

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee January 27, 2020

M. HANSEN: All right. Good afternoon, everyone. We'll go ahead and get started. Welcome to the Business and Labor Committee. My name is Senator Matt Hansen, and I represent District 26 in northeast Lincoln, and I serve as the Chair of this committee. We'll start off by having members of the committee and committee staff do self-introductions, starting with Senator Crawford on my right.

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

B. HANSEN: Senator Ben Hansen, District 16, which is Washington, Burt, and Cuming Counties.

TOM GREEN: Tom Green, legal counsel.

HALLORAN: Senator Steve Halloran, representing Legislative District 33, which is Adams and part of Hall County.

KEENAN ROBERSON: Keenan Roberson, committee clerk.

M. HANSEN: Thank you. And I'll also note that we have two pages today. Kaitlin, who is here right now, and Erika, who will be here shortly, who assist the committee. This afternoon, we will be hearing four bills, and we'll be taking them in the order listed outside the room. On each of the tables in the back of the room, you will find pink testifier sheets. If you're planning to testify today, please fill out one and hand it to Keenan when you come up. This will help us keep an accurate record of the hearing. Please note that, if you wish to have your position listed on the committee statement for a particular bill, you must testify in that position during that bill's hearing. If you do not wish to testify but would like to record your position on the bill, please fill out the white sheets in the back of the room. I would also like to note the Legislature's policy that all letters for the record must be received by committee by 5:00 p.m. the business day prior to the hearing. Since we are a Monday-only committee, that is the last Friday for us. Any handout submitted by testifiers will be included as part of the record, as exhibits. We would ask that, if you do have any handouts, that you please bring nine copies and give them to the page. If you didn't bring nine copies today, please give what you have to the page and they will help you make more. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral

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capacity. The introducer of the bill will then be given an opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name. Please also spell them for the record. We'll be using a four-minute light system today. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning and the red light comes on, we'll ask to wrap up your thoughts. Oh, with that, I would remind everyone, including senators, to please silence your cell phones. And I will note Senator Lathrop has joined us, if you'd like to introduce yourself.

LATHROP: Steve Lathrop, District 12, in Ralston and parts of southwest Omaha.

M. HANSEN: Perfect. And with that, we will begin today's hearing with LB888 by Senator Hilgers.

HILGERS: Thank you, Chairman Hansen and members of the Business and Labor Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I represent District 21, which is northwest Lincoln and Lancaster County, opening on LB888 today. I, I think this opening will pretty, be pretty brief. It's intended to, to really be a cleanup bill that's, that's meant to just eliminate what I think is a redundant court proceeding. And I'll sort of explain practically, as I understand, how these current claims proceedings work and why that the bill, I think, is necessary. So when there is a claim brought against the state, it could be resolved in a number of different ways. One is through the State Claims Board or through the Risk Manager, and, and the second way is through the, a suit that might go against the state of Nebraska that the Attorney General would handle. In those instances, if the suit is resolved and settled, the, there-- wherever that suit might be pending, so Douglas County or in Scotts Bluff or wherever it might be, the settlement and the dismissal papers will be filed with that court and that court would sign off. The Risk Manager or the Claims Board, because they are, those are not active judicial proceedings, they're not in any particular jurisdiction in the state. And so the way the statute currently reads is that any settlement with the Claims Board needs to be-- above a certain threshold; over \$25,000, needs to be approved in Lancaster County, so fair enough. The, the problem, I think, results in the fact that the way the statute currently reads-- and I don't think this was the intent of the statute when it was initially drafted-- is that any claim, because it says any claim, no matter if it's the Claim Board's or-- Claim Board or not, has to be

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also approved by Lancaster County Court. So the anomaly is, is that you have this case in Douglas County or in Scotts Bluff or, or Hall County, the court knows it. The court understands the facts, understands the case. There's a settlement there. You get approved, but the statute also requires a separate approval in Lancaster County. So you get these judges in Lancaster County, who are getting these approval papers with a parallel court proceeding. So unlike a Claims Board, where there's no court proceeding at all, there's a parallel court proceeding and they're like, why is this then? There's no real reason for it to be in the Lancaster County Court, as well. So what LB888 would do, would simply clarify that the over \$25,000 for-- the, the requirement to go to Lancaster County Court would only apply for settlements with the, the Claims Board. So the Attorney General is here, or a member of the Attorney General's Office is here. I'll also ask that-- can answer any specific questions you might have. I'm happy to answer any to the extent I know. Thank you.

M. HANSEN: Thank you. Are there questions from committee members? All right, seeing none, thank you for your opening.

HILGERS: Thank you.

M. HANSEN: We'll invite up the first testifier.

RYAN POST: Hi.

M. HANSEN: Welcome.

RYAN POST: Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Ryan Post, R-y-a-n P-o-s-t. I'm an assistant attorney general with the Nebraska Attorney General's Office. The Attorney General thanks Senator Hilgers for introducing LB888. As you just heard, that bill is a straightforward bill to clarify the dollar thresholds, at which point the Risk Manager or the State Claims Board may compromise, settle, or allow any tort claim and then the level of approval required to do so. Specific-- and this is why the Attorney General cares-- there's already another statute that specifies, when the Attorney General settles a case, what we're supposed to do. And that refers to the court in which the case is already pending. As you just heard, we don't think the Legislature intended for the Attorney General to go file a second case, to get a second judge to approve what the first judge just did. And as you can imagine, when we do that, we get kind of, looked at kind of funny. Why are you here? And so this bill just clarifies the approval process,

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and that this Lancaster County approval process only applies presuit when the claim is settled by the Claims Board or the Risk Manager. And I do want to be clear about one thing. This bill does not change, in any way, the claims bill process that this committee is used to seeing every year for approving claims. I'm happy to answer any questions you may have.

M. HANSEN: Thank you. Are there questions from the committee members? All right, seeing none, thank you. All right. Are there any other proponents to LB888? Seeing none, are there any opponents to LB888? Seeing none, anybody wishing to testify neutral on LB888? Seeing none, Senator Hilgers. Senator Hilgers waives closing. All right. There were no letters for the record, so that will close our hearing on LB888, and we will move on to LB963 and Senator Brewer.

BREWER: Well, when he said he was going to be brief and boring, he was serious.

M. HANSEN: [LAUGHTER] Yeah. Welcome, Senator.

BREWER: Thank you. We're going to try this, less the readers, and see how it goes. Thank you, Chairman Hansen, and good afternoon, fellow senators of the Business Labor, Business and Labor Committee. I'm Senator Tom Brewer, T-o-m B-r-e-w-e-r. I represent the 13 counties of the 43rd Legislative District of western Nebraska. I'm here today to introduce LB963. I'm introducing this bill on behalf of both volunteer and professional first responders. LB6-- LB963 addresses serious injury that often occurs, but often is not discussed or recognized, and that is posttraumatic stress syndrome. PTSD is a mental injury-- say it again-- a mental injury that potentially follows one or more traumatic events where an individual experiences potential or actual loss of life or experiences a sense of helplessness or horror. I'm going to divert from my script here for a little bit and just kind of share with you a little bit. You know, we all get given bills because hopefully we can champion that bill. And we hopefully can champion it because we have enough life experience to be able to talk the issue. So when they brought this bill to me, and I sat back for a second and looked at it, I had mixed emotions. After 15 years as a volunteer firefighter and 36-plus years as a, as a soldier, through many combat deployments, you see a lot. When I was wounded in 2003, the event was over about an hour and a half period. I was shot six times. When it was done-- keep in mind, this was early in the war-- you didn't let the word PTSD leave your mouth. You didn't ask for help because, if you did, you have doomed yourself to never be promoted, be limited in

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your assignments, and probably marked as damaged goods. Well, you didn't want to do that. And I think, to a degree, it isn't just the military that that same syndrome is woven. It's something that you fear will change your life if you let down your guard and admit that you're struggling with it. For me, I drove on. It wasn't until 2012, when I was in an explosion and was flown back to the United States, that I was sent to Madonna. And over almost two years of medical treatment, I was more or less forced to come to the reality that there were things that were happening that I could deny all I want, but that it was a part of what my life was after that change; you know, your, your inability to sleep, your memory loss, your inability to, to maintain relationships, your, your numbness in emotion, period. You're, you're on guard all the time. You're, you're irritable. You're, you're angry. You're aggressive. These are just things that become part of your life that you don't realize have changed. Others around you see it and, in many cases, I think they're afraid to point it out to you. You-- you're just allowed to continue with life, and you live in a new, a new way of life because it's, it's the way that you've come to cope with things because you haven't had help. You haven't had anyone to, to coach or mentor or, or to walk you through to understand what right looks like. The idea behind this bill is that through a eight-hour course of instruction and then a four-hour sustainment training, individual first responders can have someone who is able to identify a situation. And here again, I'm going to just give you some examples so that you can kind of understand why I'm as concerned as I am about this. In many cases, the communities that you serve when you're asked to provide assistance-- law enforcement, medical, fire, it doesn't matter-- you're going to know the individuals. And in many case [SIC] where it's, it's a medical emergency or fire, it could very well be friends or family that you're dealing with. You can only do this work so much and it not tear away at the fabric of your being. And I think that's the best way to describe it. There's a rip and that rip gets a little more and a little more. And you can hide it all you want, but at some point it'll tear in two. And then the results of that will cause issues that are in that point where it's unfixable. It's, it's hard to come back from because you've, you've not had the, I guess, support when you needed it. So this bill, the idea behind it is that you would be able to, through this training that would be provided by a third party. It's reimbursed by the Department of Health and Human Services through the Critical Incident Stress Management; it's called CISM. No one is forced to do it. It's on a voluntary basis, but it will then provide, to that particular organization that we're going to try and help here,

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the ability to have that person who can identify it and the ability, if they can't help them, then help them find help. That's the idea behind LB963. I'll be happy to answer any questions, and I'll be followed by some other professionals who will try and explain in more detail some of the issues that surround PTSD. With that, I thank you and I will take any questions.

M. HANSEN: Thank you, Senator, and thank you for bringing the bill before us. Are there questions? All right. Seeing none at this time, thank you and we'll bring up the first proponent. Hi.

JODI TEAL: Hi. Good afternoon or good morning, excuse me, and members of the Business and Labor Committee, my name is Jodi Teal, and I'm here on behalf of the First Responders Foundation-- J-o-d-i T-e-a-l; and I'm in support of LB963. The First Responders Foundation, headquartered in Omaha, their mission is to improve-- [RECORDER MALFUNCTION] all our first responders and their family, to build appreciation and respect for their work, and enhance public safety. As I mentioned, we are located in Omaha, but we reach across the state into western Iowa. In recognition of the need for the total well-being of the first responder, we are supporting a facility that has wellness, for a fitness gym, as well as mental health services in that same location. As a development director for the foundation, when I speak to individuals in the community, I always receive gasps and looks of shock when I report the following statistics: Nationally, in 2019, there were 134 police line-of-duty deaths and 228 police deaths by suicide. That's 1.7 times more police officers dying by suicide than line of duty. In relation, for the fire department, in 2019, there were 57 line-of-duty deaths and 132 fire deaths by suicide, 2.32 times more deaths by suicide than line of duty. Police and fire suicides are undoubtedly much higher than these record numbers and they are not counted unless they are reported and verified, so many may not go reported. We are told that, when an oxygen mask drops from a plane, it's best to take action on yourself before you put the oxygen mask on the individual next to you. The same thing needs to be said for our first responders. A first responder cannot be their best if they are not taking care of themselves. Our military, as we read-- heard earlier, our military has recognized the need for training to deal with the likely onset of work-related stress. They train before deployment and follow their debriefing and therapy as they merge back into civilian work force, but there is no VA for first responders. A first responder does not just serve a four-year enlistment, they come home to decompress. The-- excuse me-- the military does their

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four-year enlistment and comes home to decompress, but as a first responder, their regular shift can be up to 24/7 nights a week. There is no extended time to decompress. I often hear of the volunteer departments who go on a call in the middle of the night and, after many hours, come back and are expected to report to their 8:00 a.m. shift the very next day. The 2017 Ruderman White Paper on Mental Health and Suicide of First Responders examined a number of factors contributing to the mental health issues among first responders and what leads to their elevated rate of suicide. PTSD and depression rates among first responders and police officers has been found to be as much as five times higher than the rates of the civilian population. Even when suicide does not occur, untreated mental illness can lead to poor physical health, impaired decision-making, negatively affecting their job performance and public safety. Despite these constant stresses and occupation, occupational-specific risk factors, the culture of the first responders in the field is one of toughness. There is a stigma that often prevents them from seeking necessary resources and treatment. After a recent suicide awareness training that the foundation supported, I received numerous thank yous for what the foundation was doing to bring PTSD and mental health awareness to those in the departments. We need to shed light on this taboo subject, and we cannot allow the individuals the attitude of "just suck it up," because we are losing many individuals who have years of education, training, and expertise. We're allowing our families to be ruined because of irritability and untreated mental health and spouses who are struggling to keep their marriages together. We need and expect our first responders to be on their "A" game when they respond. We need to give them the tools and support to be their best on our worst day. When we are hurt physically, we go for physical therapy. When we're having trouble with our vision, we make an appointment to optometrists. What makes an injury to our brain any different? When we are struggling mentally, we should make an appointment with a mental health clinician. I urge this committee to advance LB963 and provide first responders the support and training they need and deserve to respond on our worst day.

M. HANSEN: Thank you. Any questions from the committee for Ms. Teal? Seeing none, thank you for your testimony. We'll invite up the next testifier. And I will say, if you're planning on testifying, especially in support, we do have the open chairs up front so you can be near the microphone. Hi, welcome.

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TYLER FAUSSET: Good afternoon, Mr. Chair, members of the committee. My name is Tyler Fausset, T-y-l-e-r F-a-u-s-s-e-t. I'm in support of LB963. I first want to thank all of you for your time, to even give this a consideration. I want to talk with you about my situation. I'm an Omaha firefighter, a member of Local 385. In June of 2015, while acting in the capacity of a paramedic, I responded to a call that would forever change my life. This call was the worst of society, where a young mother lost her life. In the time following, I began to see my life around me fall apart. I felt alone with no way out and nowhere to turn. I have since received a diagnosis of PTSD. Now I know that as a sworn member of the Omaha Fire Department that I may be called on to sacrifice my life at any moment for the citizens for which I serve. What I didn't expect was that that ultimate sacrifice should come from the powers of my own hands. LB963 means everything to me. It provides an educational path for all first responders to build the necessary resiliency to bounce back and continue to serve their communities to their fullest potential. PTSD can sometimes be described as an individual falling down into a large hole by themselves with no way out, never to see the light and only to sit in the darkness. What LB963 says is that we as a community, the citizens of Nebraska, and as our state-elected officials, that we are saying to our first responders is that we are jumping in this hole with you. We're going to give you the tools, the resources, and the education to get out and that we support you. We're no longer going to sit back and watch as their last call to service is the ultimate sacrifice that they receive by their own hands. I understand there has been a few changes to this bill, but I do ask for your support of LB963 and I thank all of you for your time.

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

TYLER FAUSSET: Thank you.

M. HANSEN: Hello.

DONALD DODGE: Mr. Chairman, members of the Business and Labor Committee, good afternoon, my name is Donald Dodge, D-o-n-a-l-d D-o-d-g-e, and I'm here to speak as a proponent of LB963. As I thought about what I would say today, I figured the best thing I would do is to tell you my story and how LB963 would have dramatically improved my situation. I'm a third generation firefighter. I've been an Omaha firefighter since 2004. I was literally built for this job. I thought

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I was impervious to the traumatic things first responders see every day. In 2008, myself and my crew were dispatched to what appeared to be a routine call for service. It was far from routine. In a matter of minutes, I found myself trapped in a small room, separated from my crew, kneeling over a victim that had been brutally murdered. The weapon sat next to the victim and the murderer had blocked the doorway, repeatedly, asking me, is she dead? Is she dead? The scene of events would repeatedly run through my mind multiple times a day and then eventually all day, every day. As first responders, we condition ourselves to bury incidents like this deep down inside and carry on. And if you can't do that, well, then you must be a failure. Over the next decade, my personality changed radically; memory loss, quick temper, "respondingly" aggressive to being surprised, feeling of not being safe in crowded environments, isolation from family and friends, severe depression, self-medicating through the abuse of alcohol, drinking myself to death to avoid the recurring nightmares. Sometimes the murderer would kill me. Sometimes I had to kill him. It was the same nightmare every night. Years after, after years of unsuccessfully dealing with this on my own, I finally reached out for professional help. I found an amazing therapist who is well versed in diagnosing and treating PTSD. LB963, if it had been in effect at the time that I reached out for help, would have been such a positive impact on my life. LB963 takes into account the cumulative effect of the mental trauma that first responders deal with over a career. Current work comp delineates that there be, must be a specific event and it be dealt with within two years. LB963 provides for resiliency training on an annual basis, resiliency training are the tools that I can put in my toolbox to deal with these mental traumas. LB963 provides that licensed counselors and therapists can offer opinions to the Nebraska Workers' Compensation Court. I suffered unnecessarily because one, I didn't know what I didn't know. Two, the law has not kept pace with what we know is happening to first responders today. And three, technicalities in the existing law can cause irreparable harm. I swore an oath and that oath may cause me to lay down my life for somebody else. However, my life should not be in peril because the law doesn't account for its needs of its citizens' first responders. Thank you for your time.

M. HANSEN: Thank you for your testimony, Mr. Dodge. Any questions from the committee members? Seeing none--

DONALD DODGE: Thank you.

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M. HANSEN: --thank you. Hello, welcome.

HEATHER LIVENGOOD: Hi. Good afternoon, Mr. Chairman, members of the Business and Labor Committee. My name is Heather Livengood, H-e-a-t-h-e-r L-i-v-e-n-g-o-o-d. I'm here this afternoon to speak as a proponent of LB963. I'm the widow of Omaha Fire Captain Rich Livengood. Rich took his life on March 26, 2014. Sorry, my husband and the father of our four children had a servant's heart. He was stoic, stable, and as respected as they come in the Omaha Fire Department and in the community where we make our home. Taking his own life was the last thing anyone, including me, would have thought he would do. But nevertheless, he is gone. Since Rich's death, I have dedicated my life to understanding what PTSD is and how it impacts first responders. I have attended seminars and conferences around the country and I am an active member of the IAFF Local 385 PTSD suicide subcommittee. As we learn more about the devastating effects of PTSD, there are a multitude of items this committee felt would have a positive impact on the lives of first responders. We focused our efforts on the following: suicide awareness, PTSD resource awareness, education, life training, and legislative reform to adapt current laws to the reality that first responders are facing today. It is this last item that brings me here. The components of LB963, in my personal experience, that in my personal experience, will have the most impact on first responders are the following: considering the cumulative effect that the daily mental trauma has on our state's first responders. One tragedy may not have any impact on a responder, but countless tragedies over a span of time most certainly could affect the mental health of our responders. Training, the resiliency training that is contemplated in LB963 will give our responders the necessary equipment needed to process the things that they see every day, things that the rest of us will probably never have to witness. It is this training that I wish my husband had the opportunity to receive. And it is this training that will keep our first responders on the front lines all the way to mentally healthy, happy retirements. Presumptive PTSD laws allows for treatment of first responders to recover and to return to work. First responders respond to the worst moments in people's lives, from house fires to murders, mass shootings to bombings. Most citizens are fortunate to only learn about these incidents from news reporting. These events can severely traumatize not just the victims, but those that respond to these emergencies every day of the year, 24 hours a day. Senators, thank you for your time this afternoon. I sincerely appreciate your consideration and ask for your support of LB963. I would like to leave you with this thought. I was the wife of a

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firefighter paramedic for 25 years. I came to grips with the reality that my husband may lose his life on the streets of Omaha doing the profession that he loved. However, I haven't come to grips with the fact that he lost his life at our home because he was a firefighter paramedic. Thank you.

M. HANSEN: Thank you. Thank you for sharing your family's story. Any questions from committee members? Seeing none--

HEATHER LIVENGOOD: Thank you.

M. HANSEN: Thank you. Hi.

KEITH URKOSKI: Hello. Good afternoon, my name is Keith Urkoski, K-e-i-t-h U-r-k-o-s-k-i. I have been a firefighter EMT with the city of Grand Island for 20 years. My wife Kelly and I have raised our five children in Clarks, Nebraska, where we've lived for the last 18 years and I have PTSD. I am here today to speak in favor of LB963. I'm sure most of you think that I'm here to tell you a story about a horrible call that I, I was on, was laid to rest for a nap and never woke up. First responders respond to calls like these every day, but what most people don't realize is that it's not just these calls that we sometimes can't shake. But before I talk to you about that, I'd like to make sure that you understand what PTSD is. It is, posttraumatic stress disorder is the body's natural reaction to an abnormal situation. Unfortunately, that is the world that first responders live in every day. If you rode along with us for one shift, you'd probably think that the calls that we run on are not traumatic at all. You would see men and women handling calls with calm and precise demeanor. There is hardly a raised voice, but what you don't see is what's going on inside their minds. We often think of it as a duck pond or a duck on the pond. On the surface, you see a beautiful duck gliding along the top of the water effortlessly. Under the water, what you don't see is their feet just kicking like crazy. Now PTSD is not a certainty. Many first responders are resilient and able to process calls with little or no issues. They find a way to cope and move forward with little to no effect on their long-term mental health. The first six months, every call is exciting. The problem is, is that adrenaline rush is why they need to be mentored and watched. And until probies can harness that rush, they react impulsively. After a year or two, that rush becomes almost undetectable. Make no mistake about it, it's still there, but it just doesn't have the same effect on the firefighter. You could say that the body almost builds up a tolerance. By the time you get to 10 years, about only, about the only time

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you'll ever notice that rush is when responding to a fire with possible rescues. That adrenaline is a primitive response. It's our body's natural reaction, telling you to stay and fight or to run like mad. It's about, it's about this point, that cumulative or complex PTSD starts to show up. Years of sleep deprivation, adrenal fatigue, and hundreds of calls start taking its effect and build up in the minds and reminds us of our loved ones. It's that call to a home where a young woman who [SIC] is being abused. It's that call to the home of a mother that overdosed and their son reminds you of your own son. And that son is covered in bedbugs bites and is living in an apartment full of garbage. Yet, he doesn't think anything of it because that's his normal. It's taking an elderly man to the hospital and hearing how his family hasn't visited him in almost two years. My point is for many, for many of us, our PTSD wasn't the product of a single call, but for most, it's that buildup of calls weighing in on the mind that leads to dysfunction. It leads to depression that makes us feel that there's no hope. It leads to hypervigilance, where everything you do and everywhere you go, you see danger. A trip to bond as a family triggers an anxiety attack that triggers that same fight or flight response so severe that all you can do is not scream. And when it's over, you realize that you completely ruined that trip. That family trip experience was me while on a recent family trip. It was in that moment that I realized that I needed help. Part of my getting help is to help others and that is why I am here today. LB963 offers a helping hand to firefighters and first responders across Nebraska. This [SIC] legislation that can help provide mental health awareness and training, care and support that many firefighters and first responders need. Say yes to LB963. The life that you save with this legislation could be the life that saves you. Thank you.

M. HANSEN: Thank you for your testimony. All right. We will invite up our next testifier.

RHONDA MEYER: Good morning, Senator Hansen and Business and Labor Committee members. My name is Rhonda Meyer, R-h-o-n-d-a M-e-y-e-r. I'm a member of the Nebraska State Volunteer Firefighters Association. Working with a state association, we work with many of our volunteer services. In the state of Nebraska, there are currently 470 fire services within the state. Of those, only 6 are paid services. So when you're looking at that, of those 470 services, the majority of them are volunteer services, nonpaid departments. When you're looking at those services, they are working in their hometown communities. They're working with people that they know. And when they respond to

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that call, it could be a family member, it could be a relative, or it could be the child of a good friend. We have over 15,000 firefighters within the state of Nebraska, so that's a large volume. And as our previous testifiers have stated, that this may not be one incident, but it could be one incident that totally affects them, causing that PTSD [SIC] or posttraumatic stress disease [SIC], PTSD. It impacts us emotionally. It impacts our ability to function. It impacts the ability for us to work. We can get into a depressive state. Some people are able to handle it, but they handle it over a period of time. Recently, there was a firefighter who had worked for 20 years and he asked a member, he asked his captain in that situation, have you ever thought of suicide? So when he asked that question, have you ever thought of suicide, the captain thought, no, nothing of that. Five days later, this individual committed suicide because of the incidents that he had occurring to him throughout his years of service. Working with the volunteer associations, we have that in our communities, too. I'm a member of the Blair Volunteer Firefighters Association, which I've been a member for 17 years. This past year, we've had several people that have died traumatically. And a lot of these incidents that we've heard of from all these testifiers so far this morning are usually related to a death of an individual. It may be related to a fire. It may be related to a car accident or something of that nature. We did have 137 suicides last year of firefighters in the United States. The year prior to that, it was 127. For the past five years, we've had over 100 suicide deaths within the United States. And that number is greater than the line-of-duty deaths caused by individuals killed during their line of duty, so the numbers do continue to escalate. We've had 1,400 deaths since the beginning of calculations of this, which is back in the early 1800s, but within the past five years, these numbers continue to escalate, showing that we do need to do something to help our individuals. We need to help ourselves first, but we've been trained that we help others first, and then we have to put it on the back burner. When we go home, we can't think about it. We can't talk to people about it. We can go to other members in the department maybe and talk about it. We have HIPAA. We have confidentiality. It's not something that we communicate about, so you internalize those things. It affects our sleep. I have one member who has been involved in a rollover fatality of a 14-year-old. Another one that we had, an 11-year-old, that was hit by a semi. This individual has taken on drinking. It affects his family abilities to function at home. Another one has the smell. If there's a certain smell, he instantly has those memories that take him back in that ability to function. So when we're looking at those things, it impacts

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each one of us on an everyday basis. It may not be that one time. It may not be the third time, but here we have these people that are committing suicide that if we as firefighters had the opportunity to have the training and the education within each one of our departments, then we're able to identify those people ahead of time. What are some of those subtle signs that they're showing? So we can reach out and get them the help that they need. I appreciate your time listening to me and open for any questions.

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

RHONDA MEYER: Thank you.

M. HANSEN: Thank you. We'll take the next proponent.

NANCY CRIST: Good afternoon, Senator Hansen, members of the Business and Labor Committee. My name is Nancy Crist, N-a-n-c-y C-r-i-s-t. I am a member of the International Association of Fire Fighters Local 644 here in Lincoln, of whom I am speaking on behalf today. I am a fire captain. I am currently in the position of public information officer of Lincoln Fire and Rescue. To be clear, I am testifying on behalf of Local 644. I am not here representing Lincoln Fire and Rescue or in a representation of the city of Lincoln. I am testifying in support of LB963. I have spent 18 years in the fire service here in Lincoln, 17 of those as a firefighter paramedic. I'm here to share my personal thoughts, based on my experience. Our members train in fire evolutions, emergency medical services, physical, and minimal mental wellness as part of our routine regimen to maintain skills, competencies, certifications, and proficiencies. We are professionals trained in all areas above. There are exposures we cannot prepare for. We had a member complete suicide in 2014, another one in 2015, and again in 2017. We've had members attend the IAFF Center of Excellence for Behavioral Health Treatment and Recovery and the West Coast Post-trauma Retreat for PTSD. I had the opportunity to go to the retreat, the, the West Coast Post-trauma Retreat this past July to experience as a peer. Some of those members have returned to full duty, some of those members have not. This bill will help us continue to provide training and support for our brothers and sisters on the front-line. We are not superheroes; rather, service-minded people that have made a commitment to take care of our community. We will continue to train on resiliency, suicide, and mental well-being. However, this training does not insulate us from the continuous exposure and impact of such calls as mass casualty incidents, suicide or death of a member, death or abuse of a child, death of a patient following a

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prolonged rescue effort, calls charged with extreme emotion, or responding to a call where our members know the victim or the patient. This bill will ensure the training needed to offset these exposures. Five years ago, I injured my back while on a commission of my job. My injury that day was a result of numerous insults to my back over the years; lifting and moving patients, wearing a self-contained breathing apparatus, and so on. I had documented, over the years, every time I felt pain in my back. This injury was an on-the-job injury and treated as such for the entirety of my medical expenses. The continual exposure to graphic and extreme circumstances while functioning as a first responder on medical calls or accidents is no different than this physical injury I experienced years ago. I may not, I may be one, it may be one medical call or accident that finally takes a first responder out of service or out of commission. Following treatment for my back, I came back to full duty. We are asking for the opportunity to rehabilitate our members that suffer PTSD as a result of chronic exposure. Please consider LB963. Any questions?

M. HANSEN: Thank you. Are there questions? Seeing none, thank you.

DARREN GARREAN: Chairman Hansen and members of the committee, my name is Darren Garrean, D-a-r-r-e-n, last name, G-a-r-r-e-a-n. I am president of the Nebraska Professional Fire Fighters Association, representing the union firefighters everywhere from South Sioux City to Scotts Bluff, down to Beatrice and in between. I want to thank Senator Brewer for introducing this bill and I think everybody is getting a pretty clear picture that there is, no doubt, instances of accumulation and in addition too, the need for some potential ongoing training. With respect to that, I want to be, be, be able to answer any questions, but out of respect for the committee and time, I know there are some other people who want to testify. If there's any questions or whatever, I will be more than happy, whether now or later, to, to help with anything.

M. HANSEN: Of course, thank you. Are there questions? Seeing none, thank you, Mr. Garrean.

MICHEAL DWYER: Good afternoon--

M. HANSEN: Welcome.

MICHEAL DWYER: --Chairman Hansen, my senator, Mr. Hansen, my good friend, Mr. Lathrop. Good afternoon. My name is Micheal Dwyer, M-i-c-h-e-a-l D-w-y-e-r, and I'm a firefighter EMT and a 36-year

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member of the Arlington Volunteer Fire Department and its current EMS chief. I'm also a member of the Nebraska State Volunteer Firefighters Association's legislative committee and I'm here today on their behalf to testify in support of LB963. In my 36 years, I've responded to over 2,200 incidents, performed CPR 27 times, 4 times on children. All but 3 of those patients passed away. I've responded to countless deaths, countless incidents of friends and family, a partial decapitation, kids in all kinds of trauma, the death of my son's best friend in high school, and 7 suicides, which is how my father died. I've participated in critical incident stress debriefing nine times, the most recent this summer. Ten years ago, I struggled with my first bout of PTSD after working a car/truck accident that killed a good friend and a wonderful mother of four. I took counseling, ten days off work, four weeks off the fire department to begin the recovery process, which continues today. Also, ten years ago, the Nebraska Legislature passed LB780 with the help of Senator Lathrop, who was the sponsor, which provided much needed support for first responders after responding to traumatic calls. LB693 [SIC] provides additions to that framework. Specifically, LB963 permits, but does not require resiliency training and recognizes, as has been mentioned before, PTSD due to cumulative injury or stress, which is incredibly important. My point of my testimony here is to stress, by my own experiences, the importance of both of these. A 2018, as mentioned before, 2018 study by the Firefighters Behavioral Health Alliance found not only are first responders more likely to die by suicide than on duty, but the rates of depression and posttraumatic stress disorders among firefighters have been found to be as much as five times higher than the general population. Currently, over 72 percent of Nebraska is protected by volunteer fire and rescue services. EMS services by those volunteers alone save the state and local governments over \$145 million a year. Call volumes continue to increase, while the number of volunteer providers continues to decrease. We simply cannot afford to lose any responders to PTSD or, God forbid, suicide. The state of Nebraska simply cannot demand that volunteers continue to respond and not be able to provide reasonable support when that response affects their mental health. LB963 would offer appropriate coverage when the worst is just too much. I don't have it in my testimony, I just got the fiscal note this morning, but have-- well, I'm not an accountant. I have serious issues with the way that's calculated. I just don't think it's equitable. And I would welcome-- thank you and I would welcome any questions.

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M. HANSEN: Thank you, Mr. Dwyer. Are there questions?

LATHROP: Maybe just an observation, you won't be the first person to have-- be troubled by a fiscal note.

[LAUGHTER]

LATHROP: And this one in particular.

MICHEAL DWYER: Out of the interest of being tracked, I won't mention what my first comment was.

LATHROP: All right, that's fair enough. It's probably similar to some of mine.

MICHEAL DWYER: Thank you.

LATHROP: Yeah, thanks for being here.

M. HANSEN: Thank you, Senator Lathrop. Seeing no other questions, thank you. We'll take up our next testifier. And while she's getting ready, show of hands. Is anybody else testifying in support? All right.

STEPHANIE LEVY: OK.

M. HANSEN: Welcome.

STEPHANIE LEVY: Hi. Thank you for your time today. My name is Stephanie Levy, S-t-e-p-h-a-n-i-e L-e-v-y. I'm here testifying on behalf of Licensed Independent Mental Health Practitioners and Nebraska Emergency Medical Services Association in support of LB963. I'm a mental health therapist that specializes in first responders. I see them every single day in my practice. I see their pain every day. I sit and hold space for the struggling and at times suicidal individuals who continue to serve our community despite the toll it is taking on them. I see men and women who are willing to risk their lives, but they were never prepared for what they would see or taught how to deal with it. After a critical incident or after they lose a first responder in their department, I see the impact it has. It is wearing them down and it is wearing me down. The effects of these incidents are felt for years and they do not know how to handle these things. So much money, energy, and effort is made to get them physically prepared for the job, but nothing is being done to strengthen their resiliency. In 2009, the military started

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implementing resiliency training and over the years, it has become more formalized. So resiliency training is basically teaching individuals how to cope with stress in a healthy way, how to adapt and care for themselves, especially when dealing with trauma exposure. And the concept of resiliency balances the negative effects with positive outcomes. It shifts the focus from intervention to prevention and from illness to wellness. The study showed that those with the resiliency training, after an individual recovered from a traumatic event, they could even achieve a higher score for emotional wellness, thus having this posttraumatic growth phenomenon and being able to grow and move on with their incident and use it for the good. In a study published in 2016 focused on resiliency training in the military, individuals took a resiliency scale test every 10 weeks over 4 years. It showed that for every point the resiliency score increased, their odds of getting PTSD decreased. Showing specifically, a one point increase in their score decreased their odds by 12 percent all the way up to a 10 point increase in their score decreased their odds by 73 percent. With the resiliency scores increase and the reduced odds, there is a savings in healthcare cost. This study showed a one point increase saved \$12 million annually and up to a ten point increase saved \$112 million annually. The military personnel were healthier and the military saved money. And this is transferable to our first responders here in Nebraska and all over the country. So my hope for the future is that the stigma is reduced and we take a more proactive approach to support our first responders. Thank you.

M. HANSEN: Thank you. Thank you. Any questions from the committee members? Senator Hansen.

B. HANSEN: Thank you, Chairman Hansen. Thanks for testifying today. Just a quick professional question.

STEPHANIE LEVY: OK.

B. HANSEN: When it comes to personal injury, that's maybe more a definition in the bill, does PTSD-- does that accompany personal injury or physical injury or not?

STEPHANIE LEVY: No.

B. HANSEN: Or does it include both? Is it just--

STEPHANIE LEVY: It can be both. But in this, it's just mental.

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B. HANSEN: OK, without any kind of physical injury accompanied with the mental aspect?

STEPHANIE LEVY: Yes.

B. HANSEN: OK, so somebody does have a mental injury--

STEPHANIE LEVY: Um-hum.

B. HANSEN: --along with falling down some stairs, that would not be considered PTSD?

STEPHANIE LEVY: Well, it could be. People often have PTSD accompanied by a physical injury. But this is speaking directly toward-- it doesn't have to be physical with the mental.

B. HANSEN: OK, all right. OK.

STEPHANIE LEVY: Before it had to be both and now it doesn't.

B. HANSEN: OK, thanks.

STEPHANIE LEVY: OK.

M. HANSEN: Thank you, Senator Hansen. Any other questions? Seeing none, thank you--

STEPHANIE LEVY: Thank you.

M. HANSEN: --for you testimony. And I will note for the record, Senator Chambers has joined us. Would you like to introduce yourself?

CHAMBERS: What did you say?

M. HANSEN: I was giving you the opportunity to introduce yourself.

CHAMBERS: Oh, since you did such a good job, I don't need to repeat.

[LAUGHTER]

M. HANSEN: All right, thank you. All right. Are there any other proponents for LB963? OK. Seeing none, is there any opponents to LB963?

LYNN REX: Senator Hansen, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska

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Municipalities. I'd like to emphasize that we're in opposition today with the, basically the draft as introduced. We're happy to work with the committee and others on this measure to make it workable. We don't think this draft, in its current form, is workable. Certainly, I think it's very laudable to try to focus on prevention for sure. Prevention is much better for our volunteers, for our paid individuals, and for emergency responders all across the state. I think one of the things that we like to look at, and I share this with a couple of folks that are advocating for this bill, is some of the problems and challenges that we would see in the current draft, for example, deals with the issue of when you get to, I'll get the page here, who constitutes, for example, a mental health professional? So on page 5, lines 15-19, this is just one example, but we think these are all issues that can be worked out, hopefully. We'd like this to be an interim study. I don't know if it's possible to get it done this session, but certainly, we're prepared to work with this committee and others on this. For example, having a clergy member, they have a very, very important role in our communities across the state, but they're not qualified to make this determination, in our view. And so, for example, if you look on page 5, who falls into the category of a mental health professional? It's (i) a practicing physician, (ii) a practicing psychologist, (iii) a physician assistant licensed under an act, (iv) an advanced practice registered nurse licensed under an act, (v) a mental health practitioner again licensed under the Mental Health Practice Act and then a clergy, great people, wonderful folks. I think it's great that they're involved and they probably can play a very important role in referring you someone to that type of professional. We just don't think they are the professional, so that's just one example. Another example that we discussed at one point with Senator Brewer was just that-- how do you reconcile how you deal with folks that have served in the military? And let me underscore this with not that they-- everyone should not be treated for posttraumatic stress, whether they are military members or not, previously before becoming paid or volunteer firefighters or police officers, that's not the question. The question is, at what point do you give a presumption that if they were in military service, and I would think even Senator Brewer's examples to you in his own testimony, at what point do you-- does that line cross? And it's not because of an incident that happened as a volunteer firefighter, but rather perhaps a flashback or something that happened when he, when he was in Afghanistan. Now, let me just be clear. That doesn't mean that, that person and that Senator Brewer, for example, would not and should not get treatment. That's not the question. The question is, where should that treatment happen? Should

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that happen at a VA center? Should that happen someplace else? I think the resiliency training part of this is very valuable. We look forward to working with the Department of Health and Human Services because my understanding is, if I understand this, that they would be developing rules and regs on this. If you look on the backside, on page 6 of the bill, line 14, that they'd be developing guidelines for, for resilience training for first responders, set reimbursement rates, an annual limit on hours, and this sort of thing. And with respect to that, too, I think that it obviously, again, putting the focus on prevention is extremely important, but those that, for whatever reason, don't have that obviously need to have the treatment. I don't think, I think that goes without saying. So we oppose the bill as drafted, happy to work with this committee and others to address a very serious issue. I'd be happy to respond to any questions that you might have.

M. HANSEN: All right. Thank you, Ms. Rex. Are there questions? Senator Lathrop.

LATHROP: I have one.

LYNN REX: Sure.

LATHROP: Ms. Rex, do you see the value in the resilience training?

LYNN REX: Absolutely.

LATHROP: So if first responders are allowed to collect work comp for a mental, mental injury and the resilience training may diminish the number of claims or the severity of the claims, do you accept that proposition?

LYNN REX: If I understand what you're saying. Are--

LATHROP: Do you--

LYNN REX: Are you--

LATHROP: Do you--

LYNN REX: --saying that resilient--

LATHROP: Do you--

LYNN REX: I'm sorry.

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LATHROP: Do you see that where the resilience training will lower costs to the municipalities for mental--

LYNN REX: Well, it's not--

LATHROP: --mental injuries?

LYNN REX: --just about costs, it's also about taking care of your folks. But I'm just suggesting to you that, that you would certainly hope so. And if it doesn't, it's not very effective, but to me, the end game is it's not just about cost. First and foremost, it's about making sure that you're taking care of the folks that are there to serve you and serve all of us, that's number one.

LATHROP: So and I didn't talk to the bill's sponsor about why HHS is responsible for this training, but why aren't the cities responsible for it?

LYNN REX: Well--

LATHROP: So if the--

LYNN REX: I would tell-- OK.

LATHROP: --city of Omaha, we see the value of this. Why are we, why are we laying this cost of training, the resilience training, off on HHS and not the cities that will benefit?

LYNN REX: Well, first and foremost, it's not our bill. Let me just underscore that. HHS, I don't know why that was selected other than the fact that they have incidence training, Senator Lathrop. I'm guessing that's why the proponents of this selected them. I can't speak for them. I can tell you that cities deal with this differently. My understanding is that Omaha does, does have a, a pretty important process for dealing with folks with posttraumatic stress. I'm not, I can't speak today to all of it, but I understand that on more than one occasion, they actually, if they can't deal with it locally, they actually fly individuals to a city, whether it's Boston or someplace else, to try, to try to get that treatment. I can also assure you that Winslow can't afford to do that. So any state agency or any organizations that can help--

LATHROP: You mean--

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LYNN REX: --with this--

LATHROP: --for example, a small town.

LYNN REX: A village.

LATHROP: You say Winslow.

LYNN REX: Yes--

LATHROP: OK.

LYNN REX: --the village of Winslow. Yes. And so I'm just suggesting to you that I know that there are cities doing things now. My personal view is you probably can't do enough when you're dealing with something like this. By the same token, it has to be something reasonable where you also want to, you don't, the resiliency training itself is not such that folks refuse to do it, because if the idea is--

LATHROP: Yeah--

LYNN REX: --treatment--

LATHROP: I meant, my question, though, had to do with the expense because if--

LYNN REX: Oh, I'm sorry.

LATHROP: If they're paying for the mental, mental claims and the city of Winslow has insurance for that, right? They have to have work comp insurance for their volunteer fire--

LYNN REX: Yes.

LATHROP: --guys. And if they're going to save something on the mental, mental injuries and our concern is, of course, giving them the care they need, why don't we just have the cities who are responsible for these various first responders pick up the tab for this?

LYNN REX: Well, let me just share with you that I think there are, that's one of the issues we need to talk about. How do we best do this?

LATHROP: OK.

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LYNN REX: And again, without seeming that it's just about the money, because in my view, it isn't. That's, that's a very important part of it, though. So just to bore you with some very budget numbers, if you will; 529 municipalities in the state of Nebraska, 380 of those are villages. Of the 529 municipalities, half are already up against their maximum levy limit of 45 cents plus 5. Half of those cannot even raise the money to get the 2.5 percent to spend over the prior year of restricted funds that the Legislature affords us in the Nebraska Budget Act. The cost factors are huge.

LATHROP: OK, but I, what I do know is when we get a fiscal note from Health and Human Services, because they're not getting the, the break on the other end, if you will. The cities, and I apologize for taking more time than this probably should--

LYNN REX: Um-hum.

LATHROP: --but the cities will be the beneficiaries of the resilience training because their firefighters who serve their communities will have fewer claims and they will last longer and they will benefit from it. When we, when we turn it over to somebody who's not going to be the beneficiary, Health and Human Services, we get a big fiscal note. And if it, if the math is done, the city of Omaha would realize some savings that could take care of the cost, we end up with no fiscal note.

LYNN REX: Well--

LATHROP: Do you see what I'm talking about?

LYNN REX: I understand the fiscal note element of it, but, for example, we have been unsuccessful with the Department of Revenue since 1996, when the lids and levy limits were put in place to get any exception for that. So, for example, with our smallest communities and let's face it, most of our smaller communities, and I think the numbers have already been laid out to the committee, are served by volunteer fire departments across the state. And frankly, once you get outside of Lincoln, Omaha, and the bubble of some of our larger first-class cities, if you get in an incident on I-80, you will be, hopefully there will be volunteer firefighters and rescue squad people there, but these are volunteers that are volunteering their time and effort. So what I'm suggesting to you is you also have to afford the

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back end to make sure that folks are able to pay for that. And right now, we have folks that are just basically hanging on, trying to do--

LATHROP: OK.

LYNN REX: --what they can budget wise--

LATHROP: OK, I--

LYNN REX: --but that's one of the issues--

LATHROP: I'll--

LYNN REX: To talk about.

LATHROP: Senator Brewer and I can have a conversation about--

LYNN REX: OK.

LATHROP: --why HHS is supposed to pay for this and not the cities, but I appreciate your concern, as always, about the constraints cities are under, particularly in small towns.

LYNN REX: And there's a way to address that--

LATHROP: OK. Thank you.

LYNN REX: --amend the budget act, amend the--

LATHROP: OK.

LYNN REX: --levy limits. There's a way to address it.

LATHROP: Well, that won't happen in the Business and Labor Committee.

[LAUGHTER]

LYNN REX: No, sir, it will not. Sadly, our concern is that it won't happen in the Revenue Committee either, because we've made, we've tried to get exceptions for law enforcement, for meth prevention, other things, to no avail. So--

LATHROP: OK. Thank you.

LYNN REX: --I'm-- you're welcome.

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M. HANSEN: Thank you, Ms. Rex. Thank you, Senator Lathrop. Any other questions? Seeing none--

LYNN REX: Thanks and in closing, again, happy to work with this committee and others on this bill. It's an important bill.

M. HANSEN: All right. Thank you.

KORBY GILBERTSON: Chairman Hansen, members of the committee, for the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the American Property Casualty Insurers Association [SIC] and Nebraskans for Workers' Compensation Equity and Fairness in opposition to LB963. There are two primary concerns with the legislation, some of which Ms. Rex dealt with. Number one is the broad list of providers that may not have the requisite education or experience to treat or diagnose PTSD. As you heard from the proponents themselves, that the number of practitioners who can help people with PTSD is rather limited, even in areas like Lincoln and Omaha. Our second concern is the clear causation between the injury, the mental health injury and the job. We feel that it would be a departure from existing workers' compensation law to allow for, for a presumption. I want to give you an aside. From my position, because I come to this a little bit differently than other people, I go home every night to a retired firefighter who has PSTD [SIC]. And I would do anything if I could help him not have to go through the hell he goes through, but what needs to happen for all of these first responders is a culture change where they don't have to be the tough guys, where they don't have to be the tough women who bottle this up and don't recognize it, like Senator Brewer talked about, that they were ashamed to admit that they had a problem or ask for help. That's where we need to be focusing, because by the time they're trying to get workers' compensation coverage, they are already suffering a great deal. And so I hope that the groups that are promoting this spend as much energy trying to help their members address this preventively, rather than looking at it from the other end, after there's already a problem. With that, I'd be happy to answer any questions.

M. HANSEN: Senator Chambers with a question.

CHAMBERS: Ms. Gilbertson, do you have a copy of the bill?

KORBY GILBERTSON: I sure do.

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CHAMBERS: Would you turn to page 5?

KORBY GILBERTSON: Yes.

CHAMBERS: Line 15, "A clergy member of a recognized denomination." Does the insurance industry recognize "a recognized denomination?" And if so, recognized by whom?

KORBY GILBERTSON: No, we do, we think that that language should be removed. We do not believe that a clergy member would be adequate to be diagnosing these things.

CHAMBERS: So that, all of that in part small (vi) would be removed?

KORBY GILBERTSON: From lines 15--

CHAMBERS: And you're-- OK.

KORBY GILBERTSON: --through 19.

CHAMBERS: Then I don't have to ask other--

KORBY GILBERTSON: Yes.

CHAMBERS: --questions.

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

KORBY GILBERTSON: Thank you.

TODD BENNETT: Good afternoon.

M. HANSEN: Hi, welcome.

TODD BENNETT: Todd Bennett on behalf of the Nebraska Association of Trial Attorneys, but also with several-- I guess my position on this, we oppose this as written and, and a lot of this happens is because what is in the bill? The fact is, I appreciate Senator Brewer bringing this bill because the need is there. It needs to happen. In the bill, we recognize both, not only a traumatic event, but the cumulative effects of it. And the bill specifically says expose the risk, constantly at risk, community exposure, unique, uniquely susceptible, that a mental and emotional condition is going to happen at some point. And you need treatment without stigma. There's no question. That is undisputed that that is a need. We have it. What I find is,

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the problem with it is we still have the burden of what they call abnormal working conditions. You still have to prove what is extraordinarily unusual and, and, and I struggle as a practitioner, that how could someone say-- when you hear the testimony, we deal with this every day. It's our normal job. Well, to give you an example, Senator Halloran, I represented a police officer in Hastings about right after this bill came out. He witnessed a child being crushed between two vehicles. It was a manslaughter case, a criminal issue, so what happened was he had to watch the body. And they could not cover it up for obvious reasons, as the investigation took place. And the reason that is important is because they found that to be a normal working condition. And to get to what resiliency training is, is the mere definition to adapt, manage, deal with, recover from a traumatic incident. What they do is use those words as a defense. It was the defense in that case, they're trained for it, so this is a normal condition. This isn't abnormal. The second example is, ironically, guess who the adjuster was of that case, that represented that case? It was an officer who was involved in the Norfolk shootings, of which Senator Lathrop, you had a case with. That officer, that was his defense; it was a normal working condition. We all, we all deal with it. The problem with this bill is, is when you're recognizing the fact that the resiliency training adapts these people. The good thing about it is it provides a baseline so you can measure what the mental aspect is. Someone as they come prior to employment, during employment, and when something happens, you have something to measure because we all know, can you prove a mental claim inside a brain? No. Some suggest you can, but most, a doctor, they're not going to say you can see it on a scan. What this also do [SIC] is if we're going to recognize the exposure that this is a dangerous job, the risk entailed, then the states following: Florida, Pennsylvania, Kentucky, Colorado, Minnesota, they've all moved away from this abnormal working condition standard. To me, the biggest slap in the face to me and my client is when someone comes in and says what you experienced is, that's your normal job. You're trained to deal with it, so you can't meet that burden. That burden needs to be eliminated. These states, you can look them up. Florida and all these states are moving away from that burden, I recommend that you do. The second thing is we still have the preponderance of the evidence. That's still the law. So when they say this is a watered down version, no, it is not. It is still the same burden. What we're doing is streamlining it with this bill to say once you've meet [SIC] these requirements of a preemployment exam, a screening, you go through the resiliency training and you've been ruled out that you have a PTS condition before the onset. That is

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exactly what Washington does. They actually provide the same standard. The difference in, that I find the problem with it is, is that not everybody is going to get resiliency training. The officer that I represented did not have-- a correctional officer, another example, she was in the Tecumseh prison riot. She was subjected to the blood. She was, she had to post watch over the two deceased inmates, but it wasn't until months later, several months later she's in a cell. She's trapped, two inmates trap her. She's fearing for her life. Nothing happened, but the fear alone kicked her over the edge. The state of Nebraska came in and paid good money from a guy from Colorado who, who ironically, that state recognizes the presumption of work-related incidents, but that guy came in and said this is a normal working condition. She's trained for it. In that situation, they had resiliency training in the form of correctional fatigue syndrome. Go down to the local library. It's optional, you can see it, but they use that same defense that it's normal. The problem with it is that it should be mandatory and paid for by the industry who they work for. The cost shouldn't be by the first responder. It should be by those who borne the industry, who borne the cost. It should be mandatory to everybody because it provides the baseline, but it provides the necessary prevention tool that we all seek before a work comp claim evolves into one. What it also deal [SIC] is Arizona, for example. We should look to them for guidance. They allow 36 visits with a licensed practitioner. They don't lose benefits. They don't get judged for, for lost time. They're not forced to use their PTO, sick time, or vacation pay, especially if they're not fit for duty. The last thing that-- what is the meaning of the mental health? The clergy? I can't answer that one. I've never seen one who actually would testify in a case. The problem with it is that the courts, Nebraska Supreme Court and the Workers' Compensation Court, only allow a medical doctor, a psychiatrist, and a psychologist. The ironic part about it is nobody else can testify. You have to have-- in other words, this statute is good for widening the access to mental health. That's what we need, especially what's the public policy to get it to the rural areas and everywhere where it's needed? We had a UNMC medicine conference, where that technology department said, look, we can't even reach certain parts of the state.

M. HANSEN: I'm, I'm going to jump in. Your red light's been on--

TODD BENNETT: And I'm almost done.

M. HANSEN: --if you could just wrap up.

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TODD BENNETT: I apologize, but when I represent someone in this, provide the access, increase the access to these mental health professionals. That's the only way. Then you need to change, at least allow for the fact that these other medical professionals can testify. If I wanted to go to the court and say, I want a psychologist to testify for free as we get an independent medical exam. There's only seven, but you'll never find a psychologist. They're all psychiatrists and they all testify for the insurance company. Sorry, but that's the bottom line, but you can't find a psychologist because the court doesn't recognize them as a medical doctor. What this does-- the employee assistance program, the reason it needs to be mandatory is because the employee assistance program are mental health practitioners. They can't testify in a case, but if it's mandatory and they're providing that coverage, you eliminate the burden of disproving an abnormal workplace when we all know it, the exposure and the risk. And I apologize for going over my time, but it's something that's very dear to me as well, but as written, there's several shortcomings and things we need to add.

M. HANSEN: Sure.

TODD BENNETT: Thank you.

M. HANSEN: We can, we can, I can feel your passion for the issue. First and foremost, can we have you spell your name for the record?

TODD BENNETT: Sorry, Bennett, B-e-n-n-e-t-t.

M. HANSEN: All right. Thank you.

TODD BENNETT: You bet.

M. HANSEN: Are there questions from committee members?

LATHROP: Maybe just an observation. This sounds like you're on board with, with what they're trying to accomplish, just not how they went about it in terms of drafting. I don't want you to go on any longer than you already have, but that's more of a neutral capacity--

TODD BENNETT: I was only told--

LATHROP: --rather than in opposition.

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TODD BENNETT: --to say opposed as written, but to me, yeah, I'm for it except for a different amendment.

LATHROP: OK, thanks.

TODD BENNETT: You bet.

M. HANSEN: Thank you.

CHAMBERS: Excuse me.

M. HANSEN: Oh, Senator Chambers.

TODD BENNETT: Oh.

CHAMBERS: I wanted to get all of the specific questions asked. Have you looked at all of this, the findings that are in this bill?

TODD BENNETT: The preponderance of the evidence?

CHAMBERS: No, no.

TODD BENNETT: Oh.

CHAMBERS: On the first page, there is a list of what they call legislative findings.

TODD BENNETT: Yes, I have.

CHAMBERS: Do you think all of that is necessary to get to what they're trying to get in this bill?

TODD BENNETT: Well, some people like to hear and read what they, what they talk and write. One of the things I can tell you that I kind of, you know, about the military personnel, the reason I brought up correctional fatigue syndrome is that they actually believe that they have a higher incident rate than military because they go to the same situation every day, risk day after day, 24 hours a day.

CHAMBERS: Let me ask the question a different way.

TODD BENNETT: Um-hum.

CHAMBERS: Would the elimination of these so-called findings harm the substance of the bill, which is what they're after?

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TODD BENNETT: Me personally, I think it needs to be in there and I'll tell you why because when you recognize what a traumatic event is and what the cumulative effects of the job-- what this does is set the standard for, you know, people that are going to oppose this in its entirety, is this is a presumption. This should be the presumption because these are the working conditions that they face. Setting that informs the court and the judges what that working condition is. Without it, we're back to extraordinarily unusual. What is that? Because the defense is going to come in and say, well, this is, they're faced with it every day so it's normal. And I contend it's not normal.

CHAMBERS: That's all that I was going to ask.

TODD BENNETT: OK.

CHAMBERS: Thank you.

M. HANSEN: Thank you, Senator Chambers. Seeing no other questions--

TODD BENNETT: Thank you.

M. HANSEN: --thank you. Is there anybody else wishing to testify in opposition? Seeing none, is there anybody who wishes to testify in a neutral capacity?

MYRRHANDA JONES: Good afternoon.

M. HANSEN: Welcome.

MYRRHANDA JONES: My name is Myrrhanda Jones, M-y-r-r-h-a-n-d-a J-o-n-e-s. With the last name of Jones, my parents got very creative. So thank you, Mr. Chairman and the committee members for listening to me today. My role is the community outreach director for the IAFF Center of Excellence for Behavioral Health Treatment and Recovery. We're the very first and one of its kind treatment program located in Upper Marlboro, Maryland, which is right outside of the D.C. metro area. What this venture was, was between Advanced Recovery Systems and the IAFF to create a demographic-specific treatment program that is exclusively for IAFF union members. We've heard quite a bit today about the difference between police, the difference between fire, the difference between correctional officers. They're all lumped under it, first responders. Our idea was to create a program that promoted a safe environment, a comfortable environment for members seeking treatment. My role is to educate the members that there is help out

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there to help break down that stigma. And my role here is to give you some facts and figures about why we started this venture, about how many members we've treated across the country and into Canada. So our program opened March 6, 2017. Since then, we've treated 1,133 members across almost every single state in the country, with the exception of Alaska and 3 provinces in Canada. One-third of those come in with a primary, already-diagnosed PTSD diagnosis. I think that's extremely important to note. We are very large proponents that PTSD is kind of like an onion; you start peeling back layers. There are a lot of other things that members will get involved with i.e, substance abuse related issues. Look around the room. There's a ton of firefighters here, one in five. Every single row here has five firefighters in it. One in five have diagnosed PTSD in their lifetime and that's just the ones that are reported. That is an insane number, 20 percent. In 2018, the IAFF conducted a study with 9,000 firefighters in, in relation with NBC; 77 percent said that the job directly has caused lingering and unresolved issues, 19.2 percent reported suicidal thoughts. Again, that is almost 20 percent, one in five suicidal thoughts. They've actually thought about it. There is some level of plan. Eighty-seven percent believe there is a stigma that creates a barrier to seeking mental health services. Eighty-seven percent say that's normal. Yet, they're scared to do it because of issues that they might lose their jobs. If there's one thing I know about firefighters, they love being firefighters more than anything. And if it means that they can't be a firefighter any longer, they will do just about anything in their power to go and seek help if it means they can get back on the job. One in five people in the general population, you and I, are going to go through one to five traumatic experiences in our lifetime. That could be one 24-hour shift for these members. We are a huge proponent of the peer model. Members are more comfortable speaking to their own about their issues, so why don't we educate and give the tools necessary to those members to be able to help? So that is really all I wanted to touch on. There has been 20 members from the state of Nebraska alone in the last 3 years that have sought treatment with our facility, specifically. Peer support teams are the first line of defense for these members to be able to come in. Education to those members, you all don't have to live with each other. These people do for their job. They are, they know their friends', their coworkers' favorite foods, favorite restaurants, what's happening in their families, when their kids are sick. Give them the tools necessary to be the first line of defense to pick up on the warning signs and

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symptoms of PTSD so that we don't have to lose another firefighter. That's all I have, I'm open to questions. Thank you.

M. HANSEN: Thank you, Ms. Jones. Are there questions? Senator Lathrop.

LATHROP: Can I ask--

M. HANSEN: Yep.

LATHROP: --just a, a couple?

MYRRHANDA JONES: Um-hum.

LATHROP: So you're involved in the treatment of folks that come to you who are our first responders who have experienced posttraumatic stress disorder. Do they typically experience it from one event or is it something that accumulates over time?

MYRRHANDA JONES: So on average, out of our almost 1,200 members that have sought treatment with us, our average years of service on the job is 17 years. So I think that speaks to the idea of what the cumulative aspect of treatment is.

LATHROP: But when you take a history from them--

MYRRHANDA JONES: Um-hum.

LATHROP: --and you say, why are you here today, firefighter? And they go, well--

MYRRHANDA JONES: X, Y, and Z.

LATHROP: --I saw one event and now I'm, now I need care and I have a problem. Or is it several things, 17 years worth of doing this?

MYRRHANDA JONES: I would say 90--

LATHROP: Do you see the difference?

MYRRHANDA JONES: I would say 95 percent of members that come into our treatment program have, are dealing with multiple instances of traumatic, traumatic responses over a year, over years' period of time.

LATHROP: OK. Thank you.

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M. HANSEN: Thank you, Senator Lathrop. Any other questions? Seeing none, thank you for your testimony.

MYRRHANDA JONES: Thank you.

M. HANSEN: Is there anybody else who wishes to testify in a neutral capacity? Seeing none, we will invite Senator Brewer back up.

BREWER: It was duly noted you gave the attorney like three extra minutes, but I'm saying--

[LAUGHTER]

LATHROP: I don't think there was any stopping him.

BREWER: All right. I probably need to address some of the issues that were brought up. I will start with the ones from Lynn Rex. I don't doubt that those that serve the military will, will bring some of that experience they had, but understand that at the time you complete your tour of duty, you go through an assessment. The VA does that for everyone. And it's calibrated where you're at. If you have issues and it's so noted, then the VA then has responsibility to, to give you whatever type of assistance you need. If you were to take all of the medical personnel, all the military firefighters and policemen who leave the military and come into the civilian world, and you put some stigma with them that would prevent them from being able to take jobs, that, that would be so wrong because you would only compound anything that they've experienced by saying that they're unworthy of, of coming in because they may have had-- what about all the positives that they bring? That, that life experience of knowing how to fight fires and handle law enforcement situations? So they may come, they come with an assessment already. Now part of the bill is that they go through a psychological evaluation so that there is a barometer to work off of, to understand if there's issues that they have coming in. And, you know, we talked about the eight hours and the four hours, the initial training and sustainment training. Again, this is not for everyone. And that's why when we talk about small towns not being able to afford and all that, the idea is that you have someone who they can go to if you have someone that's struggling, so that they don't decide to take their own life or do something that they shouldn't. As far as the issue of the clergy, we've, we've talked and we've, we've agreed that part of what we need to amend here is to, to take that out. But understand that when that was put in, it was put in in good faith, because so many departments, whether we're talking about law

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enforcement or fire departments, will have a chaplain. That chaplain tends to be the person who folks feel comfortable going to. And so when that was first conceived, it wasn't to, you know, obviously pick someone who doesn't have the right skill sets. It was to have someone so that we didn't have situations in these small towns where there's absolutely no one to go to that has any credentials. So I guess what I'm asking is that this resiliency training, the idea is it gives us some options for help at both the large department and the small department level. And what we have right now isn't working. And there, there is some fiscal note with it and to answer your question; when we looked at this, this POI, this program instruction, whatever it's going to look like, we want it to be universal. We want it to be able to be monitored and maintained and to make sure that, that, that training is set up, whether it be in Grand Island or wherever it's set up, and it's, its uniform. And then there was concern that departments wouldn't be able to do it because the fact that there was an expense involved. Now, normally part of their budget's built to go to Grand Island and training. So that's why the, you know, the CISM was an obvious fit, so that this critical incident stress management program had resources that then could blanket the whole group that we're talking about. With that said, I will entertain any questions you have.

M. HANSEN: Thank you, Senator. Are there questions from the committee? Just, not a question, but I'll just use you as a comment, just, I think several of the testifiers today talked about kind of the effort to destigmatize mental health and the ability to ask for help. So I wanted to thank you for bringing the bill forward and make sure to thank all the testifiers who shared very personal stories with us because I think that's a very important first step.

BREWER: Yeah, I couldn't agree more. It's, it's hard to come up and just kind of lay it all on the line and so to those that did, thank you.

M. HANSEN: Thank you. Seeing no other questions, that will close the hearing on LB963. We didn't have any letters for the record. Yeah. So that will close the hearing for LB963 and we will move on to LB846. And we'll just take a moment to let people get settled.

LATHROP: You know how to clear a room.

QUICK: [LAUGHTER] Perfect.

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LATHROP: Good job.

M. HANSEN: All right. I think we're mostly settled. Senator Quick, if you'd like to open on LB846.

QUICK: Thank you and good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Dan Quick, D-a-n Q-u-i-c-k, and I represent District 35 in Grand Island. I've introduced LB846 to bring some of Nebraska's workers' compensation policies in line with that of surrounding states. When a worker is injured on the job, there are two waiting periods under existing workers' compensation law. Currently, when an employee is injured in the workplace and is not able to return to work, the employee must, must use some form of personal leave for up to seven days he is, he or she is gone. An employee would usually use sick leave unless they are short sick leave hours or are not provided sick leave through their benefits. In that case, they would use PTO, vacation, or leave without pay. After this first seven days, workers' comp insurance will then pay up to two-thirds of the employee's wages until the employee returns to work. After an employee is absent because of the, because of the injury for six weeks, the first seven days of leave are restored to the employee's bank of hours or in case of leave without pay, the employee would be reimbursed for lost wages. LB846 would change the first initial waiting period from seven days to three days. It would change the retroactive waiting period to receive benefits for the, for the initial days out of work from 42 days to 14 days or from 6 weeks to 2 weeks. This is in line with workers' compensation laws in other states. Colorado, Iowa, and Missouri use 14 days as a retroactive waiting period, while Minnesota, South Dakota, and Wyoming have fewer days. These injuries most often end up with the employee needing more time for treatment and recovery, resulting in what I call lost time injuries. The waiting periods can become an issue, especially if employees are not paid during a lost time injury. This creates a culture in the workplace of not recording accidents, which could result in the injury becoming more serious and possibly resulting in a permanent disability. Workers' compensation serves the public interests by helping people on, on the job recover and get back to work and employers by helping them keep their work force safe and healthy at work. I can tell you from my, from my own personal experience and with workplace, with a workplace injury and witnessing others who have had that same experience, it was a stressful time. If the injury, surgery, treatment, and recovery weren't painful enough, the fact that you faced a loss of wages and not being able to work did

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not help. I realize that work, work comp claims can be expensive for employers, but they can be devastating to employees, especially when you're providing for your family. For employers, creating a culture of safety in the workplace and making sure that employees know that reporting injuries is OK will increase morale, create a work-- healthy workplace, prevent more serious injuries, keep the employees you have trained working, and ultimately reduce cost. Again, reducing the work-- reducing the waiting periods will be, be beneficial to both employer and employee and put us more in line with surrounding states. Safety in the workplace should be the top priority for everyone. That is how you reduce workplace injuries and work comp claims. I appreciate your time and attention in this matter and I will try to answer any questions you might have.

M. HANSEN: Thank you, Senator Quick. Are there questions from committee members? All right. Seeing none, thank you. And we'll move on to our first proponent for LB846.

FELICIA HILTON: Well, good after--

M. HANSEN: Welcome.

FELICIA HILTON: Thank you. Good afternoon, Chairman Hansen and the rest of the board member, I mean, the city, or members of the Business and Labor Committee. My name is Felicia Hilton, F-e-l-i-c-i-a H-i-l-t-o-n, and I'm here on behalf of the North Central States Regional Council of Carpenters and wanting to testify in favor of this legislation. Basically, as carpenters, we pride ourself on safety training and being excellent in that training. And as requirements change and certifications change, we also have to adjust our safety training. And we want to make sure that members on the job are safe all the time. And so when any person gets injured, we take that very seriously. And we really respect the fact that Senator Quick has brought changes to the timeframe in which people can receive compensation for those injuries. Some injuries are a lot worse than others, but making sure that folks aren't worried about their family and trying to get back to work or not reporting injuries is something that we'd like to see prevented and avoided. And so I just want to testify publicly and thank Senator Quick for seeing the reality of injuries on the job and how that affects an injured person when they can't go to work. All they want to do is get well. And what we don't want, especially as carpenters, if people get injured, journeymen are injured on the job, we want them to report those injuries and not feel as though they have to work injured and cause more injury to them--

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themselves and whatever their shoulder or physical injury would be. And so we just want to thank Senator Quick and thank you guys for, for taking up this legislation and I really appreciate you hearing me today. Thank you, unless there's any questions?

M. HANSEN: Thank you, Ms. Hilton. Are there questions? Seeing none, thank you. Hi.

LORI MEYERS: Hi. Good afternoon, members of the Business and Labor Committee. My name is Lori Meyers, L-o-r-i M-e-y-e-r-s, testifying on behalf of Susan Martin, the Nebraska State AFL-CIO, and all working families in the state of Nebraska in support of LB846. It is truly an unfortunate circumstance where a worker faces an injury in the workplace, and especially so when that injury results in a total disability and an inability to work. There is certain dignity in a day's work and the loss of this is truly a harm, particularly to those workers who are the sole support of their family. I'm going to give you a scenario of a worker who is a main supporter for their four-person family. The worker is employed full-time, making \$15/hr. Their basic gross pay per week is \$600 and monthly gross is \$2,400. Keep in mind, this is a sole supporter of their four-person family. Now they get injured on the job and file workers' compensation. And currently, the workers' comp laws state that you must wait seven calendar days before compensation insurance begins and benefits start on day eight. Typically, by the time you get your first workers' compensation insurance check, about three weeks go by. There is three weeks with no income to support your family of four. When the check does come, it is only 66 and two-thirds percent of your wage, which in this case would be \$397.38 per week. You take this times four weeks, and that is a total monthly income of \$1,589.52 to support a family of four. The workers lose an \$810.48 per month income not working. And they file these workers' comp claims because they are injured on the job. They filed the, the claim because workers' compensation was created to help injured workers in exchange for the employee not coming back on the employer and suing them. Because of the loss of income, many workers may feel they must go back to work before their injuries have healed or they may feel that they cannot afford to file the workers' comp claim at all. A six-week waiting period to collect the first week's wage they lost is a long time to lose that initial \$600 for the first week of the seven calendar day waiting period on top of losing that \$810.48 per month while not working. And that was just as in the scenario I gave you. For these reasons, we ask that you support changing the waiting period to three days as introduced in

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this legislation and the waiting period to two weeks, putting Nebraska more in line with surrounding states and helping to ensure that workers seek compensation for their injuries. We thank Senator Quick for introducing this language-- legislation and thank you for consideration in passing LB846 out of committee.

M. HANSEN: Thank you, Ms. Meyers. Any questions from committee members? Seeing none, thank you--

LORI MEYERS: Thank you.

M. HANSEN: --for your testimony. We'll take the next proponent.

TODD BENNETT: I promise I won't reserve any time.

LATHROP: Reserve?

TODD BENNETT: Yeah.

LATHROP: You mean go over it.

TODD BENNETT: It was a joke.

LATHROP: Yeah. We're going to have a mutiny here.

TODD BENNETT: Todd Bennett on behalf of the Nebraska Association of Trial Attorneys and we support the bill. Right now, you've got a seven-day waiting period, but it takes six weeks to get paid for that first week. The bottom line is many people don't get it, the percentage is very low. And when they do, they've already used their vacation, their sick time, their PTO time, or FMLA and they don't get paid. People get hurt at no fault of their own. This shouldn't be another hardship just because it's an arbitrary rule. I've yet to see in 25 years of thousands and thousands of claims, what's the rationale for a waiting period? To me, there is none. We should reduce that in line with what other states are doing: Kansas has a seven-day waiting period, but compensation begins on the 21st day; Iowa, three-day waiting period, compensation begins on the 14th day; Missouri, three-day waiting period, begins on the 14th day. In Colorado, 24 hours or three scheduled visits of work is missed. I simply contend no Big Eight foe should beat Nebraska in anything and we should reduce the waiting period and I support the bill.

HALLORAN: Look at that.

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LATHROP: Yeah, right.

HALLORAN: He's got time.

M. HANSEN: Thank you.

TODD BENNETT: I'm done.

M. HANSEN: Thank you for averaging out your time.

LATHROP: Borrowing, you've been borrowing.

[LAUGHTER]

M. HANSEN: We'll let Senator Brewer know that's where all the time went. All right. Next, next, proponent to LB846. Hi, welcome.

TONYA FORD: Hi. Thank you very much. My name is Tonya Ford and it is spelled T-o-n-y-a F-o-r-d. Thank you again for the opportunity to testify in support of LB846 today. I am the executive director of the national organization United Support and Memorial for Workplace Fatalities and a resident of District 21. USMWF is a nonprofit organization that offers support, guidance, and resources to families that have been directly affected by work-related incidences. I've had the opportunity to meet and to hear the frustrations of injured workers and their families with the current Nebraska workers' compensation system that many times penalizes the injured workers, all because he or she went to work that day. One word that comes to mind when speaking of an injured worker is victim. The definition of a victim is a person harmed, injured, or killed as a result of a crime, accident, or other event or action. Injured workers and their family members are just that, victims. Currently, as we all know, if you're injured in a work incident, you must miss seven days of work due to the injuries you sustained from a work incident before you will begin to receive compensation. Many times the worker goes without pay during the seven days, putting additional unexpected inconvenience and stress on the victims. When a worker is injured, the reality of it all is life goes on. While the victim is unable to work due to his or her injuries, his or her everyday bills remain to grow. His or her children will still need medicine. The house payment will still be due. Utilities cannot be dismissed. The family will still need to eat and his or her car payment will still have to be paid. I wish we could say that everyone has the financial means to go a week with the loss of income. However, the fact is many of us in our communities live

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paycheck to paycheck and a loss such as this can truly be detrimental to them financially. In 2008, my family was directly affected by a work injury after my husband was replacing a diaphragm in a park brake chamber on a semitrailer. He was told to remove the wrong bolt and it exploded, severely injuring his fingers, causing him to miss seven days of work. Let's be honest, in a perfect world, we all wish our vacation time could be used at the warm beachfront property. However, realistically, many times vacation like ours are used for children's illnesses, healthcare treatments, school functions, and other important everyday activities. My husband is a disabled veteran and over 90 percent of his vacation time is used due to his disability and the additional time off in 2008 was used when our seven-- or then-seven and five-year-old were sick and unable to attend school. So seven days of work was without pay and for our young family living paycheck to paycheck, this was a huge loss that we were never compensated for because he did not miss more than six weeks of work. I felt then and understand even more now doing what I do, how much a worker feels that he or she is being punished for doing what they were told to do, for doing their job. And this is not right. I am asking you to support the amendment on LB846 as no worker and his or her family members should continue to feel like a victim after a work-related incident. It is a time to take a step to improve our current workers' compensation for Nebraska's hardworking men and women. It is time to change the seven days compensation wait period to three and having to miss six weeks to receive compensation for those seven days to two weeks of missed work due to said injuries. Again, thank you for your time and I'm happy to answer any questions you may have.

M. HANSEN: Thank you. Are there questions? Seeing none, thank you.

TONYA FORD: Thank you.

M. HANSEN: Any other proponents?

CESAR GARCIA: Good afternoon.

M. HANSEN: Welcome.

CESAR GARCIA: Senator Hansen and members of the committee, my name is Cesar, C-e-s-a-r, Garcia, G-a-r-c-i-a, and I'm here on behalf of two workers from Nebraska that wanted to share their stories, so I'm going to go ahead and read. My name is Lili Palacios, I have worked in a company in Lincoln since 2002. In 2009, in the area where I worked, I

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was putting on an air hose when I began to feel a very strong pain in my right shoulder. I immediately reported to my supervisor, but he did nothing. I reported it again and the nurse made an appointment with the company's doctor. After three days of therapy, the pain was horrible and I asked the doctor to do an MRI. The doctor told me that three tendons were broken and that shoulder surgery will be needed. Before the surgery, the company's nurse explained to me that workers' compensation will not pay the first seven days, but if I wanted to rest and receive payment, I could take vacation, or if I wanted, I could work on easy tasks with the other hand in another department. I had surgery on my right shoulder and the doctor gave me three weeks of disability. I didn't feel I was ready to return to work because I couldn't dress myself or do household chores and doctors said, I do not care if you're dressed with or without shoes, but you have to go back to work. Even though I had a lot of pain, I showed up to work. Despite my pain, I went back to work, but my surprise was that in addition to having to work with pain, they also lowered my hourly payment. I worked only with my left hand. And six months later, I injured my other shoulder. When I explained to the doctor that at night, I couldn't sleep because of the pain, he humiliated me and treated me like garbage. By September 2009, I had surgery on both shoulders, the right and left, but at this point I decided to hire a workers' compensation attorney because I needed a second medical opinion and because the company's doctor was forcing me to work, and now injured on both shoulders. After the surgery, my life changed completely. I will tell you, they can pay me thousands of dollars, but they won't give me back my previous life, restrictions now are forever. I feel helpless, helpless because even going to the supermarket to buy food or water for the week, my husband or my daughter need to accompany me. I felt very sad when my twin grandchildren were born. I couldn't carry them, I couldn't even take care of them. They took my previous life. By 2013, in the area where I used to work, I was making more than 2,000 repetitive movements using a pressure gun. One day, I informed my supervisor that my hand hurt and that at night they felt numb and also I couldn't sleep. After a few months of reporting it, they referred me to the Madonna hospital. That year, I had carpal tunnel surgery, but I had to take a family leave because that, the pain was unbearable and workers' compensation didn't cover the compensation of my hands, even though the company paid the surgery bills. I have worked for 17 years in a company with three shoulder surgeries, carpal tunnel in both hands, and three injured discs and I can no longer live a normal life. I also know that when you get injured at work, they look for any little mistakes in

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order to fire you. Lili Palacios. My name is Ayde Godínez. I work at a meatpacking plant in Lincoln, Nebraska. I have 10 years working in this company. At the beginning, I had to pack 800 [SIC] boxes of ham with four movements per box. I was an excellent employee because I used to accomplish pretty good production, but after three years of working for the company, I started having pain in my right shoulder. I presented my report to the supervisor and the answer was we have to investigate the reason, it might be that you were injured at home. The supervisor told me to work with your other arm. I did so, but having worked with one arm for eight hours, at night, I had a ball in my neck and then the pain was unbearable. The pain continued and I had to go to the hospital, to the emergency room. After I brought the restrictions to the company, they told me to take vacation days. I said, why, if this injury happened at work? Finally, I was referred to the company's doctor and he ordered an MRI and it turned out that I had a torn tendon. After my injury, having left with lifelong restrictions, the workers' compensation sent me a check of \$3,000. I really appreciate it, but the money doesn't make up for my quality of life because it is humiliating to be so young and not be able to bathe or dress myself. I know my time's up, so I left the copies of the story. So if you need more information-- thank you.

M. HANSEN: Thank you, Mr. Garcia. We do have copies of the letter. Any questions for Mr. Garcia?

CESAR GARCIA: Oh.

M. HANSEN: Seeing none, you're off the hook.

CESAR GARCIA: OK, thank you.

M. HANSEN: All right. Hi, welcome.

SCHUYLER GEERY-ZINK: Good afternoon, Chairman Hansen, committee members. My name is Schuyler Geery-Zink, S-c-h-u-y-l-e-r G-e-e-r-y-Z-i-n-k, and I am a staff attorney for Nebraska Appleseed. Nebraska Appleseed is a nonpartisan, nonprofit organization dedicated to justice and opportunity for all Nebraskans. Every year, we have the opportunity to talk with hundreds of workers across the state while providing worker safety trainings. For more than a decade, our community educators have been hearing the issues from injured workers that this bill would help fix, so we strongly support the advancement of LB846. Thousands of Nebraskans are negatively impacted each year by our prohibitively long waiting periods in the workers' compensation

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system. Workers are deterred from utilizing workers' comp by Nebraska's long seven-day waiting period, which is financially out of reach for many who need to pay the bills and put food on the table. Even those who do claim workers' comp are pressured to return to work prematurely to provide for their families. We often hear from workers, they're confused about the waiting periods. Bad apple employers use the waiting periods to discourage workers from using workers' comp, highlighting the long week without pay and noting the availability of their private health insurance, instead. Nebraskans then return to work still injured, which decreases their productivity and increases the likelihood of more injuries. One worker we spoke with had her hand caught in a machine for nearly 15 minutes. She was in severe pain and needed surgery. Her employer demanded she report to work, despite her injuries. They told her workers' comp wouldn't pay her for an entire week, but if she returned to work and didn't report the injury, they would pay for her surgery. They had her back to work a few days after her injury, right after her surgery, working with one hand and on pain medications, which made her dizzy. Not only did she have one severely injured hand, but now her other hand was being overworked for over eight hours a day while still recovering from her original injury and surgery. We need reasonable waiting periods for workplace injury survivors. As you can see from my handout, currently, injured workers would need to be out of the workplace for seven days before receiving any wage benefits and for six weeks before receiving retroactive compensation for the first seven days. Nebraska's six-week retroactive waiting period is the longest in the country and far longer than our neighboring states. LB846 is a common-sense update to our harmfully long waiting periods. This bill would alleviate pressure for Nebraskans to go back to work injured and would fairly compensate them for time missed from work while they recover, which is the best way to ensure a long-term, healthy work force. Support Nebraska's work force by advancing LB846. Thank you to Senator Quick for introducing this bill and thank you, committee, for listening. I'll take any questions at this time.

M. HANSEN: All right. Thank you. Are there questions? Seeing none, thank you for your testimony. Are there any further proponents? All right. Seeing no more proponents, it looks like we'll move on to opponents. Hi.

TOM CHAMPOUX: Senator Hansen-- Well, hi there. Senator Hansen and members of the committee, my name is Tom Champoux, T-o-m C-h-a-m-p-o-u-x. I'm representing the Nebraskans for Work Comp Equity

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and Fairness and testifying in opposition. Thank you for your time and considering testimony on LB846. I'm a property casualty insurance broker from Lincoln, Nebraska, and workers' compensation is one area of focus for me. I'm opposed to LB846 in its current form, as it will undoubtedly increase workers' compensation costs for Nebraska employers. This bill, should it become law, would also likely negatively impact the effectiveness of return to work or light duty programs that ease injured employees back into the work force and allows employers to minimize the impact on their future workers' compensation costs. Workers' compensation is experience rated for premium development. This simply means that the employer pays future premiums based on a three-year claims lookback period. The National Council on Compensation Insurance, or NCCI, performs these individual employer calculations for Nebraska and many other states. After receiving loss information from the insurance companies, each employer is then provided with an annual experience mod calculation, which largely determines what their workers' compensation premium will be for the coming year. Nebraska is also an experienced rating adjustment state, which means that all workers' compensation claims that an employer is able to keep medical only, and which include no indemnity payments, which include lost wages, are reduced by 70 percent as the impact-set experienced mod calculation. This fact creates a terrific opportunity for employers to be financially rewarded for getting injured employees back to work quickly and follow any work-related restrictions directed by the employee's treating physician. Reducing the waiting period for lost wages to be paid from seven to three days will mean that many more workers' compensation claims in Nebraska will include indemnity payments, which are calculated at 100 percent in the experience modifier calculation, instead of 30 percent. You see, once one dollar of indemnity has been paid, which includes lost wages, there is no longer a medical-only status on that claim. It concerns me that this change will not only drive up workers' compensation costs for Nebraska employers, but it will also have a detrimental impact on the incentive for employers to create and maintain vibrant return-to-work programs. We have many Nebraska employers who are doing very good things with their return-to-work programs to the benefit of everybody involved. If this bill were to become law, premiums for employers would undoubtedly increase shortly after enactment. Premiums will increase for virtually all employers in anticipation of this additional-- of these additional indemnity payments that will follow. The increase in workers' compensation costs, insurance, and the financial impact it has on our employers may overall have a negative impact on providing overall compensation and benefits to all

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employees, though it is clear that this is not the intent of the bill. Reducing the retroactive benefits waiting period from 42 days to 14 days will also likely have an increase in workers' compensation for Nebraska employers. However, this change will not likely be as financially damaging as the reduction from seven days to three days for lost wages being paid. The ability for an employer to effectively keep as many workers' compensation claims they have as medical only is substantial. This allows them to control their future costs better, while having great incentive to get injured workers treated quickly and back to work in some capacity. With many claims, it takes a few days to have the injured worker seen by a physician and then also to hear back from the physician on what the work restrictions may be. This will result in many more workers' compensation claims in Nebraska being settled with indemnity payments and increased cost in premiums to our employers. With that, I'll open it up to questions.

M. HANSEN: Thank you, Mr. Champoux. Are there questions? All right, seeing none--

TOM CHAMPOUX: Thank you.

M. HANSEN: Thank you.

ROBERT J. HALLSTROM: Chairman Hansen, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today on behalf of the National Federation of Independent Business. I'm also here on behalf of the Nebraskans for Workers' Compensation Equity and Fairness and have been asked to sign in in opposition on behalf of the Nebraska Chamber of Commerce and Industry, the Nebraska Retail Federation, and the Nebraska Restaurant Association. My testimony will be relatively brief. I think Mr. Champoux has given the committee all of the background with regard to the issues that are relevant and significant for employers in terms of the impact that indemnity benefit payments have on the mods of the employers and ultimately on the cost to workers' compensation coverage. And for those reasons, we oppose the bill. For the record, while I disagree with Mr. Bennett, I was encouraged by the fact that he is promoting that the committee should follow the herd mentality. We've had other bills before this committee where many, many other states have adopted different laws and they remain mired in the committee as well. So we would hope that this bill would be given the same fate. With that, I'd be happy to address any questions that you may have.

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M. HANSEN: Thank you, Mr. Hallstrom. Are there questions from the committee members? Seeing none--

ROBERT J. HALLSTROM: Thank you.

M. HANSEN: Thank you for your testimony. Hi--

KORBY GILBERTSON: Good afternoon.

M. HANSEN: Welcome back.

KORBY GILBERTSON: Thank you. Chairman Hansen, members of the committee, for the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, and appearing today as a registered lobbyist on behalf of the American Property Casualty Insurers Association [SIC] in opposition to this legislation. I don't want to take up a lot of your time because my comments are pretty much the same as theirs, but I'm always asked to come remind you that every time you make changes like this, it can affect employers and/or their insurance costs will go up. And there's no doubt that this will cause some costs to go up, as pretty much every claim will then move into being an indemnity claim. With that, I'd be happy to answer any questions.

M. HANSEN: Thank you, Ms. Gilbertson. Are there questions?

KORBY GILBERTSON: Thank you.

M. HANSEN: Seeing none--

KATHY SIEFKEN: Good afternoon, Chairman Hansen and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, and I am the executive director and registered lobbyist for the Nebraska Grocery Industry Association, here today in opposition of LB846. And I really can't add much more to what has already been said, but our people did want us to be on record so that they can look us up and make sure that we did voice our opinion on the issue. We do believe that it will increase costs and the fact that no one really knows how high those costs could go until the claims are made. So if you go back and you look at the fiscal note, even DEA-- let's see, the Workers' Compensation Court says that it's too speculative to estimate and DAS says that the balance that is now in the account will cover the costs until they can increase the worker compensation assessments. So that's

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the direction this goes. For those reasons, we would be opposed. If you have any questions, I'd be happy to answer.

M. HANSEN: Thank you, Ms. Siefken. Are there questions?

KATHY SIEFKEN: Thank you, sir.

M. HANSEN: Thank you.

COLBY COASH: Good afternoon, Senator Hansen and members of the Business and Labor Committee. Colby Coash, C-o-l-b-y C-o-a-s-h, appear and representing the Association of School Boards, as well as the school, Nebraska Council of School Administrators. I won't repeat everything that's been said, only to remind the committee that this does apply to school districts. It does increase the, it could increase the cost to school districts as they are large employers and we feel that the current statutory scheme is adequate. Thank you.

M. HANSEN: Thank you, Mr. Coash. Are there questions? Seeing none, you're off the hook. All right. Any other opponents to LB846? Seeing none, is there anybody who wishes to testify neutral on LB846? Seeing none, Senator Quick, would you like to close?

QUICK: Thank you, Chairman Hansen-- sorry about that-- and members of the committee. I know they brought out, all said something about the differences in the waiting periods and I think bringing us more in line with other states is really important. The average across the country is 15 days for the retroactive benefits. And so I think that's really important. And you probably already have that information about the surrounding states and how they're of, you know, less than us or some have the same on the waiting period, but they are a lot less on the retroactive benefits, but that's-- I don't think that's the most important part about this. I think the most important part is about making sure that our employees know that they-- sometimes what happens is our employees are [SIC] actually feel like they need to not report an accident or, or come back to work too soon and end up getting an injury far more worse than what they would have had before. And I think that's where some of your added costs come in. And I think you would actually find that would probably reduce the cost of work comp cases by not having such severe, severe injuries or, or it end up being a permanent disability. I'll tell you a little bit about my own experience with workers' compensation. And along with having a work comp injury myself, I also served on a safety committee. And within that safety committee, it was a citywide safety committee, and we

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would meet, about once a month we met. And we would go over all the work comp claims. And the one thing that we always addressed, it wasn't-- the way we were going to address work comp claims and reducing the cost to both, to both employers and the injuries to employees was through workplace safety. And I think that's really where it begins. If you want to reduce a lot of the cost, you should really include your employees-- employers should really include their employees in their safety programs and let them look at what some of the work comp claims are. And what we usually did is we'd look at each claim. We didn't know the name of the person, but we knew what happened with-- and the injury, maybe how many times that, that employee had been injured in that certain job. And then we would look at ways-- how can we address that situation? So I think that's actually the most effective way to reduce work comp claims. It's not by taking, reducing a benefit for an employee or forcing them to come back to work too soon or, I shouldn't say forcing them, making them feel like they need to come back to work too soon or making them feel like they can't file a work comp claim. And I think you would find a large reduction in work comp claims across the board. So with that, I would ask you to consider this bill, to pass it forward, and I thank you for your consideration. Thank you.

M. HANSEN: Thank you, Senator Quick. Any committee-- questions from committee members? Seeing none, thank you for your closing. I will note we do have one letter of support, which is LB840-- one letter of support for LB846, which is from Joey Adler at the Holland Children's Movement. And with that, we'll close the hearing on LB846. Our last bill of the day is a committee bill, LB926. And because this is a committee bill, I'm asking the committee counsel, Tom Green, to introduce it. Go ahead.

TOM GREEN: Good morning, Chair Hansen and members of the Business and Labor Committee. My name is Tom Green, T-o-m G-r-e-e-n, and I serve as legal counsel of the committee. I'm here to open on LB926, which was introduced by the Business and Labor Committee. LB926 was brought to the committee by the Department of Labor. The bill changes the Employment Classification Act citation and hearing process to conform with the citation and hearing process that the department uses for the Wage Payment and Collection Act. It's my understanding that currently under the employment-- Employee Classification Act, when the complaint is made, the department first conducts an investigation and then has to hold an administrative hearing before issuing a citation. Holding the administrative hearing can cause unnecessary expenses and prolong

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the time frame, especially in the case where the violation is not being contested. Under LB926, the department, after conducting an initial investigation, can then issue the citation and then the contractor has 15 working days to contest that citation. The bill preserves the right of the contractor to have an administrative hearing if they choose to contest the citation. This mirrors the way the department enforces violation of the Wage Payment and Collections Act. The Department of Labor will be testifying next and will be able to answer any question about how the process works in practice, but I'd be happy to answer any questions you may have.

M. HANSEN: Thank you, Mr. Green. Are there questions? All right. Seeing none, thank you. We'll invite up the Commissioner of Labor.

JOHN ALBIN: Chairman Hansen and members of the Business and Labor Committee, for the record, my name is John Albin, J-o-h-n A-l-b-i-n, Commissioner of Labor. I appear before you today as Commissioner in support of LB926. I want to thank Senator Hansen and all the committee members for introducing this legislation on behalf of the agency. LB926 amends the administrative process of the Employee Classification Act to mirror the same format as used in the Wage Payment and Collection Act. Nebraska Department of Labor is responsible for administering both programs. Section 48-2907 provides the Commissioner of Labor, provides for the Commissioner of Labor to assess fines if the commissioner finds, after notice and hearing, that a contractor has violated the ECA. However, the WPCA Section 48-1234 authorizes the Commissioner of Labor to issue a citation to an employer when the investigation reveals that the employer may have violated the WPCA. The employer then has 15 day-- working days after the date of the citation or penalty to contest such citation or penalty. Appeals are sent to the commissioner and a hearing is held in accordance with the Administrative Procedure Act. The ECA process requires a hearing before the citation may even be issued. This proposal aims to align the two procedural processes. Approximately 20 percent of the ECA cases stem from WPCA violations. Amending Section 48-2907 to make the issuance of the citation and the appeal procedure similar to the procedure outlined in the WPCA makes the acts consistent in their enforcement and in the appeal procedures. The consistency in the citation process and the appeal process for violations of the WPCA and the ECA will provide consistency of the state employees tasked with the enforcement of both acts, consistency for businesses that have to comply with the acts, and for the hearing officers that conduct the hearings pursuant to the Administrative Procedures Act. The current

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statutory format for ECA violations hinders enforcement and creates more time consuming and costly administrative processes. Many of the investigations result in settlements without actual citations. LB926 will assist the department in its enforcement of that, of the act. And that concludes my testimony and I'm happy to answer questions.

M. HANSEN: Thank you, Commissioner. Are there questions? Senator Lathrop.

LATHROP: You know, I have a special interest in this topic--

JOHN ALBIN: Since you wrote the act, yes.

LATHROP: --since I wrote the act. And can you tell us, just in the last five years, what your enforcement efforts have been or what they have yielded?

JOHN ALBIN: I'm not sure I have the entire last five years on the pure ECA side of it. I have the last year's files. There were 31 investigations in the last fiscal year. I do have the longer range activities on--

LATHROP: Let's just talk about the last year since--

JOHN ALBIN: OK.

LATHROP: --you're going to have that in front of you. Just so that I have a sense of what-- how many, how many investigators do you have?

JOHN ALBIN: There are, all these employees are time shared. There isn't a specific ECA investigator. We use, we have the same people doing contractor registration, wage payment and collection, and the ECA. And there are 10 people in that department, 3 bilingual. And that includes, I believe, if I'm remembering my count right, the administrative assistant, all of them.

LATHROP: OK. And in the last year, you, did you say you had 31 citations or 31 investigations?

JOHN ALBIN: There were, well, I'm not, I'm not trying to parse words. We actually did 631 on-site inspections at various employers, which is just going out and checking the site. And when, when the investigator goes out, they check for compliance with the Contractor Registration Act and the Employee Classification Act. So if you want to count those investigations, we've made a lot. In terms of the actual formal, what

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I would call a formal investigation, somebody files a complaint and says, go out and investigate, then that's 31.

LATHROP: How many times-- so one of the criticisms, and I haven't been around for, this is the first time we've taken this up since I got elected again. So there was a four-year gap after, but before I was term limited, we had a lot of concern about whether the department was simply getting complaints, going out, and then just having people register as a contractor when they were, in fact, misclassified employees. And that might have been under your predecessor's tenure.

JOHN ALBIN: Um-hum. OK. I don't--

LATHROP: As much as I admire--

JOHN ALBIN: Um-hum.

LATHROP: --Ms. Lang, we used to go round on this. What's the practice now? If, if somebody calls and complains and says there's a bunch of drywallers over at this project and they're all independent contractors and you guys go out to the scene, what, what happens next?

JOHN ALBIN: OK, well, one, we do investigate to see if they are, in fact, registered as contractors, because as you know, under the act, if someone is registered under the Contractor Registration Act, that creates a presumption that they are, in fact, an independent contractor. And if they're registered, they claim that they're an independent contractor, it doesn't leave us with much evidence to go forward with and say, no, you're really not. In terms of do we go out there and intentionally sign people up to being contractors, ask contractors? No, not to my knowledge. In fact, I can remember some contractors a few years back that we refused to sign up because they all came in with \$40 in cash. None of them could speak English and they were all subcontractors for a particular contractor. So we, we don't do that. Where, it gets kind of nuanced, but if employers get the, start listing employees as employees instead of as independent contractors and pay their back taxes and that, then there is a substantial likelihood that we will not fine them in those particular cases. So if that's what you were referring to--

LATHROP: I can, by the way, I can appreciate that policy. I just wonder how many because I see some carpenters here today and I know that they have led on this issue because they compete, their honest employers compete with the unscrupulous guy who hires 25 people and

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calls them all independent contractors. And their operating expenses are 30 percent less than, than the folks who actually properly classify their employees. And I'm just wondering how many times we're catching them, how many times we're enforcing the act and actually punishing people who are calling all their employees subcontractors.

JOHN ALBIN: If I'm remembering the numbers right and I'm reading from the right page, I believe there were 13 cases last year where the employer was actually fined as, with \$16,800 in fines collected from those employers. That does not count the employers that we caught on the unemployment side. The unemployment side of our operation has a little bit of an advantage over the ECA people in that the IRS feeds them a 1099 extract, which is basically, they send you all the 1099s from employers and that's great information. You can look and see patterns within that program or within those 1099s to see whether you think someone's abusing the 1099 process. The only problem is that 1099 extract that comes to it is federal tax information, an FTI. We are not authorized by statute, by federal law, not state statute, by federal law to share that with any other program other than our unemployment program or the Department of Revenue has the same authority. And in fact, according to the IRS, we can't even talk to the Department of Revenue about their 1099 extract, which is the same one they send us. I don't understand that one, but I guess I can appreciate some protection of confidentiality because on the unemployment side, last year we identified 2,339 misclassified workers so, and collected \$145,000 worth of tax on that side.

LATHROP: Are you telling me that the unemployment side at the Department of Labor can't talk to the misclassification side of the Department of Labor?

JOHN ALBIN: They cannot--

LATHROP: They can't say, good grief, we have a whole bunch of violations over here on the unemployment side with ABC company. You know, they might do roofing or drywall and all these, or painting, and all these guys are independent contractors, but you can't tell the misclassification side?

JOHN ALBIN: Under IRS Publication 1075, that is exactly the case that has evolved. In fact, there is one case-- they, in our system, you have to even mask, like the unemployment if you collect anything based on FTI, you have to mask it so that somebody reading the file, and I think the state couldn't tell that it was collected through the use of

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FTI. In fact, I think it's the state of, I want to say West Virginia but I'm not, I'm not entirely sure on that, where the IRS is [INAUDIBLE] or that, that IRS unit is even telling the state of West Virginia that if they put it in there as cash, if someone would know that that's a likely source of, FTI was the likely source of it, that they can't even list it as cash. So it is a problem. And no, they can't just walk up and tell them, the tax division can't say the ECA, all right, we've got this list of people that we got on 1099 extracts and they all misclassified their people, go get them. They can't do that.

LATHROP: Because of the federal government?

JOHN ALBIN: Because of the federal government, yes.

LATHROP: OK. Well, I see we have the carpenters in the queue to talk. And, and I'm just curious, anything else we need to know about your enforcement efforts? Is this going to, is this going to result, if we pass this bill, in fewer businesses misclassifying their employees?

JOHN ALBIN: We think so because one of the difficulties that we have right now is workers who are misclassified are often undocumented or taking cash in payment. And so they are less than cooperative witnesses at times. I mean, getting the witnesses in for the hearings when we've done the ECA hearings has never been easy. Just because they're, they're all fine with it until they get injured or get laid off and then of course, they either want workers' comp or unemployment and I get that. And anytime that you would want to, we can kind of go-- I know the carpenters are behind me. Anytime you want to sit down with us and we can go through the carpenter claims that have come through and we'll show you what the results are. Another thing I would add that, is we went to Iowa in December to meet with their misclassification unit because they've been having a little more success than we have. And we've picked up some tips from them. We're gonna try and reverse the 1099 process through the use of subpoenas of 1099s because same information, but if it comes in pursuant to a commissioner's subpoena, it is not FTI anymore, even though it's the same stuff that's in the FTI extract. So yeah, it's fun and good work for lawyers. So we're going to try that process and see if-- because, you know, we're not satisfied with the level of performance. We think there's more misclassification out there than we're catching and we want to try and do some different methodologies to see if we can accomplish that.

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LATHROP: I have one more question for you, Mr. Albin. Do you believe that people that are out there working as misclassified employees now know that if you guys show up, all I got to do is say I'll register? Like do you give them an opportunity to register on the spot?

JOHN ALBIN: Again, not to parse terms, but they will work with them on, in terms of getting signed up for unemployment, but in terms of registering, usually what it, most situations we're talking about are employers that already have employees and lots of them. And so, but they've been trying to shuffle a few off to the side as, as a contractor, so those people, if they get the people to start reporting them correctly. Do they know that? I suppose. I don't, I don't think it's that out there. We'll proceed--

LATHROP: Well, when--

JOHN ALBIN: --until we're caught.

LATHROP: If you go out-- the, the carpenters let you in on some place and they say, we know that they're building a new Wal-Mart out, out, just outside of town. And we know that that guy has a bunch of people in there framing the place and are putting drywall up or doing the cement work, whatever it might be. And we know they're misclassified. And you guys go out to the scene. If they say, I'll pay the registration fee, do you leave them alone? Or the presumption prevails and so, and so we can't do anything about it?

JOHN ALBIN: I would not give them a presumption that if they just, if we show up on-site and they register as a contractor under the Contractor Registration Act, that that takes them outside of it.

LATHROP: OK. I appreciate you answering my questions. And as you can tell, I haven't been in the loop for a while on the topic, and so, nor have I, I don't think I've ever asked you questions about it since you've become the Commissioner.

JOHN ALBIN: No, you're not--

LATHROP: Thank you.

JOHN ALBIN: I'm sure we'll get more opportunities over the next few years.

LATHROP: I am confident of that.

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JOHN ALBIN: Yes.

LATHROP: I am confident of that and maybe even yet this year.

JOHN ALBIN: Maybe even yet this year.

LATHROP: We'll see what the carpenters have to say.

M. HANSEN: All right. Thank you, Senator Lathrop. Seeing no other questions, thank you, Commissioner Albin. Are there any other proponents for LB926?

FELICIA HILTON: Good afternoon.

M. HANSEN: Hi, welcome.

FELICIA HILTON: My name is Felicia Hilton. Thank you again, Chairman Hansen and committee members, for hearing us speak. So Felicia Hilton, F-e-l-i-c-i-a H-i-l-t-o-n. I'm here with North Central States Regional Council of Carpenters. And what I handed you today is basically the breakdown of how so many workers in our industry, the interior, I'm sorry, the commercial construction industry, how misclassification typically works; where you have the owner, whether it's a public owner, commercial or retail or multifamily housing developer, the general contractor, the construction manager, and then the general contractors and the construction manager subcontract out either the drywall installation, the wood framing, or the floor installation. And where the misclassification comes in is when that subcontractor decides that they're going to hire a labor broker, which we prefer to call, in most cases, labor traffickers. They hire the labor broker and the labor broker can move anywhere from 20 to 200 guys to any project in the council. The six states that we cover, Iowa, Nebraska, both Dakotas, Minnesota, and Wisconsin, between those six states, just like that. I mean, they can really move people. And when our business agents go out and talk to workers on the job site, one of the things that we notice is if they're afraid to look at our business agents, if they're, even the ones that are bilingual, if they say they're working for their uncle, they don't know what city they're in, they just know that they're in the United States, we begin to identify that these are people that have been trafficked in and that they're not actually working for someone as an independent contractor. They are working with the labor broker. The labor broker provides these people with places to live. They rely on them to get to and from work. They rely on them for explanation of what they're doing. So in their eyes, the

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labor broker, or the trafficker as we see them, they're reliant on these people so they, they don't want to talk to us. They are more uncomfortable. We have cards that we hand them if we believe that they're being trafficked so that it's information for them to reach out to organizations that deal with people that feel trapped and stuck in this industry through being trafficked. And so in some cases, misclassifying workers isn't as easy as, you know, them going to the job site and then all of a sudden, they can register as an independent contractor. Most of the folks that you would talk to in this situation that we're talking about now being paid cash and by the square foot, wouldn't, wouldn't want to talk with you or register as an independent contractor because they would be reliant on whatever the labor broker tells them to do. And so that's just one incident of-- at least a, a diagram of showing you how this problem is really working in construction and how these people are invisible, the actual project labor is invisible. And the person that is kind of moving them and getting them to and from where they need to be is the labor broker. And these labor brokers are married to the legitimate registered subcontractor. They're married to these subcontractors and these subcontractors can bid on work. It's like 30 to 40 percent cheaper than the competitive bid that would be out there from any legitimate business, union or nonunion. They're a lot cheaper because the work, the labor is off the books and they're able to continue to get away with this because they know that they can have four employees, including themselves, on workers' comp and everyone else off the books. They're not paying state, federal, or local taxes. They're not paying payroll taxes and so their bid can be 30 to 40 percent cheaper across the board. And so that's what we're trying to address. And I know my time is up, but I just wanted to talk a little bit about Alex Cooper, who is a gentleman who was hurt in Omaha in a bucket truck. He was basically doing work on 48th and Dodge and he went up in the bucket truck and the contractor, the subcontractor, didn't turn off the power. The power "arced" and hit his bucket truck. He ended up catching on fire, falling four stories, and another coworker got shocked when he tried to help him from falling. And I say all of that because this is the problem, that when our members went to the job site-- now, in the news story, the first, the second page says he was working for Ronco Construction, but when they went to the job site, he worked for no one. No one knew who he was. No one said he worked with me. It was just him and his brother-in-law that were on the job site that knew each other. No one knew that he was there. No contractor said he worked for them, whatsoever, but the problem is he still ended up going into the hospital and being transferred up to the Lincoln

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burn unit. And he was, he is a responsibility of the Lincoln taxpayer, instead of being eligible for workers' comp as an actual employee. And those are the issues that we're trying to address here, is that the workers' comp claims, folks coming to the carpenters to try and seek help for getting care for people that are injured on the job or they haven't gotten paid at all, that's a big issue that we deal with. And we spend a lot of our own resources trying to help the project laborer, but there isn't real focus on the labor broker.

M. HANSEN: Thank you, Miss Hilton. I believe Senator Lathrop has a question.

LATHROP: Just a-- I have two. First, do you think this bill will make a difference or, or help?

FELICIA HILTON: I think this bill is a great step in the right direction. I do think it will help because for one, it gives the Department of Labor the ability to give a citation before the hearing, after an investigation. And I think it helps because it's public.

LATHROP: All right and my second--

FELICIA HILTON: And that's been a big-- oh.

LATHROP: My second question is can you compare, in your experience, so you cover six states?

FELICIA HILTON: Um-hum.

LATHROP: You said Iowa, Nebraska, the Dakotas, Minnesota, and Wisconsin.

FELICIA HILTON: Um-hum.

LATHROP: Can you compare, pardon me, how Nebraska does relative to the other states in the, this six-state region in terms of enforcement of the misclassification laws--

FELICIA HILTON: Well, I think that--

LATHROP: --in your experience?

FELICIA HILTON: I think that Nebraska could do more. Obviously, in Iowa they have the misclassification task force and they have a misclassification unit that deals with these issues. We have a place

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to actually take these issues and they're looked at in a very serious manner. There, they'll do an investigation. The moment you make a report online, someone is out there, they're contacting us. And we have, you know, more of a working relationship and input on this issue. In Minnesota, they've gotten really aggressive. In the packet, you'll have two criminal complaints; one is on Merit Drywall, which was just filed on Tuesday of last week, a criminal complaint of them actually falsifying independent contractors, contractor registration forms. They have 28 separate businesses and three of the falsifications of an independent contractor were done on the, Mrs. Mehr's credit card, which is a co-owner. And then we have a labor trafficking case in Minnesota that was, he was brought on charges. The criminal case was filed in May 2019 and he pled guilty in November 2019 to nine months in jail. They dropped his theft of swindle because he took his employee to the hospital, \$45,000 worth of taxpayer money to pay for his injuries. He was in a full-body cast. They dropped that because he pled guilty, but he went in there and told them and told the employee to say that he hurt his back moving a dumpster, when really a precast wall fell on him. And so--

LATHROP: OK, so--

FELICIA HILTON: So, yes.

LATHROP: --recognizing--

FELICIA HILTON: Where we need--

LATHROP: --that these various departments of labor are chasing cheats and swindlers and people that are dishonest, are we doing about like everybody else?

FELICIA HILTON: No. No, because we--

LATHROP: You think we're behind in enforcing--

FELICIA HILTON: We are behind.

LATHROP: OK.

FELICIA HILTON: We are very behind in enforcement here in the state of Nebraska. And I just think it's, part of it is because people are invisible. And the other part is, you know, you really have to have the resources to, to enforce it and to really do invest-- you know, to really get out on the job sites and to recognize that people are being

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brought here to do this work and they're being left off the books and that there is a middle man that does that and there's a legitimate subcontractor. And that's the relationship we want to address more than just the act-- I mean, we want to go after the misclassified worker, but in construction, we also want to go after the labor broker and the subcontractors that use labor brokers, because that's the biggest issue is there is a legitimate subcontractor, they get public bids in most cases, and then they use a labor broker for the project labor.

LATHROP: OK. Thank you.

M. HANSEN: Thank you, Senator Lathrop. Seeing no other questions, thank you for your testimony, Ms. Hilton.

FELICIA HILTON: Thank you.

LORI MEYERS: Good afternoon, again.

M. HANSEN: Welcome back.

LORI MEYERS: Thank you. My name is Lori Meyers, L-o-r-i M-e-y-e-r-s, submitting this testimony on behalf of Susan Martin and the Nebraska State AFL-CIO and all working families in the state of Nebraska in support of LB926. Nebraska law clearly describes violation of the Employee Classification Act. However, we find that many employers are illegally boosting their profits by simply refusing to pay workers for their work or paying them less than they are owed. Misclassification is prevalent in key industries in our economy and has become standard operating practice. There are a number of things the state legislatures and municipalities can do to strengthen worker protection and to hold employer accountable for violations is an extremely important aid in preventing future violations. This legislation establishes that the Nebraska Department of Labor will investigate and enforce the law quicker, which ensures that the employers are being held accountable. We support this legislation, but would offer one change to the language. The introduced language in Section 48-2907 (1), line 4 states that "the commissioner may issue a citation to a contractor when an investigation reveals," etcetera; "may" being the key word here. We think the word "may" to be subjective and therefore would suggest a change from the word "may" to "shall." Thank you to the Business and Labor Committee for introducing this legislation and

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ask for your consideration in passing this bill out of committee with our suggested amendment.

M. HANSEN: Thank you, Ms. Meyers. Are there questions from committee members? All right, seeing none--

LORI MEYERS: Thank you.

M. HANSEN: Thank you. OK, are there any other proponents to LB926? Seeing none, is there anybody who wishes to testify opposed to LB926? Seeing none, is there anybody who wishes to testify neutral on LB926? All right, seeing none, the committee will waive closing and we had no letters for the record. And with that, we're done on LB926 and we're done with our hearings for the day. Thank you, everyone.

LATHROP: Perfect, nice job.

M. HANSEN: Thanks.