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13:48:40 >> The webinar will begin shortly. Please remain on the line. The broadcast is now starting. All attendees are in listen-only mode.

14:07:18 >> Okay. I think we've fixed the audio issues. Can

folks hear me now? Okay. That's great. I apologize for that. There have been audio issues from the beginning. Do I need to start over? Okay.

14:07:44 >> [Speaker](#): Yes, please do.

14:07:50 >> We're getting word that we need to start from the beginning. I apologize for that. I will make this quick here. But I want to thank everybody for joining this webinar.

14:07:58 we're so excited. We have so many folks from all over the country joining, and this is-- we're here to do a debrief of #MeToo advances as we work toward the goal of strengthening anti-harassment protections in 20 states by 2020. I'm Andrea Johnson, I'm the director of policy at the national women's law center. I want to take this moment to thank our co-sponsors for this webinar. The folks on this list here. These are organizations along with the national women's law center were part of the nearly 300 organizations that placed a call to action in the "New York Times" last October on the one-year anniversary of the #MeToo going viral. This call for action called for protects against sexual harassment in violence in work, schools, homes, and communities and demanded concrete advances in Congress and school districts and 20 states by 2020. The response to this call to action, as many of you know, this past Jan, state sessions were just getting going, nearly 300 state legislators, hailing from all corners of the country on both sides of the aisle signed a letter of commitment to strengthening protections against sexual harassment and violence by 2020. And since that letter was published we have actually over 300 legislators who have signed on, and many of you on this call signed onto that letter or are advocates who helped with that letter, and we really want to thank you and thank the state innovation

exchange in particular for their work on this effort. And the good news that I want to share with you all today is that we are making progress toward #20StatesBy2020 and this year like last year we are seeing an unprecedented level of energy from lawmakers to meet the bravery of those coming forward with me too stories by passing real reforms and given congressional inaction, it's really fallen to the states to carry the torch of reform. So since #MeToo went viral in 2017, 16 states strengthened their workplace protections and they've done so with bipartisan support. There's trends that we're highlighting quickly. Five states have started-- have extended protections to independent contractors, interns or grad students for the first time, which is incredibly exciting. Four states extended their statute of limitations providing harassment or discrimination claims. 13 states have enacted measures to limit the abusive use of non-disclosure agreements as a condition of employment or in settlements and that includes states from Tennessee to New York. And ten states have passed prevention measures, such as training or policy requirements. And we'll be releasing a report next week that will go into more detail about these legislative advances and we'll be sure to share that with you and hope you will promote it. But there's still much work to be done. Many of these reforms need to be further strengthened and quite simply more are needed because as the outpouring of me too stories have shown, our laws and systems have been inadequate to provide justice and prevent harassment in so many ways. One solution is not enough. We really need comprehensive solutions that address the many different gaps, like making sure all workers are protected by workplace harassment laws to begin with because often

independent contractors or domestic workers or workers employed by smaller employers are left without protections. We also need to increase transparency and thereby accountability by limiting NDAs, non-disclosure attempt dproos, and other reforms of employer secrecy around harassment. Transparency is an important area of reform and we need to remove the barriers that make it so difficult for harassment victims to even bring a claim, much less hold their employer accountable or the harasser accountable or obtain relief for their harm. So addressing shorter statute of limits as and overly restrictive liability standards and damages caps, those are all really important reforms in this bucket. And we really need to be looking at how we can promote prevention. Whether it be by requiring anti-harassment training or climate surveys, and we're also more systemic solutions that shift the power imbalances in workplaces that leave people vulnerable like requiring that tip workers be paid fair minimum wage which we call one fair wage. Because workers who rely on tips for income are forced to tolerate sexual harassment by customers and managers to make a living. While we're focused on reforms to address workplace harassment, we shouldn't just be focused on the workplace. To prevent harassment at work, we must address it in schools since the treatment and behavior students experience from their peers and teachers and administrators, that ultimately shapes workplace norms about gender, race, respect and accountability. So the state leaders that we're going to hear from here very shortly have all worked on more comprehensive bills this session and we'll go into the importance of these different policy priorities I just touched on but I'm going to now turn it over to general fer from equal rights advocates who will talk

about guiding principles we've been using to ensure that our #20StatesBy2020 effort doesn't have any unintended negative consequences or leave out communities who are most vulnerable to harassment and after Jenny speaks, we will hear from our main act, leaders in Illinois, Maryland, and Oregon who will share their lessons from passing bills this session and finally my colleague, Ramya, will talk briefly about tools we can use as we work toward the #20StatesBy2020 including the federal be heard act and the use polling. We would love to hear from you all about other lessons learned from moving workplace legislation in your states. With that, I turn it over to Jenny and hopefully all is good with our audio and thank, everybody, for their patience.

14:14:25 >> Jenny: Thank you. Okay. Can you hear me now? Can folks hear me now?

14:14:40 >> Yes.

14:14:41 >> Jenny: Great. Thank you, and sorry about that. So as Andrea was saying, there are a lot of lessons learned and also principles that we want to keep in mind as we move forward and try to expand the reach and success of our #MeToo policy reforms and related policy reforms over the next couple of years, and one of the first principles is that our policy response really needs to focus not just narrowly on sexual harassment per se but on all forms of harassment and discrimination. Many workers experience harassment at the intersection of their sex and other aspects of their identity or expressions, such as race, national origin, or gender expression and sexual orientation. Oftentimes, workers are facing harassment because they don't conform to gender stereotypes. They're either not feminine enough or on the other hand are seen

as too masculine and this is particularly common and problematic for women who are working in the traditionally male-dominated and non-traditional occupations, like the skill trades and certain stem fields and in industries and workplaces that are highly gender segregated, which, you know, range from fields like the restaurant industry where typically the front of house, back of house is very gender segregated to transportation logistics, where men are channeled into warehouse jobs and women are in the office. Harassment can be based on or because of multiple or intersecting aspects of a workers' identity and it can also mean that harassment that black women face, for example, that include racial slurs or reflect animosity or stereotypes about black women in particular are, again, you know, the result of discrimination and bias at the intersection of sex and other protective characteristics. So the other thing to recognize about this, the importance of this principle is that- somebody that sexual harassment, itself, is a form of discrimination and the terms and conditions of employment and it often occurs alongside and/or is further entrenched by other kinds of discrimination, whether it's in pay, promotions, assignments, et cetera. So if you could move to the next slide. Another key principle to keep in mind is that or another reason why this principle is so important is because many victims, we know from study after study, that many victims of sexual harassment who report it experience retaliation, whether they complain about it or oppose it informally or file a formal legal complaint, and most workers, especially low-paid workers, really can't afford to risk losing their jobs or even having a few hours cut over harassment or retaliation, and furthermore, immigrant workers are facing a very hostile environment generally

right now and maybe intimidated into silence by threats or actual reports to immigration authorities that could have really drastic consequences for themselves or for members of their family. You know, what we find is that a lot of workers don't report sexual harassment at all or they wait until it's so bad that it is literally threatening their physical safety or their livelihood by which time the statute may have run or it may be really difficult to prove that the retaliation they're facing is actually the result of harassment. So it's really important that the legislation doesn't just focus exclusively on sexual harassment or treat it as a silo but looks at, you know, extending and including protections and prevention efforts that address all these different forms of discrimination in the reforms and interventions that we are proposing. A lot of the federal and state policy reforms introduced in response to #MeToo during the 2018 session initially focused very narrowly on sexual harassment. Some went beyond that and there's some examples of that in California that I can talk about later, if there's time. But in 2019, thanks a lot of advocacy from survivors in Oregon and New York demanded these solutions. Many more #MeToo reforms were enacted that protected against all forms of discrimination, including, but not limited to, sexual harassment, and we want to also emphasize that while #MeToo and sexual harassment and the issues around that are really-- can be really helpful ways of framing the message around our policy reforms and the need for them, to be effective, the policies, themselves, really need to be written in a way that includes or encompasses all forms of discrimination. A second principle that we want people to keep in mind is making sure that the reforms, themselves, as well as the process for creating them really center the

needs, experiences and voices of the most vulnerable and marginalized workers. Low-paid workers, immigrant women workers are especially vulnerable to harassment and experience some of the highest incidents and most extreme and egregious forms of harassment and retaliation anywhere, and we need to make sure that our policy proposals and our response doesn't only benefit or isn't geared toward benefitting those who already have the most privilege and the greatest ability to exercise their rights. Our solutions have to take into account the really serious economic and social barriers that make reporting harassment or bringing a claim or even finding an attorney to help figure out what you can do very difficult, if not impossible, for many low-paid and immigrant workers who are experiencing this kind of abuse. So this also points to why it's so important to integrate low-paid workers into the policy creation process to ensure that the solutions we're pushing for are based on what workers really need and what they know what will be effective and make a difference in their industry. We can look at some examples that you see photos of right now is of the YABASTA campaign of janitorial workers in California that are pushing for worker-led interventions that take into account industry-specific conditions and, you know, centering survivors and the most marginalized workers in policy creation is really key because we know that to effectively reduce and prevent harassment in the first place, we have to shift the balance of power toward workers and we have to look at policy reform and policy advocacy as opportunities to promote worker organizing efforts that are really trying to build workers' power, and enable them to support one another and push for better working conditions across their industries and

across the country together. Last but not least, I just want to say that policy responses really should focus on prevention and empowerment and avoid an overly punitive framework or an emphasis on individual kinds of punishment. In other words, on getting rid of bad apples and promoting zero tolerance and why? That's because we know those policy responses, which focus narrowly on punishing individuals, are really not as effective and may not be effective at all at addressing institutional failings and also that kind of focus can really exacerbate or lead to further criminalization of people of color and other marginalized communities who are already facing, you know, a lot of hostile-- a lot of these kinds of policies that already have a disparate impact on these communities. With that, I want to hand it over to our next speaker and state Senator Melinda Bush and thank you very much. I'll answer questions at the end.

14:23:16 >> **Andrea:** I think Senator Bush will join us in a minute. Is having log-in issues and if it's okay, we will turn it to receipts that Pasarell. Is that okay?

14:23:32 >> **Rita:** Yeah, that works. Thank you. Hi, everybody. I'll give you a brief intro of what our group is because we're kind of new. I'm a member of the sexual harassment working group. We're a collective of former legislative employees of New York State and we all experienced sexual harassment while working for the state. We all either reported that sexual harassment ourselves, or had someone who reported it on our behalf, all of us were to, say the least, displeased with how it was handled, and most of us did not know each other while we worked for the state with the exception of those of us who were harassed in the same offices. We did all meet last year in connection with some legislative proposals that we had all seen and

disliked. So that's how we joined together to start working on these types of issues and we had a lot of ideas on how the harms that happened to us could potentially be prevented for other workers, hopefully. And so a major part of that were these two hearings that the state held this year. They were the first public sexual harassment hearings held by the legislature in 27 years, which is really mind-blowing for a lot of people, and without those hearings, we wouldn't have gotten to the massive changes in the laws that we wound up seeing at the end of session. It was very hard to get those hearings, though. I think they're essential to the process. We pushed really hard for-- I think it was 265 days we campaigned to get the first hearing and then we were told, you know, you can't get any more hearings. We did wind up getting the second one. So workers testified in these hearings and we wound up with one big bill and some smaller ones. The important thing I want to highlight with those hearings in connection with the laws is that it was such a survivor-centered and worker-centered process and I think without that you don't get helpful changes. Something that we've said within the group is that we're unwilling experts in sexual harassment, so that's why we ought to be included in fixing the process, and you can go-- I don't know if you have the slide for the summary. Yeah. There we go. And so something I want to note, we have every expectation that the governor will be signing the bill. It hasn't happened yet, but we can move to the next slide now which gets into a little bit more detail about what the changes are. You can go to the next slide. Great. So on the right-hand side, you see this red image. I just wanted to include that. That was a piece of our advocacy work where we're trying to change the-- maybe the biggest change that we saw this year was

changing the legal standard for how workers prove discrimination and harassment which is called the severe pervasive standard, and advocates in California had started calling that the free grope standard. This is a piece we used to highlight that unjust standard which we did wind up changing this year. The new standard is now in line with New York City has followed for over ten years and that says it's harassment if an employee subjected to inferior terms and rises to a level that is more than Petty or trivial inconveniences and this is a tremendous improvement because the prior standard, the severe pervasive standard, was allowing all kinds of extreme and physical worker abuse to go, you know, to go almost, you know, unnoticed. I'm going to give you just three quick cases that were dismissed under that old standard. There's one case where supervisor had grabbed a workers' breasts and bit another employee's buttocks that was dismissed under the severe pervasive standard. They said that wasn't harassment. There's another case where a coworker has called his coworker a derogatory word for lesbian several times and said he ejaculated in a plate of shared office food and that case was dismissed under severe standard and there's a group of cases on race-based that were dismissed when there are nooses in the workplace because the judges said it wasn't severe pervasive. When we learned about that, we knew we needed to fix that standard right away and we did. I would encourage everybody in other states who have not had their legislature make this change to push for that next year. It is one of the first barriers that employees will face in bouncing their claims in court. Going to move on to the next big change that the law accomplished, which is called the FARAGHER-ELLERTH defense which was weakened.

Something we say is that is the victim blaming effect because in practice, that's what it does. It's a complicated defense to explain to people who are new to the area. One key part of the defense is it allowed a workplace to point the finger in blame at a worker who did not report their own harassment or discrimination and this is very unfair because as many can imagine, if an employer doesn't take complaints of harassment or discrimination seriously, employees aren't going to use it. So the FARAGHER-ELLERTH defense would allow for this environment where there can be no reporting and tell a worker they can't, you know, succeed on their claim because they never reported. So in New York, what we did was we said that an employee in the law-- the employee not reporting is not determinative to their claim. That was a great victory in weakening that defense and moving down, I will summarize those next ones really quickly. We expanded the protections to workplaces regardless of the employee count. Previously, there's a four-employee threshold and many of the abuses that are happening in smaller workplaces are particularly egregious because you can't be reporting to your own harasser if. If you're harassed, there's nobody else to go to. Fixing the burdens for small employers was extremely important, and another major change was we increased the timeframe to file with the state agency from one year to three years which is a big victory because as, you know, as many people know in trauma work, it takes a long time to come to terms with what happened, to decide whether or not you want to face this, whether or not you want to report it. This is a much more trauma-informed and fair timeframe and the last piece I want to highlight is that there's a lot of increased language protections, relating to rights when an employee

decides to do a non-disclosure agreement and also for sexual harassment training. The new law says that the information has to be given in an employee's primary language which is obviously very important because if somebody is given only in English that doesn't do them much good if they're not fluent in English. And there's a whole host of other protections and if you all want to look up in detail I listed there along the bottom the pair of bills that go along with the text of the changes. Something that the last piece I want to highlight too, is that in terms of our process getting here, two things were very, very important to get to this point and one of them was a relationship with reporters and the press. A lot of us who had been harassed and reported, we had a very traumatic time where we had our names kind of dragged through the mud in the press initially, so you know, from that we learned the power of the press to spread information. So this time around, we learned that they can be a very helpful tool and reporters are often interested in getting it right and knowing what's going on with the changes to the laws. I'd recommend everyone develop those relationships when you're working on these changes and then the last piece I'll note is just that bipartisan support is absolutely essential. Sometimes we're reluctant to talk to people who we consider on the other side of the aisle, but when you put a face and a voice to these changes, they're people at the end of the day. They hear that it's just unjust and often they want to help and make change and in particular, in the New York State Senate these changes passed with, you know, every single Senator stood and applauded and nobody voted against it. So I will summarize-- well, no, that was my summary. I'm all set and I can take questions at the end. Thank you.

14:32:43 >> Thank you so much, Rita. And thanks to the whole sexual harassment group in all you did. You were essential in getting that legislation passed. It's very exciting. I think we have Senator Melinda Bush with us now. Unmute yourself. Do we have you, Senator Bush?

14:33:06 >> **Senator Bush:** I'm here. Can you hear me? Thank you. I apologize. If I knew I could have a PowerPoint presentation, I would have made sure to have one. So we actually passed SB0075 this year. Last year, we passed a bill that really dealt with under the dome and the way our process took place is we created a task force, actually, almost two years ago now. We created a task force of bipartisan, bicameral and we traveled around the states. We had hearings. We heard from victims. We heard from different advocacy groups and we really talked about sexual harassment and, again, from the victim perspective and certainly from the employers' perspective also. We were able to-- last year, we passed a bill that, frankly, dealt with everything under the dome. So we have an ethics commission that deals with our legislators, sexual harassment issues there. This year, we took on the workplace. So I can just give you a highlight, so this bill is waiting for the signature of the governor and this bill, what it includes is, it clarifies that discrimination, based on actual-- two protected classes are actionable under the Illinois regular rights act and we clarified harassment based on any protected class in employment is actionable under the Illinois human rights act. We provided harassment against non-employees actionable and we're talking about, obviously, those that are performed-- that performed under contract for an employer, so that would be independent contractors. It also requires-- and this was something that

was really interesting because it required our department of human rights act, make a free model of sexual harassment training program. Whether you have one employee in the state of Illinois will be required to do an annual sexual harassment training. You can use the one that's created by our department online or you can use your own training. You have to meet certain criteria. We also are creating a separate training program, specific for bars and restaurants. As you can imagine, as I know someone talked about earlier, that's a place where we definitely see a higher incident of sexual harassment. So we're creating-- it's called workplace transparency act and it provides unilateral confidentiality and arbitration provision related to harassment and discrimination. It also allows and mutually agreed upon as long as employers are made aware of their rights in relation to such provisions. We're creating a sexual harassment victim representation act that prohibits unions from designating the same union representative to represent both victim of sexual harassment and the alleged perpetrator for disciplinary proceedings. Here in Illinois, we certainly sexual harassment issues and one of the manufacturers here in Illinois and what was happening is the victim of the harassment and the perpetrator were both being represented by the same union representatives. So that can no longer happen. So we're requiring employers, labor organizations and, municipal local government to have adverse administrative judgments and we call that a VESSA and it will provide unpaid leave to see a doctor. Basically panic buttons. I have to say, we were really fortunate in working with our, -the hotel and motel association. They were extremely helpful and as a matter of fact, I just asked someone today and they have

started that training. I'll talk a little bit about the process, and I don't know. I can't hear anybody now. It worries me a little bit. Are you all still there?

14:37:58 >> Yes, we're all still here.

14:38:02 >> **Senator Bush:** Okay. Good. Everything was really quiet.

14:38:11 >> Thanks to everybody with some of connectivity issues but we can hear you.

14:38:16 >> **Senator Bush:** Sorry about that. I will tell you what was certainly good for us and I know that whoever was speaking earlier from New York, we found the same thing. So we invested early in talking to the media, making sure that we were, you know, staying in touch with them, letting them know where the process was at because they certainly were supportive. Anytime we had a bottleneck at all, you know, we found ways to talk to the media in such a way that we kind of weren't throwing anybody under the bus we were making sure that people knew that if this didn't move, people would be held accountable, which I think is really important. We also, again, we did this as a task force, and it was bipartisan in the Senate. So I headed up the task force on the democratic side. I had a co-partner, Jill Tracy, on the Republican side, and frankly, we got to a place where we maybe didn't agree on everything, but that's when we brought the Illinois Chamber in and that was really important for us, and we brought in the hotel/motel association and they were at the table from literally from January of this year, working with us and all on all of the language to get to the places that we wanted to get and when we were done, we had a bill that was-- and this is unusual-- was supported by the Illinois Chamber of Commerce which tends to be more of a conservative

organization but you know, every time we talked about it, we talked about how important that partnership was, how they knew that they needed to do things to protect their employees, and that employers wanted to do that. So we made sure the message was always positive. And we had much the same experience. When I called the bill for the vote in the Senate, it was unanimous. People did applaud. People were very proud of the work. So obviously, bipartisan support. We had sponsors on both sides of the aisle and we had the support of the Illinois Chamber of Commerce, hotel association, labor organizations. We had them sign on in support. They, frankly, stood with us at our press conferences, and I think it's that inclusive process that really allowed us to move legislation forward that a lot of people didn't think could get done. So you know, that was really the process for us, and I'm happy to answer any questions at the end and certainly anyone that is looking for a resource, if you want to call, talk things through, if you're a state that's trying to move something forward, I am more than happy to have those conversations.

14:41:06 >> Thank you so much, Senator Bush, for making this work today and joining us and sharing your lessons learned from your experience.

14:41:14 >> **Senator Bush:** Thank you.

14:41:17 >> We will throw any questions about Illinois your way.

14:41:21 >> **Senator Bush:** Thank you. We're going out to golf now. Eat your heart out. Bye. Thanks for all you guys do. Truly. Bye-bye.

14:41:28 >> Thank you. I'm going to turn it over to Jessica Jess Giannettino Villatoro which led the charge in the passage of Oregon's on the workplace bill. Do we have you?

14:41:44 >> **Jessica:** Yes. Thank you, Andrea. I will start out by talking about what was in bill 726 and the fairness act and focus on a couple positions that were important to maintain their strength throughout the process. In the develop development of the policy it was important to us, as Jennifer said to have the voices of folks who were most impacted by discrimination and harassment and specifically sexual assault, too, which is covered in this bill formulate what was in the policies. So the bill-- what that looked like as we convened the table of about 10 to 12 organizations a year before session to talk through what the holistic approach would look like and that includes (inaudible) representatives, trial lawyers, groups made up of women and partners that deal with this work in different ways and what the bill ended up doing is at the end of the day was first applying to all forms of harassment and sexual assault in all areas that the policy touches. The first thing they did is extend the statute of limitations for both complaints to our bureau of labor and industries which is the administrative process and civil litigation. Oregon's statute of limitations was kind of further behind most of their states. Prior to this bill, our statute of limitations, for both remedies, was only one year and we ended up extending it to five years. The other thing that it did was say that employers cannot request non-disclosure or no rehire agreements when a worker says that they've experienced discrimination or harassment, but did allow for workers to request either, and an important component about how that actually plays out in the real world was to mandate the employers adopt model policies and procedures that do the following things. It says that the employer must provide a process for workers to report for them to contact, identify one

individual and an alternate to receive the claims, define what a non-disclosure is and define what non-harassment agreement did and say that the worker can request that but the employer cannot so workers know what their power is in the conversation, and really we spent a lot of time trying to get to what was the right way to deal with the non-disclosure and rehires and it was raised by a farm worker. Women who had been asked to sign no rehires after they had been sexually assaulted in the field. It took a lot of massaging with a lot of partners to figure out the best way to deal with it. In addition, the non-disclosure and no rehire and policies and procedures, the bill also dealt with this idea of a golden parachute and said where an employer knows they have someone who has the ability to hire and fire, who has committed an act of discrimination, that employer is no longer required to follow the previous contractual severance agreements and I think that's important to Oregon because we have Intel who is based here that had some pretty high-profile incidents. So that's kind of the overview of the bill. I think it was really important to us to maintain the ability for this bill to apply to all forms of discrimination and harassment and I think we anticipated the employer community's response to that. So we teed up the hearing with lots of women and women of color and farm worker women talking about their experiences with sexual harassment, but also made sure to elevate the multiple identities those folks carry. The more identities that you carry, the more likely you are to be targeted for discrimination and harassment. We teed up the conversations in the first few hearings about sexual harassment but we're unabashed that the bill applies to all types of discrimination and elevated why that was

important. As I mentioned, we anticipated that the business community would try to rightfully, in their minds, point out that sure, we'll talk about sexual harassment but this big is bigger than that. They started to go down the path that it applied to all types of harassment but not discrimination, and I think we're, frankly, kind of unabashed of putting the ball in their court and we had a high-profile manufacturer here in Oregon who had nooses hanging above workers' desks and if you think that is a path that you want to go down, why do you think that it's bad to hang a noose and not bad to fire someone because they are black? That put them on their heels and that's a hard thing to defend. We inoculated against this narrative, to begin with and we really kind of allow them to articulate why they thought discrimination was less bad than harassment and that was hard to do. Especially in this moment where legislators and lobbyists on behalf of clients are concerned about their public perceptions on these issues and it caused them to take a step back. I think another thing that was helpful in defending against the onslaught of employer narratives about our bill is having strong bipartisan support, the co-chief and the Chief on our bill was a Republican man and a democratic woman. And they happened to the chair and the vice chair of the Senate committee where this bill goes through and came out of. In Oregon, the Senate acknowledged is the harder chamber for employment. I think another thing that was really important to maintaining the provisions of this bill was making sure that workers' voices were centered throughout the campaign. So as I mentioned in the hearings, we always had channels of workers teed up that were farm workers, that were restaurant workers, there were folks who work in local

governments and I think there's this perception that these things don't take place and we know that they do and really rounded out who was impacted and why it's important. I think one of the things that was really critical to getting this bill through its final stages was the interview that we had done think aloud which is an NPR local thing that happens here where they have a proponent of a policy or an idea and an opponent and it was actually a worker who was impacted who they interviewed us and invited to us join and it was a telling moment. In that interview, it forced the employer representative to expose kind of their not so great lines around why this bill wasn't a good idea and helped really frame the workers' perspective and the policy perspective in a way that was hard for them to defend when that narrative carried through to the session. So I think those are the things that I would highlight about our experience in Oregon and with that, I will turn it over to the next presenter and happy to take questions after.

14:49:03 >> Thank you so much, Jess. We're going to turn it over to our final state speaker, Lisa Jordan from the Maryland coalition against sexual assault which was instrumental on the passage of workplace harassment bills in Maryland this year. Lisa Lisae?

14:49:20 >> **Lisae:** Thank you. We passed a comprehensive bill that was for workplace harassment but it was the last year of a several-year effort. So I'm going to tell you a little bit about the provisions in this year's bill and a little bit about the process and I do think it's important listening to some of the other speakers to realize that Maryland's effort took several years and had several pieces to it. The piece that national women's law center asked me to talk about in particular was the effort to cover more workers and so

Maryland did this a couple of ways in HB0679 and I think the one that we are most excited about in some ways is that we're covering independent contractors and that's because we see so many survivors of sexual harassment, sexual assault who are involved in the gig economy, uber drivers, creatives, child care workers, and folks like that and this is a provision that will affect all discrimination law not just harassment. So independent contractors will be covered. For the issue of employees, we only addressed the issue of harassment, but we did address all harassment based on any category for the reasons that Jenny explained about, making sure that people had the ability to respond to different forms of harassments because honestly, the perpetrators don't look at the categories separately and the law shouldn't either, and what we were able to do is we moved that from the requirement that the employer had at least 15 employees before the employee could file a complaint down to one employee. So that, in particular, was important for us for low-wage workers and women of color who are really dispro-forges Natalie represented in Maryland Maryland's smaller workplace settings, so we were viewing that bill as critical to providing more equitable access to remedies and I think it was also one of the few parts of the bill that really had been repeatedly considered in the Maryland legislature and not passed before them. We were excited to get that enacted. And then the third provision I wanted to mention was really just this hypocritical provision in employment discrimination law that exempts the personal staff of elected officials, and we were very excited in Maryland to eliminate that. We still have some work to do there. If you are an elected official yourself or if you're the policy staff or advisor, you're still

exempt from protections, but we at least have covered the personal staff and like many legislatures, Maryland has a lot of extremely young women in those roles, many of whom did not feel comfortable speaking out if they were harassed in the workplace. That was a good provision. So all of those provisions expanded kind of the employers, but we also looked at actions within the workplace that were covered and at the risk of identifying myself as yet another lawyer on the call, I have to explain just like the basics of discrimination laws for folks who aren't already familiar. I'm sure many of you are. But to win a lawsuit for harassment under Title 7, so that's the federal civil rights law for discrimination, it's generally necessary to show that the employer is negligent when you tell the employer about harassment. So you complain about harassment. The employer doesn't do anything, but there's an exception to that where if the harassment is by a supervisor, then the employer doesn't have to be negligent because if the supervisor did the harassing, then the supervisor is considered the employer and so it's a much easier case or it was until the Vance case in 2013 and the U.S. Supreme Court at that point said that, look, to be a supervisor, you need to have a lot of authority over the employee. Basically, you need to hire, fire, or close in terms of authority. That leaves out lots of people. The person who heads a crew going into clean an apartment building. The person setting your schedule, the person saying that you have to work third shift or not second shift or your schedule is going to be a split shift this week, workplace surroundings, assigning work, all sorts of folks were left out and really were able to harass without having to have the employee have protections. So HB0679 clarified that the employers have

vicarious liability for those folks also really expanding it to anybody who directs someone's, supervisors, evaluates, hires, demotes, schedules, all of those things so all of those will make it easier to access justice for workers, easier to file complaints and easier to have good settlements that will help workers we also addressed the statute of limit as. You heard others speak of that as well and then in 2018, we had legislation on non-disclosure agreements and also on prevention. So that's a little bit about the content of some of Maryland's law. It really is a very long bill for Maryland, so if you have questions about other aspects of it, I'm always happy to talk to folks about that. Let me move on to how all this happened. Senator Bush talked about the move from under the dome to a wider view, and I think Maryland followed a similar path. In 2017, the house and the Senate made a series of totally under the dome policy changes. So this was not statutory. This was something adopted voluntarily by the legislature to improve their own response. And then that was filed in 2018 by a report from the Maryland women legislators, so that all of the Maryland women legislators and they had a work group that they formed. They had some hearings where they talked to folks. They introduced a bill and then we had another hearing on that, and as part of that process, that's where we really had some extensive testimony by people who had experienced sexual harassment in Annapolis in our state capital. So legislators, lobbyists and member abouts of the press, all folks talking to members about their own experiences, and after that effort and that very specific focus on sexual harassment, really, it was the President of the Senate and the speaker of the house who said we want to keep Maryland at the forefront of this. We want to move things

forward. So President Mike Miller and Speaker Mike Bush who sadly passed just this year, he wanted to continue this process and they put together a workplace harassment commission that was specific to the legislature, but then gave us the charge of building on the work of the women's caucus and were really adamant that we look not just at sexual harassment but harassment from a broader point of view. It was, in some ways, very similar to the description of New York's process, Illinois' process and a little bit different in that once the commission was in place in going forward, we were not having kind of a broad-based coalition of workers and unions and folks like that. Those efforts had really happened a little bit earlier and instead, we had the two presiding officers who were just very matter of fact and very firm and committed about making practical, meaningful changes. The late Speaker Bush talked to us saying he really wanted to keep moving forward but we wasn't exactly sure how to move forward and he wanted the commission to provide good, strong recommendations. I think also key to this was that we had really strong women staffers involved, including the director of legislative services and some of the staff in leadership offices. And then the commission membership, itself, although there absolutely were people who had good, solid subject matter expertise, I was there talking about sexual assault and sexual harassment. We had a really wonderful employment law attorney. We had a former commissioner for the civil rights commission. We had folks like that, but every single person around the table also had real expertise in the legislative process in Maryland, and it kind of inoculated the commission and its recommendation and its recommendations from an allegation that we were out of

touch, so we had people who were politically savvy, the folks who were reviewing our recommendations knew we were politically savvy and knew that the leadership was really behind the bill and so that was-- that is what pushed this very, very comprehensive bill through. That is not to say we didn't have tons of experts from the outside but they were not members as much as they were the witnesses. We had really, really fabulous people, both in state and nationally who came and talked to us about the national context, about the way things were working in Maryland, about the intersections between bullying and harassment, about the ideas between overlapping identities and harassment, and all of that. But at the end of the day, we had a report. The report had about 20 different recommendations. The statutory changes were just one very small part of that. And the hearings were -- they were important but you know, I don't think that we had any opposition testifying in either the house or the Senate. We had the Chief of Staff of the presiding officers introduce the bills on both sides and in fact, in the Senate, it was so close to the end of our legislative session that they didn't even have a full hearing because no one had signed up in opposition. I'm not saying that it was kind of easy or smooth. Certainly, it was closely monitored and you know, carefully guided through the process, but it wasn't the same engagement of the press and different coalitions at this point in the process. All that being said, I have to say it's very exciting to hear about the other things that other states have done. I think that there are lots of things we each can learn from one another and borrow from each other's bills and keep things moving. So I appreciate being on the call and I appreciate the women's law center for

bringing us together and I have to give a shoutout to the women's law center of Maryland, our statewide women's law center, both groups are great partners and really recognized that sexual assault is part of sexual harassment and we're looking forward to keeping the ball moving on this.

15:00:57 >> Great. Thank you so much, Lisae, for sharing that and just before opening it up to Q&A here in a couple of minutes, I want to turn it over to my colleague, Ramya section ram who can talk about a model for states looking to move anti-harassment legislation. Ramya?

15:01:18 >> **Ramya:** Thank you so much, Andrea, and thank you to our presenters today for sharing your experiences. As you have heard from the other speakers, there has been significant movement at the state level with respect to workplace harassment, reform, and that sort of leaves open the question about whether there has been any attempt at the federal level to enact comprehensive reform and frankly states have been leading the way up until relatively recently. More recently, we have seen more substantial movement at the federal level and in particular this past April, that bringing an end to harassment by enhancing accountability and rejecting discrimination or be heard in the workplace act was introduced in both houses of Congress. This bill is the first comprehensive federal proposal to address workplace harassment in the #MeToo era and it takes a bold vision of what it will take to prevent all rm toes of harassment and discrimination, including sexual assault. I'll briefly mention a few of the key provisions. Specifically, the bill would extend the existing federal protections against harassment and other forms of discrimination to all workers and this includes individuals who are not

considered employees, such as independent contractors and independent contractors include people who are working in agriculture, hospitality, care work, who may be misclassified by employers, unpaid interns and others who are in non-traditional employment relationships and are not protected by workplace harassment and discrimination. Additionally, the bill would extend protections to individuals working in small establishments with fewer than 15 employees, which includes most domestic workers. BE HEARD would close these gaps to cover all workers and ensure that independent contractors, interns, fellows, volunteers and trainees are covered. Some of the other key provisions is that it would remove barriers to access to justice, such as short statute of limitations and interpreted legal standards including the severe pervasive standard which you heard a little bit about the New York context. Removing caps on damages that limit the remedies workers can access when they're harmed by harassment, promoting transparency and accountability including by limiting employers' ability to impose non-disclosure agreements as a condition of employment and establishing protections to ensure that workers can exercise informed consent when they agree to a non-disclosure consent as part of a settlement and finally, the bill would ways to prevent harassment with training policy and requirements for employers.

15:04:04 So as you've heard, the bill is incredibly comprehensive and it's really a direct response to many of the concerns that have been raised by workers and advocates since #MeToo went viral and years before then. So it's a very exciting development. Currently there are about 93 co-sponsors for the bill in the house. 18 in the Senate and dozens of women's rights, workers' rights and

civil rights organizations have come out in support of this legislation. What's particularly exciting to see in the context of looking at both the federal bill and many of the state bills and pieces of legislation enacted in the last year and a half is the synergy between states. NDA provisions enacted since #MeToo over the last year were (inaudible) if you look at the NDA and if you look at the NDA portion you will see reforms enacted in Vermont, California, and New York, and sort of the other way around, we're also seeing states looking to the provisions in BE HEARD as they push for advances their jurisdictions. We encourage others to do the same and we're happy to be a resource and share experiences and connect folks and it's worth noting that this synergy means that the work you're doing at the state level can have a tremendous impact beyond your jurisdiction. So that's an exciting sort of part of it as well. And now I'll talk briefly about some polling data that I think can be useful and we'll be sharing more about that in the coming weeks, but for now, I'll say that we-- NWLC conducted polls that show there's strong support for change to address sexual harassment and violence, including strong support for many of the policy reforms that we discussed today in the context of the workplace. So recently conducted national women's law center polling shows that 90% of voters surveyed support strengthening protections against sexual harassment and sexual violence in the workplace and in schools and voters across the partisan and ideological spectrum stressed strong support for many of the reforms we discussed today. 62% of those polled support the idea of increasing the lines of time for employees to file harassment claims and 90 polled agree with the overarching idea of ensuring that all employees are safe

from harassment in the workplace. So if anyone has questions about that data and want to use that information in their advocacy, we'll have additional information about it that we'll be able to share soon.

15:06:43 >> Great. Thank you so much, Ramya. We will open it up to questions now. I see a few have come in already. The question box, so I think we will start with one of those. I think folks should be able to raise their hand as well on the Go-to-Webinar platform and if you have a question, please, raise your hand and we will call on you. I will first start out here quickly with the question that came up about giving good examples of how you are centering women who might find speaking out risky, might not have a lot of time to share their stories or advocacy. So I don't know if Jess or Jenny, if you want to go into more detail about that and actually, right before you answer that, I should have said I want to give notice that we are recording this webinar. So if folks weren't able to attend today can have it. To the extent that you're asking questions, keep that in mind that it is being recorded. And yes, just encourage folks to ask questions and also share lessons learned or Herald wins that happen since we didn't cover them here today and we want to hear those as well. Jess or Jenny, do you want to take that first question?

15:08:06 >> [Jess](#): This is Jess and I will start and Jenny, feel free to jump on. I think, as mentioned when we were first trying to think about what was a holistic policy, we invited folks from the farm worker union here in Oregon and we have a great relationship with them, and they have this really cool program they're getting off the ground to deal with trauma with woman who have experienced sexual assault in the field. It was great timing to align our policy

priorities with the work that they're doing in the field. I think one is when you're thinking of what to do, make sure to reach out to organizations who folks go to when they experience problems. I think one of the reasons that we chose to start in the Senate is because, obviously, it's the most difficult chamber but also because there's a smaller committee for us in the Senate, and it was important for us to make sure that we could help control what happened in the first committee hearing because I think a really bad experience for victims of discrimination and harassment would have made it difficult for the bill but to ask folks to continue to engage. We started in the Senate with co-chief and Chief, who are the chair and vice chair, primarily because of the harder chamber and because we could control what happened it those workers as they told their stories. We had conversations with each of the committee members rier to the hearing to make sure that they had the best trauma-informed practices. We told them that people were going to tell stories that were difficult to them and kind of help dodge questions not directly to the workers if they said they didn't want the questions and to give them back to the advocates, et cetera. Another thing that we did was, you know, let the workers know before they told their stories that this could be really hard. I think we were so lucky to have so many incredible people tell their stories in person and this really interesting thing happened that I have never seen happen before on any policy priority. We created a Google form so workers could tell their stories anonymously and we redacted their information and we uploaded them to the legislative history and I think at the end of the day, there was something like 30 anonymous testimonies and we called attention to that in the

committee. I think being flexible in how folks can participate. Not everybody will want to show up and tell the story that is the worst in their lives to a bunch of strangers, who may or may not be empathetic. We did try to create systems so that folks could have their voice heard and influence the process without maybe showing up in person.

15:10:48 >> Jenny, do you have anything you want to add to that or models or trainings, this was another part of the question, about how to center the workers in particular?

15:10:56 >> Jenny: Yeah. I think all of the ideas that Rita just mentioned are great and I think really when we're talking about centering impacted workers and survivors in systemic change efforts, I think it's really important to think about this sort of-- the spectrum of engagement that can range-- that can start with doing work with-- worker organizations, to inform and educate workers about these issues and sort of leverage the relationships that you build to get their input and feedback and consult with those organizations on the workers, themselves, on the different policy proposals and ideas that may be coming from different sources, you know, may be coming from coalitions or advocacy groups and/or maybe-- it may be that's personally in this #MeToo era that what we saw in the initial year to the past couple of years is a lot of legislators sort of wanting to jump on and get their names on some kind of policy idea and you know, coming to the advocacy organizations first and then I think it's independent upon us to then open up that conversation and invite-- invite the ideas and input and consult with the workers and worker organizations, them of ises to make sure that the solutions we're coming up with and the inventions are really centered on their experience. In earn its of specific training models, the janitorial workers in

California, principally through the SCIU, united service workers west, which represents approximately 40,000 property service workers across the state, and in collaboration with other members of the YABASTA coalition which includes my organization, ERA, and organizations like the California coalition against sexual assault and community-based organizations like the east L.A.'s women's center which housed this amazing peer-to-peer education model training and leadership development program called-- where the workers, themselves, are really getting-- are becoming trained experts and trainers of other workers and educators of other workers on issues of sexual harassment and sexual violence and are using that leadership training as something they would like to see implemented across the whole industry so one bill that's pending this year that was also-- it was introduced last year but was vetoed by former governor Jerry Brown but which has been rejiggered a bit and has a much better chance of passing this time would actually put into-- would sort of codify and recognize these peer-to-peer educators

15:14:37 [Speaking Spanish]

15:14:39 Which is a word in Spanish from public health and they would be recognized as having industry-specific expertise and also in trauma-informed and worker-centered sexual harassment prevention and, you know, we've-- ERA has collaborated with them to provide trainings on the law and different legal strategies and responses and in return, of course, there's also supporting their efforts to get, you know, statutory recognition for peer-to-peer educators as really the gold standard for the industry and just a word on industry-focused. In California, there have been a few bills over the last couple of years, not just in the janitorial

industry, but also the farm labor contractors, or farm workers have organized to require some-- and strengthen pre-vengs, training requirements on sexual harassment in those industries, in particular, and we've managed to get regulations in place or proposed at least that would really emphasize the importance of having these trainings be grounded in the realities of the industries, themselves, in terms of how people work and the conditions in which they work and making sure that the folks who are deemed qualified to provide that training actually have, you know, some-- put those issues into context and make sure that the prevention effort or the training is actually effective.

15:16:27 >> Thank you, Jenny. So we have a number of questions that have come in about specific things about certain bills and bills in particular states and I want to say to folks that we'll be happy to follow up with some of those really particular questions off-line, and one thing I said when I was speaking into the air and nobody could hear me at the beginning of this, here at the law center, we work closely, me in particular, with state advocates and state legislators on drafting bills, on talking points, on crunching state-specific data and legal research to help advance policies that improve women's economic security and maybe you heard me say that and maybe you didn't before. I wanted to reiterate that we're here to provide that technical support and have some resources that kind of go into more detail about what these-- what are some of the main policy priorities in this moment and happy to have off-line conversations and connect you directly to the folks on this call who are-- have been doing the work in the states and other states that might be relevant as well. We can follow up off-line with some those questions and I did want

to take one of the questions over it my colleague Ramya about the BE HEART in the Workplace Act and what is exactly the action item there around that effort, if you can speak a little bit to that.

15:17:47 >> Ramya: Sure, thanks, Andrea. So with BE HEARD, the key is to build up support in Congress. We have a good number of co-sponsors in both the house and Senate but are proly focused on the House right now working to build our co-sponsorship. Please do reach out to your member of Congress if they are not on the bill and encourage them to co-sponsor. We can provide you with a tool kit for sample letter-- that includes a sample letter that you could send to your member and other ideas or activating folks in your state to be-- to be pushing for co-sponsorship by your member. We can also share our fact sheet which provides sort of the overview of what they'll contain and as well talking points and other resources. Keep an eye out for all of that after this webinar.

15:18:50 >> Thank you, Ramya. I think we have some more questions coming in. Again, if anybody has another question, if you could raise your hand. Oh, it looks like-- I see, Robyn had her hand raised. I don't know if you still have a question. We'll unmute you, if you have a question, please unmute yourself and go ahead and ask it. Okay. And I know, if we have anybody from the Restaurant Opportunity Center that wanted to speak at all about more of those initiatives, please raise your hand and we'll make sure to call on you or from Time's Up and I know Jen might be on, if you wanted to make any remarks, raise your hand and we will unmute you. Looking through raised hands, one question that came in from-- it's a technical question for Jess. If you could just describe again the golden parachute

provision. I think there's some confusion about how that worked exactly.

15:20:27 >> So ultimately what we ended up doing with the golden parachute provision was saying that if an employer knew through good faith representation, which (inaudible) that they have someone, an executive, and the way we did define executive was the ability to hire or fire, who committed an act of discrimination and (inaudible) they know that this person has either discriminated against an employee or has harassed an employee then often with these executives, especially with like large employers, like we have in Oregon, like Nike, they'll recruit them with severance packages and we have seen the stuff that happened at Google. They get 60 million or gargantuan number that they sign before they commit the harassment. We said that employer can void the previously agreed to contractual agreements if they know their executive, again, has the ability to hire and fire, and it doesn't have to be a senior VP, has committed an act of discrimination or harassment.

15:21:47 >> Thanks, Jess, and there was a question about the bill number for Oregon.

15:21:55 >> Senate Bill 26 and I'm happy to send it out in the follow-up materials too.

15:22:07 >> I don't want to put you on the spot here, Wendy, but I will. I know you were part of the-- in Illinois and working on these issues, I don't know if you want to speak up at all about more about the Illinois effort. It's fine to say no if you don't want to. I'm putting you on the spot. . We have unmuted you if you want to speak. Great. Well, I think we're nearing the end here of questions. Just looking through. One question that I saw come in that was

interesting and that I will throw out to all the panelists to the point about, you know, how #MeToo needs to be an intersectional movement and to the point it's not workplace reform, education reforms, the question was what would be the right language name the broader forms of harassment when #MeToo has become such a part of the Lexicon? That's a tough question to end on, but if you all had sort of theoretical thoughts about #MeToo and messaging and how to make sure that it encompasses more than just sexual harassment. Do we need to have a different term, or is that still an effective term to pertain to this broader movement that we really need?

15:24:07 >> Rita: This is Rita. I have some thoughts. To the extent when we're discussing like a new face for #MeToo and like a lay phrase, I like to use the word abuse. That's often what it is, it's abuse, and I think that really frames it the right way, where at times, when we're using layperson language, people can get lost in the technicalities and debate, okay, well, what is harassment, what is discrimination, so I think abuse is like a really strong shortcut, but at the same time, I'm going to also say the other point, discrimination, we still, I think, have a bit of a ways to go to acknowledge that a lot of this really discrimination when we think about people who want to enforce their rights in court or otherwise to not be fearful about calling it discrimination and just calling it like we see it. It's abuse and also discrimination.

15:25:16 >> I see that Jen from Time's Up has some thoughts for that question and we will unmute you, Jen. You should be good to talk now.

15:25:26 >> Jen: Hi, thanks. I think that's a great question. And I actually have been thinking a lot about sort of the

power of #MeToo and the sort of inclination that some have had to say, okay, it's been a year or more since #MeToo, so why are we still talking about it? Obviously not in this group but more broadly in society, both nationally and internationally. And I think that it's a great opportunity to focus on the fact that the reason has been such a powerful term and such a powerful movement is because of its universality and because as people began to speak up and say #MeToo, it resonated because so many of us had the same experiences, so while it is an entry into talking about harassment and discrimination, it's also an entry into talking about how if you want to address discrimination and harassment in particular, you have to open the aperture to think more broadly about what makes a work environment safe, fair, dignified, equitable, whatever set of words you want to choose, but I think that reminding everybody that while this is, first and foremost, discrimination, it's also more broadly about the structure of the workplace and the opportunity that people have to work with dignity and in a fair place, I think is important to keep coming back to.

15:27:11 >> Thank you so much, Jen. Any other panelists want to take on that question? Okay. I think there's been a number of questions for bill numbers and if we could run through the different bill numbers that have been discussed on the call. I know from Illinois, it was SB0075. That's the bill there, and Lisae and Jess and Rita, if you can go over your bills again and Jenny, if you want to mention the bills in California.

15:27:52 >> **Lisae:** it was house bill 679.

15:27:59 >> In Oregon, it was Senate bill 726.

15:28:03 >> In New York, it's a pair and it's-- I'll give you the Senate numbers, S6577 and S6594.

15:28:18 >> Andrea, are you talking about the bills that were passed, the California bills that were passed last year?

15:28:25 >> Yes.

15:28:28 >> Okay. Yeah, there were a few but one of the biggest ones was SB1300, that was the one that addressed the definition of sexual harassment and the severe or pervasive standard and also made some other prohibited certain non-disclosure or certain waivers, types of waivers, and then there was another bill, SB820 which addressed prohibited certain non-disclosure provisions and those are two of the main ones and the other bills it's for a search for the stronger California #takethelead platform that was introduced and largely enacted or passed and enacted into law last year. We sort of grouped our sexual harassment and workplace harassment and discrimination bills around-- under that agenda name and hashtag.

15:29:49 >> Great. Thank you. We're about out of time here, but we'll have one last question, Wendy Pollock is available. We're unmuting her now and we have a few questions about training and words of caution around them, and I think you have some points to share, Wendy. Make sure to unmute yourself.

15:30:21

15:30:22 >> This is Jennifer again. Andrea, while the sound issues you're working out, I did want to say that the bills that specifically relate to the janitorial industry, the one that passed a few years ago in 2016 was AB1978, assembly bill 1978 and there's a follow-up bill pending now about the PROMATORA training bill that I can get and circulate after the call.

15:30:54 >> Thank you. Wendy, do we have you there, or are we having technical difficulties to book end the webinar?

Okay. I think we are. I'll note that there's been a few questions raised and concerns about training becoming a mechanism to generate more money for different training companies and the like and in Illinois, there was a big push to make sure that the training would be available for free. Especially-- specific training that came about for restaurant workers in that bill. So and that has been something we have seen in a number of states is making sure that the Department of Labor or human rights commission is tasked, if there is a mandatory training requirement, that those government entities are tasked with creating some sort of training template or model or tool for employers and ideally at no cost. So I want to thank everybody for joining us and we'll be following up with the report that's coming out next week with links to these resources that you are seeing in front of and you some additional resources and contact information for related to the presentations given today and thank you so much to Lisae, Jessica, and Rita, Senator Bush, Jenny and Ramya for all of your great presentations and yeah, just so happy and thanks, everybody, for your patience with the technical difficulties but we got the information out there and we're glad you joined us. Thank you so much.

15:32:34 >> Thank you, NWLC, for organizing the webinar.