody-- from a permit holder-- that would be the worker-- to withhold an income tax equivalent from conversa-- conversation-- compensation to pay the permit holder. So I hire somebody to build a fence on my property. And some way or another, I, I realize that this person fits the category of guest worker. Right now, that person either is going to accept cash from me or a check. Probably not credit card, but you never know. But now, I as the purchaser have to figure out a way to withhold tax for that purps-- person. Now, as an individual citizen, I don't issue 1099s. And even if I did, there's no-- [INAUDIBLE] withholding on a 1099. I certainly don't issue a W-2 because I'm not an employer-employee arrangement like we talked about about the independent cantra-- contractor. So I don't know how this is done. And later on, it says but we're gonna wait for the federal government to decide just how and come up with a form for me to do that. There's other states apparently doing this. How does this work? I'm not prepared to give a 1099--

GUERECA: I mean, I, I, I, I think, you know-- the, the, the envisioning something similar to a 1099, right? And, and if there is a Social Security number, all-- some sort of tax identifying ID number associated with that work permit, right?

SORRENTINO: And the only thing I could think of is a Social Security number. Because a 1099 and a W-2 both have to have that. You fill it out on a W-9 if you were an employee. So I, I, I can't--

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GUERECA: I think something similar to, like, you know, a, a, a, a non-- like a, like a corporation or a LLC or a nonprofit does have a tax identification number. So-- and some-- I mean, something similar to that is what is envisioned in this bill.

SORRENTINO: Yeah, but aren't we saying these are only contracts-- it says with a person, which would rule out an LLO and LLC, a partnership, subchapter (c), subchapter (s). That's where the confus-- I can't figure out who's the employer, who's the employee, and how we're gonna withhold. It-- it's just confusing to me. So maybe more of a comment than a question. And then again in Section 12 on page 11, line 17, the department shall, by rule and regulation, develop a verification procedure that allows an employer-- and now I'm confused because now we're using employer again, but I thought we were talking about independent contr--

GUERECA: Page 12?

SORRENTINO: I'm sorry. Yeah. Page 11.

GUERECA: Page 11.

SORRENTINO: Section 12, line 18. The word employer seems to be substituted.

GUERECA: Line 11.

SORRENTINO: OK. That-- that's just calling out the question. I, I-- I'm getting closer. Page 12, Section 13.

GUERECA: Sect-- page 12, Section 13.

SORRENTINO: The department shall maintain the confidentially of information from an in-- undocumented individual under the Guest Work Permit Act. Well, I'm kind of-- why and from who? Why are we making it confidential and who are we keeping this from? I-- maybe you could help me there.

GUERECA: I think the, the idea-- and I, I would have to-- I don't know, again, the specifics of not public record under Section 84-712 and 84-712.09. [INAUDIBLE] you looked up, Senator, but I would, I would have to get you the specifics of, of what that guides and, and what that sort of directly oversees.

SORRENTINO: OK.

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GUERECA: But I'm-- I-- I'm assuming that based on, on the way this is worded, that, that-- those kind of statutes have some sort of public disclosure, public accountability. So maybe just preempting that to make sure that the-- that individual's information doesn't become public record for whatever reason. Now, I know-- and again, if that's something we have to adjust, certainly open to it

SORRENTINO: I promise you I got one more question.

GUERECA: You said that ten questions ago, Senator, so.

SORRENTINO: Inflation. You know, one became two.

GUERECA: There we go.

SORRENTINO: 23 minutes in. Let's go. Programs like this that we're suggesting could-- not saying would-- could conflict with federal priorities, leading to some legal challenges. But we know everything's subject to legal challenge. That's not new. The notification provisions, though, calls for allocating-- or, or for the revocation of this permit at a certain point in time. Why not require full compliance with federal deportation processes from the start rather than, OK, if we have to pull the person's permit, then we do it? Why wouldn't we just from the start say that if you're, if you're bad or you didn't do this, that the whole deportation process from the start-- any opinion on that?

GUERECA: Well, I think the, the, the idea is this creates that, that pathway to work. And then once you have not complied with that pathway, then you're bad, right? I think the-- this sort of says that, hey, you've been good. You know, you haven't committed a serious felony. You're here. We, we, we need you in the workforce. Let's get you in there. Once they've broken that-- be it committing a crime or some-- broken some way along-- some-- something along the way then--

SORRENTINO: Senator, I--

GUERECA: --[INAUDIBLE] subject to enforcement.

SORRENTINO: I, I appreciate your patience with all my questions. I'm in an awkward position. I am now the chair of the committee. So I will ask my fellow senators, do you have any questions of Senator Guereca? Yes.

RAYBOULD: Yes.

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SORRENTINO: Senator-- please.

RAYBOULD: Raybould. Question for Senator Guereca.

GUERECA: Sure.

RAYBOULD: So can you tell us some states that have successfully implemented this and received the waiver from the federal government?

GUERECA: I would have to get-- I know-- I believe Utah had something similar implemented, but I could definitely get you a list of, of, of those states.

RAYBOULD: So one of the letters in opposition was from someone who had knowledge of Utah. They ultimately were-- never received the waiver even though they attempted to do a program like this. So I'm, I'm hoping-- you know how they say don't-- you don't want to be on the leading edge or the bleeding edge? Do-- you want to-- you want to make sure that other states have worked out all these lists of questions that Senator Sorrentino has come up with.

GUERECA: [INAUDIBLE] and again, I think, you know, we-- we're, we're at a crisis point here in Nebraska. We're in a crisis point across the state, across the industry where we need workforce. And, you know, like, we need to come up with creative solutions to supple-- to, to, to fill those workforce needs, to allow our Nebraska industries to grow. Period. Hard stop. That-- that's just it. And if-- it-- this is just a creative solution and-- is it the perfect solution? Absolutely not. I'm-- that's why I'm always open to conversation. Certainly appreciate the, the thoroughness of Sorrentino to, to iron this out and, and to, to bring forth these flags and-- let's iron it out. But again, for me, it's about getting the conversation going, highlighting the needs that we have here in Nebraska, and just offering a pathway, offering an alternative to fill a very real need-- a very real need that, again, is felt across the state and across industries.

RAYBOULD: I have another question. Can you tell us a little bit about how the current guest worker program is functioning? Is it not succeeding in-- you know, I know we have a number of guest workers who come and help with harvest or come and help with dairy producers and other ag-related-- and I-- what is the impediment to en-- encouraging greater participation? Because we do see a willingness of people wanting to come to the United States for work and for other reasons.

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GUERECA: I think what, what this seeks to tap into is, is, is folks that, that, that are here without status, encouraging them to come in and bring them into, into, into the workforce, whereas a lot of those permits and, and, and other sort of guest worker programs would bring in-- folks in-- at-- from oth-- from other countries directly. This is tapping into a population that we have here, a workforce that we have here ready to go that, because there isn't a federal pathway, we're not able to bring them in-- into the legal workforce. This is-- again, this is just-- this an option. This is something to say, hey, in Ne-- here in Nebraska, this is a need that we have. And again, we, we-- this cannot happen without federal changes. But this bill more than anything is-- if it does pass, it's more to say, hey, you know, federal government, this is a desperate need that we have here in Nebraska.

RAYBOULD: OK. Thank you.

GUERECA: Thanks.

SORRENTINO: Are there further questions from-- yes, Senator Hansen.

HANSEN: Thanks. Senator Sorrentino took a lot of my questions, so.

GUERECA: Oh, yeah.

SORRENTINO: Sorry about that.

GUERECA: I'm sure you looked up the du-- the justice code line by line, right, section by section.

HANSEN: He has a little more knowledge than some of this stuff that I do. So no concerns about-- is there a-- is there a mandated FBI background check, fingerprint check with this?

GUERECA: I believe there is.

HANSEN: Thought I saw it in here.

GUERECA: The, the, the, the-- there, there is definitely a, a, a, a, a background check element to it.

HANSEN: Yeah, because I think--

GUERECA: And I believe the one-sheeter that I passed out addresses that if I'm, if I'm-- remember off the top of my head.

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HANSEN: Yeah. Fingerprints for FB-- OK. Yeah. FBI background check. No concerns with that at all?

GUERECA: I-- thet-- in what way?

HANSEN: Like, in this day and age with the federal government getting more involved with immigration and customs and doing FBI check and some of these here--

GUERECA: Well, I think if, if you've committed a felony and you're in the criminal justice system, then--

HANSEN: OK. And one more thing. This-- if we pass this legislation, that wouldn't open up our state to any kind of litigation or anything like that, would it, from the federal government?

GUERECA: I-- you know, be-- because we need them, we need the-- you know, we, we do need that, that authorizing language federal government-- I mean, I guess-- and, and again, the, the, the bill says make every effort to get the, the, the authorizing legislation for this, I, I-- I've nev-- [INAUDIBLE] the Attorney General on this, but. I'm not an attorney, but maybe. I mean, doesn't-- there's always room for litigation, you know? There's always the opportunity of litigation. We're the United States of America. We're a very liti-- litigious country. But again, it's not something I checked with AG, so.

HANSEN: OK. And sometimes the federal government isn't, isn't very consistent, so. Things can change from one week to the next--

GUERECA: Right.

HANSEN: --[INAUDIBLE] so.

GUERECA: Right.

HANSEN: All right. Thank you.

GUERECA: Thanks.

SORRENTINO: Are there further quest-- yes, Senator Ibach.

IBACH: Thank you very much, Vice Chair Sorrentino. I thought I was gonna have to take over for you briefly, but what-- good transition to taking over here. Do you think or do you know if the federal

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government is close to adopting anything like this? I mean, you made reference to the federal government adopting language similar to this eventually. Do you think there-- I don't know. I'm asking you.

GUERECA: I mean, I, I, I would hope so. And I think, again-- I think if, if, if-- I mean, we see this type of legislation pass in, in various states. It certainly could say a message to, to the government, hey-- again, this is a need that we have. Right? We, we need more legal immigration options. We need to prov-- be able to bring more folks into the workforce. Again, this is a, a major concern here in Nebraska. I can't really speak to the specifics of other states. But I, I think this would send a signal, say, hey, help. Right? Like, we need help.

IBACH: Well, and to that same point, legal is, is kind of, I think, the more appropriate-- but nobody wants a pathway to citizenship oth-- more than I do. And I've spoken to it for the last three years. You know, how do we find an abbreviated path to citizenship for workers that are here legally? And you just mentioned that. Why would we encourage illegal employees when our goal is to encourage a path for legal citizenship through being here as an H-2A-- through the legal channels?

GUERECA: That's a, that's a great question. I, I think both can hold true at the same time, right? I think we need to create that legal pathway to citizenship to encourage, you know, folks that are on, on, on, on the different type of visas. This is-- God, I hate to say it, but this is a Band-Aid fix, right? This-- these are-- this is a ready-to-tap-into workforce that we have here that we can get on payroll and on the voter-- on the voter rolls now. Right? So the-- I think both can be true. We can work toward a dedicated pathway to citizenship. And then this-- what this does is an-- is a fix, right? We have-- I mean, we can argue about how many numbers-- how many vacancies we have in Nebraska. Some-- I've heard as high as 60,000 statewide, high as 50,000 in the metros, right? That-- this is a solution to help us fill those numbers quickly. And-- that-- the discussion for a long-term path to citizenship for folks that have been here for a long time, that's why this is a temporary permit to help fill the holes that we need in Nebraska now. We need these folks working now. We need these folks on the, the, the, the pay-- on the tax rolls now. We have a half a billion dollar deficit. This would be a great way to grow the, the-- grow the, the tax base to get more money flowing into the state to help us fix, again, a lot of problems

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that we have. We need workforce and we need a large tax base. This is a temporary fix to help acc-- accomplish both of those issues.

IBACH: Well, I, I appreciate that because I, I-- like I said, I, I think we should reward legal status and documentation. And so I, I just have issues with allowing undocumen-- because we don't let them across the border anymore without documentation.

GUERECA: It-- and, and, you know, and that-- then, then that leads to a broader discussion of, you know, what to do with the millions of folks that are here. But I think for this-- and I think this is how the federal government in-- intends to sort of roll that into the larger sort of immigration pipeline-- it's obviously going to be up to the federal government. Again, for me, I'm just looking at filling the needs that we have in our workforce now, the, the needs that we have in our tax base now.

IBACH: Thank you. Thank you, Mr. Vice Chair.

SORRENTINO: Senator Meyer.

F. MEYER: I just have a, a quick question. Would there be a possibility that this would kind of act like a safe, safe haven for people from other states wanting to come here because we have this type of law if nobody else has it?

GUERECA: Well, I hope workers would come to come work and start working to upgrade Nebraska businesses.

F. MEYER: Do we have the housing?

GUERECA: We certainly have the, the, the, the, the need for the workforce, Senator.

F. MEYER: Thank you.

SORRENTINO: Further questions for Senator Guerrero [SIC] from the committee? If not, thank you, sir.

GUERECA: All right.

SORRENTINO: All right. Do we have proponents for this bill? If the-- if we do, please step up. Welcome. Please proceed.

CONNOR HERBERT: Thank you, Vice Chair Sorrentino and members of the Business and Labor Committee. My name is Connor Herbert, C-o-n-n-o-r H-e-r-b-e-r-t. And I serve as a staffer with the Nebraska Commission on African American Affairs. LB879, the Guest Worker Permit Act, represents a practical, law-respecting approach to workforce and immigration challenges facing Nebraska. Many individuals currently living on our state want to work, support their families, and contribute to their communities, but the absence of a clear legal work pathway leaves too many people in the shadows of the economy. Further, unlike many longtime community members in our state, many immigrants also find themselves with more dependence than your average six-person family as a consequence of intergenerational living and extended and immediate family scenarios. So that situation benefits no one-- not workers, not employers, and not the public. When people cannot work through lawful channels, they are often pushed into informal employment arrangements where the wages are lower, standards are inconsistent, and accountability is limited. That undermines both worker well-being and fair competition for businesses that follow the rules. LB879 would help correct this by establishing a structured legal process for eligible individuals who obtain guest worker permits and participate in the workforce openly and lawfully. This re-- approach reinforces the principle that work in Nebraska should occur within the legal framework. By bringing more workers into the formal economy, the state can provi-- promote compliance with labor laws, tax laws, and workplace standards while reducing the underground employment practices that create instability, unfairness, and further marginalization. Clear legal status for work also encourages better communication and cooperation between communities and local institutions, which supports public safety and community trust. The bill also addresses real labor needs in industries vital to Nebraska's economy, including agriculture, con-- construction, and hospitality. Employers in these sectors consistently report difficulty filling positions that are essential to keeping businesses operating and local economies strong. A regulated guest worker system helps meet those needs while maintaining oversight and structure rather than allowing gabor-- or, labor gaps to be filled through unregulated means. At its core, LB879 supports the idea that people who are willing to work, follow the rules, and contribute to Nebraska's economy should have a lawful avenue to do so. It strengthens the workforce, supports businesses that operate responsibility-- or, responsibly, and promotes a more orderly and transparent labor system. For these reasons, the, the legislation offers a commonsense, economically sound step forward for Nebraska. Thank you.

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SORRENTINO: Thank you for your testimony. Are there questions from the committee of Mr. Herbert? Senator Raybould.

RAYBOULD: Thank you so much for coming to testify. I think what we're, we're struggling with is finding other states--

CONNOR HERBERT: Right.

RAYBOULD: --that have received a federal waiver to move forward on a program like this. Are you aware of another state who has successfully implemented this program and gotten a waiver?

CONNOR HERBERT: I'm not, but I, I believe Section 3-- which, you know, encourages the Governor to be actively involved-- is the main framework through which, like, the intentions of the bill should be facilitated. I mean, like, that, that agen-- that office is, like, one major vehicle through which, like, ad-- like, advocacy for state workers, especially understanding our labor situation, would be, like, most easily facilitated, especially given the office's relationship with the federal executive agencies that deal with immigration and labor.

RAYBOULD: OK. Thank you.

SORRENTINO: Are there further questions? Yes, Senator Meyer.

F. MEYER: So, so would you envision the-- a system of-- similar to withholding taxes as the-- a current employee would have?

CONNOR HERBERT: Well--

F. MEYER: [INAUDIBLE] from your position. How would you envision that?

CONNOR HERBERT: So when it comes to the point that was made about who can be included in the guest worker permit, that's what-- more what I was referencing when it comes to, like, you know-- in a-- in our, like, tax system, when we talk about dependents generally, we're talking about people within an immediate family setting, and rarely you're talking about, you know-- sometimes you might have your grandma as a dependent because of certain living situations or, you know, because of her-- she's living with you or something like that. I don't imagine that the stra-- the framework that is proposed here is supposed to be, you know, also replicated when filing taxes. I would imagine those individuals being-- or, having access to permits as a consequence of an indi-- of the first individual having a permit would

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enable them to be, you know, listed as individuals to be taxed as opposed to dependence on someone else's withholdings, so.

F. MEYER: I, I guess I'm, I'm trying to take a real broad view because, you know, we all agree that, that we need more laborers and warm bodies to, to do a lot of jobs, but along with that comes the support for schools was-- as students come to our, our cities and counties, we have to support all that infrastructure, and that certainly requires taxes, either real estate or income tax withholding. All those things kind of work together and we have to kind of try and balance all of those-- these together. And, and-- then I guess that's why I ask that--

CONNOR HERBERT: Yeah.

F. MEYER: --question about that. Thank you.

CONNOR HERBERT: Yeah.

SORRENTINO: Further questions? Seeing none. Thank you for your testimony, Mr. Herbert.

CONNOR HERBERT: Thank you.

SORRENTINO: May we have the next proponent, please? Welcome.

JON NEBEL: Thank you. Thank you for the opportunity today. My name is Jon Nebel, J-o-n N-e-b-e-l. I'm here on behalf of the State Council of Electrical Workers and the Nebraska Building and Construction Trades Council. We're a pro-- a proponent for this. This is a-- this is a solution I think that we've been advocating for in the trades for a long time. Part of the opening there-- you asked a lot of questions, Senator Sorrentino, and I just wanted to clarify that it's, it's not like we're trying to green-light the possibility of a bunch of undocumented workers coming here. They're already here. If you look at the fiscal note, I think the, the note says they're estimating about 40,000 workers could potentially sign up for the permit that are already here. So what we're trying to do is legitimize the workforce and stop the exploitation of these workers. What, what it looks like boots on the ground-- about 20 years ago, it was one in ten workers on a construction site was immigrant. Now it's a hun-- or, one in five. So it's not like it-- the problem is, is leveling off. There's nothing happening except for the expansion. The business community I think appreciates the, the willingness for these workers to step in and do a, do a hard job, which is construction in our world. And the problem

then becomes enforcement. And I think we're asking a little bit too much of the DOL. The DOL Employee Classification Act Report, for the last five years I think they've been on about 311 job sites and have found 976 misclassified workers they've identified on these jobs. So when the DOL is active and, and visiting job sites, they are finding this exploitation happening. The problem is there's thousands of job sites that they're not visiting. So what we're trying to accomplish here is a way to, to make sure that we're aware of all the places that there could potentially be misclassifications happening and, and trying to get past it. So how are those exploitations happening? If we look at it, they're obviously being misclassified as independent contractors. Workers are being utilized in off-hours when companies that would normally charge, charge higher rates to do that. So it's a, it's a game of hide-and-see, try not to find-- try not to be found out, and a little bit of slap on the hand for a minimal cost of doing business to exploit these workers. And of course, the workers are being un-- housed in unsafe conditions on-- in some places. And they're being misused by not being upskilled in the process, and that goes to your point of, do we have the housing? No, we do not have the housing. We need to build that housing. And we are in a skilled trade shortage. So upskilling these workers to a point of, of being skilled so they can build out an entire ecosystem of houses, it would be a-- would be a great step forward in that. So I know my time's almost up. And I'm happy to answer any questions about it, but we see this as a, a plan to expand and rebuild the skilled trades and not play a game of hide-and-exploit any longer. Thank you.

SORRENTINO: Thank you. Questions from the committee? Yes, Senator Raybould.

RAYBOULD: So my question is sort of repetitive and-- actually the same. So can you tell us of any states that have successfully implemented a similar program to this and actually been able to get a federal waiver?

JON NEBEL: No, I'm not aware of any states. I know the Utah, Utah law, I think they were talking about giving it up in 2016, the renewal of everything. I'm confident that the-- I'm-- I trust the Governor's stance on securing borders and everything. Might be a kick starter for the feds to kind of look at, OK, what-- maybe Nebraska would be a good place to, to implement and start a process like this.

RAYBOULD: Thank you. I think, for the record, the, the waiver never was received in Utah.

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JON NEBEL: Correct. Yeah.

RAYBOULD: So yeah. OK. Thank you.

JON NEBEL: Mm-hmm.

SORRENTINO: Any further questions from the committee? Yes, Senator Ibach.

IBACH: Thank you. I'm going to ask one. Thank you, Mr. Vice Chair. You noted on here too-- which is a concern of mine-- if, if federal authorization does not exist, the bill does nothing. And then over here on the trigger law, you said fe-- federal authorization must occur first. Do you know if the federal government is working on a program?

JON NEBEL: I remember a bill being introduced in Congress I think around 2023, but I'm not sure that they're currently still working on this program.

IBACH: OK. Great. Thank you. Thank you very much, Mr. Vice Chair.

SORRENTINO: Any further questions? Seeing none. Thank you for your testimony, Mr. Nebel.

JON NEBEL: You're welcome.

SORRENTINO: Next proponent, please.

NICK GRANDGENETT: Well, good afternoon. My name is Nick Grandgenett, spelled N-i-c-k G-r-a-n-d-g-e-n-e-t-t. I'm a staff attorney with Nebraska Appleaseed. Testifying in support of LB879. First of all, I would say thank you to Senator Guereca for bringing a bill like this so we, we can at least have the conversation about positive immigration laws at all levels of government. I think there's just three quick points I'd want to make. The first is that there is broad support for positive immigration laws in Nebraska. I think the best evidence of that is the Nebraska Alliance for Thriving Communities. So if you're not familiar with the alliance, there is a handout along with our testimony, but essentially it's an asso-- it's a alliance of 70 different associations, all of whom are made up of 100 different organizations. It represents a broad swath of our economy, from ag to health care, education, construction, labor, faith-- all coming together to advocate for positive immigration laws. Over the past couple of years, we've had just hundreds of conversations about the

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need to do this. Some common themes that have popped up are extreme workforce strain as people tend to age out of our labor force, the constant instability and uncertainty that exists with our current immigration laws that impacts families, employers, and whole communities, and then also just a deep appreciation for the immigrant community in Nebraska. The second point I would make is that our-- Congress hasn't updated our immigration laws-- our core immigration laws in more than 40 years. And I think what that really means is that people are not the problem, it's these outdated laws. And what we need to see is Congress modernizing these laws to reflect the world as it exists now in 2026 and not as it existed, you know, 40 years ago. You can imagine trying to use a, you know, a cell pho-- or, a telephone from 40 years ago or driving on a road that hasn't been maintained in 40 years. It just becomes untenable. And what our law really needs to reflect is that, you know, whether or not somebody is a naturalized citizen or undocumented, that they are more than the sum of their documentation, that they are friends, families, neighbors. And again, our laws need to reflect that. Finally, I would just flag for the committee that there are a few bills that haven't been introduced at the federal level that are worth just thinking about. The first would be the Dream and Promise Act, which ensures that anybody who is authorized to be here through DACA or TPS could apply for residency and eventually citizenship. And then also the Renewing Registry Act, which ensures that if you are a longtime community member but don't have a current pathway to some form of immigration visa, that eventually you could apply for a visa. So again, we thank Senator Guereca for creating this opportunity to talk about this bill and are happy to answer any questions. Thank you.

SORRENTINO: Thank you. Are there any questions of our testifier? Yes, Senator Ibach.

IBACH: I'll just make one comment, that I appreciate your final two points there because I think we need to update our, our workforce laws, but I also am a huge proponent of finding a pathway for folks that are here legally. And so I appreciate your last two points because I think that speaks to that approach, is to find that pathway to citizen-- for folks that are here legally. So thank you for that.

NICK GRANDGENETT: Appreciate that.

IBACH: Thank you, Mr. Vice Chair.

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SORRENTINO: Any further questions? Seeing none. We appreciate your testimony, Mr. Grangette [SIC].

NICK GRANDGENETT: Thank you.

SORRENTINO: The next proponent, please.

ITZEL LOPEZ: Good afternoon. My name is Itzel Lopez, I-t-z-e-l L-o-p-e-z. And I serve as the chief executive officer of the Latino Economic Development Council based out of Omaha, Nebraska. I'm a business owner, and I'm also one of more than the 3,000 DACA recipients who call Nebraska home. I'm here today to support LB879. As you have heard just previously from Nick here, immigrant Nebraskans are deeply embedded in the economic and social fabric of our state. They're essential to the systems that we all rely on every day: health care, agriculture and food production, aging and long-term care, hospitality, education, construction, manufacturing, et cetera, et cetera, et cetera. These are not abstract contributions. They are critical workforce roles that keep Nebraska's economy functioning and competitive. LB879 acknowledges this reality and attempts to respond to it in a pragmatic way. The bill proposes a structured permit system that includes eligibility re-- standards, documentation requirements, background checks for serious offenses, fees, and a two-year validity period. Of course, this is just prep because we know this is a federal matter. And because it matters and it demonstrates seriousness, structure, and responsibility, this bill reflects an effort to balance economic necessity, public safety, and an administrative oversight also. At the same time, it's important to be clear that immigration policy is ultimately federal, as we said before. But the idea behind this bill is the right one. People are not the problem. The problem is the federal immigration system and [INAUDIBLE] of state and the disconnected from current economic realities. Nebraska employers like myself need workers. Families need stability. Communities need systems that are lawful, humane, and workable. LB879 sends a message that Nebraskans are ready to engage in solutions rather than delay them. It reflects a willingness to grapple with reality and to push for reform rather than accept inaction. That effort should not stop here. It should be elevated and taken directly to Congress, where comprehensive and constitutional immigration reform must occur. I appreciate the intent of this bill and the recognition that doing nothing is not an option. I urge you to consider LB879 becoming Nebraska catalyst to advocate collectively for federal action that aligns workforce needs, economic growth, and human dignity. Thank you.

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SORRENTINO: Thank you for your testimony. Are there questions from the committee of Ms. Lopez? Seeing none. Thank you for your testimony.

ITZEL LOPEZ: Thank you.

SORRENTINO: Next proponent, please.

MIKE GAGE: Good afternoon, senators. My name's Mike Gage, M-i-k-e G-a-g-e. I'm the president and secretary/treasurer of the Nebraska State AFL-CIO. And I'm testifying in support of LB879. Thriving communities require a stable workforce. Across Nebraska, especially in rural areas, employers have open jobs that they cannot fill. When workers are missing, businesses suffer, schools lose enrollment, and communities weaken. LB879 offers a practical solution with a potentially lucrative fiscal note. This bill creates a legal pathway for people who are already living in our communities to work lawfully. It brings workers into the regulated economy, where wages are reported, labor laws apply, and accountability is stronger. LB879 includes commonsense safeguards such as job verification and background checks, protecting both community safety and public trust. When people work legally, families are more stable, local businesses grow, and rural communities are better able to sustain schools and essential services. That is how communities thrive. LB879 is not about federal immigration reform. It's about meeting Nebraska's workforce needs in a transparent, focused way. For these reasons, the Nebraska State AFL-CIO urges you to advance LB879. Thank you.

SORRENTINO: I will turn the chair back over to Chairperson Kauth.

MIKE GAGE: Madam Chair.

KAUTH: Thank you very much for your testimony. Are there any questions from the committee? Seeing none. Thank you.

MIKE GAGE: Thank you.

KAUTH: Any further proponents? Good afternoon.

JOHN HANSEN: Good afternoon. For the record, my name is John Hansen, J-o-h-n; Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and also their lobbyist. We are a part of the Nebraska Alliance for Thriving Communities, which is a broad-based, statewide alliance of more than 70 associations representing hundreds more individual organizations and small businesses across agriculture, health care, aging care, education, hospitality, construction, organized labor,

faith institutions, and communities of all sizes. We are united in urging Congress to act after decades of delay-- 39 years is I guess decades-- and advance-- and advancing positive, updated, and responsible immigration laws for strong communities, families, and workforce. As everyone knows, I'm the president of a, of a farm organization. So when you look at the impact that workforce needs in ag present themselves, we know that, according to the USDA, that 40% of the ag workers that we already have in the U.S. are undocumented. I, I have no other data that says that that number's wrong. That's a pretty substantial number. So in the case of Nebraska, as we've been working on these issues going all the way back to George W. Bush and trying to come up with a, a more coherent and reasonable immigration policy at the national level, the, the organizations in our state, the sectors that really stick out that really need help and depend on immigrant labor would be pork, would be feedlot, would be poultry, would be dairy. And certainly, meatpacking industry as a whole has a heavy immigration quotient. And so we're looking to try to see opportunities for states to help push Congress toward some sort of more reasonable solution. And so we need all the help we can get in order to try to deal with the very practical needs. We want people to be moving toward legal-- legalization. We want to be able to do all of those things. We work at the national level on a lot of the H-2A stuff, and it continues to be a never-ending, ongoing national issue that just doesn't seem to have any push or-- push necessary to, to move it across the line. And so we saw this, this bill as at least an opportunity to start a conversation, hopefully try to see if we got this-- other ideas. But we need-- we are desperately just languishing as we stand and watch and ho-- and hope others somewhere finally do something. And so with that, I would end my comments and be glad to answer any questions if-- on off chance I could.

KAUTH: Thank you very much. Are there any questions from the committee? I have one. So you're saying that 40% of the ag workers in the state are here illegally?

JOHN HANSEN: I don't, I don't know whether that's the, the state. It's-- I-- the only numbers I've looked to try to come up with some sort of a-- what I consider a, a credible number as I get asked by the press on these things is what percent of ag workers are undocumented. The only number that I've seen is a USDA number that says-- and that's a national. So you kind of look at how we are in Nebraska, and that's why-- I included in my handout the Nebraska ag rankings. And so you look at the ag rankings, you know, we have to be-- we're, we're kind of stars of the class when it comes to ag. So you look at all those

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different sectors. I just assume that, if this is the national average, we would have fewer seasonal workers, but we would probably have more-- you know, we certainly have more H-2A kind, kind of worker needs in our state. You know, we've got the popcorn folks that get a little bit, but we're-- certainly the seed corn is the big seasonal. So that's increasing. So we see some of those, but I, I have no reason to think that we're probably somewhere in the ballpark of average. And I look at that number and I think it's high.

KAUTH: So, so then do you support using E-Verify?

JOHN HANSEN: I would support using E-Verify that worked.

KAUTH: OK. And then how do, how do they get paid if they're here illegally and they're not documented? How are they being compensated?

JOHN HANSEN: Well, that is not-- that is a question above my pay grade--

KAUTH: OK. All right.

JOHN HANSEN: --because-- I, I do not employ them on my farm or operation. I've used, I've used contract workers in the past. In the old days, before we had herbicides, we walked soybean fields. And so we would have folks like that come through. That was really my only contact with, with that kind of labor force--

KAUTH: OK.

JOHN HANSEN: --on my farm.

KAUTH: OK. Any further questions? Seeing none. Thank you for being here.

JOHN HANSEN: Thank you very much. And good luck.

KAUTH: Any other proponents? Are there any opponents? Good afternoon, Commissioner Thurber.

KATIE THURBER: Good afternoon. Chairwoman Kauth and members of the Business and Labor Committee, my name is Katie Thurber, K-a-t-i-e T-h-u-r-b-e-r, Commissioner of Labor. I appear before you today in opposition to LB879. LB879 creates the Guest Worker Permit Act. As drafted, this legislation creates constitutional, financial, and logistical concerns for the department. While the department

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understands the federal immigration process may create gaps in work authorization-- constitutionally, all states are prohibited from circumventing the federal process. Immigration and work authorization are powers reserved exclusively to the federal government under the United States Constitution. The Supreme Court has made this point unmistakably clear in cases such as the United States v. Arizona and Hines v. Davidowitz. States cannot create parallel immigration frameworks nor can they authorize employment for undocumented individuals without federal approval. Immigration is and must remain a federal matter. It requires comprehensive solutions from Congress and federal agencies, not piecemeal, state-level experiments that have been proven ineffective. LB879 is not the appropriate vehicle to drive immigration policy. Attempting to do so not only exceeds the state's constitutional authur-- authority but also risks misleading workers and employers into believing they are protected under a system that cannot legally exist. We do not have to speculate about what happens when a state tries this approach. Utah passed HB 116 in 2011-- 2011. A guest worker law similar in scope to this bill that promised to create a legal, orderly system for undocumented workers. 15 years later, that law has never been implemented. Utah never received the required waivers, and these waivers do not exist in statute and have never been granted to any state. Ultimately, Utah has introduced legislation this year that would repeal the law after years of costly delay and legal uncertainty. Nebraska risks repea-- repeating Utah's mistake. LB879 sets a target implementation date of July 1, 2028. As written, the bill requires Nebraska to begin building and operating this program even if federal waivers have not been received. That means the state could spend years preparing for a system that is legally prohibited from ever issuing a single permit. This is premature and fi-- fiscally irresponsible. The bill requires Nebraska to create an extensive administrative infrastructure encompassing application process-- processing permit issuance, renewals, employer audits, and compliance monitoring. This would demand significant taxpayer dollars and staffing. Yet, without the federal authorization, the program may never function. Employers and workers would be reluctant to invest in a system that could be shut down at any moment, leaving both sides vulnerable. Meanwhile, Nebraska taxpayers would bear the cost of building a program destined to fail. LB879 offers the illusion of stability and legality, but, without federal backing, it provides neither. Immigration policy is a federal responsibility, and Nebraska should not attempt to create a parallel immigration system. For these reasons, I respectfully urge the committee to reject LB879.

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KAUTH: Thank you very much for your testimony. Are there any questions? Senator McKinney.

McKINNEY: Thanks, Chair Kauth. And thank you, Director. What percentage of our labor force is undocumented?

KATIE THURBER: I don't know the exact percentage. We had about a 1.66 million at the last count workers in Nebraska. And our fiscal note puts about 50,000, I believe, undocumented wor-- workers, so-- I am a math major, but I don't know that number in my head. Sorry.

McKINNEY: What would be the impact if all of those individuals left the labor force?

KATIE THURBER: There'd be 50,000 fewer people if those truly are all working in Nebraska. But Nebraska's also growing each year, and our labor force is at its highest level ever.

McKINNEY: So it wouldn't have a negative impact?

KATIE THURBER: I can't say one way or another to tha-- to that if it'd be a negative impact on employers or not. I try to assume that employers are following the current laws.

McKINNEY: All right. Thank you.

KATIE THURBER: Mm-hmm.

KAUTH: Any other questions? I have one. So have there been-- Department of Labor, you guys have a lot of programs that you're working on, apprenticeship programs, internship programs. Do you work with the Department of Corrections on any sort of second-chance, reentry-type programs?

KATIE THURBER: We do. We're part of TRANSFORM Nebraska, where we are putting a heavy focus on how we reduce recidivism and make sure that we get in-- get justice-involved individuals into the workforce. We also awarded a grant to the Nebraska Heart Ministry for their work that they do.

KAUTH: OK. Thank you very much.

KATIE THURBER: Yes.

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KAUTH: Any further questions? Seeing none. Thank you for your testimony.

KATIE THURBER: Thank you.

KAUTH: Next opponent. No other opponents? Is there anyone who wishes to testify in the neutral? Seeing none. There were 10 proponents online and 50 opponents online. And Senator Guereca, would you like to close?

GUERECA: Thank you, Madam Chair. I'm trying to figure out if I like this room better than the last one or not. It's just-- yeah. Anyway. Talk about that later. Well, I mean, again, this is-- more than anything, it was about starting a conversation. This is sort of a creative solution. Obviously, without changes to our federal immigration law, this program just can't be implemented. I'm certainly not trying to supersede the authority of the, of the federal government here [INAUDIBLE] about a conversation. It's about highlighting. So recently, the Aksarben Foundation came out with a report that sort of took a look at the health of the Nebraska economy, sort of focusing on the metros. And what they found that-- in the metro areas here in Nebraska, we were short 68,156 workfor-- workers. So that was our workforce deficit. And what that amounted to-- and sort of-- kind of what to Se-- Senator McKinney's question-- not quite the 50,000 undocumented immigrants that we have here, but close. It's-- that's us missing out on between \$600 and \$800 million in tax revenue, be it that income tax, sales tax, property taxes. So, you know, it-- it's a, it's a big economic footprint, so certainly-- again, this is just a, a creative solution with a spirited debate. But I-- something we can all agree on. Again, when I campaigned, I talked to trade associations, construction companies, hospitals, you name it. And when I always asked, what is your biggest concern, the answer every single time was workforce. So again, creative solution. We can agree or disagree, but nevertheless, I think it was a great conversation.

KAUTH: OK. Thank you. Any, any other questions? I do have one since I, I missed most of your, your stuff. I'm sorry. So we-- are you in support of the Medicaid work requirements, trying to get people who are able-bodied into the workforce?

GUERECA: I'm going to say no, because I think-- but nevertheless, I-- again, we have an incredibly-- our unemployment rate here is low, so we have a very high workforce participation, right? Not-- I, I don't

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know the numbers in other states, but I know here in Nebraska are, are-- the folks that are, that are able to and willing-- or, folks that are able to are working. That's just what the numbers pan out.

KAUTH: OK. And what about the, the second-chance employment? Is that something you've done work with before, getting people from-- out of their, their-- off their papers and into workforce?

GUERECA: I don't have direct experience with that but certainly seems like a great program. Again, programs that reintegrate folks, get them into the workforce-- because that's a, that's a big number we need help filling. And however we can fill it, I think--

KAUTH: OK.

GUERECA: --that sounds like a great program.

KAUTH: OK. Thank you very much for your testimony.

GUERECA: All right.

KAUTH: Appreciate it. And that will close our hearing on LB879.

GUERECA: Thank you very much.

KAUTH: And-- can't tell if there's a lot of people or people who need to clear out of the room, so we'll take a quick, little break. And then we move to--

[BREAK]

KAUTH: OK. Welcome back to Business and Labor. And we're opening on LB941 with Senator Lippincott.

LIPPINCOTT: Thank you. And good afternoon, Chair and members of the Business and Labor Committee. For the record, my name's Loren Lippincott, L-o-r-e-n L-i-p-p-i-n-c-o-t-t. And I'm here to introduce LB941. LB941 is a clarification bill that establishes a clear and uniform standard under Nebraska law for when a franchisor may be considered an employee-- or, an employer. The bill reaffirms that franchisees-- that is the locally owned business-- are independent, small business owners who are responsible for hiring, paying, scheduling, and managing their employees. Under LB941, a franchisor-- that is a big name like McDonald's corporate-- is treated as an employer only when it exercises direct and immediate control over the

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essential employment decisions specifically outlined in the bill. This legislation is needed, as the joint employer standard at the federal level has shifted repeatedly over the past decade. Changes to the rule by the National Labor Relations Board from one administration to next have created confusion, increased litigation, and made it difficult for franchise businesses to clearly understand and comply with their legal obligations. Nebraska currently lacks a franchise-specific standard to provide stability when those federal rules change. LB941 draws a balanced and commonsense line. It pro-- preserves accountability where true employment control exists while making clear that brand standards and operational support-- that is, activities inherent to franchising-- do not by themselves create an employment relationship. The bill does not reduce worker protections or alter employment standards. Employees retain all existing rights against the employer who actually controls their work. Franchising is an important part of Nebraska's economy and is built on local ownership. Franchise locations are owned by Nebraskans who have invested in their communities, created jobs, and assumed full responsibility for complying with labor and employment laws. These businesses should be treated the same as any other local small business. LB941 provides the predictability needed to do just that. This approach aligns Nebraska with numerous other states and provides clarity for small businesses, workers, and the courts. I'm happy to answer any questions you may have.

KAUTH: Thank you very much. Are there any questions from the committee? I have one. Which states already have this laid out? Do you know?

LIPPINCOTT: Say it again?

KAUTH: Which states currently have this laid out?

LIPPINCOTT: There are 21 states right now that do have this. Somebody behind me will have that information for you.

KAUTH: I can ask.

LIPPINCOTT: Yeah. I've got it right here. 21 states have it enacted already, including Iowa, South Dakota, and Wyoming. Surrounding states.

KAUTH: OK. Thank you. Any other questions? Seeing none. Will you say to close or are you--

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LIPPINCOTT: No.

KAUTH: OK. Thank you very much for your--

LIPPINCOTT: Thank you very much.

KAUTH: First proponent. Good afternoon.

MATTHEW KAGEL: Hello. Good afternoon. Madam Chair, members of the committee, my name is Matthew Kagel. It's M-a-t-t-h-e-w K-a-g-e-l. I'm here on behalf of the International Franchise Association in strong support of LB941. IFA represents franchisees, franchisors, and suppliers nationwide, including the thousands of locally owned franchise businesses here in Nebraska. Today, nearly 7,000 franchise businesses operate in the state, supporting more than 70,000 jobs. These are small business owners who have invested in their dream of owning their own business, having opened these businesses in their own community, hired Nebraska workers, and taken on full responsibility for the day-to-day operations and employment decisions. To be clear, most franchisors don't operate locations in Nebraska. Nebraska franchisees do. As the good senator explained, LB941 is a much needed clarification bill. It clarifies the principle that franchisees are independent employers and that franchisors are only considered employers when they directly and immediately control essential terms and conditions of employment. This clarity is critical for the success of the franchise model. Nebraska franchise owners deserve to be treated like any other small business. Franchisors need the legal clarity to provide those brand standards and operational support necessary to support their franchisees, yet the shifting and inconsistent joint employer standards have created much confusion. When a routine franchise support that maintains brands-- brand marketing and operational standards is mischaracterized as employer control, it threatens the partnership that makes franchising work. Franchisees rely on that support to operate consistently and successfully while still maintaining full control over hiring, wages, scheduling, and day-to-day workforce decisions. LB941 draws a balanced, commonsense approach, deserves-- it preserves accountability where true employment control exists, protects workers' rights, and ensures that the franchise model can continue creating jobs and opportunities for local en-- entrepreneurs across Nebraska. So on behalf of the IFA and the Nebraska franchise small business community, we respectfully urge the committee to advance LB941. Thank you.

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KAUTH: Thank you very much. Are there any questions? Seeing none.
Thank you for your testimony.

MATTHEW KAGEL: Thank you so much.

KAUTH: Next proponent. Good afternoon.

MEREDITH ERICKSON: Good afternoon. Madam Chair, committee, my name is Meredith Erickson, and I'm here in support of LB941. My name is spelled M-e-r-e-d-i-t-h; last name, Erickson, E-r-i-c-k-s-o-n. I'm a franchise owner of City Wide Facility Solutions based in Omaha. We are a-- we provide maintenance and commercial services for commercial properties in Nebraska and Iowa. We've been in business since 2018 here locally. I have a little bit of a unique perspective because I've seen franchising from both sides. I have been an employee of the franchisor for eight years before I purchased my own location and became a franchisee. What I can tell you is that I know what franchisors do and I know what franchisees do, and they're not the same. Nebraska em-- employees, for me-- I'm sorry. Let me start over. Franchisees are the employers of our employees here in Nebraska. My business is locally owned and operated. I hire and manage my employees. I handle all payroll, scheduling, HR, and all compliance with Nebraska law. And I invest in my community. The franchisor does not employ my workers. I do. Why this matters to us as franchisees is because joint employer standards have become unclear and inconsistent. The federal rule changes from one administration to the next. I've seen it change twice just since I've been a franchisee. It creates confusion and risk of litigation. Small business owners need nothing more than stability to grow our businesses and to hire effectively, and we cannot operate effectively if the rules keep changing. What LB941 does is it provides a commonsense clarification that the franchisor is only an employer if it-- if they directly and immediately control our core employment decisions. Franchisors provide brand standards, compliance requirements, safety and training, and a, a framework for your business, but they do nothing for your workers. We do that as franchisees. Support of us is not the same as control of our businesses. Nebraska franchisees are local employers and community investors. Here in Nebraska, my business generated almost \$12 million in revenue last year to the state. I employ 23 people and work with a variety of other businesses throughout the state. We need LB941 to provide clarity and fairness, and I respectfully urge the committee to adopt this. Any questions?

KAUTH: Thank you very much for your testimony. Senator--

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MEREDITH ERICKSON: Yes.

KAUTH: Senator McKinney.

McKINNEY: Thank you. And thank you for being here. I guess-- something I'm thinking about. Was there a situation that occurred recently that caused someone to ask Senator Lippincott to introduce this? Because I-- I'm just thinking it-- besides, like, the confusion of the regulation, was there a specific sit--

MEREDITH ERICKSON: Was there a driving event? I-- I'm not aware of one, no.

McKINNEY: All right. Thank you.

MEREDITH ERICKSON: Not a specific driving event, yes.

McKINNEY: All right.

KAUTH: Any other questions? Seeing none. Thank you for your testimony.

MEREDITH ERICKSON: Thank you.

KAUTH: Next proponent. Good afternoon.

DANIEL SCHMIDT: Hello. My name's Daniel Schmidt, D-a-n-i-e-l S-c-h-m-i-d-t. I'm the owner of Hobby Town here in Lincoln. My wife and I have owned the store for over 20 years. I purchased it from the corporate office back when-- I used to work for the corporate office as well. I worked for them for six years. And my wife and I wanted to be our own bosses and our own managers, so we purchased it from them. And now I, I-- for now 20 years, I have been. I'm in charge of all of the ordering for the store. I'm in charge of all the marketing for the store. I'm in charge of the merchandising. So I set everything up and I make sure everything looks good. I signed the leases. I also do all the hiring, all the firing, training, make sure that everything's in good shape as far as HR is concerned, make sure that our benefit package is going to be, you know, appealing to the workforce that I try and hire. I have over 20 employees. We have a big location. We're the number one franchise in terms of revenue for the entire corporation that they, they grade. So we-- why I'm in, in-- a big proponent for LB941 is simply-- what it does is it provides clarity for us. What it does is it allows me to, based on whatever administration comes in and out at the federal level, I know whether or not I'm, I'm certain it-- that I can keep employing people, keep

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consistent benefit packages. And then I also am accountable for any issues that arise since I'm the one that does everything. And what the corporate office provides is really direction and guidelines in terms of how they want their brand represented, but they don't really provide anything from a hiring, firing, anything of that nature. So I'm one that's ultimately accountable for all of that, and I think that that's important to clarify. Any questions? I'm happy to answer.

KAUTH: Thank you very much for your testimony. Does-- committee have any questions? Seeing none. Thank you for being here.

DANIEL SCHMIDT: Thank you.

KAUTH: Next proponent. Good afternoon, Mr. Otto.

RICH OTTO: Good afternoon, Chairwoman Kauth and members of the committee. My name is Rich Otto, R-i-c-h O-t-t-o. And I'm here on behalf of the Nebraska Chamber of Commerce, the Nebraska Hospitality Association, and the Nebraska Retail Federation in support of LB941. Again, we'd like to thank Senator Lippincott. I know he had to leave. But just in case you weren't here, Senator Lippincott did give his opening and won't be able to close. And we're just appreciative of his support of reaffirming that the franchisees are the direct employers of all of their employees. We know that-- a lot of times, when we think of the franchise model, we do look to the hospitality industry. A lot of times, the brands we know are in the restaurant and hotel. Actually, most hotels are the franchise model, even with brands that you're probably familiar with. Now, some of those franchisors may be out of state, but Nebraska does have a lot of brands that you would know that are in-state franchisors-- very popular pizza brands, coffee brands, sandwich brands that-- you see probably their products sold at Memorial Stadium. Another popular cookie brand that you may know as a local franchisor and franchisee. We did have a coffee franchisee that was unable to attend today. Jason Metcalf is the owner of Metca-- Metcalf Coffee. They are the franchisee for Scooter's Coffee. He has the Lincoln territory. Unfortunately, Jason was unable to make it today, but he did want to reiterate what the first two testifiers said and that he is in direct control of the hiring, the firing, all of the employment and standards for the employment are on his basis. Now, again, some of these we think of-- the national brands, but, again, it is the brand that-- they don't-- the reason the franchise model works is because we've allowed these individuals to buy a territory. They've invested in this territory in the state. They're committed to Nebraska. And so that's why the model works, is because that you have

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this individual owner-operator. So we just want to reiterate that, that it is important to our business community. It is important to protect the investment that these franchisees have made. Again, I think the question was answered for you, Senator Raybould. This isn't a novel idea. 21 states have done it. We know neighboring states-- Iowa, South Dakota, and Wyoming as well. So we are one of many states that have looked at this. I think Missouri is-- also has this on the docket to potentially get passed as well this year for another neighboring state to join that list. Anyway, just wanted to reiterate that this does strike the appropriate balance and that our franchisees want it this way so that they can continue to operate with certainty in Nebraska. Happy to answer any questions you may have.

KAUTH: Thank you very much. Are there any-- Senator McKinney.

McKINNEY: Thank you. Do you know of any situations-- maybe not in our state but across the nation-- where somebody was a franchisee and, for whatever reason, the franchisor became-- considered the employer?

RICH OTTO: So I--

McKINNEY: Just, just to help with--

RICH OTTO: I don't off the-- there are some-- the best examples, Senator, are some legal cases that-- not in the state of Nebraska. So first of all, they were different states. I will get that over to you where we can present the-- these legal cases that have brought that up. That's what spurred most of this, is court cases that have challenged franchisees and the franchisor model.

McKINNEY: OK. Thank you.

KAUTH: Any other questions? Senator Sorrentino.

SORRENTINO: Thank you, Senator Kauth-- Chairwoman Kauth. I think the preservation of "franchisee" autonomies can be centered more around one word: discretion. In your experience, do these franchisees flex discretion in how they run their business?

RICH OTTO: Absolutely.

SORRENTINO: Thank you.

KAUTH: Thank-- any other questions? Seeing none. Thank you for your testimony. Next proponent. Any opponents? Anyone wishing to speak in

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the neutral? And then we will close our hearing on LB941. There are 3 proponents and 0 opponents for this bill. Is Senator Hughes here? Matt, is she on the way? OK. So for LB1089, while we're waiting for Senator Hughes to get here, there are 53 proponents and 1 opponent and 0 neutral. And there she is. Come on in, Senator Hughes.

HUGHES: I was, like, literally running. She texted me [INAUDIBLE]. OK.

KAUTH: I knew you had your shoes on.

HUGHES: I do. I got my tennis shoes on, so we're good.

SORRENTINO: Senator, what was your pace?

HUGHES: Says the cross-country runner.

SORRENTINO: Just curious.

HUGHES: What is it? The-- I'm the tortoise. I'm the tortoise. You can be the rabbit. I'm the tortoise, so.

KAUTH: Welcome, Senator Hughes.

HUGHES: OK. Thank you, Chairman-- Chairwoman Kauth and members of the Business and Labor Committee. I am Jana Hughes, J-a-n-a H-u-g-h-e-s. And I represent District 24. I introduced LB1089 to reinstate the private cause of action that was included in the Ballot Initiative 436 that was approved by the voters in November of 2024 and then was subsequently removed in LB415 last year. Specifically, the private cause of action is in Section 1(6)(8) of this bill. LB1089 adds them back into 48-3808, which is the enforcement section of the Nebraska Healthy Families and Workplaces Act. Why is this important? Without the private cause of action being reinstated and made part of the law, the current statute enables a loophole. This loophole could prevent workers from receiving the paid leave that they are entitled to under the law. How would the loophole allow this? Without the private cause of action, bad actors could deny their employees paid leave. If the employee files a complaint with the Department of Labor, which then rules in the employee's favor, and the department fines the employer, the employer would only be subject to a fine of up to \$500 for the first offense. Doing simple math, 500 is less than paying for a full week's work if the employee is making \$15 an hour. Do I believe that most employers would take advantage of this loophole? No, I don't. Do I believe that someone will take advantage of this loophole? Yes, I think so. So why wouldn't we reinstate the private cause of action?

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This serves as a strong deterrent to violating the Nebraska Healthy Families and Workplace Act. Closing a loophole in our unempl-- in our employment law makes sense. I urge you to swiftly approve LB1089. Move it to General File so we can fix a known issue before it becomes a bigger problem. I appreciate your time and consideration today. Thank you. And I do want to mention that, in the original bill, it was a four-year lookback, but we have changed ours to be a one-year lookback, so.

KAUTH: OK. Thank you, Senator Hughes. Are there any questions from the committee? Senator Raybould.

RAYBOULD: Thank you, Senator Hughes. Because it was a ballot initiative, are we obligated to-- should this change go forward to General, don't we have to get 33 votes to change it back?

HUGHES: Oh, to put it back in?

RAYBOULD: Mm-hmm.

HUGHES: That is a very good technical question, which I'm--

KAUTH: I'm seeing yes.

HUGHES: We're seeing yes.

RAYBOULD: OK.

HUGHES: Thank you, Senator Raybould. I didn't-- you're right. We just had that kind of vote the other day last week, so.

RAYBOULD: Yes. OK. Thank you.

HUGHES: Makes sense. Thanks.

KAUTH: Other questions? Senator Raybould.

RAYBOULD: Could you explain why you're going back to the four years? I--

HUGHES: No, no, no. It ha-- it was four. I'm, I'm taking it to one. Is that what you--

RAYBOULD: Oh, I thought we did take it to one. And--

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HUGHES: There's-- it-- there's none. There is no cause of action. That was pulled out last year at the end of the session. And from talking on the floor, we made the-- kind of the agreement that we would get it back in at one, so.

RAYBOULD: OK. I understand now. So you're trying to get it back in for one-year lookback.

HUGHES: Correct.

RAYBOULD: Thank you.

KAUTH: Any other questions? Will you stay to close?

HUGHES: Yes, of course.

KAUTH: OK.

HUGHES: I'm going to be in Education, like, all night, so. It's nice to have a change of scenery.

KAUTH: First proponent. Move now or I'm moving on. Welcome.

JO GILES: Good afternoon, Chairwoman Kauth and members of the Business and Labor Committee. My name is Jo Giles. I'm the executive director of the Women's Fund of Omaha. For 35 years, our organization has focused on economic security issues, recognizing them as fundamental to achieving gender equity. In addition to my role at the Women's Fund, I was proud to serve as one of the sworn sponsors for Ballot Initiative 436, which was paid sick leave for Nebraskans. So I'm here today in strong support of LB1089, which would allow employees to seek legal redress in the event of an employer withholding and violating the Nebraska Healthy Families and Workplaces Act. As you all know, in 2024, nearly 75% of voters approved the ballot initiative to implement paid sick leave for Nebraskans. Every single legislative district, including all the districts that you all represent, had a majority of voters approve paid sick leave on the ballot. Ballot initiatives are, are one of our most important ways for voters to participate in direct democracy and have been a staple of civic life in the United States. Ballot initiatives are not opinion polls. They are a critical piece of lawmaking that allow Nebraskans to share their voices on issues that matter to them. What we have heard from voters in your districts in-- and, and that while some have access to paid leave, they could not use it for having fear of having their hours or shifts cut, losing their jobs, or retribution from their employers. LB1089 adds back in that

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foundational element of effective paid sick leave policy that ensures that Nebraska voters can use their earned paid sick leave when they need it most to care for themselves or their family members. Unfortunately, we have heard for some wor-- from some workers that some employers have denied legally guaranteeing paid sick leave or retaliating against them for using their earned leave. While we know most employers in Nebraska-- we hope-- would not operate in such a unscrupulous manner, there could be potentially some instances where employees need to be protected from these predatory employment practices. LB1029 [SIC: LB1089] addresses this by providing a mechanism for employees to pursue legal action in these instances. It is important for the Legislature to ensure hardworking Nebraskans are protected under the Ne-- Nebraska Healthy Families and Workplaces Act. And for these reasons, I urge the committee to support and move to General File LB1089. I will try to answer any questions. Thank you.

KAUTH: Are there any questions? Senator Raybould.

RAYBOULD: Thank you, Ms. Giles, for testifying. You know, and it is concerning when we hear stories of that nature. Can you tell us how many you have heard? And how have you advised them and how have they been able to seek legal redress?

JO GILES: I cannot give you a number at this point. We have just heard that there have been several different instances where this has happened. And unfortunately, there is no legal redress because there isn't a provision in the law that would require employers to be able to provide that for their employees.

RAYBOULD: OK. Thank you.

JO GILES: So hopefully this will address that.

KAUTH: Other questions? I have one. Can you please define woman?

JO GILES: Woman in this instance?

KAUTH: Well, you-- you're from the Women's Fund, so how do you define woman?

JO GILES: Sure. Well, the Women's Fund in, in this instance, as we are-- I hope I said and spelled my name. I hope I did. Anyway, a woman is someone-- in this particular bill as we're thinking about it-- is someone who might stand on their feet all day as a cashier and need to--

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KAUTH: Don't men stand on their feet all day? How do you define woman?

JO GILES: A woman is any person who identifies as a woman.

KAUTH: So a man who believes he's a woman is considered a woman by the Women's Fund.

JO GILES: We, we support all individuals who identify as women. We are a gender-expansive organization, so we include anyone who identifies as that and who is experiencing gender-based violence or gender inequity.

KAUTH: So if, if someone is looking at the Women's Fund, they wouldn't necessarily be treating women. You're treating anyone who believes themselves to be women.

JO GILES: People who identify as women are women.

KAUTH: That is incorrect, but thank you for your testimony.

JO GILES: How do you define that?

KAUTH: Thank you for your testimony.

JO GILES: OK.

KAUTH: Oh. Senator Sorrentino.

SORRENTINO: Thank you, Chairperson Kauth. Thank you for your testimony. Would you agree that it is the role of this Legislature's body to construct guardrails or parameters or guidance around ballot initiatives once they're passed?

JO GILES: I think it is the role of the Legislature to make slight modifications to the initiative that has been passed as needed to have implementation but not to drastically change the will of the people.

SORRENTINO: I hear the will of the people a lot. I'm going to ask you a question. Every two and four years, we have elections. And the will of the people are what land the 49 people in the legislation. That's truly will of the people. And when this body either doesn't function or functions in a manner that the constituents don't like, they have an option of passing ballot initiatives. But typically, those initiatives, I think by statute, have a word limitation. I think it's 100 words. It could be. Something like that. Most of them are in the

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neighborhood of 50%, 70%-- 50 to 70 words. None of them, to the best of my knowledge, have ever included fiscal notes. This money, unfortunately, is an issue. Nebraska has a constitutional amendment and we balance the budget. So oftentimes, taking those 50 to 70 words and turning it into a, a law-- which typically emanates from this body, where we have ideas and we go through draft, through draft, through draft and, and somebody submits a bill and it's referenced and we come to a committee and, and we vote three times on the floor and you get-- it seems like a ballot initiative is a good start, but to me it's nowhere near a law. And it really needs significant help in this body. Would you agree with that?

JO GILES: I would not, and here's why. Because-- with the ballot initiative process, it is a high bar to even get something on the ballot. And then once it has been certified by the Secretary of State's Office, there is a process where there are hearings in every congressional district. So as a ballot sponsor, you participate in those hearings orchestrated by the Secretary of State's Office. It also provides written documentation where there is the object statement as well as information about what a vote for this initiative is, what a vote against this initiative is. It is provided online and in paper documents. And all Nebraskans can come to any of those hearings and/or watch online to get all the information they need prior to casting their ballot. So it is not just a simple 50 words that Nebraskans may consider before making that decision at the ballot box. It is more of a comprehensive process.

SORRENTINO: And do you believe the thousands of people who signed those petitions go through that-- you're actually correct. There is a process-- go through and read their committees and tend to-- do you think that they do that--

JO GILES: I don't--

SORRENTINO: --in the best of your opinion?

JO GILES: I don't know whether they do or not. I know that when I have gathered signatures, as I do-- enjoy doing that and talking to fellow Nebraskans, I'm very thorough in how I explain to them what this is. I make sure they understand what it is. And when they sign, they know what they're signing.

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SORRENTINO: And I would hope that the 49 senators here do read those bills. We have legislative assistants. We have legal counsel, et cetera. We do a very thorough job, so--

JO GILES: I think the other point is--

SORRENTINO: I wasn't quite done yet.

JO GILES: Oh. Sorry. I'm sorry.

SORRENTINO: I, I think that, you know, the, the review by this Legislature is a really important step, and I-- I've yet to see in only my second year where bills, no matter how well-written, just didn't need some tender loving care by the Legislature.

JO GILES: Yeah. Well--

SORRENTINO: Not a question, just a comment.

JO GILES: Yeah. Well, if I may respond.

SORRENTINO: Sure.

JO GILES: Typically, before-- the ballot initiatives that I've been a part of, we have tried to work with the Legislature. Prior to your time in the body, cycle over cycle over cycle. Usually, like, seven to eight years, we are working on this issue and trying to make the legislation better and pass in a more effective manner wi-- without going to the ballot. And so once you've tried that over time over time and lawmakers have not responded to what the people have been asking for is when we have then gone to the direct democracy process.

SORRENTINO: Thank you, Ms. Giles.

KAUTH: And I do believe you need to spell your name for the record.

JO GILES: Oh. Thank you. Sorry. I did forget that. It is J-o
G-i-l-e-s.

KAUTH: Thank you very much for your testimony.

JO GILES: Thank you.

KAUTH: Oh. Sorry. One more question. Senator Hansen.

HANSEN: What's a sworn sponsor? What does that mean?

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JO GILES: Oh. In order to--

HANSEN: I think I do, I just to make sure I get it right. Sorry.

JO GILES: Oh. Sure. So in order to, to propose and get-- start signature gathering in Nebraska, you have to be a registered voter for a citizen initiative, is what it's called. And so there have to-- there has to be several sworn sponsors to be able to circulate a petition.

HANSEN: OK. So with, with the Ballot Initiative 436, you were pretty involved with that?

JO GILES: I was, yes. So there were three of us who were sworn sponsors that were part of that initiative, and I was one of the three.

HANSEN: OK. Was-- did the Women's Fund of Omaha contribute financially to the passing of LB-- or, Ballot Initiative 436?

JO GILES: We contributed in kind efforts to that initiative.

HANSEN: But nothing financially?

JO GILES: I don't believe so.

HANSEN: OK. The-- I, I, I--

JO GILES: But we-- I, I will say that we have complied with all of the Nebraska Accountability and Disclosure Commission reports. And we, we provide those monthly as required by the NADC. So you can see actual numbers of staff time. So we account for staff time that was towards the initiative and we account for the percentage of the salaries of the individuals who participated. So it will look like a financial contribution. But if you're asking was it a direct cash contribution, then no.

HANSEN: OK. I think that's--

JO GILES: Does that make sense?

HANSEN: Yeah. I-- since I got you, I-- because I-- I'm a little unfamiliar with some of this stuff. So when, so when you have workers who work for the Women's Fund of Omaha contribute time to the passing

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of this ballot, like, are you-- like, are you able to write that off, or, like, how does that work?

JO GILES: No. It's just part of their day-to-day work.

HANSEN: OK. I-- and more kind of to get your opinion, I guess, with the passing of this initiative-- I know there's been some discussion about who contributed financially to this initiative, and I believe out of the-- it was, like, 400-- \$3.4 million was contributed to the funding of this passage and only \$460 of it was from individuals. So out of \$3.4 million, only \$460 of it was actually donated from individuals are Nebraskans, [INAUDIBLE] a people-led ballot initiative-- that confuses me when, when I-- when we hear that, but then only that-- such a small, fractional amount was donated, when actually 1.92 was donated by the Sixteen Thirty Fund, which is a Washington, D.C. based organization managed by Arabella Advisors, which has not publicly disclosed its donors. Open Society Policy Center, associated with George Soros, do-- donated \$350,000. And the Fairness Project, a D.C. based organization, donated \$280,000 to this-- to the passage of this initiative. As policymakers, that seems kind of odd to us, I guess, to have that large amount of money contribute to the passage of a ballot initiative with such a small number of Nebraskans. Like, how, how do you justify that?

JO GILES: The policy idea came from Nebraskans. All the sworn sponsors were Nebraskans. There were Nebraskans that were out gathering signatures and encouraging their neighbors to support this initiative. There were Nebraskans who voted for it. I mean, none of the individuals that you listed are registered to vote here. So there were Nebraskans that voted for this policy. So it is driven by our state. All of us that were part of the coalition that worked on this are all Nebraskans.

HANSEN: And can I ask one more question?

JO GILES: Sure.

HANSEN: You said-- so were any of the sworn sponsors or people who testified-- were-- like, any of-- were any of them paid or were they reimbursed financially at all by the campaign?

JO GILES: No. We're all volunteers.

HANSEN: I figured you couldn't. I just didn't know-- I--

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JO GILES: Yeah. No, we're all volunteers.

HANSEN: All right. Thank you.

JO GILES: Yeah.

KAUTH: Thank you, Senator Hansen. Any other questions? Senator Meyer.

F. MEYER: Yeah. I, I just had one question, kind of comment. I guess something you said earlier about your organization attempted for eight-- was it eight cycles in the Legislature--

JO GILES: It felt like it. Yes. I can get you the exact number, but yeah.

F. MEYER: And-- I guess I've been part of this body long enough to know that everything that comes before the Legislature has a cost involved that's very detailed and, and we pretty well know who's going to benefit and who's going to pay. So would you agree that once it goes to a ballot initiative, all of that goes away and it's strictly vote according to what might seem like a good idea but absolutely no regard of who's going to pay for it?

JO GILES: So are you asking should there be fiscal notes attached--

F. MEYER: Yes.

JO GILES: --to ballot initiatives?

F. MEYER: That, that would be one-- you said it. I didn't, so.

JO GILES: I'm just--

F. MEYER: That would be one logical conclusion. And, and maybe that would-- and, you know, if we're talk-- talking about tru-- transparency, where there's no cost involved with a number of these ballot initiatives, it's troublesome to me as an employer and-- I've kind of been on both sides of that-- but there's no cost, you know. The employ-- the employee has all the benefits, and the employer-- who's, who's trying to make a living as well-- is exposed to everything that those groups that Senator Hansen pointed out can bring money to bear on the-- on the cause. And it just seems like that's really not a fair situation to me, but please comment.

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JO GILES: So as, as I understand it, when this legislative body makes bills and legislation, there's a fiscal note because the state is responsible for paying for it. So in my mind, attaching a fiscal note to a ballot initiative doesn't make sense because the people are bringing forth something in direct democracy, and it is res-- the response is to those businesses. We didn't believe that the businesses would be impacted severely over this initiative, because it is a workforce development and retention tool. The ability to offer paid sick leave that's earned for so many Nebraskans that didn't have it is a way for all businesses to compete in the marketplace for employees and also to support those employees with what they need to care for themselves and their families.

F. MEYER: It-- it's just-- I would, I would-- you know, we talk about a fiscal no-- fiscal note for what it would cost the state, but, believe me, the 49 senators know what it's going to cost an employer too. So it's fairly easy to come up with those figures and those go away, but, but you make a very persuasive argument and I admire you for that.

JO GILES: But I would say as a-- thank you. As a organization, we're also an employer. So we have 14 staff, and we find a way to make it work to support our employees.

F. MEYER: Thank you.

KAUTH: Any other questions? Senator McKinney.

McKINNEY: Thank you. Thank you. Does every ballot initiative pass?

JO GILES: No. No.

McKINNEY: OK. And would you also say that-- especially in Nebraska that has a unicameral, compared to other states that have bicamerals-- ballot initiatives are kind of more important here because we don't have two bodies?

JO GILES: I would agree with that. I mean, we know that-- in a unicameral, the people are the second house. And so it is our duty and our right to be able to influence democracy in a direct way.

McKINNEY: Thank you.

KAUTH: Any further questions? Seeing none. Thank you for your testimony.

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JO GILES: OK. Thank you.

KAUTH: Next proponent. Good afternoon.

MIKE GAGE: Good afternoon, Madam Chair, senators. My name's Mike Gage. And I'm the president and the secretary-- president secretary/treasurer of the Nebraska State AFL-CIO. I'm testifying in support of LB1089. LB1089 restores essential enforcement protections for workers as originally intended by the Nebraska Healthy Families and Workplace Act. Specifically, it reinstates the private right of action, allowing employees to take legal action when their right to earn paid sick leave is violated. This critical enforcement tool was unfortunately removed during the codification process. Without this right, employers can simply pay a-- employers can simply pay a fine to the Department of Labor and continue to deny workers their earned leave with minimal consequences. Closing this loophole ensures that Nebraska workers can meaningfully enforce their rights. LB1089 strengthens the law and aligns it more closely with the intent of the voters. For these reasons, the Nebraska State AFL-CIO urges you to support LB1089.

KAUTH: Can I have you spell your name?

MIKE GAGE: Oh. Yeah, sorry. M-i-k-e G-a-g-e.

KAUTH: Thank you very much, Mr. Gage. Are there any questions? Seeing none. You're off the hook.

MIKE GAGE: Thank you.

KAUTH: Thank you. Next proponent. Any opponents? Hello, Mr. McIntosh.

RYAN McINTOSH: Good afternoon, Chair Kauth. Members of the committee, my name is Ryan McIntosh, R-y-a-n M-c-I-n-t-o-s-h. And I appear before you today in opposition of LB1089 on behalf of the National Federation of Independent Business, the Nebraska Bankers Association, the Nebraska Grocery Industry Association, the Nebraska Chamber of Commerce and Industry, the Lincoln Chamber of Commerce. The primary issue with LB1089 is the breadth of the private cause of action. This is not just for failure to provide paid sick leave. It is also for things as mundane as failing to put a poster in each establishment when-- where such employees are employed or failing to comply with the new time card requirements that you have to put the amount of carryover sick leave to the lowest available denominator allowed by your system. So it's not just the bad actors that are not giving paid

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sick leave. For the-- even those mundane violations, the private cause of action would exist. If LB1249-- which you'll hear next-- were to pass, that would make this a lot less of an issue. The act continues to be a compliance trap for employers and confusing for employees. We would request the cause of action be limited only to the failure to su-- to supply sick leave or for retaliatory conte-- conduct, not for the mundane, unintentional violations of the act. I also take issue with the fact to say that there is no redress under the act. And although the first fine that can be levied by the Department of Labor is \$500, subsequent fines are \$5,000. Plus the cost of administrative hearings and all that. That is not mundane costs for Nebraska businesses. Thank you.

KAUTH: Thank you for your testimony. Any questions? Senator Raybould.

RAYBOULD: Thank you, Mr. McIntosh, for coming. Is it clear with the language in LB1089 that it is a lookback of only one year?

RYAN McINTOSH: Ye-- yes-- I believe so, yes.

RAYBOULD: OK. All right. Thank you.

KAUTH: Thank you, Senator Raybould. Any other questions? Seeing none.

RYAN McINTOSH: Thank you.

KAUTH: Thank you for your testimony. Any other opponents? Anyone wishing to speak in the neutral? And Senator Hughes, would you like to close?

HUGHES: Yes. OK. So thank you for your time today, committee, Chairwoman Kauth and the members of the committee. Senator Raybould, I think you sai-- asked the first person that spoke, proponent, how many are not following. Well, this just went into effect, so I don't think there's anything to go back to, you know, with this right now. But I'm just gonna tell a little bit of story that-- about this bill. Am I happy the Ballot Initiative 436 passed? No, I'm not. Not at all. It creates more hoops and things for our small businesses to follow. I got a phone call on January 30. I was-- I didn't have hearings that afternoon. And I was actually in York. And it was crazy random. I got a phone call from a business owner that has-- I shouldn't have said York-- but in one of my small towns that has a dance studio. She owns her own dance studio. And she hires 12- to 14-year-olds that come at the beginning of dance for her pre-K to K kids to get their little shoe-- tap shoes on, tie their shoes, whatever. So she hires quite a

few kid-- like, these younger kids to do that. They work maybe two hours a week. And so she's sitting there January 30 going through her paperwork and she was super upset that she's trying to calculate sick time and do all this for these, these kids that are helping her studio. I mean, she's, like, at the point of, like, forget it. It's not even worth it, right? And so her point to me was this bill instead a-- like, we, we lowered-- what did we say? It was at ten-- employees with ten and under don't have to follow it or something like that. She's mad that we didn't do, like, 10 FTEs because she has, like, 27 employees. But, you know, seven of them are these kids that are working two hours a week or a hour a week. Anyway. But here is the deal. We have this employee now and-- we have good people like I'm talking about following all the rules and, in my opinion, everybody has to follow it. And that is why-- so it's kind of surprising that someone would come in against it. I did talk to Mc-- Mr. McIntosh before. I am super ov-- I just want this on the days paid. You don't put a poster up right, that's garbage. Why would any-- one, why would any lawyer take that? But if we need to change language on this to make it, you know, just paying out the sick leave, totally willing to do that. I thought I'd asked him to get me language for that, but I don't have anything. So I am willing to do that, 100%. But here's my deal. If all small businesses have to follow it, all small businesses do. And I want recourse for somebody that's not paid very much money to come back on a business that isn't following it when we all have to do it. So that is kind of my opinion on this. Like I said, I'm willing to put up that, you know, that-- clean up the language so some little-- you know, you don't follow one little thing to it is that-- you know, that wouldn't count. And it is one year back, so-- anyway. That's where I'm at. I believe there's another bill that touches this cleanup stuff, maybe getting the exemption for private schools and stuff like that. Willing to, you know, put these together. I think would be fine. But I really wanted this hearing just to be on its own. So I appreciate your time and would answer any questions if you guys have any.

KAUTH: --Senator Hughes. Senator Raybould.

RAYBOULD: Thank you, Senator Hughes. You know, I'm reading the language-- and I'm looking at Senator Sorrentino because I know he loves the language of things. But I'm reading on page 3. It's line 14. It's item (8). A civil action brought under this section shall be commenced no later than one calendar year after the cause of action accrues. And so I'm thinking that you have, like, a statute of limitation. You have to bring it-- and correct me if I'm way out of

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line and interpreting it wrong. It seems to me that you have to initiate action within one year or no later than one year, but it doesn't specify how far back, say, if you feel that you have not been paid maybe four years of paid-- accrued paid sick leave. This says just one, one year. It seems like you have to make that case known, but it doesn't specify you can't go back more than one year. Maybe that's Senator Sorrentino. I don't know.

HUGHES: We just want it when you're lookback. So Senator Raybould, if we need to make a change there too, I'm fine with that.

RAYBOULD: All right.

HUGHES: We're getting into the weeds there and I'm not a lawyer.

RAYBOULD: Well, I think-- I mean, that's-- I think you'll, you'll agree that the idea was to make something fair but not to make it so burdensome of going back, like in the--

HUGHES: That's why we took out the four. It was four, and now we made it one, so.

RAYBOULD: OK. All right. Thank you so much.

KAUTH: And we'll look at that in committee.

RAYBOULD: OK.

HUGHES: OK. Other--

KAUTH: Any other questions? Seeing none.

HUGHES: All right. Thanks, guys.

KAUTH: Thank you, Senator Hughes. That clo-- oh, let's see. I think I already said this, but I'll say it again. 53 proponents, 1 opponent, and 0 neutral.

HUGHES: Thank you.

KAUTH: And moving on to Senator Sorrentino. LB1249. Good afternoon, Mr. Sorrentino.

SORRENTINO: Good afternoon. Fortunately for everybody, I'm losing my voice. All right. Good afternoon, Chairwoman Kauth and members of the Business and Labor Committee. My name is Tony Sorrentino, T-o-n-y

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S-o-r-r-e-n-t-i-n-o. And I represent Legislative District 39, which is Elkhorn and Waterloo in Douglas County. Today, I bring you LB1249 on behalf of groups representing employers across Nebraska, primarily our small and independent businesses, along with private educators who are seeking clarity and practicality in the Nebraska Healthy Families Workplace Act-- which we've been discussing for the last 45 minutes or so-- the paid sick leave mandate based on the ballot initiative in 2024. The intent of LB1249 is straightforward: to refine and improve Nebraska's paid sick time law in ways that reduce ambiguity, ensure equitable treatment under the law, and preserve workplace flexibility. The bill does this in four simple ways. Number one, clarify who is covered. LB1249 updates the definition with the act to explicitly state that individuals with any ownership interest in a business are not considered employees under the act. This aligns the law with the intent of the Legislature, avoiding unintended coverage of business owners themselves. If you'd like to upon questioning get down, you know, into the weeds on this, we can talk about the problems with LLCs, partnerships, and LLPs as far as subchapter S and how these organizations report for tax purposes and the fact that they allow employees, stockholders, but not to be com-- not to be considered as common law employees. But we can talk about that later to the nth degree, if you like. Updating employer definitions and exemptions. LB1249 exempts private educational institutions from the definition under the act, putting them on par with public, primary, and secondary soo-- schools and leveling the playing field. Think tax equalization, if you will. Testimony will follow on that particular issue. Three, modifying paid sick time carryover rules. Under Nebraska Revised Statute 48-3803, employees accrue paid sick time. And unused time can carry forward year to year. LB1249 refines this by limiting the amount of sick time carried over to 40 hours per year for employees of small businesses and 56 hours for businesses of larger employers. To be very clear-- this is important-- this changes nothing about the existing requirements. It simply cleans up the carryover requirement to mirror the mandate so that there isn't any unusable and meaningless amount of hours showing up on pay stubs. I don't think-- I think it's confusing when it shows you have, you know, 140 carryover hours. But that's not consistent with the law. Frankly means nothing. Repealing-- finally, repealing out-of-state poster language. You heard from Senator Hughes that this may conflict with her bill. LB1249 removes a requirement that the Department of Labor prints on the paid sick leave portal that employees would have a cause of action under the law, given the cause of action was repealed. Senator Hughes wants to put that back, so we may have an amendment forthcoming on that should this bill advance.

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Importantly, I am introducing AM2031, which was developed in coordination with representatives of the trucking industry-- a major industry in our state-- to clarify the applicability of act-- of the act to employees who do not reside in Nebraska but who may travel through the state on a recurring basis. Think of a trucker who's based in Wyoming and does routine visits to Des Moines, Iowa. They travel through the state of Nebraska. The amendment adds to Section 1 an exemption for a nonresident-- we're talking about the driver now of the state of Nebraska-- who is employed by a nonresident employer, a trucking firm not a Nebraska employer, who performs work in the state for fewer than 90 days in a calendar year. This provision is intended to ensure that out-of-state trucking companies, including pass-through entities and those conducting business with Nebraska-based entities, are not inadvertently subject to the requirements of the act. That was not the legislative intent to begin with. This is clarification. In summary, LB1249 is designed to reduce uncertainty for employers trying to comply with this act, balances worker access to paid sick time with administrative cleanup for small businesses, and puts private schools on par with public schools. LB1249 is not about fundamentally changing state law. It's about making the wor-- law workable, fair, and easy to follow. Thank you. And I'm happy to answer any questions you may have. And there is testimony forthcoming behind me on certain topics.

KAUTH: Thank you very much, Senator Sorrentino. Questions? Senator McKinney.

McKINNEY: Thank you. Can you clarify what you just said with putting private schools on par with public schools?

SORRENTINO: I-- well, this bill, as I mentioned-- I think it was on page 3-- actually-- I'm sorry-- page 2. LB1249 exempts private educational [INAUDIBLE] from the definition of m-- employer under the act, because right now, public, primary, and secondary schools are exempt. I'm just putting private schools on the same plane as public and secondary schools. That's all it is. Because right now, public, primary, and secondary schools are not covered under this act. So why should private schools be covered?

McKINNEY: All right. Thank you.

SORRENTINO: Thank you.

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

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RAYBOULD: Senator Sorrentino, maybe you could clarify for me as well. So public schools-- I thought any entity that has their own paid sick leave program already in force and in play would, as long as it covers some of the, the essential elements that were provided in the initiative, would qualify-- I mean, would be considered that they cover it. And I've been thinking of the other institutions that-- like Midland University. It seemed like they already had a paid sick leave program, therefore they would be in compliance already, right? Is that-- is--

SORRENTINO: I'm not saying they're not in compliance.

RAYBOULD: Oh, OK.

SORRENTINO: I-- I'm simply saying that the law currently exempts public, primary, and secondary. And I want to make sure we're equal whether it's secondary, college, grade school, that they're just on the same plane, that the law applies to all of those equally. Not that they should change. If they're already in compliance, they have nothing to worry about.

RAYBOULD: Isn't-- maybe I'm not understanding. So you're saying that public schools do not have a paid sick leave program in compliance with the initiative that is approved or, or a similar paid sick leave program? That's what I'm-- I'm saying that if you already have a paid sick leave program, whether you are public school education or private school education, it-- as long as it comports to the compliance of the language in the initiative and you have more than ten employees, why would public education be singled out as they're not in compliance?

SORRENTINO: What I'm saying is that the public institutions, secondary, high school, if they don't have a plan of paid sick leave that's in compliance with the initiative-- right now, they're exempt from having to amend that to get there. That's what I'm saying.

RAYBOULD: Wait, they're exempt right now?

SORRENTINO: Under, under the current version of LB1249. And I, I think there is testimony to this on the education system that might clarify this for you--

RAYBOULD: OK.

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SORRENTINO: --but all we're try-- all we're trying to do is get them on equal footing. If there's further questions, I'll try to answer that after the testimony of the subject matter expert.

RAYBOULD: OK. This is-- just so you understand my confusion, this is the first time I'm hearing that they-- the public schools are not in compliance.

SORRENTINO: May not be in compliance. I-- I'm not suggesting they aren't. They may not be in compliance.

RAYBOULD: OK.

SORRENTINO: We're talking about exemptions, not compliance, necessarily.

RAYBOULD: OK. I didn't know that they were exempt.

SORRENTINO: OK.

RAYBOULD: Let me put it that way. I did not know they were exempt. I thought if you have a paid sick leave program-- that doesn't make you exempt. You just have your own paid sick leave program that is in compliance with some of the basic foundations of paid sick leave, but.

SORRENTINO: Well, we'll try to clarify that.

RAYBOULD: OK. Thanks. I appreciate that.

KAUTH: Senator McKinney.

McKINNEY: Thank you. I'm looking at the online comments and I see the Department of Labor's comment. And they bring up without further clarification the, the proposed-- any amount of earned ownership provision could result in individuals with minimal ownership interests such as employee stock options, stock ownership plans, stock ownership, or similar arrangement being excluded from the definition of employee. And consequently, these individuals may not be considered employees under the act and therefore would be entitled to accrued pay-- would not be entitled to accrued paid sick leave. And kind of just going towards, like, the definition of employee in the bill creating a potential level of confusion and might end up in some type of disputes with employees and employers. I-- how would you respond to that?

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SORRENTINO: You mentioned the employee stock ownership program, ownership with its subchapter S corporations. The law as it sits today applies to employees with 11 or more. So if we take a scenario where I, I, I have a subchapter S corporation, maybe with my spouse, we'll say, and we have nine common law employees. If me and my wife and our subchapter S are considered common law employees, I'm now subject to the rule. If we're not considered common law employees, I would not be because I would have nine. If we get into ERISA law and we talk about entity structures, while I may be considered an employee of a subchapter S or even a, a-- an ESOP in a different frame of mind, I'm not taxed as an em-- as a corporation, as an employer. I'm taxed on nine people because it's a flow-through to my entity. So I don't think that was the original intention, to drag in corporations or businesses that weren't supposed to be part of the law but for a lack of interpretation of tax law according to subchapter S. ESOPs are a whole different story. That-- that's basically an ownership or retirement plan. I can be a member of an ESOP very easily without necessarily being a current employee. ESOPs can typically transcend retirement, even. So what, what we're trying to avoid is dragging in people to, quote, unquote, employment that I don't believe the intent of LB1249 originally was, either in its initiative standpoint or the way it was passed last year.

McKINNEY: No, I get that. I just was kind of going over, like, what the-- NDOL's stated is a potential oversight of the definition. And maybe some, some clarity mi-- might need to be--

SORRENTINO: [INAUDIBLE].

McKINNEY: That's all.

SORRENTINO: I don't think they are.

McKINNEY: You're all right.

SORRENTINO: All right.

McKINNEY: Yeah.

SORRENTINO: Thank you.

KAUTH: Any other questions? Seeing none. Will you stay to close?

SORRENTINO: Please.

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KAUTH: First proponent.

ANSLEY FELLERS: All right. Thank you, Chairwoman Kauth and members of the committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s. And I'm here on behalf of the Nebraska Grocery Industry Association. Testifying in support of LB1249. I just wanted to apologize to Senator Sorrentino. I had retailers lined up to testify last week and tomorrow, and the ones I had lined up couldn't make it here today. But I can tell you this issue is right up there with minimum wage in terms of priorities for the people I represent. LB1249 makes targeted updates to the Nebraska Healthy Families and Workplaces Act to clarify owner-operator exemption, clarify carryover requirements, and otherwise align the language of the law with the intent of the Legislature last year. This committee has heard me state in several cases there is no way to write an initiative petition to conform to operational realities faced by Nebraska employers and their employees in urban and rural areas and everywhere in between. For one thing, employers or job creators will always be outnumbered. Putting things to a popular vote then taking away the Legislature's ability to amend the initiative-- which is what is being circulated for signature currently-- completely disenfranchises business owners in the state. To grow, even to thrive, employers need predictability. This bill is one simple way to make the rules clear, to help us maintain compliant payroll systems, and to avoid confusion or unintended noncompliance. LB1249 was crafted to enhance clarity, fairness, and predictability. And we'd ask the committee to advance LB1249. I'll address two quick things that I had noted. Senator Meyer mentioned in the last hearing the cost of the initiative petitions. And Senator Ibach, since she's here, I would give her a shout-out. She has something similar to the REINS Act here at the state, which would require a fiscal note in terms of the regulatory impact with some of the thi-- for some of the things that pass. And we all know that just because there isn't necessarily a state fiscal note on some of these things, that doesn't mean there isn't a cost. The other thing I would just mention to Senator McKinney's question. For example, I think maybe Senator Sorrentino outlined this, but, but really simply: last year, the owner-operator exemption was put into place. For instance, there's a store in a small community who hires mostly high schoolers. She has nine of them employed. They don't sell tobacco or liquor. They don't sell age-restricted products specifically so they can have high schoolers working. She falls-- she would fall under the exemption if she didn't have to count her and her husband. So they would be exempt. Otherwise they have to-- if she has to count herself and her husband,

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which, according to the Department of Labor, she would because they are structured as an S corporation. So they own it, but they pay themselves as employees. So the Department of Labor has interpreted that to mean they are employees. So they're counting themselves. And I don't think that was the intent of the Legislature last year when the owner exemption was passed. If you have any questions, I'd be happy to answer them. Thank you.

KAUTH: Thank you for your testimony. Are there any questions? Senator Ibach.

IBACH: Just have a comment. Thank you. That bill is up on Thursday. [INAUDIBLE] wants to pay attention. I think you gave a really good example of the small business perspective of it. And when people say, do you think voters know what they were voting for, I think people that are affected by it do. But a similar situation, I have a public power that wants to employ high school students who want to intern for a semester and then become linemen. I think one thing that we've done-- and this is personal opinion-- is that we've clipped the wings of some small business owners who actually can mentor or shepherd students into child care jobs or small, rural community jobs. And so I think this is a fix for a portion of that. But I also want to remind folks that when they say, do you think voters knew what they were voting for, I think voters that this influenced directly absolutely did. But I think we have to look at the consequences to the business community who employs those people. And so-- that's enough of my rant. I will continue this conversation on Thursday.

ANSLEY FELLERS: Thank you. Thank you, Senator. That's what makes [INAUDIBLE].

KAUTH: Senator Raybould.

RAYBOULD: Ms. Fellers, thank you for your testimony. I didn't quite catch what you said that other states are implementing an economic impact statement or-- on initiatives. I-- can you say that again?

ANSLEY FELLERS: Yeah. So, so Senator Ibach, which she mentioned, brought a bill that would operate similar to what passed federally-- it was called the REINS Act-- several years ago. It was designed to sort of more dynamically score some of the, like, bills that passed. So a lot of times, a bill will come up-- and this came up with Se-- when Senator Meyer mentioned-- a bill will come up and it'll have the fiscal impact to the state. But you won't see what type of regulatory

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or fiscal impact it would have to the broader, impacted business community. So-- and, and in fact, in a lot of cases federally, you'll see a bill pass or you'll see a, a bill pass here that has absolutely no fiscal note. But we all know that it's going to cost the business community, whether it's ag, whether it's retail, whether it-- you know, it's small business, large business, manufacturing. It's going to cost something. And I think it, it was designed to more dynamically capture who's going to pay and how much it's going to cost Nebraskans.

RAYBOULD: So that's done on the federal level, but no other state does that.

ANSLEY FELLERS: No, but Senator Ibach has a bill that would require [INAUDIBLE].

RAYBOULD: There you go.

ANSLEY FELLERS: [INAUDIBLE].

RAYBOULD: OK. Thank you.

ANSLEY FELLERS: Thank you.

KAUTH: Seeing no further questions.

ANSLEY FELLERS: Thank you.

KAUTH: Thank you for your testimony. Next proponent. Hello again, Mr. McIntosh.

RYAN McINTOSH: Good afternoon again, Chairwoman Kauth, members of the committee. My name is Ryan McIntosh, R-y-a-n M-c-I-n-t-o-s-h. And I appear before you today as the state director and registered lobbyist for the National Federation of Independent Business and on ha-- behalf of the Nebraska Bankers Association to testify in support of LB1249. Well, a lot of what I've-- what I have to say has already been said during Senator Sorrentino's opening and by Ms. Fellers. LB415 went a long way toward providing needed clarification for reasonable compliance with the act. And since implementation on October 1, we've discovered additional issues, and this led us to work with other industries to draft LB1249. As has been said, we believe the definition of owner "operty" has since then been too narrowly construed and not in conformity with the intent of LB698 and LB415 that passed last year. Small business owners should not count as employees for the purposes of the act. Second, LB1249 takes care of

unnecessary and confusing carryover language. I can tell you firsthand that the requirement that the carryover hours be included on pay stubs that aren't-- employees aren't entitled to use under the act has done nothing but cause confusion for both employees and employers and is a significant compliance issue for Nebraska's businesses. This is a flaw in the original ballot and has only led to confusion. Likewise, correcting the poster language is also a cleanup language that was overlooked last year. And last, there are provisions that place private schools on par with public schools. The problem with Initiative 436 is that it was an attempt to do a one-size-fits-all, cookie-cutter approach onto Nebra-- all Nebraska private employers. Schools are unique from other employers. We took no issue with this being included in the bill. It just makes sense. Last, Mr. Traynor I believe will be following me at some point to talk about an amendment that the Nebraska Chamber of Commerce and Industry is preparing. We're in full support of that as well as the trucking industry amendment. It, it does not make sense that an individual just because they happen to be passing through Nebraska a few times a week, a few times a year would be subject to multiple different states' sick leave laws and other employment laws. So that makes sense for out-of-state business owners that happen to be traveling through Nebraska here and there. With that, I'd be happy to have-- answer any questions.

KAUTH: Thank you for your testimony. Are there any questions from the committee? Seeing none. You're off the hook.

RYAN McINTOSH: Thank you.

KAUTH: Thank you. Next proponent.

TOM VENZOR: Good afternoon, Chairwoman Kauth and members of the Business and Labor Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference. I've been doing this job for ten years. I don't think I've ever been in this committee, so this is my maiden voyage here. We advocate for the public policy interests of the Catholic Church through engaging, educating, and empowering public officials, Catholic laity, and the general public. The Catholic Conference represents the, the interest of our 101 K-12 Catholic schools across the state that educate about 27,000 students. We support LB1249, specifically the provision which exempts all accredited or approved private elementary and secondary schools for the following reasons. First, in addition to all other federal and state agencies, departments, and political subdivisions, public schools are exempt from the paid sick leave act.

Specifically, that would be on page 2, lines 25 and 26 in the bill that does that. As a result, public schools are not subject to the fiscal and administrative burdens resulting from the paid sick leave act borne by private schools, including providing paid sick leave to substitute teachers, seasonal coaches, part-time activity sponsors, and other very part-time and seasonal employees. This is inequitable and unjust to exempt public school districts and expect private schools-- many of whom who have fewer resources and less administrative support-- to provide leave to all employees who have 80 hours of work in one year. Second, there are issues unique to the operation of schools-- as Mr. McIntosh noted-- which make compliance with the paid sick leave act difficult and burdensome. Schools, unlike other employers and industries, are reliant upon these substitute teachers, seasonal coaches, and part-time activity sponsors to educate and form students. Under the current framework, private schools must provide paid sick leave to any employee who consistently works 80 hours per calendar year. The effect is a private school must now provide leave to a substitute teacher who teaches two full-time days per month. This creates an unreasonable and financially burdensome result. In most cases, substitute teachers work as much or as little as desired. Many substitute teachers are retired full-time teachers and not dependent upon the income or leave benefits for their livelihood. Another result which is unique to private schools is its seasonal coaches and very part-time activity sponsors, most of whom work full-time elsewhere or are otherwise retired now earn paid sick leave for assisting with the sports team or fine arts group. These are coaches and sponsors who work for the school only during the sports or activity season. And these coaches and sponsors are exempt from wage and hour laws under the Fair Labor Standards Act and are typically paid a fixed stipend for the season whether they miss ten days or zero days. The next point is about compliance with the paid sick leave act, comes with administrative burdens, which is not easily managed by private elementary and secondary schools. Many Catholic schools-- and, more generally, nonpublic schools on the whole-- do not have full- or part-time human resource professionals to implement, track, and administer a complicated paid leave sick law. And currently, schools are doing their best to comply with the law, but it has come with a significant administrative burden and expense. And again, these are just additional financial inequities that are placed on private school that-- private schools that put us at a disadvantage. I-- I'm gonna be running out of time here, so I will not worry too much about this. The fourth reason really has to do with just general compliance and the financial costs that come and that we operate on razor-thin budgets.

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And I will leave it at that. And if you have questions, I'm happy to answer any of those.

KAUTH: Thank you very much, Mr. Venzor. Are there any questions? See none. Thank you for your testimony.

TOM VENZOR: Thank you.

KAUTH: Next proponent.

ANNE ZIOLA: Good afternoon, Chairperson Kauth and members of the Business and Labor Committee. My name is Anne Ziola. That's A-n-n-e Z-i-o-l-a. And I'm a Human Resources director at Doane University. And I'm testifying today in support of LB1249 on behalf of Doane University and the Council of Independent Nebraska Colleges, which is an organization of all 13 independent, postsecondary institutions in the state. I want to begin by being very clear: Nebraska private, nonprofit colleges and universities support the intent of the Nebraska Healthy Families and Workplace Act. We believe that employees should be able to care for themselves and their families without fear of penalty or lost wages. Supporting LB1249 is about ensuring that all Nebraska's higher education institutions follow a consistent framework that recognizes their unique operational models and long-standing commitments to our employees. Nebraska already exempts public universities from the Healthy Families and Workplace Act. Private universities operate in nearly identical ways, employing the same types of faculty, staff, and coaches. But while we have similar employment structures, currently, the Healthy Families and Workplace Act does not exempt private, nonprofit colleges and universities. This distinction creates misalignment within a single higher education sector that serves the Nebraska students, communities, and workforce needs across our state. The bill also recognizes that the act's intent is already occurring in higher education. Regular staff at Nebraska private, nonprofit universities are already covered by institutional sick leave and PTO policies that meet or exceed expectations in the Nebraska Healthy Families and Workplaces Act. Faculty are salaried, exempt professionals. So their work is measured by the outcome, not the hours. When faculty are ill or they need time away, they cancel or reschedule classes, coordinate informally with their divisions, and continue to be paid. No wages are reduced, no one is penalized. In practice, faculty already had the flexibility this act is designed to provide. It's just not through an hourly tracking system. The same is true for many part-time assistant coaches who are paid by stipend, which is a lump sum, rather than by hour and for adjunct faculty whose

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work includes preparation, grading, and student support that is not tracked in hours. Finally, without this proposed amendment, our higher education institutions face inefficiencies. Higher education payroll and HR systems were not designed to track sick leave accrual for salaried faculty or stipend-based roles. Implementing this requirement requires consultants, increased compliance risk, and manual workarounds, which increases costs for higher education-- all of this without new, meaningful employee outcomes and improvements. In short, the act addresses real concerns in many industries. However, higher education in Nebraska already addresses those concerns through long-standing, flexible, and nonpunitive practices that simply do not align with an hourly leave-tracking framework.

KAUTH: Thank you--

ANNE ZIOLA: Thank you for your time. I'm happy to answer any questions.

KAUTH: Senator Hansen.

HANSEN: Thank you. I probably should have asked this also of the previous testifier. And I get where you're coming from. So you begin by saying, let's be very clear, you support the Nebraska Healthy Families and Workplaces Act, but you want to be exempt from it.

ANNE ZIOLA: I think what we're trying to say is that we want to make sure that, in higher education, it's all included in one sector. So for right now, public universities, public schools are exempt for it-- from it. But we all have a way that we're taking care of those employees still. So we agree that, in many industries, this needs to happen. But in our industry, we're, we're already doing that. We're making sure that people have time to be home sick and to take care of their family members. We know that that's not happening in all industries, though.

HANSEN: OK. So you're in favor of mandating it on private businesses, but you want to be exempt.

ANNE ZIOLA: We want to be exempt in that, in order to pay for those faculty members to be at home, that they already have the ability to do that. So we agree that there's a lot of industries out there that need to have this, but we're saying that, in higher education, we already have the means to support that and have been supporting it. So for example, with our faculty members, if we were to-- and we have

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tried to find places to do this, but it's very difficult and burdensome for the hours. If you have adjunct faculty, if they need to be home sick, please stay home and be sick and we'll take care of it within the department. But otherwise, we have to figure out how many hours are they teaching, how many credits are they teaching, how many weeks are they teaching to decide how many sick hours they can get from that.

HANSEN: And private businesses do the same thing. [INAUDIBLE] like more-- those who have more than ten employees have to figure all that stuff out and-- how they're going to pay for it and--

ANNE ZIOLA: I think the tough part for us is that when you have adjuncts and faculty members, their time, their outcomes are different every semester, every nine weeks. And so we're having to look at a hundred faculty members every semester to make sure that their acc-- their accounts are looked at for sick time in a different manner. And then if you're looking at a couple of hundred other adjuncts that are working various class schedules, each one of those are different because of the sick time that has to be applied to that mathematical equation. And the things that we do in HR, our HR systems don't automatically do that. You have to manually do that for every single person.

HANSEN: OK. I, I, I get it. It's just that when we have bills like this about mandatory paid sick leave--

ANNE ZIOLA: Sure.

HANSEN: --we have the Catholic Church-- no offense-- and the, you know, the private institutions want to come out and, like, we are all in favor of paid sick leave. We love it, but we want to be exempt.

ANNE ZIOLA: Yeah. And we do provide it.

HANSEN: Why not come out against it? Would be better.

ANNE ZIOLA: I think what, what we're saying is we do provide that. We do provide that for folks and we let them stay at home. We just do it in a different way. It's more relationship based, and it works within their department to make that happen.

HANSEN: I didn't mean to--

ANNE ZIOLA: That's OK. No, I'm glad you asked.

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KAUTH: Thank-- Senator Raybould.

RAYBOULD: Thank you so much for testifying. I'm sort of struggling with this too because I'm trying to think-- are private education systems or secondary universities, are they exempt from any other type of employment law?

ANNE ZIOLA: You know, I would have to check and see. And I can get back to you on that. Off the top of my head, I'm not thinking of it right away.

RAYBOULD: Do you pay workers' compensation?

ANNE ZIOLA: Yes.

RAYBOULD: OK.

ANNE ZIOLA: Yeah. Absolutely. I think what's--

RAYBOULD: Do you pay-- do have, like, a paid time off or do you accrue vacation time and things like that?

ANNE ZIOLA: Yes. So it's different for staff and faculty.

RAYBOULD: Mm-hmm.

ANNE ZIOLA: And this kind of alludes to what you were bringing up earlier with Senator Sorrentino. With staff, there is paid sick time, paid vacation time. With faculty and adjuncts, there is not. They just take the time they need and when they need it. So if they have to be gone, they either find somebody else in the department to teach the class or they have somebody from our career services come in and teach the class or they cancel it. So they're still able to be paid because they're paid on salary. They're still getting paid for that time that they're away. They're just able to fill it in a little bit differently.

RAYBOULD: And is it-- is that because they probably have a contract with the university but in-- for the terms of their agreement, they're given X amount of days of, of leave or--

ANNE ZIOLA: Not-- at the college level, the university level, they aren't given X amount of days of leave. They're given a contract that just lets them know their yearly pay so that they're paying through salary. But they-- like in public schools, you might have-- you have

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eight days off that you can use however you need to. But at the university level at Doane, we don't have that.

RAYBOULD: OK. And then from their paychecks, you do all the normal and standard deductions for--

ANNE ZIOLA: FICA and all of that. Mm-hmm. Yup.

RAYBOULD: OK. Thank you.

ANNE ZIOLA: You bet.

KAUTH: Other questions? Seeing none. Thank you for your testimony.

ANNE ZIOLA: All right. Thank you.

KAUTH: Good afternoon.

HUNTER TRAYNOR: Good afternoon, Chairwoman Kauth, members of the Business and Labor Committee. My name is Hunter Traynor. That is spelled H-u-n-t-e-r T-r-a-y-n-o-r. I'm here today on behalf of the Nebraska Chamber of Commerce and Industry, the Greater Omaha Chamber, as well as the Lincoln Chamber of Commerce. For starters, we are supportive of the underlying changes in the white copy of LB1249. What is being distributed to you right now is what I would describe as further technical adjustments to subsection (7) of 48-3803. What does this get at? This addresses the issue of bifurcation of PTO policies, which was attempted to be fully addressed last year in the initial draft of LB415. But as we've heard from many employers in our membership statewide as well as complaints from folks who represent employees-- not to say that they necessarily support this language. I don't want to represent that. This language addresses the issue of employers looking at the requirements of subsection (7), which dictate that a paid leave policy-- such as a paid time off policy-- may be used to satisfy the requirements of the act for time though must still comport with the additional procedural requirements of 48-3804. And so what we have heard from employers is they may have a flexible paid time off policy that their employees could use for vacation time or for sick leave, but, because of some of the rigidity in the initiative as to how that time is used, the hourly increment in particular, employers have opted to bifurcate their policies still into either a vacation bucket and a sick leave bucket or perhaps a PTO bucket with a side sick leave bucket. And as we had communicated last year during the initial changes of LB415, that procedural exposure and some of the technicalities that the current statute demands of paid-- PTO policies

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have led to situations where what was originally intended as a sick leave floor for employees has resulted now in a paid sick leave ceiling. I had circulated the amendment to Senator Sorrentino early this morning but wanted to bring a copy to you all today to consider. And would be happy to answer any questions about this issue that we've heard probably most especially from manufacturers in Nebraska, one of our largest industries, in which workplaces depend upon oftentimes employees working in tandem with one another on an integrated line. And that hourly increment for using paid sick leave can cause tremendous disruptions within a particular facility. With that, I'm out of time. I'd love to answer any questions.

KAUTH: Thank you for your testimony. Are there any questions? Senator Raybould.

RAYBOULD: Thank you. I do appreciate your clarification on that one section. But I-- and I know Mr. McIntosh testified on behalf of the Chamber that they're supportive in general of the whole bill. So are, are you saying you're also sappar-- supportive of the carve-out for private education institutions?

RYAN McINTOSH: To split hairs, there's not a lot of private schools in the Chamber's membership. So while that change is included in the white copy of the bill, I think the biggest point that we certainly concur with and support is the carryover clarification in LB1249 and that the initiative has sort of a paradox in it as currently drafted whereby an employer is able to limit the amount of time that an employee can use on an annual basis, which renders the carryover of time in perpetuity, coupled with the fact that sick leave is not an accrued benefit that must be paid out per Wage Payment Collection Act and the PayFlex case, those things together render that current language kind of in opposite to itself. And so that's the biggest portion, coupled with the owner-operator change that we heard most from our members. But that wouldn't lead us to a neutral posture on the bill.

RAYBOULD: OK. All right. Thank you very much.

KAUTH: Thank you. Any other questions? Seeing none. Thank you for your testimony.

HUNTER TRAYNOR: Thank you all.

KAUTH: Next proponent. Good afternoon, Mr. Schrodt.

DEXTER SCHRODT: Madam Chair, members of the committee. My name is Dexter Schrod, D-e-x-t-e-r S-c-h-r-o-d-t. And I'm president and CEO of the Nebraska Independent Community Bankers Association. Thank you for the opportunity to address the committee regarding LB20-- LB1249, which we express our strong support for the bill and specifically the change found in Section 1, page 2, lines 20 and 21, which clarifies that an individual with an ownership interest is an an-- is-- an ownership interest in an employer is not included in the definition of employee under the law. Across Nebraska, many community banks are closely held entities where ownership structure is often comprised of family members who also work at the bank. This could vary widely depending on how involved a family is in the bank, from anywhere zero to one employees to six or seven employees. For these institutions, the presence of employees with ownership interest is not just a technicality. It's, it's part of who the banks are. And when businesses were preparing for the paid sick leave law to go in effect last year, I received several calls from our member banks seeking guidance on how this situation applied to them, as many believe the law is written to be ambiguous on the owner-operator question that Senator Sorrentino mentioned. When it became clear that the Department of Labor was going to interpret the law as counting these individuals an-- as employees, I had one longtime banker whose family owns and operates a bank in which he has worked in for many decades-- longer than I've been alive, I believe-- tell me that this is the first time ever he's had to keep a, a time card for himself as owner of the bank. Of course, one of the questions I asked of our bankers was how their PTO and sick leave policies looked before the new law took effect. All told me their existing benefits were nearly similar to the requirements passed in law by the voters. I was not surprised to hear this, as community banks across the state are often examining and ensuring their benefits packages are competitive in the marketplace across the industry. Good, trustworthy help can be hard to find for community banks in rural areas. Thus, both employee retention and recruitment are always top of mind. However, this means, due to the question on the treatment of employees with ownership interests, many community banks in the state are now subject to the compliance requirements of the paid-- new paid sick leave law, where-- but their employees actually saw minimal change to their benefits. By excluding individuals with an ownership interest in the employee count, LB1249 provides clarity and fairness, ensures the law applies appropriately to genuine employees while recognizing that owner employees operate under a different paradigm-- one of shared responsibility and commitment to the business. This distinction is especially relevant

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for Nebraska community banks, which rely on the expertise and stewardship of owner employees to serve their communities, build trust, and foster economic growth. For these reasons, we do request the committee's support of LB1249. And I thank you for your time.

KAUTH: Thank you very much, Mr. Schrodt. Are there any questions? Seeing none.

DEXTER SCHRODT: Thank you.

KAUTH: Thank you for your testimony. Next proponent. Good afternoon.

JACK PEETZ: Madam Chairwoman. Thank you. And members of the committee, thank you for giving me the opportunity to testify. My name is Jack, J-a-c-k; Peetz, P-e-e-t-z. And I'm an ambassador without portfolio at Peetz and Schrader. Representing the Nebraska Trucking Association. And it's been mentioned here before that the concern we have is with the coverage of the bill and the definition of employer and employee. What happened once the bill was passed is Kent Grisham, who's the chair-- or, the president of the Nebraska Trucking Association, received calls from all over the, the country from trucking companies saying, does this include us? Because we have drivers that drive through the, the state of Nebraska, most of them on Interstate 80. And if you compute or do the la-- the math, from Pine Bluffs to Council Bluffs in a truck probably is about ten hours of employment. Most of those trucks have electronic logs. So it would show those drivers on duty working in Nebraska for a nonbased Nebraska employer. And the employee could be living in Cheyenne, Wyoming or Salt Lake City or, or Des Moines, wherever the trucking company is situated. In checking with the law firm here in Nebraska, the Trucking Association got an opinion that, yes, the way the law currently reads, drivers driving a truck passing through Nebraska on Interstate 80 would be covered. So we checked with the Department of Labor, and the folks there told me that, yes, their interpretation of the language the way it is right now, those drivers merely driving through the state of Nebraska would be employed by an employer. And once they hit 80 hours on the highway in Nebraska, their employer and they are subject to the law. In further discussions with Department of Labor, I said, so you're going to go to Salt Lake City and visit with an employer there about enforcing this law? And they said, no, we really won't do that. We don't-- we're not going to chase out-of-state employers for out-of-state employees. But if that employee did get sick in the state, we would have a better chance to go after the employer. But all we're asking for-- and thank you, Senator Sorrentino, for bringing

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this to your attention, is that you just exclude nonresident employees and not-- if they're an employee for a nonresident employer, that merely passing through the state does not sub-- submit that employer and employee to the jurisdiction of this law.

KAUTH: Thank you very much for your testimony. Any questions? Senator Raybould.

RAYBOULD: Thank you, Mr. Peetz. So in all the states that your carriers go to, do they have a similar paid sick leave policy like ours?

JACK PEETZ: I don't know. May-- there may be some state out there that has it, but most trucking companies have-- as you've mentioned earlier today about different employers, they have some type of a paid policy. So if you have a, a, say, a trucking company in Cheyenne that has Wyoming-based employers, they would be subject to whatever law the state of Wyoming has with reference to paid sick leave or time off. Merely passing through Nebraska wouldn't subject them to the jurisdiction of Nebraska's law. And that's the clarification we want because a lot of these trucking companies, they travel through probably the lower 48 states. A lot of them run particular routes, and they may go through only 35 states on a regular basis. But once you go from Cheyenne to Council Bluffs and back eight times a year, you now become subject to that law the way it reads today. So we're just saying ex-- exclude us in--

RAYBOULD: And-- you know, I understand that. That really makes perfect sense. But I just can't imagine the state going after you or any other trucking company for, for this issue whatsoever because I can't imagine them taking time and the resources to pursue that when, when basically the employer is responsible for that employee, not--

JACK PEETZ: Yeah. I, I, I think you're absolutely right. And that's kind of what the Department of Labor said. I said, so-- I gave them a scenario. If you have a Cheyenne-based dri-- company with Cheyenne-based drivers going to Des Moines, Iowa, running a regular route back and forth on-- in Interstate 80, are you going to go to Cheyenne, Wyoming and try and impose this law? And they said, most likely, no, we're not. But they also said, but the way the law reads, we can if we want to. So what we're just trying to say is clarify it and say, look, if you're a nonresident employee working for a nonresident employer just passing through the state, you're not subject to this law.

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RAYBOULD: OK. Thank you very much.

KAUTH: Any other questions? Seeing none. Thank you for your testimony.

JACK PEETZ: Thank you.

KAUTH: Any other proponents? Any opponents? Move quicker. I'm going on. Move quicker or I'm moving to neutral. Welcome.

KEN SMITH: Good afternoon, Chair Kauth and members of the Business and Labor Committee. My name is Ken Smith. That's spelled K-e-n S-m-i-t-h. And I am the director of the Economic Justice Program at Nebraska Appleseed. I've submitted some testimony today, but I think I'm going to deviate from it because a lot of conversation and a lot of amendments have come up since, honestly, since I drafted that testimony. So I think I wanted to make sure that we conveyed our primary concern with LB1249, is the provision that excludes from paid sick leave coverage any individual with any amount of ownership interest in an employer. I know there were discussions around-- confusion around owner-operators and the relationship between owners and employees. I think upon reading that language, our first instinct was to think about who, who all then falls within that, you know, very, very broad language. I don't know if I go to Hy-Vee as often as Senator Sorrentino, but Hy-Vee obviously is a large employer. They employ a lot of Nebraskans. They are proudly employee-owned. And so, you know, I'm just wondering about how this impacts employers with employee stock ownership plans. I, I admittedly am not a-- an expert in kind of corporate ownership structures, but it just seems like the swath of, of employees that could be excluded by this language would go well beyond kind of the owner-operator distinction that seems at its heart to be the, the kind of, you know, the intent-- what this language intends to address. Also, I just wanted to make sure to speak to the amendment specifically that the Chambers-- that the, the-- excuse me-- that Mi-- that Mr. Traynor and the, the Chamber brought. And I haven't had a lot of time to sit with that language, but I, I just wanted to convey our concern that-- I, I guess I would consider it a, a-- the, the "predict when you'll get sick" amendment. I think by trying to address this bifurcation issue, they, I think, are, you know-- adopting that language would make it so that, you know, if you woke up in the morning with norovirus and called your employer and said, I-- I'm, I'm calling in sick, if-- you know, the employer could say, well, you didn't comply with the sort of various notice or replacement provisions of our general PTO policy. So you can stay home, but we're not going to pay you. And that type of dynamic that--

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the, the, the ability to use paid sick leave even when you have not been able to predict that you might lo-- u-- need to use that paid sick leave is a-- is core to a functioning paid sick leave program and is core to the initiative that was passed very popularly in, in 2024. Just to say we have no opposition to the carryover provision of LB1249. It doesn't hinder or, you know, take away from employees' abilities to use paid sick leave. We have no opposition to that language. And I might close by just saying, you know, late last year, there, there were meetings with the Department of Labor and Chambers of Commerce and other parties-- and I don't want to-- I see my red light is on. If I could have--

KAUTH: Go ahead and finish your sentence.

KEN SMITH: Thank you. Ju-- just to conclude. I don't want to put words in anyone's mouth, but I know a sentiment that was discussed at that meeting was this is a very new statute. It's been in effect for only a couple of months. There may be some things that we should tweak or change about it. Let's let the statute kind of play out and let's learn about how best to implement it. Would just urge you to consider that approach.

KAUTH: Thank you very much. Are there any questions? Seeing none. Thank you for your testimony.

KEN SMITH: Thank you.

KAUTH: Any other opponents? Anyone wishing to speak in the neutral? Going once, going twice. Senator Sorrentino, would you like to close?

SORRENTINO: Thank you, Chairwoman Pau [SIC]. Given the late hour, I will-- as I did in Revenue last week, I will observe the three B's of public speaking: I will be brief, I will be brilliant, and I will be gone. With respect to earlier, the question posed by Senator Raybould, I don't think we would be requesting an exemption for private institutions like Doane University if the law didn't already exempt public institutions. Ri-- right now, under the current law, public schools continue to follow their existing, established local board policies, negotiated agreements, and staff handbooks for paid sick leave rather than a new stan-- state mandate. So private schools are just really asking to do the same thing. With respect to our last testifier in a neutral position, I think the ESOP situation could be clarified. We talked about Hy-Vee. They're-- probably were too big. They're 100,000 employees. They don't have enough ESOP members. They'd

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still be subject to the law. But if that's something that becomes a tripping point, we could probably address that down the road. Concludes my testimony.

KAUTH: Any other questions? Senator Raybould.

RAYBOULD: I know you're an ERISA attorney, but my question was with-- is there any aspects of our employer labor laws that private institution, private educational facilities are exempt from?

SORRENTINO: That's a good question. I can't think of any off the top of my head.

RAYBOULD: OK.

SORRENTINO: I thought [INAUDIBLE] when I was sitting over there.

RAYBOULD: Good.

SORRENTINO: Not that there aren't any, but I certainly can't think of any right now.

RAYBOULD: OK.

SORRENTINO: But thank you for the question.

RAYBOULD: Yeah. Thank you.

KAUTH: Any other questions?

IBACH: I have one.

KAUTH: Senator Ibach.

IBACH: Thank you very much. Do you think that there's a fear that other organizations will want to come in and open up the statute and exempt themselves as well? I mean, is, is there going to be a discretionary issue? Mr. Peetz's question kind of brought to mind-- we have a lot of harvest crews that travel from Canada to Texas and may only be in our state for ten hours. And then to the point with the universities-- and we've seen this before in other laws that we have, that there could be organizations, because it's so new, that want to come in over the years and say, I think we should be exempt too or-- I mean, how do we ensure ourselves that eventually we won't have everybody in the statute and then why do we need the law?

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SORRENTINO: It's a valid point. When-- you were going with harvest crews. My background, I was going with insurance crews when we have disasters. And the roofers that come in from-- they're here a long time, but they're not employed. They're not citizens of the state. They're not employed by-- could this open it up? It, it could, and then it's going to be up to this body to decide who's worthy of an exemption, who's not, which could be somewhat subjective. But I don't disagree with your point.

KAUTH: Other questions?

IBACH: Thank you.

KAUTH: Senator Hansen.

HANSEN: The--

SORRENTINO: Pope Leo is listening.

HANSEN: I know. Surprised he hasn't texted me yet.

SORRENTINO: Senator Hansen met Pope Leo this summer.

HANSEN: I should have asked him about this. So what, what Mr. Peetz was bringing up, is that in the bill currently, to exempt nonresident, or is that something--

SORRENTINO: I'm so-- say that again. I missed the question.

HANSEN: What Mr. Peetz brought up about nonresident--

SORRENTINO: Right.

HANSEN: --is that in your bill--

SORRENTINO: Right now, the bill is as it's-- as it sits right now, we've added that in an amendment.

HANSEN: OK.

SORRENTINO: And it-- that's what we were discussing.

HANSEN: OK. That makes sense. OK. Just curious. Thanks.

KAUTH: Anyone else? And I, I have a final thought.

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SORRENTINO: Yes.

KAUTH: So if the public schools are exe-- you're exactly right. Seems like a lot of people were engaged in saying, this is the greatest thing ever, but don't make us do it. Should we not-- instead of exempting out the private schools and going down the exempting everyone route, which narrows everything extremely--

SORRENTINO: Include the public schools--

KAUTH: Should we just include the public schools then and make everyone part of this?

SORRENTINO: Well, it's-- we have-- we'd have to amend the current law, but.

KAUTH: Mm-hmm. I was like, if we're amending it, it'd be--

SORRENTINO: It's possible to amend it either way.

KAUTH: Just a thought.

SORRENTINO: Thank you for the thought.

KAUTH: OK. Thank you. Any other questions? See none. That closes our hearing on LB1249. There were 3 proponents and 41 opponents.