

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**B. HANSEN:** OK, good afternoon and welcome to the Business and Labor Committee. My name is Senator Ben Hansen. I represent the 16th Legislative District in Washington, Burt, and Cuming Counties and part of Stanton County and I serve as Chair of the Business and Labor Committee. I would like to invite the other members of the committee to introduce themselves starting on my right with Senator Matt Hansen.

**M. HANSEN:** Matt Hansen, District 26 in Lincoln.

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

**HALLORAN:** Steve Halloran, District 33: Adams, Kearney, and parts of Phelps County.

**GRAGERT:** Tim Gragert, District 40, northeast Nebraska.

**B. HANSEN:** Also assisting the committee is our legal counsel, Benson Wallace; our committee clerk, Christina Campbell; and the committee pages, Kate Kissane and Kennedy Rittscher. A few notes about our policy and procedures. Please turn off or silence your cell phones. This afternoon, we'll be hearing, I believe, six-- seven bills and we'll be taking them in the order listed on the agenda outside the room. On each of the tables, near the doors to the hearing room, you'll find green testifier sheets. If you're planning to testify today, please fill out-- please fill one out and hand it to Christina when you come up to testify. This will also help keep an accurate reading of the hearing. If you are not testifying at the microphone, but would want to go on record as having a position on the bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. Also I would note if you are not testifying but have a position letter to submit, the Legislature's policy is that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We ask that if you do have any handouts that you please bring ten copies and give them to the page. We use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will turn green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony and we ask you to wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last name. The hearing on each bill will begin

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

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 do have a strict no-prop policy in our committee. And with that, we will begin today's hearing with LB1083 and we will welcome myself, Senator Hansen. All right.

**HALLORAN:** Well, welcome, Senator Hansen, and I might remind you, you have unlimited time, so--

**B. HANSEN:** Oh, I do. OK, well, thank you very much. Hopefully, I won't take up unlimited time. All right. Thank you, members of the Business and Labor Committee. My name is Ben Hansen. I represent District 16. That's B-e-n H-a-n-s-e-n and I'm here today to introduce LB1083 and it is at the request of the State Risk Management Administrator. This bill presents claims against the state, which are required to be reviewed and approved by the State Legislature every year. This bill, along with the State Denial Claims bill, is brought every year as a Business and Labor Committee bill. Under state statute, any valid claim against the state, like workers' compensation or personal injury suit in excess of \$50,000, is appropriated by the Legislature. This bill also contains agency write-offs and must be approved by the Legislature like uncollectible debts and unprosecuted property damage. I would save any questions you have for Mr. Allen Simpson, the State Risk Management Administrator, who will be testifying right after me. So with that, I will do my best to take any questions or Allen might be best suited.

**HALLORAN:** Thank you, Senator Hansen, for the opening. Any questions for Senator Hansen?

**LATHROP:** Thanks.

**HALLORAN:** Seeing none, you'll stick around for the close?

**B. HANSEN:** Yes, I will be here. Thank you.

**HALLORAN:** Good afternoon and welcome to Business and Labor Committee.

**ALLEN SIMPSON:** Thank you, sir. Senator Hansen, members of the Business and Labor Committee, good afternoon. My name is Allen Simpson, A-l-l-e-n S-i-m-p-s-o-n, and I am the Risk Manager for the state of Nebraska. LB1083 and AM1808 provides for the payment of claims against the state. I am here to discuss the claims listed within the bill and to provide an overview of the claim process. Tort, miscellaneous,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

indemnification, and contract claims are filed with the Office of Risk Management. Claims in the amount up to \$5,000 can be approved directly by the State Risk Manager. Any claim over \$5,000 and up to \$50,000 must be approved by the State Claims Board. Claims totaling more than 50-- \$50,000 must be approved by the Legislature and thus are added to the claims bill. Agency write-off requests for uncollectible debts and the payment of workers' compensation settlements and judgments greater than \$100,000 must be approved by the Legislature and are also included in the claims bill. That's a quick summary of how the claims make it to the claims bill. We will now go through, through the process and provide a brief description of the tort claims, workers' compensation claims, state self-insured liability, and miscellaneous claims listed within the bill, which have been settled by the Attorney General's Office. Jennifer Huxoll from the Attorney General's Office will speak on the first indemnification claim, CI 19-79 for Sheri Brown. She will also review indemnification claim 8:18CV551 for Telena Moser. Lisa Martin-Price from the Attorney General's Office will speak on the payment of workers' compensation claims settled by their office. The first of these will be \$125,000 payable to Rick Haave, and the next one will be \$100,000 payable to Ken Rezac and Nicholas Jantzen. When they are complete, we will have a representative from each agency to speak on their agency's write-off request. Thank you, thank you for your time and I would hap-- be happy to answer any questions you may have.

**HALLORAN:** Thank you, Mr. Simpson. Any questions from the committee? Seeing none, thanks for your testimony. Next proponent. Welcome to Business and Labor.

**JENNIFER HUXOLL:** Good afternoon. Senators, members of the Business and Labor Committee, my name is Jennifer Huxoll, J-e-n-n-i-f-e-r, Huxoll, H-u-x-o-l-l. I'm an Assistant Attorney General for the state of Nebraska. As, as Mr., Mr. Simpson has already explained, LB1083 provides for the payment of claims against the state. I'm just going to provide you with a brief description of the miscellaneous claims listed within the bill, which constitute settlements that we have made by-- that have been made by the Attorney General's Office on behalf of the state. The first claim is indemnification claim 19-79, which is a settlement entered into by the Attorney General's Office on behalf of the Nebraska Department of Health and Human Services in Custer County, Nebraska. Ms. Sheri Brown filed a lawsuit against DHHS pursuant to the Nebraska Fair Employment Practices Act for a claim of disability discrimination, retaliation, and constructive discharge, all related to what was an alleged failure by the Department of Health and Human Services to accommodate a claim disability. The total amount of the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

settlement was \$95,000; \$50,000 has previously been paid and the remaining \$45,000 has been placed into LB1083 for approval and payment. The second indemnification claim is 8:18CV551, which is a settlement entered into by the Attorney General's Office on behalf of four Nebraska Department of Correctional Services line employees. This lawsuit involved-- this, this involved a lawsuit filed by Telena Moser, the personal representative of the estate of Terry Berry, deceased, under 42 USC 1983 in the U.S. District Court for the District of Nebraska. Ms. Moser's suit alleged that various NDCS, Corrections, line employees were deliberately indifferent to a serious risk of harm to Mr. Berry in violation of the Eighth Amendment to the U.S. Constitution when they housed Mr. Berry and Mr. Patrick Schroeder together in the same cell, which she contended resulted in Mr. Berry's death. The Attorney General's Office and Mr. Moser's counsel agreed to mediate this case and a settlement was ultimately entered into for the amount of \$479,000; \$50,000 has been previously paid and the remaining amount of \$429,000 has been placed into LB1083 for approval and payment. Those are the only two claims I have for you. Up next is Lisa Martin-Price, who will discuss Section 2 of the bill, which are the workers' compensation claims. If you have any questions for me, though, before I leave the table?

**HALLORAN:** Thank you, Ms. Huxoll. Any questions from the committee? Seeing none, thank you so much.

**JENNIFER HUXOLL:** Thank you.

**HALLORAN:** Good afternoon. Welcome to Business and Labor.

**LISA MARTIN-PRICE:** Good morning-- or good afternoon. Thank you. Chairman Hansen and members of the Business and Labor Committee, my name is Lisa Martin-Price. I'm Assistant Attorney General with the Attorney General's Office and I also serve as legal advisor to the Risk Manager regarding state workers' compensation claims and I'm here today to discuss the amendments to LB1083 as they relate to two settlements of workers' compensation cases that were filed against the state of Nebraska. The first claim on page-- well, on the amendment page, originally found on page 3 of the bill, is for the amount of \$125,000 to pay the remainder of a \$225,000 settlement and pursuant to statute, the first \$100,000 has been paid. The settlement was submitted to the Workers' Compensation Court. The court has approved the settlement and we're just here asking that, that the Legislature approve the remaining settlement amount. As a little background, the claim involved a high-voltage electrician with the University of Nebraska who was injured when he was moving a telescopic light trailer

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

and the jack fell. He suffered a crush injury to his right hand and also had alleged head injury. So the negotiated settlement is for the compromise of his claims and for-- to satisfy indemnity and, and future medicals. The second claim in the amendment is for the amount of \$100,000 to satisfy the remainder of the \$200,000 settlement. It is to be made payable to claimant Kenneth Rezac and his attorney, Nick Jantzen, and this claim involved an employee of the University of Nebraska who was an agricultural research technician who injured his lower back when he slipped on the steps of a tractor and twisted his back. The negotiated settlement is for \$200,000 and the remainder to be paid after legislative approval is \$100,000. I'm happy to take any questions if there are any.

**HALLORAN:** Thank you so much. Any questions from the committee?

**LISA MARTIN-PRICE:** Thank you.

**HALLORAN:** Seeing none, thank you. Next testifier, please, proponent. Good afternoon.

**CHRISTINA PETERS:** Good afternoon. Good afternoon, Chairperson Hansen, senators, and council. I'm Christina Peters, C-h-r-i-s-t-i-n-a P-e-t-e-r-s, and I'm an accountant for the Nebraska Game and Parks Commission. Our write-off request for you is made up of unpaid transactions from calendar year 2020, totaling \$1,404. The submission includes 35 insufficient funds or uncollectible checks received at various park areas throughout the state. The checks range in size from \$6 for a daily park permit, up to \$132 for a multi-night camping stay. Multiple attempts were made to collect these debts either by park staff at the original purchase location or by budget and fiscal staff from the Lincoln office. Documentation of the attempts are maintained and submitted with our claim. None of the claims presented here were deemed sufficient enough to warrant involvement of the agency legal counsel or assistance of the Attorney General. We would respectfully request your approval of the submitted write-offs. Thank you.

**HALLORAN:** OK. Thank you, Ms. Peters. Any questions from the committee? Seeing none, you got off easy.

**CHRISTINA PETERS:** Thank you.

**HALLORAN:** Next proponent, please. Good afternoon.

**CINDY KEHLING:** Good afternoon. My name is Cindy Kehling, C-i-n-d-y K-e-h-l-i-n-g. I represent the Board of Educational Lands and Funds. We're requesting a write-off of \$5,742.90 of unpaid rental from the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

last half of 2019 annual rental. The lessee did not pay the rental. Under the old statutes, we could not forfeit him until six months after his nonpayment. That statute has now been changed to 60 days, so we're hoping these don't occur anymore. He is no longer eligible to be a bidder on any leases. We have about 3,000 leases and collect around \$48 million a year in agriculture rental.

**HALLORAN:** OK. Thank you, Ms. Kehling. Any questions from the committee? Seeing none, thank you so much.

**CINDY KEHLING:** Thank you.

**HALLORAN:** Good afternoon.

**STACY PFEIFER:** Good afternoon. My name is Stacy Pfeifer, S-t-a-c-y P-f-e-i-f-e-r. I am the outgoing collections and debt prevention manager at the Child Support Payment Center and have recently taken on a new role as the director of the Enable Program for the state of Nebraska. These write-offs are a result of the returned checks and ACH electronic payments we were unable to recoup for the various reasons listed in the paperwork we submitted. The money was already out the door by the time we were notified of these returns. Additional items include payments that are errantly paid out to incorrect recipients. We follow our collection and write-off procedures in our attempts to collect these items. We also take steps to prevent this debt, such as holding identified offenders' payments to make sure they clear before providing the credit to them, to then be disbursed or requiring guaranteed funds if they have repeat issues per existing state statutes and paying special attention to incoming payments we have misapplied in the past. These write-offs also include older debts we are cleaning up. Since our write-off last year, we have successfully collected \$403,880.18. As you can see, the \$37,871.93 we are requesting to write off is less than 10 percent of our overall debt. Given our \$1,100,000 per day average process payment amount, our efforts to be debt preventative have paid off considerably and we are in a much better position than we have ever been in. It is also important to note that we are funding our own debt and will not be requesting any additional funds to write off this amount. We respectfully request these write-offs be approved. Thank you for your time and consideration.

**HALLORAN:** Thank you, Ms. Pfeifer. Any questions from the committee? Seeing none, thank you. Good afternoon.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**JEFF SCHROEDER:** Good afternoon, Vice Chair Halloran and members of the Business and Labor Committee. My name is Jeff Schroeder, J-e-f-f S-c-h-r-o-e-d-e-r, and I'm chief legal counsel for the Nebraska Department of Transportation. I appreciate having this opportunity to testify in support of the department's write-offs claim in LB1083. The department respectfully requests your approval of the write-off request in the bill totaling \$327,563.65. The department's duty and responsibility includes protecting and maintaining the 10,000-mile state highway network and our numerous yards and other facilities across the state. From time to time, that infrastructure gets damaged due to the actions of others. Common examples include when motor vehicles crash into guardrails, bridges, and sign installations. The majority of these write-offs total less than \$5,000 and go as low as one cent. We make diligent efforts to recover the damage to state property from the responsible party. Annually, the department is able to recover the vast majority of the state property damage claims we pursue because we have a systematic and well-established process in place. Ultimately, though, some claims must be written off for various reasons, such as inability to locate the responsible party, inability to determine who was actually the responsible party, bankruptcy, or this year, a responsible party who is now deceased with insufficient assets to pay the claim. In many cases, the party had no valid automobile insurance coverage or they did not have enough insurance coverage at the time of the incident. There are many different circumstances that can lead to NDOT not being able to collect damages to public infrastructure from potentially responsible parties. Having had the opportunity to work with department personnel directly involved in the process about the recovery procedures undertaken by NDOT, we are confident that the department's recovery process is thorough and effective. Thank you again for your opportunity to testify. With that, are there any questions for me at this time?

**HALLORAN:** Thank you, Mr. Schroeder. Any questions from the committee? Seeing none, thank you. Good afternoon.

**REGINA SHIELDS:** Good afternoon. Good afternoon, Chairperson Hansen, Vice Chairman Halloran, and members of the Business and Labor Committee. My name is Regina Shields, R-e-g-i-n-a S-h-i-e-l-d-s, and I am the agency legal counsel and legislative liaison for the Nebraska State Fire Marshal Agency. I'm here today to ask to write off \$660 of debt that has been deemed uncollectible. This amount comes from inspection fees owed in three agency programs: grain elevators, healthcare, and boilers. These inspection fees were from 2018 or 2019 and resulted from facilities closing or declaring bankruptcy. The agency's efforts to collect these amounts included sending multiple

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

letters requesting payments and numerous phone calls. It has been determined that the cost for additional collection efforts would exceed the amounts owed, so the agency respectfully requests that these amounts be written off. Thank you for your time and I'll be happy to answer any questions.

**HALLORAN:** Thank you, Ms. Shields. For the sake of the transcribers, would you state and spell your name, please?

**REGINA SHIELDS:** I did, but OK. R-e-g-i-n-a S-h-i-e-l-d-s.

**HALLORAN:** And maybe you did. Maybe I missed it. Just as a reminder to everybody, please do say and spell your name. Thank you very much. Any questions from the committee? Seeing none, thank you.

**REGINA SHIELDS:** Thank you.

**HALLORAN:** Good afternoon.

**TERESA ZULAUF:** Good afternoon. Good afternoon, Chairperson Hansen and members of the Business and Labor Committee. My name is Teresa Zulauf, T-e-r-e-s-a Z-u-l-a-u-f, and I'm the controller for the Nebraska Public Employees Retirement Systems, Agency 85. I'm asking for permission for an agency write-off of \$3,572.34. The need for these write-offs stemmed from the retirement benefits that were paid out to two deceased members in subsequent months after the member passed away. The agency had not received timely notification of death, so the payments continued. Members' retirement benefits ceased following the month the member passes away and these payments were made in succeeding months after the member had passed and were therefore not due to the member. NPERS' staff and agency legal counsel have made multiple attempts to correspond and collect the money from the beneficiaries without any success. I can provide copies of any of the documentation that needs to be submitted. NPERS feels that all options have been exhausted to collect and believes the overpayments to be uncollectible. I respectfully ask permission to write these debt, debts off. Do you have any questions?

**HALLORAN:** OK. Thanks for your testimony. Any questions from the committee? Seeing none, thank you so much.

**TERESA ZULAUF:** Thank you.

**HALLORAN:** Good afternoon.



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**KATIE THURBER:** Good afternoon, Vice Chairman Halloran 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, general counsel on behalf of the Nebraska Department of Labor, and I'm appearing here today in support of LB1083. The Nebraska Department of Labor has three separate claims for write-off this year. NDOL is seeking to write off both unemployment insurance benefit and tax debt and debts that occurred through the Contractor Registration and Wage Payment Collection Acts. As you may recall, NDOL first started writing off debt in 2018 and promised to go forward on an annual basis. We continue to honor that promise and this year added the labor standards programs. For claim number 2022-21463, NDOL is seeking to write off \$935,864.89 in unpaid unemployment insurance taxes and payments in lieu of contributions, and \$4,865,177.18 in penalties and accrued interest. Unemployment tax debts accrue at 18 percent interest. The total write-off is \$5,801,042.07. This number consists of 119 separate employer accounts that the department has determined uncollectible. For claim 2022-21464, the department is seeking to write off \$254,728.26 in unemployment insurance benefit overpayments. This number consists of 157 individual claimants and a total of 231 overpayments that the department has determined uncollectible. There is no statute of limitations on any of the aforementioned debt, so the Nebraska Department of Labor is seeking to write off this uncollectible debt. The department actively pursues delinquent tax payments. When a business fails to pay unemployment taxes, NDOL make several attempts to collect on the overpayment. We have the statutory authority to collect through civil action set off against any state income tax refund and set off against federal income tax refunds. Further, the department may place a state tax lien on the business and if personal liability is established, may pursue personal liability of an individual employer, partner, corporate officer, or member of a limited liability company or limited liability partnership. To put this tax write-off in perspective, in 2020 alone, NDOL collected \$76,528,285.98 in unemployment taxes, of which \$27,000-- sorry, \$27,384,106.39 was delinquent. The department goes through similar lengths for unemployment insurance benefit overpayments. Before an unemployment insurance benefit debt is determined uncollectible, the overpayment has gone through several collection attempts. The department has statutory authority to collect through civil action offset against future benefits set off against any state income tax refund and set off against federal income tax refunds if the overpayment is due to fraud or misreported earnings. If a claimant has filed for benefits since the debt was established, the department has attempted to recoup the overpayment. Some may have had levies placed on their wages and of the 231 overpayments proposed for

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

write-off, collection for all debts has been attempted through the Nebraska Department of Revenue State Income Tax Offset Program. Fifty-two of the debts were run through the IRS Income Tax Refund Offset Program System to attempt collection against federal income tax refunds and 38 of these debts are being written off due to discharge in bankruptcy. NDOL makes every effort to collect all outstanding debts and has litigated collection efforts in both state and federal courts. To the benefit write-off-- to put the benefit write-off of sick-- to put the benefit write-off in perspective, in 2021 alone, NDOL collected \$2,266,809 in benefit overpayments. All the unemployment debts proposed to write off have been the subject of multiple collection efforts and the department is seeking to write off all debts over five years old that have not had a repayment of any kind in the last three debts. Please note this wouldn't include any pandemic payments because of the five-year limitation. For claim 2022-21465, the Department of Labor is seeking to write off \$230,330. This consists of 267 Contractor Registration Act fee requests in this-- at \$40 per contractor in the sum of \$10,680. Contractor registration fees go to the Contractor and Professional Employer Organization Registration Cash Fund; 267 Contractor Registration Act citation fees in the sum of \$138,150-- these fees go to the school fund-- and two Wage Payment and Collection Act citation fees in the sum of \$81,500. These fees also go to the school fund. The contractors under the Contractor Registration Act write-offs are unable to be located by NDOL and multiple collection act, act-- efforts have been pursued. The citation fees under the Wage Payment and Collection Act were incurred by two employers who are going out of business and did not have the funds to make final payroll. We have no way to pursue those citations, as they no longer operate in Nebraska. This is the first time we have requested a write-off for our labor standards program. That concludes my testimony and I'd be happy to answer any questions you may have.

**HALLORAN:** OK. Thank you, Ms. Thurber. Any questions from the committee? Seeing none, thank you.

**KATIE THURBER:** Thank you.

**HALLORAN:** Next testifier. Good afternoon.

**MICHAEL GREENLEE:** Good afternoon. Members of the Business and Labor Committee, I'm Michael Greenlee. That's spelled M-i-c-h-a-e-l, last name, G-r-e-e-n-l-e-e. I'm an attorney with the Department of Health and Human Services and I'm here to testify in support of LB1083, specifically Section 3, which would permit the Department of Health

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

and Human Services to write off certain debts owed for fiscal or accounting purposes and to provide additional information. The total debt for which DHHS is requesting write-off authorization is in the amount of \$2,573,279.27. The requested write-off amount relates to debts owed to DHHS by way of assistance through 15 different programs. The debts are due to overpayments made for services provided or for which we have not been reimbursed. Prior to submittal of these debts for write-off, the agency pursued recovery through one or more of the following efforts: regular billing statements, recoupment efforts, demand letters signed by the program, one of the agency's directors, or by one of the agency's attorneys, namely myself, and litigation. Approximately 99.8 percent of the debt being submitted for write-off is being submitted because the debtor has passed away with no probate being filed or there are insufficient assets within a probate, because the debtor had the debt discharged in bankruptcy, or because the applicable statute of limitations has passed, including money owed from persons who remained on needs-based programs. The majority of this year's submission, nearly 85 percent, fall within the third category; debt that is uncollectible, as it is past statute of limitations. Much of that debt is owing from persons who were on needs-based assistance at the time their debt went past the limitations period. By way of example, the largest number of accounts included in this year's request involve debts that came about due to overpayments made to recipients of aid to dependent children, otherwise known as ADC. Typically, over half of our submission involves debt owing from ADC recipients. This year, there were 594 accounts in all, with the average account owing \$670.87. Of those accounts, nearly 95 percent involve debts-- excuse me-- whereas been at least five years since the last payment has been made, so statute of limitations has ran. This year, submission deviates slightly from previous submissions due to a high dollar value assigned to two programs. First and foremost, the Medicaid Program Integrity has two debtors that defrauded the state and were prosecuted accordingly. However, both of the debtors died before they were able to make restitution. And secondly, the regional centers have submitted debt for services provided to patients while they were in their care, in which a third party or third-party resource did not cover the service provided. These two debts make up for \$1,414,130.12, or approximately 55 percent of this year's submission. The remaining two-tenths of 1 percent of this year's total write-off request involve 12 individual accounts totaling less than \$100. Thank you for the opportunity to be here today. I'm happy to answer any questions that you may have at this time.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**HALLORAN:** Thank you, Mr. Greenlee. Any questions from the committee? We're a quiet committee today. Thank you. Next testifier, please. That's it? All right. Are there any opponents for LB1083? Any opponents? Seeing none, anyone in the neutral capacity? Seeing none, any closing remarks? Mr. Benson, our legal counsel, will close.

**B. HANSEN:** I think he's going to waive.

**HALLORAN:** He's going to waive closing? Fine. OK, so that closes the hearing for LB1083. We will now have LB1084 and Mr. Benson, our legal counsel, will have an opening for us. Good afternoon.

**BENSON WALLACE:** Good afternoon, assumed Chair Halloran and the rest of the members of the Business and Labor Committee. My name is Benson Wallace. That is B-e-n-s-o-n W-a-l-l-a-c-e. I am the legal counsel for the Business and Labor Committee opening on LB1084 due to Chairman-- Senator Hansen opening for a bill in the Education Committee at the moment. LB1084 is the sister bill to LB1083. It is brought by this committee every year and brought to the committee at the request of the State Risk Management Administrator, Allen Simpson. The bill includes claims against the state that were denied by the State Claims Board. This year, which is unique to the two years past, there were actually two denied claims that appear on LB1084. Mr. Simpson will be better to ask questions on that, exactly what those claims are for. I think one totals around \$7,000; the other around \$6,000. And with that, I would, I would add-- take any questions that you may have and remind you that Mr. Simpson will be up next that could better answer any questions.

**HALLORAN:** Well, as a custom, we don't inquire or ask questions from staff so you get off on this one, but thanks for the opening. All right, proponents for LB1084. Good afternoon again.

**ALLEN SIMPSON:** Senator Hansen, members of the Business and Labor Committee, good afternoon. My name is Allen Simpson, A-l-l-e-n S-i-m-p-s-o-n, and I am the Risk Manager for the state of Nebraska. We have two claims to review under LB1084. These are claims that were denied by the State Claims Board and appealed by the claimant. The first is claim number 2021-20912 for \$7,418.89 for Arthur Weaver and claim number 2021-20913 for \$6,208.56 for Glenda Cottam. Both claims were filed against the Department of Education. Thank you for your time and I would be happy to answer any questions.

**HALLORAN:** All right. Thanks, Mr. Simpson. Any questions? Yes. Senator Hansen.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**M. HANSEN:** I guess just-- and I might have missed it. I apologize, but, like, why are we denying the claims? I've never seen a denied claim in--

**ALLEN SIMPSON:** Yeah, the last time this happened, sir, was in 2016.

**M. HANSEN:** OK.

**ALLEN SIMPSON:** These claims went through the process. They were denied by the Claims Board. The agency legal counsel is here too to-- they'll be able to answer some additional questions, but it was denied, I believe, based on the fact that there was a dispute of whether the work was accomplished.

**M. HANSEN:** Gotcha. So there's like a factual dispute as to whether or not they were valid claims.

**ALLEN SIMPSON:** Yes, sir.

**M. HANSEN:** OK, thank you and I'll wait for the next testifier.

**HALLORAN:** Thank you, Senator Hansen. Any additional questions for Mr. Simpson? Seeing none, thank you. All right, next proponent, please, for LB1084. Good afternoon.

**JUAN ROMAN:** Good afternoon, Senator Halloran and members of the Business and Labor Committee. My name is Juan Roman, J-u-a-n R-o-m-a-n, with an accent mark over the A. I am the general counsel for the Nebraska Department of Education. I'm fairly new to this particular issue with LB1084. I was-- it was handled by my predecessor. This involves two claims against the department regarding Dr. Weaver and Dr. Cottam, who were contracted by the Disability Determinations Services, which is a section within the department. Within that contract that they had was to be billed for the department for services rendered. No submissions of any hours worked for the period of time in which they were claiming in their claim was submitted to the department for payment. So they were specifically provided the opportunity to work during the period and the DDS office was open during that period and other DDS employees were in fact at the office working during that period, some by necessity. Their demands did not offer to the department any explanation as to why Dr. Weaver should receive \$7,418.89 or Dr. Cottam, \$6,208.56. We cited to the contract clause, in which they provided in their demand, stating that settlement for specified deliverables completed by contractor and accepted and usable by NDE. Again, none was provided. So from that, we did-- we denied their claim. I am subject to your questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**HALLORAN:** All right. Thank you, sir, for your testimony. Any questions? No? We're good? I apologize for-- it's nice to hear woodpeckers this time of year, so-- but it's kind of distracting. Thank you for your testimony.

**JUAN ROMAN:** Thank you very much.

**HALLORAN:** Any additional testifiers, proponent? Seeing none, testifying in opposition? Good afternoon.

**JEFFREY WAGNER:** Good afternoon, members of the committee. My name is Jeffrey Wagner, J-e-f-f-r-e-y, Wagner, W-a-g-n-e-r, and I am speaking regarding both claims for Dr. Cottam and Dr. Weaver. They were longtime contractors for the Department of Education in reviewing claims. When COVID started, they were not able to work. Their contract was ultimately ended without cause. And the crux of this case turns upon paragraph 8 of that contract, which states if the contractor initiates termination or the identifiable percentage effort expended by the contractor-- this is in determining settlement of it-- or if NDE, NDE initiates termination. We could identify what they would have expected to earn through the end of their contract. That was, again, they couldn't work and the contract was not renewed and that was the amount of these claims that were made against the Department of Education. It's not quite as easy, as my, my predecessor discussed, as to that they didn't work, they could not work and that documentation has been provided, including all the documentation from the Department of Education no longer allowing them to work from home and causing issues with COVID. So we're just asking-- I'm speaking in opposition to the bill. I think ultimately, their claims should be allowed. Thank you.

**HALLORAN:** All right. Thank you, Mr. Wagner. Any questions from the committee?

**LATHROP:** Yeah, I got to ask you something. If we're going to deny this claim, these two guys worked for the Department of Education as contract--

**JEFFREY WAGNER:** Correct.

**LATHROP:** --people. Do you know what they did?

**JEFFREY WAGNER:** They reviewed claims regarding disability determinations.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**LATHROP:** OK. And did the contract say if you don't come to work, you don't get paid or in the event of something out of the control of the state of Nebraska--

**JEFFREY WAGNER:** No. There's no provisions regarding that in the contract.

**LATHROP:** So was it for a, a, an hourly amount or a dollar amount and this is the balance of the contract?

**JEFFREY WAGNER:** They were paid an hourly amount per month. Based on the hours that they put in, they would submit a report to the department. We were able to average what their hourly amount was per month and that's the basis of these claims. They were willing to work, they were able to work, but they were not allowed to work.

**LATHROP:** Did the contract provide that they will have-- that the state promised them a certain number of hours?

**JEFFREY WAGNER:** It did not promise a certain number of hours.

**LATHROP:** So the way the contract is written-- I haven't read it, obviously, but I am asking the questions about it to understand-- the contracts-- does it look something like this? We hire these two fellows to do these disability determinations and as long as they do it for the length of the contract, we will pay them X number of dollars an hour and then COVID happens and they can't work the rest?

**JEFFREY WAGNER:** Basically, correct, but the provision is in paragraph 8 of that contract, where it talks about if it's terminated by the department, they're allowed, as settlement under that paragraph, an identifiable percentage of a-- identifiable percentage of effort. We can identify what their percentage of effort would have been through the end of the contract. That provision, I've researched it and there's no good history regarding that language that's put in this contract by the state. It's my position that when the con-- or when the state terminates that contract, they're allowed their identifiable, identifiable percentage through the end of the contract.

**LATHROP:** Did they terminate it or did they simply not have them do work, in which case they didn't record hours?

**JEFFREY WAGNER:** Both. Ultimately, the contract was not renewed and it was-- our position is it was terminated when they wouldn't let them work.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**LATHROP:** OK, but no one from Education sent them a letter that said, we don't need your services anymore. We're terminating the contract.

**JEFFREY WAGNER:** I believe--

**LATHROP:** It just expired and for the last period of time, they couldn't do work because of COVID.

**JEFFREY WAGNER:** I believe-- if I recall right, it was-- there was a document or an email that they were terminating the contract because they believe that Drs. Weaver and Cottam were not working under the contract and it was our position they could not work under the contract the way it was structured, given COVID.

**LATHROP:** I don't want to split hairs with you. I'll tell you what I-- what-- the way I'm leaning is it sounds like this thing just sort of expired and they didn't renew it as opposed to telling them in advance of the end of the contract period that they were terminated.

**JEFFREY WAGNER:** That would not be an accurate statement.

**LATHROP:** OK, then, in fairness to you, I will, I will tell you I'm leaning towards approving the denial of this claim--

**JEFFREY WAGNER:** Um-hum.

**LATHROP:** --because it sounds like, what I'm hearing, at least, is COVID happens, they don't come into the office. There's no claims to review. The contract period is over and they don't renew it, which is different than a termination.

**JEFFREY WAGNER:** It was terminated before the end of the contract period and that's where we're--

**LATHROP:** Well, then you better describe that, that context because if it was terminated before the end of the contract, then I'm inclined to pay them. If it is not terminated, if it's simply you can't come into the office because there's COVID and we don't want anybody getting sick or there's no claims to review, whatever the circumstances were that led them to not have anything to do or not be able to come into the office, that's different than saying there's four months left in the contract and we're going to end it today.

**JEFFREY WAGNER:** It wasn't the latter. It was a combination of the prior statements. They were willing to work. They were able to work, but they couldn't work under the system the Department of Education



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

had put in place. And then prior to the end of the contract, the Department of Education terminates it when they were ready, willing, and able to work in the system they had been using, but the department would not allow them to continue in that manner.

**LATHROP:** But was it a, was it a termination early or a not renewal?

**JEFFREY WAGNER:** Termination early, before the end of the contract.

**LATHROP:** How many, how many months or years or days?

**JEFFREY WAGNER:** Oh, it was, it was, it was only a couple of months. I don't have the exact date, but it was only a couple of months.

**LATHROP:** And there was a letter terminating?

**JEFFREY WAGNER:** I think there's an email to that effect.

**LATHROP:** OK. Do we have a copy of that?

**JEFFREY WAGNER:** You would have had that in the materials that we supplied when we filed the initial claim.

**LATHROP:** OK.

**JEFFREY WAGNER:** Any other questions?

**HALLORAN:** Nope?

**JEFFREY WAGNER:** Thank you.

**HALLORAN:** I must acknowledge before Senator Lathrop asked the question, I didn't-- for the sake of the transcribers, I didn't acknowledge so they know.

**LATHROP:** Oh, that, that was Lathrop.

**HALLORAN:** That was Senator Lathrop, yes. Thank you, Senator Lathrop. Senator Hansen.

**M. HANSEN:** Thank you, Senator Halloran. Just real quick and not to get into the meat of the claim, but can you explain how you got to the point where we are now with the denied claims? Was there a lawsuit filed in any particular court? Was it an application straight to the Claims Board? What was the process?

**JEFFREY WAGNER:** Application straight to the Claims Board.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**M. HANSEN:** All right.

**JEFFREY WAGNER:** Yeah. We may proceed otherwise, depending on the outcome of this bill, but that was how it started.

**M. HANSEN:** Thank you.

**JEFFREY WAGNER:** Thank you.

**HALLORAN:** Thank you, Senator Hansen. Any further questions? Seeing none, thank you, Mr. Wagner.

**JEFFREY WAGNER:** Thank you.

**HALLORAN:** Are there-- is there additional opposition to LB1084? No? Seeing none, anyone in the neutral capacity? Seeing none, we're waiving close.

\_\_\_\_\_: Yeah.

**HALLORAN:** OK. That concludes the hearing for LB1084. Thank you all for being here. We will move on to-- possibly move on to LB1130. Senator Morfeld. Good afternoon.

**MORFELD:** Good afternoon. Good afternoon, members of the committee. My name is Adam Morfeld. For the record, A-d-a-m M-o-r-f-e-l-d, representing the "Fighting" 46th Legislative District, here today to introduce LB1130 on behalf of the Nebraska Statewide Workforce and Education Reporting System, better known as NSWERS. For background-- and I should step back just for a moment. I have the distinct pleasure of having four bills in committee this afternoon so I may be waiving closing and leaving shortly thereafter. But for background, this committee heard and prioritized LB1160 back in 2020 to create and maintain the state's P20 longitudinal data system, system, also known as NSWERS. In that legislation, it was envisioned that NSWERS would serve as a comprehensive, sustainable, and robust lifelong learning and workforce longitudinal data system serving the needs of the people of Nebraska. Currently, the NSWERS is organized as a joint public entity under the Nebraska Interlocal Cooperation Act between the University of Nebraska System, Nebraska State College System, Nebraska six-- Nebraska's six community colleges, and the Nebraska Department of Education. University of Nebraska System President Ted Carter currently serves as the chair of NSWERS' executive council and Dr. Matt Hastings serves as the NSWERS executive director. I think that background is important for you because I know a lot of people are kind of getting up to speed on what's going on. As part of LB1160 that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

passed in 2020, NSWERS was required to submit a report to the Legislature identifying and recommending future data and physical needs. This brings us to LB1130. LB1130 does two main things. First, it would allow and require the Nebraska Department of Labor, Nebraska Department of Health and Human Services, Nebraska Department of Revenue, and the Nebraska Department of Motor Vehicles to enter into a memorandum of understanding with NSWERS to exchange information necessary for the education and workforce analysis. Second, it would expand the Nebraska Department of Labor data collections to include five new data elements; information such as employee occupation, pay rate, and job location. Implemented together, these two components would allow NSWERS a more complete picture of Nebraska's education-to-workforce pipeline and that's something we currently do not have in our state and it puts us at a disadvantage. Dr. Matt Hastings, the NSWERS executive director, will speak in more detail about how NSWERS arrived at these specific agencies and data elements that are needed for their workforce research so I would defer technical questions to him on that matter. I would like to thank NSWERS' partners who are here today in support of LB1130 and I also want to thank Speaker Hilgers for making LB1130 a Speaker priority bill this session. That stated, I want to reiterate to this community that-- this committee that since introducing LB1130, NSWERS partners have been in ongoing dialogues with the Governor's Policy Research Office and NSWERS' stakeholders about data collection and sharing language in the bill and we are committed to seeking consensus with agencies and stakeholders with statutory language to move this bill out of committee. Once again, the experts will-- behind me will discuss in greater detail how NSWERS got their recommendations included into LB1130 and why they're needed to ensure their work accurately captures the education workforce needs of all Nebraskans. Thank you and I'd be happy to answer any questions, if I may.

**HALLORAN:** Per the introducer's request for nontechnical questions, are there any nontechnical questions for Senator Morfeld? OK, seeing none, thank you. You're not going to--

**MORFELD:** I'm probably going to have to waive, but I'm going to stay as long as I can. Thank you.

**HALLORAN:** All right, proponents for LB1130. Good afternoon.

**MATT HASTINGS:** Good afternoon. Chairman, Chairman Hansen and members of the committee, good afternoon. My name is Matt Hastings, M-a-t-t H-a-s-t-i-n-g-s, and I'm the executive director of the Nebraska Statewide Workforce and Educational Reporting System. I'm speaking

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

today as a supporter of LB1130, a technical bill designed to enable implementation of our state's P20W longitudinal data system. That's the system recommended in Blueprint Nebraska and in the Legislature's 2019 Economic Development Task Force Report. Today, Nebraska lacks key information necessary to evaluate our long-term education workforce training and economic development programs. From our proof of concept data project completed just last year, we identified two main reasons for that. Number one, unless a student enrolls in public postsecondary education in Nebraska, we lack information needed to make links into our workforce data systems. About a third of public high school students in Nebraska never enroll in a Nebraska public postsecondary institution. That's about 7,000 students a year. What's more, those students are demographically and geographically distinct. They're more likely to be black, Hispanic, male, and economically disadvantaged. Also, they're more likely to come from the Omaha metro area, from northeast Nebraska, and from the Nebraska Panhandle. Excluding these students from workforce analysis not only means potentially incorrect results, but misguided investments and programming. Number two, when links can be made to workforce data systems, Nebraska lacks the information that we need to evaluate basic outcomes; things like pay rate, how long it takes to get a job, what that job is and where physically people are working. Generally, we don't know if it takes a student two weeks, two months, or two years to get a job. We may know what industry employs them, but it's not clear what job they're performing. For example, an employee working in the healthcare industry could be a physician, an HR professional, a janitor, or a cook. Nor do we know physically or geographically where they're working so it may be the tri-cities, it may be Omaha, it may be South Sioux. For decades, we talk of brain drain and an interest in retaining and recruiting workforce talent. But the stunning fact is the inadequacies of our data systems to evaluate these issues have barely been discussed and have never been fully addressed. The findings included in a report we submitted to the Legislature late last year, the report that was required by LB1160, outlines these. Those are the recommendations that appear in LB1130 before you today. LB1130 then does two main things. Number one, it allows for and directs state agencies to enter into memorandums of understanding with NSWERS to share data. Those MOUs will define the terms and conditions of that sharing process. And two, it standardizes existing data collections happening from Nebraska employers through the UI quarterly wage file and adds five new data elements: pay rate, start and end date, occupation or job title, and a physical job location. Now I want to, I want to underscore two important points about flexibility that are kind of baked into LB1130. First, state agencies maintain an

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

important locus of control with the MOU process. In practice, what it means is that NSWERS will work with the agencies to construct an MOU to define their preferred process for sharing information; technical details like terms of use, storage, data destruction, timelines, auditing. And number two, the would-be standardization and new data collection by the Department of Labor, LB1130 does not specify how exactly to go about doing that, meaning it does not prescribe, for example, that pay rate must be calculated in a certain way. That's by design because we wanted to preserve flexibility for the Department of Labor to implement those changes with employers in a way that minimizes burden. Now, we'll continue our dialogue with the Governor's office and state agencies and we just want to make sure that it's clear that NSWERS is committed to consensus on this bill. But the overwhelming threat and burden to Nebraska businesses today is the lack of a workforce. We've got to have a bona fide data system to thoroughly address those issues and to make thoughtful investments in the state of Nebraska. Thank you, Senator Morfeld, for bringing the bill and Speaker Hilgers for making it a priority. I would be happy to answer any questions the committee may have.

**HALLORAN:** All right, thank you so much. Any questions? Senator Lathrop.

**LATHROP:** So it sounds like we're bringing a bill because there's a holdup. Is there a holdup in this process, this coming together and doing the memorandums of understanding?

**MATT HASTINGS:** No, we're bringing the bill because it was our understanding that a number of the agencies are not able to do that without making some changes to legislation that say we can go through this process.

**LATHROP:** We just need to tell them that they can--

**MATT HASTINGS:** That if--

**LATHROP:** --or tell them that they should?

**MATT HASTINGS:** Both. That's what we're doing here, both.

**LATHROP:** OK, so there is a little hiccup. OK, we'll see if anybody's opposed to this.

**HALLORAN:** All right.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**LATHROP:** Are other states-- one more question, if you don't mind. Are other states doing this?

**MATT HASTINGS:** They are, yep. Some states, they have much more mature system, obviously, than we have set up right now in Nebraska.

**LATHROP:** And it helps them with workforce development?

**MATT HASTINGS:** That's the exact point.

**LATHROP:** OK.

**HALLORAN:** Additional questions? Thank you, Senator Lathrop. Senator Blood.

**BLOOD:** Thank you, Senator Halloran. You may or may not know this answer. I'm just curious. So do you know why the state doesn't currently maintain a job titles that translate to the SOC? And that seems like something that's kind of a no brainer and I'm kind of surprised that they don't.

**MATT HASTINGS:** In fact, as we've spoken with employers almost to a person, in some cases, they say the same thing. They're surprised we don't know that. I think I would defer to others to answer that, but I think that it's because it's not required.

**BLOOD:** But I would counter it being not required doesn't mean that it's not information that makes sense that we should actually have, so--

**MATT HASTINGS:** We-- and we agree and we think that what we have right now is insufficient and so that's why we're asking that that be included.

**BLOOD:** Yeah, I, I concur. I was kind of surprised when I read that you didn't do that. So perhaps someone will come behind you and explain to me why we've never done that, so thank you.

**HALLORAN:** Thank you, Senator Blood. Any additional questions for Mr. Hastings? Seeing none, thank you. Additional proponents for LB1130? Good afternoon.

**LEAH BARRETT:** Good afternoon, Senators. My name is Leah Barrett, L-e-a-h B-a-r-r-e-t-t, and I serve as the president of Northeast Community College and today I speak in support of LB1130. For the past two years, I've had the opportunity to work on the NSWERS management

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

committee, representing the six community colleges here in Nebraska. The management committee members are a small but mighty team. In addition to me, there are three others: a representative from the Department of Education, one from the university system, and one from the state colleges. We have supported the efforts of the NSWERS staff to create the foundation for the statewide longitudinal data system that when fully functional will provide an invaluable system to understand the development of our workforce here in the state of Nebraska. The build-out of NSWERS is an extremely important tool to help us to understand the pathways, the barriers, and the strengths in our efforts to develop and retain our workforce. The institutional research professionals and data scientists at NSWERS, the Department of Education, and our colleges and universities have been working together. We, we now need your help in allowing several state agencies to share some additional data fields to accurately analyze the workforce of today and tomorrow. The data within NSWERS will allow educators, agencies, and policymakers the tools to make data-informed decisions to support the vitality of Nebraska. For example, let's talk about the workforce contributions of a person with a job in manufacturing. The data in NSWERS will allow us to learn much, much more. The most common jobs within the industry, the most common credential earned by a machinist, an electrician, or a robotics professional. Is there a common educational path? Are there more-- is there more earning potential when a machinist earns multiple credentials? Are there classes that a machinist takes that better prepares them for increases in earning potential? Speaking of earning potential, what are earnings over time? What is the probability of increased earnings over time? We can learn more about the current workforce. What is the most common training access for incumbent workers to earn better wages? And we can open our eyes to what's next through predictive analytics. What is the probability of job growth in the industry? What is the size of the population of those most likely to move into a manufacturing field in the next five to ten years? How is the workforce impacted by other factors? Can we grow the population of future manufacturers by providing programs, activities, or specific courses? Today, we look to data found in other states and use tools that provide merely a glimpse to the future. These tools provide some insight, but are extremely limited because they don't have the data that NSWERS will soon hold. When fully functional, NSWERS will have the data to support the economic vitality of our state. The access to data will provide information to our P-12 educators, our community colleges, our state colleges, and our university system to better allocate resources for education and training, to improve partnerships with each other and industry, to create an educational experience that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

leads to a good-paying job. The access to data will provide industry a clearer picture of its workforce pipeline, leading to better financial decisions about the future. The access to data will provide economic development professionals the answers they need to recruit new businesses to the area. Approval of this bill is a critical step in ensuring that the system operates at its fullest potential. We're, we're very thankful that Senator Morfeld for bringing the bill forward and to Speaker Hilgers for making it a priority. And we do know there are some items that still need to be addressed to get support from our partners. Matt Hastings and his team and the educational partners are ready to work together through these concerns to reach consensus. I stand in support and I'm happy to answer any questions. Thank you.

**HALLORAN:** Thank you for your testimony. Any questions from the committee? Seeing none, thank you. All right, additional proponents of LB1130. Good afternoon.

**PAUL TURMAN:** Good afternoon. Members of the committee, my name is Paul Turman. That's spelled P-a-u-l T-u-r-m-a-n. I'm currently the chancellor of Nebraska State College System. I also serve on the executive council for the NSWERS organization. I'm here to ask for your support of LB1130 to provide us with the opportunity to continue to expand in our work to create the comprehensive longitudinal data system that we need for our workforce and for education. Just as a little bit of historical background, it's interesting that we're at a point right now in Nebraska of spending time trying to work through how to allocate the ARPA dollars that are available to the state. You go back a decade at a time when we were distributing the ARRA funds that were available to help us move through the, the recession that we had in 2008, 2009. And one of those requirements for states as they began to move forward with the expenditure of those dollars was a commitment to expanding the data capacity that we had in the state of Nebraska and across the country. And so as a result, you would have seen in 2010, LB1071 directed the University of Nebraska, the State College System, the State Board of Education, and the community colleges to adopt a policy that allowed for a greater sharing of data. The result of that creation are now the MOU that results in our cooperative interlocal agreement that has formed NSWERS here over the last couple of years. Really, the projected goals for NSWERS was to make sure that we are driving initiatives that allowed us to answer a handful of important questions. Are we evaluating the workforce data outcomes that we need to, to make sure that our academic programs, that our institutions align with the workforce needs? Are we tracking the placements adequately of our students after they've graduated and are they staying in the state of Nebraska? And are we disaggregating



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

data in a way that allows us to make sure that we're eliminating some of the performance gaps that we see for a good number of our students? And so as the three sector or the various sectors are now working toward advocating for a comprehensive attainment goal here in the state of Nebraska, that work really drives some of the things that Director Hastings and his staff are trying to put in place. Do we have the comprehensive data that really allows us to make strategic decisions about how we move our state forward educationally and also on the workforce side? And so the only way for us to move our attainment goal to ensure that we have about 70 percent of our citizens have the attainment or the credentials they need to be successful in the workforce to change our economic outlook as a state is to make sure that we are increasing the number of students that graduate from high school and then ultimately go on to college; that we're improving retention and completion rates for those students; that we're graduating them and finding ways for them to stay in the state of Nebraska and be employed; and then how do we change the in and out-state migration that we have to make sure that we have more students or more individuals that come here with the credentials that we need to drive the workforce in the state? And ultimately, all of those pieces are embedded in the type of work that Director Hastings and his staff are doing. How do we answer all of those questions and really know where the gaps are at? And that's what LB1130 is attempting to do. I would ask that you support the proponents or the elements of this bill and that we continue to work in this direction to achieve that. As the two predecessors before me indicated, our goal is really to work with the state agencies, the various entities to make sure that we have a comprehensive solution and we want to achieve that. But I'd be certainly happy to answer any questions that the committee might have here this afternoon.

**HALLORAN:** All right, thanks for your testimony. Any questions? Senator Blood.

**BLOOD:** Thank you, Senator Halloran. Just a couple of quick questions, mostly knowledge oriented. So the last revision on SOC, wasn't it around, around 2010? And it took like years and years for them to get it together, if I remember correctly. Are you concerned about any of the newest updates because technology and everything is moving so quickly? Are you concerned that you might have to do extra work because a revision, I would assume, is coming soon?

**PAUL TURMAN:** To the decade-long kind of integration of the interlocal, I think it was a mixture of the various individuals in charge of the, the different systems at the time. I think we take advantage of some

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

really strong synergy of a number of players all coming together at the right time who understood the value of data, which is why in 2019 I think we were able to accomplish what we have now with the NSWERS initiative. Very strong leadership across all of our different sectors that, that no one recognized that this is about the only way for us to do our jobs better. It's tough to say what the, the next iteration of things will be, but I think having this embedded into the way in which we approach it will help us achieve some of those outcomes as we move forward.

**BLOOD:** So you feel it will make it easier, not harder, if I hear you correctly?

**PAUL TURMAN:** I would agree, yes.

**BLOOD:** And then I know that coming from a university background that that's-- that is invaluable to you when it comes to curriculum and recruitment. But with trends right now, is it even more valuable for our workforce that are certified, such-- things like welding or things that you would get certified through the community college. And I don't mean that to be offensive, but won't this be even more of a benefit for our trades?

**PAUL TURMAN:** I would agree. I think there's a lot of opportunity. And I think what Director Hastings would, would indicate is once they did their initial run with the data we did have available, there is a significant gap of the students who have graduated high school where we really can't track them. So whether it's apprenticeships, whether it's on-the-job training, the whole host of things that are classified as a very legitimate credential, we have really no way of determining what's that pathway and are there ways for us to continue to assist them in, in postsecondary education to help them be successful? So I think the goal is to eliminate all the gaps around the knowledge that we have so that we're really doing a much better job of determining what is the real attainment levels of the citizens of the state of Nebraska?

**BLOOD:** Yeah, I agree. Data is power and I'm disappointed that we didn't have that power before. Thank you.

**HALLORAN:** Thank you, Senator Blood. Any additional questions from the committee? Seeing none, thanks for your testimony.

**PAUL TURMAN:** Thank you.

**HALLORAN:** Additional proponents for LB1130? Good afternoon.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**KENT EDWARDS:** Good afternoon, Chairman Hansen and other members of the Business and Labor Committee. I'm Kent Edwards, K-e-n-t E-d-w-a-r-d-s. I'm also the superintendent for Kearney Public Schools and I appreciate the opportunity to come before you today in support of LB1130, a bill, as you know, requires data sharing with the Nebraska Statewide Workforce and Education Reporting System, or NSWERS. If enacted, LB1130 will require the Departments of Labor, Motor Vehicles, Health and Human Services, and Revenue to execute a data-sharing agreement with NSWERS. This will help K-12 schools, postsecondary institutions that you've heard from, economic development agencies, and employers-- maybe most importantly-- to meet the evolving socioeconomic and workforce needs. This data is important, if not critical, for our school systems like Kearney, Blair and many others to inform us on what our students do after graduation. Do they go to college? Do they graduate from college? If so, what's their degree in? Do they enter the workforce? What are they doing in the workforce? Are they working in our community or have they gone elsewhere? Nebraska communities like Kearney have invested substantial resources to improve students' education and college and career readiness so we can meet the pressing local workforce needs of our businesses and organizations, yet we have little quantitative data on the success of these programs because we simply don't know the outcome of our efforts. We're unable to complete the data cycle that is needed to determine if we are or are not meeting labor needs in our communities. I can tell you today that Kearney High School has historically exceeded 90 percent graduation rate; and of the 382 students who graduated from Kearney High School in 2011, 30 percent of them went on to the University of Nebraska at Kearney. However, I have no idea if they continued a course of study that was started at Kearney High School, transferred to another school, quit school, or entered the workforce. In attest with NSWERS, I saw that it lost 30 to 40 percent of our 2011 graduates. LB1130 will allow us to see the students who attend a state private university, start their own businesses, or go directly into the workforce. The bill will improve our data and reduce the percentage of unknown students. This enhancement will help to complete the data cycle and give clarity to what happens with our students from K-12 to postsecondary to the workforce. When I was a superintendent for a great period of time in a school system in Georgia, I had access to this kind of data. And I can attest that it helped us work with our economic developers, colleges and universities, community leaders to format programs that it reflected the needs of our community and our state. When I returned to Kearney as superintendent, I felt somewhat unequipped or disarmed because a valuable tool I had was no longer available. In short, K-12 places

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

their resources in that pipeline and this data is needed to ensure that we are doing it well. Mr. Chairman, thank you for the opportunity to testify on LB1130, and I would welcome any questions that you or any committee members may have at this time.

**HALLORAN:** Thank you, Mr. Edwards. Any questions from the committee? Seeing none, thanks for your testimony.

**KENT EDWARDS:** Thank you.

**HALLORAN:** Additional proponents for LB1130? Good afternoon.

**HEATH MELLO:** Good afternoon, Senator Halloran, Vice Chairwoman Blood, and members of the Business and Labor Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I serve as vice president for-- of external relations for the University of Nebraska System. On behalf of the university, our four campuses, and our 51,000 students, I'm here today in support of LB1130, a proposal that assists our statewide longitudinal data system, better known as NSWERS. Let me first thank Senator Morfeld for bringing this important legislation forward and to Speaker Hilgers for making LB1130 a Speaker priority bill this session. Their leadership in recognizing the significance that NSWERS can play in assisting our state's education and workforce development planning, analysis, and reforms is crucial in addressing short-term and long-term economic development. As discussed by other NSWERS partners before me, the University of Nebraska System is proud to be a key partner in building and maintaining a statewide longitudinal data system to give you, as policymakers, and those of us in education and workforce development the information we need to assess where we need to improve, what we're doing well, and what is ultimately happening as our students move through our state's P-16 education pipeline. As introduced, LB1130 establishes an important tool for Dr. Hastings and the NSWERS team to utilize existing data sources from various state agencies for matching purposes of those students who leave our K-12 schools and do not enroll in a public postsecondary institution. As mentioned earlier, the university is very appreciative of the ongoing dialogue with the Governor's Policy Research Office, state agencies, and external stakeholders to identify areas of agreement for a white-copy amendment and to move to a-- move a consensus proposal forward and to help see NSWERS provide this analysis initially envisioned both by Blueprint Nebraska and LB1160, introduced by Senator Matt Hansen from 2020. Once again, I want to thank Senator Morfeld for his work in bringing LB1130 at this crucial time for our state's development of our future workforce and Speaker Hilgers for making this a Speaker priority. Their work in partnership with the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

university, the Nebraska State College System, Nebraska's community colleges, the Nebraska Department of Education, and our private-sector partners and funders has been instrumental in seeing NSWERS not only come to fruition and move forward in a strategic manner to assist future legislators, governors, and various stakeholders meet our workforce needs. Thank you again. I'd be happy to answer any questions you may have.

**HALLORAN:** Thank you, Mr. Mello. Since Senator Blood is the Vice Chair and she happened to be in another hearing when Senator Hansen had to go to another hearing, I'm going to return the gavel back to Senator Blood as Vice Chair.

**BLOOD:** Thank you, Senator Hansen [SIC]. Do we have any questions for Mr. Mello? Thank you very much for your testimony.

**HEATH MELLO:** Thank you.

**BLOOD:** Do we have any more in favor of this bill? Any more proponents? Any opponents? Welcome to Business and Labor.

**JOHN ALBIN:** Thank you, Vice Chair Blood. Chairman Hansen and members of Business and Labor-- Senator Hansen is not here-- Senator Blood and members of the Business and Labor Committee, my name is John Albin, J-o-h-n A-l-b-i-n, Commissioner of Labor. I appear here before you today as the Commissioner on behalf of the Department of Labor and the Department of Revenue in opposition to LB1130. Unfortunately, Commissioner Fulton was unavailable today, but asked me to relay his opposition with this legislation into the record. It's the Department of Labor's position that, as drafted, LB1130 would dramatically expand the data which the Department of Labor must collect from employers filing wage reports so the department can submit this data to the Nebraska State Workforce and Education Reporting System. This would create logistical challenges for the department and impose an additional burden on more than 60,000 employers around the state. LB1130 requires employers to provide the following additional items to the department as part of the existing quarterly wage reporting process: first name, middle name and last name; date of birth; job title in a format that's translatable to the latest version of standard occupational classification codes; pay rates; employment start date; employment end date; and job location. Employers must begin providing this information on or before December 1, 2022. The requirement for quarterly wage reports is part of Nebraska's employment security law and current fields are mandatory in order to appropriately assess employer liability for unemployment contributions

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

and determine claimant eligibility for unemployment benefits. The information proposed in LB1130 is unrelated to unemployment and the purposes of the Nebraska employment security law. However, because this information is mandatory, if not provided, the department will not be able to accept the filing and court-- employers would penalize up to \$200 per quarter for failure to report as required. Further failure to report timely may impact an employer's combined tax rate and cause inaccurate unemployment monetary eligibility determinations. The proposed requirements threaten to disrupt the process through which most Nebraska employers submit wage reports, that is bulk filing by third-party administrators. In 2021, wage reports for 27,459 employers were submitted by 71 bulk filers. Under current law, this bulk filing is streamlined and employers can require-- employers are required only to report name, Social Security number, and gross wages for covered employees. This is consistent with the information most states require employers to provide. Third-party administrators simply do not have access to the information required under LB1130. If LB1130 is adopted, there is potential that use of bulk filing may become prohibitively burdensome or that the accuracy of the wage record may be compromised. The workability of the tax reporting system, both for employers and for the department, depends on efficient and accurate bulk filing. Further, many questions remain unanswered of how data should be formatted and who is responsible for ensuring proper formatting. The cost of data validation and formatting would likely be significant given the volume of data involved. Without clear answers, these burden-- of these questions, there's a risk that LB1130 will create widespread burden that will not ultimately result in accurate, usable data. Moreover, adding these data fields is not necessary to observe-- to serve the objectives of NSWERS. Many of these data fields are being proposed not because they have independent value in measuring outcomes because-- but instead because it can be used for predictive matching to link data points from multiple agencies to the same individual. However, there's a far less burdensome and more accurate, far less burdensome and more accurate way to achieve this goal. Participating agencies can link all data points through consistent collection and reporting of a Social Security number. This would improve the usability of data in the NSWERS system without imposing undue burden on employers. Additionally, the Department of Revenue has the following concerns. The DOR relies on taxpayers to voluntarily comply with our revenue laws and in turn, expect that information to be secure and confidential. This broad grant of taxpayer information is not narrowed to a specific purpose of administering state tax programs, but goes to the heart of the most confidential taxpayer information that we have. This information can

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

already be provided in aggregate form. Further, federal adjusted gross income is federal tax information and the Department of Revenue cannot release FTI except in very limited circumstances, as provided in section 6103(d) of the Internal Revenue Code and IRS publication 1075. The DOR has diligently protected Nebraska taxpayer information for over 50 years to achieve the highest level of security and confidence in our custody of confidential tax information. The Legislature has required individuals wanting access to confidential tax information to access, to access it on the premises of D-- of DOR, such as the Legislative Audit Office, under the supervision of DOR precisely because of the sensitive nature of this information. Those people accessing are then required to sign the same agreements DOR teammates are required to sign acknowledging the personal risk of losing the custody of the information. And that concludes my testimony. I'm happy to answer any questions.

**BLOOD:** Thank you, Mr. Albin. Yes, Senator Hunt. You have a question.

**HUNT:** Thank you. What if somebody doesn't have a Social Security number and we need other ways to link them to this data?

**JOHN ALBIN:** First of all, the incidences in which that occur are pretty rare. I mean, my son's over 40 now. From the moment he was born, we were required to apply for an SSN for him and so for at least the last-- almost 40 years--

**HUNT:** Yeah, but you know what I'm talking about. I'm not talking about, like, your son.

**JOHN ALBIN:** And the number-- there are undocumented students who are in the schools, I get that, but we handle that very easily. You just put in 99s for the Social Security number and you exclude them from the data when you're tracking the people and I'm gonna--

**HUNT:** I'm not talking--

**JOHN ALBIN:** I'm not even sure how to-- those people-- OK, go ahead. I'm sorry.

**HUNT:** That's OK. I'm not talking about just undocumented people, though. I mean, people visiting from other countries, people with visas, things like that. There's other data points.

**JOHN ALBIN:** But if you get a work permit, you have to have an SSN assigned to that work program. You can't just work here on a-- oh, I'm

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

a student from Afghanistan studying here. You have to have an SSN so that your employer can report your wages.

**HUNT:** Thank you.

**BLOOD:** Thank you, Senator Hunt. Are there any other questions for Mr. Albin? I do have a question, Mr. Albin. Considering the past history of some of the Social Security issues that the state has had at different levels, I mean, do you feel confident that not moving to a more secure system might benefit Nebraska?

**JOHN ALBIN:** I'm not sure on what this NSWERS system would create, would create a more secure system.

**BLOOD:** Why is that?

**JOHN ALBIN:** Right now, my department handles over a million-- or about a million SSNs at any given time. To the best of my knowledge, there's never been a breach of ours, so we're, we're holding up our end on the deal. But you're going to start exchanging a lot more information amongst other agencies, I don't know. So far we've done well. We've had a lot of good luck working with the community colleges, the university, and everyone using SSNs and we've always been able to get where we needed to go. But I don't see that the system will create a more enhanced system. If anything, it creates more vulnerabilities because there's more exchanges. I think we'll be able to handle the SSNs.

**BLOOD:** Do you have data that shows that it would make it more vulnerable or is there-- is that an opinion or is that based on data and facts?

**JOHN ALBIN:** I just-- anytime there's a handoff of information, there's going to be more potential breaches, but I don't-- has to do with an empirical study, no, we didn't do an empirical study to that effect.

**BLOOD:** I appreciate your opinion. Thank you. Yes, Senator Lathrop.

**LATHROP:** Mr. Albin, thanks for being here. I'm listening to you talk about the things, this list of things that you have to provide.

**JOHN ALBIN:** Yes.

**LATHROP:** How much of that are you already providing or is already being provided and available to your system?



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**JOHN ALBIN:** We have the last name and another-- and a number-- and usually the first name of an individual. We do not have the data--

**LATHROP:** So let's stop there at the name. This has first, middle, and last so is it the middle that's causing the objection, the middle name?

**JOHN ALBIN:** I think the biggest problem with name data, Senator, is when you look at someone-- you know, if you had an SSN for a high school student and you reported that and Department of Education gathered it and shared it, which they could do, but don't, then if someone marries, divorces, changed names all through their career, their SSN follows them.

**LATHROP:** But how do we connect what, what is their age? So if you have Hansen's Social Security number and Lathrop's Social Security number, it doesn't tell you that he's much younger than I am or Senator Hunt, who's a little closer to getting out of--

**HUNT:** Much, much.

**LATHROP:** All right. That one hurt.

**JOHN ALBIN:** But if we had the year you graduated from high school--

**LATHROP:** Or the pages, they're tracking what they do over all this period of time, may be more beneficial than what I'm doing.

**JOHN ALBIN:** If you have the age or you have the year they graduated from high school, you can establish pretty surely that they're somewhere 17 to 19 when they graduate from high school and you can work back from there.

**LATHROP:** Do they have to provide you with a job title currently?

**JOHN ALBIN:** They do not have to. We have a voluntary column. I think about 5 percent of our employers put it in. The other 95 percent do not.

**LATHROP:** They have to give you the pay rate, though.

**JOHN ALBIN:** I'll take that back. That's 12 percent on that one. It's 5 percent on hours worked.

**LATHROP:** They got to give you the pay rate, don't they?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**JOHN ALBIN:** They do not have to give us the pay rate because unemployment benefits are determined based upon aggregate wages during your high quarter and during your base period. They don't look at the hourly rate, the-- or the weekly rate.

**LATHROP:** So is this a programming issue? Here's my struggle. I've been doing this 12 years. Every time somebody comes up with an idea, the agencies come in and go, oh my God, this is the end of the world.

**JOHN ALBIN:** No, I don't see this as a programming issue. I see it as an issue where when this kicks in, employers' going to-- 60,000 employers are going to be providing a whole lot more information that they've done-- than they've done before. And they're not going to call up Department of Ed and say, why the heck am I providing all this? They're not going to call Department of-- or the university or the state colleges or the community colleges and say, why the heck do I have to have all this additional information? They'll be calling the Department of Labor and saying, why the heck am I providing this-- all this information? I suppose I could tell them dial 1-800-Hauptman-O'Brien and see what--

**LATHROP:** No, tell them to call Mello maybe or Morfeld.

**JOHN ALBIN:** There you go. But yeah, I mean, it's, it's information that's unrelated to our programs. And right now under law, we have to-- we reject the returns that don't have the basic 3s, the name and the Social Security and aggregate wages. We reject those and you're subject to fines for failure to report in a timely manner. So if this is a mandatory reporting field, then we're going to be returning a heck of a lot more returns, which will also boggle up the claim process. And then if you don't make it mandatory, then you've got a bunch of junk data that doesn't-- isn't really true.

**LATHROP:** So, I, I would agree with that. So when Senator Morfeld introduced this, he said, I appreciate that this has been named a Speaker priority and that they're working with the folks over in Policy Research on coming up with a final version. Do I understand you're just a hard no?

**JOHN ALBIN:** Well, I still work for the Governor. It still works for the Policy Research Office so if they reach a compromise that they think is acceptable, I suppose. But the basic problem is if you want to trace those kids, K-12 graduates on, and where they go into the workforce, those 30 that don't go on-- percent that don't go on to higher education, if you catch their Social Security numbers and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

report them while they're still in the K-12 system, then we can follow them. I can follow them into most states in terms of their wages if I have their SSN. It looks to me like what the bill is doing is creating a lot of extra data so you can try to triangulate and figure out, OK, this person used to be named Walsburg, but now her name is Thurber, but yeah, it's the right birth date, it's the right graduation information, so yeah, that's probably the same person. Whereas if you would just use the Social Security number that she was given at the date of her birth, you could follow her throughout, regardless of name changes.

**LATHROP:** OK. And I'm going to try to wrap up my questions. Your objection is that we're adding things that people would have to complete on a form.

**JOHN ALBIN:** Yes and I think most employers don't currently gather that sort of information. I know the bulk filers don't and the bulk filers are really crucial to my system. Half my returns--

**LATHROP:** That would be the ADPs of the world?

**JOHN ALBIN:** The ADPs of the world--

**LATHROP:** OK.

**JOHN ALBIN:** Intuits, those groups.

**LATHROP:** OK, thank you.

**BLOOD:** Any other questions for Mr. Albin? Thank you, Mr. Albin.

**JOHN ALBIN:** Thank you.

**BLOOD:** Do we have any other opponents? Any other opponents for LB1130? Welcome to the Business and Labor Committee.

**ANDREA LOWE:** Thank you. Thank you, Senator Blood. Good afternoon. My-- good afternoon, Senator Blood. Good afternoon, members of Business and Labor Committee. My name is Andrea Lowe, A-n-d-r-e-a L-o-w-e, and I'm the director for the Office of Legislative Services within the Department of Health and Human Services. And I'm here to testify in opposition to LB1130, which would require DHHS to enter into an agreement to share confidential information contained in our state directory of new hires with the Nebraska Statewide Workforce and Education Reporting System. Federal law requires each state to maintain a directory containing information on newly hired employees

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

that includes names, addresses, Social Security numbers, employers' names, employer addresses, and employer tax identification numbers. This law-- federal law also strictly limits the use of this information that is compiled and reported in our state directory of new hires. The specific permitted uses of this confidential information is listed in 42 USC 653a. Those permitted uses include child support enforcement, unemployment compensation program, SNAP or Supplemental Nutrition Assistance, Medicaid, and other specifically named assistance programs. The NSWERS system and the programs it administers do not fall within those uses permitted under federal law for confidential new hire information. Providing information from the new hire database to this program would cause Nebraska to be out of compliance with the federal law that governs the sharing of this information and we respectfully request that the committee not advance this legislation. Thank you so much for the opportunity to testify today, and I'd be happy to answer any questions.

**BLOOD:** Thank you for your testimony. Do we have any questions? Senator Lathrop.

**LATHROP:** Just to be clear, you're saying you can't do it or you'll violate federal law?

**ANDREA LOWE:** Yes.

**LATHROP:** OK.

**ANDREA LOWE:** Yeah, we have to-- we would have to let the federal government know.

**LATHROP:** I'm even more surprised this is a Speaker priority.

**ANDREA LOWE:** Yeah. Any other--

**BLOOD:** I actually have a question. So if indeed it violates federal law, how do they do it in other states?

**ANDREA LOWE:** So this is just for, for DHHS for our state directory of new hires. We-- the way that 42 USC is set up, it says specifically, we can, we can only use the data for a location of child support obligors, for verification of eligibility for certain programs, administration of employment security, and then I think also the Secretary of Labor can share it with Veterans Affairs for veteran employment. I am not sure if other states are using a separate system or a different type of system, but for this particular one, we, we, we, we would have to submit a state plan amendment that would notify

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

them, hey, we are using this data in a way that is not authorized by you all, and we could face fines and potential elimination of funding for both on the child support enforcement and the Medicaid side.

**BLOOD:** Fair enough. I think we need to find out what's done in other states now.

**ANDREA LOWE:** Yeah.

**BLOOD:** Any other questions? Thank you for your testimony.

**ANDREA LOWE:** Thank you so much.

**BLOOD:** Do we have any other opposition to LB1130? Welcome to the Business and Labor Committee.

**JERRY STILMOCK:** Thank you, Madam Vice Chair. Members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, testifying on behalf of my client, the National Federation of Independent Business, in opposition to LB1130. I would be redundant to Mr. Albin, Ms. Lowe, but I've handed out my testimony. Page 2 hits it right where Ms. Lowe left off. Federal government legislation, Nebraska law, law requires a listing of items that are to be submitted at the time of hire or rehire to the Department of Health and Human Services. Health and Human Services is prohibited, as you've heard, from releasing that information. So let's go-- the legislation, as I understand it, as you've heard, let's go to another agency that these same items would have to be reported with the additions of the SOC information on the federal, federal categories of some 800 job titles. On behalf of small businesses, this would be a burden to them. From my understanding and the little bit that I've tracked that it-- the other states that have done it, it's, it's data that, that is not necessarily been helpful to achieve the results that you've heard on the, on the proponents. For these reasons, we simply ask you to hold the legislation. Thank you, Senators.

**BLOOD:** Thank you for your testimony. Do we have any questions? Seeing none, thank you.

**JERRY STILMOCK:** Very well, thank you.

**BLOOD:** Any more opposition testimony for LB1130? Welcome to the Business and Labor Committee.

**KRISTEN HASSEBROOK:** Thank you, Vice Chairman Blood, members of the Business and Labor Committee. My name is Kristen Hassebrook,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

K-r-i-s-t-e-n H-a-s-s-e-b-r-o-o-k, and I'm here today on behalf of the Nebraska Chamber and the Greater Omaha Chamber in opposition to LB1130 as drafted in the green copy. The business community supported the creation of NSWERS and remains supportive of it and it's important work to provide receive-- research-based insight to meet Nebraska's current and future workforce needs utilizing data. However, as drafted in the green copy, we do have some concerns about the proposal. You've heard a lot today, but first and foremost, our concern is that the unemployment insurance system has existing and established reporting parameters that it needs to function and failure to properly report or untimely reports can subject businesses to penalties and potentially even increased tax rates under the system. These additional data parameters proposed to be gathered by NSWERS are not necessary for the UI system to function and so using its enforcement mechanisms would put businesses in an awkward position to put it nicely. We've been dialoguing with the introducer, NSWERS, and other stakeholders to find the right solution here and are committed to figuring out-- this out in a way that serves all interests. Thank you and I'd be happy to answer any questions.

**BLOOD:** Thank you for your testimony and the quick response. Do we have any questions? Senator Lathrop.

**LATHROP:** What am I missing? It's like I hear your, your group say workforce development is the number one issue. Ahead of tax cuts, ahead of everything else, it's workforce. And this is a bill designed to help us figure out what our workforce needs are before-- you know, back, back in time so that we have people ready to work. Is it just the hoops you got to jump through to get the information or give it up?

**KRISTEN HASSEBROOK:** I think that certainly you're right. Workforce is the number one issue right now. Taxes are a part of that. However, in terms of this proposal, like I said, I think the overarching concern is that, you know, the UI system has the parameters that it needs to function and there-- the mandatory reporting mechanisms under that, you know, they're important and that's why they're mandatory. That's why there are fines and penalties that you get subjected to if you don't properly and timely report those things. These data points are kind of unrelated to the UI system and so using the enforcement mechanism of that system against businesses as they're transitioning or experiencing these data points that are-- aren't related or maybe they're using a payroll system so they're not collected, I mean, that just is a problematic sort of function-- you know, system to be collecting the data points from. But we certainly have been

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

dialoguing. Have-- you know, want to keep working together to figure out what are the right data points? Where's the right collection method? How do we figure this out? Because it is really important.

**LATHROP:** OK, thank you.

**BLOOD:** Thank you, Senator Lathrop. Any other questions? Seeing none, thank you so much for your testimony. Any other opposition? Welcome to the Business and Labor Committee.

**ANSLEY FELLERS:** Thank you, Vice Chair Blood and members of the Business and Labor Committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s, and I'm here on behalf of the Nebraska, Nebraska Grocery Industry Association, the Nebraska Hospitality Industry Association, the Nebraska Petroleum Marketers and Convenience Stores, and the Nebraska Retail Federation. I'm testifying in opposition to LBL30 [SIC LB1130], which would expand data collection on Nebraska's workforce. The retail and hospitality industries understand and appreciate efforts to address Nebraska's current and future workforce needs. A reliable workforce is the number one challenge facing our members, but we believe LBL30-- LB1130 expands data collection requirements to an extent well beyond what's necessary and could violate individual privacy while being especially burdensome for employers. Adding many new fields to the quarterly wage report will undoubtedly result in more reports being rejected upon receipt. And while the Department of Labor does allow filers to amend the report, they're due by a set date. Filing a quarterly report past the deadlines would result in a penalty and could increase the business' unemployment tax rate. For those reasons, we ask you don't advance it out. Like we've heard here today, we would absolutely be willing to look at an amendment and change our position, but as written, we don't support it. Thanks for your time. Happy to answer any questions.

**BLOOD:** Thank you for your testimony. Do we have any questions? Seeing none, thank you so much. Any other opposition to LB1130? Any opposition? Anybody in the neutral? Senator, are you waiving your closing?

**MORFELD:** I have to go open on another one, but that was a great hearing. Thank you.

**BLOOD:** All right, with that, we actually have three letters for the record. We have two proponents and one opponent. And with that, we will close the hearing on LB1130. Welcome to Business and Labor, Senator McKinney. We are going to open the hearing now for LB815.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**McKINNEY:** All right, thank you. Good afternoon, Chairwoman-- Vice Chairwoman Blood and members of the Business and Labor Committee. We are here today to discuss LB815, which, if passed, would adopt the Diaper Changing Accommodation Act. This bill acknowledges that ensuring safe, sanitary, convenient, and publicly accessible baby diaper-changing stations are widely available throughout the state for the use by both men and women is a matter of statewide concern and beneficial public policy. Moreover, that parents equally should be afforded accommodations to take care of their children. In bringing this bill, I reflected on my time as a new father and the dreaded instances when I was alone with my daughter and she would have the-- she would have a blowout in a pub-- in a public space. I can say from experience that changing any baby, let alone a baby girl in a men's restroom, is not the most accommodating experience. In those instances, I learned that my lap can hold a lot more than I ever imagined. Also, I've always simply wished that whoever invented the portable baby changing mat got a raise that they deserved because it really came in handy when I needed-- went I-- when needed to reduce like the changes needed to-- you know, when I was changing my daughter on the floor. It's not also lost on anyone in this room that our society is a patriarchal, patriarchal one. To this end, it has been historically presumed that women are primary caretakers and men don't take part in tasks like changing their kid's diapers. This is no longer the case, as we have learned from numerous hearings regarding the need for, for paternity leave, bills regarding working mothers and men being primary caretakers. Men, too, take an active part in child rearing and deserve accommodations that-- to that effect. After I introduced LB815, I received numerous comments and emails from other fathers expressing their support and sharing their stories. One mentioned that he had to change a diaper on the floor of a restroom because of lack of changing table. In the same way that I feel nursing room, nursing rooms should be available to mothers because I don't eat my food in a bathroom stall and I don't think babies should either. I think that changing accommodations should be made for men because none of us clean ourselves or change our, change our clothes on unsanitary floors and therefore a baby shouldn't have to either. In 2016, Congress passed the Bathroom Accessible in Every Situation Act, the BABIES Act, which requires baby changing accommodations in both male and female restrooms located in pub-- publicly accessible federal buildings. States with similar legislation: Wisconsin, Illinois, Michigan, New York, Rhode Island, Nevada, California, Arizona, New Mexico, and Oklahoma. This bill takes it a step further and makes the requirement for all public spaces. However, however, I think our state is in a great position to follow the lead of our fellow Midwestern



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

state of Illinois in working to make public policy that stands for equitable parenting and makes a statement that we acknowledge active fathers and realize the need. The good life should mean that we put an end to babies being changed on the floor of public restrooms merely because they're with their dad, uncle, or cousin, or big brother instead of mom. And with that, I'll answer any questions. Thank you.

**BLOOD:** Thank you, Senator McKinney. Do we have any questions for the senator? Will you be staying for your closing?

**McKINNEY:** Yeah.

**BLOOD:** OK. Do we have any proponents for LB815? Anybody here to speak in favor of LB815? Welcome to the Business and Labor Committee.

**CLAIRE WIEBE:** Thank you. All right, good afternoon. My name is Claire Wiebe, C-l-a-i-r-e W-i-e-b-e, and I'm a senior manager of public affairs at Planned Parenthood North Central States here in Nebraska. Our mission at PPNCS is to empower, empower vital generations by providing and advocating for sexual and reproductive health so that more people can choose their own path to a healthy and meaningful life. To that end, we're strongly in favor of LB815, which would help make Nebraska a more equitable state to parent children in. Public spaces should reflect the needs of the people they serve. Not all families fit into the nuclear structure that many spaces, spaces like the Capitol, are designed for and that diversity should be reflected in ensuring equitable access to facilities for childcare, including diaper-changing stations. Our country is experiencing a rising number of stay-at-home dads and increasingly, couples are trying to split childcare duties evenly. It's also important to note that not all families have a female partner who can easily access a women's bathroom when they're out and about with their baby. At Planned Parenthood, we support every individual's decision to become a parent when and if they decide they're ready and that means supporting policies that ensure everyone has the opportunity to make that decision without facing gender barriers. I also want to mention my personal experience with this. A few years ago, I was here at the Capitol watching a hearing and a man came up to me asking if I could watch the bathroom door to the women's room in the Capitol so he could change his baby because there were no men's bathrooms that had a diaper-changing table. I think it really reflects, like, the, the assumptions that the designers make about family structures in Nebraska. And when we look at a building like a capitol, it really should be serving everybody. So the state really has a responsibility to ensure that people who choose to become parents have the tools they

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

need to do that successfully and LB815 is a good step in that direction. So thank you so much, Senator McKinney, for bringing this bill and I urge you to vote it out on to General File. Questions?

**BLOOD:** Thank you for your testimony. Do we have any questions? Seeing none, thank you very much.

**CLAIRE WIEBE:** Thank you.

**BLOOD:** Do we have any other proponents for LB815? Welcome to Business and Labor.

**SCOUT RICHTERS:** Hi. Thank you. My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska in support of LB815. I first want to thank Senator McKinney for bringing this legislation. The ACLU of Nebraska works to ensure that every-- everyone, regardless of their gender, has an equal opportunity to work and participate in family life according to their own needs and wants and has the ability to make decisions that are best for their own lives and their own families. LB815 ensures that all people, regardless of the restrooms they use, will have the ability to change their child's diaper in a safe and hygienic environment. With this legislation, women will no longer be tasked with the sole responsibility and, more importantly, the sole ability to consistently be able to change their child's diaper in a public place in Nebraska. On a personal note, I am a mom to a two-year-old who actually often prefers that his dad change his diaper, which is fine by me, but there's absolutely no reason that my partner shouldn't have the same access to be able to do so in a public place as I do. The disparity in locations of current diaper-changing stations creates a near-impossible situation for single fathers, same-sex male parents, and other male caregivers, one where-- when they enter a public building and know that it's unlikely that they'll be able to hygienically change a diaper. Without diaper-changing stations in all restrooms, Nebraska upholds unhelpful gender norms and stereotypes that are becoming increasingly outdated. In advancing LB815, Nebraska would recognize male caregivers as valid caregivers of children while simultaneously easing that still lopsided burden on female caregivers. We urge the committee to advance this legislation and reiterate our thanks to Senator McKinney, and I would be happy to answer any questions.

**BLOOD:** Thank you for your testimony. Do we have any questions? Seeing none, thank you very much.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**SCOUT RICHTERS:** Thank you.

**BLOOD:** Any other proponents to LB815? Welcome to the Business and Labor Committee.

**EDISON McDONALD:** Hello, my name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d. I'm the executive director of the Arc of Nebraska. We represent people with intellectual and developmental disabilities and their families. I just wanted to briefly state our support and also bring a little bit different lens. For many of our members, this is far more than just a short issue for many of our members. Their children may be wearing diapers significantly longer and so making sure that you do have this access is tremendously important. And as everyone else, I have to toss in a personal note. I've got three under three. It is impossible to go and try and make sure that we're able to deal with this and make sure that we're able to get our kids' diapers changed quickly and easily. Thanks. Any questions?

**BLOOD:** Thank you for your testimony. Do we have any questions? Thank you. Any other proponents for LB815? Welcome to the Business and Labor Committee.

**PAUL BREITKREUTZ:** Thank you very much. My name is Paul Breitreutz, P-a-u-l B-r-e-i-t-k-r-e-u-t-z. Good luck to the transcriber on that one. I'm here in support today of LB815. Thank Senator McKinney for bringing this forward. I was one of the many dads who contacted him when I heard about this. I have two children who are thankfully both just out of diapers, but when they were both in diapers over the last five-some-odd years, we had sort of an informal list in our house of where are places that we can actually change our children's diaper or not or can I do it or can either of us do it or can neither of us do it? And undoubtedly, as we would go throughout the state, there would always be this sort of constant tradeoff. I tried-- was kind of the main-- lead diaper changer in our household because for goodness' sake, my wife carried those children around for 18 months, I can surely change a couple diapers. Not that hard. We note the places they'd always be this constant, quick thing of, like, I'll go to the bathroom first and I'll see. And then way, way too many times, I'd come back kind of disappointed and say, well, hey, Courtney, you're going to have to do this one because I don't have the ability to. That works, right, if she's around. Thankfully, I guess in this situation, she's a female partner, so she has the ability to use the women's restroom. Doesn't work quite so well if I'm by myself. I'd always take our oldest daughter out when my wife was pregnant with our second daughter just to get the kid out of the house, quieter day. But too

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

many times, I'd take her out, if we'd go to a restaurant, maybe go shopping, go to a park or something, there just wouldn't be a changing station in the men's restroom. If we're out traveling, it's all [INAUDIBLE] mess, right? And then what do you do? You're left with basically three options. Let's say you're out at a restaurant. You can go to the men's restroom floor. I've had to clean men's restrooms floor, restrooms floor before. And yeah, don't want to do that. You got a second option. Maybe if you're in like a booth and you can kind of keep it out of public view, you can try to change your kid's diaper there. Honestly not the most sanitary situation, certainly for other customers in a restaurant in that situation. If somebody is in the adjacent booth, probably not the thing they want to experience most in their day. Went out to the back of my vehicle before. I've done it in the back of, like, an SUV. That works great until, you know, it's raining, it's snowing, it's extremely hot, it's extremely windy, it's extremely cold. It's all about 14 days maybe in the state of Nebraska you can adequately do that as an option, right? And just actually read our-- read the testifier from Planned Parenthood. I did a quick walkabout on the first floor of the Capitol today. I was able to go into three men's restrooms. Every single stall, not a single changing station to be had. So even in the people's house, it's a pretty pertinent issue today. I'd like to kind of share one quick anecdote that's probably the story that just sits in my brain until the day I die probably will be when our oldest daughter, Autumn [PHONETIC], was about two months old, we went to Colorado to visit my wife's grandparents. Also saw the great-grandparents, got to meet them for the first time. We're on our way back, about two-thirds of the way back from Denver to Lincoln, and realize our daughter needs to have her diaper changed. It's November. It's pretty late at night. We're tired. We're burnt out. We're parents of a two-month-old, pretty shot. We stop at the rest station west of Kearney and we're like, oh, it's a rest station. There will surely be an option here. I go to the men's first, come back and say, hey, Courtney, sorry, there's not one here. You're going to have to do this one. She goes to the rest station, comes back, says, well, there's not one here either. It's one of those cold, dark moments where the back of the car isn't really an option either. So we change her on the floor of a rest area off the side of the interstate. It's completely unacceptable. It's ridiculous. So I'm really, really in support of LB815. Sincerely hope you vote it out of committee. Any questions?

**BLOOD:** Do we have any questions for this testifier? I, I just want to make a comment. I think it's unacceptable that we would have a rest

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

stop without a changing station. Thank you for bringing that to our attention.

**PAUL BREITKREUTZ:** Yeah. And hopefully that's different now. Maybe that is something that has changed in the last five-some-odd years, but yeah.

**BLOOD:** Thank you for your testimony.

**PAUL BREITKREUTZ:** Absolutely. Thank you very much.

**BLOOD:** Do we have any other proponents? Any other proponents for LB815? Seeing none, we'll move to opposition. Do we have anybody opposing LB815? Any testimony opposing? Any neutral testimony on LB815? Seeing none, we have no letters for the record. Senator, would you like to close?

**McKINNEY:** First, I would like to thank everybody that came in support of LB815 and taking some time out of your day to come down here and testify. I shared an article. When you get a chance, you can look at it and it's a-- it's kind of about a movement that was start-- well, you know, this is a movement that got started a couple of years ago and the hashtag is SquatForChange. It's about dads having to squat in, you know, bathroom stalls to change diapers and just trying to change it across the nation. But I think it's something-- and I think it's a good policy for our state to try to do to move forward to make sure that no baby is getting changed on the floor of a bathroom or on a sink or on a lap of their father. Just make it, you know, humane as possible and thank you. I'll take any questions.

**BLOOD:** Do we have any questions for the senator?

**McKINNEY:** All right.

**BLOOD:** All right, seeing none.

**McKINNEY:** Thank you.

**BLOOD:** We'll close our hearing on LB815. Thank you for coming, Senator McKinney, and now we will now open up for our next hearing, LB1140, Senator Matt Hansen. Welcome to your Business and Labor Committee, Senator Hansen.

**M. HANSEN:** Thank you, Vice Chair Blood 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 District 26 in northeast Lincoln.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

I'm here today to introduce LB1140, which would simplify our statutes concerning public-sector workplace giving campaigns. For the unfamiliar, these giving campaigns allow public-sector employees to withhold a portion of their paycheck throughout the year and donate to a nonprofit organization of their choice. Nonprofits throughout the state rely on this important funding mechanism to provide vital services and public employees utilize it to donate to causes that are important to them. In the last few years, there have been limitations on which nonprofits are eligible for employee-giving campaigns. This exclusion reduces the choices that donors have, decreases the engagement with the giving campaign, and reducing funding available to nonprofits that impact services throughout the state. LB1140 would ensure that a federation is authorized to participate in an employee-giving campaign. All nonprofit federation member agencies and their associations would be eligible to participate, as well as streamline the authorization process for each federation and its agencies and associations to be included in the giving campaigns while ensuring that employees retain their personal philanthropic choices. There are others behind me who will testify with their experiences with the state's giving campaigns. I appreciate them being here to share their stories and appreciate the committee's attention to this issue. With that, I'll close and be happy to take any questions.

**BLOOD:** Thank you, Senator Hansen. Do we have any questions for Senator Hansen? All right, thank you.

**M. HANSEN:** Thank you.

**BLOOD:** With that, we'll ask for our first proponent of LB1140. Welcome to the Business and Labor Committee.

**MELISSA FILIPI:** Thank you. Thank you, committee members. I'm Melissa Filipi, M-e-l-i-s-s-a F-i-l-i-p-i, executive director for Give Nebraska. I'm here to testify in support of LB1140 to protect public employees' ability to donate to any nonprofit organization of their choosing through payroll deduction. Give Nebraska is a federation representing 74 nonprofits. Our role is to access and facilitate these workplace giving campaigns to raise additional funds for our nonprofit members. The federation model enables a worksite like the state of Nebraska to include a large number of individual nonprofits in their employee-giving campaign without the burden of vetting and communicating with each of those nonprofits. Each federation has a process for nonprofits to join and receive funding, a method of vetting each-- sorry-- a way to ensure that they're in compliance with all rules and regulations, that they have good governance practices

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

and sound fiscal policies in place. Employees can trust that the federation nonprofit members are good stewards of donor dollars. Two years ago, campaign leadership at the state of Nebraska decided to focus their employee-giving campaign on certain areas. So while each federation was authorized to participate in the campaign, only nonprofits working in certain sectors of the nonprofit world were included on that list for donations. State employees could not write in other nonprofits outside of that list. They had to choose only from that list. That significant [RECORDER MALFUNCTION] a number of nonprofits that they could choose from and the dollars raised through that campaign for nonprofits. In 2021, the campaign-- the restrictions were even more extensive. The campaign went from having 469 nonprofits represented to 129. These were years where nonprofits were seeing significant increases in demand for their services. At the same time, they saw a significant decline in their fundraising activities and revenue, and yet most nonprofits pivoted to meet these needs of Nebraskans, to do what they needed to do. The State of Nebraska Employee Charitable Giving campaign used to raise almost \$600,000 to support nonprofits and their work to improve the lives of Nebraskans. Over 4,000 state employees used to give through this campaign. Last year, that number was under 700. We're here because we believe in helping Nebraskans. We believe in the right of individuals to choose without restriction the cause-- causes their personal philanthropic dollar-- dollars support. LB1140 clarifies the language and intent of State Statute 48-224. Once a federation is authorized to participate, all member agencies under that federation umbrella are automatically included in the campaigns. This applies to all public work-- public-sector workplaces. It will restore choice to donors. It will restore funding to nonprofits throughout our state. It will benefit all non-- all Nebraskans. I'm happy to take any questions.

**BLOOD:** Do we have any questions? Yes, Senator Gragert.

**GRAGERT:** Thank you, Vice Chair, and thank you for your testimony. I was wondering, of the 469, are there any kind of requirements to get on that list as far as how much your money, how much of that money goes towards administration versus to the cause?

**MELISSA FILIPI:** That depends on each federation. Each one has their own process for vetting nonprofits that may be part of it for some. In general, with Give Nebraska, we're looking at are they a good steward of the donor dollars and are they following rules, regulations and sound fiscal policies.

**GRAGERT:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**BLOOD:** Any other questions? Seeing none, thank you very much.

**MELISSA FILIPI:** Thank you.

**BLOOD:** Next proponent for LB1140. Welcome to the Business and Labor Committee.

**CORRIE KIELTY:** Thank you, Senator Blood. My name is Corrie Kielty, C-o-r-r-i-e K-i-e-l-t-y. I'm the executive director of the Nebraska CASA, or Court-Appointed Special Advocates Association. Our agency recruits, screens, trains and supports volunteers who serve as advocates for children who are abused and neglected in the court system. And I am here today as one of the agencies that was not "discluded" from-- from being able-- from employees being able to give to us, so I'm one of many who believes that we should all be included and that to "disclude" any of us hurts Nebraskans. A great example of how we work together is through what we do. We're there in the court to advocate for the best interest of children who are in foster care. We don't provide treatment services, we don't provide visitation services, we don't provide mental health services, and all of those things are needed for families so that the children can return back to their homes and have a safe environment. Without the other services, we wouldn't find safety for children. So all nonprofits in Nebraska work together in that way so that we make sure we provide the best services possible and also so that people don't fall through the cracks. The other thing about workplace giving campaigns and nonprofits is that it helps to save us time so that we can focus on the service that we're there to provide. If I don't have to spend a bunch of my time fundraising, seeking out vendors, then (A) there's not a lot of overhead that is spent by our agency, like you just asked, Senator, as well as us being able to really just focus on that service and do it the best way that we can. So that's why we're here and that's why we support this legislation.

**BLOOD:** Thank you for your testimony. Do we have any questions? All right, seeing none, thank you very much. Next proponent for LB1140. Welcome to Business and Labor Committee.

**HANNAH YOUNG:** Hello. Hello, members of the Business and Labor Committee. My name is Hannah Young, H-a-n-n-a-h Y-o-u-n-g, and I'm with Nonprofit Association of the Midlands, or NAM. NAM is a nonprofit membership organization with over 725 members dedicated to strengthening the collective voice, leadership, and capacity of nonprofit organizations, enriching the quality of community life in Nebraska and western Iowa. We help nonprofits help their communities.



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

We bring them together so that each member can have benefit from their collective strength. Thank you for the opportunity to testify in support of LB1140. NAM is a current-- also a current member of Give Nebraska and firmly believes that all nonprofit agencies under the federation umbrella should be included in workplace giving through payroll deductions. According to a survey we administered last April, of the 159 response-- responses, nonprofits anticipated losing at least \$15 million just in 2021 due to COVID-19. Nonprofits are already struggling, and now is not the time to decline funding options available to those nonprofits and the communities they serve. Individuals wishing to participate in workplace giving campaigns should be able to have donor choice and choose the nonprofits closely aligned with their values and the needs that they see in their own communities. Because of those reasons, NAM fully supports LB1140, and I'm happy to answer any questions.

**BLOOD:** Thank you for your testimony. Do we have any questions?

**HANNAH YOUNG:** Thank you so much.

**BLOOD:** Any other proponents for LB1140? Any proponents? Do we have any opponents for LB1140? Welcome to the Business and Labor Committee.

**JASON JACKSON:** Thank you, Chairwoman Blood. Thanks for having me, folks. Good afternoon, Chairwoman Blood and members of the Business and Labor Committee. My name is Jason Jackson, J-a-s-o-n J-a-c-k-s-o-n, and I am Governor Ricketts' chief human resources officer and the director of the Department of Administrative Services. I'm testifying before you today in opposition to LB1140. I'll just briefly deviate from my prepared remarks and say how much we do appreciate the partnerships we enjoy with all of our charitable partners, including those that are here. The opposition on this particular issue notwithstanding, we enjoy some great partnerships and we very much have an expectation that that will continue to endure. As a human resources practitioner, I can share that having an organizational charitable giving campaign is best practice for the impact we can have in the community, as well as teammate engagement and the morale benefit that is derived from workplace giving. In the private sector, this form of altruism would fall within a company's corporate citizenship or corporate social responsibility strategy and is valued for enabling teams to recognize and support-- it-- for enabling teams to recognize the support that a community gives its businesses and to create an opportunity to give back. What makes our campaign special is all our teammates have already chosen a career in public service, and so our contributions are another layer

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

of altruism for how we can impact our community and neighbors over and above the normal course of our duties. I'm proud to share that our campaign has enjoyed great results. In fact, since 2003, Nebraska state employees have donated over \$7 million as part of the charitable giving campaign. In recent years, contributions to the campaign have diminished on par with decreased charitable giving engagement nationwide, which some attribute to the economic disruption of the pandemic. A recent Gallup survey found that those reporting to have given to charitable causes over the past year was at a 20-year low. In response to diminished participation in our campaign and aligned with our whole-of-government focus on pandemic response, we have recently focused the campaign on pandemic relief. In so doing, we have provided a great channel of contri-- or of charitable giving towards organizations at the forefront of addressing adverse social consequences of the pandemic in our communities. This approach also has the merit of being consistent with the emerging best practice for similarly situated private-sector contri-- charitable contributions. Companies such as Cargill, Bass Pro Shops, and Cabela's and Nestlé all focus campaigns that align around their organizational strategy. With overall charitable contributions and volunteerism down, focused efforts such as these take on added importance, and LB1140 would undermine our ability to do that. I also want to share another foreseeable problem with LB1140: 48-224 is already the underlying law that governs our charitable giving campaign, is already very limiting in terms of the discretion that state personnel enjoys to preclude underperforming charities and bad actors from participating. The proposal's provision of an automatic reauthorization impedes the ability to apply even a modicum level of judiciousness on behalf of our teammates when we place these organizations before them and essentially purport to their good standing to accept monetary donations. We don't want to put ourselves in a situation whereby operation of this law hate groups or other bad actors could be the beneficiaries of a government-sanctioned and -supported program. To prevent that from happening, we need the minimum level of discretion that the law currently permits us; therefore, I request your opposition. And I'd be happy to answer any questions.

**B. HANSEN:** All right. Thank you for testifying.

**JASON JACKSON:** Chairman Hansen, pleasure to see you.

**B. HANSEN:** Sorry, I'm coming in here at the end.

**JASON JACKSON:** No, [INAUDIBLE]

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**B. HANSEN:** Are there any questions for Mr. Jackson? Yes, Senator Gragert.

**GRAGERT:** Thank you, Chair. I'm gonna ask you the same question I asked earlier then. Are there requirements to get on the list?

**JASON JACKSON:** As it currently stands, we rely on the federations to do that kind of initial, hey, who's-- who's participating within their federation framework. We have a longstanding partnership with the federations in terms of kind of being the initial gatekeeper for being one of the potential charitable beneficiaries. Then in-- for the past two years, we've focused the campaign specifically on pandemic response. And so to that end, we put in some additional criteria in terms of where is the focus of your part-- particular kind of social efforts, so be it workplace displacement or educational disparities. And we asked the participating charities to substantiate that the preponderance of their efforts were geared towards those particular charitable activities.

**GRAGERT:** Who exactly makes that decision to go towards the pandemic criteria?

**JASON JACKSON:** That was Governor Ricketts' decision.

**GRAGERT:** Oh, OK. Thank you.

**B. HANSEN:** Any other questions? Yes, Senator Blood.

**BLOOD:** Thank you, Chair Hansen. Thank you for testifying today.

**JASON JACKSON:** Yep.

**BLOOD:** So I'm listening. I really listened closely to your testimony, and I'm still not really clear about why you're opposing as much as wanting the status quo, and I'm hoping you can tell me something compelling right now because I'm-- I'm not hearing that in your testimony about why we should oppose this.

**JASON JACKSON:** Yeah, I would-- I would just rely on the arguments that I already presented. I-- I think the general downward trend in our charitable participation reflects society-wide trends in com-- charitable giving, so I don't attribute that, the recent downturn in our program, to any particular operational decisions that have been made. I think it's defensible and, what's more, is consistent with private-sector best practice for similarly situated organizations of our size to align their programs around their particular strategies,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

and then, once again, just to foreclose the possibility of a bad actor charitable beneficiary slipping in there that might be at odds with our values.

**BLOOD:** All right. All right, so now I have more questions. So-- so we heard the folks that came in and testified in favor of it, which are part of the federation, correct?

**JASON JACKSON:** I didn't catch the organizations of all those that participated, but they may-- they may be.

**BLOOD:** OK. So when you say "our values," who do you mean when you say "our values?"

**JASON JACKSON:** Well, so, for example, you can do a Google search and it pretty readily comes up that hate groups are increasingly creating kind of charitable front organizations so that they can be the beneficiaries of charitable cont-- camp-- contributions. Those would be the types of organizations that we would purport to say, hey, there should be consensus, these types of things should not be the beneficiaries of a public-sector, taxpayer-financed charitable giving campaign, nor do we want to put our teammates in the position where in the course of their duties they're operationalizing, you know, funds going to those types of organizations. So that's one obvious example that I would highlight.

**BLOOD:** But as the bill-- bill reads, isn't there the ability to vet these organizations before you accept these organizations?

**JASON JACKSON:** No.

**BLOOD:** So if indeed they were to implement an amendment said that you could vet the organizations, then would the opposition change?

**JASON JACKSON:** The bill as written I can't support because the-- it operates to basically outsource to the federations who is a participating charity, and so it opens the door to potential bad actors being participants. I wouldn't foreclose the possibility that an amendment could make the bill better.

**BLOOD:** Although, are there not other organizations in states that do that very thing and have not had bad actors?

**JASON JACKSON:** I'm not in a position today to speak to what other states are doing with respect to their campaigns.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**BLOOD:** All right. Fair enough. Thank you.

**B. HANSEN:** Are there any other questions? Thank you very much.

**JASON JACKSON:** Thank you.

**B. HANSEN:** We'll take our next testifier in opposition. All right, seeing none, is there anybody who wishes to testify in a neutral capacity? All right, seeing none, Senator Hansen, if you want to close.

**M. HANSEN:** Thank you, Chairman Hansen, and welcome back. So in closing, I would just refer-- we had a particularly high number of letters, both passed out by some of the testifiers and submitted online. I'll have you look at some of the charities themselves and see some of the charities who were impacted. You know, one of the charities that mentioned that they got kicked off this list in the past two years was, you know, the-- one of the trails foundations, you know, building more bike trails. And that's the kind of thing that when we say we're focusing it on a specific issue, we're excluding any sort of potential charities. And I understand the concern that there could be some bad actors, but that-- kind of to the point of broadly, you know, I agree we shouldn't be giving it to a fake charity or some sort of organization that's attempting to money laundering. That would not be my intent at all. But I have concern when a kind of a government official comes up and says, we only like some charities and we only want to help them. To me, that's view-- that's in danger of being viewpoint discrimination. We are picking and choosing charities, and we're picking and choosing charities from lists that we already have supported or support in past years, and the reasons for that are policy reasons, not necessarily any things that the nonprofits have done themselves. You know, if we're going to continue down this path of just saying on, like, we really want to focus on healthcare, you know, I think that's noble and admirable, but there are all sorts of impactful and genuine and great and longstanding nonprofits in the state who aren't healthcare focused, and they are just by nature rolled off this list. You know, I trust the federations that have-- we've worked with. I mean, it's kind of talking about they have their own vetting process, they own-- have their own reputation, they have their own stake. And that's where I don't necessarily want, you know, a government official, an elected official, anyone going kind of through a list of charities largely behind closed doors and saying, this one counts, this one doesn't. With that, I'll be happy to take any questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**B. HANSEN:** Thank you. Are there questions? Yes, Senator Blood.

**BLOOD:** Thank you, Chair Hansen. Thank you for bringing this forward.

**M. HANSEN:** Um-hum.

**BLOOD:** I'm going to ask you a hard question.

**M. HANSEN:** OK.

**BLOOD:** Hearing the opposition and the example that was given in reference to why this bill needs to be opposed, I'd be interested in having your opinion on record as to-- as to the example that was given why this bill wouldn't result in us bringing in hate groups or-- I-- I just thought that was such an excessive example, and I'd like to have on record why you feel that that's not something that would likely happen.

**M. HANSEN:** Yeah, I mean, like if-- if they're a valid charity under the IRS, they've, you know, done the 501(c)(3) paperwork, the United Way's accepted them as a member, like I trust all of those safeguards that these are going to be real charities addressing real issues. And for me, you know, if we need to leave some discretion for truly bad actors, OK, but I don't want it to leave it up to, you know, the Governor or his HR director; whoever makes the final decision gets to run through a list of all the charities in Nebraska and decide which ones they do or don't like in a given year. To me, that's of, you know, similar concern in terms of the power that a single person can have.

**BLOOD:** Right, something that falls under the executive branch that maybe shouldn't?

**M. HANSEN:** Yeah.

**BLOOD:** All right. Thank you.

**B. HANSEN:** Any other questions? All right. Thank you very much.

**M. HANSEN:** Thank you.

**B. HANSEN:** All right. That'll clo-- before I close it here, we did have some position comments for the hearing. We did have 16 letters in support, zero letters in opposition, and 1 letter that was neutral. With that, we will close the hearing on LB1140 and welcome Senator Hunt to open the hearing on LB834.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**HUNT:** Thank you, Chairman Hansen and my colleagues on the Business and Labor Committee. I'm Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I represent District 8 in the northern part of midtown Omaha. I'm here to present LB834, which is a bill to strike the section of Nebraska law that allows some employers to pay workers with disabilities much less than state and federal minimum wages. According to 2021 records, 13 employers are paying 180 employees with disabilities less than minimum wage in Nebraska. We don't have specific records about how much each employee is paid because that's not collected on public record, but we have heard from people with disabilities and their families that it's often cents on the dollar based on how productive they are, because when employers have the authorization to do this, there's no floor or minimum that they can pay their employees. To get this authorization, employers have to apply for and hold what's called a 14(c) certificate. This alludes to the section of federal law that enables employers to pay workers with disabilities less than minimum wage, or Section 14(c) of the Fair Labor Standards Act within the U.S. Department of Labor. These certificates authorize the payment of subminimum wages to workers who have disabilities that impair their productivity for the work being performed. There's no specific regulation of what the wages are, just that they should be assessed for what their productivity is in proportion to the work that they do. That federal law is 80 years old, by the way, and there have been repeated efforts in the states and in Congress to scrap or reform it, but nothing has passed and it's unclear if federal action on this will become a reality anytime soon. At the time it was passed, the law reflected the cultural attitudes of the day when the movement was just beginning to encourage people with disabilities to find jobs or become more integrated into society. We've moved far beyond those days now in a world where we all know people with disabilities who hold jobs alongside people without disabilities and perform them just fine, and yet some people with disabilities in Nebraska are still being paid cents per hour as permitted by this outdated statute. Many of the workers being paid subminimum wages under this law are working in sheltered workshops. These workshops are divisive within the disability community. Some believe they keep disabled people segregated from their communities and exploit their labor or pay them in a discriminatory way. Others think that these workshops provide meaningful opportunities for people, especially those with severe disabilities, to contribute and earn money where they may not otherwise have opportunities for traditional employment. Many hold, you know, mixed opinions of a combination of those views. A 2020 report by the U.S. Commission on Civil Rights recommended phasing out the subminimum wage exemption because it's been trapping workers in,

quote, exploitative and discriminatory job programs. I see that in the written comments the Nebraska Council on Developmental Disabilities notes that the issue is divisive in the developmental disability community and offers several recommendations for how to move forward on this issue. Of those recommendations is a legislative resolution to pull together providers, DHHS, Nebraska Vocational Rehabilitation, and the Legislature, and that is exactly what I plan to do. Since introducing this bill, I've received mixed feedback from disability advocates, people with disabilities and their families who have varying perspectives on the issue. Some cannot support any kind of payment that is lesser or discriminatory based on a person's disability or perceived value as an employee. Others have raised a very valid concern that this could cause workshops to choose to close, which would leave no opportunities or way fewer opportunities for people with severe disabilities to find work. The last thing I want to do is take that away, and I will not move anything forward or advocate for anything without strong majority support of the disability community. I wanted to introduce this topic at the hearing today and give anyone interested in this the chance to testify and share their experiences and put on the record their experiences, which we can use in an interim study to do something that I hope has the majority support of the disability community. The work of disabled people is valuable and they should be fairly compensated, and I expl-- I look forward to exploring solutions to this with this committee. Thank you for listening.

**B. HANSEN:** Thank you. Are there any questions? I have one question. You said it was 180 employees with disabilities that are working. Is that from all the 14(c) certificates?

**HUNT:** Yes.

**B. HANSEN:** OK. Cool. OK. All right. You're going to stay to close, I'm assuming?

**HUNT:** Yeah, I will. Thank you.

**B. HANSEN:** Yeah. All right. OK. So with that, we will take our first testifier in support, please. Welcome.

**BRAD MEURRENS:** Good afternoon, Senator Hansen and members of the committee. For the record, my name is Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s, and I'm the public policy director for Disability Rights Nebraska, the designated protection and advocacy organization for persons with disabilities in Nebraska, and I'm here today in



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

strong support of LB834. First, I want to thank Senator Hunt for introducing this legislation. While the 14(c) exception to the Fair Labor Standards Act provides federal permission to pay people with disabilities less than minimum wage, LB834 is an attempt to fix a longstanding loophole in Nebraska law that implements this wage discrimination and permits employers in Nebraska to pay certain people with disabilities less than minimum wage. This loophole is targeted directly at, and only at, people with disabilities working in a program of rehabilitation. Because Nebraska law does not consider these individuals as employees, they are not protected by Nebraska's minimum wage law. Nebraska would rather they receive a wage that is, quote, consistent with his or her health, efficiency, and general well-being, which begs the question, how do you translate that into a wage? The language is so general and obtuse as to be ineffective and would open the door to workers with disabilities receiving pennies as long as the employer thinks that this is consistent with their assumptions of the individual's health or general well-being. The U.S. Commission on Civil Rights reports that the national average wage on this program from 2017 to '18 is \$3.34 an hour, with no tips, or, as rel-- was-- or as was relayed in a Reader newspaper last year, perhaps as low as 87 cents per hour. Even when employees without disabilities are not as productive as their coworkers with disabilities, they still receive minimum wage because they are not included in the 14(c) federal exception or Nebraska law. So it's not really about productivity; it's about-- it's about, and always about, a person's disability. States are already moving to erase this remaining bastion of disability discrimination. Ten states have enacted legislation to eliminate the subminimum wage; others are in varying states of legislative activity. The number of people with-- with disabilities working under these 14(c) certificates has declined substantially over the last few years, further indicating that the time has come for a change. A number of agencies in Nebraska have switched from a subminimum wage model, meaning that it can be done with minimal disruption. Some data that I received from a colleague who contacted over 20 providers indicates that, of those 20, only a few agencies in the state are paying subminimum wage. Most ended that practice years ago. According to the U.S. Department of Labor, the largest subminimum wage employer in Nebraska is paying 160 people with disabilities a subminimum wage, despite having an annual-- annual revenue of \$16.18 million. The review of 20 I just indicate-- I just talked about puts the number at 47, so we're still unclear about the extent of the program. You will hear that if we pay these people with disabilities a minimum wage, businesses will shut down. The evidence does not bear that out. If you're-- and it also begs the question, if your business

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

model is dependent on paying people with disabilities subminimum wage, is that really a good business model? What does that portray about the value of our citizens with disabilities? What about those individuals and their families who want to make minimum wage? We should not let a few individuals or agencies hold them back too. Building a robust and effective jobs placement and support schema is not mutually exclusive with repealing subminimum wage. Rather, that idea distracts from the central issue. Is it acceptable to pay people with disabilities in these programs less than the minimum for everyone else? You can change the policy of the state to not pay subminimum wage and simultaneously develop job placements. Some states have worked to phase out their wage-- subminimum wage law while building job resources for persons with disabilities. Regardless of efforts to build a system for job placement, this state statute would still need to be repealed lest Nebraska continue its legal endorsement of discriminatory wages for certain Nebraskans with disabilities. That concludes my testimony. I'd be happy to answer any questions the committee may have.

**B. HANSEN:** Thank you. Very good. I didn't think you were going to get through all that in five minutes, but man, you were rolling pretty good.

**BRAD MEURENS:** Lot-- lots of debate practice, lots of debate practice, yeah.

**B. HANSEN:** All right. Are there any questions from the committee at all? OK. I might-- I might have a couple here, just some-- maybe some points you brought up. So the-- OK, just-- so the 14(c) certificate is federal law now?

**BRAD MEURENS:** Yes. Yeah, if--

**B. HANSEN:** So then would the states that did change theirs, was it-- was there an issue with following state law versus following federal law? Was there any kind of inconsistency or some issues with reports or anything like that?

**BRAD MEURENS:** Not that I'm aware of. I'd have to go back and look at the-- at the history of those. But to my-- to the best of my knowledge, no, there wasn't. I think that they have language like Nebraska does that would allow those agencies in-- in Nebraska to pay Nebraskans with disabilities less than minimum wage--

**B. HANSEN:** OK.

**BRAD MEURENS:** --under the 14(c) federal.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**B. HANSEN:** OK. And I know we had some studies done about the U.S. Commission on Civil Rights reports the national average was \$3.34 an hour. Are there any studies about maybe the-- the-- of course they're all-- everyone's kind of different, but the production in--

**BRAD MEURENS:** Yeah, what--

**B. HANSEN:** -- in comparison, I mean? Sorry, I didn't--

**BRAD MEURENS:** Well, no, no, you raise a very good point. I'm glad you-- I'm glad you mentioned that. So the way I understand it, and the way I've been-- at least it's been told to me, was that you have a-- if you have a job and there's a-- there is a prevailing wage for that job, whatever it might be, or what's the market paying for that particular employment, right? So you-- they do a time test, so they do a test of a person with a disability versus a person without a disability, and they see what the production levels are for each of those individuals. So, for example, if the person without a disability makes 100 widgets in a certain amount of time and the person with a disability can only make 10 widgets, that person only gets 10 percent of the prevailing wage for that particular job. Now the problem is, is that those tests are not tightly regulated, so we don't really know if those tests are being done accurately or if-- and there have been some reports that sometimes when those tests are being done, there are no-- things are not laid out efficiently so that the person with a disability can most effectively and efficiently complete that task, so there is some question about the validity of those time trials.

**B. HANSEN:** OK, and that's kind of what I was wondering, too, because, you know, trying to compare apples to apples and see if we can-- if a wage is actually accurate or not based on their skill set.

**BRAD MEURENS:** Right.

**B. HANSEN:** One other thing, at the end here, the number of people with disabilities working under 14(c) certificates has declined substantially the last few years. You mentioned it's-- it's maybe because it's time for a change. You know, it could also be because we-- the workplace has now provided for much more accommodations for people with disabilities, and so now they're able to be more productive, whereas before they were not able to.

**BRAD MEURENS:** In competitive integrated employment, yeah, that'd be great.

**B. HANSEN:** Yeah, OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**BRAD MEURENS:** That's got that-- and-- and that is, I think, the-- the-- the meta goal everyone's going for is that competitive integrated employment. What happens most often is that people get into these sheltered workshops, and they-- and while they're intended to be a short-term place to build those skill sets for those individuals so that they can go seek out competitive, integrated employment, a lot of times what happens is they get stuck in those programs because they're-- they're an effective worker. Why would you go and get rid of an effective worker? So there is some question about, and I think, as Senator Hunt alluded to in her testimony, there is some div-- you know, that the issue of shelter workshops as a divi-- is somewhat of a divisive issue within the community, sure.

**B. HANSEN:** OK. All right. Good. All right, thank you very much.

**BRAD MEURENS:** Sure.

**B. HANSEN:** Any other questions? OK. Thank you for testifying. Appreciate it.

**BRAD MEURENS:** Yep.

**B. HANSEN:** We'll take the next testifier in support. Anyone else wishing to testify in support? OK, if not, then we will take our next-- our first opposition testimony. Anybody wish to testify in opposition? All right, is there anyone that wishes to testify in a neutral capacity?

**EDISON McDONALD:** Hello, my name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, representing The Arc of Nebraska. We are Nebraska's largest membership organization, representing people with intellectual and developmental disabilities and their families. We are here today offering neutral testimony on LB834. While we agree with the intent of the bill, the technical language will not produce quality results. We need, instead, an interim study that brings everyone to the table to have a quality conversation about how to make this transition. Overall, people with IDD should have the support necessary from individuals and systems to enable them to find and keep community-based-- community jobs based on their preferences, interests, strengths, and work alongside people without disabilities and receive comparable wages. Overall, we want to see a transition towards competitive integrated employment. The minimum wage is supposed to be just that, the minimum. The subminimum wage workshops we've mentioned here are under what's called a 14(c) exemption, as created by the Fair Labor Standards Act. They also typically are

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

segregated settings that separate people with disabilities from the broader community. This is a human rights issue. We need to increase our shift away from these programs with a thoughtful, structured plan; however, LB834 has several issues, the largest being the speed of the transition, and then it's unclear what the impact will be. This has no buffer time to transition people with disabilities to competitive integrated employment; and without a transition period, the effect on individuals and families will undoubtedly be negative. When we have seen workshops close quickly, it typically leads to an increase in what's called van therapy. Van therapy is when a disability service provider will just drive individuals around since they can pay-- get paid for that under our current problematic definition of what is community inclusion. They will take them to parks on 106-degree days because that counts as community inclusion. They will go to the library every single day, which counts as community inclusion. But if the individual wants to stay home, that doesn't count as community inclusion. This isn't how we live our lives and shouldn't be how people with disabilities have to live their lives. We also need to consider the implementation of the federal Final Settings Rule that will take effect in 2023 and require these workshops to become integrated. This will have a huge impact on how this issue moves forward and require further dialogue. We can move forward to support people with disabilities while valuing their rights to human dignity if we take the time for an interim study that looks at ideas like a stepped incentive program that slowly works at transitioning employers away from noncompetitive employment; economic development funds to support businesses employing individuals with disabilities; fixing our service definitions around what is and isn't community inclusion; work on legislation to specifically ban van therapy; improve guidance from the state about what opportunities could look like, especially in rural communities, where finding any employment can be difficult; and figure out how to better leverage our use of our new expanded Medicaid buy-in program to decrease negative impacts of the benefits cliff. We've already started to reach out to these stakeholder-- to the stakeholders who need to be involved in this conversation, and we look forward to a collaborative dialogue. And we hope that you will dig into this issue and find ways to help us to make that shift towards competitive integrated employment without negative side effects. With that, any questions?

**B. HANSEN:** All right, thank you. Are there any questions from the committee? Seeing none, thank you for your testimony. Is there anybody else wishing to testify in a neutral capacity? All right, seeing none, Senator Hunt, ready to close?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**HUNT:** Thank you, Senator Hansen. I completely agree with everything Edison said. I appreciate him being a partner to me and my office and hope he feels the same. I don't have much to say in closing. I'll touch on the question that you had earlier about being in compliance with federal law. So federal law gives states the option to opt into this, and Nebraska has opted into it. There's six states that have banned it all together, and then a handful of other ones have looked at ways to improve wages for people with disabilities. So there-- it's kind of up to the states to sort of do what they want, which means this legislation would work federally. We just want to make sure that it works for all the communities impacted. And with that, I will close.

**B. HANSEN:** Thank you. Any questions from the committee? Seeing none, thank you very much. And just a fi-- a final mention that this did have two proponent position comments and then one from the-- representing Nebraska chapter of National Association of Social Workers and the other one from Michael Warner representing himself and another neutral position from-- representing the Nebraska Council on Developmental Disabilities. Jennifer Meints, the council chair. So with that, we will close the hearing on LB834 and we'll open it right back up with LB1029 and welcome back Senator Hunt.

**HUNT:** Thank you. I'm Megan Hunt, M-e-g-a-n H-u-n-t, and I'm here to present LB1029. You may not know, and I recently learned, that there are no legal protections against harassment and discrimination for employees in Nebraska if they work for an employer that has 14 or less employees. Federal protections only apply to employers with 15 or more employees, and our Nebraska law, the Nebraska Fair Employment Practice Act, mirrors it and has that same 15-employee threshold. This means that if your employer harasses you and you work for a small business, you're not legally protected and there's nothing you can do to bring legal action against them. What prompted me to look into this issue and eventually bring this bill is a conversation that my office had with a constituent who has experienced ongoing sexual harassment from her boss, who owns the company she works for. This man made repeated crude and sexual comments, groped her and made unwanted body contact, contacted the employee after hours and made threats to her and her job if she didn't put up with it. This woman actually tried to file a case against him and explore her options for what action could be brought against him and came up empty-handed. Multiple attorneys she consulted advised her that she didn't have a case because, due to the employer having fewer than 15 employees, his behavior was not prohibited in state or federal employment law. She also told me that comments the employer made indicate he was actually aware of this and exploited it,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

harassing multiple female employees, knowing that his actions weren't illegal under employment law. This particular case stuck with me and was egregious enough to prompt my office to conduct some research into the issue and introduce this bill. While this woman's case is an especially serious example of why we need to change our law, it's not just about her because it's something that should be done for all workers in Nebraska. It doesn't make any sense that workers in Nebraska are only protected from harassment or discrimination from their employer if they end up working for an employer that has an arbitrary 15 or more employees. It's my understanding that our Fair Employment Practice Act was drafted this way to mirror federal laws, and also because there may be arguably some components of FERPA that would be more burdensome for smaller employers to comply with, that might require more money or more recordkeeping or more employees to help or things like that. But what we landed on with this approach for this bill is a moderate step that applies harassment and discrimination protections to those smaller employers, as well as the larger ones, so they're all equally protected. My office consulted with the Revisor of Statutes Office on this very extensively, as well as the Nebraska Equal Opportunity Commission, and we agreed that the language in this bill was the simplest way to accomplish our objective. The Fair Employment Practice Act is fairly complex and there's agreement that it was poorly drafted in the first place. We make the change by bifurcating employers into two groups, those with more and less than 15 employees, and applying just the anti-discrimination and anti-harassment provisions to both groups. All of the other existing requirements in the Fair Employment Practice Act continue to apply to the larger employers only. I don't know what legitimate arguments there could be for saying it's more difficult for small employers not to harass their employees. There's no good reason that employers with 14 or fewer employees should be free to discriminate against and harass their employees without penalty under this act. This costs employers nothing and requires no resources. They just have to not harass people. I'd be happy to take any questions.

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

**HUNT:** Oh, one other thing-- may I add one thing?

**B. HANSEN:** Yeah.

**HUNT:** There are 37 states that protect all of their employees, even if it's fewer than 15, including all of our neighboring states, so that's all. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**B. HANSEN:** All right. Thank you. OK, well, we'll take our first testifier in support.

**BRAD MEURENS:** Good afternoon again, Senator Hansen and members of the committee. For the record, my name is still Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s, and I'm still the policy director for Disability Rights Nebraska. We are the designated protection and advocacy organization for persons with disabilities in Nebraska, and I'm here today in strong support of LB1029. Even in 2022, people with disabilities still face stigma and negative social attitudes. Misperceptions about persons with disabilities still persist. There is no reason to believe that these misguided assumptions about persons with disabilities do not seep into the workplace and translate into the type of harassment and discrimination addressed by this legislation. This Legislature has worked previously to preserve the dignity of people with disabilities and strengthen anti-discrimination laws for them, for example, LB540 from 2021, as well as to enact reforms to provide incentives to increase their participation in the workforce, for example, LB323 from 2019 and 2020. This legislation is right in line with these efforts. It is incongruent to incentivize employment for persons with disabilities in this community, which has substantially lower employment rates than their peers without disabilities, yet not create a safe employment environment or for only those who work in larger companies. Ultimately, people with disabilities, as well as other marginalized communities, should be protected by the law from harassment and discrimination, regardless of their employer's size, and for that, we recommend LB1029 be advanced. And I'd be happy to answer any questions this committee may have at a slower pace than last time.

**B. HANSEN:** Thank you. Yes. All right. Thank you for your testimony. Are-- is there any questions from the committee? All right. Seeing none, thanks again.

**BRAD MEURENS:** Thank you.

**B. HANSEN:** We'll take our next testifier in support.

**JENNIFER MEINTS:** Good afternoon. My name is Jennifer Meints, J-e-n-n-i-f-e-r M-e-i-n-t-s, and I am here on behalf of the Nebraska Council for Developmental Disabilities in support of LB1029. Although the council is appointed by the Governor and administered by the Department of Health and Human Services, the council operates independently and our comments do not necessarily reflect the views of the Governor's administration or the department. We are a federally



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

mandated, independent council comprised [SIC] of individuals and families of persons with developmental disabilities, community providers, and agency representatives who advocate for systems change and quality services. The council serves as a source of information and advice for state policymakers and senators. When necessary, the council takes a nonpartisan approach to provide education and information on legislation that will impact individuals with developmental disabilities. As noted in the statement of intent, the Nebraska's Fair Employment Practice Act is the set of statutes protecting the rights of workers and, as currently written, it only applies to employers with 15 or more employees. Federal protections of Title VII of the Civil Rights Act also only applies to employers that have 15 or more employees. Because of the employer size limitations in the law, employees that work for smaller employers are not protected from harassment or discrimination. The council supports LB1029's intent to change the Nebraska's Fair Employment Practices Act to extend protections against harassment or discrimination to smaller employers. One of the council's state plan goals is employment and advocating for people with developmental disabilities to find a-- and secure competitive and integrated employment. The goal of the council is-- the Council goal [SIC] on Developmental Disabilities will collaborate with Nebraska DD network partners, state agencies, community programs, and other stakeholders to provide resources and improve competitive, integrated, and meaningful opportunities for employment, including self-employment with competitive wages for Nebraskans with intellectual and developmental disabilities. Smaller businesses or employers are often an excellent place for people with developmental disabilities to work, yet the reality is that some of the individuals may face discrimination or harassment once they begin their employment, and the change to this act would make this illegal. While I am here today representing the council, I am also a service provider and I'm also a parent of a beautiful 19-year-old daughter that has a developmental and intellectual disability. There have been times where persons who experience disabilities have needed interview accommodations, other accommodations at work just to-- to get into their place of employment or to interview. The second that we state as an agency that we are calling and that we work with individuals with intellectual or di-- disabilities-- or intellectual disabilities, you can tell right away if they're going to shut down and that call is done or if they are going to embrace why you're calling and move forward with considering the applicant, if they have the skills for the-- for the job that they're applying for. In 2021, there was a situation where a person receiving VR services, which is voc-- vocational/rehabilitation services provided by a developmental

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

disability provider, sat at a table in a local business here in Lincoln, interviewing-- I'm sorry-- at a local business waiting for the interviewing supervisor to come to the table to interview, as they had already checked in at-- at the business. Sadly, the supervisor never came over to interview this person. They sat there for over 45 minutes waiting for an interview, and I would-- I would say this person had a hidden disability. You would not look at this person on the street and know that they had a disability. They knew because we had called and advocated for the person before them. So after 45 minutes, they-- the employment specialist that was with-- the advocate that was with them decided it was in their best interest to leave because this is not a place they'd want to work and it was-- it was getting hard for the individual sitting there. So the persons re-- receiving VR or supportive employment services already experience challenges that others may not. Thank you for your consideration.

**B. HANSEN:** Thank you for testifying.

**JENNIFER MEINTS:** Thank you.

**B. HANSEN:** Are there any questions from the committee? All right, seeing none, thank you very much.

**JENNIFER MEINTS:** Thank you.

**B. HANSEN:** Is there anybody else wishing to testify in support?

**SCOUT RICHTERS:** Hi, my name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, here on behalf of the ACLU of Nebraska in support of LB1029. The ACLU works to end discrimination and harassment in the workplace and ensure that the rights of all workers, regardless of their gender, race, national origin, age or disability, are protected on the job. The 15-employee threshold for harassment and discrimination protections have not kept pace with changes in the workforce, and workplaces are out of step with the cultural norms and expectations. And as Senator Hunt mentioned, those working for small employee-- employers are not protected from discrimination or harassment. Because physical isolation, along with power imbalances and intersecting oppressions, make someone more vulnerable to discrimination-- discrimination and harassment, those who work for small employers are already at an increased risk of experiencing this at work, yet tho-- that is the group that's unprotected from harassment and discrimination. While it's important to acknowledge that anyone can be the victim of workplace harassment and discrimination, according to a Pew Research study, about four in ten

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

women, compared to two in ten men, have experienced discrimination on the job, and it's even more common for women of color, especially black women, to experience this. Turning to some statistics on harassment, 38 percent of women reported being sexually harassed at work, and nearly 7 in 10 LGBTQ people have-- have been sexually harassed at work. I also did want to mention that Nebraska has actually also relatively recently updated equal pay laws in 2016 to apply to all employers, regardless of size. This update had support across the political spectrum and was signed into law by Governor Ricketts and really reflects what Nebraska could be doing with-- with respect to all employee protections to better protect workers in Nebraska. So we would urge the advancement of the bill, and I'd be happy to answer any questions. Thank you.

**B. HANSEN:** Thank you for coming. Are there any questions? All right, seeing none, thank you very much.

**SCOUT RICHTERS:** Thanks.

**B. HANSEN:** Take our next testifier in support. Welcome.

**DANNY REYNAGA:** Good afternoon, Senators. My name is Danny Reynaga, D-a-n-n-y R-e-y-n-a-g-a. I'm the managing attorney for Legal Aid of Nebraska's ag worker rights program. I want to thank Senator Hunt for introducing this bill and for inviting Legal Aid to testify today. Legal Aid of Nebraska, for those of you who don't know, is the state's largest nonprofit law firm providing free civil legal services to low-income Nebraskans. There are over a quarter-million Nebraskans that live at or below 125 percent of the federal poverty guidelines and thus qualify for civil legal aid. We have seven across-- seven offices across the state and employ more than 50 wonderful employees that are very dedicated to the work. My program, the agricultural worker rights program, or what we call the ag worker program, is a program dedicated to assisting the hardest-working people in Nebraska. We help our clients assert their employment rights by ensuring that they're paid what they're owed and making sure that they're able to do their job in peace without harassment or discrimination. The unfortunate reality is that ag workers in Nebraska are some of the most exploited workers in our state. They often enjoy some of the least protections, for example, minimum wage laws, overtime laws, and often work in rural and isolated parts of the state, making them even more vulnerable to abuse and exploitation. So I want to share just a few examples of the types of people that are slipping through the cracks under the current statutory limitations that we have in place today. The first example is one that we see in my program quite a bit.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

It's a young man from South Africa that comes to Nebraska on an H-2A work visa-- that is, a temporary agricultural visa-- and works for a small farm. The farm employs less than 15 people, and so the current anti-discrimination protections afforded under the Fair Employment Practice Act do not apply to him. This young man is recently engaged and coming over to make some money for a wedding. Soon after he arrives to his new job, he suddenly he realizes this is not what he had signed up for. The working conditions are not what he was promised. The housing provided is below standard. And to make matters worse, this young man, along with the other South African workers on this farm, are being subject-- are being subject to illegal wage deductions. The young man feels trapped. He spent a considerable amount of money to get here and, if he leaves now, the chances of finding another job are slim to none because the harvest season has already started. He sees no viable option to assert his rights unless he chooses to endure the discrimination. The second example is not necessarily an ag worker but, rather, a woman in rural Nebraska who begins working for a local-- locally owned taxi service company that helps transport workers from work-- worksite to worksite. She works almost exclusively with men. This woman is in the middle of a divorce and needs the money to feed her three children and pay the never-ending attorney fees. She really needs this job. The job starts out fine enough, but during one summer day it begins to rain. This woman is at that point wearing a white T-shirt. The woman's boss comes up to her in front of the other men, standing just a little too close, and asks, are we going to get a wet T-shirt show today? The woman is embarrassed and feels unsafe, but she needs the job. The locally owned company only hires a handful of deliver-- of drivers and well below the 15-person threshold, so they are immune from the anti-discrimination policies of the Nebraska Fair Employment Practice Act. The woman decides to ens-- endure the sexual harassment for as long as she can. The second example does have a bit of a happy ending. The-- the woman does end up leaving the job, and her son-in-law actually ends up becoming an attorney for Legal Aid and manages the ag worker rights program.

\_\_\_\_\_ : [INAUDIBLE]

**DANNY REYNAGA:** That is-- that is my-- my mother-in-law that, unfortunately, this happened to, and she is-- she is a woman who I have a tremendous amount of respect for, and we'll be getting a recording of that for future fights. But, you know, these types of cases are happening in Nebraska, and these are the type of people that are falling through the cracks. They endure discrimination because they just simply don't have a path for recourse. This bill would give

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

them an option that they would otherwise not have. Two quick points that I want to make about this particular bill. The current structure that we have and that I was talking about earlier, I believe, does favor those with enough money to hire a private attorney. A lot of these folks who are able to hire a private attorney may be able to find some sort of actionable claim against their employer, even if they are below that 15-person threshold, whether that be a 1981 claim or something else. If you are unable to hire an attorney, your chances of finding some-- finding some sort of federal actionable cause is-- is very slim. And with that, I think I'm out of time, so, yeah, I'm happy to answer any questions.

**B. HANSEN:** OK. All right, thank you. Are there any questions from the committee? Seeing none, thank you for testifying.

**DANNY REYNAGA:** Thank you.

**B. HANSEN:** And we'll take our next testifier in support. Is there anybody else who wishes to testify in support? All right, seeing none, is there anybody that wishes to testify in opposition? Welcome.

**JERRY STILMOCK:** Mr. Chair, members of the committee, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska chapter of the National Federation of Independent Business; and I've also been requested and authorized to testify on behalf of the Nebraska Chamber of Commerce and Industry. Succinctly stated, the NFIB has looked historically for a long time at federal law and has not supported items that are more restrictive than federal law. This, as you know, would reduce that number to 14 or less for the items that you've heard this afternoon. Because there's federal law in place, we-- we would not want to make Nebraska law more restrictive. And those are my comments, Senators.

**B. HANSEN:** OK, thank you for testifying. Is there any questions from the committee? Seeing none, thank you much.

**JERRY STILMOCK:** Very well. Thank you. Good day.

**B. HANSEN:** Is there anybody else that wishes to testify in opposition? All right. Is there anybody that wishes to testify in a neutral capacity? Welcome.

**SHELLEY FOSS:** Good afternoon, Chairperson Hansen and members of the Business and Labor Committee. My name is Shelley Foss, S-h-e-l-l-e-y F-o-s-s, and I am a unit director for the Nebraska Equal Opportunity Commission, or NEOC. I am speaking in a neutral capacity on LB1029.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

I'd like to begin by assuring the committee that the NEOC is capable of handling the work proposed under this bill. We turned in a no-fiscal-impact statement because the NEOC can absorb any existing work within our current functions. I would also like to commend Senator Hunt on her willingness to work with our agency to address the needs she saw relative to sexual harassment in the workplace. We believe that, due to this collaboration, the bill, as drafted, will have no fiscal impact on the NEOC. While the lower threshold of-- threshold of employees for coverage would impact a person's ability to file a federal charge, this bill would ensure coverage at the state level. As a side note, when there is no federal charge, there is no federal reimbursement to the agency for the investigation. The NEOC currently investigates allegations of harassment involving sex, race, color, national origin, disability, religion, marital status and retaliation. As this amendment would broaden that-- what employers are covered for the issue of harassment, it would not change how we investigate these claims. I would also like to note that, in addition to broadening the definition of an employer for harassment, this bill also aligns the definition of disability by association with the federal law. As currently written, a person filing the charge-- a charge of discrimina-- a charge for disability by association claim is required to have a disability. The intent of the federal law is that any person, regardless of disability status, is covered under the association provision. As a result, we have been required to send any disability-by-association investigations where the person filing does not have a disability to the federal EEOC for processing. Thank you. And if you have any additional questions or I can provide further assistance, please do not hesitate to contact me or my office.

**B. HANSEN:** Thank you. Are there any comments from the committee, or questions? All right. Seeing none, thank you very much.

**SHELLEY FOSS:** Thank you.

**B. HANSEN:** Is there anybody else that wishes to testify in a neutral capacity? All right. Seeing none, Senator Hunt, you're welcome to come.

**HUNT:** Thank you. I'm passing out something that's hot off the presses. The woman who came to my office and asked for the help, she was going to be here today and then kind of, at the last minute today, decided she was afraid of retaliation and didn't want to come. But she sent me this testimony and she asked that I share it with you. For the record, I won't read the whole thing, but this letter just details the nature of the harassment that she experienced: verbal, physical, all of these

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

things. And she says: The harassment was ongoing for years, and although I needed the job, I was too stressed at work or anytime I saw the person call me; and when I was at work I had to answer the phone, but it might be the employer making another sexual advance at me. The employer would threaten to come to my home. He would text me at my other jobs or sit outside and wait for me. While I was working, I feared for my safety as there was more than one entrance in the building, so I'd block two of them so the employer would have to come in the front entrance. This is the kind of bill that it doesn't affect any business that's following the law, that's treating their employees with respect. And for the people it will affect, it's going to mean a great deal to them, and I think that that's the best thing we can do with our-- our resources and time here in the Legislature. And this is a really worthy policy, and I hope we can Exec it out and find something to put this on. Thank you.

**B. HANSEN:** Thank you. Are there any questions from the committee? I might have a couple of questions about the bill, more for curiosity's sake. On page 6, line 9 through 13, you mention the definition of harass, but you didn't put sex in there like you did for everything else. Is there a reason why?

**HUNT:** The reason is that this-- this is what worked for Drafters, and they said that this was fine and also in line with other definitions that we have, so--

**B. HANSEN:** OK. I just-- I-- because, I mean, you mentioned it earlier. I thought it might have been why, because you mentioned it on the previous page about harassment because of sex includes-- I thought maybe that's why you didn't put it in there. And--

**HUNT:** Um-hum. Good question.

**B. HANSEN:** Yeah, because you-- on page-- on the next page, on page 7, you mentioned it shall be unlawful for an employment [SIC] practice-- Class II employer to harass an employee based on an employee's race, color, religion, sex, disability, marital status or national origin, I don't know if you've maybe just left it out of there or not but-- or if there's a reason why, so.

**HUNT:** If we need to change it, I'm happy to. But I think that this was just what was recommended to us and it worked for me, so--

**B. HANSEN:** OK, and--

**HUNT:** --obviously just want it to be right.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Business and Labor Committee February 28, 2022

**B. HANSEN:** Yeah, cool. I just-- more for curiosity's sake.

**HUNT:** Yeah.

**B. HANSEN:** On page 8, when you talk about discriminate against an individual because of a known disability, what's the purpose of that? Is that in case somebody has a disability, that shouldn't affect the hiring process?

**HUNT:** So the bill-- so this is in addition to the Fair Employment Practice Act that was requested by the NEOC, the Equal Opportunity Commission, to clarify that employers cannot discriminate against a person associated with a person with a disability, and this matches us with federal law.

**B. HANSEN:** OK.

**HUNT:** So it wouldn't be like new policy in Nebraska. It would just update the statute to reflect federal law.

**B. HANSEN:** OK, cool. Yeah, thanks. All right, any other questions from the committee? All right, seeing none--

**HUNT:** Thank you.

**B. HANSEN:** --thank you very much. And for the record, we do have one pro-- position comment as a proponent from Stephanie Henderson, representing Nebraska chapter of National Association of Social Workers. And with that, that will close our hearing on LB1029 and close our hearings for today.