

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee February 10, 2020

M. HANSEN: All right and good afternoon, everyone. And we're going to go ahead and get started for today. First of all, thank you to everyone for your patience. We had a little bit of an issue just getting set up in our new room with all of our technology for our committee clerk. And with that, welcome to the Business and Labor hearing. My name is Senator Matt Hansen and I serve as the Chair of this committee and I represent Legislative District 26 in northeast Lincoln. We'll start off today by having committee members do self-introductions starting all the way on my right with Senator Slama.

SLAMA: Fantastic. Julie Slama, representing District 1, which is Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

HALLORAN: Steve Halloran, representing District 33, which is Adams County and western and southern Hall County.

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

TOM GREEN: Tom Green, legal counsel.

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

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

M. HANSEN: Keenan Roberson is our committee clerk who will be assisting us. Also assisting us are two pages, Kaitlin and Erika. This afternoon, we'll be hearing five bills and we'll be taking them up in the order listed outside the room. On each of the tables in the back of the room, you'll find pink testifier sheets. If you are planning to testify today, please, please fill one out and hand it to the page who will meet you at the front table, who will hand it to Keenan when you come up. This will help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on the committee statement for a particular bill, you must testify in that position during that bill's hearing. If you do not wish to testify, but would like to record your position on a bill, please fill out the white sheets in the back of the room. I would also like to note the Legislature's policy that all letters for the record be received by the committee at 5:00 p.m. the business day prior to the hearing. Any

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handouts submitted by testifiers will be included as part of the record as exhibits. We ask that if you do have handouts, that you please bring nine copies and give them to the page when you come up. If you brought less than nine copies, please let us know and the page will help you make more when it's your time. The 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 capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving us your first and last name and please also spell your name for the record. That's a courtesy to our transcribers. I would also like to note that we should not have any outbursts or cheering or applause from the audience. That's out of courtesy to our transcribers who are trying to preserve an accurate record of the hearing and to senators who are trying to ask questions and understand the testifier. We'll be using a four-minute light system today. When you begin your testimony, the light up here by me will turn green. The yellow light is your one-minute warning. And the red light comes on, we will ask you to wrap up your final thoughts. I would like to remind everyone, including senators, to please quiet your cell phones. With that, today, we're going to begin with LB1216 and I believe we have Senator Vargas' staff who is going to introduce the bill on his behalf.

MEG MANDY: Good afternoon.

M. HANSEN: Welcome.

MEG MANDY: My name is Meg Mandy, M-e-g M-a-n-d-y, and I'm the legislative aide for Senator Vargas, who represents District 7 here in the Legislature. It's the communities of downtown and south Omaha. He is in another committee hearing with two other bills for us today, so you get me. I'll read from his testimony here and then I can try to answer any questions if you have them, after my opening. LB1216 is in line with areas of research and recommendations from the Legislature's Planning Committee, which Senator Vargas is Chair. For the last few years, we have worked with the University of Nebraska to research and study policies that are necessary to enact in order to prepare Nebraska for the future. Our 2019 annual report includes a summary of this work. LB1216 is in line with one of the committee's priority areas, which is to increase the number of workers and H3 jobs and to address rural depopulation and brain drain. LB1216 establishes funding

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for a grant program that will disperse awards to Nebraskans who live in a rural county and who are employed in an H3 job. The definition of H3 that is in the bill is what is determined jointly by the Departments of Economic Development, Education, and Labor; meaning a high-wage, high-skill, and high-demand occupation. Eligible applicants would receive an award amount based on their hourly wage each month for up to 24 months, as outlined on page 4 of the bill. Applicants would be required to live in a rural county for at least 24 months after the award ends for a total of four years of residency. LB1216 is funded through a General Fund appropriation of \$2 million to an endowment fund. Each year, the state would continue funding the program with up to \$1 million of one-to-one matching funds. The program would sunset after ten years, in 2031, unless it's renewed. The last thing to mention is that we had a call to our office last week with a concern about our definition of postsecondary institution, which would require a physical presence in Nebraska. That definition is in-line with the Postsecondary Institution Act and Private Postsecondary Career School Act, which is why it was used. However, upon thinking through the goals of LB1216, it seems unnecessary to require that the postsecondary institution have a physical presence in the state. Our goal is to attract workers to rural areas of Nebraska, whether they were educated in the state or not. Our office worked up an amendment, which I believe you all have in your materials, that changes the definition in the original bill to include any postsecondary institution in any state that is operating similarly to what is required in the Postsecondary Institution Act. And with that, I'll answer any questions.

M. HANSEN: Thank you, Ms. Mandy. Since you offered, are there questions from the committee? Seeing none, thank you.

MEG MANDY: Thanks.

M. HANSEN: All right. With that, we'll move to our first proponent from LB1216. Any proponents for LB1216? All right, seeing none, are there any opponents to LB1216? Hi, welcome.

KATIE THURBER: Thank you. Good afternoon, Chairman Hansen and members of the Business and Labor Committee. My name is Katie Thurber, K-a-t-i-e T-h-u-r-b-e-r. I'm general counsel for the Nebraska Department of Labor and I'm here on behalf of Commissioner of Labor John Albin. He apologizes for not being here today. I will read his letter into the record and attempt to answer any questions you may have. My name is John Albin, Commissioner of Labor. On behalf of the

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Nebraska Department of Labor, I offer this letter in opposition to LB1216. I respectfully request this letter be included as part of the record for the public hearing on this matter. I apologize that I'm not able to appear before you today in person, as I am currently attending the 2020 National Association of State Workforce Agencies Winter Policy Forum in Washington, D.C. The Nebraska Department of Labor is opposing the bill due to technical concerns and funding issues. LB1216 creates a new program, the H3 Rural Renewal Act, to be administered by the Nebraska Department of Labor. In general terms, the program provides for scholarships to be awarded by NDOL to eligible residents of rural counties employed in H3 occupations. NDOL is tasked with creating the application process, awarding the scholarships, conducting continued eligibility reviews, and ensuring overpayments are reimbursed. LB1216 also creates the H3 Rural Renewal Award Endowment Fund and the H3 Rural Renewal Award Cash Fund. As drafted, the program initially funded by a \$2 million transfer to the Endowment Fund on August 1, 2020. The program is administered and funded from the Cash Fund. Only earnings from the Endowment Fund may be transferred to the Cash Fund. It is unclear in LB1216 how often earnings will be transferred from the Endowment Fund to the Cash Fund. The Cash Fund may be used for both the payment of scholarships and the administration of the program. LB1216 requires NDOL to publish their list of rural counties on or before January 1 of each year. NDOL assumes that applications are then anticipated to begin by January 1, 2021, but the bill does not provide a specific start date. By January 1, 2021, NDOL anticipates 2.25 percent earnings from the initial \$2 million transfer to the Endowment Fund. This would be approximately \$15,000 in the initial funds available to NDOL to both administer the program and to pay scholarships. For FY 2020-21, NDOL anticipates a total of \$37,500 will be transferred from the Endowment Fund to the Cash Fund over the course of the year. Scholarships range from \$100 to \$450 per month. Assuming an average scholarship of \$250, NDOL would only have sufficient funds to award 60 scholarships during the first month and would then have to prorate down for the remaining months. This calculation excludes the cost of administering the program. As drafted, additional General Funds will be required for all administrative costs. For FY '21-22, NDOL anticipates \$45,000 will be transferred to the Cash Fund over the course of the year. This is insufficient to award any reasonable amount of scholarships to administer the program. This would create an additional General Fund impact in order to cover the initial startup and ongoing administration of the program that cannot be covered by the Cash Fund. LB1216 provides for ongoing transfers to the Endowment Fund of up to

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\$1 million per year. However, money may only be transferred if there is a dollar-to-dollar matching funds donated. LB1216 is unclear if NDOL is expected to actively fundraise for the program and there is no way to calculate assumed donations. But if NDOL does not receive donations, no further money will be transferred to the program. NDOL understands the importance of retaining and attracting talent and quality jobs to rural Nebraska. However, NDOL has significant concerns about the overall cost of the program based on the limited funding available. Thank you for your consideration. Sincerely, John Albin. And I'd be happy to attempt to answer any questions that you have.

M. HANSEN: Thank you, Ms. Thurber. Are there any questions from committee members? Seeing none, thank you for your testimony. Is there anybody else wishing to testify in opposition to LB1216? Seeing none, is there anybody who wishes to testify neutral on LB1216? Welcome.

JOSIE SCHAFFER: Chairperson Hansen and members of the Business and Labor Committee, my name is Dr. Josie Schaffer, J-o-s-i-e S-c-h-a-f-f-e-r, and I'm the director of the Center for Public Affairs Research at the University of Nebraska at Omaha. I'm here to testify in a neutral capacity for LB1216, Senator Vargas' proposal to adopt the H3 Rural Renewal Act. I'm here today as a private citizen and do not represent the University of Nebraska, nor does my testimony represent the official position of the University of Nebraska. However, in my capacity as a researcher of public affairs and having worked directly with the Planning Committee of the Nebraska State Legislature for the past 18 months, I would like to offer some research-based insights from the work presented and discussed in the Planning Committee as it relates to LB1216. The Center for Public Affairs Research estimates that 65 percent of the population of the entire state lives in 12 counties. That has not always been true. Prior to 1960, the bulk of the state lived in rural areas. We can attribute most of the declining population in rural areas to out-migration. We have seen a trend of Nebraskans in rural areas moving to urban areas of the state. Between 2010 and 2018, we estimate the total population of Nebraska grew 5 percent, but 66 counties lost population. Population shifts have created challenges for rural Nebraska; a work force that is moving closer to retirement age faster than urban Nebraska, an economy with many in low-productivity jobs. Those mean low wage and low innovation, but of course, hardworking people and a low job growth rate. A study from McKinsey and Associates in 2019 on the future of work estimates that job creation through 2030 is concentrated in urban counties. By their estimates, only four

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counties in the state of Nebraska are expected to have a net job growth rate over 5 percent. While the data points to the challenges of rural Nebraska, the issue was best identified by the members of the Planning Committee of the Nebraska State Legislature. During an October meeting, committee members expressed agreement that rural development was an important goal of the committee. They noted specific trends that they would like to see reversed, including reducing out-migration, particularly a family with children-- families with children, ensuring a good quality of life in rural Nebraska, including safe communities, access to healthcare and quality education, broadband accessibility and speed, growth in remote workers that choose to live in rural Nebraska, growth in agribusiness throughout rural Nebraska, and evaluating and supporting the accessibility and affordability of housing in rural areas. In response to the goals that the committee laid out for rural development efforts, I identified a series of policies in other states pursued for similar reasons. A full review of the efficacy and implementation details of any of these efforts was beyond the scope of the work in Planning Committee this season, but hopefully, they will be reviewed in the future. I do want to discuss a couple of those programs that were mentioned. One program for rural development is the work of the Appalachian Regional Commission, a federally funded effort. Nothing of that scope is possible, I would guess, as they've done 25,000 projects to the cost of \$4 billion since 1965. But we could learn from the priority areas that they have supported, including entrepreneurial and business development strategies, education, knowledge, skills, and health of residents, critical infrastructure, especially in broadband, and developing the region's natural and cultural heritage assets. Finally, building the capacity and skills of current and next generation leaders. In an analysis of ARC funding patterns between 2016 and 2018, I noted that investments in business site development and access to capital had increased. The largest "expendicature"-- expenditure category is consistently community infrastructure. Another large area is work force training. However, funding in this area has decreased recently. I also summarized a range of state-based programs for rural economic development. These include programs from the Wisconsin Legislature's Rural Initiative-- that is actually a group of rural senators working together to propose initiatives for rural development. It doesn't mean that anything has passed-- Kansas Rural Opportunity Zone Program, Utah's Rural Economic Development Incentives, and the Kentucky Business Investment Clusters and Montana Rural Physician Incentive Programs. Elements of LB1216 reference some of these programs. For instance, the Kansas Rural Opportunity Zone

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Program offers student loan repayment for those that live in a rural area. Montana's Rural Physician Incentive Program provides loan forgiveness to doctors and nurses living in rural areas. And Wisconsin has loan forgiveness programs for teachers that work in rural school districts. In contrast, most of the Utah rural economic development efforts focus on business incentives for job creation and investment in rural areas. One point of departure for LB1216 is a focus on H3 jobs; high-wage, high-skill, and high-demand jobs. While some of the policies previously mentioned target a certain type of job, LB1216 offers a broad definition of jobs that are important to the state and our rural economy. There, they're a focus for a few reasons. First, notably 8 percent of Nebraskans are employed in high SET jobs: science, engineering, and technology. Compared to the country and most of our neighbor states, that's quite low. We're in the lowest quartile. For instance, Kansas has 13 percent in high SET and Colorado is in the top at 15 percent. The fact is Nebraska has more people working in low-productivity jobs than we do in H3 jobs. This is particularly true in rural Nebraska. Second, H3 jobs produce jobs that support a growing economy. For instance, in Nebraska, it is estimated that every physician creates 11 new jobs and national estimates suggest that every new high-tech job creates 5 additional jobs. Thus, it makes sense that Nebraska would want to support growth in H3 jobs, particularly in our rural communities. In addition to my testimony, I have provided some graphs and maps about the changing demographics of rural Nebraska and related data points to LB1216 that were prepared at the request of the Planning Committee at the Nebraska State Legislature. Thank you for your time. I'm happy to answer questions.

M. HANSEN: Thank you, Dr. Schafer. Are there any questions from the committee? Seeing none, thank you for your testimony. Is there anyone else who wishes to testify in a neutral capacity on LB1216? Seeing none, I presume Senator Vargas' office-- they do waive closing. With that, we did not have any letters for the record. So we will close the hearing on LB1216 and we will move on to LB813 by Senator Bolz.

BOLZ: Good afternoon, Senator Hansen. As Chair of the Legislature's Economic Development Task Force, I've spent a lot of time talking to businesses, workers, people in higher education, economists, students, business advocates, and others about Nebraska's economy and filling our work force needs. So today, I am here to introduce LB813. And I forgot to introduce myself. I am Senator Kate Bolz, that's K-a-t-e B-o-l-z. There were several themes presented to the Economic Development Task Force and I think those themes reflect years of

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careful research and analysis. According to Blueprint Nebraska, we have a work force deficit of 24,600 people. That's consistent with the research that we found around our growing work force demands. According to the Department of Labor, 71.4 percent of businesses cite difficulty hiring workers, while at the same time, again, according to the Department of Labor, 74 percent of workers cite difficulty in their ability to afford said skills training. So apprenticeship programs are a part of the solution to these problems. They bring together workers, employers, and entities with training expertise. LB813 builds on our success in this area. The Department of Labor has worked hard to strengthen our apprenticeship programs. DOL has received a federal grant to do this work as well. LB813 aligns directly with the goals of expanding apprenticeships, especially for nontraditional workers that are articulated in the Department of Labor grant. We can also expand into new industries like healthcare in addition to traditional programs like those that serve electrical workers. The bill adds flexible resources to the Department of Labor to provide technical assistance to employers, including establishing or expanding registered apprenticeship programs, drafting standards, and helping with recruitment. The bill also adds flexible resources to the Department of Labor to provide grants to employers partnering with the Department of Labor for equipment, curriculum development, and other needs and/or their employees' needs for tuition assistance, books, tools, and supplies. I met with the Department of Labor regarding apprenticeships and had an excellent and lengthy conversation with them. I spent a fair amount of time with Director Albin and with members of his staff. Scott Asmus, one of their employees working on apprenticeships, was praised for his hard work. The commentary specifically, as I captured in my notes, was we need more Scotts. In other words, we need more bandwidth. We need more people like Scott with the technical expertise to help reach out to businesses and grow our apprenticeship work. This bill would do that. In addition, the conversation specifically referenced lower wage levels and the need for tuition assistance. My notes reflect that these were described as holdups for employers and employees who may want to participate in an apprenticeship program, but might have some challenges in doing so. When I met with employers and workers, they identified barriers to apprenticeships, such as the ability to afford tools and needed help to pay for tuition. This bill provides additional resources to do that. Supporting apprenticeship programs was a recommendation of the Economic Development Task Force, which was a bipartisan cross-committee task force of senators appointed by the Executive Board. It builds on the investments already being made by

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employers in training and employees in building skills training. It responds to both interest and demand. Nebraska's eligible training providers list has grown, as has our list of interested employers. Even youth programs are growing. So I encourage you to support this bill. I do want to draw your attention to an amendment that was filed on January 27 and I hope everyone in the hearing today has had an opportunity to review and think carefully about that bill that was-- that amendment that was filed at the end of January. The amendment-- we, we originally thought that this bill might be referred to Appropriations. So this bill better reflects its reference to the Business and Labor Committee by doing a couple of things. One, it makes it more clear that we are referencing federally registered-- federally approved apprenticeship programs and clarifies that this would establish a program and provide ongoing funding, which is a more appropriate approach for the Business and Labor Committee to establish some standards and provide some ongoing funding. So I've, I've talked to you enough. I will wrap it up and see if there are any questions or clarifications that I can offer.

M. HANSEN: Thank you, Senator Bolz, for your opening. Are there questions from committee members? Senator Chambers.

CHAMBERS: Senator Bolz, welcome to the committee. I haven't had a chance to really look at this bill, but I read some of the material in our book. This \$4 million is disbursed how? Does it go to the employers?

BOLZ: So the, the amendment clarifies the approach a little bit better, I think, than the bill as introduced. And that's, that's on us and we, we clarified that through the amendment. What we're proposing through the amendment is a \$1 million ongoing appropriation that the Department of Labor would make determinations about how to utilize it. We wanted to provide flexibility so that first, the Department of Labor could use those resources for any technical assistance that's needed, so they can use their existing bandwidth for curriculum development or outreach to employers and employees. The remainder could be used for grants that the employers could use for books, tools, tuition assistance, those kinds of things.

CHAMBERS: Maybe I need to focus my question a little better. Does any of the money go directly to the individuals who are seeking employment?

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BOLZ: It goes to the individuals indirectly.

CHAMBERS: Say it again.

BOLZ: It only gets to the individuals indirectly. It goes-- the grant would be made to the employer and the employer could use it for things like books, tuition assistance, tools, supplies, those kinds of things.

CHAMBERS: So then it would be accurate to say that the money is going to go to the employers?

BOLZ: That's right.

CHAMBERS: Now I have disagreed with Governor Ricketts on a number of things, but sometimes he makes a point, probably by accident; but he talked about creeping socialism and that's where government gets involved with market activities and regulating. Now if the government is giving money to a business directly, the business will employ the workers, is that true?

BOLZ: The business will employ the workers, yes.

CHAMBERS: But could this be considered creeping socialism because the government is becoming involved? It's not a matter of employers reaching out and seeking employees. The government is subsidizing these employers, in a way, because the work done by these people will redound to the benefit of the employer.

BOLZ: I guess I would respectfully offer a different perspective. One is that I think there are lots of ways in which the government incentivizes certain behavior and provides opportunities for people. I think apprenticeship programs, which are rooted in curriculum and skills training, are one of those examples; just like our Nebraska Opportunity Grant Scholarship Program, which I don't, I don't know if you can make an argument that that's socialism. I'd also share with you, Senator Chambers, if it is socialism, someone should alert President Trump, who I don't believe supports socialism, and who, whose administration provided the federal funding that we are mirroring in this state program.

CHAMBERS: Oh, so then President Trump is really an undercover socialist, just as he is an undercover Democrat, as I said when he was running, because his intent is to destroy the Republican Party, which he has done now. And I wrote him a letter before he was elected and

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indicated that he is so effective in what he's doing that we will change that expression of the captain going down with the ship to the ship going down with the captain. But after I hear your explanation, I don't think this is creeping socialism or socialism in any guise. And the Governor, the one point I was going to give him for having a point has to be taken away and he flunked that test again. I think this could be a program that's of value. And my concerns were removed by your very capable response and I thank you for improving my education today.

BOLZ: Thank you, Senator Chambers.

M. HANSEN: Thank you, Senator Chambers. Any other questions from committee members? Seeing none, thank you for your opening, Senator Bolz. And with that, we will move to our first proponent for LB813. Welcome.

SUSAN MARTIN: Good afternoon, Senator Hansen and members of the Business and Labor Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n. I'm testifying today on behalf of the Nebraska State AFL-CIO and our members throughout the state of Nebraska in support of LB813 and AM2147. Ask any construction contractor or CEO what keeps them awake at night and the answer, more often than not, is whether they will have enough workers to staff their jobs. In Nebraska, our construction trades say the biggest issue they are dealing with is lack of workers to meet the demand of the jobs. There is plenty of work, but not enough workers. As in other industries, we are seeing a lack of applicants to apprenticeship programs. Although this has been increasing in some trades, plumbers could use about 10 to 20 more licensed journeyman plumbers. Steam fitters are struggling to find skilled people with 10-plus years of experience and have a shortage of welders. Ironworkers continue to be busy with a shortage of workers. They could use, easily, 40 additional ironworkers for the projects that they have going on and electricians reported on many new opportunities coming up in the near future and overall, say the work seems consistent through home, commercial, and industrial scopes of construction, but again, have a shortage of workers. Barriers we have identified begin at the high school level. The lack of information on options for students is a major contributor. More focus at the high school level or even the junior high level for options other than college should be a greater focus. For so long, college degrees have been the push of high school counselors and it's increasingly apparent that a college degree and debt isn't the only option available to our

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students. By going through an apprenticeship program, these young people not only earn while they learn, but they come out of these programs with a high-earning job and no college debt. Apprenticeship programs can be life changing, helping individuals to start a pathway to careers with good wages, benefits, and opportunities for advancement. Apprenticeships not only benefit workers, but they're also a proven model for businesses to train and retain highly skilled workers and enhance the diversity of their work force. Women have the skills to perform and excel in nontraditional jobs, but also face barriers such as fear of acceptance on the job, fear of discrimination in the form of stereotyping or sexual harassment. Single mothers face challenges in obtaining quality childcare if they're working through the day and attending classes at night. Partnering with organizations that provide or broker affordable childcare resources would be valuable. Another issue we have is the language barrier. Many times employers will not employ employees to work on a job site if they're unable to communicate. For example, our asbestos workers have a hard time finding people for their particular trade who speak English. A contractor won't employ those who cannot speak English because it is, of course, a safety issue. Although classroom training and on-the-job training are provided to our apprenticeships, in many cases, the tools for their trade is the responsibility of the apprentice. This can get costly, depending on the trade and can be a burden or a hindrance for completing the program. LB813 and AM2147 are crucial steps Nebraska can take to assist in recruitment of young workers into apprenticeship programs by providing financial assistance to those in currently federally registered apprenticeship programs. Although they are working, it is typically at 50 percent or less pay than a journeyman and they are required to purchase their own tools. Some registered apprenticeship programs have day school and the time that apprenticeships are required to be in school is not paid by their employer. Providing a stipend to supplement that income or to assist in purchasing tools required by the trade would be excellent recruitment tools. Finally, we thank Senator Bolz for being so diligent in promoting work force development. Several pieces of legislation have been introduced in the past, particularly by Senator Bolz, and it goes nowhere. I think that our legislators need to have a better understanding from its business and work force on what we can accomplish together. A good, educated work force helps not only our employers, but our communities and our economy. We need to be focusing on creating new programs to retain our workers and keep them in Nebraska and retraining those workers to fit the needs of new jobs that are created. Nebraska needs to invest in manufacturing and

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recruit new business in the western part of our state. We, as a state and a nation, should be focusing on improving the lives of our workers, which in turn, benefits the employer and the economy. Providing access to training and educating our students on options other than a college education should be a priority. Not everyone wants to go to college or can afford to go to college and knowing that there are other options available to them will ensure a skilled work force. Business and labor should be working together on policy, not against each other. So again, we have the need, we have the programs, and we need to concentrate on recruitment and sustainability. Thank you for your time today.

M. HANSEN: Thank you for your testimony. Any questions from committee members? Senator Chambers.

CHAMBERS: Now this is a lead-in, are you now or have you ever been a socialist?

SUSAN MARTIN: Me?

CHAMBERS: Yes, as far as you know?

SUSAN MARTIN: As far as I know, no.

CHAMBERS: You do not consciously hold to this doctrine of socialism, whatever that may be? OK. There is an expression-- chickens coming home to roost. Trade unions, businesses have traditionally, throughout my lifetime-- I'm 82 years old-- discriminated against black workers. They may as well put a sign that says you need not apply. So now the chickens are coming home to roost in the form of not enough white people available to fill jobs. Black people were turned away from apprenticeship programs. Unions, public and trade, discriminated openly. So as a person who has been very observant of what has happened in this country, I would suggest that these businesses and these trade unions make an affirmative effort to welcome those against whom they have discriminated. And they have discriminated. Now I did some bricklayer work with a private contractor when I was very young. I mixed mortar. I could use a bull float. I could use a trowel. I could cut those decorative stones that are used on the outside chimneys of fireplaces. And that's when I was in my early years, in high school. So I know that the work is not beyond the ability of black people. So I would recommend that the CIO, the AFL, all of these unions, the police and fire unions, correct the wrongful mistreatment. This I need to put into the record because I would not be doing my

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duty and I would not be performing a service to you and whoever in the audience might be among those who discriminated and now they see the results of it. They cannot find enough what they call trained or skilled workers. One other point; well, maybe I'll save that for the next testifier. But I think this probably is a program that has helped, that has potential and maybe since you're a union person, I should tell it to you. A firefighter in Omaha went into a bar. There was a black lady sitting with white women. He made three explicit sexual advances to her and she rebuffed him and he wound up giving her an elbow, which was caught on the video. The fire chief fired him, the mayor agreed, and the fire union, which has discriminated against black people, wanted him to come back. So they favor this discriminatory mistreatment. And the thing that informs the nature of his act was when he punched her and knocked her across the bar, he whispered white power and the people who ran the bar kicked him out. The arbitrator said that he should get his job back because there had been many instances of discriminatory mistreatment of black people by firefighters and they were not fired. So what they are doing now is taking advantage of their racist culture to say we know it's a toxic, racist culture in the fire department, but look how many other firefighters helped contribute to it. So we should now use as a defense against firing the discrimination that has existed in the fire department. What the mayor should say is that an end has to be brought to this toxic, racist culture in the fire department. And the firing of this guy was the beginning of that. But to try to help him get his job back, the racist firefighters union is using the past discriminatory treatment as a basis for this racist to get his job back. So when we, as black people, see all of that going on in this society and listen to the President make the kind of statements that he makes against black countries and nonwhite people, when individuals in a position such as yours with the union comes before a committee-- if there is a black person on that committee, it's his or her responsibility because nobody else is going to assume it, to say something. What these cowardly Omaha firefighters did when a black woman finally was hired-- she was in a firehouse. They have a women's restroom. Two of them, to use white people's term, "crapped" in the women's bathroom because she was the only one who would use it. Now that is low down, dirty, and cowardly, but the ones who did it were not fired. So how in the world are you going to persuade black people that if you come to this training, you'll be accepted, you won't have to listen to the n-word when an employer says if somebody called you and uses that word, n-word, would that bother you? That's the kind of stuff they pull on us. So I have a great deal of skepticism whenever

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these programs come up. But when I look at some of the people who are supporting them, my hope is that they will join me in trying to let these employers know that the toxic, racist cultures that continue to exist are not going to be tolerated and these programs will not be open to you. And these unions should have that brought to them. Ordinarily, I would favor unions, but when they discriminate against me, why in the world should I strengthen the hand of black-- of white men and women to deprive me of employment? I don't know you personally. I don't know anything about your background. I have to judge you on the basis of the way I would like to be judged, meaning that I will take you at your word and I look for a change in the way the unions have done. With my having said what I have said-- if what I've said is true, if it's theoretical, then give me a theoretical answer. If these things are true, would you tolerate them if you saw them going on in the union that you're connected with?

SUSAN MARTIN: I appreciate your comments, Senator Chambers. I absolutely do not tolerate that type of behavior. I support all working men and women and that is why I was elected to this position.

CHAMBERS: And now I join former President Barack Obama in saying that if women took over, there would be a change in this country. And not just because women are women, but because women are the nurturers who rear children, who don't just look at this snapshot going on right now, but thinks about the future and the welfare of their children; will look at the society at large in the same way and not have a good old girls club like these so-called good old boy clubs who discriminate against everybody. So there was a song by a hillbilly and it was called Patches. And he worked hard because his father died and he had to get a job and take care of the family. So the mother said, Patches, I'm depending on you, son. I'm not calling you Patches, but I'm depending on you, ma'am, to help bring some civilized, fair conduct to the unions to the extent that you can.

SUSAN MARTIN: Absolutely, Senator.

CHAMBERS: And I don't think that you're a socialist. I don't think you've ever been one. And I don't think the Governor knows what he's talking about, but he heard Trump say that and he is an echo, rather than a voice. That's all I have, Mr. Chairman.

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

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SUSAN MARTIN: Thank you.

M. HANSEN: We will invite up our next proponent. Hi, welcome.

FELICIA HILTON: Thank you, Mr. Chairman, the rest of the committee. My name is Felicia Hilton, F-e-l-i-c-i-a H-i-l-t-o-n, and I work for--I'm a carpenter-- North Central States Regional Council of Carpenters, and I cover Iowa, Nebraska, and South Dakota. And I'm here to speak as a proponent for this bill. One of the reasons why we're in favor of it is because we do need more people to get involved in the trades and to be trained up in a skilled trade of their choice. Secondly, as an apprenticeship program in our institution, we're 118 years old, United Brotherhood of Carpenters, and we have been funding our own training without any government funding or subsidy through our partnership with labor management this whole entire time. So we've been training up carpenters of the future. We pay 10 cents of every hour worked into training because we believe in making sure that we are investing in educating the carpenter of the future. Typically, we have not been very supportive of bills that have government funding to help subsidize business because the contractors that are in the certified registered apprenticeship programs with us, we all fund it together. Between labor and the carpenters, we fund our own apprenticeship training. But we do see the need for more people doing earn-while-you-learn education. And that is our, our biggest issue for being here today-- is that these earn-while-you-learn programs, they are four-year programs. It is STEM, science, technology, engineering, and math applied. You cannot build any building or do anything without these things: science, technology, engineering, and math. So we do believe that it is important that when it comes to STEM education and when it comes to talking about trades in that sense, that we recognize the quality of learning that takes place in these apprenticeship programs. I like to say we're NASA on the ground. If you walked in any training center and you saw the math on any of the boards, you'd be astounded. I don't believe that it's something that a lot of people could just look at and figure out and understand because it is very complicated. Obviously, we're, we're taught to measure twice, cut once. You don't want to waste a bunch of material and have a bunch of mistakes. But we find that that investment in earn-while-you-learn four-year program-- in the carpenters', you go for the four years and every six months, you get bumped up in pay. You're out in the field for 12 weeks, you're in the classroom for one week, and then training programs can decide on their own if they're going to offer a stipend. We do-- when the apprentices are in the class for that week, they get

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a \$250 stipend. And we feel as though more-- we're actually happy that it's not just the carpenters and the trades that have been screaming at the top of our lungs for we need more investment in apprenticeships. We need more educators in high schools and counselors to recognize that racking up a bunch of college debt isn't for everybody. A number of apprentices graduate the apprenticeship program. And we teach them how to manage their money so they can be prepared when it's winter, when it slows down, all those types of things, the ebbs and flows of manning up and manning down on a job. But what, what we find most satisfactory is that when they do finish, the first thing they do is build their own home. So we think that the more everyone is invested in helping kids recognize that you can go to college and owe a bunch of money or you can come into the trades and make money and you can graduate in four years without any debt. And you can begin your life, in that sense. And you have health benefits and retirement right off the bat, at the moment you become an apprentice. So we're happy about this bill. We agree with the investment. We have a little-- a few concerns, but nothing more than it's about time that everybody got some skin in the game and stopped just pushing college education on kids and then they graduate with a bunch of debt when there's these programs out there that have existed for over 100 years. And we're self-funded, we appreciate the ability to possibly apply for some of this money. But frankly, I'm not sure that, you know, it would actually benefit us, but we are 100 percent confident that it will benefit working people in Nebraska. And I'm done.

M. HANSEN: All right. Thank you, Ms. Hilton. Any questions from committee members? Seeing none--

FELICIA HILTON: No, I'm not a socialist. Can I address something, though, that Senator Chambers said about the racism in, in organized labor? I don't think that we deny that organized labor has had a history of excluding people. But I can say that today's labor movement has been under a lot of pressures and has been fed to the slaughter for a number of years, for the past 40 years. So we can't be all things to all people. But I do know that everything I know, I've learned through organized labor. I was an organizer. I went to the AFL-CIO's Organizing Institute. I didn't feel as though anyone pushed me away, including in the trades. And it's been a struggle to get women and people of color in the trades, but my dad was a carpenter so I'm familiar with it. And it's just like if you grow up on a farm, you're more likely to feel comfortable being a farmer. And I've

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noticed with our outreach in communities of color that that has been one of the bigger barriers. Number one, our job sites are not close so it's hard to get people to and from a job site if they don't have a car. We're a 100 percent drug-free work environment so that has been a barrier for people. And we've been working on trying to address those types of issues; how to get people to and from work, the barriers of passing a drug test because it's a federal DOL-administered drug test if you're going into the apprenticeships and the employer. So you're on a, you know, 100-story building, you're tied off; obviously, we're, we're pretty strict about that. But I do think that when it comes to communities of color, that is one of the biggest barriers, is that most people that are carpenters or millwrights or a piledriver, their dad was, their uncle was; it's something like that. And so that's the connection and the disconnect between a majority white, male workforce and trying to recruit women that have never done this before, trying to recruit people of color, that have never done it before. It's easy for me because my dad was a union carpenter, but at the same time, it is-- I can see where there are a lot more things that are barriers to communities of color getting in the trades than racism. And I just want to put that out there because I don't want people to think that all organized labor is dealing with that blatantly-- racism that blatantly. We've worked really hard. As a matter of fact, we just changed our disability for women to \$850 a week. If they are pregnant and they have to take time off because, obviously, if you're in construction, you might not be able to work for up to 26 weeks, they'll get \$850. Our typical disability is \$350. It was a bunch of men that approved that so-- a bunch of white men, at that. So I'm not here to defend anyone. I'm just saying we're the union. And when it comes to the union, we negotiate our wage and our benefits. And that's what we do. And we've taken it on and we've taken the responsibility to keep a trade and a tradition that we pay for ourself. And that we have been under the gun and being attacked by governments, you name it; everybody is out to get the union. So I'm just going to push back on the racism in the sense of we are under a lot of pressure and we are trying to make sure that we can stay a union under a lot of federal and state legislators that have been working against us. And I think we'd be a lot further in that if we didn't always have to be on the defense.

M. HANSEN: Thank you, Ms. Hilton. Senator-- Go ahead, Senator Chambers.

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CHAMBERS: I don't want to seem-- that I play favorites, but your testimony was different from the others. However, I have a question to put to you. Do you work for a company?

FELICIA HILTON: I work for the carpenters. I'm a carpenter, but now I work for the carpenters.

CHAMBERS: OK. Do the carpenters that you work with have an age limit for the people who can get into programs?

FELICIA HILTON: We don't have an age limit, but we can take a preapprentice at 17. It's just harder to get them in the field because of insurance regulations on the company side, on the contractor side.

CHAMBERS: I mean the top limit. I'm going to be out of the Legislature after this session and I may be needing a job.

[LAUGHTER]

FELICIA HILTON: No, you can come into the-- we've had-- our oldest apprentice was 61 years old. So you can come in.

CHAMBERS: Well, that's [INAUDIBLE] to me.

FELICIA HILTON: Well, I'm just saying you can come in.

CHAMBERS: OK, thank you.

FELICIA HILTON: You're welcome.

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

B. HANSEN: Thank you. Maybe not--

M. HANSEN: Oh, Ms. Hilton? One more.

B. HANSEN: Sorry, I just-- brief commentary. And I know Senator Chambers usually has the last word.

FELICIA HILTON: Oh, sorry.

B. HANSEN: That's fine. I think-- you've been in front of this committee a couple of times now already since I've been here.

FELICIA HILTON: Yeah.

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B. HANSEN: And I just want to mention, I do appreciate your, kind of, fresh perspective, especially when it comes to education and when it comes to labor, the trades specifically. One of my best friends is a carpenter, a contractor and whom I have multiple discussions about this, about education, where it's gone, why it's been pushing us, especially my generation, where we all need four years or six years in order to get a job that's going to pay well. And so I appreciate your fresh perspective on mentioning that here, about now not everybody needs a four-year degree to do well. I think it determines your hard work and your ethics and what you're going to put into it so I appreciate your saying that so thank you.

M. HANSEN: Thank you. Any other questions? All right, seeing none--

FELICIA HILTON: Thank you.

M. HANSEN: --thank you for your testimony, Ms. Hilton. Hi, welcome.

MARK BENJAMIN: Hi. Good afternoon, members of the Business and Labor Committee. My name is Mark Benjamin, M-a-r-k B-e-n-j-a-m-i-n, and I represent Clearway Energy Center Omaha, where I serve as the plant manager. My company and I strongly promote this bill. A few facts for perspective here: Clearway Energy Center Omaha, which is a nonunion business, operates and maintains three thermal plants providing heating and cooling to most nonresidential buildings in downtown Omaha. Each plant requires one shift operator 24 hours a day, 7 days a week, and 365 days per year. We also require a team of mechanics and technicians to maintain our plants, our distribution system, and our metering system. In order to operate our plants, our operators must hold a city of Omaha's, a stationary engineer license. As a prerequisite, this license requires up to five years of experience in the operation of boilers and chillers. In May of last year, two of our operators unexpectedly left the company and it took us six months to replace them given the stringent requirements of the position. The average age of our operators is 58 years old, with several operators retiring in the next 5 to 7 years. We commissioned a registered apprenticeship program in November of 2019 with the help of NDOL and the U.S. DOL representative to Nebraska. Scott Asmus and Elliott Cain were critical to the development of this program. We are partnered with Metro Community College for the academic portion of the apprenticeship where apprentices will earn their associates' degree. Apprentices will earn two U.S. DOL occupational titles during the course of their apprenticeship. And apprentices will also obtain their city of Omaha stationary engineer's license as a part of their

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apprenticeship. Our first apprentices will be arriving in a month or two. A little discussion here: previously, I served 30 years in the United States Navy as a submarine captain. After my recent retirement from the Navy, my family and I moved from Hawaii to Omaha, where I took employment at Energy Center Omaha. When I arrived at Energy Center Omaha in June 2019, we were two operators short, coupled with several operators planning to retire in the next five to seven years. The problem was clear; the supply of replacement operators and mechanics was not keeping up with the demand created by departures. The root cause of this problem stemmed from a small and shrinking pool of viable candidates. Contributing, trades have somewhat fallen out of favor with younger generations who were seeking a four-year university instead. Credentialing for these positions is hard. Operators must carry a city license, which requires one to five years of experience in the industry and months of independent and/or classroom study to obtain and proficiency takes time. Months of mentorship and training are required before an entry-level operator or a mechanic is capable of independently and effectively operating and maintaining the plants. I knew that we needed to establish a reliable stream of entry-level operators and mechanics to fill in behind the retiring operators. Faced with this problem, I assessed that an apprenticeship program may be the solution. However, I knew this program would be expensive and that I would need to show a return on this investment. Without external subsidies, I was unable to show a favorable return. Within three weeks of my hiring, I reached out to NDOL inquiring about apprentice programs and opportunities, where I learned about the state and federally sponsored registered apprenticeship program. I also learned that this program provided a variety of subsidies that deferred our costs by about 20 percent. Given the state funding, our ROI became more favorable and I presented the program to my leadership and they approved it. Despite the cost, the long-term benefits were clear to me and my leadership. The program would provide a sustainable source of journeymen and women who are already trained and proficient. With an initial investment of training, supervision, and mentorship, this program would build independence and competencies amongst the apprentices that would provide lasting returns. The program would provide relatively younger hires whose long-term retention would provide stability, experience, and reliability to Energy Center Omaha. Holistically, this program would show leadership in the community and in the industry by introducing the next generation to a variety of trade skills. In conclusion, strengthening registered apprenticeship programs will help Clearway Energy Center Omaha, our community, and the great state of Nebraska in general. In order to meet work force

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demands in this industry, we need more training platforms, more skilled workers, and more employment opportunities. I am convinced that registered apprenticeship programs are part of the solution. Thank you for the opportunity to testify today in support of this visionary and much-needed proposal. And I'm available to take questions.

M. HANSEN: Thank you, Mr. Benjamin. Are there any questions? Seeing none--

MARK BENJAMIN: Thank you, sir.

M. HANSEN: --thank you for your testimony. Hi, welcome.

ANDREW WATCHORN: Good afternoon, Senators. My name is Andrew Watchorn, A-n-d-r-e-w W-a-t-c-h-o-r-n. I am an apprentice in the Lincoln Electrical Joint Apprenticeship Training Committee Inside Apprenticeship Program here in Lincoln. I'm currently in my fifth and final year of the Inside Apprenticeship Program, which I will graduate in May. I'm here to testify today in support of LB813 and AM1247 [SIC]. I started the apprenticeship program in 2015 after, after I completed a bachelor's degree from Midland University with no previous electrical experience in the trade, but I had some construction experience outside of electrical. My first year, I spent around \$400-500 on hand tools alone and that's not considering buying boots, jeans to be equipped for the job. First-year books were around \$400-500 to join the apprenticeship. This program is a international-- internationally-recognized electrical apprenticeship and training program. It is being utilized by over 337 construction locals with over 8,400 partnering contractors employing both journeymen and apprentices throughout the United States and Canada, totaling over 300 million man-hours per year. It is our position that the current licensing requirements and their current provisional oversights are adequate and should not be watered down with more lower license classifications for already available JA or journeyman's license. Contractors that participate in the JATC have invested a lot of energy and money as well as five years of training for their future skilled work force. This is a good thing from an industry standpoint. And there is a return in that investment by having a properly-trained, safety-conscious, and productive skilled work force employed by them. But the challenge is that we need to increase the number of apprentices learning the electrical trade or any other construction trade and career paths utilized, approved, and registered apprenticeship programs. LB813 and AM1247 [SIC] further incentivizes

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Nebraska employers to utilize DOL registered and approved apprenticeship programs to grow their companies and skilled work force for the future. Thank you for taking the time to listen to me today and your support for LB813. I would be open for any questions and concerns.

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

KENNETH SNYDER: Good afternoon, Business and Labor Committee. My name is Kenneth Snyder, K-e-n-n-e-t-h S-n-y-d-e-r. My testimony will be similar to Andy, who just spoke before me. I am an apprentice in the Lincoln Electrical Joint Apprenticeship Training Committee, the Inside Wireman Program. I started in 2017 so this is my third year of the program. I initially, I initially was-- not discouraged, but it was almost a deal breaker when I learned about some of the expenses and the costs. And it was also a change of career for me to get into this program. But I knew that it was a good program so I jumped into it and my first year, I spent the same-- probably about the same amount on tools as common, around \$500, over \$500. But that doesn't cover-- the employer covers PPE such as gloves, safety glasses, hardhats, things like that. But we have to supply our-- you know, if you need winter gloves, rain gear, coveralls, lots of things that get you, you know, out in the elements and things like that, depending on where you're working. So, yeah, it is our position in this program that it's a good program. We don't want to-- we don't want it to have to go to-- to be reduced to people with less skills to get in just so we can up our work force. The contractors that we work for in this industry, they invest a lot of money and time. And I know, like, my first year coming in green, you know, you're really standing there and they're paying, you know, two man-hours for one person who's not doing anything and also slowing down your journeyman because he has to stop and show you each thing, which, you know, I'm sure that plays into, you know, the bidding and things like that and, and-- so we want-- I'm, I'm for LB813, for the reason that the investments-- the investment in, the investment in a skilled labor force. We want a, we want a return investment by having safety-conscious and a productive, skilled work force. And, and especially with electrical and it's just-- it's too dangerous to not have skilled workers. So yeah, LB813 with AM1247 [SIC] further incentives for Nebraska employees to utilize the registered and approve apprentice programs to grow their companies. And yeah, I am open to any questions on this bill.

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M. HANSEN: Thank you for your testimony, Mr. Snyder.

KENNETH SNYDER: All right, thank you.

M. HANSEN: Are there any questions? All right, seeing none, thank you.

RON KAMINSKI: Good afternoon, Senator Hansen, Chairman Hansen, members of the Business and Labor Committee. My name is Ron Kaminski. I am with the Laborers' International Union of North America, but I also serve as chairman of the Contractors-Laborers Training and Apprenticeship Fund in Nebraska. The biggest thing that we're all facing within, within the trades, whether it's union or nonunion, is manpower. Right now, we have approximately 2 percent unemployment and we do not have enough people to even consider or even think about filling these positions that our contractors are needing. Our board has representatives from construction companies and from the labor union itself. We train hundreds and hundreds of workers each and every year in a host of different types of curriculum. We are in complete support of LB813 with the amendment. And I'm here to answer any questions if there are any.

M. HANSEN: Absolutely. First thing and foremost, can we have you spell your name for the record?

RON KAMINSKI: Yeah, last name is Kaminski; it's K-a-m-i-n-s-k-i.

M. HANSEN: All right. Thank you, Mr. Kaminski. Are there any questions from the committee? Seeing none--

RON KAMINSKI: Thank you.

M. HANSEN: Hi, welcome.

JEREMY RANGEL: How are you doing? Chairman Hansen and members of the Business Labor Committee, my name is Jeremy Rangel, spelled R-a-n-g-e-l. I want to thank you for providing me the opportunity to voice my support in favor of LB813. I'm speaking on behalf of Duncan Aviation, the Lincoln Chamber of Commerce, the Greater Omaha Chamber of Commerce, Nebraska Chamber of Commerce, the Nebraska Bankers Association, and the industry. That's quite a list there.

M. HANSEN: It is.

JEREMY RANGEL: The reason I was selected to speak on this is because I was heavily involved in creating an apprenticeship at Duncan Aviation.

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It's a, it's a lot to get involved with. There's a lot of regulation involved with it, especially in aviation, to bring people in as mechanics. And so there's a lot of work getting started. And aviation, like many industries in Nebraska, is experiencing a lack of qualified applicants. That's nearing a critical point. Steady growth in the aviation industry coupled with the aging work force has resulted in a demand for workers that far exceeds our supply. The typical avenues used to fill our production needs, like schools and vocational programs, have been declining over the years. With the expansive growth of our industry and over the last 10 years, we felt it was necessary to develop new and innovative pathways into aviation. So the process to develop a curriculum was incredibly time consuming and costly. The approximate cost to get curriculum developed, facilities prepared, tooling, study materials, and instructors in place to start the program was right around \$300,000. As you can imagine, that's a substantial barrier to entry for any company to overcome. In addition to the startup costs, the operational costs are expected to be around \$180,000 a year in salaries and supplies and student study materials. But with all those costs being stated, the value to both Duncan Aviation and the participants is immeasurable. Duncan Aviation now has access to an entirely new pool of eager employees who, in turn, have ease of access to training and on-the-job experience necessary to succeed in our field, all while earning a paycheck. The standard development time for an uncertified technician was about four years to get to a journeyman level. With this apprenticeship program in place and the, the on-the-job training we do, it's now closer to 20, 24 months. That's pretty substantial. Thank you for your time and I'm ready for any questions if you have any.

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

JEREMY RANGEL: Thanks.

CARL MAU: Good afternoon, Senators--

M. HANSEN: Welcome.

CARL MAU: --and associated staff. My name is Carl Mau, C-a-r-l M-a-u, and I am the business representative and organizer for Steamfitters and Plumbers Local 464, here in Lincoln. We feel that the current apprenticeship model is the best way to train people for highly skilled jobs of the future. We are in support of federally registered apprenticeship programs since they require a strict training program.

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Furthermore, most federally registered programs are able to have articulation agreements with community college, where students can earn credits towards an associate's degree while learning their specific trade. Local Union 464 has articulation agreements with both Metro Community College and Washtenaw Community College. It is our hope that funds would be available to our students to register for further education in order to obtain their degrees at a community college through this bill. I would attempt to--

M. HANSEN: Sure.

CARL MAU: --answer any questions if you folks have any.

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

CARL MAU: All right.

M. HANSEN: --thank you for your testimony.

CARL MAU: Thank you.

M. HANSEN: Are there any other proponents for LB813? All right, seeing none, is there anybody wishing to testify in opposition to LB813? Hi, welcome.

KATIE THURBER: Thank you. Good afternoon, Chairman Hansen and members of the Business and Labor Committee. Again, my name is Katie Thurber, K-a-t-i-e T-h-u-r-b-e-r, general counsel for the Nebraska Department of Labor. And I am here on behalf of the Commissioner of Labor, John Albin, who apologizes for not being able to be here today. I will read his letter into the record and attempt to answer any questions you may have. My name is John Albin, Commissioner of Labor. On behalf of the Nebraska Department of Labor, I offer this letter in opposition to LB813. I respectfully request this letter be included as part of the record for the public hearing on this matter. I apologize that I am not able to appear before you in person, as I am attending the 2020 National Association of State Workforce Agencies Winter Policy Forum in Washington, D.C. The department is a huge proponent of apprenticeships. Apprenticeship expansion is a top priority of NDOL. In 2016, NDOL received an ApprenticeshipUSA accelerator state grant. After that grant expired, NDOL continued funding its apprenticeship efforts through other federal funding sources. In July 2019, NDOL received a grant from U.S. DOL for expansion of registered

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apprenticeships. In total, Nebraska currently has 131 U.S. DOL registered apprenticeship programs. These programs have trained 4,286 apprentices. Since October 1, 2019, 240 apprentices have completed programs, 486 new apprentices have enrolled in programs, and 14 new registered apprenticeship programs have been created. Of the 14 new programs, 6 of them have been youth programs. The department has successfully grown the number of apprenticeship programs by over 44 percent since 2016 without state funding. NDOL's current grant is focused on expanding registered apprenticeships. The department is working to enroll 440 new apprentices in registered apprenticeship programs created as a result of the grant. As drafted, LB813 appropriates \$4 million to NDOL for state fiscal year 2020-21. NDOL will only have one year to expend \$4 million. By way of comparison, the current federal apprenticeship expansion grant contemplates NDOL expending less than \$900,000 over three years and increasing registered apprenticeship enrollments by 440 participants as a result of the grant. In addition to the federal grant funds, the worker training program expended \$195,698 in state cash funds in fiscal year 2019 to support 265 apprentices in existing Nebraska apprenticeship programs. LB813 requires the Nebraska Department of Labor to develop criteria for and administer a new grant program for apprenticeships, but only for one year. There is no continued funding provided after this first year. Based on NDOL's experiences with both federal apprenticeship grants, expending \$4 million in a responsible manner is unlikely. With this limited timeframe for expenditure, NDOL will need to hire contractors to quickly put together a grant program and have the people necessary to work with employers and developing apprenticeship programs. Given the complexities of creating and administering a grant program in such a limited timeframe, NDOL anticipates using most of the funds to hire contractors to work with employers to draft apprenticeship programs, most of which will not even begin enrollments until after the appropriation authority has expired. With most of the implementation to come after the grant authority has expired, there will not be a funding source to pay for any oversight and monitoring of the apprenticeship programs created or to assist the newly established apprenticeship programs. NDOL appreciates that Senator Bolz values the importance of apprenticeships, but does not believe LB813 is the best way to continue the expansion of apprenticeships in Nebraska. The U.S. Department of Labor continues to regularly release grants targeting apprenticeships. NDOL plans to continue to actively-- to actively pursue federal funds for apprenticeship expansion so state funding is

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not necessary. Thank you for your consideration. I'd be happy to answer-- attempt to answer any questions you may have.

M. HANSEN: Sure. Are there any questions from committee members? Senator Chambers.

CHAMBERS: Are you authorized to answer questions on behalf of the director?

KATIE THURBER: Yes.

CHAMBERS: OK, I was just curious. Thank you.

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

KATIE THURBER: Thank you.

M. HANSEN: Is there anyone else wishing to speak opposed to LB813? Seeing none, is there anybody who wishes to speak in a neutral capacity on LB813? All right, seeing none, Senator Bolz, we welcome you up to close.

BOLZ: I'll be very brief. I just wanted to mention the language in the bill that specifically prioritizes nontraditional workers. That's it.

M. HANSEN: All right. Thank you for your brief closing, Senator Bolz. Any questions? Senator Crawford.

CRAWFORD: Thank you, Chair, and thank you, Senator Bolz, for being here and presenting this bill. Could you just speak to your response about how quickly the funds could be used or what your intention was for the funds?

BOLZ: Sure. This was, this was a bill that I drafted with the idea that it would go to the Appropriations Committee, a slightly different approach. I absolutely respect the referencing to the Business and Labor Committee. I'm happy to have this conversation with all of you. And so we made some adjustments to the bill that are reflected in the amendment, as filed. I think that the major differences about the expenditures of, of funds are first, I think you have to give the flexibility to build capacity within the Department of Labor to reach out to those apprentices and those businesses that might be interested. And I think if you review the Department of Labor's application to the federal government, if you talk to the, the

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chambers or the unions, as, as testified today, you know that that demand exists. So the first part of the expenditure is making sure that you're building the capacity to respond to increased needs. The second part of the expenditure would be building up and startup costs, as well as supporting the apprentices who might participate. If you caught it, the Duncan Aviation Program cost about \$300,000 to get started. So if we really want to grow those best practices, if we want to support industries, we have to, to think about a larger scale. And so I do think that the demand exists. The last thing I'll say and I don't want to talk too much here, but the last thing I'll say is we're opening new frontiers in apprenticeship programs such as in healthcare. And so if you want to think about critical access hospitals, regional hospitals, local hospitals, you want to talk about nursing facilities, you want to talk about rehabilitation hospitals, we, we need to grow our healthcare work force. I think that demand is clear.

CRAWFORD: Thank you.

BOLZ: Thank you.

M. HANSEN: Thank you, Senator Crawford. And Senator Hansen for a question.

B. HANSEN: Yes. Thank you, Senator Bolz. From my understanding, the purpose of this bill is to, like, increase the amount of employees we would have in these certain sectors, right? And so do we have like a, like-- I'm genuinely curious, like--

BOLZ: Um-hum.

B. HANSEN: --just, you know, a rough estimate or a rough number, maybe over the course of time, how many increased employees this would result in, like, over time?

BOLZ: Sure. So the-- Blueprint Nebraska says that we have a 24,600-worker deficit. So we know that we have a work force crisis. We know that there is a need and a demand for workers. I think that one of the things that we don't want to micromanage is how the Department of Labor would respond to those needs and demands. So if you are, if you are making a long-term investment in something that's high tech, that's going to have a big economic impact like the Duncan Aviation program, you might expend more for fewer workers, but have a long-term effect on the aeronautics industry in the state. I'm not trying to

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dodge your question. I'm trying to say that I think it depends on the priorities and the projects that flow in and flow out. So I'd be hesitant to say, you know, we should, we should put a specific number on how many we're going to create year by year. I think the, the clear thing-- and I can provide you with some of the information that was included in the Department of Labor grant-- is that this demand isn't going anywhere.

B. HANSEN: Thanks, I appreciate it.

BOLZ: Yeah.

M. HANSEN: Thank you, Senator Hansen. Any other questions? All right, seeing none--

BOLZ: Thank you.

M. HANSEN: --thank you. We did have two letters for the record on LB813, both in support; one by Joey Adler of the Holland Children's Movement and one by Greg Adams of the Nebraska Community College Association. And with that, we will close our hearing on LB813 and we'll move-- that will move us to our hearing on LB1160, which is mine, so I'll turn it over to our Vice Chair, Senator Hansen.

B. HANSEN: Welcome, Chairman Matt Hansen.

M. HANSEN: Thank you.

B. HANSEN: You are welcome to open.

M. HANSEN: Thank you. Good afternoon, Vice Chair Hansen and members of the Business and Labor Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent Legislative District 26 in northeast Lincoln. I'm here today to introduce LB1160, which creates the Nebraska Statewide Workforce Education Reporting System Act. I will note there is a white copy amendment that should be passed around, AM2352, that rewrites the bill a little bit after continuing discussions with stakeholders and I'll be largely speaking to that rather than the green copy. The intent of this amendment is to better reflect the duties assigned to each partner and address the fiscal note of the green copy. Going back, though, some background on LB1160. The development of a statewide longitudinal data system was one of the recommendations of the 2019 Nebraska Economic Development Task Force. At the final meeting of that task force in December, I volunteered to take the lead on that recommendation and LB1160 is the result of that.

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And the bill supports the continued planning and development of the Nebraska Statewide Workforce Education and Reporting System, also called NSWERS. The Economic Development Task Force specifically thought the longitudinal data system would help the state track education and workforce outcomes and thus, track the effectiveness of educational workforce-related programs in the state, including those often before us in the State Legislature. This bill has its roots in LB1071 from 2010, which directed the University of Nebraska, the State Board of Education, and the Nebraska state colleges and the community colleges to adopt a policy to share student data. Those partners created NSWERS as a joint public agency. LB1160 seeks to expand this partnership to include the Nebraska Department of Labor in order to ensure the exchange of data throughout prekindergarten to postsecondary education and continuing on to the work force. This expanded partnership will allow NSWERS to provide work force outcome data to postsecondary institutions. It will support students and parents in understanding what education, training, and career pathways best prepare students and it will allow comprehensive data about the student's success and career outcomes and allow the state to better align our programs with demand in the labor market. LB1160 is the start of what I hoped-- it will become a valuable asset to the state of Nebraska that will allow for long-term focus on our educational and work force programs in order to meet the needs of our citizens. With that, I'd close and I'd be happy to take any questions.

B. HANSEN: Thank you very much. Are there any questions? Seeing none--

M. HANSEN: Thank you.

B. HANSEN: Are you staying to close?

M. HANSEN: Absolutely.

B. HANSEN: All right, and with that, we will take proponents of LB1160. Welcome.

SUSAN FRITZ: Thank you. Chairman Hansen and members of the Business and Labor Committee, good afternoon. My name is Susan Fritz, S-u-s-a-n F-r-i-t-z, and I serve as the executive vice president and provost of the University of Nebraska. On behalf of the university, our four campuses and 51,000 students, I am here today in support of LB1160, particularly AM2352, which replaces the green copy of the bill and formalizes a collaborative effort to create a statewide longitudinal data system. Chairman Hansen, let me first thank you, Senator Bolz,

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and the Business and Labor Committee for your leadership and attention to the critical work force development issues facing our state. All of us share a goal of growing a competitive economy for Nebraska. We appreciate your forward thinking and your recognition that higher education is an important part of the conversation. A key part of this goal, in my opinion, is building a rich and robust data system that would give us reliable, accurate real time information about our students' progress throughout the educational continuum. This goal is also a major recommendation of Blueprint Nebraska's task force that represented diverse stakeholders across the state. Now I don't mean to suggest that good data doesn't exist today. Nebraska's public education institutions have shared data informally for quite some time. We are close partners on any number of efforts to improve the student experience and help you meet your objectives for efficiency, effectiveness, and economic growth. But recently, we have put more structure behind our collaborations. The University of Nebraska, Nebraska State College System, and Nebraska community colleges, together with the Department of Education and in cooperation with the Department of Labor, have agreed to create a Nebraska statewide workforce and educational reporting system. I could not be more pleased that we are joining hands in this effort. NSWERS is envisioned as a comprehensive, sustainable, robust data system serving the needs of the people of Nebraska. It would give you, as policymakers and those of us in education, the information we need to assess what we're doing well, where we need to improve, and what's happening to our students as they move from pre-K to elementary school to middle and high school, through college and into the work force. NSWERS will ensure that we're all working from the same set of facts as we gauge the student experience and assess work force development. For example, with the adoption of AM2352 to LB1160, we will be able to provide work force outcomes data to postsecondary institutions to drive program improvement and tailor student recruitment efforts, guide students on what courses to take in high school and college in order to be successful in specific jobs, provide comprehensive data about student and work force results to policymakers to inform decisions and resource allocation, track work force outcomes to better align programs with demands and the labor market, and track student outcomes by race and ethnicity, gender and income to identify and close educational attainment gaps. We envision that NSWERS would be hosted at the University of Nebraska, overseen by an executive council and staffed by a small team of researchers, data analysts, and other support staff. An advisory committee of external individuals would help guide the team's work, ensuring that NSWERS is meeting the data

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needs of the diverse stakeholders we serve. But even though a data system would require hard work, a clear strategy, and investment in time and resources by a variety of partners, including the state and philanthropic community, we believe it's well worth it. We have a responsibility to give our elected leaders the best information possible to help inform their decisions. And we owe our students nothing less than our best efforts in rigorously measuring our work so that we do everything we can to prepare them to be successful. On behalf of the NSWERS partners, we thank you again for your engagement on this issue and I would be pleased to answer any questions.

B. HANSEN: All right. Well, thank you for your testimony. Are there any questions? Yes, Senator Crawford.

CRAWFORD: Thank you, Vice Chair, and thank you, Dr. Fritz, for being here. Can you just tell us where on the continuum you are in these efforts?

SUSAN FRITZ: Absolutely. Thank you for the question, Senator Crawford. We have established an entity that goes by the acronym "NSWERS" and we've had our first executive committee meeting. Fortunately or unfortunately, I was elected president of NSWERS. We are getting ready to begin hiring a director. And then, of course, we'll be hiring the staff as well. And so just really fledgling, but certainly underway.

CRAWFORD: All right, thank you.

SUSAN FRITZ: Thank you.

B. HANSEN: Any other questions? Thank you.

SUSAN FRITZ: Thank you.

B. HANSEN: We'll take the next proponent. Welcome.

GREG ADAMS: Senator Hansen, members of the committee, my name is Greg Adams, A-d-a-m-s, executive director of the Nebraska Community College Association. We are obviously in support of this. I want to give you a little bit of background that, that may explain better what's in statute and what we're trying to do. Senator Chambers, Senator Lathrop, you'll remember the year 2010, when we entered into the legislative session with a \$1 billion problem. And we had to find a way around it. ARRA money, American Recovery Act money was available to us for higher ed and for K-12. One of the requirements, though, was that we had to have an MOU to begin collecting data. So we did that.

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There is an MOU, ten years ago, created. And I can tell you, having been the one that introduced the bill and worked on the MOU with the various education sectors, in my opinion, everybody knew it had to happen and they wanted it to happen because there was millions of dollars out there that we needed from the federal government for higher ed and K-12 to get through the problem we were having. So we created a data system and in the last ten years, the Department of Ed has tried to make it work and they've done the best that they can. All of the higher ed sectors have been contributors. But in the beginning-- and I don't know how much more it has progressed-- our contributions to the data system in the beginning, particularly, were pretty much what we were required. And at the time, we were concerned about FERPA. We were just beginning to learn how to share data and protect privacy. We're ten years away from that. Every education sector has a different attitude about data. We better understand the sharing of data, we have a lot more data. And so what we're really trying to do here is to really create more substance than just an MOU, hence this legislation. Another difference is, as has been stated. We've got the Department of Labor now as an MOU participant in this. We understand the data is important. We better know how to use it. We're more than willing to collect it now. This piece of legislation just simply creates more substance around what we've been trying to do and learn how to do for the last ten years. With that, I'll stop and take any questions.

B. HANSEN: Thank you for your testimony, Mr. Adams. Is there any questions at all? Seeing none, thank you very much. We will take our next proponent of LB1160. Welcome.

SARAH MOYLAN: Good afternoon, Senator Hansen and members of the Business and Labor Committee. For the record, my name is Sarah Moylan, S-a-r-a-h M-o-y-l-a-n. I am the senior director of talent and workforce at the Greater Omaha Chamber. And I am also testifying today on behalf of the Nebraska Chamber of Commerce and Industry, the Lincoln Chamber of Commerce, and the Nebraska Economic Developers Association in support of LB1160, the Nebraska Workforce and Education Reporting System Act. All of us continue to hear a lot about work force and that it is the number one challenge for Nebraska's employers. That means not only attracting and retaining talent, but also finding available work force and helping produce a talented work force with the skills and training necessary to enter the work force. We also know that we have one of the highest rates of underemployment in the country. Our chambers actively participated in the Nebraska

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Blueprint Initiative, for each of our organizations seek to grow the economy. Thousands of other Nebraskans also participated in providing feedback, which culminated in the Blueprint Nebraska report, which we've heard a little bit about. Nebraskans were loud about their desire to power our economy with people and we couldn't agree more. Within the report, there were four high-priority initiatives outlined, including revolutionizing all educational systems from early childhood to career, making Nebraska the nation's leader in lifelong learning and preparing people for the work force. LB1160 is a direct output of this desire to have the nation's best education system. LB1160 enables our state to make data-informed decisions about education and to build upon the progress and success, but also learn from, maybe, what's not working. Over the interim, our organizations were also pleased to participate in the working group in conjunction with the Nebraska's-- in conjunction with the Legislature's Economic Development Task Force. The first recommendation of the task force, as you've already heard about, was the creation of a longitudinal data system, such as proposed in LB1160. This will help track student outcomes and employment possibilities. To quote from the report: A proposed system would give policymakers and others the information needed to assess what we're doing well, where we need to improve, and what's happening to our students as they move from pre-K to elementary school to middle school and high school, through college and into the work force. We know that the career pipeline is crucial to introducing students to career opportunities. And we also understand that the university has taken some critical steps toward contributing to the-- to building such a system. It's really inspiring to see our educational systems working together across the state for the betterment of all. We really believe that this system will be a tool for all of the initiatives and organizations in the state. I'm going to talk a little bit personally, but I think that this is such an important bill because a lot of times, we have proposals for programs. And there is a need for programs, but I think that this is one of those systems change kinds of opportunities ahead of us, where we can use data and insights from what's already taking place to better inform, maybe, future decisions that we make. So I think that the insights we're going to be able to gather from this system is what is really, is what is really impactful. Thank you for the opportunity to speak with you. And I would be happy to answer any questions that you have.

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B. HANSEN: Thank you for coming. Is there any questions at all? Seeing none, thank you for your testimony. Any other proponent testifiers? Seeing none, are there any opponent testifiers? Welcome back.

KATIE THURBER: Thank you. Good afternoon, Vice Chairman Hansen and members of the Business and Labor Committee. My name, again, is Katie Thurber, K-a-t-i-e T-h-u-r-b-e-r, and I am general counsel for the Nebraska Department of Labor. And I'm here on behalf of the Commissioner of Labor, John Albin, who apologizes, again, for not being here today. I will read his letter into the record and attempt to answer any questions that you may have. My name is John Albin, Commissioner of Labor. On behalf of the Nebraska Department of Labor, I offer this letter in opposition to LB1160. I respectfully request this letter be included as part of the record for the public hearing on this matter. I apologize that I cannot appear before you today, as I am currently attending the 2020 National Association of State Workforce Agencies Winter Policy Forum in Washington, D.C. I want to be clear that my opposition is to the introduced copy of a LB1160 due to the substantial costs of the original proposal. I was provided a courtesy copy of AM2291, which would substantially change the fiscal impact of this bill and remove the responsibility for the Nebraska Department of Labor to administer the provisions of the bill. Again, my comments are in response to LB1160, as introduced. The Department of Labor already has data sharing agreements with the University of Nebraska system, the state college system, each of the individual community colleges, and the Department of Education. Using the wage files available to the department, we can currently determine whether graduates remain in Nebraska after graduation and what they earn. Although the data can tell us what industry the individual is working in, it does not show the actual occupation of the individual at their place of work. The department system is capable of tracking individual occupations, but it is voluntary for the employer to provide the additional information. Through data sharing agreements with the states of Iowa, South Dakota, Wyoming, Colorado, and Texas, we can also track graduates of Nebraska postsecondary institutions who work in those states. The system has the capability of driving that down to the level of the major of the individual at the postsecondary institution. The capability exists to expand the research done using data sets already available within the existing exchange agreements. In addition, NDOL has a number of data exchange agreements with several private postsecondary institutions in Nebraska. Tracking graduate outcomes for a full kindergarten through postsecondary system would require Social Security number data for the kindergarten

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through-- K-12 students that is not currently available to the department. In 2010, LB1071 was passed, which required the University of Nebraska, the state college system, and the Nebraska community colleges to enter into a memorandum of understanding with the State Board of Education to adopt a policy to share the student data. These parties subsequently prepared and executed a memorandum of understanding and created a joint entity known as the Nebraska State Workforce and Education Reporting System, NSWERS. The Department of Labor has proposed a new MOU with NSWERS that will exchange data with NSWERS in order to assist NSWERS in tracking graduate employment and salary trends for research purposes. The proposed MOU offers the opportunity to streamline data exchanges with NSWERS using the University of Nebraska as the central point of contact. As drafted, LB1160 would require NDOL in connection with the stakeholders to develop the Nebraska Workforce and Educational Reporting System and prepare a report to make recommendations on the planning and development of the system. NDOL is unsure how this would relate to the existing NSWERS entity. Additionally, as included in the fiscal note, NDOL is uncertain on time, positions and funding expected to be provided by NDOL. NDOL appreciates that Senator Hansen values the importance of targeting resources and focusing data analysis on assessing work force development and employment success. However, NSWERS has established as an entity and NDOL has a data exchange agreement in process with NSWERS. Therefore, NDOL does not see a current need for LB1160, as introduced. Thank you for your consideration. I'd be happy to answer any questions.

B. HANSEN: Are there any questions? Yes, Senator Crawford.

CRAWFORD: Thank you, Vice Chair, and thank you for being here today to answer questions. I just wondered-- so you've seen the amendment, can you speak-- I understand the department is opposed to the bill, as drafted. Can you speak to the-- would the department remove its opposition if it's the, if it's the amended version, which does focus on just the MOU?

KATIE THURBER: I would have to more thoroughly review the amendment. But from my first review, which was this morning, it took away our fiscal note and most of the NDOL's responsibility. And so that would resolve the majority of the concerns.

CRAWFORD: Thank you.

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B. HANSEN: Are there any other questions? Seeing none, thank you. Are there any opponent testifiers? Seeing none, are there any that wish to testify in a neutral capacity? Seeing none, Senator Hansen, you are welcome to close.

M. HANSEN: Thank you, Vice Chair Hansen, and thank you, members of the committee. I'm appreciative to all the testifiers-- and on both sides, including the chamber and all the education institutions. And I want to thank the Department of Labor. They've been really good partners throughout all of this and we've done multiple drafts and they've provided some good feedback and have been good to work with. As I said, this was kind of a proposal I volunteered to take up and run with in December. And that's part of the reason we've had the green copy and we've been working from there. I'm really excited about this opportunity, a great way to, kind of, do some robust data, some real emphasis on work force development and double-checking that, kind of, our initiatives make sense and accomplish the goals they want to accomplish. So with that, I would be happy to take any questions.

B. HANSEN: Are there any questions? Seeing none, thank you.

M. HANSEN: Thank you.

B. HANSEN: I'll read-- we do have three letters of support: one from Matthew Blomstedt, Nebraska Department of Education; Kelly Keller from the National Association of Social Workers Nebraska Chapter; and Benjamin Baumfalk from First Five Nebraska. And with that, we will close the hearing on LB1160.

M. HANSEN: All right. Thank you and I'll take back over briefly. That brings us to our next bill, LB1101, by our very own Senator Halloran. Welcome, Senator.

HALLORAN: Thank you. Good afternoon, Chairperson Matt Hansen and Vice Chair Ben Hansen of the Hansen and Hansen Business and Labor Committee. Also, good afternoon, members of the Business and Labor Committee. For the record, my name is Senator Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. I'm here today to introduce LB1101 to the committee for your consideration. I intend to keep my remarks brief this afternoon, allowing more time for individuals who will follow me. I'm here today to introduce LB1101 on behalf of the Nebraskans for Workers' Compensation Equity and Fairness. LB1101 is designed to clarify the provisions of the Nebraska Revised Statute 48-121, relating to the

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circumstances under which the Workers' Compensation Court can award benefits based upon loss of earning capacity when a loss or a loss of the use of more than one member of a part-- of more than one member have resulted from the same accident or illness. And that's part of why someone that's going to follow me is going to be able to clarify some of this for, for all of us. Under the bill, loss or loss of use of multiple parts of the same hand, arm, foot, or leg would not be eligible for determination of benefits based upon the employee's loss of earning capacity and loss of use means permanent loss of function. LB1101 would clarify existing law regarding the ability of an employee to receive benefits for loss or loss of use of more than one hand, arm, foot, leg, eye, or ear or any combination thereof based upon the employee's loss of earning capacity if the loss or loss of use results in at least a 30 percent loss of earning capacity. The Legislature adopted workers' compensation reform legislation in 2007 in the form of LB588. The primary component of the legislation revises the manner in which large hospitals were reimbursed in connection with workers' compensation claims. In addition, the legislation revised the manner in which benefits could be determined in cases in which an employee suffered multiple member injuries. It is this issue that is addressed by LB1101. With the passage of LB588, a substantial change in policy was adopted, which benefited injured workers. The rationale for the change was that when two scheduled members are injured and limit the employee, the impact of limiting injuries is far greater than recognized by the schedule of benefits for each individual member. In such instances, the employee should be entitled to receive more benefits than the schedule allows. Conversely, if only one member injury limits the function of the employee, there is no reason to compensate the employee based upon a loss of earning capacity, rather than the statutory benefits for the scheduled member. Since the passage of LB588, a number of court decisions have been rendered, which run counter to the original intent of LB588. LB1101 is proposed to return the original intent of LB588. Witnesses that follow will provide the committee with information regarding these court decisions. Thank you for your time. While I am willing to attempt to answer questions, they may, however, be better suited for individuals that will follow me.

M. HANSEN: Thank you, Senator. Are there any questions from the committee? Seeing none, thank you for your opening. With that, we will invite up our first proponent.

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ROBERT J. HALLSTROM: Chairman Hansen, members of the Business and Labor Committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraskans for Workers' Compensation Equity and Fairness and the National Federation of Independent Business, testifying in support of LB1101. I've also been authorized to sign in on behalf of the Nebraska Retail Federation, the Nebraska Chamber of Commerce and Industry, and the Lincoln Chamber of Commerce. Senator Halloran has given you the background and the chronology of what happened with the passage of LB588 in terms of the changes to the medical fee schedule for inpatient hospital services and the issue relating to the loss of earning capacity change in the law for cases involving multiple member injuries associated with the same accident or injury. By way of background, when we were going through this process, we looked at the issue and in return or in exchange for the employer community getting some perceived benefits from the changes in the medical fee schedule, it was thought that some of that bounty should be shared with the employee community. Thus, the change in the law, with regard to the loss of earning capacity. Prior to the passage of LB588, we had a situation where if an employee had suffered a loss or loss of use of a member, there were basically two options. The first option was depending upon if you had a loss of use of a hand, for example, the scheduled member injury statute provides benefits based on a certain amount of weeks for that specific type of scheduled member injury times a percentage impairment. So you have scheduled member injury benefits. The alternative at that time was also that if you had a permanent and total disability, 100 percent loss of use, that you could get loss of earning capacity. LB588, in providing some of those benefits from the bill's provisions, provided a middle ground, if you will. It provided that if you had a loss of use of more than one member, that if the combined effect of that in the court's discretion had more than a 30 percent loss of function, that the benefits could be determined based on loss of earning capacity. What has happened since that time, as Senator Halloran mentioned, is there has been a number of court decisions that we believe have contravened the spirit and the intent of the law, as it was adopted at that time. The two cases that I'm going to focus on today, primarily, are Wermers v. Avis R. Andrews, which appears on page 6 of my testimony. And I might also add on pages 8 and 9 of my testimony, I've gone into some of the legislative history from the committee hearing on LB77, which is where the loss of earning capacity benefits issue first arose, introduced by Senator Nantkes, and then ultimately the amendment in its final form, which I believe Senator Lathrop might have been the author of, under

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LB588. But on pages 8 and 9 of my testimony, I go through some of the examples that were in the legislative history that focused primarily on bilateral carpal tunnel syndrome, injuries to the right and the left wrist, two broken arms, two broken legs, bilateral shoulder injuries, and bilateral injuries in general. So the multiple member injury was not what some of the court decisions have subsequently handed down. Specifically in the Wermers case, the court ruled effectively that the loss of earning capacity benefits could be recovered without having sustained injuries to two separate members. In that case, the injury that was involved was a right rotator cuff and a right hand. The court actually said-- specifically acknowledged that the right hand, wrist, and shoulder are all encompassed within a single member, i.e., the right arm, however, went on to determine that it was a two-member injury and loss of earning capacity benefits were allowed, which we believe is clearly contrary to the original intent underlying the legislation. The second court case is Abdi v. JBS Holdings. In that case, the court found that the injuries to a thumb and index finger on the same hand constituted two separate member injuries. It's interesting to note the court in that case said that injuries to a thumb on each hand was precisely the type of multiple-member injury for which loss of earning capacity benefits were intended to be allowed. And in that respect, the court was exactly right. You had two separate members, a thumb on each hand. However, in this case, they determined that a thumb and an index finger on the same hand, a single member injury, was available for loss of earning capacity. In closing, as Senator Halloran noted, we believe we are simply trying to take the state of the law back to where it existed and where it was intended to be with the passage of LB588. Memories can certainly fade over time, mine does as well, but I think the written evidence and the legislative history can show-- and in my testimony can show what was clearly intended by the passage of LB588. And we'd just like to take the state of the law back to that position. With that, I'd be happy to address any questions that the committee might have.

M. HANSEN: Yes, thank you for your testimony. Are there any questions from any committee members? Senator Hansen.

B. HANSEN: Thank you. I know you had kind of outlined a few court cases. Have you seen-- has there been a trend at all, like, a recent trend in people getting injured on one member or twice-- two areas of

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a member and then they rule in a certain way that wouldn't make sense for the purpose of this?

ROBERT HALLSTROM: Yeah. Senator, I don't know that I'd call it a trend. The first case was in 2014. We, we brought legislation in 2016 in response to that initial court decision. There's been a subsequent case in 2017, which were the two cases that I indicated. So I think in this case, it's not about the multitude of cases. It's about what the parties to the, to the grand compromise agreed upon. We don't begrudge anyone getting the benefit of the bargain that was agreed to, but they should get the benefit of their bargain no less, no more.

B. HANSEN: Thank you.

M. HANSEN: Thank you, Senator Hansen. Senator Crawford, did you have a question?

CRAWFORD: I think I actually-- it's been answered by looking at the bill, so thank you.

M. HANSEN: All right, thank you. Any other questions from the committee members? All right, seeing none--

ROBERT HALLSTROM: Thank you.

M. HANSEN: --thank you for your testimony. Are there any other proponents to LB1101? Seeing none, is there any opponents to LB1101?

JOHN CORRIGAN: Good afternoon, members of the committee, Mr. Chairman. My name is John Corrigan, J-o-h-n C-o-r-r-i-g-a-n, and I'm an attorney appearing on behalf of the Nebraska AFL-CIO today in opposition to LB1101. And I think that Mr. Hallstrom did a very good job of describing the history and really what the heartland of cases are, with respect to this issue. You know, you sometimes do see, particularly in traumatic accidents, you know, somebody will have an injury to their tib fib, below the knee, and an injury to the knee in the same accident. That might result in impairment to both the foot and to the leg or to the lower extremity, difference in weeks is substantial. But the-- whether there-- that produces a loss of earning capacity greater than 30 percent would be outside the heartland of those cases. And that's why we-- I mean, in my judgment, you have a request here to change the law with two prior cases. I'm not aware as to whether those cases were actually decided by Nebraska Court of Appeals or addressed by the Nebraska Supreme Court. I don't believe

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they were. But in any event, those trial court judges interpreted the law based on the facts in front of them. And the parties to, to those cases live with those cases and so we don't think that changing the law to adversely affect the benefits of injured workers in Nebraska is called upon in this instance and in this area, of this kind of-- as I said, this outlier of areas of the cases that are seen by the court on a regular basis. And the other issue is that the, the statement that-- in the statute and the proposal that deals with the limitation, that loss of use means loss of permanent function. I think that also is an expansion that-- of the existing law that would have adverse effects for injured workers, whether it is-- there may be a case of impairment to multiple scheduled members, but not a loss of-- a permanent loss of function on one side, but a permanent loss of function on the other. And that currently, today, results in a loss of earning capacity analysis that's done. And if it doesn't exceed 30 percent or 30 or more, no further benefits are paid. And so it's-- I think this legislation, as it stands, is inviting reduction of benefits that may be unintended. And so for that reason, we'd be opposed to LB1103 [SIC]. I'll be happy to answer questions anybody has.

M. HANSEN: All right, thank you. Any questions from committee members? Seeing none, thank you.

FELICIA HILTON: Felicia Hilton, F-e-l-i-c-i-a H-i-l-t-o-n, North Central States Regional Council of Carpenters. Thank you again, Mr. Chairman, for having me before the committee and committee members for listening to my testimony today. First, I want to say to LB1101, I cover three states. And this is something that we see basically in our six-state council, which is Minnesota, Wisconsin, Iowa, Nebraska, and both Dakotas. Anytime there is a court case that rules against or in, in favor of an injured worker, we always see the business community come before and try to change the law because they don't like the ruling in favor of an injured worker. As carpenters, we've had people have their legs crushed, their feet crushed. If you have your thumb and your index finger removed as a carpenter, try holding a hammer. With that, it is a total loss of your capacity and the function to be able to do your, your job. So I would just say that when it comes to injured workers and in our opinion, seeing cases that have been ruled adequately and justly on behalf of the worker, to then see the business community come before the Legislature with a bill to change it based on them not liking the ruling of the courts where the courts have heard both sides-- the courts have heard the testimony of the injured worker or family and they've also heard the business

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community. And so we would just recommend that the Legislature not be used in a way to overturn court rulings when it comes to protecting workers that have gone through, obviously, a lot to be able to get to the place where they even ended up in court. It's not like every injured worker ends up in court. We-- you know, a number of injured carpenters, they'll never go to court. They typically deal with whatever-- the workers' compensation laws and things that are already in place in a state that allows them to get benefit while they're injured. If they're permanently injured, most of them don't end up in court. And so to see the business lobby come and-- with two cases as a reason to justify taking or at least changing the, the multiple-injury rules as far as workers' comp is concerned and trying to change that just because they had some unfavorable rulings, we would just say to the committee to, to really consider if them having two unfavorable rulings, since those are the only two they brought before the committee, to, to really-- to think about if that's worth changing the law. I do believe that workers that have multiple injuries and that have been injured in tremendous ways, whether it is the loss of use or the loss of function or 30 percent capacity, until you've been injured on the job and you cannot work for one reason or the other, the use or the function or you've really lost-- it's a total injury and you can't work, I would just say that that is not a reason to overturn the law. I do believe that the original law, LB588, is a good bill and it was drafted to particularly protect workers that have these multiple injuries, whether it be their hand, arm, shoulder, they lost both thumbs, two legs, whatever it is, we believe that the bill is a good bill as it is and would hate to see it change to what's before you today. Thank you.

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

ROD REHM: Chairman Hansen, members of the committee, my name is Rod, R-o-d, Rehm, R-e-h-m. I'm here on behalf of Nebraska Association of Trial Attorneys, an organization of several hundred lawyers who predominantly represent injured people around the state of Nebraska. We oppose this bill. And essentially, it's a takeaway of workers' rights. It's a takeaway of benefits from people who really need to be treated more fairly when they have multiple injuries. Factwise, there's about 30,000 reported injuries a year in the state of Nebraska that come within the system overall. And year in and year out, for the past ten years, there's been about 1,500 lawsuits per year that got taken to court. So the-- LB77, LB588 was enacted in 2008 and it became

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effective in 2008. What's that, 12 years ago times 1,500? And they've got two trial court examples that have no precedential value and say there's a crisis that requires changing the law? That's the fact in the problem they're talking about. There's reports from the Workers' Compensation Court that verify those numbers that I just gave, I might have been off a thousand, but I'm not-- I know that 1,500 is a steady number. It's just odd that there's 1,400 or 1,500 lawsuits a year; 2 of them-- 2, 2 bad decisions that the business community don't like and they're in here asking to change the law. I don't think there's a crisis. The law was good to begin with because the-- the LB77, LB588-- because the whole system of ratings is extremely arbitrary and it's gotten more arbitrary since the bill was passed. There's a book called the American Medical Association Guides to Permanent Physical Impairment [SIC]. We're on the sixth edition right now. It came in about four or five years ago. It's been banned by the federal government, banned by the state of Iowa, banned by the state of Texas, because it doesn't-- it's not fair. And how it works, on this example where one of these people that had a wrist and a shoulder, you can have a wrist that's operated on and has loss of strength, loss of motion and the AMA Sixth will allow a doctor's rating of 2 or 3 percent. The worker would get paid two or three percent of 175 weeks for the permanent damage to his hand. On a shoulder, on that same gentleman in that hypothetical they talked about, if you have an arm that you can't lift any higher than this, you could get a 4 or 5 percent disability out of the AMA Sixth. Earlier editions would give a lot bigger benefit, but still not much money for what's happened to that worker. Well, if you have a hand that's 25, 30, 40 percent weaker, that creates a certain kind of problem. And does 2 percent pay for it or 10 percent even pay for what's happened to that worker? And if that hand is on an arm that can't be raised up, there's a whole bunch of tasks that the worker can't do with the weak hand and, and the stiff arm. And the bill that they're seeking to get rid of, LB588, gave the judges an opportunity, if they were requested, to evaluate whether or not there's been a 30 percent loss of earnings or greater. The 30 percent loss of earnings would pay the worker in a wholly different way. They would get paid over a 300-week basis based on how much their earnings are and how high of a percentage they had. And I'll use an easy example. Let's say if a \$900/week worker-- if they're getting 2 percent for their hand, they're getting 3.75-- let's see here, I'm off on my math; 175 times 0.2 is what-- no, it's 3.5, sorry-- 3.5 weeks at \$600/week. If that judge combines that with an elbow problem and finds that they have a 50 percent loss of earning using that, that fact pattern of \$900 and \$600, that worker is going

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to get \$300/week for 5 years and 9 months to compensate for their loss of earning ability. And they're not giving away these awards freely, but they are given away to people who really need it. And probably every one of you, in your district, has folks that would, that would benefit by this if they get hurt. There's kind of a, a prototype. It's somebody that basically needs to use their body to earn a living, but can't really be retrained to go back to where they had been before. It's more difficult for people that don't speak our language. There's an epidemic of arm injuries in packing plant workers. And the, and the repetitive motion cases, based on my experience of having done this since 1980, is that you start in the hand and they work up to the elbow and they work to the shoulder. That happens day in, day out for the people that need the most help. And this bill is trying to take it away from them. Don't let it out of committee, please. Thank you.

M. HANSEN: All right. Thank you for your testimony, Mr. Rehm. Are there any questions from committee members? All right, seeing none-- good afternoon.

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'm a staff attorney with the Nebraska Appleseed. Nebraska Appleseed is a nonprofit, nonpartisan organization dedicated to opportunity and justice for all Nebraskans. We have the opportunity to speak with hundreds of workers across the state each year when we provide worker health and safety trainings. We are testifying in strong opposition to LB1101 because it creates more barriers for Nebraskans to receive fair treatment in the workers' compensation system. All Nebraskans deserve a safe workplace; but when workers are injured on the job, the workers' compensation system should work for them, rather than against them. Each injury needs an accurate assessment of how it will affect disability and compensation determination for injuries, which includes understanding how different injuries interact with one another. One or another injury on its own may not create a disability, but when they aggregate on one body part together, they can cause a severe disability. In meatpacking and manufacturing plants, this is all too common; where a worker may have any combination of cumulative musculoskeletal disorders, broken bones, lacerations, and amputations to the same area of the body. LB1101 makes it harder to accurately assess how injuries compound in one area of the body and reduces an injured Nebraskan's access to some loss of earning benefits. Workers already have it hard enough and ensuring we have an effective workers' compensation system to address workplace

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injuries is in the public interest for Nebraska families and communities. Here is a quote from a Nebraska woman who had a torn tendon and unbearable shoulder and neck pain from an unsafe work condition: I will tell you that after being an excellent employee due to the restrictions in that year, I hardly worked 15-20 hours per week. My income was very little. I could not dress, do the housework, or bathe myself. And with the many bills I would have to pay, I began to get depressed. I felt the most useless woman in the world because it seemed that I was a disposable object. I went to all the therapies, three times a week for three months, and followed all the restrictions I had. And thank God, now I feel better and work in another area. After my injury, I have been left with lifelong restrictions. I can't lift more than 28 pounds. I lift my arms only to my head level and there is housework that I need help with. The workers' compensation sent me a check of \$3,000. I really appreciate it, but the money does not make up for my quality of life because it is humiliating to be so young and not be able to bathe, dress myself, do household chores. And for my daughter, who in that moment was a child, I could not comb her hair, bathe her, and that depressed me a lot. We need a strong and healthy work force in Nebraska. Rather than making the workers' compensation system harder for Nebraskans, we should guard its core purpose, ensuring that Nebraskans injured on the job can access medical treatment and proper support, which also ensures employers have an incentive to keep workplaces safe. Please advance some of the other workers' compensation bills before you this session, which would help rather than harm Nebraska workers and their families. Protect the interests of Nebraskans injured on the job by opposing LB1101. Thank you.

M. HANSEN: All right. Thank you, Ms. Geery-Zink. Any questions from the committee? All right, seeing none, thank you for your testimony. Any other opponents to LB1101? Seeing none, is there anybody who wishes to testify neutral to LB1101? Seeing none, Senator Halloran, you are welcome to close.

HALLORAN: I'd like to thank the members of the Business and Labor Committee and those who testified today. To restate, the intent of LB1101 is to return the original intent of LB588. LB588 is a solid bill, there's no question. But there's some question about some court cases. And I think there's probably more court cases than were mentioned. But its intent, again, is to, is to replace or bring back

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the LB588 intent. I would ask the committee to support LB1101 and advance the bill to General File.

M. HANSEN: All right. Thank you, Senator. Any questions for Senator Halloran? Seeing none, this will close the hearing on LB1101 and there were no letters for the record. That will bring us to our final bill of the day, LB1103, which was mine, again, so I'll turn it back over to our Vice Chair, Ben Hansen.

B. HANSEN: Welcome back, again. Chairman Hansen, we are ready to open on hearing LB1103.

M. HANSEN: Great. Thank you and good afternoon, Vice Chair Ben Hansen and fellow members of the Business and Labor Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent Legislative District 26. I'm here to introduce LB1103, which clarifies that a release of lump sum settlement for indemnity benefits only need not contain allegations regarding eligibility for Medicare if the employee's right to receive future medical services is specifically included-- excluded from the settlement. Some background on why this bill was brought to me; under our current law, a lump sum settlement is required to be submitted to the Workers' Compensation Court for approval under a variety of circumstances. The Workers' Compensation Court reviews these settlements to make sure they are in the best interest of the employee. If an employee, at the time of the settlement, is eligible for Medicare or has a reasonable expectation of becoming eligible for Medicare within 30 months after the date after the settlement is executed, the settlement must be submitted for review and approval by the Nebraska Workers' Compensation Court. This is the case that even if the right to medical benefits is not being settled, this process seems to be unnecessary, as there are situations in which workers' compensation claims are settled with respect to indemnity benefits only with future medical benefits subject to subsequent resolution. Under LB1103, if an employee is a Medicare beneficiary but is not settling their right to future medical benefits to be paid by the employer--sorry, by the employee insurer, the need for the court review process would be eliminated and the parties may settle the indemnity benefits claim and release the waiver process. With that, I'll close my opening on LB1103 and would welcome any questions.

B. HANSEN: Thank you. Are there any questions? Seeing none, I'm assuming, again, you're staying to close?

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M. HANSEN: Absolutely.

B. HANSEN: With that, we'll take any proponents of LB1103.

PAUL BARTA: Good afternoon to the members of the Business and Labor Committee. My name is Paul Barta, P-a-u-l B-a-r-t-a. I'm here as a proponent and supporter of LB1103 and here on behalf of Nebraskans for Workers' Compensation Equity and Fairness. I thank Senator Hansen-- well, first, I want to thank Senator Hansen for introducing this bill. I would comment I think it's a bill that, frankly, I don't think there's going to be a whole lot of opposition to based on the traditional sides of the aisle. Generally, I think what LB1103 would do is entirely consistent with what Senator Hansen had indicated. But just to kind of simplify, right now, there are two methods in which a employee, a worker and a employer can settle a workers' compensation claim. There is the application for approval process that's pretty rigorous. It goes through the Workers' Compensation Court and their staff of lawyers will review it. There will frequently be quite a bit of back and forth between it. And I want to talk about what this doesn't do. This does not do away with the settlement application process entirely; the review process. Further, it does not apply to pro se, unrepresented individuals. I know that one of the courts and frankly, the Legislature's goals, as it should be, is to make sure that unrepresented workers are not taken advantage of and that the settlement is in their best interests. This only applies to those circumstances where there are represented parties. Historically, one of the requirements-- so that's the lump sum settlement application. The other is the release waiver process. That process does not require court approval, but there are very, very defined categories when that can be utilized. One of the categories in statute, currently, is that if the individual is a Medicare recipient or he or she has a reasonable expectation of enrollment in Medicare, well, then that's got to go to the court for review. What LB1103 does is indicate-- let's back up. The reason why that concern is there, I believe, and that statutory requirement is there regarding Medicare is the court and the Legislature, when it enacted it, wanted to make sure that future related medical care wasn't getting shifted off on to Medicare. So we say, well, we're going to settle it for \$3,000 and although you have \$100,000 of estimated future medical care, we'll just shift that off to Medicare. But what LB1103 does is say, well, what if we're not settling medical rights? What if we're just settling out indemnity? And this actually happens more frequently than you would think. There are times where the future medical in an accepted case is largely

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unknown. And so the employer says, well, I think we'll just keep paying for it or it's so significant the employer says, I don't know how we would settle this or quantify it. And so-- but the injured worker wants to get on with her or his life, put some money in their pocket regarding what their indemnity benefits are. And so there will be times where you only settle out the indemnity and medical stays open. What LB1103 would do would allow you, even if you're a Medicare recipient, if you're not, if you're not closing your rights to medical benefits, it would allow you to use the release waiver provisions because in that context, there is no concern about shifting that future medical, that burden, so to speak, to Medicare. The employer is going to stay with it. I think that this is a process that, once again, as indicated, both sides of the aisle would support. I think it's a process that would reduce-- I don't think that there's a net cost to anyone. I think, actually, it will release-- it will relieve the burden on the Nebraska Workers' Compensation Court review staff. So there could be some, I don't know, fiscal savings to the state, a little bit, in that sense. And importantly, it does not apply to represented-- I'm sorry, unrepresented individuals. And so those concerns about making sure that the settlement is in the employee's best interest, I think that those are addressed. I don't have much further comment but if there are questions, I can answer them.

B. HANSEN: Thank you for your testimony. Are there any questions at all? Senator Lathrop.

LATHROP: Yeah, I do. So I got a question for you and that has to do with as I look at this change to the law, I appreciate that it says future-- if, if future medical is held open, in other words, the work comp carrier is going to be liable for future medical expenses, but what about the circumstance or doesn't the court have an interest in reviewing the lump sum settlements where the person has already had some of his or hers bills paid by Medicare? So take the guy who falls off a scaffolding, he's a running total, badly hurt; work comp, maybe they dispute liability and so the bills get turned over to Medicare, pending some resolution, case gets filed. They enter into a lump sum settlement and say future medical will remain open and we'll lump sum it for \$200,000. But we haven't addressed Medicare's subrogation interest or Medicare's reimbursement right in the lump sum settlement.

PAUL BARTA: You're talking about essentially conditional payments made by Medicare then in that sense?

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LATHROP: Exactly.

PAUL BARTA: Yeah.

LATHROP: Exactly, doesn't the, doesn't the Work Comp Court have an interest in ensuring that that's taken place? If the-- I get this, if the person has never received a Medicare benefit, perfectly comfortable with this. But if the person has actually received Medicare benefits, some of the work-related injury-- work-- injury-related medical expenses have been paid by Medicare, doesn't the court have an interest in ensuring that the work comp carrier has reimbursed Medicare?

PAUL BARTA: So what you're essentially indicating is that the parties go ahead. They say we're going to settle out an indemnity and we're largely going to ignore Medicare over there and the employer is not picking up medical at that time; they're just ignoring it. I guess my argument or my response to that would be Medicare, itself, has its own enforcement abilities on something like that.

LATHROP: Well, who do you think is on the hook for that?

PAUL BARTA: In that context?

LATHROP: Yeah, do you think it's the work comp carrier or the Medicare beneficiary?

PAUL BARTA: Well, I think it could be either.

LATHROP: That may be why the court would have an interest in making sure it's addressed, wouldn't you agree?

PAUL BARTA: Well, to a certain extent, but as indicated, in that context, in that context, that claimant's ability to pursue past medical or future medical under, under Nebraska's statutes hasn't been compromised. So that person would still have the ability to litigate that if need be.

LATHROP: Well, let me-- I gave you a hypothetical where somebody falls off a scaffolding, but let's take somebody who's got a bad back and they're at work and they lift a pipe and now the bad back turns into three back surgeries and a whole bunch of care. And maybe the fight with the employer is whether this was a preexisting condition or actually a work-related injury as that whole situation gets sorted out. There is some dispute. There is now a, a lump sum settlement

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agreement, but we haven't addressed or haven't brought or ensured that Medicare has been brought into that process and the conditional payment has been satisfied.

PAUL BARTA: And I'm sorry if I'm saying the same thing I did before. My own point on that, Senator, would be in that context, the employer is not somehow-- the settlement that's being contemplated here is if an employee has rights to an identity and/or future medical or potential rights, like you said, like you've indicated, that person may be able to-- there, there could be a dispute regarding that medical care. In that context, though, in the settlements envisioned by this, that's not precluding or, or foreclosing that employee's rights to say, hey, hold on here. I had these three surgeries. I want, I want them paid for and to have those sought to be paid for.

LATHROP: Here's maybe my, my concern and this is something that I was involved in years ago, streamlining this whole lump sum settlement process, and we deliberately made this an exception to not having to have court approval. And that's because it's a little more complicated than the run of the mill; Medicare is involved. It normally suggests a bigger type case, typically, if Medicare has been or might be responsible for bills. And my concern is or it seems to me possible that the employee and the employer can, as they work through this process, they enter into a number. Maybe there's a little more money for the employee and they, they enter into some kind of an agreement about what Medicare is paid without Medicare's involvement. I'm just not sure that the, the court shouldn't be involved, at least in the amount, or ensuring that the employee is not subject to some liability from Medicare for the past-due medical expenses. And that seems to be a perfect time for the court to say, look, this isn't clear enough or this needs to be clarified or the liability for-- that the amount Medicare has paid for needs to be specifically addressed in the lump sum settlement.

PAUL BARTA: OK. Conversely, right now, the way settlements can work in Nebraska is I could settle-- I could represent an employer, represent an individual, that individual-- let's say Medicare is not involved, but that individual may have some-- there may be some dispute regarding future medical. I can settle right now via release waiver. In that kind-- so I guess, Senator, if your concern is about Medicare--

LATHROP: It is.

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PAUL BARTA: OK, not, not the individual and his ability to--

LATHROP: Well--

PAUL BARTA: --or his or her being stuck with that?

LATHROP: --ultimately, I want to make sure the employee isn't getting chased by Medicare because it wasn't properly addressed or taken care of as part of the lump sum settlement. And that's the past-- I get-- the future is going to be open and so the employer has agreed to be on the line for it. I'm talking about the--

PAUL BARTA: The past?

LATHROP: --the bills that may have been paid by Medicare prior to the settlement.

PAUL BARTA: Yeah. And I guess maybe we interpret LB1103 differently. I don't believe LB1103 does anything in regard to past or future medical liability and compromising that. It only goes to those indemnity-only situations. And so, so if, if LB1103 were law, and I were to-- and I have the claimant-- there's a claimant or a worker who has \$30,000 in past medical bills and/or Medicare has paid for those, and we say, OK, we understand that, but we want to settle. It's, it's clear the indemnity entitlement is going to be somewhere between \$30,000 and \$45,000 and we settle for \$40,000. That does not, as I interpret this and as introduced, does not affect any of the issues regarding past medical or future medical.

LATHROP: OK.

PAUL BARTA: I'm more than willing to have further discussion with you at any time.

LATHROP: No, I, I appreciate it. The-- ultimately, the idea of the court being involved in reviewing it is to make sure everything is buttoned up and it is as everybody agrees to and not an opportunity to move something through quickly and then fight over it later, which, which would happen if we haven't made sure that Medicare's interests had been taken care of at the time of the settlement.

PAUL BARTA: Understood and I guess my only response to that would be in this context, it's very defined what is going to be buttoned up and what's not and what remains open. It, it just provides a vehicle for those-- this provides a vehicle for those situations in which there is

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some agreement to allow that piece to move forward and then frankly, to leave the other-- I mean, I agree with you 100 percent; definitely a possibility where there could be questions like that. But this would be more of a vehicle for those issues where there's an agreement for the parties to be able to move forward with that while leaving those other rights open.

LATHROP: OK.

B. HANSEN: All right, thank you, Senator Lathrop. Are there any other questions from the committee? Seeing none, thank you for your testimony.

PAUL BARTA: Thank you all for your time.

B. HANSEN: Next proponent testifier.

ROBERT HALLSTROM: Vice Chairman Hansen, members of the Business and Labor Committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraskans for Workers' Compensation Equity and Fairness and the National Federation of Independent Business to testify in support of LB1103. I've also been authorized to sign in on behalf of the Nebraska Chamber of Commerce and Industry, the Lincoln Chamber of Commerce, and the Nebraska Retail Federation also in support of the bill. Senator Hansen has done a nice job of going through the background of what LB1103 is intended to accomplish. Senator Lathrop, I don't believe I can probably answer your question today, but maybe a little bit of, of historical context might help out in terms of what I understand the bill is designed to do and to leave open those very questions that you've raised concerns about. If you go back to before we passed LB953 in 2018, one of the problems that was viewed by both the trial bar and the employer community was that there were lump sum settlement agreements that the parties wanted to enter into and the Workers' Compensation Court was using the best interest of the employee standard to reject or not approve those particular lump sum settlements. And when we passed LB953, we established a system by which, in obviously inrepresented cases, the counsel for the plaintiff could come in and attest that the settlement is in conformity with the compensation schedule and for the best interest of the employee, his or her dependents. And we addressed two aspects within that court approval and that attestation by the plaintiff's counsel, which involved the Medicare interest and the issue of unpaid medical bills. As we looked at this, before we had a court case that said we, we have

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a glitch or an unintended glitch, we decided that we should go in and clarify that if the only issue that was being settled was indemnity benefits, that you could use the release waiver process for that issue only. My assumption-- and again, without being able to conclusively answer your question, my assumption is, as Mr. Barta, I think alluded to, that those issues, if you subsequently go to settle the medical part of the case, that those same attestations or affirmations are going to be-- need to be made by the plaintiff's counsel with requests to both the Medicare interest and with respect to how unpaid medical bills are addressed and in the best interest of the parties. So that's my understanding of how it's designed and intended to work. But certainly, we'll look into your issue to see if there's anything we need to clarify on the bill.

LATHROP: OK.

B. HANSEN: Thank you. Any questions? Seeing none--

ROBERT HALLSTROM: Thank you.

B. HANSEN: We'll take our next proponent testifier.

ROD REHM: Good afternoon, again. Rod Rehm for the Nebraska Association of Trial Attorneys. Rod, R-o-d, Rehm, R-e-h-m. We favor the bill.

B. HANSEN: All right, thank you for your testimony.

LATHROP: Can I just make this observation--

B. HANSEN: Yes, Senator Lathrop.

LATHROP: --Mr. Chair? This may be the first time that the Nebraskans for Work Comp Equity and Fairness and the trial lawyers have come up, no opponents to this bill, and I got that many questions.

ROD REHM: I think it might have happened one other time before. I'm not sure, but--.

LATHROP: All right.

B. HANSEN: Any other questions?

ROD REHM: Thank you.

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B. HANSEN: All right, thank you for your testimony. And next proponent testifier.

JOHN CORRIGAN: Good afternoon. John Corrigan, C-o-r-r-i-g-a-n on behalf of Nebraska AFL-CIO as a proponent to LB1103. And I think that this phenomenon did take place under LB588 as well, in 2007, so there's your historical fact. The-- one of the aspects of this process that I think-- that is actually going to work in favor of injured workers is the fact that they'll have this opportunity to go back and litigate on a piecemeal basis, future medical, by leaving that open. And there is a real advantage to that. I, I have a case in my office right now that I've been handling, I inherited it from a former partner, where the accident occurred in 1986. We fight over that case about every two years, about whether a particular procedure is related to the original work accident. But if it isn't, if it is not and the court ruled, I don't think that this is compensable, well, then Medicare doesn't have any problem, they just pay it. But if we don't have it decided, then there's a question about whether Medicare will cover it because they say it's covered by work comp. And so having the access to courts over a long period of time, in some of these cases, on those types of issues, and you just bring it in on a motion and say, judge, would you please pay this? If it's in the right-- if it's been preserved in the right way, it is a real advantage to workers and to group health providers as well, group health insurers, because they have the ability to get a yes or no, rather than a claims adjuster making that decision for them. And so with that and the reasons that have been given for the bill in favor, we'd ask you to support LB1103. Thank you.

B. HANSEN: Thank you. Any questions at all? OK, seeing none, thank you. Anybody else wishing to testify as a proponent? All right, seeing none, is there anybody who wishes to testify as an opponent? Seeing none, is there anybody who wishes to testify in the neutral capacity? Neutral capacity, right?

LORRA O'BANION: Neutral.

B. HANSEN: All right, thank you. Welcome.

LORRA O'BANION: Thank you. Good afternoon, Chairperson Hansen and members of the Business and Labor Committee. My name is Lorra O'Banion. That is spelled L-o-r-r-a O'-B-a-n-i-o-n. I'm legal counsel for the Nebraska Workers' Compensation Court. The purpose of my testimony today is to provide this committee with information about

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the court's role in reviewing lump sum settlements under the current statutory scheme. Section 48-139 provides for two types of settlements in workers' compensation; first, lump sum settlement, which is reviewed by the court and second, release of liability, which the court does not review or approve. Both types of settlement are final and conclusive upon the parties and they can settle the whole case or settle all indemnity and past medical benefits while leaving future medical liability open. When a lump sum settlement is submitted to the court for review, pursuant to Section 48-139, the purpose of the review is so our presiding judge can provide an impartial review of the application to determine whether it is in the best interest of the employee to settle his or her claim and whether the settlement is in conformity with the Workers' Compensation Act. Initially, a staff attorney reviews the settlement and provides recommendations to the presiding judge who makes the final review and determination to approve or dismiss the lump sum settlement. In applying the best interest standard, the court identifies benefits owed to the employee, including indemnity payments for lost wages, permanent disability, medical expenses and vocational rehabilitation pursuant to the Workers' Compensation Act, and the court's rules of procedure. Additionally, this settlement should fully and finally resolve all issues so that the injured worker is not exposed to future litigation or left with unanticipated medical expenses after the settlement. Under lump sum settlement review by the court in the fiscal year 2018, the court identified and recovered \$174,000 in underpayments of indemnity benefits plus \$80,000 in medical benefits owed to employees. In fiscal year 2019, the court identified and recovered over \$61,000 in underpayments of indemnity benefits plus \$37,000 in medical benefits owed to employees. LB1103 would eliminate court review and approval of indemnity-only settlements when Medicare has a potential interest, when the injured worker is represented by counsel, and when the employer insurer remains liable for future medical expenses. In the case of Medicare, Medicare pays for certain medical and hospital expenses for qualified people. Many workers' compensation claimants are eligible for Medicare by virtue of their age of 65 or older or because of a disability. Medicare is secondary to workers' compensation for accident-related medical expenses. If a person is injured due to a work accident, the employer has the primary responsibility, excuse me, responsibility to pay the employee's accident-related medical expenses. Medicare may make a conditional payment when there is evidence that workers' compensation does not pay promptly, such as when a claim is disputed. In those cases, Medicare's payment is conditioned upon reimbursement when the workers'

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compensation payment is made. When there is an indemnity-only settlement, the employer remains responsible for future medical expenses needed for the accident-related condition. But in an indemnity-only settlement, there may not be sufficient attention paid to Medicare's past conditional payments. Requiring court review of that category of cases makes it more likely claimants and their attorneys will pay attention to that aspect of a settlement prior to its submission to the court for approval. And the approval process, itself, confirms whether the settlement is in the best interests of the claimant as to Medicare's past conditional payments. The risk to claimants if Medicare's interest and past conditional payments isn't protected at the time of settlement is that Medicare can seek to directly collect the conditional payment amount from the injured worker or it can offset the amount owed against charges for ongoing medical treatment the worker is receiving. We do leave the policy decision concerning workers' compensation settlements to the Legislature, but thought this explanation of the settlement process might be helpful to you as you take this bill under consideration. Thank you. I will try to answer any questions you might have.

B. HANSEN: Are there any questions? Senator Crawford.

CRAWFORD: Thank you. And thank you for being here to answer questions, I really appreciate that. So did I hear you, as you were speaking, that even in indemnity-only cases, you've had situations where you have helped recover more for the worker?

LORRA O'BANION: That's correct.

CRAWFORD: OK, so, so there was a, a purpose of your review in those cases as well?

LORRA O'BANION: Yes, the applications are reviewed, of course, in the best interests of the employee. And of course, that has been mentioned several times by previous testifiers. So the court is looking for all of the medical benefits that would be owed to an employee in those situations. And sometimes, you know, there are miscalculations and things like that. Some of, some of the reasons for the recovery to come from, maybe it might be-- there might be a-- you know, it might not be clear what the permanent impairment is and then our staff attorneys will ask the attorneys or the parties to come back with more information about the impairment and that impairment can actually increase the amount of benefits that's owed to the claimant at that time. And that's-- it's kind of-- it's, it's an impartial review

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that's done by the staff attorneys and the decision is ultimately determined by our presiding judge.

CRAWFORD: Thank you. Can I ask a follow-up question?

B. HANSEN: Yes.

CRAWFORD: And so also I wanted to follow up by-- I believe I also heard you say is that if Medicare payments were already made in the case after the settlement, Medicare might come after a worker to seek repayment?

LORRA O'BANION: That's correct. Medicare is considered a secondary payer to the workers' compensation insurer. So the workers' compensation insurer, the employer is the primary payer. So sometimes when there is a dispute about the claim, Medicare will go ahead and make the payment for medical benefits that are needed at that time while the parties settle the dispute. And so those are the types of-- those are the conditional payments that are made by Medicare. And the expectation is that Medicare will need to be reimbursed for those medical bills that are incurred.

CRAWFORD: Thank you.

B. HANSEN: Any other questions? Seeing none, thank you for your testimony.

LORRA O'BANION: Thank you.

B. HANSEN: Anybody else wish to testify in a neutral capacity? Seeing none, Chairman Hansen, you are open to close.

M. HANSEN: Thank you, Senator Hansen and members of the committee. First, and before I forget, I'd like to thank the Clerk's office, Patrick, Chuck, and Mike from Technology for helping us assist in this room. We would have been pretty cramped in the little Appropriations hearing room since we got moved around today. So I'm appreciative of that. That being said, as Senator Lathrop noticed, this was a bill, probably one of the few bills where you can have two normally opposing groups agreed. And as far as technical questions moving forward, I'd be happy to work with Senator Lathrop and any other members of the committee that have them. With that, I will close.

B. HANSEN: Any questions? All right, thank you.

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M. HANSEN: Thank you.

B. HANSEN: And that closes the hearing on LB1103. And that will close the public hearing for today.