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Business and Labor Committee
January 28, 2008

[LB819 LB820 LB821 LB833]

The Committee on Business and Labor met at 1:30 p.m. on Monday, January 28, 2008, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB819, LB820, LB821, and LB833. Senators present: Abbie Cornett, Chairperson; Steve Lathrop; Amanda McGill; Norman Wallman; and Tom White. Senators absent: Kent Rogert and Ernie Chambers. [LB819]

SENATOR CORNETT: Good afternoon and welcome to the public hearing of Business and Labor. I'd like to introduce you to members of the committee and committee staff and briefly explain the procedures we will follow this afternoon. To my right is Senator Wallman from Cortland; and then next to him will be Senator Lathrop from Omaha; and Senator Kent Rogert from Tekamah. My legal counsel today had a family emergency and will not be here. I'd like to introduce you to Senator McGill; and we will be waiting on Senator White; and Senator Rogert also will not be able to make it today. So we're going to be a little light on committee today. I am Senator Cornett from Bellevue; to my far left I'd like to introduce you to Andrew Zimmerman, the committee clerk; and our page today is Kristen from Ainsworth. These proceedings will be recorded and will be transcribed. If you have a cell phone with you, please turn it off at this time or turn it to vibrate. The committee will first hear testimony in favor of a bill being considered, then testimony in opposition and neutral testimony. If you are following other testifiers, please listen to their comments and try not to repeat what has already been said. Testifier sheets are available near the back doors and on the testifier table for people who will be publicly testifying. Do not fill out this form if you are not testifying publicly. Please fill out the form completely before you testify so the transcribers have an accurate record. When you come up to testify, place the sheet in the box on the table. At the beginning of your testimony, please state your full name and spell your name for the record. If you plan to testify, please come up to the front row to allow for smooth transition between testifiers. There's a chair reserved in the front row for the next testifier. Again, in order to save time, please make sure you have the testifier sheet completely filled out before you approach the testifier table. If you are not testifying but would like the record to support your opposition or support of a bill, there's a separate sheet by the back doors to sign in. Please make sure your signing in on the non-testifier sheet. If you have printed materials, please give them to the page so they can be distributed to the committee and entered into record. This includes any written testimony you may have. The committee needs 10 copies of any material. If you're short on that, the page will make copies. Today's agenda, we'll first be hearing LB819. I'm going to turn the Chair over to Senator Wallman. [LB819]

SENATOR CORNETT: (Exhibits 1 and 2) Good afternoon, members of Business and Labor Committee. For the record, I am Abbie Cornett, chairman for the committee. Again, I apologize. My legal counsel had a family emergency and will not be introducing the committee bills today. LB819 was introduced by the committee at the request of the

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Department of Labor. The bill would provide for grammatical corrections to LB265 from last year regarding confidentiality requirements of employment security law. These changes are contained in Section 1 and are housekeeping measures and are not intended to make any substantive changes to the law. After the bill was introduced the legal counsel spoke with the administrator of the Workers' Compensation Court and he requested that one additional change be made to ensure disclosures of employment security law made to the compensation court still be used for the purpose of enforcement of the act. When we had the bill drafted we attempted to make a simple grammatical change and in this case, I don't think the new translation was as clear as it could be so I'd ask the committee to consider a minor technical change in order to clarify for the compensation court. Secondly, the bill would require employers with \$100,000 or more in annual payroll to electronically file their unemployment taxes, wage reports and reimbursements in lieu of contributions beginning on January 1, 2010. Current statute requires only employers with \$500,000 or more in annual payroll file electronically. Finally, due to LB739 in 2005, employer tax rates are recalculated at the end of the fiscal year, October through September. However, when a business acquires another business their rates are recalculated at the end of the calendar year causing the system to be out of sync. The changes to 48-654 which is Section 3 of the bill would address this problem so that all recalculations take place at the end of the fiscal year. John Albin from the Department of Labor will be following my testimony so he can provide you with any additional information about the bill. I'd like the page to hand out two amendments. The first one is the one that I...that says insert Nebraska after Court and insert which cause may such...may use such information. This is the amendment that I mentioned. Then I was presented with an amendment by John Albin to the bill also that he will be explaining a little further and I'll go ahead and hand that out for him at this time. [LB819]

SENATOR WALLMAN: Any questions for Senator Cornett? Thank you. [LB819]

SENATOR CORNETT: I'll just leave the amendment here. [LB819]

JOHN ALBIN: (Exhibits 3 and 4) Chairwoman Cornett, members of the Business and Labor Committee. For the record, my name is John Albin and I'm Agency Legal Counsel and Legislative Liaison for the Nebraska Department of Labor. I'd like to thank the committee for agreeing to introduce LB819 on behalf of the agency. LB819 is the Department's clean up bill for the unemployment tax program but it also contains some important provisions for making tax collections more efficient through increased reliance on electronic tax filings. Section 1 cleans up some language in the confidentiality provision of 48-612.01 that was enacted last year as a part of LB265's conformity provisions. The amendment presented to the committee by Chairwoman Cornett improves that language and addresses concerns expressed to us by the Workers' Compensation Court regarding the compensation court's ability to use access and utilize data for purposes of enforcing the Workers' Compensation Act. Beginning in

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2006, employers with payrolls of \$500,000 or more were required to electronically file their combined tax and wage reports and pay their combined tax electronically as well. Sections 2 to 4 reduce that payroll threshold from...for electronic filings to \$100,000. There are approximately 48,000 employers who file combined tax and wage reports each quarter. Of those, 12,787 have payrolls in the \$100,000 to \$500,000 range and over 7,000 of those employers are already filing electronically so this bill would pick up about 5,154 more employers requiring them to switch from paper to electronic filings. Even with the reduction of the threshold to \$100,000, over half of Nebraska's employers, 25,631 will still not be required to file electronically. Section 5 is merely a clean up measure that would adjust the rate calculation process in the event of the acquisition of one business by another to match up with the fiscal year system now used for calculating employer tax rates. Finally, I have prepared, and Senator Cornett has distributed, a set of suggested amendments to LB819 that I would like to ask the committee to consider and adopt. The first of these would provide that no positive balance employer could be assigned to a rate category higher than category 19. When the array system was enacted in 2005, no one contemplated that positive balance employers would ever be assigned to the highest rate categories. However, with the improvement in the Nebraska economy, this year we found that even some positive balance employers ended up being assigned to category 20 along with all of the negative balance employers. It seems to us that there ought to be some sort of distinction and reward from employers who have managed to keep their experience accounts positive by avoiding large layoffs. The tax rate break between category 19 and category 20 can be rather significant when the Unemployment Trust Fund reaches the statutory goal of 0.85 percent of total wages paid in covered employment. For example, in 2008, the category 19 rate is 2.77 percent and the category 20 rate is 5.4 percent. The department believes it's bad tax policy to have positive balance employers paying at the same rate as employers whose employer experience accounts will probably never become positive. In addition this amendment would incorporate into statute current regulations and practices regarding the charging of unemployment benefits. Nebraska's unemployment system has not been as highly rated as it should have been in some of these recent surveys because Nebraska's method of charging benefits in the case of part-time workers and combined wage claims are not reflected in statute as is done in some other states. For example, if a Nebraska employer hires a part-time employee and the employee files a claim for unemployment benefits because of the loss of other employment, pursuant to state regulations, the wages earned in part-time employment are used to establish the claim for unemployment benefits but the part-time employer is not charged for those benefits. Many states, such as Ohio, incorporate a similar provision in statute. Benefit charges in the case of combined wage claims are handled in the same manner as regular benefit claims, but the practice is not reflected in a statute. Unfortunately, rating services such as the Tax Foundation apparently only look at state statutes in determining how business friendly a state's unemployment program is. Thus, Ohio gets a better rating in this category by the Tax Foundation than does Nebraska, even though both states treat benefits paid to part-time workers the

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same. This amendment would make Nebraska's rating by such organizations more accurately reflect the system that exists in this state. That concludes my testimony unless the members of the committee have questions for me. [LB819]

SENATOR WALLMAN: Any questions from the committee? Thank you. [LB819]

JOHN ALBIN: Thank you. [LB819]

SENATOR WALLMAN: Any more proponents? Opponents? Neutral? That concludes this bill. [LB819]

SENATOR CORNETT: (Exhibits 5 and 6) For the record, I'm Senator Abbie Cornett, Chair of the Business and Labor Committee and I'm here to introduce LB820 which was introduced at the request of the Department of Labor. LB820 primarily makes changes to the Amusement Ride Act. However, the first selection deletes an obsolete reference to the Wage and Hour Act. Sections 2 through 6 pertain to the Amusement Ride Act and are as follows: The bill would break out the definition of fixed ride and portable ride. A fixed ride means a ride intended for use at a single site for more than 14 days and a portable ride is capable of being readily assembled and disassembled and is not used at any one site in the state more than 14 days. The bill would remove the inspection requirements for portable rides and in its place would require the owners/operators to maintain their rides in accordance with national standards. After the bill was introduced, my staff spoke to our chief amusement ride inspector and we realized that throughout the bill we referenced United States Consumer Product Safety Commission and the actual source of the standard is the American Society for Testing and Materials, Standards for Amusement Rides and Devices. So I will offer that reference change as an amendment for your consideration. I am also having the page hand out an excerpt from these standards, so that you can have a better idea of what types of things are covered under them. The bill would also increase the minimum liability insurance required for amusement rides from the existing maximum of \$1 million per occurrence to the new minimum of \$1 million and a maximum of \$5 million per occurrence. Current statutes also allows for reciprocity and waiver of inspections for rides that have been previously inspected by other states. LB820 would delete those provisions so that all fixed rides must be inspected in Nebraska prior to their operation. Finally, the certificate fee required for amusement rides is increased from \$50 to \$60. Again, John Albin from the Department of Labor, will follow my testimony and can address the needs for LB820. Thank you. [LB820]

SENATOR WALLMAN: Any questions? Thank you. [LB820]

JOHN ALBIN: (Exhibit 7) Chairwoman Cornett and members of the Business and Labor Committee. Again for the record, my name is John Albin and I'm agency legal counsel for the Nebraska Department of Labor and I would like to thank the committee for

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introducing LB820 on behalf of the agency. The first section of the bill is merely a housekeeping measure to delete an obsolete reference. The remaining sections address the issue of inspections of portable amusement rides. Each year the department inspects at least 226 portable amusement rides, that is, amusement rides that are torn down after the initial inspection and moved to one or more other sites where they are reassembled and put back into service without a second or subsequent inspection, with nearly all of those inspections occurring in the summer months. No matter how well the portable ride is inspected at the time of its initial inspection, the department's inspection does not insure that the portable ride is not damaged in the process of disassembling, transporting or reassembling it at the next site where it is operated or that the portable amusement ride is properly reassembled at the next site. Nonetheless, an inspection certificate is affixed to that ride attesting that the ride has passed an inspection by the state of Nebraska. As it applies to riders at a second or subsequent fair or carnival, there are simply too many potential intervening factors that can negate the safety factor provided by the initial inspection. The department does have a number of regulations addressing the operation of portable amusement rides in Title 228 that will continue to apply if LB820 is passed into law. LB820 will require amusement ride operators to self inspect their rides on a regular basis. And I think Senator Cornett has already explained the miscommunication over the proper drafting standards and that that's reflected in the amendment which she has circulated. The American Standards for Testing and Materials standards are not substantially different from the regulations currently set forth in Title 228. The main difference is that the Department of Labor will not be annually inspecting portable amusement rides the first time they are placed in operation each year. Finally, LB820 increases the minimum insurance requirements that the Commissioner of Labor may require. The current maximum amount of insurance that the commissioner may require is \$1 million. LB820 would allow the commissioner to increase the minimum level of insurance to as high as \$5 million. I would be happy to answer any questions that you might have as to policy matters regarding amusement rides. Our chief inspector, Bud Witt, is available to answer any technical questions regarding the actual inspection process. [LB820]

SENATOR WALLMAN: Any questions? Senator White. [LB820]

SENATOR WHITE: Is it possible before a portable ride is allowed to take customers to be inspected at each new site or is that too much of a burden, we don't have the people for it? [LB820]

JOHN ALBIN: We don't have the current staff to do that. There's also the geographic issue... [LB820]

SENATOR WHITE: all over the state... [LB820]

JOHN ALBIN ...that makes the staffing issue even worse because the rides as they

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move from one end of the state to the other can be quite a distance between and we only have so many inspectors. [LB820]

SENATOR WHITE: Given our resources, is this the best you think we can do, John? [LB820]

JOHN ALBIN: I think so. I mean, it bothers me that when somebody goes to a fair...while I always take my kids to the Richardson County Fair in Humboldt, and Denny Lynch does a good job and he always has that show, so I'm not worried about those particular rides. But you know, that inspection sticker means...at that point, that ride's been assembled and reassembled several times and no matter how good our inspectors are, they can't guarantee that the reassembly was done correctly or that it wasn't damaged in shipment. So I think it's the best solution. We did increase the insurance requirement hoping that the insurance companies will also assist in making sure that their operators do a good job. [LB820]

SENATOR WHITE: Thank you. [LB820]

SENATOR LATHROP: Do any of the locals inspect, so when they set one of these up in Douglas County at a church carnival or the county fair? [LB820]

JOHN ALBIN: I don't believe any municipalities or counties inspect at this point in time. [LB820]

SENATOR LATHROP: So the only inspection that goes on is by the state of amusement rides? [LB820]

JOHN ALBIN: Yes. And I think some states, particularly rural states, don't inspect at all. I mean, South Dakota has given up on it. And they face probably worse geographic problems than we do. [LB820]

SENATOR LATHROP: Is there a history of violations, I mean when we do inspections are we catching things where the bolt wasn't secured the way it should and somebody could have gotten hurt? [LB820]

JOHN ALBIN: You'd have to ask Bud Witt as to the specifics of the number of violations we have found. I know the last couple of accidents that have occurred, have occurred due to stuff that occurred after our inspection. I think it was in Hooper a few years ago where the one cart went flying off and as I recall, what was discovered, was subsequent to our inspection. A bolt had cracked. They'd discovered the crack but they hadn't made the repairs properly. They used a non-standard bolt for the repair and a non-standard weld on the repair and they went flying off. And I guess that's one of our concerns is the person who got on that ride in Hooper could see our inspection sticker that said this ride

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is good but it wasn't because of something...an intervening factor that had occurred after our inspection. [LB820]

SENATOR LATHROP: So was, what we're, what we're going to accomplish with this is just not putting our stickers on things? Are we going to do more or less inspections or that no more, but... [LB820]

JOHN ALBIN: We will do less inspections. On the portable rides we will not be inspecting. They will be required to follow the standards that are set forth in the amendment. Those standards do require visual daily inspection of each ride. I can't guarantee what's an...as an absolute certainty that operators would do that. The good operators do. The rogues will always be the rogues. [LB820]

SENATOR LATHROP: If that's what we're doing, what's the point? Why are...that sounds like we're making things less safe. Am I missing something? [LB820]

JOHN ALBIN: I guess the safety factor is reduced if you feel like we're significantly improving the situation through these initial inspections on a ride. Yeah, we catch stuff on those rides the first time they're put up. But of the rides that I know of that have went bad in the last few years, they were all rides that went bad due to intervening factors and not...whether we had inspected it or not, what happened would have happened and so it doesn't... [LB820]

SENATOR LATHROP: Is that a reason for more inspection though rather than less? Here's my concern. I got a 13-year-old that likes to go to these places and she takes me along. And so I'm on some of these rides once in a while, (laughter) like at Septemberfest and places like that and I mean, they get those swings, they're 20 feet off the ground and then they get them whipping them around like this and the people are now going in...I mean, if there's a bolt that gets loose, those people end up in a parking lot somewhere. [LB820]

JOHN ALBIN: And my 11-year-old loves that same ride (laughter) and drags me along if she can. [LB820]

SENATOR LATHROP: Well, and here's the other thing we can agree on is that... [LB820]

JOHN ALBIN: The problem is, the problem is, Senator Lathrop, is that even if that ride first went up in Sarpy County and we properly inspected it and it was all perfect or any problems were corrected, when it gets set up for Septemberfest it's been torn down, transported and reassembled probably multiple times and we can't guarantee anything at that point and there's simply are not the number of inspectors available to, under a self funded program like this, to cover all those assemblies and reassemblies. [LB820]

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SENATOR LATHROP: Are the problems that we're having...if you're catching things in the inspection process, are the problems that you look for related to the assembly process? In other words, when you're doing these inspections you're not just looking for a structural problem but you've got to make...you're inspecting to see if they've been put together properly? [LB820]

JOHN ALBIN: We inspect to make sure it's been constructed properly. We also inspect it for cracks, any...looks like stress cracks in it and allow them to be corrected. A few years ago we required all rides to be...have non-destructive testing after that one, I can't remember which type of ride it was. I think it was an octopus type ride where an arm sheered off and after we had looked at the type of accident, we then required everyone to undergo non-destructive testing to be sure that that was done. So, yeah, we've always been thorough and we inspect everything that we can inspect at the time. But to me the biggest potential for problem is the assembly and reassembly process and you can't get that with an annual, a single annual inspection. [LB820]

SENATOR WALLMAN: Senator White. [LB820]

SENATOR WHITE: If I understand what you're saying, John, one of your concerns is if I'm a careful citizen and I'm looking at whether or not I let a kid go on a carnival, I see a state inspection certificate and I'm going to feel better. Because, okay, I'm going to trust my children on that ride because the state of Nebraska looked at it and what you're saying is that's really kind of false representation of safety because the reassembly can cause it and can cause dangers we can't prevent. Is it maybe better that we just change either not allow them to put the inspecting sticker up but still continue to inspect when we can, or to state, we inspected this starting this year but we don't reinspect every time it's set up? I mean, I guess, I'm with Senator Lathrop on some, although I don't know that I want to cut back on the number of inspections nor do I, with you, want to give false assurance to our citizens that we're checking these out every time they're set up and they're safe, when we can't make that representation. Is there something else we might be able to do? [LB820]

JOHN ALBIN: I suppose there's always something else you can do because you could change the draft of the legislation. But you know, I don't know whether putting disclaimers in agate type or so large is going to provide enough warning to the public of how many times we've been there or not. [LB820]

SENATOR WHITE: I appreciate that. Thank you. [LB820]

SENATOR CORNETT: Senator Wallman. [LB820]

SENATOR WALLMAN: Yes, Senator Cornett. [LB820]

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SENATOR CORNETT: Last year we had a bill in regard to boiler room inspectors and when we were going through that bill I learned that the insurance companies, depending on the size of the boiler and the number of units that it served, required an inspection to insure that. What are the insurance requirements currently for these rides? What, I mean does an insurance company require them to be inspected more than the once a year? Is it dependent on the insurance company? How does that work? [LB820]

JOHN ALBIN: My understanding...I think it's...well, first of all it's always dependent upon the insurance company but I think also, I think most of the insurance companies are relying upon our inspections. [LB820]

SENATOR CORNETT: The once-a-year inspection. And how often average do you suppose these rides are assembled and disassembled? [LB820]

JOHN ALBIN: Boy, you'd have to ask some of the operators but I know that some of them go up seven, eight, nine and ten times a year. [LB820]

SENATOR CORNETT: And then they're disassembled and transported and then reassembled? [LB820]

JOHN ALBIN: Yes. [LB820]

SENATOR CORNETT: And we only inspect them at the beginning of the year? [LB820]

JOHN ALBIN: Yes. The first time they're placed in service. [LB820]

SENATOR CORNETT: Okay. [LB820]

SENATOR WALLMAN: Senator Lathrop. [LB820]

SENATOR LATHROP: It does lead me to a couple more questions. One of the reasons...the concerns I have is that I've seen some of those guys that run the rides, you know. And they're not engineers, most of them, looks like to me. And I'm wondering, do we do any kind of random inspections where we just show up at the, you know, the church carnival and say, this is a random inspection and we're going to take a look... [LB820]

JOHN ALBIN: I don't believe we do any random inspections. It's a cash funded program. I guess it's kind of a matter of dollars and cents. If you can't charge for it, you don't send people out just because you can't afford to. [LB820]

SENATOR LATHROP: I just wonder if we're adopting standards for the rides, then if we

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put a random inspection process in place and then pulled their ticket for three years if they have violations, and then it means something to have those standards wouldn't it? Otherwise we have standards and nobody is ever looking to see if they're observing the standards. [LB820]

JOHN ALBIN: And I guess at that point the issue becomes a funding for it. [LB820]

SENATOR LATHROP: Okay. Thanks. [LB820]

SENATOR WALLMAN: Senator White. [LB820]

SENATOR WHITE: Mr. Albin. Do we ask to see the certificate of insurance at the initial inspection at least? [LB820]

JOHN ALBIN: Yes. [LB820]

SENATOR WHITE: Is there any mechanism so if we raise it to \$1 million we will assure that they have a certificate of insurance or something before they start the season? [LB820]

JOHN ALBIN: Yes. We do require proof of insurance at the initial inspection and I intended when I was drafting this, I think I've got it accomplished, we would still require that proof of insurance when they file for a certificate. We haven't let them go completely free. We would require them to provide proof of that insurance when they get a certificate from us. [LB820]

SENATOR WHITE: The other concern. As drafted, does this bill adopt the standards in place now or just whatever the current standards are and if it's the latter, are you comfortable with that because in effect our statute is flexible and then it's going to turn with...so if we get rid of these standards we don't have any. I mean, you know what I mean? How do we work it? [LB820]

JOHN ALBIN: Our intent is that as the standards evolve they would have to meet the higher standards because manufacturers occasion will find a defect and they will require people to go out and fix the...or tell the owner, the operators they should go out and fix it. So our intent is that it evolves with them. I realize we walk a fine line in terms of delegation of legislative authority but I think we can follow with the requirements that we have here. [LB820]

SENATOR WALLMAN: Senator Cornett. [LB820]

SENATOR CORNETT: I just want to clarify, and you feel by raising the insurance amount required, that the insurance companies are going to be more strict in regards to

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their inspections? [LB820]

JOHN ALBIN: That is our hope in the process. They will scrutinize their insureds a little closer. [LB820]

SENATOR CORNETT: Before they issue that certificate? [LB820]

JOHN ALBIN: Before they issue the policy. [LB820]

SENATOR WALLMAN: Anyone else? Thank you, John. [LB820]

JOHN ALBIN: Thank you. [LB820]

SENATOR WALLMAN: Any more proponents? [LB820]

DENNIS LYNCH: Yes, my name is Dennis Lynch and I represent the D.C. Lynch Carnival Company. I represent the Outdoor Amusement Business Association and the Nebraska Association of Fair Managers today. [LB820]

SENATOR WALLMAN: Glad to have you here today. [LB820]

DENNIS LYNCH: Thank you. But we just left a convention yesterday where we had at the Nebraska Association of Fair Managers 90 percent of the carnivals that are represented in the state of Nebraska. We have all of the county fairs in the state of Nebraska and the carnivals that we didn't have there, we located them on the telephone. We let them know what the situation was. But everybody thinks this is a good bill and it won't sacrifice any safety I'm sure of that. And as this gentleman was talking about our insurance, we have insurance. I know of nobody that's got less than \$1 million worth of insurance. I don't know of any carnival in the United States that works with less than that so it makes no difference on the price of it. But when you said they will accept inspection from this state, they don't. They have their own, so they don't accept anybody's inspection except their own and they're very thorough. That's all they do is inspect carnival rides. And they're very, very thorough. And someone else mentioned local inspectors. There's not a local person I know of that's qualified to inspect a ride. And as far as a ride being assembled and disassembled, they're the safest rides there are for the simple reason they are disassembled and assembled. If you take a permanent amusement ride, there's no way of checking 90 percent of it and as far as inspection, our rides are inspected every day. I have a man with me, my son who is qualified in four different inspection fees. He is more certified than any inspector in most of the states around but he is very well...but we have a daily inspection. We have a daily sheet. They are inspected every day and every bolt, every pin on that ride. And we've got spot inspections by my son and I have a ride superintendent whose been with me over 35 years and he inspects them. We have a very clean record but we don't

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have any accidents. But it's not a big problem. There's not been that many accidents in the state. But the thing is with the expense part, it's costing the Labor Department a lot of money to jump all over for one ride that's coming in and going out. And there is a shortage on carnivals on account of the expense. They can't afford to pay that high. So the guys coming from Iowa and South Dakota, from out of state, they want to play one spot they can't afford that. By the time they pay for truck permits, pay ride permits, we're paying 7 percent sales tax because we consume sales tax, it's not feasible for them to come in for one location. So they won't come in so there's a lot of the fairs are suffering with our carnivals right now. But we might be able to draw them in without that inspection but it's a win-win situation for everybody. And as far as the safety part of it, I don't think you'd miss a lick. As a matter of fact, I know you wouldn't. I shouldn't say think. But the safety part of it, if you're going to have a bad egg, it don't make no difference whether you're inspected or not. You can inspect them every day. It don't make any difference. If they're going to go bad, they're bad. They're just...I don't know the answer to getting rid of them, but that's the reason it's a free country, I guess. You can do anything you want until you get caught but that's...a bad operator is a bad operator. But that's all...we're in approval. We'd like to go along with the Labor Department on the deal but if not, we'll go whatever way you want to go and I will probably get inspected. I'll request it. I get inspected every year in Grand Island where I first open up. I'll request it. It's no expense to me because I play twenty some spots in the state of Nebraska. So it's divided up. These other guys are playing four or five states, they have to pay an annual inspection to each state. Well, they can't afford to do that and they ain't going to come in here for one spot. Thank you. [LB820]

SENATOR WALLMAN: Any questions? Senator Cornett. [LB820]

SENATOR CORNETT: How often does your insurance company inspect your rides? You said they are... [LB820]

DENNIS LYNCH: Once a year. [LB820]

SENATOR CORNETT: Just once a year also. [LB820]

DENNIS LYNCH: Yes. My rides. If they have a problem with somebody's rides, they'll come back and back and back. That's a, that's a...or else they'll cancel their insurance and if they cancel their insurance, they can't operate. And that's another thing. You said you don't know for sure, this gentleman over here, Senator White, when this insurance comes out, they have to send you a copy of the insurance policy to the Department of Labor. It comes out. When they send it to them, any time, say I'm cancelled, they have to send a certified letter to me and they have to send a certified letter to you at the same time and you know the minute that our insurance is cancelled, you'll know it. So and you will have an itinerary of everybody and you'll have permits so you'll know where everybody's at. That's another thing. The law you must furnish an itinerary where you

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operate. [LB820]

SENATOR WALLMAN: Thank you. Anybody else? [LB820]

SENATOR LATHROP: Maybe I do have a question and it was just me trying to hear you. You said something about if you have a bad egg or a bad leg. [LB820]

DENNIS LYNCH: In any business you'll have...you guys bad restaurant down here, he cooks bad food and he poisons somebody, that's the same thing. You can get rid of him. [LB820]

SENATOR LATHROP: But did you say egg or leg? [LB820]

DENNIS LYNCH: Egg or a leg, I don't... [LB820]

SENATOR LATHROP: Well, egg as in a bad person or leg as a leg on one of these rides? (laughter) I'm not trying to (inaudible) with you. I didn't hear you. [LB820]

DENNIS LYNCH: No. A bad egg. I didn't say leg. (laugh) I'm sorry. I'm going to talk a little plainer. [LB820]

SENATOR LATHROP: That's all I needed, believe it or not. (Laughter) [LB820]

DENNIS LYNCH: Thank you. [LB820]

SENATOR WALLMAN: Any more proponents? Opponents? Neutral? Well, that concludes the hearing on this bill. [LB820]

SENATOR CORNETT: Good afternoon. Again for the record, my name is Senator Abbie Cornett, Chair of Business and Labor Committee and I'm here to introduce LB821 which was introduced at the request of the Department of Administrative Services. Last year the committee introduced LB339 which was substantially the same as LB821 this year. If you remember, LB339 was amended by the committee and only that portion of the bill pertaining to the statute of limitations on miscellaneous claims was advanced. So LB821 contains the remainder of LB339 from last year. The bill makes several changes to the claims process. It would authorize the Risk Manager to hear and decide certain claims and increase the dollar amount in which the claims board can approve or deny claims without legislative review. For miscellaneous claims the Risk Manager would hear claims up to \$5,000 and the claims board could approve claims from \$5,000 to \$50,000. Legislative review would be required on all miscellaneous claims greater than \$50,000. In regard to tort claims, the Risk Manager would be authorized to decide claims up to \$5,000. Tort claims between \$5,000 and \$10,000 would require the majority vote of the board. Claims between \$10,000 and \$50,000 would require

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unanimous consent of the board. Legislative review of tort claims would remain at the current level of \$50,000 and above. I'd also like to draw your attention to Section 7 of the bill. Last year one of the questions that was raised by the committee was whether or not the time line for filing suit would be extended by six months when the claims was first heard by the Risk Manager instead of the claims board. Section 81-8227 of the Tort Claims Act has been amended with the intent of making sure that the claimant would have the same six months extension to file suit whether the claim is first heard by the Risk Manager or by the claims board. Moving on to contract claims. The bill places a one year deadline for filing suit on contract claims. This one year deadline is calculated from the date in which the claimant or the agency objects to the board's jurisdiction. Currently there is no agreed upon deadline to file suit. That concludes my opening on the bill. The Risk Manager will follow my testimony and will answer any questions you have about the claims process and I'm going to go ahead and waive closing on this. [LB821]

SENATOR WALLMAN: Thank you, Senator Cornett. Proponents? [LB821]

LAURA PETERSON: (Exhibits 8 and 9) Good afternoon, Senator Wallman and members of the committee. My name is Laura Peterson, P-e-t-e-r-s-o-n and I'm the state Risk Manager. I'm appearing in support of LB821 and I'd like to thank the committee for introducing the bill on behalf of the department. Over the past few years, Risk Management has been discussing with members of the Business and Labor Committee, ways to make the claims process more efficient both for claimants and for state agencies. LB821 offers a number of changes to the claims process to facilitate such efficiencies. One of the biggest efficiencies in the bill is to authorize the action by the Risk Manager on tort claims under \$5,000 and to increase the Risk Manager's authority over miscellaneous claims from \$2,000 to \$5,000. Currently every tort claim, regardless of the dollar amount, must be submitted to the Claims Board. Allowing the Risk Manager authority over claims up to \$5,000 will allow faster access to recovery for claimants and will allow the Risk Manager to act in a manner similar to the function of a claims adjuster in the private sector. I'm providing you a spreadsheet showing the tort claims paid based on the approval of the board since July 1, 2006. As you can see, 247 of the claims fall under the \$5,000 threshold in LB821 meaning had LB821 been in place, these claimants could have received their funds without waiting for a hearing by the board. I am also providing you a spreadsheet showing miscellaneous claims paid over that same period. As you can see, ten of the 208 claims fall between the \$2,000 current authority of the Risk Manager and the proposed \$5,000 authority. Again, this will simply speed up access to recovery for these claimants. Under the bill, the dollar threshold at which the district court and the Legislature review tort claims is unchanged. The dollar threshold at which the Legislature reviews miscellaneous claims is increased from \$10,000 to \$50,000 to match the threshold for legislative review of tort claims. This increase does not apply to requests by agencies to write off debts. Under LB821, the Legislature would continue to review all write-off requests regardless of the amount.

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One of the issues we discussed during testimony on a similar bill, LB339 last year, is as Senator Cornett said, relating to the six month extension of time for filing a lawsuit after mailing of notice of final disposition of the tort claim as described in 81-8227. As we discussed then, there is no intent under LB339 or LB821 to change or in any way decrease the rights or time to file for any claimant. The language added to LB821 from last year's LB339 should clarify that issue. The other major change in LB821 is to introduce the deadline for filing a contract claim in district court once the jurisdiction of the claims board is removed by one of the parties to the claim. Currently, there is no stated deadline for filing in court leaving both claimants and state agencies without clarity regard to what is required. The bill would allow for one year to file the lawsuit after the jurisdiction of the board is removed. That doesn't change the original two years to file the claim in the first place. That concludes my testimony but I'd be happy to respond to any questions. [LB821]

SENATOR WALLMAN: Any questions? [LB821]

SENATOR WHITE: I've got a couple. Ma'am, how many miscellaneous claims in a year on average do you think would be affected by moving the authority up to \$5,000? [LB821]

LAURA PETERSON: I think you can see on the spreadsheet that's provided. The claims between \$2,000 and \$5,000 are offset and there's about ten of them right there starting with \$2,075.80 through \$4,310. This is over a one and a half period, so I assume it's a pretty average year. You can also see those, most of those, are expired warrants. I mean, a huge percentage of our claims, miscellaneous claims are expired warrants. [LB821]

SENATOR WHITE: And then we also have on Contract Claims Act, the proposal is that we would extend the time for filing suit, which I approve of, to one year after the day the Risk Manager receives written objection to the board's jurisdiction. My concern on this one is, if for example, well, is there any provision that the person who might have the right to file suit will be given a copy of that notice so they know when the statute begins to run. Because as it's drafted, it's not the date they give notice that there's an objection to the jurisdiction, it's just the day it's file. Is there a provision to notify them under the regs now? [LB821]

LAURA PETERSON: There's a requirement now that they are sent a notice that the jurisdiction of the board has been removed, so... [LB821]

SENATOR WHITE: Has that been a certified letter kind of notice? Is it regular mail? [LB821]

LAURA PETERSON: It's sent regular mail but not, I don't believe...we do not send those

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certified. [LB821]

SENATOR WHITE: Would you object if instead it said the year would run from the date the parties are given notice and then you could send them by certified mail? That way they actually know it was entered or is that a problem for your... [LB821]

LAURA PETERSON: I don't see that as being a huge concern. I don't think we have that many, you know, as far as cost wise and certified mail isn't that expensive so it shouldn't be a problem. [LB821]

SENATOR WHITE: I appreciate it. Thank you. [LB821]

SENATOR CORNETT: Any further questions from the committee? Yes, Senator Wallman. [LB821]

SENATOR WALLMAN: Thank you, Senator Cornett. Yeah, I notice here like missing and lost items. Are these state employees? [LB821]

LAURA PETERSON: Most of these, I can't tell you everyone for certain, but a number of these by name I recognize. Most of the missing/lost items are Department of Corrections claims, where for example, an inmate might be sent to segregation and at the time they're sent to segregation, their property is inventoried and taken into the custody of the state. And then, at the end of their time in segregation, their property is returned to them and sometimes not everything is accounted for when it's returned. It also sometimes occurs where items are sent into a correctional facility for an inmate and between the time that they arrive in the facility and when they're to be delivered to the inmate, and they're usually signed for by the inmate, something happens within the facility and they don't arrive. And you can see in often times just looking at the dollar amount we're talking about, a toothbrush or tokens for pop or some of the dollar amounts are quite small but that would be the majority of the missing items. [LB821]

SENATOR WALLMAN: And the warrants the same way? [LB821]

LAURA PETERSON: Expired warrants? [LB821]

SENATOR WALLMAN: Yeah. [LB821]

LAURA PETERSON: Expired warrants...but that is where the state has written a check, a warrant to someone. Most often it's for a tax refund and you have one year from the date that check is sent to you to cash it. You...well you can see the number of people amazingly that simply don't cash those checks within the one year. Once that one year runs they have to file a claim to obtain a new warrant and so that's what all of those are. Occasionally, they're ones where they never actually received the warrant and it expires

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and they haven't received it. Most of the time though, it's people who say I put it in a drawer, I filed it with my tax return, whatever the case may be and they just didn't cash it in time. [LB821]

SENATOR WALLMAN: Thank you. [LB821]

SENATOR CORNETT: Senator Lathrop. [LB821]

SENATOR LATHROP: Yes, I do have some questions about, maybe some of the process so that I understand what's going on. You handle tort claims that come in and miscellaneous claims and contract claims that come to the state of Nebraska and you're essentially the first stop in the claim process. [LB821]

LAURA PETERSON: Right. [LB821]

SENATOR LATHROP: And what you're asking us to do is to approve, and this is literally you're authority to resolve smaller claims? [LB821]

LAURA PETERSON: Right. [LB821]

SENATOR LATHROP: Those with a value less than \$5,000. [LB821]

LAURA PETERSON: Yes. [LB821]

SENATOR LATHROP: And what's the statutory limit right now? [LB821]

LAURA PETERSON: Right now there is no authority for tort claims. The board has to act on it even if it's, as you can, a \$1.27. For miscellaneous claims right now, the Risk Manager has authority to \$2,000. [LB821]

SENATOR LATHROP: How many of those tort claims are getting resolved without the claimants having to file suit? [LB821]

LAURA PETERSON: This spreadsheet that I've provided you is all claims where there was no lawsuit filed. There are obviously several others where a lawsuit was filed but these are all ones that were handled at the board level by approval of the board. [LB821]

SENATOR LATHROP: Okay, so just as a matter of me getting the sense of what's going on in this agency or this part of our government, are you...do you expect that you're going to be able to resolve a lot of these property damage, small personal injury claims now without going to the board? [LB821]

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LAURA PETERSON: Absolutely. Many of these claims, you can see, when you get to a little bit larger dollar amount are auto liability claims, and often times what we have is a claim that was filed. And for example, a state employee rear-ended someone, and there's a police report and possibly a citation, and it's clear that the state is liable for that and it's paid for out of the insurance fund but it's still technically a tort claim. [LB821]

SENATOR LATHROP: Okay. Right now you have a claim service... [LB821]

LAURA PETERSON: Through the third party administrator. [LB821]

SENATOR LATHROP: Who's your third party, is it Sedgwick or something like that? [LB821]

LAURA PETERSON: For tort claims actually we have a contractual relationship with NRMA. They're actually the county pool and they investigate claims for us as third-party administrator. It used to be Sedgwick, now it's NRMA. [LB821]

SENATOR LATHROP: Okay. So what will happen from here on out is NRMA will still...you'll literally receive these claims through the state tort claims process which is a notice on a prescribed form. You get the form and now what do you do, you'll turn it over to NRMA, they'll make a recommendation and you'll be able to settle it without having to go to the board? [LB821]

LAURA PETERSON: Yes, if it's an auto liability case that's true. If it's anything where we have insurance, it goes to the third-party administrator. In cases where it is purely self-funded liability, for example, the correctional case that I was explaining, we get the notice of the tort claim, we send it to the agency and we ask them for an investigatory report, and a recommendation along with any documentation they might have such as like the property forms, or whatever, we ask them to make us a recommendation. Then we do an investigation actually in my office, myself and my staff members and then we would...right now the process is, we make a recommendation to the board in these cases. If LB821 passed, in that instance we would just approve or deny the claim. [LB821]

SENATOR LATHROP: Would it be fair to characterize this as a streamlining of the lower end claims? [LB821]

LAURA PETERSON: Absolutely. [LB821]

SENATOR LATHROP: All right. Are we going to realize any savings with NRMA or whomever our third party administrator might be by having a lower threshold and being able to streamline the process that you've just described? [LB821]

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LAURA PETERSON: I don't anticipate a savings on our contract with NRMA because they are currently investigating all of those claims. But what I do expect...anticipate is mostly a reduction in paperwork because we won't have to schedule as many claims board hearings, we won't be doing docket sheets and notices for as many claims board hearings, and I also anticipate for citizens faster access to the relief that's due to them. I do not though anticipate a great operational savings, only efficiencies. [LB821]

SENATOR LATHROP: So the benefit is to the claimants. They'll be able to have their claim considered more quickly and paid more promptly. [LB821]

LAURA PETERSON: Absolutely. [LB821]

SENATOR LATHROP: Okay. Thanks. [LB821]

SENATOR CORNETT: Senator Wallman. [LB821]

SENATOR WALLMAN: Thank you, Senator Cornett. Now, Laura, is that a contractual by percentage wise what they get or how do you do that? [LB821]

LAURA PETERSON: Absolutely not. We have a flat fee contract with them where we pay them a set amount for claims and actually right now, it's not based on the number of claims either. [LB821]

SENATOR CORNETT: Seeing no further questions, thank you. [LB821]

LAURA PETERSON: Thank you. [LB821]

SENATOR CORNETT: Proponents? Are there any opponents to the bill? Neutral testimony? That closes the hearing on LB821 and Senator Lathrop, I believe you are up. Good afternoon, Senator Lathrop. [LB821]

SENATOR LATHROP: Good afternoon, Senator Cornett, Madam Chairman, and members of the Business and Labor Committee. My name is Steve Lathrop, L-a-t-h-r-o-p. I represent District 12 and I'm here today to introduce LB833. LB833 is a very simple bill in the sense that it's easy to understand exactly what we're trying to accomplish. Our unemployment compensation benefits are set by statute. The maximum amount of a benefit is a function of the employee's average weekly wage and there is a cap on the benefit typically identified as a percentage of the statewide average weekly wage. Currently, the unemployment compensation benefits for the individual as set at 50 percent of their average weekly wage with a cap so that no employee will receive more than one-half of the statewide average weekly wage. It's actually not that, it's the previous year's maximum back in, sometime in the past, plus \$10. The maximum right now, I think, is \$630, pardon me, \$332, if I have that right.

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Nope, it's \$290, right in there. And what LB833 does is bring about a long overdue increase in unemployment compensation benefits and that's done by increasing the limits on both sides of the equation. In 2009 the employee would be allowed, as a benefit, 55 percent of his or her average weekly wage with a cap being 60 percent of the statewide average weekly wage. The percentages change each year increased by 5 percent to the year 2013 at which point the employee will be permitted 75 percent of the average weekly wage as his, his average weekly wage as the benefit with the cap being 100 percent of the statewide average which today would be \$664. I believe LB833 is necessary and appropriate because there have not been increases for some time. Thirty-two, pardon me, thirty, yeah, thirty-two states index their unemployment compensation benefits and we'd like to see a movement toward that so that we're not back year after year trying to come up with an adjustment which is fair to the employees who are laid off or otherwise lose their jobs. You will have folks that testify after me that will talk about the importance of this bill and I appreciate the committee's consideration. Thank you. [LB833]

SENATOR CORNETT: Thank you. Any questions from the committee? [LB833]

SENATOR LATHROP: All right. [LB833]

SENATOR CORNETT: Thank you, Senator Lathrop. [LB833]

KEN MASS: (Exhibit 10) Senator Cornett, members of the Business and Labor Committee, my name is Ken Mass, M-a-s-s. I'm President of the Nebraska AFL-CIO and here today in support of LB833 and we thank Senator Lathrop for introducing the bill to raise a unemployment insurance weekly benefit. In the past 20 years the economy has changed and left workers with less job security even at the best of economic times. A broad spectrum of protection, workers rely on a shield then, healthcare, pensions and severance pay have been cut or eliminated. Especially impacted are low wage workers in the heart of our economy and such growing sectors as healthcare, childcare, education and technology. However, when these low wage working families face the increasing prospects of being laid off, then often they cannot...they often cannot draw unemployment because benefits, because the unemployment insurance program has failed to keep pace with the new realities of our diverse and changing work force. Unemployment insurance policy is primary the domain of the states. The state legislators and governors set the policies and the state agencies officials operate the program on a daily basis. Every state has an opportunity to update its unemployment insurance policies to ensure that the original goals of the program are still fulfilled in today's changing work force and changing economy. Unemployment insurance was created to provide workers insurance against involuntary job loss by partially replacing the loss to pay with weekly unemployment insurance benefits. Since the unemployment insurance benefits typically aim to replace about half of the former work wages, living on these benefits is a hardship for any family. And in particular hard

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on low wage workers who may receive smaller weekly unemployment insurance benefit amounts and have fewer backup resources. One of the most important steps that can be taken to make sure the weekly unemployment benefits amounts are sufficient to meet their intended purpose, is that is to assist jobless workers to meet basic needs. Not only must a unemployment insurance check be sufficient to cover weekly expenses, the timing must be right for unemployment benefit to effectively bridge a family's income gap between jobs. The unemployment check must arrive soon after a layoff and then last long enough so that workers can find a new job before they receive their last unemployment check. Today I'm sure you're going to hear in opposition a couple of issues, many issues probably, but I have some pass outs. A couple of the arguments you probably hear today, that raising the maximum weekly benefit amounts will be too high and drain the trust fund. In response to that is, without adequate jobless benefits, the core function of the unemployment insurance program is compromised. Thus, state unemployment insurance revenue system should be designed to ensure the program has benefits, can keep pace with employees...with inflation. Another opposition comment will be workers eligible for maximum have other savings to replace low unemployment insurance benefits. In response to that is jobless workers do not have substantial savings. A leading economic, economist found that the average worker only has sufficient financial assist to about 5.4 weeks of unemployment. Low wage workers are even less likely to have savings set aside with little other resources to turn to. Adequate unemployment insurance benefits payments are crucial to helping families avoid serious financial distress during unexpected employment. What I passed, just passed out is a comparison of all the states. What they have at this time. I can, a couple of...there's a correction under Nebraska, by the way. The maximum is \$298 and it's in there as \$288. It should be \$298. To give you a little history of what happened there, oh, I guess in 2005 I believe it was, and prior to that, about three years prior to that, there was some concerns about the trust fund. It was brought to the attention and basically everything was said that it was in good shape but at that time it got down to less than \$80 million in there. An actuary had stated that they needed \$225 million. Well, anyway, 2005 there was a compromise done to make sure the trust fund had enough money into it for individuals that did get laid off, they would have some unemployment benefits coming. That compromise was, and as Senator Lathrop said, the average weekly wage right now is \$664. Fifty percent of \$664 is \$332, but in 2009 it will be \$298. Why the difference? In that compromise it was agreed that the taxable wage in Nebraska would be moved off of \$7,000, to last year it was first \$8,000, and then in 2008 it will be the first \$9,000 of taxable wages they put in that fund. Also it was agreed there would be a two-wage, two year freeze of the unemployment benefits so it stayed at \$288 for the past two years, and now in 2008 it moves up to \$298, which is not 50 percent of the average weekly wage but it was also in the bill was a maximum of \$10 a year. What you'll see there is a comparison of all the states. I'll bring your attention, as Senator Lathrop again talked about, 32 states have inflation and now the unemployment is indexed, keep me up with a inflation on those states. So you'll see numbers all over the place, but basically it's an opportunity to make sure if somebody unexpectedly gets laid

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off. In today's world and age it can happen any time, any place. So with that I would ask for your support of LB833. I will answer any questions if there may be. [LB833]

SENATOR CORNETT: Senator Wallman. [LB833]

SENATOR WALLMAN: How would that affect my premiums if I paid into unemployment insurance as a worker if I upped it to this figure what you had, you know? [LB833]

KEN MASS: The Department of Labor will set the percentage that you pay on that amount of taxable wage, yes, and I can't give you those numbers right now. [LB833]

SENATOR WALLMAN: That's fine. Thank you. [LB833]

KEN MASS: I'm sure somebody following me in opposition will probably bring that up. [LB833]

SENATOR WALLMAN: I just wanted to know. Thanks. [LB833]

KEN MASS: Okay. [LB833]

SENATOR CORNETT: Seeing no further questions, thank you, Ken. [LB833]

KEN MASS: Thank you, Senator Cornett. [LB833]

SENATOR CORNETT: Next testifier. [LB833]

MIKE MARVIN: Good afternoon, Senator Cornett and members of the committee. My name is Mike Marvin, M-a-r-v-i-n. I'm Executive Director of the Nebraska Association of Public Employees. We're here today to urge you to support this bill. I don't want to duplicate a lot of Ken's testimony but I do want to point out that the rising energy costs right now are dramatic, particularly lower paid employees. You know, that's carrying over into their food costs and everything else. We think with, that the rate has not moved in two years that it's time for an adjustment. Personally I would rather see it indexed some how but I would urge support of this bill the way it is. [LB833]

SENATOR CORNETT: Any questions from the committee? Seeing none, thanks. [LB833]

MIKE MARVIN: Thank you. [LB833]

SENATOR CORNETT: Next proponent. Are there any opponents? [LB833]

JOHN ALBIN: (Exhibit 11) Either I'm shrinking or this chair is getting lower. (laughter)

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Chairwoman Cornett and members of the Business and Labor Committee. Again for the record, my name is John Albin. I'm Agency Legal Counsel and Legislative Liaison for the Department of Labor. The department opposes the adoption of LB833 as introduced. A part of the LB739 compromise in 2005, which has been referenced here previously, was that the Legislature would establish an Unemployment Trust Fund solvency level of 0.85 of 1 percent of total wages paid in covered employment and Nebraska employers would endure unemployment tax increases in order to restore the UTF to that solvency level. It was only at the conclusion of this most recent fiscal year of 2007, that the UTF reached that legislatively established goal. The UTF solvency goal level incorporated in LB739 is not excessive and correlates with the U.S. Department of Labor suggested UTF solvency goal of 1.0 of average high cost multiple, which you really don't want me to mess with explaining but it's in line with what they've suggested to us. The solvency level that we adopted in LB739 was based upon the recommendations of Professor Goss from Creighton University and he suggested a minimum solvency level of 0.85 of 1 percent of total covered wages. That estimate was based upon the then indexed taxable wage base, or excuse me, maximum weekly benefit amount of 50 percent of the state average weekly wage. If the maximum weekly benefit amount is increased to 100 percent of the state average weekly wage as proposed in LB833, the ability of the Unemployment Trust Fund to remain solvent in the case of a sudden economic downturn is impaired. LB833 would abandon the compromises made in LB739 in regard to unemployment benefit payments. LB739 provided for a two year freeze followed by gradual increases in the maximum weekly benefit amount until the maximum weekly benefit amount of 50 percent of average weekly wage that existed prior to LB739 is restored beginning on January 1, 2011. So whether you believe 50 percent is an adequate amount or not, we will have an indexed weekly benefit amount again commencing in 2011. The maximum weekly benefit amount of 100 percent of the state average weekly wage contemplated in LB833, exceeds that of any other state where the information that I could find was available on wage replacement rates as a percentage of the state average weekly wage. According to a figure, that I believe I pulled off of the U. S. Department of Labor, the nationwide average is only 40 percent of average weekly wage. I'm not comfortable with that standard because it doesn't...but and I could go research that again if any member of the committee would like me to, but 50 percent is not unconscionably low, maybe it's...the state average weekly wage for purposes of determining both workers compensation and unemployment benefits for 2008 is \$643.16 per week. To give you a present day perspective, the maximum WBA for this year, as previously stated, is \$298 per week and would have been \$320 per week had it not been for the limited increases agreed to in LB739. If the 100 percent of state average weekly wage standard contemplated in LB833 was implemented, when LB833 is fully implemented was in effect, the 2008 maximum WBA would be \$642 per week. The cost to the unemployment benefit system in LB833 are substantial. In calendar year 2007, the Nebraska Department of Labor pay a total of a little over \$88 million in unemployment benefits. Assuming a 2.5 percent annual increase in the state average weekly wage,

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which is historically accurate, and a continuation of the current insured unemployment rate of 1.1 percent, the amount of unemployment benefits paid per year under LB833 would increase by over \$34 million per year and taxes on employers will be increased by a like amount. I think there was a previous question from Senator Wallman as to how that would be paid for. Nebraska system is set up so we basically create a reserve fund so that we can pay for unanticipated economic downturns and then we look at the previous years amount of benefits paid and assessed and that's the base point for establishing the next year's tax rate. So if the taxes go up 34, or the benefits go up by \$34 million the system is established to increase taxes the following year by like amount. The cost would be much greater if there's a recession and the insured unemployment rate returns to historical recessionary period levels. The highest annual insured unemployment rate occurring each of the last four decades was 3.7 percent. in 1975 2.8 percent, and 1982 1.3 percent, in 1991, and 1.7 percent in 2003. Under LB833, beginning in 2013, each one-tenth of 1 percent increase in the insured unemployment rate will increase the amount of unemployment benefits paid by over \$14 million and almost \$15 million per year. Under LB833 an insured unemployment rate equaling the 1975 annual insured unemployment rate of 3.7 percent would increase benefits costs by \$385 million. As a reference point, the current balance in the Unemployment Trust Fund is just under \$250 million. Even using the 2003 recessionary period, IUR of 1.7 percent, LB833's formula would increase the amount of unemployment benefits paid by over \$88 million per year effectively doubling the amount of benefits paid this year and the taxes assessed on Nebraska employers. The costs contemplated in LB833 far exceed current costs and would be a marked departure from the LB739 compromise. I would respectfully urge the committee to indefinitely postpone LB833. [LB833]

SENATOR CORNETT: Any questions? Senator White. [LB833]

SENATOR WHITE: Thank you, Mr. Albin, and I'm very concerned about the cost but at the same time as I look through the chart that Mr. Mass handed out, we're in, I think, the lowest eight or nine states excluding Puerto Rico for benefits paid as we sit here today. And I look at the amount that Nebraska makes available and I compare it to my family, two kids, and our medical insurance which I pay both sides is \$1200 a month. We're not even providing benefits sufficient for somebody to maintain a COBRA plan if they lose their job. Does that...I mean, and that has consequences because folks lose their insurance, then they're in the hospitals, and we pushing expenses into other parts because they're uninsured. Is there anything you can suggest to us that allows us to offer better coverage for working people that lose their jobs so they don't face catastrophic loss of health coverage, loss of their homes, things like that? [LB833]

JOHN ALBIN: Well, Senator White, even the \$642 per week contemplated in LB833 probably isn't going to place a family with a \$1200 per month insurance bill under COBRA to the point where they can meet mortgage payments, grocery payments and

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pay that COBRA payment for health insurance. I think the statistics, although they're accurate, I'm not going to argue that accuracy of them as submitted by Mr. Mass are correct, they're misleading in two senses...in a couple of senses. One, Nebraska intentionally brought the payment down below the 50 percent level for this three...for actually for five years. The two years where it was frozen and the three years where we come out in order to avoid large swings in the unemployment insurance taxes that are assessed against Nebraska employers on top of everything else. So first of all, right now it's lower than it would be in 2011 because in 2011 we'll be uncapped again and moved back to the straight 50 percent of state average weekly wage. So I think his report's a little bit misleading in that sense. Accurate, yes, as to what it says, but misleading in the sense that it doesn't give you good national perspective. And then again, an index, Nebraska is always going to show lower on...maybe not always but at least has traditionally showed lower on in terms of the state unemployment benefit amount even now that we've become...even during the years that we were fully indexed at 50 percent of the state average weekly wage because Nebraska state average weekly wage is lower than most of the rest of the nation. I guess the thought process, I wasn't directly involved in the negotiations, but the thought process of the unemployment benefit amount when it went to 50 percent is that it should replace a certain percentage of your wages. And that 50 percent was chosen by that time, was chosen at that time, that would have been back in 1998 during the last year of the Nelson administration to go to the 50 percent. I'm not sure that you can ever put unemployment benefits high enough to replace all expenses when an individual becomes unemployed because they're an assist, but I don't think anyone's contemplated they're a total replacement for that wage and salary while you're fully employed. [LB833]

SENATOR WHITE: No, and I don't think they are but when our maximum benefit won't even maintain the COBRA cost, what I understand is about average for both sides of it, non the Cadillac insurance policy, that does give us some concern. I do have a, also a concern though, was their a deal struck that you felt bound the state, maybe not legally but at least morally in some sense, to leave these rates in place for a period of time when you mentioned 2011? [LB833]

JOHN ALBIN: Yes, that was the deal, was as I understood or the agreement as I understood it. I think Senator Cornett would agree that there was a...because the trust fund was in such bad shape in 2005, where it actually dipped below into the low \$60 million range before it was all over that April, that there were going to have to be some substantial tax increases to bring those, that trust fund back to a solvency level and the Legislature adopted the eighty-five hundredths standard as that solvency level. Part of that arrangement was that the employer community would absorb large increases in those first couple of years and then that the system would come off of the caps lightly and not more than an immediate impact because obviously there would have been another \$22 per week or thereabouts that would have...the amount would have jumped

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had it not been for the gradual release. We didn't want to get that huge influx of benefits in one year which would cause a large tax increase. The other, we wanted to come off of it gently. I mean, you can argue about whether \$10 per week was the correct amount or whether it should have been \$15 or whatever, but yes, there was an agreement and there was an understanding by both the business and most of the labor community that we would gradually come off of that fixed benefit rate before we went back to a completely indexed unemployment benefit starting in 2011. [LB833]

SENATOR WHITE: Was there an amount agreed that would be this gentle reintroduction to indexing? [LB833]

JOHN ALBIN: That was the \$10 per week cap. Originally the...the bill as originally introduced I believe capped it at \$10 per week as a maximum increase for forever and ever. Senator Beutler was quite concerned that would never get back to the 50 percent level that had been agreed to in LB225 back in 1998 and he offered a floor amendment to reinstate the 50 percent beginning in 2011 and it was adopted. [LB833]

SENATOR WHITE: Thank you for that. [LB833]

SENATOR CORNETT: Any other questions from the committee? Thank you. Further opponents? [LB833]

KEVIN BRITT: (Exhibit 12) Madam Chair, members of the committee. My name is Kevin Britt and I'm testifying in opposition of LB833 on behalf of the Nebraska Chamber of Commerce and Omaha Chamber of Commerce. I happen to be the manager of the Omaha office of a national unemployment insurance tax consulting firm, called TALX Corporation, and have worked with unemployment insurance systems in many different states over the past ten years I've been there. I think it's important to point out that the most states do index maximum weekly benefit amounts to keep pace with rising wages, cost of living increases in their states, and those states that do tie the maximum weekly benefit amount with their state average weekly wage, like Nebraska does, they set the maximum at between 50 and 67 percent of the state's average weekly wage. Nebraska, the Legislature has struggled with this several years ago and decided through negotiations with...led by Governor Nelson and the organized labor and the state chamber and other chambers of commerce employment interest to begin indexing like most other states have. And it was decided and settled on 50 percent, which is again fairly in line with the other states in the country. And by obviously, as evident by the bill, LB833 would make our maximum weekly benefit amount equal to 100 percent of the state's average weekly wage. There is no other state that does this. Just in comparison with some surrounding states, Iowa is set at 53 percent, Kansas is at 60 percent, Colorado 55, South Dakota is also 50 percent. As Mr. Albin had testified, this would increase our current maximum benefit of \$298 per week to over \$643 by January of 2013. And comparing that to other states, maximum weekly benefit amounts today, I

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know this is not, maybe not a valid comparison, but I think it bears some consideration, Nebraska would have the highest in the country if we fast forward five years from now and we were at \$643, we'd be higher than any other state in the country right now. Based on our state's cost of living as evidenced by our own state average weekly wage, this increase in unemployment insurance benefits is maybe not necessary, definitely not to this degree. Senator White had expressed a valid concern about people being able to afford insurance. It's my understanding that as a single person who is a state employee who has insurance through the COBRA after they've left the state, would pay about \$425 per week, or per month. So that you'd want...I'm not, you know, I don't know that's accurate today but that is the number that you might want to take a look at in comparison. This type of an increase would also remove the incentive there is for an unemployed person to get back in the work place, become re-employed. Most importantly, this bill would impose an extreme burden on the state's unemployment insurance trust fund and would require, I'm sure, large increases in the unemployment tax paid by Nebraska employers. After September 11, 2001, and the recession that followed, a lot of state's unemployment trust funds took a big hit. The result was many employers in Nebraska face big increases in their taxes. This was...the compromise there was to cap as Mr. Albin has testified about, cap and then control the increases to our maximum weekly benefit amount through 2010. But LB833 takes that away, all the hard work that was done back on LB739. This will...and the other thing to keep in mind, is that Nebraska cannot by law borrow from the federal government if the trust fund is insolvent. Other states can, we cannot. So if those increases deplete our trust fund, we're going to be in trouble and not be able to pay unemployment insurance benefits to those who need it. This not only affects those employers who actually pay unemployment tax but perhaps even more dramatically impacts the nonprofit agencies like the state agencies, HHS, Department of Corrections, school districts, hospitals, other municipalities who elect to self-insure for unemployment insurance. They don't pay the tax. They're reimbursing the state dollar for dollar for the benefits that are paid out to their former employees and a doubling, more than doubling of their cost in that respect, I'm sure they're not prepared for. Keep in mind that also that unemployment claimants are able to collect unemployment insurance benefits and work at the same time, albeit, at a reduced amount. So there is some opportunity there for those who are unemployed or maybe underemployed to make up some of the difference, you know, by working a part-time job if that is all they are able to secure. It's also important to, I guess, note that unemployment insurance is fully funded by employers. Employees do not have anything withheld from their checks that go to fund this so this is a significant impact on employers across the state. That concludes my remarks unless there are any questions for me. [LB833]

SENATOR CORNETT: Senator White. [LB833]

SENATOR WHITE: I do have a couple of questions. First of all, Nebraska's already a low wage state and we not pegged at this time in the 50 percent, correct? [LB833]

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KEVIN BRITT: We are not currently at 50 percent, correct, because of... [LB833]

SENATOR WHITE: What percentage are we right now in our maximum, do you know, of our average weekly wage? [LB833]

KEVIN BRITT: I can't do the math in my head but it should be \$320 but it's \$298. [LB833]

SENATOR WHITE: And can you tell me, you mention that there's a disincentive if we pass this law. Now, isn't it true even if we did go to 100 percent of average weekly wage, the only people that would get that are people who are making more than that anyway, correct? [LB833]

KEVIN BRITT: Who are making more than what? [LB833]

SENATOR WHITE: The average weekly wage. In other words, that's the upper cap. You don't automatically get that. [LB833]

KEVIN BRITT: That's correct. [LB833]

SENATOR WHITE: You don't get a raise ever by going on to unemployment, isn't that true? [LB833]

KEVIN BRITT: That's true. [LB833]

SENATOR WHITE: So do you really think there's a disincentive to be on...to go back to work? [LB833]

KEVIN BRITT: The one thing...the thing about the unemployment insurance system in Nebraska is that, the policy, the social policy behind unemployment insurance is to give benefits to people who are unemployed through no fault of their own. And in Nebraska even people who are at fault for their unemployment can collect, albeit, after a 12 week waiting period. [LB833]

SENATOR WHITE: And they get docked substantially if they're partially at fault. [LB833]

KEVIN BRITT: You're right. Not...well at fault, and... [LB833]

SENATOR WHITE: So then you think we're just being way too easy on these scallywags out there in the labor force, is that what I'm hearing? [LB833]

KEVIN BRITT: I'm not...no, no, the chamber would not say that. We are just indicating

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that there is already, you know, the ability for someone to collect benefits even if they've caused their unemployment. [LB833]

SENATOR WHITE: I do understand that, but what we're at right now is, we're not even at 50 percent which is the lowest of our neighbors and won't be if the compromise is honored until 2011, correct? [LB833]

KEVIN BRITT: That is correct. [LB833]

SENATOR WHITE: So basically, in the world of unemployment insurance, we're a huge bargain right now. Our wages are lowest, the amounts lower anyway and we're not even at 50 percent where any of our neighbors are, is that correct? Right now we're a low cost labor state. [LB833]

KEVIN BRITT: When it comes down to unemployment insurance benefits we are lower than our...50 percent, you know, of where our neighbors are, you are correct. [LB833]

SENATOR WHITE: Would there be any room for a compromise with the chamber where if, in fact, they started looking at moving towards indexing to average weekly wages sooner than 2011 but get rid of the 100 percent and those kind of really high-end, do you think the chamber might be more inclined to work with us on something like that? [LB833]

KEVIN BRITT: I don't have the authority to speak for the chamber in that regard. [LB833]

SENATOR WHITE: One other thing. It's not quite apples and apples to say a family cost \$1200 a month for insurance and a single person costs \$415. I don't know why we pick a single person on insurance when many, many people in the working world actually have families, do you agree? [LB833]

KEVIN BRITT: I do agree and I also note that so many of our families have two working parents. [LB833]

SENATOR WHITE: And I did note that and I was thinking about that when you said and the cost of living is lower here too but gasoline isn't any lower, health insurance isn't any lower. A lot of the big ticket items are the same are they not, almost nationally? [LB833]

KEVIN BRITT: Right, and Nebraska...Nebraska employers are already assisting their employees with insurance and... [LB833]

SENATOR WHITE: In many but not all cases, and I appreciate that, and again nobody here is out to get employers on this but on the other hand we need to balance and not

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have families completely wiped out if there's an economic downturn, don't you agree? It's not good for us if we have otherwise productive families driven into bankruptcy. [LB833]

KEVIN BRITT: That would not be a good thing. [LB833]

SENATOR WHITE: Thank you for your courtesy. [LB833]

KEVIN BRITT: Yes. [LB833]

SENATOR CORNETT: Senator Lathrop. [LB833]

SENATOR LATHROP: I do have, maybe a couple of questions. That unemployment compensation benefits there's...we really we have two things. One is the individual's average weekly wage which is 50 percent at present, and then we have a cap which is, will approach or someday get to the 50 percent of the statewide average. Increasing which of those two columns causes you the most heartburn? [LB833]

KEVIN BRITT: If the maximum just gets out to too high and out of control as going to \$642 in five years, more than doubling it within five years, that is extremely troubling. [LB833]

SENATOR LATHROP: So it's the statewide...it's the cap based on the statewide average, that going up which causes you the biggest concern? [LB833]

KEVIN BRITT: Yes. [LB833]

SENATOR LATHROP: That's all I have. [LB833]

SENATOR CORNETT: This is just for my own edification. As Senator White pointed out, that amount is only for the top dollar earners, am I correct? That you never profit necessarily by being on unemployment, correct? [LB833]

KEVIN BRITT: Well, correct. If you're only receiving currently 50 percent of your average weekly wage or ultimately under LB833, 75 percent of your own personal average weekly wage, you will always make less on unemployment than...although it's possible, I would have to run...again I'm not a mathematician but it's conceivable that someone might be able to make out better collecting some, partial unemployment insurance benefits and working at the same time. They may earn possibly more. [LB833]

SENATOR CORNETT: That wasn't where I was going, but thank you. [LB833]

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KEVIN BRITT: Okay. [LB833]

SENATOR CORNETT: When you look at unemployment trends, what is the largest dollar amount, I mean, not dollar amount, amount of people collecting unemployment, what pay range do they run in? I doubt that the people collecting, the largest number of people collecting unemployment are in that top dollar amount. Where do we see that? The lower end I assume? [LB833]

KEVIN BRITT: Yes, although it doesn't take, it doesn't take...you could be a...(laugh) I wish I had some numbers people behind me but I think that if you were earning \$10 an hour solid for a year, you'd probably be eligible for our current maximum. [LB833]

SENATOR CORNETT: Okay. I was just curious in your response that you were more concerned about that top number than adjusting the lower one to, in response to Senator Lathrop's question because I would have assumed it would have been more... [LB833]

KEVIN BRITT: They're both...they're both...he'd asked which one I was more concerned about and I'm concerned about both. [LB833]

SENATOR CORNETT: Okay. I would have assumed it was the other, rather than the later. Okay, thank you. [LB833]

SENATOR WHITE: On that last comment, \$10 an hour is 40 hour week is \$400 a week. How do you think you'd qualify for \$298 a week if our maximum at this time is 50 percent? [LB833]

KEVIN BRITT: Can I do the math quickly? [LB833]

SENATOR WHITE: Sure. [LB833]

SENATOR CORNETT: I want to say, it doesn't work out. [LB833]

SENATOR WHITE: Because I would think the maximum would be half of that, that's \$200 a week, or maybe I'm in error or... [LB833]

KEVIN BRITT: Well it may be more...I wish I had a calculator (laughter) but it may be more like \$12 an hour. It doesn't take a high level \$20 an hour job to hit our current maximum. [LB833]

SENATOR WHITE: No, but \$15 I think would do it. Fifteen times \$4600, half is \$300, we're at \$298. [LB833]

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KEVIN BRITT: Okay. [LB833]

SENATOR CORNETT: I'm sorry, we're not trying to put you on the spot on math. I mean I can see where it would be a problem. [LB833]

KEVIN BRITT: I understand. [LB833]

SENATOR CORNETT: Are there any further questions from the committee? Senator Wallman. [LB833]

SENATOR WALLMAN: Thank you, Senator Cornett. I notice here, like Arkansas, you know, they have, didn't have a length of any size here and a number of benefit, you think...and the number of dollars, here's \$30,000 where some are \$8,000, some are \$7,000 and I forget where Nebraska is at here. We're at \$1500 for twenty weeks or \$9,000. Do you think that would help if we increased that like to \$30,000, you know? [LB833]

KEVIN BRITT: I don't have Mr. Mass's handout so I don't know what exactly numbers you're looking at. [LB833]

SENATOR WALLMAN: Well, I don't want to put you with your calculator here. But I mean, it looks to me like we, the employers, I paid unemployment tax working for contractors in the winter. I'm a farmer but when I quit in the spring I never did get unemployment because they didn't fire me, I just quit. So I don't know if it's being abused or not but I mean I paid into this fund and somebody else might have used it, which is fine. And do you think that's happening much today? [LB833]

KEVIN BRITT: Well, employees aren't paying into it. Employers are. [LB833]

SENATOR WALLMAN: That's all. [LB833]

KEVIN BRITT: Okay. [LB833]

SENATOR CORNETT: Thank you very much. [LB833]

KEVIN BRITT: Thank you. [LB833]

SENATOR CORNETT: How many further opponents do we have? Please come forward. If you can, try not to repeat one another in your testimony. [LB833]

BRUCE BOHRER: Thank you, Madam Chair. On behalf of Lincoln Chamber of Commerce, Bruce Bohrer, for the record Bohrer is spelled B-o-h-r-e-r. I will be very brief and not repeat the testimony already provided by Mr. Albin and Mr. Britt. We just want

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to essentially register our opposition to LB833 as written for many of the same concerns already as has been mentioned and I would make myself available for any questions. [LB833]

SENATOR CORNETT: Seeing none, thank you Mr. Bohrer. [LB833]

BRUCE BOHRER: Thank you. [LB833]

SENATOR CORNETT: Next testifier? [LB833]

JERRY STILMOCK: (Exhibit 13) Thank you, Senator. Jerry Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of three of my clients, the National Federation of Independent Business, the Nebraska Bankers Association, and the Nebraska Pharmacists Association. I have testimony to hand out that was prepared for my colleague, Bob Hallstrom. I'm not going to read that other than to state our opposition by my three clients, our three clients. [LB833]

SENATOR CORNETT: Thank you very much, Mr. Stilmock. [LB833]

JERRY STILMOCK: Thank you. [LB833]

SENATOR CORNETT: Any questions by the committee? Seeing none, next opponent. [LB833]

JIM OTTO: Senator, my name is Jim Otto, O-t-t-o. I'm a registered lobbyist for the Nebraska Retail Federation and the Nebraska Restaurant Association and I'm here to register our opposition, the opposition of both associations to LB833 as written. First of all I'd like to apologize to Senator Lathrop because I try to tell a senator whenever I am going to testify against one of his bills and I didn't tell Senator Lathrop. So I apologize for that but I thought you might expect it. (laugh) Just a couple of things. First of all, Senator Wallman, you mentioned that, is there money being paid in that other people are using? Absolutely. That's one of the issues of the retailers and the restaurants in that you pay on the first \$9,000 or an employer pays on the first \$9,000 of wages, and if you are an employer who employs more part-time people, you will pay more for the same full-time equivalent job because you will pay on each first \$9,000. And in the case of restaurants and retailers, we have very few claims when you compare that to, for example, seasonal employers. So one of the issues, in fact one of the main issues, besides when we were talking about this compromise, and we had the trust fund going broke a couple of years ago, and all of these things were being brought up to us and all of us who represent business actually came to the table and said, okay, it's going broke. We realize we got to go to our members and we got to get more money but, you know, there needs to be an agreement on labor's side too. And labor did agree on that side also so we could together solve this problem of the trust fund. And that just was, I think,

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two years ago. Senator Cunningham kind of led that effort with great assistance from the Department of Labor. And all of us in the business lobby went back to our members, it's got to go up but this is the deal and in the long pull, at least we were able to say on the retail and restaurant side, it will be fairer. Presently we are paying too much of the cost because not enough of the cost was being paid by seasonal employers because of the maximums that were in statute. So this compromise is much fairer to all employers. Now, after we've got the trust fund in place, at least pretty solvent, we're coming back and changing the agreement. And you know, Senator White asked earlier, are we in fact changing...or what was the agreement, I mean I just point out line...the first one and then the rest of line 15 on page 2, I understood labor agreed to 2010. Now we're changing it to 2008. So as I understood that agreement as a representative going back to my members, I'm thinking, you know what, we're changing the agreement. So with that, I don't argue this incentive. I don't argue that people shouldn't get more. I think people work hard for their wages. I know it isn't enough but we addressed all these things a couple of years ago, and maybe we need to address them again but maybe not with such drastic measures. If there are any questions? [LB833]

SENATOR LATHROP: I do have a question and this was a question I was trying to find out frankly this morning which is a little bit of the history of the unemployment. You're talking that the compromise that was struck or the deal that was struck. You were a party to that or participated in that process and you're understanding was, is that what, nothing would happen with this until after 2010? [LB833]

JIM OTTO: No one said that but when we agreed to the date...in other words, did anyone say I'm not going to come back in next year and try to change that. No, no one said that but when we agreed to the date I thought we kind of agreed to the date. I guess I didn't even think about coming back and trying to change. [LB833]

SENATOR LATHROP: I just want to know if you feel like the labor folks who are interested in this are breaching an agreement they had with the business community. Is that going too far or do you think you were just assuming something. [LB833]

JIM OTTO: I think that's going a little too far but it's...I kind of felt that way but I would never really say that. I guess that's going too far. It was a little bit... [LB833]

SENATOR LATHROP: Too far to say that? [LB833]

JIM OTTO: Too far to say that, yes. [LB833]

SENATOR LATHROP: There wasn't an agreement that they wouldn't come in with something like this before... [LB833]

JIM OTTO: I would have to say they agreed to the bill as written. I'm not saying they...no

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one told me that they would never try to come back at a later time and change that bill, although I kind of...maybe I'm a little too naive. (laugh) [LB833]

SENATOR LATHROP: Well, we'll see if there's anybody else that shares that point of view. (laughter) Thanks, Jim. [LB833]

JIM OTTO: Thank you. [LB833]

SENATOR CORNETT: Any further questions? Seeing none, next opponent. [LB833]

KATHY SIEFKEN: Senator Cornett and members of the community (laughter) of the committee. My name is Kathy Siefken, S-i-e-f-k-e-n, here representing the Nebraska Grocery Industry Association in opposition to this bill, and I also apologize that I have to oppose your bill but there was an expectation when we were working on this back in 2005 that we...I was frankly surprised to see the bill. And there was an expectation that we would go until the date that we had already predetermined and so again, I was surprised. The thing is, when you see increases like this, business is just going to have to pay for that. The trust funds are going to be depleted and the costs of these increases will go directly towards...on the backs of the businesses that are the employers in this state and frankly when someone becomes...when you see layoffs and people become unemployed, larger numbers, you're seeing businesses trying to cut back so that they can survive. And when you start doubling their, the payments that they're going to have to make for their unemployment, it's going to take even longer for those businesses to remain healthy or to come back. So, you know, keep in mind what this is going to do to businesses if something like this passes. It's quite a burden. So with that, if you have any questions, I'd be happy to try to answer. [LB833]

SENATOR WHITE: Do you know, where's the trust fund right now? Has it recovered at this point? [LB833]

KATHY SIEFKEN: I think we're in pretty good shape at this point in time. [LB833]

SENATOR WHITE: 0.85 the number that was targeted? [LB833]

KATHY SIEFKEN: Pardon me? [LB833]

SENATOR WHITE: Are we at the targeted solvency rate right now? [LB833]

KATHY SIEFKEN: I thought we were at the targeted number, are we not? Yes. [LB833]

SENATOR WHITE: How long we been there, do we know? [LB833]

KATHY SIEFKEN: I think this is the first year. I mean we saw, businesses saw

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increases, substantial increases for two years and I think this the first year it's kind of leveled off. [LB833]

SENATOR WHITE: Okay. So your hope is that you'll go from now through 2008, 2009 and 2011 without any significant increases because you'll just have the rate sufficient to keep it at this level of solvency? [LB833]

KATHY SIEFKEN: My understanding is that it is a \$10 per week per year. I mean, there isn't a built-in increase that was... [LB833]

SENATOR WHITE: On what your rates are. [LB833]

KATHY SIEFKEN: No, on the benefits. [LB833]

SENATOR WHITE: On the benefits, okay. Okay, but that's not sufficient, then in 2011 you understood the deal was, that would come off and we could index back to the average weekly rate? [LB833]

KATHY SIEFKEN: Well, at that point, I think we talk about where we're going from there. [LB833]

SENATOR WHITE: Thank you. [LB833]

KATHY SIEFKEN: Okay. [LB833]

SENATOR CORNETT: Any further questions? Seeing none, thank you, Kathy. Next opponent. Are there any further opponents? Is there anyone here in neutral capacity? Seeing none, that closes the hearing, and thank you very much for attending today. [LB833]

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Disposition of Bills:

LB819 - Advanced to General File, as amended.
LB820 - Indefinitely postponed.
LB821 - Advanced to General File, as amended.
LB833 - Indefinitely postponed.

Chairperson

Committee Clerk