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Banking, Commerce and Insurance Committee
March 02, 2009

[LB606 LB637 LB657]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, March 2, 2009, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB637, LB606, and LB657. Senators present: Rich Pahls, Chairperson; Pete Pirsch, Vice Chairperson; Mark Christensen; Mike Gloor; Chris Langemeier; Beau McCoy; Dave Pankonin; and Dennis Utter. Senators absent: None. []

SENATOR PAHLS: Good afternoon. I think we will get started today. Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Rich Pahls. I'm from Omaha and represent the 31st District. I happen to serve as the Chair of this committee. This committee will take up the bills in the order posted, and they will be LB637 by Senator Mello; LB606 by Senator Karpisek; and LB657 by Senator Harms. To better facilitate today's proceedings, I ask you to abide by the following rules. For those of you who have been here for a few times, you know there's a little chart over there. Of course, the typical thing, turn off the cell phones. And we're going to ask you to move to the reserved...appreciate that...move to the reserved seats, so we have a feel of how many people are going to be speaking. And, of course, as usual, the order of testimony is the introducer which would be the senator, proponents, opponents, neutral, and closing. We're asking the testifiers to sign in and we have our little box up here. We do need that for you to fill out that form. If you are going to be here, not to testify over the mike, we do have a form sitting in the back of the room that you can sign if you want your name to be noted. Again, I'm going to ask you, even for those old-timers, I'm going to ask you to spell your name for us because I sort of use you as a model for the rest of the people so they know what's going on if they happen to be new. Again, be concise. Sometimes we all know that if we keep going on and on and repeating, we get lost, and that's why we're asking you to help us out there. The written materials, we need ten copies. If you do not have ten copies, wave your hand, and I will have one of our pages run them off for you. I see no hands waving, so I won't anticipate any surprises as we move down, okay? Just for the introduction, to my immediate right is Bill Marienau who's the legal counsel. Janice, Janet, or Jan...who are you today, Ms. Foster? It all depends on what word comes out that day, but anyway, I can tell just by looking at her, I can tell she doesn't feel well, so if she doesn't like what we're saying, she's just going to push that button, and she'll turn off the words, so let's be nice today. I'm going to have the senators introduce themselves, and we'll start over here. []

SENATOR UTTER: I'm Dennis Utter from District 33, Hastings. []

SENATOR PANKONIN: I'm Dave Pankonin, District 2, and that is most of Cass County, a little bit of Sarpy, Nebraska City, and Otoe County. []

SENATOR PIRSCH: Pete Pirsch, Legislative District 4, west central Omaha, parts of

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Douglas County, and Boys Town. []

SENATOR GLOOR: Mike Gloor, District 35, Grand Island. []

SENATOR CHRISTENSEN: Mark Christensen, Imperial, District 44. []

SENATOR PAHLS: And we have our two pages, Jared Weikum, over there; Jared is from Lincoln, and Rebecca Armstrong from Omaha. Again, we will start off with our first bill by Senator Mello, (LB)637, and I see the good senator is here. And I'll just have you come up and just so we get a feel--would you wave your hand if you are going to speak as a proponent? Okay, just so everybody knows: one, two, three, four, five, six, seven. Opponents: one, two, three, four. And neutral? Okay, so that will just give us a feel. The floor is yours, Senator. [LB637]

SENATOR MELLO: All right. Good afternoon, Chairman Pahls and members of the Banking, Commerce, and Insurance Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. I introduced LB637 to provide another tool for businesses to use in trying to control the rising costs of healthcare. Employers often see significant increases in their premiums, but don't typically receive useful information from the insurance provider on why their premiums have increased. LB637 would allow employers to request such information without compromising the privacy of the covered employees. LB637 would require insurers or other entities that issue group health benefit plans of 51 or more eligible employees to provide information annually that would include the total amount of claims paid, the total number of covered employees on a monthly basis by coverage tier, the major categories of expenses, and the total premium paid by month. Allowing companies to see the types of services most needed by their employees will allow them to develop an effective employee wellness plan. Employers are not asking for nor do they seek personal information on their employees. They simply want aggregate amounts paid in each category. General information such as knowing the amount of money that is spent on brand-name prescription drugs versus generic prescription drugs can help the employer educate their employees that utilizing generic drugs will lower healthcare costs for everyone. Some insurance companies have provided this information in the past. However, they no longer do so because it is not required of all insurance companies. LB637 would require this information to be available to policyholders that have 51 or more employees. Employers with less than 51 employees receive healthcare options on a different market than employers with 51 or more employees. Companies with less than 51 employees receive plan options under a guaranteed market system, a market that is not comparable to companies with more than 51 employees. Though LB637 would only provide aggregate information about what services are being utilized by employees, smaller companies would also face an increased risk for privacy violations. For these reasons, LB637 would require this information sharing only for larger employers. LB637 provides a pragmatic tool that could be used by companies to decrease their health

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insurance costs without negatively impacting the coverage their employees receive. As we see on an almost daily basis, the dramatic increases in healthcare costs are becoming an insurmountable burden to not only individuals, but to the businesses that provide insurance for their employees. I hope the committee will look favorably towards this legislation, and will take any questions. [LB637]

SENATOR PAHLS: Senator Mello, let me ask you a couple of questions. Are you solid on the number 51? [LB637]

SENATOR MELLO: I am. [LB637]

SENATOR PAHLS: And your intent is not to go below. [LB637]

SENATOR MELLO: No. [LB637]

SENATOR PAHLS: Because I'm just...the reason I'm saying that, because these are some of the issues that have been in the past. [LB637]

SENATOR MELLO: Um-hum. [LB637]

SENATOR PAHLS: And I see the bill has been enriched a little bit from the past on page 2, starting with lines 11 through 16, and a couple of other things have been added to this bill. And I know you don't have past experiences or...(laugh) and I understand that. The things I see different are just a few additions here, and I'm not going to ask you to speak to those right now but... [LB637]

SENATOR MELLO: Okay. [LB637]

SENATOR PAHLS: ...I see 51 has always been the breaking point between groups. [LB637]

SENATOR MELLO: Um-hum. [LB637]

SENATOR PAHLS: But your intention is not to go 51? [LB637]

SENATOR MELLO: No. [LB637]

SENATOR PAHLS: Okay, okay. And then like I say, maybe for the other people coming up, I'll have them address some of these issues. Okay. Any other questions for the senator? Are you going to be here for closing? [LB637]

SENATOR MELLO: I'm not. I'm going to waive closing because I have another hearing right now as well. [LB637]

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SENATOR PAHLS: We appreciate you bringing this forth. Thank you, Senator. [LB637]

SENATOR MELLO: Thank you. [LB637]

SENATOR PAHLS: Okay, now we are ready for the proponents, and like I say, we have six or seven. [LB637]

RON RAPP: (Exhibit 1) Senator Pahls and members of the Banking and Insurance Committee, my name is Ron Rapp, R-a-p-p, from South Sioux. By the way, Senator Utter, Mark says hi (laughter). I would like to offer information for your consideration about (LB)637. We work on a daily basis with employers providing employee benefit plans for their employees. Most of these plans are group health plans, and LB637 deals directly with these plans. The bill would provide a very valuable tool to help these employers shop for benefit plans. Currently, to obtain a creditable proposal from another insurance company, he or she must provide health information on each employee. The employer must protect that information or violate HIPAA. LB637 would eliminate this time-consuming procedure, because the disclosure of the experience data as provided by the bill, an employer or his or her broker can obtain creditable proposals from other companies. The bill, however, would not provide this tool to the bulk of Nebraska employers in its introduced form. As introduced, the bill applies to employers who have 51 or more covered employees. In our office, only 10 percent of our customers would benefit from this legislation. Of the entire membership of the South Sioux area Chamber of Commerce, 13 percent would benefit. I would urge the committee or its introducer to amend the bill and make this data available to employers with three or more covered employees. Once amended, I would urge the committee to send a useful (LB)637 to the floor. [LB637]

SENATOR PAHLS: Do I see any questions? Senator Utter. [LB637]

SENATOR UTTER: Mr. Rapp, have you given any consideration as to what the additional cost might be to the insurance companies of assimilating and providing this information, and is that something that you think will likely raise healthcare costs? [LB637]

RON RAPP: I would suggest not, Senator Utter. It would not be an onerous situation, because when you get into the smaller employee and smaller employer market, companies pool these employers into pools, creating a larger number to work with, and they're tracked individually; they're tracked individually. Matter of a couple of keystrokes as far as I would be concerned. That information is there. [LB637]

SENATOR PAHLS: Senator Pirsch. [LB637]

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SENATOR PIRSCH: In what way would an employer become more aware of their employees' health information from where it stands now, where if you're 51 to 100, you don't have that go under this plan? What changes? [LB637]

RON RAPP: In the market that we're now in, in the smaller employer market which I work in every day, Senator Pirsch, the employer gets an annual renewal notice. And most companies will provide maybe one or two options to that proposal, and for the employer to go out and get a credible proposal. I can go get proposals all day long, but they aren't worth the paper they're printed on until the other companies know what's going on within the group, and that's what (LB)637 would tell us. [LB637]

SENATOR PIRSCH: Is the word "creditable" mean binding then? I mean, is that binding (inaudible)...? [LB637]

RON RAPP: Usually they're with...yeah, they're within 2 or 3 or 4 percent. [LB637]

SENATOR PIRSCH: Okay. [LB637]

RON RAPP: Now what I mean by that, sir, is I present a proposal from Mutual of Omaha. They're not in the business, of principal, to your firm with the information. If you do, in fact, choose to exercise that purchase right, those rates that I had given you in the proposal are going to be pretty darned close to the ones that the company actually assigns to that group. [LB637]

SENATOR PIRSCH: Thank you. [LB637]

SENATOR PAHLS: Senator Langemeier. [LB637]

SENATOR LANGEMEIER: Chairman Pahls. Thank you for your testimony, doing good. Interstate insurance...do you work in other states then? [LB637]

RON RAPP: Iowa and South Dakota and Nebraska, sir. [LB637]

SENATOR LANGEMEIER: Do the other states offer this? [LB637]

RON RAPP: Texas is the legislation we modeled last year's (LB)1002, as I remember. Texas legislation, that is, in fact, in place and up and running, and has been for two years. Iowa has similar legislation; we're working on it. [LB637]

SENATOR LANGEMEIER: Okay, thank you. [LB637]

SENATOR PAHLS: Senator Christensen. [LB637]

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SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Thank you, Ron. Your last statement there says, once amended, I urge you to move to the committee. If it's not amended, do you not like the bill? [LB637]

RON RAPP: Won't do us any good, Senator Christensen. [LB637]

SENATOR CHRISTENSEN: Well, I know it affects about 10, 13 percent from what you said. But, so you would become an opponent then or just...? [LB637]

RON RAPP: Nonissue as far as I'm concerned, sir. [LB637]

SENATOR CHRISTENSEN: Nonissue, okay. [LB637]

RON RAPP: Because that...like I said, that doesn't help. I work in the market where the hardware store has got seven employees, and the elevator has got ten, and the on and on and on. Those are the markets I work in. [LB637]

SENATOR CHRISTENSEN: Okay, thank you. [LB637]

SENATOR PAHLS: Senator Gloor. [LB637]

SENATOR GLOOR: Thank you, Chairman Pahls. Mr. Rapp, armed with this information for a very small employer, what's to keep an employer from retaliating against the employee that clearly must be the one that has these high diagnostic and treatment costs? [LB637]

RON RAPP: Not being an attorney, sir, I would suggest that would be...that would be (laugh) dynamite to play with; discriminations all over the place. [LB637]

SENATOR GLOOR: I don't imagine the employer would be dumb enough to say I'm letting you go because of this but... [LB637]

RON RAPP: No (laugh). [LB637]

SENATOR GLOOR: ...when I talk about retaliation, I'm talking about looking for reasons that somebody would be let go, because of the seven people, it must be that when you were gone for this particular procedure, you're the one that drove up these costs for us. I'm just...I could see a protection in larger numbers, that being 51 or greater. That disappears, I think, when you get into small, small groups, and so I...it's just a concern I would have. [LB637]

RON RAPP: Yes, sir, Senator, I would agree on the one hand. On the other hand, sir, the bulk of these employers that I work with, with the 10 and 12, 6, 8, they're almost

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family. They're almost family. If one of the guys gets sick, they do anything possible to cover for him, double up, do his work, on and on and on, because they're almost...like I said, it's too small to...there's no nameless, facelessness. It's almost...it's almost a family when you get into smaller businesses. [LB637]

SENATOR GLOOR: That doesn't reassure me given our healthcare costs and insurance expense. I think I might let my mom go if I knew she was the one driving the costs up. (laughter) [LB637]

RON RAPP: Well, as I said, this tool that the bill proposes to create, will be of limited usefulness, and the reason that it would be of great value here, as I responded to, I think Senator Langemeier's question. Insurance companies put the small employers into pools. Blue Cross's pool may not be as good as Principal's, as Assurance, as Aetna's in the Nebraska area I happen to work in. So this would give the employer the opportunity to seek out who's got the best pool. [LB637]

SENATOR GLOOR: The reference to associations, I'm assuming is reference to associations that provide insurance pools. [LB637]

RON RAPP: Insurance companies. [LB637]

SENATOR GLOOR: Yeah. Well, I think the reference specifically were association groups. Okay. [LB637]

RON RAPP: That's in essence what happens. [LB637]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony. And, apparently, we're ready for opponents, because I see nobody up in reserve. If you want me to run this committee, I need to know, so help me out. Thank you. [LB637]

MARTY FATTIG: (Exhibit 2) Senator Pahls and members of the Banking and Commerce Committee, my name is Marty Fattig, M-a-r-t-y F-a-t-t-i-g, and I am the CEO of Nemaha County Hospital in Auburn, Nebraska. I am here to support LB637 which requires that health insurance companies provide claims information to insured groups of 50 or more insured employees. Nemaha County Hospital is a small rural hospital located in Auburn, Nebraska. We employ approximately 100 people and about 70 of those employees participate in the employee health insurance program. We are acutely aware of the high cost of healthcare because every year, the cost of providing health insurance for our employees and their families continues to increase. We have experienced increases of 20 to 40 percent over the last few years, and only in the last year did we have an increase of only 9 percent, which we just were thrilled with. The problem we have is that our health insurance company is not required to provide us with claims data, because we have less than 100 employees covered with our health

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insurance plan. We have no idea of what the increase...if the increase in costs are justified. We merely have to take their work for it and pay the increase, or go look for coverage with other companies. In 2007, we had a health insurance coverage with a company that did provide us with claims information, and I have included a copy of one of those reports...both an annual report and a monthly report in the packet of information I have provided to you. As you can see from this information, it was extremely useful in helping us to evaluate our health insurance usage and predict the premium for the coming year. You will also note that there is no patient's specific information in this report, so maintaining the privacy of the employees being treated is not an issue. This company has since quit providing this information, because they're not required to do so. We all know that health insurance companies are collecting this claims data. We only ask that they provide us the data, so that we can make informed decisions. Why should small companies such as ours be entitled to the same information as larger companies? We certainly don't pay lower rates for our coverage. I would also add that we...in addition to the claims information that I have provided, we used to get a quarterly report that broke down where the big buckets in our money was being spent in, whether it was for prescription drugs, outpatient care, inpatient care, and so on down the line, which really helped us then define where our needs were, what we needed to provide for our employees in the form of employee wellness or education, and so on. [LB637]

SENATOR PAHLS: Marty, I have a question. Have you been with the same health insurance company for a period of time? [LB637]

MARTY FATTIG: We have not. We are with a different company than the one who has provided this report that I'm showing you. [LB637]

SENATOR PAHLS: Oh, okay. I'm just curious. Do you stay basically with the same coverage...or health company? Have you done that traditionally? [LB637]

MARTY FATTIG: We try to, and when we were getting a 45 percent increase, we had to do something, and we did. We changed companies. [LB637]

SENATOR PAHLS: Okay, and I hear the number 50 is satisfactory with your...because I... [LB637]

MARTY FATTIG: It is okay with me, and I have some of the same concerns that Senator Gloor has with keeping things private when you get too low a number. Even in an organization our size, it is a concern. If the human resources manager would get this information initially, if there's something there that is revealing, you know, something that's totally out of line, you know, somebody went to Mayo's for a procedure, and we see on the report here that Mayo's has a \$60,000, you know, claim. We would remove that before sharing that with other managers. [LB637]

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SENATOR PAHLS: Okay, Senator Pirsch. [LB637]

SENATOR PIRSCH: So under this bill then, it would allow you to look at who...the use of generics in the aggregate and inpatient versus outpatient? [LB637]

MARTY FATTIG: Yes. We did in the past. Now I don't believe there are some of those things that are called for in this bill. Those would certainly be helpful if they're not in there at this time. [LB637]

SENATOR PIRSCH: Okay. Well, that was my...and perhaps somebody else can address that, if it is imbedded in that or if that's just something that you'd like to propose as an amendment. Is part of the concept that you're coming forth with, is that greater transparency would lead to more competition? Is that part of it, or do you just want to know the subcomponents because that helps you to manage here? In other words, it puts you in a more competitive...on a better plane...essentially, doesn't this reveal profit? [LB637]

MARTY FATTIG: It certainly does. [LB637]

SENATOR PIRSCH: All players in the market then show their profit? With those on the table then, you can say, you know, you have perhaps leverage to say, we are competing. Who wants to...whereas in the past, you can...you competed under a kind of an atmosphere where you didn't know what the profit margin was. [LB637]

MARTY FATTIG: You don't know what the profit margin is, and you do not know if, in fact, you are being asked to help cover part of the expense that they incurred with another group. You know, if you receive claims information for your group and your claims were, you know, 50 percent of premiums,... [LB637]

SENATOR PIRSCH: Um-hum. [LB637]

MARTY FATTIG: ...you shouldn't be getting an increase. [LB637]

SENATOR PIRSCH: Okay. [LB637]

MARTY FATTIG: If they're 120 percent of premiums, you're most definitely going to get an increase. [LB637]

SENATOR PIRSCH: I see. I was trying to break down in my mind what the reason was, where it was adjusted, give you subcategories that tells you a little bit in the aggregate about your people, (inaudible)...do a better job with generic (inaudible)... [LB637]

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MARTY FATTIG: It does that as well. [LB637]

SENATOR PIRSCH: Okay, so both are important facets. [LB637]

MARTY FATTIG: Yes, absolutely, absolutely. [LB637]

SENATOR PIRSCH: Okay, thank you. [LB637]

SENATOR PAHLS: Senator Pankonin. [LB637]

SENATOR PANKONIN: Thank you, Chairman Pahls. Thanks for attending today, and helpful information. The small employers, small health plans as well, and, obviously, these are always issues. Question for you since you're in the business. I also sit on the Health and Human Services Committee, and Senator Gloor does as well. We have a bill there that has something to do with more detail on hospital billing, more transparency, more detail. It hasn't been up before us yet, so I don't have all the particulars, but how does this relate...I mean you want to see more detail. Are you familiar with that bill, and how do you feel about that? [LB637]

MARTY FATTIG: I am, and I am a proponent of transparency. I believe we, as healthcare providers, have nothing to hide. I also believe that an educational program is in order, because comparing our hospital against the Grand Island hospital may not be apples to...may not be apples to apples. There is some education that needs to take place here so that consumers can evaluate us, and I welcome them to do so. I have nothing to hide. I think we in healthcare need to be transparent. We are, you know, 16 percent of the gross domestic product. Why shouldn't we be transparent? [LB637]

SENATOR PANKONIN: Thank you. [LB637]

SENATOR PAHLS: Senator Pirsch. [LB637]

SENATOR PIRSCH: Just one quick question. And your opinion on whether this statement is true or not, that with 51 employees as opposed to 101 employees, that it is...you either agree or disagree that it's easier to diagnose who, amongst the group, has some sort of...if we're when we're predisposed not ethically honest, would it be substantially easier in a group of 51 to identify that outlier as opposed to 101? [LB637]

MARTY FATTIG: Well, I mean, statistics would tell you yes, that it is easier. Is it enough, easier to be a problem? I don't believe it is in our organization. I can't tell you that it's not a problem and it wouldn't be a problem in other organizations, but I trust that people in my position in HR director positions, who had received this data, should be ethically responsible enough to not reveal that information should it become available, you know, apparent. [LB637]

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SENATOR PIRSCH: Very good. Thank you. [LB637]

SENATOR PAHLS: Senator Gloor. [LB637]

SENATOR GLOOR: Thank you, Chairman Pahls. Marty, have you tried to do a little more dissecting on this information? Would it be available if you wanted to take a look at MRIs or CTs, or if you really wanted to try and drill down and find out whether the cost associated with certain diagnostic procedures had skyrocketed as a result of an imaging center being built on the outskirts of town or anything of that sort? I mean, have you looked at that? [LB637]

MARTY FATTIG: Senator Gloor, I have. My thought is, let's get this in place, and then see where we can go with this. Once we start receiving data, maybe we can ask for more when people realize that it...you know, especially the insurance companies realize that it's not a major issue. I mean, they're collecting the data anyway. Let's give it to the people who can use it, and then maybe down the road we can do some of these things to start drilling down. [LB637]

SENATOR GLOOR: Okay, thank you. [LB637]

SENATOR PAHLS: Appreciate...oh, Senator Langemeier. [LB637]

SENATOR LANGEMEIER: One quick question. Thank you, Chairman Pahls. You talk about having the data on here, and reviewing these losses. What's an acceptable profit level for the insurance companies? [LB637]

MARTY FATTIG: The agent that I work with tells me that if you take your claims data versus your premium data, you should have a margin of 20 percent. And part of that is administrative costs, you know, it's not profit; it's administrative costs. And then how well they run their business determines how much of that 20 percent they spend for administrative costs, and how much they keep as profit. [LB637]

SENATOR LANGEMEIER: Well, would that 20 percent then cover the fatal heart attack claim of \$100,000? I mean, you don't have a lot of big claims in this example you gave us. But one big claim. [LB637]

MARTY FATTIG: One big claim, you know, could put you over the top. Again, you know, we're paying in...our organization pays in about \$45,000 a month in health insurance costs. So it's not the big claims that get us so badly; it's the ongoing things that really chew it up. [LB637]

SENATOR LANGEMEIER: Thank you. [LB637]

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SENATOR PAHLS: Senator Utter. [LB637]

SENATOR UTTER: Thank you, Chairman Pahls. Mr. Fattig, is it your contention then as an employer and a user of health insurance, that this...having this information would make the bidding process more competitive and could actually lead to lower health insurance costs? [LB637]

MARTY FATTIG: I don't know that it will lead to lower health insurance costs, but it will justify the increases. Right now I have no way of knowing if an increase is justified or not. I had an experience in our organization where we did. Our claims were more than the premiums we had paid in that year; we had some bad experience. We knew, because we were receiving this information, that by the middle of June, we knew we better be budgeting some more money to put it...for employee health insurance for the next year, and it was justified. [LB637]

SENATOR PAHLS: Appreciate your testimony. [LB637]

MARTY FATTIG: Thank you. [LB637]

SENATOR PAHLS: Next proponent? [LB637]

JUDITH HAYES: (Exhibits 3, 4, and 5) Mr. Chairman, members of the Banking, Commerce and Insurance Committee, and I'd like to thank Senator Mello, too, even though he had to leave. My name is Judy Hayes. I'm the VP of human resources for SAC Federal Credit Union which is a small to mid-sized financial company with locations throughout the Omaha metro area. I am really here today not only representing my company... [LB637]

SENATOR PAHLS: Could I just have you spell your name? [LB637]

JUDITH HAYES: Oh, H-a-y-e-s. [LB637]

SENATOR PAHLS: Okay, thank you. [LB637]

JUDITH HAYES: I'm representing not only my company and our employees, but also on behalf of other businesses and organizations of similar size throughout the state of Nebraska that provide healthcare plans for their employees. I'm here today to support the passing of this legislation, and I did work with this a little bit last year, to require the disclosure of information by issuers of group health benefit plans to provide Nebraska businesses with information regarding the claims paid and the amount of premiums a little bit by line of coverage. Nearly two years ago, I did speak with Senator Pahls about introducing legislation in Nebraska similar to what many other states have passed. This

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bill was discussed last year in 2008 with support for many employers and brokers who work with healthcare plans, especially the medical is the high-cost item. I would like to thank Senator Mello for submitting this bill for this legislative session. I greatly appreciate all of your time, and am here today to request your support and help for employers and companies. I'd like to address my involvement and the need for this from the employers' standpoint. I've worked in HR and benefits for almost 20 years, and healthcare costs continue to spiral upward, often with double digit premium increases yet employers are obtaining less and less information. Like many Nebraska businesses, my company provides healthcare insurance for their employees and families, and currently, we have about 75 on our plan. In doing so, we try to give employees the best plan we can while trying to keep healthcare costs down as much as possible for both the employees and our business. The benefit is very dear to the hearts of many employees, and they look to our management team to provide the best benefit plan possible, make the right decisions with their premium dollars, and at an affordable cost. Our goal is really to build a better partnership with the insurers, our brokers, and all other employers. Companies utilize a broker to assist them in finding an insurance carrier to provide the best group benefit plan. Right now, no information is required to be given to the employer if they have less than 100 employees insured on the plan by the insurance carriers. Each year when it is time for renewal, employers wait for the shocking message. Again, we usually only hear from the insurer once a year at renewal time via our broker. Here is the double digit renewal cost to keep your plan next year--premiums are increasing substantially unless you want to change your plan designs. Oftentimes these increases result in making changes to our plan, such as increasing the deductibles, the coinsurance, the copays, or even maybe reducing benefits. For example, we went in one year from a \$250 deductible to \$1,000 for single and \$2,000 for family, just to keep the plan more affordable. This was great because we have...that did reduce our rate for that particular year, but the next year we were hit with another 12 percent increase. We also started implementing some reimbursement in that and found that they were not even meeting their deductible. The next year, we had no data again to justify that 12 percent increase. How many employees can continue to afford that type of change each year? Because we are a company with fewer than 100 lives on our plan, no insurance is given to us. Our insurance carrier gave us absolutely no figures. This is happening to companies all across Nebraska. We have no idea where the money is going. My question is, how many businesses would pay out \$100,000; \$200,000; \$300,000 or even more for a service, and have no idea how the money is being spent. Wouldn't there be some type of receipt or itemized list of at least what categories on where it was spent? How does one justify 8 to 18 percent to 24 percent or more increases without any data or facts? This is all what we are asking for--some accountability, expense and claim general information, what amount is going for administrative costs. In addition, we would much rather put this money into preventative and wellness programs, but we don't even know which areas to target without the data. Obtaining information is a business necessity. We can't manage what we can't measure. Employers that have over 100 employees' lives on their plans are

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able to receive information. To add to that, I've even gone back with dependents; we had over 100, and they still wouldn't give us the information. Insurers are also provided companies who have self-insured plans information and data because they're reimbursing that insurer for claims on a monthly basis, so we're in a Catch-22. Employers just want to have some of the basic information also, not be penalized just because they have under 100 employees on the plan. We essentially have no facts or information to justify these increases or plan designs. Brokers are unable to obtain any information either and, therefore, we feel we have no control over the expenses of our healthcare plans. As HR professionals, then we have to also explain to our management team and employees that costs will go up again for them. We often hear we're doing everything right, or we're doing what you can, but then the premiums increase again the next year. It makes it extremely difficult to look or compare plan designs or insurance providers either. The response is often that insurance and providers must be making a large profit at the plan's expense, because we don't have that information. It is much easier for employers and managers to understand if they at least have an idea that the claims versus premiums ratio is what is causing some of the increase. They may not like it, but they'll understand it better. The lack of information makes it difficult, if not impossible, for employers to design plans or wellness programs that can benefit their employees and target issues that would actually help reduce healthcare costs. We would much rather utilize those health plan dollars, not only for general coverage, but for prevention and wellness to our employees so that they can live healthier and ultimately help keep healthcare costs down for everyone. Kind of to add into that, we were with our company for ten years. We switched this year, because we were not getting any information, and our rates were continuing to go up. We also knew that our employees were not having large expenses, because they weren't even hitting deductibles. Interestingly enough, when we did go to negotiate, they started out 12 to 15 percent increase, and they were willing to go down to 5 by the time we were willing to switch, which is kind of interesting. As far as like what kinds of information we would like to know, for example, if we knew a large part of claims were for brand-name drugs, we could educate our employees to request generic whenever possible. However, if we have no information, and we're throwing education dollars on generic drug education, and 95 percent of them are already doing that, that's a waste of time and money. Are we continuing to raise deductibles to reduce our premium costs, but in actuality, only a couple of employees are even reaching that? Are they utilizing the networks? Perhaps instead, employees' claims are really more in the area of copays for office visits or prescriptions or maybe chiropractic care. Our planning and dollars could be all in the wrong areas. I've included a listing of some of the information that would be extremely helpful for plan administration. And, again, this does not have identifying information. A 36-month history would provide a good overview for planning, particularly if you have a couple of good years, and then maybe you have a bad year. The bill was revised to include plans with 51 to 100 insurers as requested in November at that hearing. For smaller sized companies, the insurer could still provide basic data in order for them to understand their plan expenditures. Recently, there was an article in the

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World-Herald about the bill. Unfortunately, employers were not appeared to be interviewed for their side of the story. One of the questions dealt with was the privacy issue which several questions have come up today on that. Employers do not want individual identifying information; they only want numbers and dollar amounts, and categories of where the premiums and claim dollars are going, and to help with plan design and wellness programs. The arguments that companies will drop individuals with high claims may not really reduce costs, and, hopefully, ethically, they would not do that. There would be issues with discrimination under American Disabilities Act, continued employer coverage would still be available under COBRA if they fall into that category from anywhere from 18 to 36 months. And the President has just passed a subsidy program for COBRA to even make it more affordable for those that are not even no longer on the company's payroll. Therefore, they would be more likely to elect it. This will not necessarily reduce the amount of claims paid, it only extends the time period. Ironically, if small employers now want to switch carriers, they're required by the insurers to obtain health history questionnaires from their employees in order to price out the plan. If the basic claims history and information were available, which it is, this would not be required. Employers would much rather stay with their carriers if they're getting good service and good information. Out of desperation, they often must change. In addition, if they obtain health history questionnaires from a human resource standpoint, now I'm really getting more information than I want. I don't want to see that. Second, employers are now asking via surveys to their employees. How many of you have met the deductible? What can you afford? Did anyone hit their maximums? What are your needs? Employees also have to provide some claim information if they participate in reimbursement plans, or as part of wellness programs, the insurers or other contracted companies offer, they request health-risk assessments before starting. This oftentimes is an additional cost to the employer. They offer to provide a report of your most high-risk areas for education and wellness efforts. Insurers could provide this already as part of our benefit plan, because they have the information. Fully insured plans are also required to follow state mandated expenses. We're not given information on what these are, and how much they're costing our plans. Again, we only want to know how to best plan our expenditures. If expenses continue to climb, small business employers will have to make some choices--payroll or healthcare? Many plans are becoming unaffordable to employees, and they may drop their coverage. Some of these employees would also be the healthiest which are needed to prevent adverse selection. This is what's called the death spiral. It leads to more uninsured and perhaps more that would be going on the state CHIPS program or Medicaid/Medicare programs. Companies would much rather be able to retain their employee group health plans by working with the insurers, providers, and our brokers. By obtaining information, we can all better provide good plan benefits. Again, our goal is to build a better partnership with insurers and our brokers. I visited with other companies through the HR association and I found, too, they're facing the same problems as we are. Everyone is extremely frustrated, the brokers and the employers alike. Some of my discussions have included also talking with insurance carrier representatives. They would be willing to provide

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reports and claims information, but only if the other insurance carriers do it also. Unfortunately, this will require legislative action. It appears that without a legislative bill, there will continue to be a lack of support from most of the group benefit providers. I think most of us agree that a partnership would enhance the ability for us to design programs and plans for wellness and preventative measures, and to better control costs for healthcare plans. Businesses our size, especially with fewer than 100 lives on their plans, are asking for your help. Iowa and Texas are two of several states that have bills requiring this information to be provided to businesses. They include plans, also medical, dental, and vision. I have included what I believe Mr. Marienau did last year with the research on some of the different states. And as you can see, there are a lot of states that have this. Again, please note, that to a smaller business, mid-sized company, paying out \$100,000; \$600,000; \$700,000 towards their healthcare employee plans. Although this may not sound like a large amount, for a small-, mid-sized business it is a large amount to spend and a huge budget item without much accounting or reporting data to support it. Again, I want to thank the committee for holding the hearing and appreciate your support. I urge the introduction of this legislation and the passing of the bill. There are several other businesses that indicated to me that they were unable to be present today to testify. I'd be happy to answer any questions the committee might have to air in the future. [LB637]

SENATOR PAHLS: Senator Christensen. [LB637]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Thank you, Judy. If you got the total gross number from the company, what you spent and received back, would that be enough or does it need to be as detailed as some of these...each individual visits? [LB637]

JUDITH HAYES: I would like more detailed information which is why we spelled that out, and also why it's included in Senator Mello's revision to the bill. Because if...for example, we pay out \$350,000 a year in premiums, and they come back and they say, \$250,000 of it or \$200,000 of it is in claims. That's better than what we're getting right now, but it still doesn't tell me where our major expense areas are, where should I be targeting education and wellness? Where should we make plan designs? If employees are doing what they want...need to do as far as good preventative care, and if it's office visits and maybe it's one large claim, we understand that. We also understand the insurance companies need to make a profit. But without having any information, we're writing a blank check, and that's what we've been doing in the last...I used to get the information--in about 2003, 2004 they stopped giving it to me. [LB637]

SENATOR CHRISTENSEN: What...if you was given the total premium in and payout in the top five categories or ten, would that do it or does it have to be detailed? I guess what I'm getting at, that privacy...? [LB637]

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JUDITH HAYES: Well, I'm probably asking for more than what I'm going to get, but the top five things, yes. But I think if you can break down like the percentage of prescriptions. How much of that is going to prescriptions? It used to be under 10 percent was great. Now we have no idea how much is going to that. But it would be helpful if we knew that...if they're all using brand prescription drugs, then we need to target some wellness to get them in generic. But if they're already doing 90 percent of that, why spend money targeting generic drugs? They're doing it; they're targeting that on their own. So, yeah, I think some of the major categories--prescriptions, are they doing preventative office visits? Are they getting their checkups? Did we have a major claim? Okay, we understand that. What are the major areas? Is it respiratory? Is it cardiology? What should we be targeting? Right now we...it's just a gamble. [LB637]

SENATOR CHRISTENSEN: One more. On the privacy, is there any different information, in your opinion, comes to you if you look over everybody's applicant? You can see their history versus... [LB637]

JUDITH HAYES: I know, I don't want that (laugh). [LB637]

SENATOR CHRISTENSEN: ...versus finding out what your claims were in each department without a name on it, you almost have identical information, don't you? [LB637]

JUDITH HAYES: No. What we're wanting is out of that \$300,000, how much is the total claims paid? Out of the total claims paid, were they utilizing office visits? Were they utilizing preventative care? How much went to prescriptions? We're not wanting to know who did it... [LB637]

SENATOR CHRISTENSEN: I under... [LB637]

JUDITH HAYES: ...we want to know where the bulk of the money is going, the buckets of money. [LB637]

SENATOR CHRISTENSEN: I understand. I'm going back to the privacy side of this. If people are concerned on small groups, that you're going to be able to pinpoint an individual, if I decide to switch companies, I can pinpoint them anyway. So what value is this... [LB637]

JUDITH HAYES: If they're... [LB637]

SENATOR CHRISTENSEN: ...because I fill out an application, seems like, every year we're trying to save money in a group insurance. So as soon as I fill that in and send it in, my employer knows exactly what I've been spending or having major problems on. What's the privacy issue? It's already out there. [LB637]

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JUDITH HAYES: Right, but it didn't used to be that you had to do those health history questionnaires. When we...if we had the claim information...if our broker had the claim information, and we decided to shop and go out to other insurance carriers, and they had some of this basic claim information, the new insurance company--that's all they want to know. They want to know what your loss ratio has been, and if we have two or three years' worth of that, it gives them a pretty good picture. They would be able to say, okay, out of that \$350,000 this is what your claims history has looked like dollar amounts or percentage amounts. They may not have to ask for all that health history questionnaire. This is the first time we've had to do that. [LB637]

SENATOR CHRISTENSEN: Okay, thank you. [LB637]

SENATOR PAHLS: Thank you for your testimony. Next proponent. And again, I'm going to say, if we've heard some of the testimony, please try to be...give us new information, if possible. Thank you. [LB637]

ANDIE GORDMAN: (Exhibit 6) Mr. Chairman and members of the Banking and Commerce and Insurance Committee, my name is Andie Gordman. It's A-n-d-i-e G-o-r-d-m-a-n. I'm the vice president of human resources for the Metropolitan Entertainment and Convention Authority, otherwise known as MECA. We operate the Qwest Center Omaha, the Omaha Civic Auditorium, and the Omaha baseball stadium. We employ 80 full-time employees and 400 part-time and casual employees, and those 80 employees are eligible for our benefit plan. To a point, Mr. Chairman, I'm going to skim through because some of this has already been said. But I really appreciate the opportunity to speak with you today. This topic is very timely to us. We are in the process of going through our insurance renewal right now. Our plan renews on May 1. As everyone else has said, I continue to watch the claims go up, and the information lessen, and we struggle very much to provide a reasonable plan to our employees with reasonable costs for the company. MECA has been in existence for eight years, and over that time, we have partnered with the same medical provider, and over that eight-year partnership, we have paid that provider almost \$3 million. At renewal time every year, we have a back-and-forth negotiation about the percentage of increase to our premium, and during this conversation, we are not provided with any cost or claims information to help us understand their number. In 2008, that carrier provided us or presented us with a 16 percent increase to continue our current plan. After reviewing trends in the industry, our budget and proposals from other carriers, we did decide to stay with that carrier, but had to introduce a higher deductible and coinsurance to our employees. Due to these plan design changes, we did lower the company's medical premiums. However, our employees experienced an overall increase of out-of-pocket costs which...and they were really not prepared for that. In February of this year, our current carrier presented us with a 61 percent increase for the same plan. We asked that carrier for a more detailed explanation for that huge increase, especially about our

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history and the performance, but we were provided very little information and nothing in writing. They did tell us we had a high claims ratio and a few pending claims that could increase our costs. We have to trust that they're giving us accurate information. I cannot think of another business decision we make to spend over \$500,000 per year without measurable data or any kind of reports. Over the last seven years, we employed a relatively young and healthy employee base with a few medical issues. And, unfortunately, last year we had several employees and their family members experience health issues. At this point, it appears our long-term commitment to our current provider has no benefit to us, but yet they have profited by all the premiums we have paid. Our broker bid out our group to six carriers, and the initial proposals came back with rate increases ranging from 9 to 104 percent of our current costs. Again, without measurable data, it's hard to understand the variance in these numbers. In addition, the majority of these carriers who are concerned about privacy issues when providing claims history, asked us to facilitate a health history process in which I had no choice but to review the health status of their employees and their families. And I just want to give you...I know this has come up, but I want to give you a specific example of how this affected an employee. Two weeks ago, an employee came in my office, shut the door, and had to tell me she was pregnant because our...that health history form asked that. She was in no way, shape, or form ready to share that with anyone, and I've obviously...I have not shared that with anyone, but that put her in a very, very uncomfortable position to have to share that data because of the process. Although we're still in the negotiation process at this point, it appears that we are going, again, to have to increase our costs to our employees. We're going to have to more than double the monthly premiums we are charging to them and decrease the coverages that we're providing by increasing the deductible copays and limiting some other benefits. The most difficult part of the situation is that because we've not been provided any information about our claims and their costs, it's my opinion we're making a huge financial decision without adequate information. In the next few weeks, I am going to be faced with standing in front of those 80 employees and explaining to them how our plan will change. I am concerned that this will place a burden on them, and that some of them may choose to go without coverage because they cannot afford this. Like Judy mentioned, I've spoken to many other colleagues, and I would say that they struggle with the same issue with no information and making these big medical decisions for our companies and our employees and their families. I, too, wish that we could use that money that we're paying them to create better wellness plans and educate our employees on how to better use their coverage. I want to thank you for your time today and understanding the extremely difficult position that employers face every year at renewal time. I ask you to move this process forward and introduce this legislation. I'd be happy to answer any questions. [LB637]

SENATOR PAHLS: Just let me ask a couple of them. You said you've been with the same insurance company for a number of years. [LB637]

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ANDIE GORDMAN: Seven years. [LB637]

SENATOR PAHLS: Seven years. It's public record. What insurance company is that? [LB637]

ANDIE GORDMAN: UnitedHealthcare. [LB637]

SENATOR PAHLS: Okay. And this year you put out...and the bids have increased from 9 to 104 percent. [LB637]

ANDIE GORDMAN: Correct. And, again, I think that...and that was mentioned earlier because we can't give them what our claims have been. All we can give them is how many employees, their age, their gender, and they come back with these huge variances. And then we've gone through the underwriting process with two of them, and then they come back, and these low rates then become 20 and 30 and 40 percent increases. [LB637]

SENATOR PAHLS: And you're looking for the 50 or more as a threshold...51, okay. [LB637]

ANDIE GORDMAN: Correct. Yeah. [LB637]

SENATOR PAHLS: Senator Pirsch. [LB637]

SENATOR PIRSCH: You made the decision to stay with the same carrier, is that right? [LB637]

ANDIE GORDMAN: Last year. We are not going to this year. [LB637]

SENATOR PIRSCH: Not going to this year. You're working through a broker, right? [LB637]

ANDIE GORDMAN: Correct. [LB637]

SENATOR PIRSCH: And does that give you, though, a sense of the market? I mean, is this...is part of the problem, is it an oligopoly or a few numbers, places that you can turn to for insurance? Or is it...or is this a competitive enough environment that if you put out feelers, you should just by the bids be able to get a sense of what...you know, if the current insurance company is being unreasonable with you... [LB637]

ANDIE GORDMAN: Correct. [LB637]

SENATOR PIRSCH: ...perhaps you could use the term greedy...is it, can't you just put

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out more feelers and solicit more bids and learn the true kind of market value of your contract, that mechanism? [LB637]

ANDIE GORDMAN: We're trying to do that right now. Actually, I was told that there were only six insurance companies that would bid on a plan our size. Actually, we had one company decline to bid because of the small size of the plan. So, in my opinion, or at least what I've been told, it's not a very competitive market and, again, I think it's very time consuming. I've done almost nothing for the last three weeks but work on this issue, because there isn't transparency, and so...because we can't just all say, okay, our claims were X amount of dollars this year. We have these health issues. We know we had a bad year. I mean, it's almost like a playing a game and, again, this health application process for employees is just completely time consuming. The employees are very upset by having to, in writing, you know, put all of that information down. So I think that part of it is if that information could be shared among the carriers, the initial increases wouldn't have come back with that range from 9 to 104 percent. [LB637]

SENATOR PIRSCH: Okay. Thank you. [LB637]

SENATOR PAHLS: Seeing no more...appreciate your testimony. Thank you. [LB637]

ANDIE GORDMAN: Thank you. [LB637]

SENATOR PAHLS: Honorable Senator Mines. [LB637]

MICK MINES: Chairman Pahls, members of the committee, for the record, my name is Mick Mines, M-i-c-k M-i-n-e-s. I'm a registered lobbyist representing the National Association of Insurance and Financial Advisors of Nebraska. It's an organization of 1,100 professional insurance and financial advisors across the state. I won't repeat anything that you've heard before. All I can say is our membership are face to face with companies working on their healthcare benefit plans, and we see the need for more transparency. This bill does it, and we urge your passage of the bill. Thank you. [LB637]

SENATOR PAHLS: Again, I'm...because this always seems to be the question. Your association is satisfied with the...? [LB637]

MICK MINES: Fifty-one. [LB637]

SENATOR PAHLS: Okay. [LB637]

MICK MINES: Yeah, we're fine with that. [LB637]

SENATOR PAHLS: Thank you. [LB637]

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MICK MINES: Thanks. [LB637]

SENATOR PAHLS: Next proponent? [LB637]

BRANDON LUETKENHAUS: Mr. Chairman, members of the Banking, Commerce and Insurance Committee, my name is Brandon Luetkenhaus, B-r-a-n-d-o-n L-u-e-t-k-e-n-h-a-u-s, and I'm here today on behalf of the Nebraska Credit Union League. Our association represents 73 credit unions in Nebraska, and their 420,000 members/consumers. I appear before you today in support of LB637. I thank Senator Mello for introducing this bill, and I won't add to...I think the testifiers before me did a well enough job, but we do support this, and we would urge the advancement of this bill. [LB637]

SENATOR PAHLS: Seeing no questions, thank you for your testimony, Brandon. [LB637]

JERRY STILMOCK: (Exhibit 7) Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, appearing before you this afternoon as lobbyist for the National Federation of Independent Business in support of LB637. We support the provisions set forth in (LB)637. We believe the information would be of benefit to small businesses and would enhance the ability to look at different prices. My experience that I have is, I'm going to step away from the small business, my client that I'm visiting about, sharing my thoughts with. Then I'm going to jump over to an area that happens every year for a second-class city, that meets everything that you've already heard this afternoon, is, you have been using that same insurer year after year. The broker comes in, presents a set of proposed premiums to you. But then after you look at those seven or eight alternate bids, there's always that caveat at the end of the brokers' comments to the city council. And that's, now you know, if you go ahead and go with brand X company and you switch that then we're going to have to submit all the health information to that new company, and that premium is not going to be bound by the bid amount that you received at the council level. And I believe the number is...that was discussed last year, LB1002, was up to 66 percent increase. So here you are, you're playing blind man's bluff, that new bid may look appealing, but until you go ahead and commit, at least this is the situation that the city council faces, until you go ahead and commit, and you actually lay down the cards for what that health insurance information is, then you find out what the true premium is. And it's always blind man's bluff as you go ahead. How can you possibly go ahead and accept that bid based upon an estimate, and it only becomes firm until after all that healthcare information is provided to that new company. It's a dilemma we face every single year, and it's because of situations like this that (LB)637 would help. Senator Pahls, on behalf of the NFIB, we would consider it in the same way that Mr. Ron did, to reduce that threshold level down from 51. We think it would help all small businesses to know what that information is, Senators. Thank you. And I have handouts. Pardon me. [LB637]

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SENATOR PAHLS: Senator Pirsch. [LB637]

SENATOR PIRSCH: Let me get this straight. So you...towards my point...why can't you just go out into the market and get a feel for, if you think it's too high, some competitor always looking to undercut. But you're saying, you can't meaningfully shop because you can't shop without that information. Is the...the information is is... [LB637]

JERRY STILMOCK: True. [LB637]

SENATOR PIRSCH: ...can you...can you...you can't...you said that they would always, at the end, give you that caveat that said, without the...what was the information as far as that they wanted to base their actual...? [LB637]

JERRY STILMOCK: Yeah, I mean, what we're talking about in terms of the two different components of this bill. But until that new company would receive the healthcare information on the employees, you're never going to get a solid premium. [LB637]

SENATOR PIRSCH: And why can't that specific information, the healthcare on the employees...is that too unwieldy to...I mean it's too hard to raise or is that...does that require a lot of time and a lot of money or effort to garner that, to go out into the market with that information? [LB637]

JERRY STILMOCK: That and the protection afforded to those individuals while you're just going out shopping before you've committed to that new company. [LB637]

SENATOR PIRSCH: Okay. So it doesn't seem like the realistic thing to do is what you're saying. [LB637]

JERRY STILMOCK: True. [LB637]

SENATOR PIRSCH: You can't just go out... [LB637]

JERRY STILMOCK: That's correct, Senator. [LB637]

SENATOR PIRSCH: Thank you. [LB637]

SENATOR PAHLS: Senator Utter. [LB637]

SENATOR UTTER: Thank you, Chairman Pahls. Jerry, you mentioned that you, in your final comments that you think maybe we should lower the threshold from 51 employees. Where do you think that should go? [LB637]

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JERRY STILMOCK: You know, I've heard as down as low as three by the first testifier, and I think NFIB would be in support of that number. We think all businesses would be able to benefit from that information whether it be 51 or 3, Senator. [LB637]

SENATOR UTTER: Thank you. [LB637]

SENATOR PAHLS: Senator McCoy. [LB637]

SENATOR McCOY: Thank you, Chairman Pahls and thank you, Mr. Stilmock, for your testimony this afternoon. In your prepared statement here, you noted at least ten other states, and I know, I think we've had a few other states mentioned, have similar legislation as to this. Would you mind maybe elaborating on that briefly as to which ones of those states might have implemented a lower threshold, if you know that, as far as a lower number even than being called for in this legislation if you know that information? [LB637]

JERRY STILMOCK: I don't have that at my fingertips. I'll be glad to try to look. Those states listed, and actually, the...my prepared remarks show at least ten, and I believe during the LR study this past interim, that number was up to 20. But the...in text, I have the ten, if I may, Senator. Thank you. Florida, Georgia, Texas, Indiana, Maine, Iowa, Kentucky, New Mexico, Oklahoma, and South Dakota. In terms of this specific question, I don't have that answer, sir. [LB637]

SENATOR McCOY: Thank you. [LB637]

JERRY STILMOCK: Yes, sir. [LB637]

SENATOR PAHLS: Appreciate your testimony, thank you. [LB637]

JERRY STILMOCK: Thank you, Senators. [LB637]

SENATOR PAHLS: It appears we have one more proponent. [LB637]

BRUCE RIEKER: (Exhibit 8) Good afternoon, Chairman Pahls, members of the committee. My name is Bruce Rieker, R-i-e-k-e-r. I'm vice president of advocacy for the Nebraska Hospital Association, and on behalf of the Hospital Association, I'm here to say that we support LB637. Profit is good; competition is good; transparency is good. We believe in all of those components. What I want to add without going over any of the other testimony has been added already. We would ask that the committee consider including workers' compensation insurance as another component of this. I know that we visited with the chairman in the working group in the interim. The Hospital Association has a reason for this, and what it was is two years ago, LB588 imposed an inpatient hospital fee schedule on workers' compensation reimbursements for what we

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received. Collectively, our hospitals lost about between \$25 million and \$29 million worth of revenue. However, we have not seen a corresponding decrease in workers' compensation insurance premiums. And to give you an idea of what the numbers may look like, for workers' compensation for our 65 smallest hospitals, they're critical access hospitals, the average workers' compensation premium package is about \$300,000 per year. If we move that mark 5 percent on just the 65 smallest hospitals, we're talking about \$15,000 per year per hospital, and we believe that to have that information available to us on premiums collected and claims paid, would be a significant number. We're all about cost containment. That's one of the issues that we face every day, and we believe that this sort of information would help us contain the costs with regard to workers' compensation. To give you an idea about what we think it means for healthcare or health plans, with 41,000 people employed by our 85 hospitals, if the average premium per year is \$10,000 per year which is probably a conservative estimate, our 85 hospitals pay \$400 million a year for health insurance premiums; 5 percent on that is \$20 million that could go a long way to helping us have a much more competitive place at the table. This information would help us in our negotiations of...well, negotiating those policies, and for those reasons, we support LB637. [LB637]

SENATOR PAHLS: Seeing no questions, thank you for your testimony. Appreciate that. [LB637]

BRUCE RIEKER: Yeah. [LB637]

SENATOR PAHLS: Okay. That concludes the proponents. Now we are ready for the opponents. Now, just...if I can have the opponents move forward, so I have a feel. I see two, three. Okay, thank you. [LB637]

JACK MILLS: Senator Pahls and members of the committee, for the record, my name is Jack Mills, J-a-c-k M-i-l-l-s. I am here representing BlueCross/BlueShield of Nebraska. You have just heard a description of the problems across the United States with healthcare costs. All of us are aware of it, and we all want to try to do something to curtail those. Before I talk about that, I would like to tell you that, as we look at healthcare costs, I just got this today from American Health Insurance Plans, and we've discussed about how Medicare impacts premiums. And I'll use this example. If you have a balloon filled, and you push it over here, that is, reduce Medicare costs it pushes out over here. And that generally is the way it comes back to the private side. This thing that just came in today...maybe it will reach fruition, and maybe it will not. It's the Obama plan. Administration's budget devotes \$630 billion to healthcare; half of healthcare budget funded from Medicare and Medicaid. They're describing in this document, and it's not authored by me, that Medicare and Medicaid cuts \$176.6 billion through competitive bidding for Medicare Advantage. Some of you may not be aware what that is; \$19.6 billion increasing Medicaid prescription drug; \$17.8 billion through bundling of Medicare for hospitals, etcetera. I just share that with you. We have a problem

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nationally and the federal government, by the way, is a huge user of healthcare in the United States, and in Nebraska. We do not believe the bill is necessary. We do believe that it can cause and look to privacy albeit the discussion was made here it would not, but we believe it can. We've seen in the past with cherrypicking because of these type of things. We at this company do not...are not a publicly traded for-profit company, and when I hear people talking about us making a profit, BlueCross/BlueShield, I'll refer them to the statement that will come to the Department of Insurance this next year, where we lost \$13 million this past year. That's on a fully insured business. That is not on ASO business; that's fully insured. There are costs that come to operating an insurance company that are realistic, and those costs range from the actual utilization and the experience to stop loss. When you have a stop loss of a million or two million, wherever that is, those costs go on. I really am concerned when I hear about...and I understand the proponents, when I hear about reducing it to three or five. That is really concerning to me, because I know and you know what that means. These small organizations, they would see exactly who is utilizing that business. I don't believe...and I believe it's been testified here, that the passage of this bill will extend a lower cost. We just don't believe it. If we did, we would be here. The national association or the BlueCross/BlueShield Association which this past year celebrated 100 million members, I am assuming if they thought it would help in the plan, they would have been trying to get us...all of the Blue plans to do this. I don't think it's true. Competition--I can assure you there's plenty of competition. When you look at the small group market, when you look at this, I can tell you there's a small...there is a lot of competition. I know the Blues...Blues membership yearly. When we look at this year starting off on January 1, I'm sharing with you some things that are not particularly confidential, we had just under 700,000 members, 700,000 covered with the Blue plan. We anticipate losing about 10 percent just through whatever reasons, but we will lose membership. Now we hope to gain it from another way. For those who want to know where the money is going, I can tell you it is not going into our pocket. It is not going in to anything other than pay claims. This past year, I believe the statistics will show that we collected around \$2 billion and paid out 92 cents of every dollar in claims. We had 8 cents of a dollar to operate, and when you take that down, this is what kind of bothers me, and I understand the proponents aren't involved in the same area that I am. But when you take it down to the bottom line, there's about a half-a-cent that we have to build. We have to maintain with the NAIC a risk-based capital minimum, risk-based capital meaning the amount of insured business to the amount of capital we have. We have to maintain a certain level or we'll be facing other problems. I also know that we through the Blues trying to help the consumers of healthcare premiums and dollars, have invested in a Blue Bank. We have a number of Blue plans that we contributed money, and we started a Blue Bank, not to use credit cards, not to loan money, but only for HSAs or consumer-driven health plans. We believe that's a help, but it's only a part-time help, too, but we wanted to cut costs that way. The other thing we have done to try to help cut costs is that we're in a consortium of Blue plans who have a pharmacy, a benefit management company that consists of Nebraska, Minnesota, North Dakota, Kansas, Illinois, Texas, Oklahoma,

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New Mexico, Florida, and Montana just recently joined. That is all done on a not-for-profit basis to try to bring better prescription drug cost to the members in our states. One of the things that I have seen here in this Legislature occur is the involvement with associations. We insure through the various associations a number of them, and when we talk about experience, I've seen bills come into this Legislature who want to mandate that the experience for school districts, counties, banks, unions, etcetera, are given to them individually or they're a member of the association. Generally, those associations say, you're in a group, you're in a pool; we're all for one; one for all. But there are groups that will come in, I can almost assure you, that will try to despoil that policy. We have a number of brokers who could have come here today who would attest to you that they feel as though they're being treated fairly, that membership that they go out to service are treated fairly. I will not get into that, but we could have brought in a number of people to do it. My comments will conclude by saying, we don't think the bill is necessary. I think when you move it forward, if you look at the arguments going to come, lower the number to three or five or whatever it is. One more thing that concerns me too--us. This isn't me speaking...it's us. When you look at this bill, Senator Pahls pointed out originally; when you look at on page 2 from line 12 through 16, we talk about separating pharmacy benefits, talking about separating the amount of coverage on a monthly basis by a covered tier. The total amount of coverage that have reached by a deductible tier. Those things are...I understand why they would want them, but we don't believe it's necessary. That will conclude my testimony. [LB637]

SENATOR PAHLS: Senator Utter. [LB637]

SENATOR UTTER: Thank you, Chairman Pahls. Mr. Mills, does BlueCross/BlueShield routinely provide any type of disclosure information of this type to their groups of any size? [LB637]

JACK MILLS: I believe they do. [LB637]

SENATOR UTTER: Do you know where that...? [LB637]

JACK MILLS: I don't know where the break is. I'm sure they do, though. I'm sure they have to, when you have large companies who have 10,000 employees or 70,000 employees I'm sure that they have to....they know how much premium they pay but. [LB637]

SENATOR UTTER: Would your company...I understand your reluctance to go down to the two or three employees. Would your company feel comfortable with the 51 employee threshold? [LB637]

JACK MILLS: I still think...thank you, Senator. I still think going from down to that 51, you're going to edge on the...you might err on the idea of privacy. I really do. When you

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get 51 employees, let's just say you have 70 employees. Those are eligible employees. They may not all participate, and you will know as the administrator, HR director, where that's going. I just...we're cautious of that. We're cautious of that. [LB637]

SENATOR UTTER: In terms of additional expense, what would be your company's position as to what this might cost? [LB637]

JACK MILLS: I'm unprepared to tell you. I'm prepared to respond in any percentage wise or cost. I can tell you it isn't free. Nothing in health insurance is free. Nothing in property casualty insurance is free. When you look at experience of one year, when a company comes in, they lost money. And this year they're going to come back with a premium into the next year to try to help make up, or we got an experience problem going on here. I know there will be some costs. Now whether it's profound or not, I can't tell you that. [LB637]

SENATOR UTTER: Thank you. [LB637]

SENATOR PAHLS: Thank you for your testimony. [LB637]

JACK MILLS: Thank you. [LB637]

SENATOR PAHLS: Next opponent, please. [LB637]

KURT GENRICH: Chairman, committee members, my name is Kurt Genrich, G-e-n-r-i-c-h. I represent the Educators Health Alliance. The Educators Health Alliance is comprised of the Nebraska State Education Association, the Nebraska School Boards Association, the Nebraska Council of School Administrators as a governing board for the health plans and dental plans for the school districts and other educational facilities here in the state of Nebraska. The EHA represents over 70,000 members here in the state who are employed in the education field, and we feel that in our dealings that it is an envy of a lot of other states' school systems out there. We have provided very competitive plan designs with rate increases that have been in the last ten years around 6 to 10 percent increases on average for those individuals in the school districts. Our administrator, which is BlueCross/BlueShield Nebraska has provided the necessary claims information for our board to calculate the rates and the premiums that are needed to meet the needs of our constituents. Currently, about 93 percent of our premium dollars are paid-for claims; 7 percent is used for administrative costs for our program. What we feel is if this bill passes, this change may arise in some...for our educational entities that options may be out there that may not meet the negotiated contracts for the school districts out there. Schools may be more willing to look at other options that may not be in the right plan arrangement for them, and could lead to some schools who have had good experience to get out of the program and get on their own program. They wham-bam have a bad year. Two years from now, they get a 50-60

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percent increase, and then they are at a point where they're like other people for the proponents is in a death spiral for the program. What we want to do is make sure we provide a program that's a great fit for all the school districts out here in the state of Nebraska, and we want to make sure that we are able to do that. We feel this bill may lead to that type of death spiral for the school districts and for their budgets in years to come if something like this bill does come across, and is passed through the Legislature. At this time, I'll answer any questions that you do have. [LB637]

SENATOR PAHLS: I have a question. You mean if a school district pulls out of your plan, they can never get back in? [LB637]

KURT GENRICH: They can, but it will be at the discretion of the Educators Health Alliance. There could be surcharges involved and it's based on their experience then if they do pull out of the group. [LB637]

SENATOR PAHLS: So it's sort of like a punishment. If you don't go along with me, and you pull out, you get... [LB637]

KURT GENRICH: It's not a punishment. I don't feel like it's a punishment. If you want to leave, it's your discretion to leave. If you want to come back, there are certain requirements to meet to come back into the plan so. [LB637]

SENATOR PAHLS: Okay, okay. I see what you're saying. Okay. Senator Langemeier. [LB637]

SENATOR LANGEMEIER: Chairman Pahls. Thank you for your testimony. So you're telling me that you will want to keep them in the dark so they don't go out, so they don't pull away from your plan? [LB637]

KURT GENRICH: Well, we do...the whole issue is that we do not individually rate each school district. We rate all the school districts as one whole school district, so that Neligh-Oakdale doesn't have...they might have a \$100,000 claim. They aren't going to get hit due to that \$100,000 claim. That experience and that claim is run through the entire school...all the school districts are in the plan, over 70,000 members. So that every school district gets the same rate. They get the same plan designs. Only, you know, so with that situation, you know, we do not look at those individual rates for the school districts, and that's why we feel we have a very competitive plan out there. When I look at other school districts and I work in Iowa, we do business in Wisconsin in other areas as well, and when I look at what they have for healthcare costs, we're 30 to 40 percent lower in some situations for our school districts here in the state of Nebraska. And we feel that's the very important thing to help keep education costs low as well. [LB637]

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SENATOR LANGEMEIER: Thank you. [LB637]

KURT GENRICH: Yeah. [LB637]

SENATOR PAHLS: So all of the school rates across the state are the same? [LB637]

KURT GENRICH: The ones that are in the Educators Health, yeah. [LB637]

SENATOR PAHLS: In your plan. In other words, if you charge 100 here, you charge 100...I'm just... [LB637]

KURT GENRICH: Yeah. They are all based on the same experience. Okay. [LB637]

SENATOR PAHLS: Okay, okay. Senator Utter. [LB637]

SENATOR UTTER: But in essence, what you're really saying is, transparency is bad. [LB637]

KURT GENRICH: I wouldn't say...we get all the information we need to build... [LB637]

SENATOR UTTER: But I as a local school board member, you don't want me to have that information. [LB637]

KURT GENRICH: Well, we want to provide what's best for all the schools in Nebraska. Now, there are school districts that aren't in the program, and they are able to get the information needed to do what they want to get out of that scenario. [LB637]

SENATOR UTTER: Thank you. [LB637]

KURT GENRICH: Yeah. [LB637]

SENATOR PAHLS: Senator Pirsch. [LB637]

SENATOR PIRSCH: When you say death spiral, do you mean that is what your association might find itself in if...? Okay. [LB637]

KURT GENRICH: Correct. We...yeah, if...because what we're going to see is if the good claims, the groups that have good claims experience are to leave and get their...go out and get their own plan. We're going to be left with normal or less than average experience for our groups. Now, that will be fine the first year. Then the second year comes, and then we have the same situation. Those groups that have a little bit better rate increase, less rate increase, will tend to find another case. Now this happened down in Kansas with the school districts a number of years ago, and they no longer

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have the opportunity for a community-based type of plan through Kansas. [LB637]

SENATOR PIRSCH: You insured the cost to the average of the group, but if the group realizes they're on this side of the mean, that group carves and can, therefore, get a better rate... [LB637]

KURT GENRICH: Right. [LB637]

SENATOR PIRSCH: That (inaudible) was off the means which is over year after year. [LB637]

KURT GENRICH: Right. Yeah, and it could just keep gradually getting to the point where all the school districts will be on their own, and then they'll have to make their own, you know, changes based on their own experience, and that could lead to further complications within budgets and items in the future years. [LB637]

SENATOR PAHLS: Senator Gloor. [LB637]

SENATOR GLOOR: Thank you, Chairman Pahls. You don't have any problem with this information being provided to your association members as a group. [LB637]

KURT GENRICH: No, not at all. We provide that information as a whole to our constituents right now. [LB637]

SENATOR GLOOR: But once they're part of the group, haven't they by definition no longer become part of an individual plan? [LB637]

KURT GENRICH: Yeah, yeah... [LB637]

SENATOR GLOOR: I'm trying to decide whether this... [LB637]

KURT GENRICH: Yeah, it is, and they are part of a large plan. But what our issue is, is that this...you know, with the enactment of this law, it could lead to other things down the road that could allow for these school districts of 51 or more to be able to get their own experience, and that's what our issue may be in time. Right now, how I'm reading the legislative bill is that it is for the sub...the groups that are 51 or more for their claims experience. Since we have a group of 70,000 people, that's what we are basing that experience on. We aren't looking at each individual, so at this time, it would not have an effect. But our worry is that in the future it may come back and be an issue for us as well. [LB637]

SENATOR GLOOR: Well, I think the traditional approach towards trying to make sure this doesn't happen, I understand the predicament... [LB637]

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KURT GENRICH: Um-hum. [LB637]

SENATOR GLOOR: ...and it looks good in its short-term gain, let's bail out. And...but the solution that usually is, you drop out of the group, you can never come back. I mean it's...to avoid just that sort of... [LB637]

KURT GENRICH: Yeah, like I said, we do allow other groups to come back, but there are certain requirements that they have to meet to come back into the plan. And they are all stated through underwriting guidelines, so it's all out there in the open for these groups. [LB637]

SENATOR PAHLS: Appreciate your testimony. Thank you. [LB637]

KURT GENRICH: Thank you very much. [LB637]

SENATOR PAHLS: Next opponent. I see this is our last opponent. [LB637]

JANIS MCKENZIE: Senator Pahls and members of the committee, for the record my name is Jan McKenzie, J-a-n M-c-K-e-n-z-i-e, here testifying in opposition today to LB637 on behalf of the Nebraska Insurance Federation. And I'll be brief because a number of points have already been made this afternoon, but in general, I think what you just heard in the last example is the bigger the group, the more you can spread the risk. And so, to some extent, the frustration you're hearing toward the push to very small groups below 51 and even this legislation, below 100, is that there are some...as things have gotten more and more expensive, and employers are struggling to provide that kind of health insurance that they've become accustomed to providing, and their employees have become accustomed to receiving, is that there's a greater, greater need to know...get a better handle around what's going on and why it's going on. But, unfortunately, a part of that reality is the more...the smaller you get in size of group, from 100 to 51, as proposed here, is a more limited market than what is available to 100 and above. And then when you go from 51 down to 0, it becomes a very limited market, because that's the small group market. And in that market, it's a guarantee issue. If I'm a small employer, which I am, and I have three employees, and I go to get a policy and I apply, we will very soon in Nebraska have one standard application policy for all small group insurance which is a good thing, and we've worked to get that done. I will apply on the one form instead of three, send those off to the insurers for bids. They have to offer me a policy; they have to. Now that policy may give me an estimated premium cost, and then once I fill out the forms for each of my employees, then we are underwritten based on our health histories, and then we get the actual premium bid. That's the way the small group market works, and it's a very limited market. There aren't a lot of companies selling in that market. Just as you've heard the market between 51 and 100 is also a rather limited market. You get into groups over 100, and it's a pretty

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competitive market, because those kinds of employer plans are bigger plans, spreading more risk across time. So outside of the privacy issue, which we'll bring up again, which is always a concern the smaller the group, certainly we would not be interested in anything under 51 and 51 to 100 really has not happened in more than 17 states, if you look at everywhere across the United States. So I'm not sure that it exactly accomplishes the aim that the proponents are looking for, but certainly we think that there are always...I guess this is our second or third version of the bill, and we did have an interim study. We've heard a lot of different things people would like to have information about, and that's our other concern about the legislation, exactly what continues to be added as a requirement for the disclosure. I'd answer any questions you might have. [LB637]

SENATOR PAHLS: Do you see where the concern is? I'm listening--like from Qwest. It's almost a hundred percent range like I think it was from 9 to 104. Doesn't that set up a sense of mystery about all of this? (Laughter) [LB637]

JANIS McKENZIE: Well... [LB637]

SENATOR PAHLS: I mean, I'm just saying, when I hear that range, you know, I could say 9 to 20 or 20, but if it gets that far, it seems like, you know, I can see why some people might have a question. [LB637]

JANIS McKENZIE: But I bet if you're in a group, I mean, if you're in a small group guarantee market, you're not going to get... [LB637]

SENATOR PAHLS: Well, this was like of 80 or something. I mean. [LB637]

JANIS McKENZIE: Right. And, you know, it's like every number we have out there, why is 16 the magic number for a driver's license? Why is 21 the magic number for being legal to purchase alcohol? There are always numbers that have funny zones around them, and anywhere with range...around that range seems to be frustrating. [LB637]

SENATOR PAHLS: Senator Utter. [LB637]

SENATOR UTTER: Thank you, Chairman Pahls. Jan, are you aware that any of the insurance companies that you represent routinely provide this information to their groups voluntarily, and if so, what are the minimum numbers where they choose to provide the information? [LB637]

JANIS McKENZIE: Senator, my companies told me after the interim study we had this fall, we talked about this in a couple of meetings. And they basically are agreeable to the idea of providing this information in a format that is generally accepted--basic claims information, payouts, those kinds of things, not in a lot of detail, but in the ways that they

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can do it with relative ease. And they had basically agreed to do that voluntarily, and so our position was at least for most groups from 100 and above which is standard practice nationally, but in cases of 51 and above, they would consider doing that without having to be mandated what had to be put in there. Those of you who have been around for awhile and, I guess, maybe that's just me (laugh) now, have seen whenever you start putting a laundry list in statute of what has to be included in something, becomes a possibility every year for additional things to be added to that. Good or bad, it becomes another way for us to then continue to add more and more and more and more to the laundry list in statute. So our position this fall before the introduction of the bill was that they would be willing to do that voluntarily. [LB637]

SENATOR UTTER: Well, I'm not necessarily in favor of mandates either, but I can see where this could become really valuable information to companies seeking cost containment and also seeking new bids on their insurance coverage. [LB637]

SENATOR PAHLS: Thank you for your testimony. [LB637]

JANIS MCKENZIE: Thank you, oop. [LB637]

SENATOR PAHLS: Oops, Senator Christensen. [LB637]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Thank you. I'll make one comment. You said you hate mandates? Self disclose, and we won't have to. [LB637]

JANIS MCKENZIE: I didn't say that, Senator. Senator Utter did. [LB637]

SENATOR CHRISTENSEN: But you said it increases the cost in things when you have mandates and things written down. [LB637]

JANIS MCKENZIE: I just said, the more you add requirements in statute as to what's required, so... [LB637]

SENATOR CHRISTENSEN: Right. So if you self disclose it, then it won't be mandated. [LB637]

JANIS MCKENZIE: Right. We can do that. [LB637]

SENATOR CHRISTENSEN: See? That's one point. [LB637]

JANIS MCKENZIE: Okay. [LB637]

SENATOR CHRISTENSEN: But one question I had before I had to go introduce a bill, what's the difference on insurance company's side if information is going to be revealed

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between what you take on an application versus what's going to be seen if you do disclose this information? [LB637]

JANIS McKENZIE: Yeah, and I listened to that question when you were asking it. Having just recently filled out one of those application forms as I changed my policy at the beginning of the year, the list of things you fill out when you're applying for new coverage, is basically your health information. That's all about what medications I'm taking, if I've had any surgeries, if I've da-de-da, kind of my personal history. What I hear the employers asking to be disclosed is more what has been paid out on that group by month and over a course of the year as is written in the language of this bill. So they want to know possibly what was paid out in dental, what was paid out in pharmacy, what was paid out in how many people met deductibles which I'm not sure I can...I'm not sure how companies could disclose that. But what I'm providing is my own personal information, and I sign it, and on that form it is private. [LB637]

SENATOR CHRISTENSEN: Um-hum, right. [LB637]

JANIS McKENZIE: Only the underwriter sees that. That's not disclosed to your employer unless the employer wants to look through your application form before they send it in, as I understand. [LB637]

SENATOR CHRISTENSEN: Well, that was part of my point. What's to stop that from happening? And if you know they've had heart trouble or something else, that's actually more disclosing, what you could get off of that application than what is being asked of the companies. So, you know... [LB637]

JANIS McKENZIE: Could be. [LB637]

SENATOR CHRISTENSEN: ...you could...it you wanted to as an employer, you could come out and pinpoint who your problem is by trying to switch companies, looking through it. So I guess I don't know if I agree that we're going to be handing out private information that you couldn't get if you really wanted to get to it. [LB637]

JANIS McKENZIE: Oh, I think the argument we're making about the privacy issue is relative to the federal government's requirement to us as companies to protect individual's privacy under the HIPAA Act. And so if any company is found in violation of that, it is the company's then fault. If an employer wants to violate HIPAA and take information from a plan; let's say they look over those applications and then fire someone, that employee has the right to sue that person for discrimination. There are very...there are different versions of a similar thing, but in both cases they're trying to protect against anyone or any company discriminating against you on the basis of your medical history. So they're similar but different. [LB637]

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SENATOR CHRISTENSEN: But they're different, the standpoint you're not providing a name to it. You would have to assume you think you know who it is, where if you look at that, you know who it is. You aren't going to fire them off of that basis; you're going to find something else. [LB637]

JANIS McKENZIE: Right. But... [LB637]

SENATOR CHRISTENSEN: And so I'm not sure that it's not real close or even more disclosing on a application. [LB637]

JANIS McKENZIE: Well, it probably is in terms of the individual telling all, but in a perfect world that's supposed to work to where that goes...that employer respects that person's privacy. It's put in that bundle of things that goes to the insurers whose underwriter is bound by those requirements to not disclose health information on an individual. The concern about the smaller group number is when you get your printout at the end of the year, and you show claims payouts, and you've got this huge amount paid out, in say, particular cancer treatment or some sort of pharmaceuticals, you as an employer may go, wow, that's right, so and so's...I mean, looking for where that came from. Just, in the past, that has caused problems when you've got small groups. [LB637]

SENATOR CHRISTENSEN: I can see it being a problem, but also know with employees I've hired in the past...if I've got a good employee, I'm not going to want to get rid of them. [LB637]

JAN McKENZIE: Yeah. [LB637]

SENATOR CHRISTENSEN: You know, so that's why I ask the questions down this line. Thank you. [LB637]

JAN McKENZIE: You're welcome. [LB637]

SENATOR PAHLS: Thank you for your testimony. [LB637]

JANIS McKENZIE: Thank you. [LB637]

SENATOR PAHLS: Any in the neutral? The senator says he would not be here to close, so that does close the hearing on LB637. We'll let there be a little bit of a cleaning of the house, and we will get ready for LB606. We'll just wait a second before everything calms down here. Just a second, Senator, just before we begin. How many proponents do we have? Opponents? Just one. All right. Then I'll let you come up here really fast. You can sit down in that chair so we'll know. No opponents? Anybody in neutral? Oh, okay. Well, you can sit back and relax for a little bit. Okay, Senator the floor is yours. [LB606]

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SENATOR KARPISEK: (Exhibit 1) Thank you, Senator Pahls, Banking Committee. My name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. LB606 deals with the Microenterprise Development Act. It would change the definition of microenterprise to be ten or fewer employees, up from the current five. It also changes the language that at least 50 percent of the microloans must be under \$10,000 currently up to \$35,000. You will be getting an amendment that changes that back down to \$25,000. So it would go from \$10,000 currently up to \$25,000 that half the loans would have to be made under. It would also raise the business loan up from \$35,000 to \$100,000. Also on the amendment, that...it would be lowered back down to \$50,000. One reason for that is after talking to the Microenterprise people, they thought the \$100,000 was too high, mainly because the way the loans can be bundled, and more money can be leveraged. Also, in the current state of economics, I figured that we want to bump it up a little but not too high. The last part of the bill would appropriate \$2.5 million to the Microenterprise Act. As I understand how this has been funded, roughly \$500,000 has come from the General Fund and \$1 million from the Cash Reserve. I've also been told that the Governor's budget will cut the \$1 million out of the...from the Cash Reserve. I feel that this program needs more money to create jobs, not less. So that's why I'm asking for another \$2 million. I'll just tell you real quick why I brought this bill. When I had my meat market, we've always tried to expand. We wanted to get into Internet shipping, those sort of, kind of things. You have to be USDA-inspected to do so. Our business would not work to be USDA-inspected. So I drew up some plans, and it was going to be about a \$600,000 project. USDA was going to help...USDA is much...has a loan program much the same as SBA. They'll guarantee 80 percent of the loan. The bank wanted 90 percent guaranteed. So that left 10 percent that I had to come up with which would be roughly \$60,000. I wasn't able to get that to work out, and I think now, talking to Microenterprise that I probably wasn't going in the right place, getting to the right people, which I think that we'll work on that after...in the interim also. But...so my thought was to create a revolving loan fund for that extra 10 percent from the state. That got to be kind of a tough go, so we thought rather just to look at the Microenterprise part now. I feel that the state does a great job in Microenterprise, the smaller loans that are put out. I also think that we do maybe too good a job on the LB775-type job creation. But I feel that those in the middle there maybe around \$1 million, that we're not doing the greatest job, and I don't mean to say that Microenterprise or DED or they're not doing a good job. I just don't think that their tools are really there. So that's what I'm after on this is to try to create something for those businesses. We get them started with Microenterprise, and then they build, and then it's hard to get money to go on and expand. The \$35,000 that was in the bill, you know, as I was looking, the stuffer that I wanted to buy to stuff the meat into the casing for the hotdog was going to be about \$50,000 to \$60,000. So one piece of equipment, I could have got half of it. Now, I did not understand the leverage that you could get on it, and I'm sure that those following me will kind of let you know how that would work. Anyway, that's why I'm bringing this bill. The middle guys, I feel, just aren't getting what

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they could get, so with that, I would take any questions from the committee. [LB606]

SENATOR PAHLS: Would you describe "stuffer" to me? (Laughter) [LB606]

SENATOR KARPISEK: A "stuffer"? Sure. (Laughter) I think Senator Janssen had brought it up on the floor last year. [LB606]

SENATOR PAHLS: Okay (laughter). Okay. [LB606]

SENATOR GLOOR: ...what I used to do by hand when I worked in... [LB606]

SENATOR KARPISEK: Yes, the old hand crank, but now they're...the new ones are vacuum. [LB606]

SENATOR PAHLS: Okay, Senator Utter. [LB606]

SENATOR UTTER: Senator Karpisek, I don't think there's any question that the intent of this bill is important, and certainly important to particularly rural Nebraska where we need small businesses to go. I am concerned about, given our economic circumstances today and the word we got last Friday and probably will get again in April as to how we...where do we get this money? [LB606]

SENATOR KARPISEK: That's a great question, and I thought about amending that \$2.5 million, but I thought we'd see how it goes. I know maybe the testifiers will talk about that they have been talking to Senator Heidemann. I think Cash Reserve is going to still have to do some. I think just to completely cut it out and leave roughly \$500,000 in there just isn't enough to do anything, so I also have that concern and, again, why I've changed some of the numbers in the bill. And maybe...maybe, I don't know if it's a good idea or not, but probably not to raise these minimums or the definitions in the bill, and then to give them even less money or even the same money, because then the higher ones are going to get the biggest amount, and the smaller guy, there won't be enough pie to go around for the smaller ones. So I think it kind of needs both sizes. You are right, Senator, I was hoping when I wrote this bill things would get better, but we can find the money somewhere. [LB606]

SENATOR PAHLS: Are you going to stay around for closing? [LB606]

SENATOR KARPISEK: I am not, Senator. I would like to, but we've got Exec over in General Affairs. [LB606]

SENATOR PAHLS: Okay, okay, appreciate it. Thank you. [LB606]

SENATOR KARPISEK: All right. Thank you for your time. [LB606]

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SENATOR PAHLS: Yes, yes. Proponent. [LB606]

PETE McClymont: Chairman Pahls, members of the committee, I'm Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I appear before you today as a vice president of legislative affairs for the Nebraska Cattlemen. Our board here six weeks ago was in town. They voted to support this bill with testimony based on the fact any time we can do something, not just in the beef industry, but any industries in terms of small businesses to help provide more stability, especially in the rural part of the state. As Senator Utter said, we would be in full support of. Obviously, after last Friday, things don't look good, but we would want to be on the record in support of LB606. [LB606]

SENATOR PAHLS: Appreciate that. Seeing no questions, thank you for your testimony. Proponents? Opponents? Neutral. And you're really being neutral. [LB606]

GLENNIS McClure: (Exhibit 2) Hello. Thank you for hearing this bill today. I'm Glennis McClure, M-c-C-l-u-r-e. Senator Pahls and members of the Banking, Commerce and Insurance Committee, I'm the program manager for the Nebraska Enterprise Fund. The Nebraska Enterprise Fund formerly known as the Nebraska Microenterprise Partnership Fund is Nebraska's state microenterprise system. It is the mission of NEF to make sure that Nebraska micro and small businesses in rural and urban areas have access to capital, training, and technical assistance. NEF has administered the state funding awarded through the Nebraska Microenterprise Act since its inception in 1997. Serving in this capacity, NEF has assisted microprograms in building capacity and scale to serve growing numbers of microbusinesses in urban and rural Nebraska. I'm here today to share information regarding the Nebraska Microenterprise Development Act and how LB606 relates to the original language. Historically, we have seen that microbusinesses can grow into the next gap once they have capital needs beyond \$35,000, a package limit of approximately \$105,000, and more than five employees. For that reason, we are interested in the concepts that are proposed in LB606. NEF has visited with current grantee/borrower microprograms regarding possible changes and found support for the concept of a gap financing product in the state. LB606 increases the definition of microbusinesses from five employees to ten employees. Nebraska has typically followed national industry standards in this definition. A recent USDA Microenterprise program is defining Microenterprise as a business with ten or fewer employees. Thus, the proposed change to ten in the Nebraska Microenterprise Development Act is acceptable. LB606 proposes a definition of microloan as a loan of \$100,000 or less. The current definition is \$35,000 or less. If a \$100,000 loan fills the gap (20 percent) between an 80 percent SBA guarantee and the bank, it would be a \$500,000 total loan. Because this total is a sizeable increase above the typical microloan definition, Nebraska microenterprise programs support increasing the microloan definition to \$50,000 rather than \$100,000. And you just heard the senator propose that change. This would mean a total package limit of \$250,000. The \$50,000 definition was also set

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in the recent USDA microprogram definitions. This level reduces the potential risk to the micro lender and yet offers valuable capital to businesses. In section 2(2), a third revision is proposed stating that at least 50 percent of the microloan funds be disbursed in loans that do not exceed \$35,000. In order to assure that these state funds are targeted to assisting the smallest businesses, Nebraska microprograms propose the following amended language for section 2(2): A minimum of 50 percent of the microloans made by the microloan delivery organization must total \$25,000 per loan or less. Senator Karpisek has proposed an increase in funding under the Microenterprise Development Act from \$1.5 million each year to \$2.5 million. These additional funds are important if programs are to have the ability to work with growing microbusinesses. In general, NEF and its grantee/borrower organizations across the state support Senator Karpisek's idea for helping microbusinesses grow through access to near equity loans. He is to be commended for seeking new solutions to problems that face Nebraska's smallest businesses. We look forward to working with the senator to develop additional loan products for these businesses as they grow. Thank you for your opportunity to speak to you this afternoon. Are there any questions? [LB606]

SENATOR PAHLS: Seeing no questions, thank you for your testimony. [LB606]

GLENNIS McCLURE: Thank you. [LB606]

RICHARD BAIER: (Exhibit 3) Good afternoon, Chairman Pahls, members of the committee. I'm not sure I can beat either health insurance or sausage stuffers. I'm not sure where I fit in the middle of that (laughter), but it's been an educational afternoon. For the record, my name is Richard Baier. The last name is spelled B-a-i-e-r. Since 2004, I've had the pleasure of serving as the director of the Nebraska Department of Economic Development, here today to testify in a neutral capacity on LB606, and I'll share with you the reasons for that. I'm going to skip the initial page of my testimony in light of some of the things that have been covered. We do support the microenterprise definitional change contained in LB606. In today's economic climate, small businesses around the state are suffering in almost every industry and in every geographic area. It's become more difficult for legitimate small businesses to gain access to capital. They need to expand their services and retain jobs as banks and lending organizations have tightened their belts and become more sensitive to taking on additional liabilities and risks. The Census Bureau reports that there are 28,265 businesses employing less than 5,000 people in our state. There's another 10,000 businesses that report five to nine employees across our state. The change in LB606 would make these funds accessible to more small business across our great state and, consequently, would help create and retain more jobs at a time when we need them the most. We have also found that \$35,000 loan cap, in many cases, is not enough to make a significant impact on projects looking at start-up or expansion. Many times it takes more than that simply to finance initial construction or a new piece of equipment as evidenced by Senator Karpisek's comments. This is an opportune time for small business to prepare to emerge from

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today's recession ready to take advantage of a more favorable economic climate in the years to come. Making improvements to the process and service while business is slow now will ensure that these businesses will be ready for increased demand when business picks up again. Small businesses truly are the impact of our state. As an example, and I threw this in there to help you understand the kinds of activity that we're seeing. Our One Stop Business Assistance Center right now at DED, is taking about 2,500 calls or e-mail contacts a year from people that want to start their own business, so it's very significant. There is a strong demand there on an annual basis. I would be remiss then if I did not tell you that we have concerns and oppose the increase in funding to \$2.5 million as proposed in this legislation. Thus, we are testifying neutral today. As you know, given this economic downturn that's just begun, and we feel will continue for some time, it is important that we all do more with less. We believe that the recommended appropriation that is in the Governor's budget is appropriate for this program at this time. Thank you for allowing me to testify. I'd be happy to share or take any comments that you might have. [LB606]

SENATOR PAHLS: Seeing none, thank you. [LB606]

RICHARD BAIER: Thank you. [LB606]

SENATOR PAHLS: Any more? And the good senator says he would not be here to close, so that does close the session on LB606. Our next hearing will be LB657. Senator Harms. Change...okay, let me see just for a show of hands, how many proponents? I see one. Any opponents? Anybody in the neutral? One neutral. The floor is yours, Senator. [LB606]

SENATOR HARMS: Thank you very much. My name is John, J-o-h-n, middle initial N., Harms, H-a-r-m-s. I represent the 48th Legislative District. Senator Pahls and colleagues, thank you for giving me the opportunity to visit with you about LB657. The programs such as microenterprise and its assistance in the surety bond assistance program is very time and staff intensive for the Department of Economic Development. The Department of Economic Development uses funding provided for those purposes to contract with organizations to help them to carry out the programs. It's simply a more efficient way for the state to participate in which is often the grassroots, the local issues, and they are very helpful in getting businesses started. The Department of Economic Development enters today into several contracts for the microenterprise program, and one contract for the surety bond program. What LB657 does is simply streamlines it. DED would operate by designating one entity to coordinate both the microenterprise and the surety bond programs. This organization that would take this over, I'm quite sure there are organizations already in our state that could deliver the microenterprise services, would be a matter of the Department of Economic Development reaching agreement with them, providing that they could provide the services across the state. But it's simply one of streamlining. The surety bond program is a good fit with

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microenterprise development services. The intent of the surety bond program is to assist small business owners who can't develop, and doesn't have the stability to bid against government programs for bonding, and that's what the surety bond program does. And I think it's a good program; it would be a good mix with the two. By centralizing the funding of small businesses and microenterprise assistance under one contract, what we'll find is that there will be a greater possibility for private, nonprofit organizations attracting private funding to match state funds. And it will further enhance the existing cooperation between the microenterprise service providers. Actually, the requirements here will be for the DED, it will not be different. They'll still have to supervise it. They'll still have to look at it. They'll still have to evaluate it. They'll still have to report, send the report that they do every year to the Legislature for review. Currently, they have about \$500,000 which has been allotted for the microenterprise services. They also have to submit their budget to the Appropriations Committee which we would review again, so there's plenty of opportunities for us to take a pretty good look at what's taking place. But the intent of this is simply to streamline it, to give the Department of Economic Development some opportunity to use staff in other areas, and so, Senator Pahls, I will not have the pleasure of closing today because of where we are in our Appropriations Committee. I know that they're...Richard is here, and I'm sure that he would be able to answer any specific questions. But I'd be happy to answer any while I'm still here, so. [LB657]

SENATOR PAHLS: We'll let you go back and appropriate. [LB657]

SENATOR HARMS: All right, thank you. I appreciate that. Thanks. [LB657]

SENATOR PAHLS: Thank you, Senator. Proponents? [LB657]

RICHARD BAIER: (Exhibit 1) Senator Pahls, members of the committee, again for the record, my name is Richard Baier. The last name is spelled B-a-i-e-r. I think you've heard a few things about the Microenterprise Development Act, and why it was created, so I don't want to spend a lot of time doing that. But I do want to get my support on the record, because I think it's important to take a look at our programs that have been around for several years, and to look for ways to make them more efficient and more effective. I also believe it's beneficial to look for ways to consolidate programs, so that we can have a more consistent approach between different programs that we are responsible for at DED. LB657 would make relatively small changes to the way we administer the Microenterprise Development Act and the surety bond program. The bill states the department would select a single not-for-profit organization to administer the funds which are both intended as small business assistance programs. This could mean that we could consolidate these programs, which would allow one organization to provide much of the state-funded assistance to microenterprises in Nebraska rather than a piecemeal approach with inconsistent policies and procedures. Consequently, I think you'd see a more efficient and effective program moving forward from our agency.

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As you can tell, we visited some with Senator Harms over the last few months as he's talked with us about our program arrangement and allotment. We have the luxury with a staff of about 70 people to administer about 50 to 55 different programs and service areas. And so as we've begun to look at these alternatives long-term, there's some opportunities for us to begin to better look at program alignment and maximizing resources and subsequently looking at our program effectiveness. So that's why I'm here before you today in support of this legislation. [LB657]

SENATOR PAHLS: And by looking at it, there would be no cost to what you're going to do. [LB657]

RICHARD BAIER: There would be no enhanced fiscal costs. There are some bills...other bills, one just mentioned, that would provide some additional funding, but it's not something we would support as the administration. [LB657]

SENATOR PAHLS: Thank you for your testimony. [LB657]

RICHARD BAIER: Thank you. [LB657]

SENATOR PAHLS: Any proponents? Opponents? Neutral. [LB657]

ROSE JASPERSEN: (Exhibit 2) Good afternoon, Senator Pahls. I first want to make an observation. No one can fault the state for spending too much money on heat in their hearing rooms (laughter). Is my nose red? It is really chilly in the back (laugh). [LB657]

SENATOR PAHLS: We do that intentionally. [LB657]

ROSE JASPERSEN: Yeah. Well, if I start to shiver, you'll know why (laugh). Thank you very much for the opportunity to be here, all of you. I am Rose Jaspersen, J-a-s-p-e-r-s-e-n. I am the executive director of the Nebraska Enterprise Fund (NEF), formerly known as the Nebraska Microenterprise Partnership Fund. We are a private, nonprofit, 501(c)(3) organization, and we started in 1994. It's the mission of NEF to make sure that Nebraska micro and small businesses in urban and rural areas have access to capital, training, and technical assistance. I would like to provide a little bit of historical background here, because I think what (LB)657 does is build on top of the original Microenterprise Development Act, and so I think it's good for you to have an understanding of what that was, and what that's been, and what it's done. NEF, just as an observation there initially, we are a certified community development financial institution. We reached that status in 1997, and this is a certification that's awarded by the U.S. Department of Treasury. The first NEF loans and grants were made in 1996, using federal funds. In 1997, the Microenterprise Development Act was passed by the Nebraska Legislature to provide support for microprograms in assisting start-up and existing microbusinesses, those with five or fewer employees in rural and urban

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Nebraska. Since that time, NEF has signed a yearly contract with the Department of Economic Development to administer the state funds. In addition, NEF procures resources from federal, local, and private sources. The unique public/private partnership between DED and NEF ensures that a permanent, statewide infrastructure of microprograms exist to serve businesses in all 93 counties of the state long-term. The Nebraska Enterprise Fund serves as an intermediary organization providing various services to ensure continuity of resources for these businesses. The following are but a few: administers the granting and lending of state and other funds to microprograms to provide needed operating and loan capital for relending to businesses; leverages dollars from other nonstate sources (federal, local, private), in any given year that leverage runs from 9 to 12 times the amount awarded under the Microenterprise Development Act; evaluates program performance by collecting quarterly data and publishing a yearly report to the Legislature; builds the capacity of programs through training and technical assistance to increase scale, reach new markets, and offer new approaches and products; researches and designs new products to meet the needs of microprograms and microbusinesses. Since 1997, microprograms have compiled, and you all had received this earlier in your boxes, the following performance record. Over 21,000 individuals have received training, technical assistance, and/or loans, representing all counties in Nebraska. Over \$9.5 million has been loaned. In addition to direct loans, over \$7 million has been leveraged for microbusinesses from other lending sources. For fiscal year ending 6-30-08, microprograms reported helping create and/or retain just about 9,000 jobs. Additional activities by NEF and microprograms have resulted in the following: two microprograms are now CDFIs with a third program exploring the possibility; three programs are U.S. Small Business Administration Microlenders; three programs lend USDA funds. Businesses that may not be eligible for a bank loan are borrowing the necessary funds for operations. A micro tax credit is now part of Nebraska Advantage. The latest farm bill contains a new rural microenterprise program. Programs are assisting first time filers of Schedule C, businesses are receiving assistance in marketing products both through direct retail and the Internet; microprograms are offering Quickbooks instruction to get business books in order; a coordinated network exists where collaboration with other microprograms and other service providers is part of every working day. Why it works--Nebraska has had microprograms in the state for the last 19 years, and for the last 12 years the state has provided a funding stream. The system that has been created brings permanency to programming year after year. The private/public partnership between NEF and the Department of Economic Development is a major reason for that longevity. This approach provides opportunity for DED's input, but does not require day-to-day staff time. The department serves as a sounding board for new ideas in micro services, while encouraging the micro industry to help fill additional gaps for growing micro. As private nonprofits, NEF and the programs it serves both provide the required match, exceeding that match many times. And, vice versa, the state funds serve as an important match function for acquiring funds from other sources. LB657--I'm here today representing NEF, its practitioner partners, and the micro businesses they serve. The proposed

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LB657 language appears to alter an already proven successful system at a time when the demand for micro program services is rapidly growing due to economic conditions and to increasing awareness of services. The following are points where additional clarification is needed and concerns are raised. Commercial lenders are important partners in microenterprise work both as funders and as lenders. Language regarding those entities was removed in LB657. The two-tiered match, NEF and grantee/borrower programs, is reduced to a single match, reducing the leverage effect of the state funds. It is not clear what the addition of security bond services would entail. A high percentage of microenterprises served by programs would not have a need for surety bond support. NEF has provided training to programs in the past regarding access to private surety bond company services for microenterprise contractors and, of course, we are always open to adding needed services if that is something that could be brought into our programming. Possible organizations listed to carry out the functions in LB657 include 501(c)(6). The 501(c)(3) structure provides the most universal access to multiple sources of capital from many private and public sources. Because section 81-12,100 of the original act was deleted in its entirety, and therefore, the criterion for making grants is removed. Those points ensure that collaboration takes place amongst programs to avoid duplication, all regions of the state have access to services, economically distressed and low-income areas are served, recipient organizations have sufficient funds to carry out the work, and programs can provide training, technical assistance, and loans. There is confusion as to the need for LB657 when the current Microenterprise Development Act is working through a public/private partnership. The current Nebraska system is often held up as a model for replication throughout the nation. Senator Harms and I have visited regarding the proposed changes to the Microenterprise Development Act, and we are in agreement that we do not want microenterprise services negatively impacted by any change. This work is vital to urban and rural Nebraska and particularly in today's economic crisis. The senator is to be commended for beginning the discussion on streamlining economic development in Nebraska. The current microenterprise system is an excellent example of how a public/private partnership can bring resources to previously underserved businesses in all 93 counties. The microenterprise industry in Nebraska feels strongly that any change to the Microenterprise Development Act should build on the successful work of the last 12 years. Thank you for the opportunity to speak to you this afternoon. Any questions? [LB657]

SENATOR PAHLS: Seeing none, we thank you for your testimony. [LB657]

ROSE JASPERSEN: Thank you very much. [LB657]

SENATOR PAHLS: Appreciate it. And the senator said he would not be here to close, so that closes the hearing on LB657. Thank you. [LB657]

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Disposition of Bills:

LB606 - Indefinitely postponed.

LB637 - Held in committee.

LB657 - Placed on General File.

Chairperson

Committee Clerk