[LB223 LB240 LB322 LB409 LB422 LB514]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, February 14, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB223, LB240, LB322, LB409, LB422, and LB514. Senators present: Rich Pahls, Chairperson; Beau McCoy, Vice Chairperson; Mark Christensen; Mike Gloor; Dave Pankonin; Pete Pirsch; and Dennis Utter. Senators absent: Chris Langemeier. []

RICH PAHLS: Good afternoon. I'd like to welcome you to the Banking, Commerce and Insurance Committee hearing. My name is Rich Pahls. I'm from Omaha and I represent District 31, and it's my pleasure to serve as the chair of this committee. We are missing a few of our state senators, because they are at other obligations. Hopefully, they will be here soon. We will take up the bills as posted on the outside. You saw the...on the wall outside, and to better facilitate the meeting, I want you to look at the small, white chart board over there and follow those rules will make life much easier for all of us. One thing that I do do here is if it's your turn to come up and testify, we have some chairs in front that I'd like for you to sit in. That gives me a feel of where we're at on the testifiers. If you are going to testify, you do need to fill this form out and give it to Jan. Again, I'm going to take a look at the number of proponents and opponents or those people who are neutral on bills to see whether we will use the lights today. Okay. I think we will begin now by having the senators introduce themselves. []

SENATOR PIRSCH: Good afternoon. I'm State Senator Pete Pirsch from Omaha, District 4. []

SENATOR McCOY: Beau McCoy, District 39, Omaha and Elkhorn. []

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

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

SENATOR PAHLS: We also have Bill Marienau over here, keeps us legally correct, and the one who keeps us paper correct is Jan Foster. She makes sure that we are following the procedures, and we have two young men over here who are our pages--Tom Kelly...wave your hand, Tom, and also Matt McNally. Again, we do have a full agenda today, and the one word that I like to have you take a look at is the very last word on the post over there is, be concise, be to the point, and that will make the hearing run more efficiently. We will start with LB514, Senator Christensen. []

SENATOR CHRISTENSEN: (Exhibits 1, 2) Thank you, Chairman Pahls and members of the Banking, Commerce and Insurance Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n, represent the 44th Legislative District. I'm here to introduce LB514.

LB514 would amend section 44-359 to allow courts which has rewarded a plaintiff damages in an action against a property casualty insurance company to allow an additional recovery up to one times the recovery and attorney fees as liquidated damages if it is found that the recovery has been unreasonably delayed or denied by the property or casualty company. As I have discussed with many of you already, I introduced this bill as a result of a particular situation that developed between an insurance company and a constituent of mine, Mr. Sid Harchelroad, who is a business owner in Imperial. Approximately 17 months ago, a fire destroyed one of Sid's buildings at his car dealership, and his claim has not yet been paid. In working with an adjuster from Colorado, he became aware of some recent changes in Colorado law that provides for an additional recovery of two times the covered benefit. The Colorado statute is what I based LB514 from, which I have handed out to you along with suggested language to provide for a definition of "unreasonable." From what I know of the case, my fear is this particular insurance company is delaying and stalling Mr. Harchelroad to settle for less than what he deserves under his policy. This is not right, and we should provide a disincentive for unreasonable delays and denial. Mr. Harchelroad is here today, and he will be able to give you some more details about his particular situation. It is my desire to work with the committee to address any of your concerns and obtain a balanced approach, so that there is a recourse for those Nebraskans who find themselves in a similar situation. Thanks for your consideration of LB514, and I urge its advancement to General File. [LB514]

SENATOR PAHLS: Any questions from...? Senator Gloor. [LB514]

SENATOR GLOOR: Thank you, Chairman Pahls. Senator Christensen, if I look at the handout I'm guessing came from you? [LB514]

SENATOR CHRISTENSEN: Yes. [LB514]

SENATOR GLOOR: Where it talks about the Colorado law and defines delay or denial, it goes on to say, without a reasonable basis for that action. What does "that" mean, do you think or as you've looked into this, what kind of reasonable basis for that action are we talking about here? [LB514]

SENATOR CHRISTENSEN: Well, I would assume that if there is a reason like they're still investigating the cause of the fire or there's...it hasn't been fully determined. That would be a reasonable delay, but if, like in this situation, the fire was immediately determined not to be my constituent's issue, it was a contractor, then him not being paid in 17 months is unreasonable in my book. So, the situation is the fire marshal released him, and there should be no other reason why he shouldn't be able to be paid right away, and that was done within three days. [LB514]

SENATOR GLOOR: Okay. I'm just wondering if that provides appropriate amount of

leeway or too much wiggle room. I'm...you know, I'm not sure which way that the wind would blow on that particular issue. Just wondering. [LB514]

SENATOR CHRISTENSEN: I understand the concern, and I would gladly work with you on tightening that up, because I can see it being too loose. [LB514]

SENATOR GLOOR: Thank you. [LB514]

SENATOR PAHLS: Senator Pirsch. [LB514]

SENATOR PIRSCH: Is this the language you borrowed from Colorado, Senator? [LB514]

SENATOR CHRISTENSEN: Yes. [LB514]

SENATOR PIRSCH: Okay. So essentially, it's calling for a case by case...ultimately, it will be the judge in each case during the damages session if it gets to that point, right? [LB514]

SENATOR CHRISTENSEN: Correct. [LB514]

SENATOR PIRSCH: To make a determination as to whether and how much...I'm sorry, I guess it would be in this case whether...you spelled out it would be one times the recovery, right? [LB514]

SENATOR CHRISTENSEN: Correct. [LB514]

SENATOR PIRSCH: So it's... [LB514]

SENATOR CHRISTENSEN: See, it's up to that, and so you're going to have to convince the judge that you have been unreasonably delayed, and then he's going to determine up to one times again payment. So, if your claim is a million dollars, it could be up to a million, however the judge would set that. [LB514]

SENATOR PIRSCH: Are you aware...how long has this statute been in effect in Colorado? [LB514]

SENATOR CHRISTENSEN: I'm not sure, Senator. I can look that up for you. [LB514]

SENATOR PIRSCH: Thank you. [LB514]

SENATOR PAHLS: Seeing no more questions, thank you, Senator. Now we will go to proponents. Just a show of hands, how many proponents? One. Any opponents? One.

Neutral? Okay, I see one of each. Thank you. [LB514]

SID HARCHELROAD: Thank you, State Senators, Banking, Insurance, and Commerce Industry (sic) Committee for hearing this. My name is Sid Harchelroad. First name is S-i-d. Last name is H-a-r-c-h-e-l-r-o-a-d. I am from Imperial and Wauneta, Nebraska. My brother and I own two car and farm machinery dealerships in southwest Nebraska. October 17, 1:30 in the morning, I got a call that forever changed my life. I was called by the 911 dispatcher, telling me that a whole block of my businesses, five buildings, had caught fire due to a contractor error in a building construction we had going on, on a shop. At that point in time, you know, I got there...I don't know if you've ever had anything that catastrophic hit you. I'm sure many have, but when you come in and watch your business that you've built, you know, over the last 75 years through the family, and yourself, burning to the ground, and nothing can be done, because the fire was that bad, you kind of lean on your insurance company to be there, you know, within a reasonable time and to make a reasonable settlement. Our five-structure business was burnt to the ground, nothing salvageable, not a thing. At that point in time, I believe the insurance company could have paid us to the letter of the law, the full amount of claim. They did not; they made a partial payment, flew off in their corporate plane, promised to work with us. And 45 days to 60 days later, after submitting the claim, it's been stalled, stalled, restalled, hired a public adjuster to help resolve it. We've submitted four claims, and 17 months later, owed seven figures plus in damages. Being a businessman or anybody, for that matter, when you're out that much money, it's hard to operate. And we're in the service business. We sell and service vehicles, farm machinery, we keep our people going in the fields, on the roads, and it's been tough sledding. I'm glad I'm young. I'm glad I have a good support group. But without this final and full payment to settle this loss, things are pretty tough...got to borrow a lot more money. You have to work a lot harder and I'm very thankful that we're in a farm and agronomy community where people do pull together and kept us up. But we literally come to work the following Monday after this Saturday morning fire, on folding tables, loaner chairs in another building that we owned across the street that was strictly a warehouse for vehicles. And so, we were burnt to the ground, and 17 months later, I still have no resolve. I've heard these horror stories over the years from a lot of my customers, friends, and business colleagues, but I didn't ever suppose I'd have to live through one where payment was not made and has been delayed and delayed and delayed. And, at this point in time, roughly in September, I had to hire legal counsel to put together a, you know, a plan to resolve this, and that...September till now is almost, you know, five full months. Still no resolve, and now it's going to have to be worked out in the courts instead of just having the insurance company settle with us, and we all go down the road. But anyway, any questions, I'd be glad to answer, and thank you very much for hearing me this afternoon. [LB514]

SENATOR PAHLS: Do we have any questions? Seeing none, thank you for your personal information. Appreciate that. Thank you. [LB514]

SID HARCHELROAD: Thank you. [LB514]

SENATOR PAHLS: Any other proponents? Thank you again. Opponents. [LB514]

COLEEN NIELSEN: (Exhibit 3) Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is Coleen Nielsen. That's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for the Nebraska Insurance Information Service. The Nebraska Insurance Information Service is a local trade association of property casualty insurance companies, doing business in Nebraska, and I'm here today to oppose LB514. We feel that not only is this legislation unnecessary, but that such language constitutes a penalty and would violate Article VII, Section 5 of the Constitution. I'd first like to say that we feel that there are adequate remedies available to a person who feels that their claim has been denied, a complaint to the Department of Insurance under the Unfair Claims Settlement Practices Act can result in a fine of up to $1,000 for each violation; in flagrant situations, up to $15,000 per violation, and ultimately, the suspension of the insurer's license and certificate of authority to do business in Nebraska. The other option is the remedy of a court of law. I believe that the appropriate remedy in this situation is not one to come to the Legislature, but rather to litigate the situation. As to the constitutional issue in this case, the case that outlines the penalty principle is Abel v. Conover, and in that case, the court held that a statute which provides more than compensatory or actual damages to be paid to an individual is in excess of legislative authority and is unconstitutional. The case also held that the statute providing for liquidated damages, though in the form of a penalty, will be upheld if the amount provided bears a reasonable relation to the actual damages which might be sustained and which damages are not susceptible of measurement by ordinary pecuniary standards. But where it appears that the provision provides for the payment of an amount clearly in excess of compensatory damages, it is a penalty and violates the due process clause of the Constitution. It is our position that although the language in (LB)514 indicates that an additional recovery of up to one times the recovery and reasonable attorneys' fees is labeled as liquidated damages, it is really a penalty. Liquidated damages is a monetary compensation for a loss. These damages are intended to be proportionate to the loss. A penalty is designed to go beyond compensation for the actual harm. It is designed to serve as a punishment. In a case against an insurance company, damages must be proven and a judgment rendered. Under LB514, the court would have to determine if there was unreasonable denial or delay, and if the court did so find, would impose an additional amount to actual damages. The statutory amount of up to one times the recovery is arbitrary and cannot be considered to be reasonably related to actual damages. For this reason, it would be considered a penalty under Abel v. Conover, and for these reasons, we ask that this committee refrain from moving this bill to General File. Thank you, and I'd be happy to answer any questions. [LB514]

SENATOR PAHLS: So your position is the Constitution. [LB514]

COLEEN NIELSEN: Well, both the fact that the appropriate remedies in this situation probably ought to be complaints to the Department of Insurance or litigation. [LB514]

SENATOR PAHLS: Okay, okay, and appears they are in the direction of litigation. Yes, Senator. [LB514]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Coleen. [LB514]

COLEEN NIELSEN: Sure. [LB514]

SENATOR CHRISTENSEN: I can say that there has been notification to the department, and that was unsatisfactory. I have to ask the question, if everything was totaled out, how can there be any reason for any delay? There was zero left. The building...even the whole structure collapsed in. There was nothing left. It was so hot, it melted the steel, melted frames. I mean, there was nothing left. I mean, it's a hundred percent write-off. How can you delay this and in any way, shape, or form with being excused by the fire marshal in this case? I don't understand how anything can be unreasonable on his end to not expect full payment and immediate. [LB514]

COLEEN NIELSEN: Well, Senator, I understand your frustration, and I understand Mr. Harchelroad's frustration, but I don't have all the facts to this case, and I certainly couldn't give you an opinion as to why this occurred. [LB514]

SENATOR PAHLS: Seeing no more questions, thank you. Next opponent. [LB514]

WALT RADCLIFFE: Senator Pahls, members of the Banking, Commerce and Insurance Committee, my name is Walter Radcliffe, W-a-l-t-e-r R-a-d-c-l-i-f-f-e. And I appear before you today as a registered lobbyist on behalf of the Property Casualty Insurers which is a national trade association. Ms. Nielsen represented the state association, just to put that in some juxtaposition for you, in opposition to LB514. I really...Coleen very well stated the reason for the opposition as far as the remedies that exist, both administratively and in court. I am seldom reminded of anything I learned in law school, but this does remind me of the old...it's not funny, but bad cases make bad law, and this is probably one of those cases, at least, from what's been said. The fact of the matter is, though, Nebraska does have a constitutional provision against punitive damages. All states don't. There's many states that don't. And those states have a reputation of being very litigious states, and states which, quite frankly, discourage people from doing business in them. And over the years, that's a decision that this Legislature has continually reinforced which is to retain the constitutional prohibition against punitive damages. And I think any close reading of this would...or not even a close reading, any reading would clearly demonstrate under any definition what you're dealing with are

punitive damages and not liquidated damages despite what the statutory language is. I'd be happy to answer any questions. I don't desire to be repetitive; I know you got a long afternoon. [LB514]

SENATOR PAHLS: Okay. See no questions. Thank you... [LB514]

WALT RADCLIFFE: Thank you. [LB514]

SENATOR PAHLS: ...for your testimony. Any other opponents? [LB514]

TAD FRAIZER: Good afternoon, Mr. Chairman, members of the committee, my name is Tad Fraizer. That's T-a-d F-r-a-i-z-e-r, representing the American Insurance Association, another national trade association of property and casualty firms. I think the points have been well made previously by Ms. Nielsen and Mr. Radcliffe. Again, apparently, this matter is now in litigation which would be the appropriate venue to determine the questions. There can be all sorts of questions in a loss like this. Again, I don't know the particular facts, but you can have property losses; you can have business interruption aspects; you can have different entities owning things. So what the complications are, will no doubt get sorted out. There is, of course, an existing provision for attorneys' fees to be assessed under Nebraska law if a matter comes to litigation, and you receive an award, you are compensated with your attorneys' fees. I think the constitutional point about punitive damages has been well made, and from our viewpoint, this verges on punitive damages which, from our point of view, fortunately, Nebraska does not have. I think that contributes to the favorable business climate in Nebraska. We don't have the reputation of a negative litigation atmosphere that some states do in terms of all manners of business. And for that reason, we would ask that the bill not be advanced, and I'd be happy to try to answer any questions you might have. [LB514]

SENATOR PAHLS: Seeing no questions, thank you for your testimony. [LB514]

TAD FRAIZER: Thank you. [LB514]

SENATOR PAHLS: Any more opponents? Anyone in the neutral? Senator, closing. [LB514]

SENATOR CHRISTENSEN: Thank you, Chairman. We had discussion here that a result...an unfair settlement claim results up to $1,000 for each violation. We're talking a multimillion dollar case here. $1,000? That's not even interest for a week. Let's think about this. Flagrant situations up to $15,000 and can suspend. We've got some corrections that we need to do in our statutes, if you're going to be under those. But you come on down, and we heard about this being unconstitutional, because it's too much. The bill is written to up to one times additional. It is not flagrant. It is not unproportionate

as we heard this is, because this would be determined by a judge up to. That's leaving it out to follow the current law, and to be able to set the damage accordingly to what's been occurred. You know, the damages from what we heard, can be done currently, wouldn't touch the interest. Is that right? Somebody can delay it 17 months, not even pay the interest? You know, I think we got to think about what we're doing here, because right now we have the opportunity. We've set up the insurance companies have all to gain in their delay, nothing to lose. Get into court; you go make a decent settlement to avoid it. Then you can't get the attorney fees; then you can't get the interest, things that way. It's a...almost a racket that we're allowing to occur. So I ask you to look at the language real close. I do not think it's unconstitutional. I think it is written so a judge can make that appropriate damage that has occurred, because the interest, for one, the delay of the business can be covered another route as we heard. But I just think this is very important that we think about what we're doing to our businesses that we're trying to keep in Nebraska. Thank you. [LB514]

SENATOR PAHLS: Okay. Any questions? I do think you've heard their concerns, so maybe by looking at that...I know you discussed that, to some degree here, but it might be something to take a look at if need be. [LB514]

SENATOR CHRISTENSEN: Sure. Be glad to. [LB514]

SENATOR PAHLS: Thank you, Senator. That closes the hearing on (LB)514. We will now prepare for...thank you...we will now prepare for LB223. I think I saw the senator in here. Senator. [LB514]

SENATOR KARPISEK: Thank you, Senator Pahls, members of the Banking, Commerce and Insurance Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I'm from Wilber, W-i-l-b-e-r, Nebraska, and I represent the 32nd Legislative District. I'm here today to present LB223 that has to do with cochlear ear implants. I know I've been here last year in front of you with this same bill, and we have people much more familiar with the whole idea than I am, so I will let them talk more about it. One of the main reasons that I've brought this bill is on the fiscal note, it states, LB223 requires that individual and group sickness and accident insurance policies issued or renewed in the state include coverage for single or bilateral cochlear implants for persons diagnosed with severe to profound hearing impairment. The bill will have no fiscal impact for state agencies or the University of Nebraska, because health insurance plans for state and university employees currently cover cochlear implants. That is my whole point right there, Senators. We feel strongly enough about our employees that they are covered, which I think is great, but we don't make it mandatory that other people with insurance in the state don't have it. I know that part of the opposition will say it's going to raise insurance. I understand it probably will a little. It's always odd that I brought this bill. Senator Pankonin used to bring the prosthesis bill. My father has a prosthesis on his leg since I was two years old. He was involved in a car accident. His

insurance did not cover that either. I remember growing up, that it took a long time before he could always get a new leg. So that's a lot of the drive behind this for me. We see a lot of these kids, now young adults or adults that were able to hear because of these implants. They make a huge difference in their lives. I think we just need to do it for the residents of our state. With that, I'd be glad to answer any questions. [LB223]

SENATOR PAHLS: Senator Pirsch. [LB223]

SENATOR PIRSCH: And this is just a question. You said there's no...there would be no additional cost for the state. Is that what you were saying? Would that include through the CHIP program? [LB223]

SENATOR KARPISEK: There is something about the CHIP, Senator, but the state is...our insurance that our employees have, the cochlear implants are covered. [LB223]

SENATOR PIRSCH: I see. [LB223]

SENATOR KARPISEK: Okay? [LB223]

SENATOR PIRSCH: Thank you. [LB223]

SENATOR PAHLS: Seeing no further questions. Do you plan to stay around for closing? [LB223]

SENATOR KARPISEK: I do. [LB223]

SENATOR PAHLS: Okay. [LB223]

SENATOR KARPISEK: Thank you, Senator Pahls. [LB223]

SENATOR PAHLS: Yeah. Okay. Now, I just need to see a show of hands--proponents, so it gives me a...one, two, three, four, five, six. Opponents? One, two, three. Okay. And I'm going to ask you, as the front seats...when people are finished with their testimony, you come fill them up. That gives me a feel of where we're at. I think we are ready to begin with the proponents. And, again, I'm asking you...think in terms like five to six minutes. That way, I will not use the lights. [LB223]

KRISTI CURREN: (Exhibit 1) Senator Pahls, committee, I'm passing out some booklets that has all of the studies that we're going to refer to. Full, actual published studies are in that packet for you, so that you have that information at hand. My name is Kristi Curren, K-r-i-s-t-i C-u-r-r-e-n. This is my third year doing this, so I've seen you all last year. I'm not going to go into the emotional part of this testimony this year. What I really want to push hard and home is that the opposition has always been for this bill, it's

going to cost more premiums in insurance. In the back of your binder, you'll find a study printed...insurance study of the cost of the implant. I've highlighted in the back for you that the cost for the premium is less than 1 percent. And that's put out by the insurance industry, not...I guess like on page four of that, that's highlighted. Some of the points that I want to just hit is left untreated hearing impairment, infants can negatively impact speech and language acquisition, academic achievement, social and emotional development. Ninety percent of the children born deaf and hard-of-hearing are born to hearing parents. According to a study that was done at Johns Hopkins, they've identified a clear pattern where implantation before 18 months of age has a greater benefit than later implantations, allowing children to catch up fast, sometimes to nearly normal levels. And, according to a 30-year study by Gallaudet Research, half of the deaf and hard-of-hearing high school seniors demonstrate a fourth-grade reading level. An estimated one study that the lifetime costs for all people with hearing loss who are born in 2000 will total 2.1 billion which is in 2003 dollars. And they broke that down by 6 percent nonmedical, 30 percent such as special education, and 63 percent which include lost wages and state assistance. So we've talked about so much how this bill is going to cost money; it actually is going to save money and educational cost, and in wage earning possibilities. There's a couple of other studies in the back that you'll find. It can save anywhere from $5,000 to $45,000 per year per hearing impaired student if that student is implanted early enough. You'll hear from my son later. He was implanted at seven; had we got him earlier, he may not need the assistance of an interpreter in classroom. Since he is the only hearing impaired kid in that high school, he costs the state and the school district an extra $40,000 per year to have her present with him all day long. If we would have had him implanted earlier, he may not require that special education assistance. Again, it's less than 1 percent in the increase. Wisconsin passed a law in 2009 which dealt with cochlear implants and hearing aids on the same bill, and that was signed in and started in January of 2010. And I just wanted to have my last thing is a quote from their governor when they signed it in to legislation. "Today we need to make sure families no longer have to choose between putting food on the table or providing effective and proven treatment for their children." And with that, if you have any questions. [LB223]

SENATOR PAHLS: Senator Pirsch. [LB223]

SENATOR PIRSCH: I just have a question about the effects, and this is more in the long term or medium term of the PPACA, right...the federal healthcare bill. How is that...is there mandatory coverage under that federal law that's going to be implemented or phased in or something? [LB223]

KRISTI CURREN: I don't know the answer to that. I currently know that right now, Medicare, VA, and all federal health plans provide coverage for cochlear implants, but I don't know about the future bill. But in regards to that, if that takes in...kicks in, in, you know, two, or three, five years, we're waiting two, three, five years to implant these

children. And they have a less success rate the longer we wait. [LB223]

SENATOR PIRSCH: Okay, thank you. [LB223]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony. [LB223]

KRISTI CURREN: Thank you. [LB223]

SENATOR PAHLS: Next proponent. [LB223]

CLIFF CARLSON: Good afternoon, Senators. My name is Cliff Carlson. Actually, it's Clifford Carlson, C-l-i-f-f-o-r-d C-a-r-l-s-o-n. I live here in Lincoln, Nebraska. As Kristi had alluded to, this is our third year being in front of you, and I feel like I'm getting to know all of you. Thank you for your time to hear us out today. I could go into a variety of topics. I could speak at great length about the amount of success my son has personally had with cochlear implant technology. He is a glorious deaf young man who signs beautifully. He also speaks remarkably well, so much that in the last month, the Lincoln Public School District decided that Heath Carlson no longer qualifies for speech services. I want you to think about for the minute, my son's speech articulation, sentence structure, expressive vocabulary, all put him above his peer groups in the public school system. That said, he's always going to be qualifying for some services, because he is deaf. That's hundreds of thousands of dollars per child that's going to save Lincoln Public Schools. I could talk about that for a full hour. I have three minutes. So I want to talk about things that I think will be more relevant to you, this being our third year. There's a study in your packet...it's actually put out by the Council for the Affordable Health Insurance. This is a pro-insurance group, okay? It talks about health insurance mandates in the United States of America in 2009. It studies every insurance mandate around health insurance across the United States by state, by mandate type, and it quantifies the cost in real policyholder dollars per mandate. It very clearly points out, there's only three mandates across the United States that had a real impact on policyholder dollars spent. Cochlear implants, bilateral cochlear implants resulted in less than one-half of one percent real dollar premium increases for the policyholders. And yet, it has traumatic long-term effects on the state and school dollars. I encourage you to look at specifically those types of language,...page 2 of the report points out that not all mandates are created equal. Every single lobbyist from a variety of angles is going to come up here and say, mandates increase premium costs. That's a fact. But let's keep my all mandates are not created equal, and organizations funded by the insurance industry prove that out, and I'd like to point that out to you in that study. Again, you have a copy for your own review. The other thing I want to point out is the fiscal note, and Senator Pirsch had some questions on the fiscal note regarding CHIP. That fiscal note is not accurate. As first stated, the first paragraph is a remarkable statement in itself. State employees, University of Nebraska employees are covered. There's no direct fiscal impact on the state of Nebraska as it relates to coverage for employees of the

state or the university system. The next section talks about the fiscal impact on CHIP, and then the downstream impact on the general budget of the state of Nebraska is about $100,000 for CHIP which resulted in about a $40,000 impact on the general budget. CHIP covers cochlear implants currently. It's really unfortunate Senator Gloor had to step out. One of his constituents in Grand Island has a student, a young man, who received his cochlear implant through the CHIP program in 2009. So, really, the entire fiscal note attached to our bill is fairly irrelevant and inaccurate. One last thing on the CHIP program, and that story about the young man from Grand Island. That family is a good friend of mine, and their father called me today and related the story to me, and encouraged me to tell you this story. They are both well-educated, successful businesspeople. They both have jobs. Mother and father both have jobs. Both jobs offer group insurance coverage. Neither insurance provider offers coverage for cochlear implants. They went through every possible medium to encourage those coverages, so they could get a cochlear implant for their son. Couldn't do it. So what he did was essentially commit financial suicide, tanked everything, to get his son eligible for CHIP, and then passed those costs on to the CHIP program. He pays CHIP premiums, and those are subsidized through our tax dollars. Has his son now with the cochlear implant, and he's on the CHIP program. Is that the message we want to send in the state of Nebraska? I don't believe it is. What we're asking to do with our mandate is to reach out and get the insurance companies that are not covering cochlear implants to participate in that coverage. The vast majority do. Blue Cross Blue Shield does. A variety of insurance companies will cover a cochlear implant after a couple of interesting claims cycles. But what they're asking to happen now is, families like that in Grand Island are having to find a way to manipulate the system and put the burden on the taxpayer. That's nothing they're proud of, but they'll do what they have to do to get what their son needs. With that, I could go on, but I won't. I'm going to keep this at three minutes. I can take any questions you might have. [LB223]

SENATOR PAHLS: Senator Pirsch. [LB223]

SENATOR PIRSCH: Thank you for your testimony. Do you have an understanding of how many uninsured...this, the purview would be for which...what was the pool of persons diagnosed with severe to profound hearing implant (sic)? How many individuals would this then affect in the state? [LB223]

CLIFF CARLSON: Very, very few. I'm not in the medical community. You will hear some testimony around that. That's a great question. It's an incredibly small amount of state citizens. In the macro, one in ten children is born with some form of hearing loss, ranging from mild to severe to profound. A cochlear implant eligibility revolves around severe or severe to profound hearing loss. That's a very, very small population of the deaf, hard-of-hearing community. There will be testimony from the medical community about that. [LB223]

SENATOR PIRSCH: Okay. Thank you. [LB223]

CLIFF CARLSON: I think the estimates given by the CHIP program that really we're talking about less than a half a percent is a fairly accurate thumbnail of what we're talking about from the human perspective. [LB223]

SENATOR PIRSCH: Less than one-half. [LB223]

CLIFF CARLSON: Yeah. [LB223]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony. [LB223]

CLIFF CARLSON: Thank you. [LB223]

SENATOR PAHLS: Next proponent. [LB223]

DILLON CURREN: My name is Dillon Curren, D-i-l-l-o-n C-u-r-r-e-n. I am 16, in tenth grade at Millard South High School. I am currently the only hard-of-hearing impaired person in my school. I was on honor roll last year, and I'm on the honor roll again this year. Cochlear implants are a very big part of my life and very vital. When I was born, I was born premature and diagnosed with auditory neuropathy. This kind of hearing loss was very uncommon back in those days. The first six years, I could hear very little. Imagine the louder sounds are very small sounds for me. In April 2001, I received my first cochlear implant. I was very nervous prior to the surgery. After the surgery, the recovery was very hard, and I did not like it, but I knew it would help me hear. Hearing new sounds was a very big deal. I could hear the dog barking, people talking, a horn honking, and a fire alarm at my school. On January 5, with the cochlear implant, I could hear the code that was put in place in the event of the shooting. It is amazing how technology works. I can hear everything I couldn't hear before. I can hear my family tell me they love me. I can hear my friends talking, and my teachers in the classroom. Unfortunately, I can also hear my mom nag at me (laughter). Music is my favorite thing to listen to. With the help of my implants, I'm able to listen to my favorite music. In 2007, I had my second implant. My mom did research on bilateral implants, and I agreed to have a second one. It was originally scheduled for August, but due to conflicts with our insurance company, it was postponed to September 9. When this was postponed, I was shocked and scared that I wouldn't get my second one. Once again, I was nervous and not sure how it would be different. Now in school, I'm very successful. Part of that success is because of my cochlear implants. Without them, I am not sure how I would be doing. Did you know that the average deaf child reads at a sixth-grade level? I also learned three languages--English, sign language, and French. I mastered English and sign language, but I'm still learning French. My French teachers say I'm doing a good job, and I currently have a B. All of this is due to my hard work and my cochlear implants. Since colleges are starting to appear on the horizon, I feel that my options are

open. I do not have to go to a deaf specific college. I have planned to get a degree in sports administration. My top college pick is the University of Nebraska at Kearney. I've been able to communicate with other people and listen to them and understand them. Without my cochlear implants, it would be very confusing to me. I understand that some of the deaf people want to stay deaf, and that is fine with me, and I have a group of friends that are. But those who need it, they need it. For those who need it, their school and communications can be greatly improved. I participate in sports like football and basketball. Implants have made my life so far successful. I have mastered two languages, and I'm able to play sports. I know that I can be whatever I can be with the help of my implants. I can be a doctor, a lawyer, even a senator. I have set my sights higher than a senator (laughter). I want to be an athletic administrator. I've also met people and befriended them with the same disability. All I am saying that implants are a big piece of my life, and I should have been a deaf individual and nonhearing. I think that a choice to get implants should be ours with doctors and parents, not by our insurance company. If I had to choose again, I will pick my implants. Like my mom has said, that most people have taken for granted, it's one thing she wanted for me, and that was the ability to learn. Please support this bill. Thank you. Do you have any questions? [LB223]

SENATOR PAHLS: Senator Utter. [LB223]

SENATOR UTTER: I'm glad to hear your aspirations are beyond being a senator, because that job doesn't pay very well (laughter). [LB223]

SENATOR PAHLS: I see no more questions, but all I got to say is, go Patriots (laughter). Thank you for your excellent testimony. [LB223]

DILLON CURREN: Thank you. [LB223]

LEISHA EITEN: (Exhibit 2) Senator Pahls and committee, thank you for this opportunity to talk with you. My name is Leisha Eiten. It's L-e-i-s-h-a. My last name is E-i-t-e-n. I'm a clinical audiologist and clinical coordinator of audiology at Boys Town National Research Hospital in Omaha. I'm also here as the current president of the Nebraska Speech-Language-Hearing Association. So today I'm actually representing the NSLHA--the Nebraska Speech-Language-Hearing Association in support of LB223. That's requiring insurance coverage for cochlear implants. Most of you, I think, have been on the committee before. I did bring an implant in case you wanted to see the parts of it. But what I want to clarify is, they are not hearing aids. Cochlear implants are reserved for those people--adults and children, who do not get any benefit from a hearing aid or very limited benefit from a hearing aid. So it's really for the most severely and profoundly hearing impaired people. It has the implantable part which is a surgical implantation of electrodes, so that's what is the cochlear implant implanted into the cochlea or the inner ear. And then there is an external processor that works as a

magnet to send signals from the microphone into the electrodes. That's what stimulates the hearing nerve. The benefits of implants are well established. I think most of the proponents already have been talking about the research. I think I also want to emphasize that it also represents improvements in cost benefit for adults as well, particularly late deafened adults. There are reduced costs for special education costs in children, but it's the work productivity for adults that really is important, too. Late-deafened adults who could previously work and function in the hearing world may not be able to do so after a sudden hearing loss or a change in hearing. That could be disability, underemployment, unemployment versus with an implant, they could go back to work in their regular field. But I want to emphasize the fact that there are a lot of insurances that have been consistently covering cochlear implantation. They've covered the costs for implantation as well as some of the habilitation costs that come after for children. Some carriers do continue to have policies that specifically exclude cochlear implants. So the other part that we've been thinking about is, we're not really sure where healthcare goes from here, and what other insurance carriers may be coming up on the horizon. LB223 could achieve a consistency in coverage among all the insurance companies. That could prevent delays and denials of coverage for implants, so that children and adults who don't have any other means of accessing speech and sounds would not be delayed. They'd be able to receive the implant when it's recommended. I am open for questions. [LB223]

SENATOR PAHLS: Senator Pirsch. [LB223]

SENATOR PIRSCH: Thank you for your testimony. You indicated some insurance companies are covering it... [LB223]

LEISHA EITEN: Um-hum. [LB223]

SENATOR PIRSCH: ...some are not. [LB223]

LEISHA EITEN: Yes. [LB223]

SENATOR PIRSCH: I wonder if you could just comment briefly on the need. I mean, is there...in terms of, as you see it, as a healthcare provider, the need in the state for coverage. [LB223]

LEISHA EITEN: I think the need is, particularly if parents, families, adults don't have an option from an insurance plan that will specifically exclude it. So if they're working somewhere where the only insurance option is a Coventry plan, for example, where it's statutorily written, it will be excluded, and there aren't any other insurance options for that family, then they may be in that where they would leave that job. They would go onto the CHIP program, as you heard before, of someone who made that choice of tanking all of their other options, so that they would qualify for state funding. So, it puts

families and adults in really difficult positions if they don't have other choices. So if you were in a work position that you really couldn't leave and Coventry, for example, would be the only option you had, you would not qualify. You would have to find another way to pay out of pocket, or you would not receive the implant. One other note, Senator Pahls, I believe there was a letter that was e-mailed to you from the president of the American Speech-Language-Hearing Association that we are an affiliate of them. [LB223]

SENATOR PAHLS: That would be in the file. [LB223]

LEISHA EITEN: Okay. [LB223]

SENATOR PAHLS: Thank you for your testimony. [LB223]

LEISHA EITEN: Yep. [LB223]

STACIE RAY: Good afternoon, Senator Pahls and other senators. My name is Stacie Ray, S-t-a-c-i-e Ray, R-a-y. I am a professor of practice at the University of Nebraska in the field of audiology. I also am a member of the Nebraska Speech-Language and Hearing Association. And I've been a member of the Nebraska Early Hearing Detection and Intervention Program for many, many years. And, actually, I haven't been in audiology my whole entire life. What got me into this field was that I have a son, who, when he was born, we noticed that he wasn't starting to communicate at the age he should be communicating, and he was diagnosed with a profound hearing loss at the age of 17 months. We did fit him with two very powerful hearing aids, and what very little amount of hearing he had, left on a Fourth of July when we were trying to listen to the radio at Holmes Park, when they did the firework display, and it's set to the radio. And he started crying, saying, the radio is broke, the radio is broke. And we realized, at that time, he was now completely deaf. We sought what else we could do for him, and this was many years ago...actually, he's 20 now, and we decided to do this cochlear implant and two months after the implants, I remember him sitting outside and little cross-leg Indian style, and he came in, and he's like, Mom, Mom, Mom, what's that? What's that? Because he was signing and he just kept saying it's wee, wee, wee. And I said, well, that's birds. And even with the best technology, with hearing aids, you have to realize that again, this is not an option for these few individuals in the state because their damage to their inner ear is so significant that you can't just find fancy hearing aids, and it's going to provide any kind of audibility. So I decided at that time I was going to devote my life to doing what I can do to ensure that children have the opportunity if this is what the family chooses...to be able to hear the birds, and to, you know, go around the house and listen to pots and pans, and toilets flushing. I remember doing all of that when he was very young. He was about four years old when he was implanted. Since then, his speech and language has developed very, very well. He was able to start doing a lot of catching up that he was behind several years. And he is now 20

years old. He has been working at the same job for four years. He's a taxpaying citizen. He's an amazing person, and he's starting to go to college, and doing all the things that we weren't sure that he was able to do prior to the implant. And now as an adult, he has chosen to get his second implant, and he did do that two months ago. So he's doing well, and I wish he could have been here today. Unfortunately, he's at work. But the thing that concerns me is we were very fortunate. We do have insurance that did cover it. We had to fight the first round, because nobody really knew what implants were. It was 1994, so he was one of the first generation. But now, we did have insurance that did cover them, but yet we had to fight quite a bit to get them to say that it's not a durable piece of equipment. And what I want to say to that is, it's not a crutch. You know, it's the foundation. It's the foundation for learning; it's the foundation for communicating with family and friends, and being able to have the opportunity to watch someone through that. I hope that you will be able to give the opportunity to other children and adults down the road. And I appreciate your time. I'd take any questions. [LB223]

SENATOR PAHLS: Senator Christensen. [LB223]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. When you said your son got a second one, was that for the other ear or was this... [LB223]

STACIE RAY: Correct. [LB223]

SENATOR CHRISTENSEN: ...an update? [LB223]

STACIE RAY: That...no, that's for the other ear. The updates aren't to the internal. It's just the external. So it's kind of like a hardware update to your computer. You can get it to process a little bit quicker by just changing what's on the outside, so it's not another surgery. He did choose to get a second implant just like the gentleman was talking about earlier, that decided to get a second one. And that just gives them more flexibility for hearing in those difficult listening environments, background noise, and what. Now, they're implanting a lot of children at a young age with two implants, but back then, you know, it wasn't known how these kids would do. We were told maybe they would hear their name. Maybe they'd be able to turn if a horn was honking if they were in the street. But these kids are talking on cell phones; it's incredible. It's incredible what that technology has done, what it allows them to do. [LB223]

SENATOR PAHLS: Senator Utter. [LB223]

SENATOR UTTER: Thank you, Chairman Pahls. Stacie, can you give me some idea as to what we are talking about in terms of dollars and cents? How expensive are these? [LB223]

STACIE RAY: I actually can tell you that, because I'm receiving all the bills from two months ago. Of course, a lot of it depends if you go for a colonoscopy one place and another place. There is a lot of variability in healthcare services. We all know that. His implant was covered under insurance, and the total cost to the insurance company, at this point, not everything is in, but most is, was $80,000. [LB223]

SENATOR UTTER: And the first implant, do you remember what it was? [LB223]

STACIE RAY: The first implant was about $45,000 if I remember right, but that was in 1994. [LB223]

SENATOR UTTER: And how many updates since 1994 has he had on his original one? [LB223]

STACIE RAY: On his original one, the processor has been replaced four times. Two of them have been out-of-pocket, and the other two you get a little bit back if you're replacing it, kind of for a trade. [LB223]

SENATOR UTTER: I was just curious. I thank you for that. [LB223]

STACIE RAY: But when...considering that hearing aids are, you know, about $5,000 to $6,000 per pair and these individuals aren't able to get the benefit, it's really a small cost. Again, what you see...that they are able to talk on cell phones and listen to their GPS systems, it's just amazing. [LB223]

SENATOR UTTER: Thank you. [LB223]

SENATOR PAHLS: Senator Pirsch. [LB223]

SENATOR PIRSCH: Just a question with respect to whether a single or a bilateral cochlear implant would be necessary in a particular person. Because this bill as passed would require either coverage for single or bilateral cochlear implants. And so, I'm assuming that, in some cases in healthcare, it would be dependent upon the healthcare provider's recommendation and... [LB223]

STACIE RAY: Correct. There's a team that looks at each individual. [LB223]

SENATOR PIRSCH: And in some cases they're saying that a single...it would always seem that, you know, bilateral would be preferable, right? You'd have more of a...but when...how would that be determined? [LB223]

STACIE RAY: Not necessarily. There's a lot of recent studies that show that having one side with an implant, and if you have any usable hearing...any time you implant an ear,

you will destroy it if there's any hearing left...that's why it's for severe to profound, it will be destroyed. There's some newer technology that's coming out that may be able to save some of that. But, for the most part, you don't want to compromise any usable hearing that's left. So there are individuals that have one side with an implant, and have the other side with a hearing aid. [LB223]

SENATOR PIRSCH: I see. Thanks for explaining. [LB223]

STACIE RAY: Um-hum. [LB223]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony. [LB223]

STACIE RAY: Thank you. [LB223]

SENATOR PAHLS: Any more proponents? [LB223]

BRUCE RIEKER: (Exhibit 3) Chairman Pahls, members of the committee, my name is Bruce Rieker. It's R-i-e-k-e-r. I'm vice president of advocacy for the Nebraska Hospital Association, testifying on behalf of the association in support of LB223. Just to touch on a few things, I'll drop down to the fourth paragraph on my prepared testimony, and it quotes a 2009 study issued by Nebraska's Department of Health and Human Services where there were 26,806 infants that were screened for hearing loss. Analysis of those individually identified testing reports confirm that 46 of those infants had hearing loss which meets the criteria for permanent congenital hearing loss. Those 46 infants would be candidates for cochlear implants, although all of them or their parents may not choose to have those procedures done. As far as which ones are covered by existing programs, we do not have the data on that. I would have to defer to either the Department of Insurance or the actual insurance carriers. But at least that's the pool that, or at least in one year, what we may be looking at for those that are eligible for this particular implant. Senator Pirsch, in response to a question you asked an earlier testifier about, would healthcare reform cover this? Probably so. With the consistency that Medicare, the Veterans Administration, and all other federal health plans provide benefits for cochlear implant services, and the fact that the federal law requires that Medicaid coverage, I would say that it would be safe to surmise that if healthcare reform goes into place as it is today, and there aren't changes to policies, things like that, that this particular service would be covered by federal healthcare reform or would be mandated to be covered. From a hospital perspective, we're on both sides of the equation. We do desire to see people covered to enhance their quality of life. It appears that the benefits definitely outweigh the cost, even in dollars, for the amount of services that do not have to be provided to the recipients of cochlear implants in other situations such as in school where our 87 members employ 43,000 people, and we purchased more than a half a billion dollars' worth of health insurance coverage every year. Every penny is important to us in trying to contain the costs of healthcare. However, in this

instance, our members are convinced that the benefits truly outweigh the costs. Therefore, we support LB223. [LB223]

SENATOR PAHLS: Any questions? Seeing none, thank you for your testimony. I think we have one more proponent. [LB223]

DR. PETER SEILER: (Exhibit 4) Thank you, Senator Pahls and to the committee. I want to tell you that my three children did go to Millard North. I'm sorry about that (laughter). My name is Dr. Peter Seiler, and it's S-e-i-l-e-r. I'm the executive director for the Nebraska Commission for the Deaf and Hard of Hearing. I want to thank you for the opportunity to discuss this bill. I'm here for the board of the Commission for the Deaf and Hard of Hearing, and I want to tell you that we support this bill. We feel that it's very important. Our agency is mandated to advocate for those who are deaf and hard of hearing across the state of Nebraska no matter what their age, basically, from birth till death. There's about 157,000 people across the state of Nebraska who do have a hearing loss from like mild to severely to profound. They use a variety of different communication needs. Some choose to sign even though they do have a cochlear implant, and some prefer not to sign. People, I feel, have the right to take advantage of whatever hearing they do have left. They need to be able to use whatever they can to understand the words and be able to have access to the world, have services. A person who has a hearing impairment could be anybody, could be your mother, your father, children, someday might even be yourselves. Impact of a hearing loss is really more than just, oh, you know, hearing a doorbell or anything like that. There's much more to it than that. There is impact on education. We believe strongly, and research supports us in that early intervention that we teach sign language to children who have hearing loss, the better off that they are in schools. I, myself, my parents started teaching me when I was younger, and that's the reason why I'm here, being able to use English. Also, people, who as they are getting older, have a hearing loss. Those of you who have had guns and have not worn ear protection, you know, you just...you have that...you will suffer those hearing losses. Military, people that are coming back from Iraq and Afghanistan, they themselves are having hearing losses. Hearing loss can impact the quality of life, not just the schools, but also your social interactions. Just now, I had this gentleman talking to me, and basically, you know, it shows the impact that, you know, we go to written communication. I think it's obvious that the cochlear implants should be easier for people to receive and not to have to struggle to get them. You know, you don't have to struggle with a hearing aid also. We shouldn't allow insurance companies to decide what our needs are. That should be decided by parents and by individuals themselves. Some health insurances do cover it, and I'm very happy that I do work for the state of Nebraska, and I'm lucky in that way. If I want to get a cochlear implant, I know that I can receive one, but there are other people that don't have that advantage. My commission and my board and myself are basically asking you to go ahead and pass this bill and move it on to the floor. And, again, thank you, again, for your time. If you have any questions, I'm more than happy to answer them. [LB223]

SENATOR PAHLS: Seeing no questions, but I will say, not only go Patriots; I will also say go Mustangs. [LB223]

DR. PETER SEILER: Yes (laughter). [LB223]

SENATOR PAHLS: Thank you, appreciate it. Okay, I think that concludes all our proponents. Now are we ready for our opponents? And, again, I like to have the opponents move forward, so I have a feel. I see right now, I just see one, two coming forth...three. Okay. [LB223]

RON SEDLACEK: Thank you, Chairman Pahls and members of the Banking, Commerce and Insurance Committee. For the record, my name is Ron Sedlacek. That's spelled S-e-d-l-a-c-e-k. And I'm here today representing the Nebraska Chamber of Commerce in opposition to the proposed legislation. And we're not in opposition to cochlear implants or that type of coverage per se, but rather, our opposition is based on continuing mandates, continuing legislation that would provide coverages for a number of specific areas, because our main concern is the affordability and availability of insurance for our members and for our...as individual employers or our member chambers who may offer group health programs or our member associations that may, in turn, offer group health programs for their own membership. This bill applies only to group or individual health coverage. It doesn't apply to federal ERISA plans. It doesn't apply to MEWA's or Bebas, and there's been a continuing migration from the individual market and the group market to the federal ERISA programs. And that's because those programs don't have all the particular mandates attached to them under state law, but rather, the federal minimums. Right now, I would estimate and certainly there may be an insurer that follows that could give a better, more precise figure, but what we hear are now about 60 to 65 percent of insurance that is offered by employers are under a federal ERISA program now. So we're dealing really with...even if this bill passed, it would be a minority of Nebraskans that would benefit from this mandate. Every mandate proposal is certainly well-meaning and well-intentioned, and there are very good cases for particular mandates. But our goal has been to oppose any further mandates if they go beyond that which is required by federal ERISA. Now, there were some programs that were mentioned in previous testimony, for example, the university which is an ERISA type program. That's negotiated. That's allowed. They can certainly cover that, not mandated to do so. By the same token in this bill, if it was covered, the question becomes then, what the cost generally might be, and whether or not...what is going to be the copay, what is the deductible not outlined in the bill? You can have coverage of a particular...either a particular procedure or instrument or medical appliance, but it doesn't specify to what extent that coverage could be. It may be some type of limitation there in that regard, too. But, nonetheless, employers are going to be looking, and they're very sensitive to the costs of insurance right now. Continuing to put pressure in that regard is going to either eventually...as it adds up, it's going to affect the

quality of coverage that's going to be made available to the employees either in the form of copays or deductibles or even the offering of the group insurance. So, that's our testimony, and that's been our consistent position over the years in regard to mandates in general. And I'd be happy to answer any questions that you might have. [LB223]

SENATOR PAHLS: Senator Christensen. [LB223]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Thank you, Ron. Does the chamber ever look at the return benefit, because if they can hear...my dad, for one, was deaf until he got a cochlear implant, made him effective again. There is a benefit to the chamber and to the state, that direction. Does the chamber look at that, or you're strictly just talking about more mandates as bad? Do you look at the benefit cost of it? [LB223]

RON SEDLACEK: Well, yeah, exactly, Senator. And that's...we do...it probably would be more cost effective if there were mandates of wellness programs and coverages of all types of preventatives which are not currently in the law. And you could say, well, there's a cause benefit there. Why aren't we supporting something like that? Well, there may be, but, you know, it's certainly going to increase the cost up-front. And the question becomes, again, how many people are we covering? It's a decreasing market here, because they are migrating. Employers are...certainly, our members are migrating to the federal programs where they aren't going to be subject to the state law. And the second is, on an individual coverage, you're no longer able to shop around. Essentially, that's mandated whether you need it or not. And let's say, you're an individual farmer, rancher, or small businessperson, and you don't have the availability of group coverage. What's out there, and it might be out there that you could latch onto is not really to your liking, and so you want individual coverage. You're going to have to pay for this whether you need it or not, and so, it does increase the cost for...and in that respect, the question becomes, too, then, it is what is the benefit in the long run if that person can't afford coverage? What could the loss be? [LB223]

SENATOR CHRISTENSEN: Thank you. [LB223]

SENATOR PAHLS: I know...you do know that is information available, but you did say there were statistics or something out there that would support your side of the argument. I'm looking at what the proponents shared with us. If you had some information to share with us or some of the ones following, that would be great, so then we can make some comparison. [LB223]

RON SEDLACEK: Right. And what I was referring to, the percentage of employers who are now under the federal programs someplace. And perhaps someone can give a little bit more precise figure, but... [LB223]

SENATOR PAHLS: Okay, yeah. If not today,....yeah, okay. [LB223]

RON SEDLACEK: ...I guess it will be 60 to 65 percent right now. And that's been increasing over the years and used to be about half and half. But it's just more and more now. [LB223]

SENATOR PAHLS: Thank you. Seeing no more, thank you for your testimony. [LB223]

RON SEDLACEK: And thank you, Senator. [LB223]

JAN McKENZIE: (Exhibits 5, 6) Senator Pahls, members of the Banking, Commerce and Insurance Committee, Happy Valentine's Day. For the record, my name is Jan McKenzie spelled J-a-n M-c-K-e-n-z-i-e, here in opposition to LB223. I am the executive director for the Nebraska Insurance Federation. I'm here to, most likely, bore you with information I provided with you two years ago. But I think as a committee who deals with this issue in multiple variations every year or every two years regarding mandated benefits, I thought it might be important maybe just for some of the proponents and people in the audience to understand what maybe is more the opposition than the particular remedy, because certainly, I cannot disagree with the whole idea of the need and the benefit of cochlear implants having been a teacher, and knowing the difficulty that kids who have hearing problems have. But that is not the problem. I tried to make a visual representation for you of what the problem is. I'm going to guess that many people who were denied coverage of a cochlear implant work for someone who happens to be an employer who provides a self-funded insurance program that is under the ERISA rules. What that means, and it took me a few years to understand that when I was not doing this all the time, is that as a large employer, the federal government many years ago said, let's make it easier for employers to provide insurance. And one of the things they did was say that as a self-funded employer, because you're assuming part of the risk for your employee pool, you will not have to cover any mandates in your state. You will only have to cover mandates from the federal government. So when we talk about ERISA, that's what we're talking about. We're talking about the fact that while that was a grand idea, sometimes grand ideas create problems 10 years, 15 years later, and that's sort of where we are right now. If you look at the little pie chart I gave you, the portion colored in yellow represents the people in Nebraska who would get a mandate on their benefit packages. If I work for a great big company like a ConAgra or a First National or even a university, I may or may not be covered. It depends on my employer's desire to provide that in their plan. They are exempt from having to do the mandate. They may just be good employers and choose to cover it, because there has been a cost benefit seen for your group or pressure from your employees to include it as a part of their benefit package. We have 12 percent uninsured. That may be a little higher. This is latest available data. We already have 12 percent of Nebraskans uninsured. We have somewhere between 60, 65, 55...it's kind of hard to nail that number down, of covered Nebraskans in some sort of federally exempt insurance benefit package. That leaves our little 23, 24, 25 percent of Nebraskans who are going

to get a required coverage and a required potential premium increase in what they're buying. In particular, the previous testifier referred to individual policies. That's where we need to be most concerned. The individual market in Nebraska has been growing. More and more folks are looking at buying insurance as an individual rather than as a family, because they can afford it more, depending on one sick member of the family or not. And those policies, your guarantee issue, you'll recall that, you must be given a policy, but you have to pay whatever the premium rate is for your coverage. So, for many people, it's a very expensive program. The other thing I want to remind you of, and I made sure you all had the latest updates before the weekend on what's happening with the health reform act. One of the really concerning issues, when we talk about what states should do and what the federal government will do, is that beginning in 2014, when the federal Affordable Care Act goes into effect, the powers that be in Washington will have determined through HHS what is considered an essential benefits package. Their charge is to tailor that to match what is most like a typical employer's plan, and nobody knows what that is yet. That hasn't been defined. But anything outside that essential benefits package definition that a state has as a mandate will be required to pay for by the state. So, anything that goes beyond what the federal government defines as that package, will be our responsibility as taxpayers to fund. So it really does put it in a different perspective in terms of who's paying for it. In some ways, it's probably a good thing, because it gives relief to those individuals who would be paying increasingly high premiums in the single market or individual market on their own to share it across the state. But we all know that in 2014, we're not really looking that good here either fiscally. So, that's a concern. We don't really have anything to say about that. We don't know yet what the essential benefits package will be. My argument to the committee would be that I think we should be a little patient and hesitant in potentially throwing any more small employers or individuals out of the insurance market with potentially expensive additional...potentially, I understand, if you're in a big group, it's probably not expensive. If you're in an individual market, it could be a very big increase to your premium cost. So that we consider waiting and seeing and potentially putting our two cents' worth in to have it be considered as an essential benefit. Quite honestly, that's where most of these arguments should be right now with the HHS department in their public hearings at the Washington level, at the federal level, and us not doing it here, because if we do it here, we will be responsible for paying for it in a few years. With that, I'd answer any questions you might have and stop. [LB223]

SENATOR PAHLS: I have one question. I want you to backtrack about four sentences...the essential benefits. Would you just run that statement past here? [LB223]

JAN McKENZIE: Sure. The essential benefits package is required under the Affordable Care Act to be defined by the Department of Health and Human Services in Washington, D.C. It is required to be defined as to be no more extensive than the typical employer plan, but we don't know what that is yet. [LB223]

SENATOR PAHLS: Okay, okay. Thank you. Senator Gloor. [LB223]

SENATOR GLOOR: Thank you, Chairman Pahls. Jan, let me just ask about that from a personal education standpoint. Do you know, will we have a chance to go back and revisit those things that are already in statute or will those things in statute be our starting point when it comes to providing more services than the essential benefit? [LB223]

JAN McKENZIE: My understanding is that once the essential benefit package has been put together and defined, then states will have an opportunity to look at what they have outside of that in their own individual mandates and make decisions about those that they might want to continue. If they choose to continue them, though, then they have to figure out a funding source for that, and it cannot be in the premiums. It has to be premium...in some way, funded by the state to support that cost. [LB223]

SENATOR GLOOR: But would we have to statutorily undo those mandates we've already put in place if we decide we can't afford it? Do you know? [LB223]

JAN McKENZIE: I don't know for certain, but I would think...it's one of those discussions that we'll have tomorrow when we talk about federal law and state law. Do we have to undo what we've been preempted by? [LB223]

SENATOR GLOOR: Yeah. [LB223]

JAN McKENZIE: I don't know. [LB223]

SENATOR GLOOR: Okay, thank you. [LB223]

SENATOR PAHLS: There's a lot of work in the future it sounds like. Thank you for your testimony. [LB223]

JAN McKENZIE: Thank you. [LB223]

SENATOR PAHLS: I see we have one more...one. [LB223]

MICK MINES: Good afternoon, Senator 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 or NAIFA. On behalf of the 1,100 members of our insurance agents, Financial Service Professionals, we oppose LB223. It seems to us that this is the philosophical question that we all...in this committee that you hear virtually every year, mandated benefits are very special and important to particular groups of people. Rightly so, and which one should take precedent over another? Should cochlear implants be the mandated benefit that

advances to the floor this year? Should clinical trials? Should prosthetics? And I think the position of this committee has long been that, how do you pick and choose? In our opinion, the issues have been covered, and our position is based on long-standing position that mandating an insurance benefit, especially for treatment of various conditions, affects the very basic low-cost insurance plan. And I won't be redundant in what Jan said or Ron, but if we talk about basic benefit policies, they're structured to keep premiums low. And the dynamics of ERISA or whether it's a large group or small group plan, competing with those individual plans, and that's where we're very concerned about the individual plans that receive that mandated benefit direction. So, we would encourage the committee to indefinitely postpone LB223. I'll answer any questions. [LB223]

SENATOR PAHLS: Seeing no questions, thank you for your testimony. [LB223]

MICK MINES: Thank you. [LB223]

SENATOR PAHLS: (Exhibit 7) Anyone in the neutral? I just have a letter to read in from the National Federation of Independent Business. They asked us to...they oppose LB223. Pass that around. And one point I want to clear up, we had talked earlier about CHIP. There are two CHIP. One is CHIP for the children; another is the CHIP program that we deal with quite a bit here. That program excludes implants, the one that we deal with here, not the SCHIP. That's another program. Seeing no more testimony, we will let the good senator. [LB223]

SENATOR KARPISEK: Thank you, Senator Pahls and members of the committee. I appreciate your time today. Thank you for clearing up the CHIPS issue. I had that down, and I was going to try to get with Senator Gloor later. I just go back, and I understand the industry's point on this, and none of us want to pay more on our health insurance. For the first time in my life, since August, I actually have health insurance subsidized by my work, so good for me. It's not as good as what I was paying for before, but it's cheaper, and I am appreciative of it. My point is that Medicaid covers them...federal employees, our state employees, some insurance companies. I think it's bad when we have such a patchwork like that. One person is going to get it; the next person isn't going to get it. I think it would make a more...not that I like this term, but we hear it all the time...more level playing field if everybody had to do it. Mr. Sedlacek, you know, has some questions or comments, I'd be glad to sit down with them and straighten up some amendments if that would make them feel better. I would be more than happy to do so. He also talked about paying for things that we don't need, that we may not need. We do that all the time. People without kids pay for schools. Some people may not ever use their health insurance, if they're lucky. And I appreciate what he is saying. We don't want to have to put everything in mandated that we may never need. However, for the people that need it, it's very, very crucial. I did get a note from Ms. Curren, saying that after insurance write-offs, it's about $40,000 for the device. Only medical charges vary

per implant clinic, of course. We talk about the federal on this. If anybody believes that that thing is going to stay intact the way it is by 2014, I've got some real nice bills to talk to you about (laugh) after we're done here. We could go through all my list. That thing is going to change all the time. I don't think we can always just sit and wait for the feds to do something or, oh boy, what are they going to do? The ERISA is a question mark, but I don't think that we can just wait around and say, well, they're not going to do it, so we shouldn't do it. I guess, all in all, I just think that it should be done. I think if we did the cost benefit analysis, which we probably should do, we would see some savings in it, plus we're talking about people's lives. And I know you hear that all the time, and not to say, if someone is deaf and they don't want this, great, good for them, however they want to do it. But we've really seen some people come a long way. This isn't experimental any more. We used to hear it's experimental. It's not. We saw with our own eyes here what it can do, so I would appreciate your consideration on this matter. And I'd be glad to take any more questions, if there are any. [LB223]

SENATOR PAHLS: I don't see any questions. Thank you. [LB223]

SENATOR KARPISEK: Thank you, Senator Pahls, committee. [LB223]

SENATOR PAHLS: Senator. Yes. Thank you, again. That will conclude the hearing on (LB)223. We will now open up on LB322. And just by...so I can get a feel...I'll wait till a few of these people leave here because I know some are. And just by a show of hands, so I can get a feel, how many proponents? One, two, three, four, five. Let's see, how many opponents? Okay, and I'm going to tell you right now, I want you to really think about...I don't want to use the lights, so be cognizant of your time. You may begin. [LB223]

SENATOR CORNETT: Thank you, Chairman Pahls and members of the Banking, Commerce and Insurance Committee. My name is Abbie Cornett, C-o-r-n-e-t-t, and I represent the 45th Legislative District. This bill was before you last year, and we had an interim study to find out ways to improve the bill. LB322 is the result of that interim study in an approach to solving the problem. It is important to note that this is not a mandate. These are medications that are already covered by insurance. Prior to 2009, insurance companies covered the entire cost of coverage or asked for a copay on these products. Actually, most of these drugs have been covered for years by insurance companies, and the cost of these drugs have either plateaued or gone down in price. But about two years ago, certain drugs were moved to a brand new tier with new ways of pricing. What you will hear today is that continues to be a problem for patients' access. The drugs moved to these specialty tiers are lifesaving drugs. They make sure that people are able to work and take care of their families; they ensure that people are productive members of society. These drugs are being moved to specialty tiers where they cost the patient a percentage of the total cost of the drug, as much as 33 percent in some cases. Some insurance companies have not moved to specialty tiers which indicates that it is

possible to find ways to spread the risk of the cost of these drugs without moving it to the most vulnerable. We know that insurance companies are in the business of insuring risk, and that they need to be financially solvent. We appreciate strong insurance companies, because that means we will have coverage when we need it. Unfortunately, there are people who have paid for insurance for just that situation. Due to no fault of their own, they find they have cancer or an autoimmune disorder or multiple sclerosis. In order to get out of bed each day, they need to take very specialized drugs. They thought that they were covered by their insurance plans, and suddenly they find now that they are not covered. The people who are here today have a story to tell you. They want to let you know they want to work and be a productive member of society. They need to find a way to make sure they can continue to take their medications and still pay for their day-to-day expenses. They have a small voice, and this bill is intended to give them a bigger voice, and the opportunity to be heard today by people who make public policy. I would ask you to listen carefully to their stories and find a way to legitimize their concern. The fiscal note should not have a cost for the state employee plan, and we will be happy to work with the committee and the fiscal office to address their concerns. We thought we had done that in the prior bill, but we will be happy to sit down and work with you in any way possible. Senator Pahls is probably the only one on the committee that knows. I receive one of these medications every month. I am covered by dual insurance, and I don't have to worry about this. But I got active in this about six years ago at the federal level, because of changes to Medicare and the fact that access was being denied to people on Medicare, and they started dying around the country. As it has progressed, I became president of the Board of Alliance for Biotherapeutics, who is bringing the bill today. Access is not a problem for me, but I can sit here and tell you that I would not be here if it was not for the medication I receive. After my twins were born, I actually had a doctor tell me that I would not live to see 40. I'm 44 years old; I take my medication once a month; I'm able to go to work, and you can determine whether I'm productive or not (laughter). But most of the people on these medications just want a chance to be normal, to go to work, to receive their medication, to have families, and they are paying for insurance. They are paying their premiums, and they are in programs where they pay copays currently. No one is complaining about the insurance plans that they signed up for. It's for a change that can literally mean the difference between living and dying, whether they can afford their medicine or not. Thank you. I do have a meeting back in my office. I will try to make it back for closing, but if I'm not here, I apologize. [LB322]

SENATOR PAHLS: I think we understand where you're coming from. Thank you. I see no questions. Thank you for your opening. Proponents, again, I'm going to ask you to move forward. That keeps me...all right, as many as possible. It does make...move forward. Thank you. [LB322]

VIKI FIGGE: Hello, my name is Viki Figge, and I'm the director of national accounts for ASD Health Care, and we are the specialty distribution division of ABC, and I'm here as

a proponent of LB322. And I thought I'd spend just a few minutes talking to you a little bit about the different tiers and on the plasma therapeutics, and how we manufacture our products. Well, as drug costs escalates, some states have created a new drug-sharing program, and it's called the Specialty Tier Program. And the drug tiers are really a function of two components. It's the real drug cost as well as the payers' negotiated costs, and most states have a 3-tier drug formulary. Tier 1 is for the generics or lowest cost drugs, and that's the lowest copay for the individual. Tier 2 are your higher priced generics, some brand-name drugs as well, and that's a middle level copay. And Tier 3 is the brand-name drugs--they're not preferred drugs, and those are the drugs that the insurance companies try to discourage patients from staying away from, and they're the higher level copay. And in 2009, Tier 4 was created, and Tier 4 is kind of a catchall for the expensive drugs that are out there on the market today. And rather than assign a copay, the insurers are trying to mandate a percent cost...anywhere from 20 to 66 percent of out-of-pocket costs for the patient. These drugs are generally more expensive drugs, or the newer drugs, infusible biological drugs. They're the plasma drugs, and they are a little bit more expensive. There are no generic alternatives to these drugs, and there aren't any biosimilars. So, basically, when you look at the tiered program, the more the drug costs the payer, the higher the drug tier is, and the more cost it is to the individual patient. Unfortunately, those patients that are the sickest are paying the most amount of money, and under Tier 4, patients are faced with paying anywhere from several hundred to several thousand dollars per therapy per month. And that creates a financial hardship for these patients and for their families, so patients are faced with a decision. Should they continue to go into a financial bankruptcy or should they stop taking their medication? And, unfortunately, if patients don't take their medication, they're not productive parts of our society. They wind up in the hospital; they wind up on disability; they wind up being a burden to healthcare as well as to state Medicaid programs. So it's very important for us to realize that these medications we're talking about have been around for over 20 years. They're not new products. They're not cutting-edge technology, and the prices for these products really haven't gone up. And two years ago, there wasn't a problem getting these medications covered. So it's important to remember that although there's new drugs coming out on the market, they're generally new generations of existing drugs, and there hasn't been a major cost increase to these products. And I wanted to just spend a few minutes to address why are plasma-based products and biotherapeutics more expensive? And it's important to know that the gross profit model of a plasma manufacturer that uses human blood as their starting raw material, it's a lot different than your traditional pharmaceutical or your chemical-based company. Raw materials for plasma-based products are expensive--it's plasma; it's blood, so it comes from a donor vein. It winds up being fractionated, turning into a lifesaving medication given to a patient. And the cost to manufacture products are expensive, because (a) your raw material is over 50 percent of your total costs. Then we have to add to it all the different safety and purification processes that double the manufacturing costs, and we have a total production time of about 12 months. So cost to manufacture product is a little bit

more expensive, different than pharmaceuticals which your first pill is your most expensive, and every pill after technically should be less expensive. When you're looking at plasma therapeutic products, your raw material is 50 percent of the total cost, and those costs don't go down. Currently, in the United States of America, we are fractionating 22 million liters of plasma, and that is servicing over a million patients worldwide who are accepting therapeutics through plasma. I'm open to any questions. [LB322]

SENATOR GLOOR: Thank you very much. Are there any questions? I would ask one, and thank you for providing testimony. Clearly, the sickest patients are likely to be the ones that use Tier 4 which means that without the access to these medications, they're also going to be the ones who are more likely to get more seriously ill, require a higher intensive level of care whether that's inpatient services. But that also means they're going to become more expensive for the insurance companies. Don't the insurance companies have a reason to make sure that patients have some access to Tier 4 drugs, if not in all cases, at least in some cases? [LB322]

VIKI FIGGE: Well, there is catastrophic coverage for some insurance companies, but the problem that we have with our Tier 4 products is that when patients can't afford these therapies, it's replacement therapy, they do become more sick, and then they cannot become active parts of society. So basically, what happens is, if you can't replace a therapy the patients do become more and more sick. [LB322]

SENATOR GLOOR: Well, absolutely, and that's why I say it seems to be a downward spiral both in terms of the patient's health as well as an upward spiral. Let me put it this way. Of cost associated with providing that care, I'm wondering...and I'll ask the same question of insurers, I'm sure they'll be up later, of why there isn't some recognition of that as an offset to that expense. Obviously, health is one concern, and expense is the other concern, and trying to match those two up would seem to be in both parties' best interests. Other questions? Thank you very much. Other proponents? [LB322]

POLLY NEGRETE: Good afternoon. Crowd is getting smaller and smaller (laugh). [LB322]

SENATOR GLOOR: It'll ebb and flow and ebb and flow. [LB322]

POLLY NEGRETE: My name is Polly Negrete, P-o-l-l-y N-e-g-r-e-t-e. I'm here kind of as a representative, number one, personally. I have common variable immune deficiency and utilize a drug that's in a Tier 4 category now, and I'm also a 20-plus year nurse in the medical field, and so I've experienced the consequences of high costs to patients, and what it does to their families, what it does then as a trickle down. We talk about Tier 4. We continue to want to look at it that it's still a select few; it's not that many people. It does cost a lot of money for the drugs that are in the Tier 4, but the diseases that

benefit from the drugs that are being categorized as Tier 4 are very manageable diseases if the people are getting their medication. They're productive; they work; they pay their taxes; they have their families; they buy their homes; they support their communities; they support their senators; they do everything they're supposed to do. This isn't obscure illnesses anymore. We're talking about MS, cancers, epilepsy. There's a lot of diseases that, over the last two years, the insurance companies continue to categorize more and more into the Tier 4. What happens when you're in a Tier 4, and you have a high cost, and you're being penalized by the insurance company and expected to pay more, is eventually, your money runs out. The cost of care is catastrophic to most families; they can't continue to afford it. Mine personally, is over $10,000 a year. I had to file bankruptcy a couple of years ago, because I just could no longer put everything on a credit card, and if I don't have my medicine, then I'm not productive. I have seen in the realm of people with my disease and also as a nurse, people are filing bankruptcy right and left. People can't pay their bills at the hospital; they can't pay their doctors. I see families a lot of times get divorced, and no longer have the ability to live together, so that their children...if it's the child that needs the medicine, so that their children can get state aid, these things cost the state a lot of money, because we, as citizens, end up covering the cost of these things that are not being covered. Insurance is there for us. We pay our premiums. We're not asking for approval on new drugs. We've always paid our premiums. That's what insurance companies are for...they're for risk pooling to cover the ebb and flow that occurs. And all we're asking is, is that we not be penalized at such huge costs. We pay our premiums the same as everybody else. We are willing to pay our copays--we're happy to pay our copays, but we need to stop the penalization of any drug that the insurance company decides is cutting into their profits. [LB322]

SENATOR GLOOR: Questions? Thank you, Ms. Negrete. [LB322]

JOLENE MANION: (Exhibit 1) Good afternoon, members of the Banking, Commerce and Insurance Committee. My name is Jolene Manion, J-o-l-e-n-e Manion, M-a-n-i-o-n. I am a program services and advocacy coordinator at the National Multiple Sclerosis Society here at the Nebraska chapter, and I live in Omaha, Nebraska. I would like to thank you for giving me this opportunity to speak at this hearing in regards to LB322 introduced by Senator Cornett. Beyond my professional experience with the society, I personally am aware of the effects of MS, as I was diagnosed with this disease when I was 16 in 1999. MS is known also multiple sclerosis is a chronic, often disabling disease that attacks the central nervous system which is made up of the brain, spinal cord, and optic nerves. Symptoms may be mild such as numbness in the limbs, severe such as paralysis or loss of vision. The progress, severity, and specific symptoms of MS are unpredictable and vary from one person to another. Today new treatments and advances in research are giving new hope to people affected by this disease, and these disease-modifying therapies. Those are what we're looking at. However, due to the cost of these, you can look at thousands of dollars yearly to administer these. And like other

medications to treat complex chronic conditions such as rheumatoid arthritis, Crohn's disease, and lupus, they're often regulated to a new price structure within the private insurance plans, also known as a specialty tier. The National MS Society, Nebraska chapter, supports LB322 for several reasons. The notion of insurance is protection from financial hardship during illness. After policyholders have procured insurance and paid monthly premiums for it, the practice of coinsurance no longer shields the consumer from this. Coinsurance, at best, creates a financial barrier to treatment and, at worst, can create financial ruin. In recent prime therapeutic study, out-of-pocket expenses greater than $200 per prescription, were not associated with a sixfold decline to fill rate. Age and gender and contrast were not associated with the likelihood to decline to fill. The coinsurance price structure does not disburse costs among a broad population, rather in pools those that are chronically ill or suffer from complex conditions and concentrates their costs. From a personal perspective, I have experienced the high out-of-pocket costs for my medications. When I first began Avonex which is found in the specialty tier, it itself out of my own pocket was $600 per month. I quickly burned through my savings that I had started working when I was 14 years old. This Avonex medication is only given once a week as well, so I have over $600 for literally four shots that I would get once a week. In order to take this also, I ended up going into debt by running up a lovely credit card bill which, I guess, helps with your credit, but it didn't help with my payments (laugh). I knew for my best interests that I needed to stay on this medication as my neurologist and as well as recommended by the Executive Committee of the National Clinical Advisory Board of the National MS Society, it's regarding use of the current MS disease-modifying agents. Initiation of treatment should be considered as soon as possible, following a definite diagnosis with MS with active relapsing disease. I found it a struggle to stay on my prescribed medication, but I found a way. I recently just paid off that credit card bill. Now, I am currently married, and I am very thankful that I do have good insurance. I still, however, pay $200 out of pocket. I feel very fortunate to be able to afford my medication. However, working at the National MS Society, Nebraska chapter, I speak with so many who are unable to. People living with MS are a captive market. There are no generic brands for MS disease-modifying drugs, so people living with MS have to pay whatever the costs are without a choice. At this time, I would like to thank you again for holding this hearing on LB322, and understand the National MS Society, Nebraska's chapter support on this issue. I will be happy to answer any questions. [LB322]

SENATOR GLOOR: Thank you, Ms. Manion. Questions? I have a question, that being how many of the drugs used in the treatment of MS are on a specialty tier? [LB322]

JOLENE MANION: Right now we have 4 out of most commonly 12 that are found on the specialty tier are MS medications. They just released a brand new medication this last year, the first oral disease-modifying therapy for MS which is a huge stride in research. And that itself will be found also in specialty tier and ranging for an annual cost of almost $50,000. [LB322]

SENATOR GLOOR: Okay. For $50,000 for a pill? Yeah. [LB322]

JOLENE MANION: For a pill. Yeah, yeah. [LB322]

SENATOR GLOOR: Okay. Thank you very much. Any other questions? [LB322]

JOLENE MANION: Thank you very much. [LB322]

DAVID SCHROEDER: (Exhibits 2 and 3) Good afternoon, gentlemen. My name is Dave Schroeder, D-a-v-i-d S-c-h-r-o-e-d-e-r, and I'm here representing the Epilepsy Foundation of North Central Illinois and Nebraska and Iowa. And I have had epilepsy for the past 48 years. I've worked for the state of Nebraska for over 30 years, and if it wasn't for the good insurance I have through the state, I wouldn't be in the shape that I'm in today. I recently have had a change in insurance, and my coverage for medications have gone to where they were substantially covered to like a tiered stage now, and I'm paying a little bit more, but still fortunately, am able to pay for my medications. Now if it wasn't for my medications, and I have what they call complex partial seizures, which is one of the more uncontrollable seizures because they're so hard to find the right combination of medications for. So when they get the right combination, when they mess things up, if they substitute a different medication for it. In other words, I had one time where I was taking the...there was only one brand name at the time--it was called Tegretol. And I was doing fine on that, and when another medication became available, and it was automatically substituted for it, I started having additional seizures. And the simple explanation that the doctor told me was that the only difference between what I was taking and the substituted brand was that it was just a coating on the medication that was having a reaction with the way the medication was being released into the system, so that I was, therefore, having more seizures. It could be a simple thing as walking, for example, from the State Office Building towards the Capitol where you're going across M Street there, and you would be...I could be walking along, and all of a sudden, I'm on the other side of the street. I don't know how I got there, but somehow or another, I got there. Now, with...that's on the substituted medication whereas if I was on my regular medication, I probably wouldn't have any problem. Now granted, I made it across the street fine. I was safe and everything, but if for some odd reason, something would have happened, I could have wound up in the hospital debilitated or for the rest of my life possibly or just temporarily. It all depends, so it would have knocked me out of society and of being a productive citizen. And like I say, I think that everyone should have a right to the medications that the doctors are telling them that they...or rather, supporting for them, anyhow. And when things are changing in their life, that it's going to be such a substantial change, that it's really not worth it. I mean, it's a minor change, but I guess what I'm trying to say is that, overall, I'm trying to support the passage of LB322. If you've got any questions, I'll be more than glad to answer any. [LB322]

SENATOR GLOOR: Are there any questions for Mr. Schroeder? Thank you for your testimony. [LB322]

DAVID SCHROEDER: Okay. [LB322]

SENATOR GLOOR: Other proponents. [LB322]

DAVID HOLMQUIST: Good afternoon, Senators, Senator Gloor chairing at the moment. My name is David Holmquist. That's spelled D-a-v-i-d H-o-l-m-q-u-i-s-t. I'm a resident of Omaha and a registered lobbyist representing the American Cancer Society. I appear today in support of LB322. The American Cancer Society, its staff of thousands of volunteers across the state of Nebraska are grateful to Senator Cornett for bringing this important issue before the Legislature. For several years, our organization has worked to improve access to care for cancer patients as well as those who suffer from other chronic and/or deadly diseases. We were guided by what we call the four A's for patient care. Is it adequate? Is it available? Is it affordable? And is it administratively simple? Cancer patients face enormous obstacles in their battles to overcome the disease. There was a young lady here today who was going to testify and, unfortunately, because of the length of a couple of other bills, was forced to leave, because this is the only day that she can go have her treatment this week. Otherwise, she would have had to wait a week. Eleanor is in her thirties. She has stage IV breast cancer that has metastasized, and there are 30 other tumors in her body. It's gone to her bones, her liver, etcetera. She has three children under the age of seven. She wanted us to tell you for her that what kind of medication and what kind of treatment is utilized should be the decision between the patient and his or her physician, and not a decision based on financial considerations. The American Cancer Society wants to assure the best quality care for cancer patients at an affordable cost, and to assure that no patient must pay higher costs when they get sick. The specialty tier approach being adopted by some healthcare insurance companies will make access to cancer care out of reach for many patients. It becomes a financial, medical, and emotional burden. As the United States Congress debated and ultimately passed the Affordable Care Act, the American Cancer Society was engaged with lawmakers on both sides of the aisle to assure that patients with preexisting conditions can't be denied coverage. To keep health insurance and healthcare affordable, and to be sure that plans have adequate coverage, they're easy to access and understand. Whatever position we take on healthcare reform, any of us here together in this room, I think we can all agree that if the states don't engage in the debate and pass effective legislation, the federal government is going to do it for us, and I don't think any of us want that. So we're not here today asking for coverage of specialty tier drugs. They already are covered. We are asking the insurance industry to determine ways to spread the risk among their insureds, keeping critically important medications affordable. If the health insurance industry doesn't find a way to fairly spread risk, I'm afraid it will be taken care of at the federal level and, as I said a minute

ago, quite possibly not in a way that any of us is going to be happy with. Thank you for the opportunity to testify on this important legislation, and I'd be happy to try to answer any questions you might have. [LB322]

SENATOR GLOOR: Are there questions of Mr. Holmquist? Seeing none, thank you for your testimony. [LB322]

DAVID HOLMQUIST: Thank you, Senator Gloor. [LB322]

SENATOR GLOOR: Good afternoon. [LB322]

MICHELLE VOGEL: (Exhibits 4, 5, and 6) Hi. I'm Michelle Vogel. Last name is spelled V-o-g-e-l, and I've been here a few times before to see you, and I'm happy to be back again. I'm the Executive Director of the Alliance for Plasma Therapies which is now being switched to the Alliance for Biotherapeutics. As Senator Cornett said, she is the chair of the board, and I'm very pleased that she continues the battle here on this issue, and has come forward today to tell her story, and the story of many people. I'm going to go over basically the legislation we had introduced last year. Then we had the interim study, and we listened to all of the opposition and took into consideration that opposition because we want to work as a community, and I say that sincerely. The community is made up of: the payers, the providers, the manufacturers of these therapies, but the patients in the end are the ones who need this. But you have to work together to ensure access to these therapies. So, therefore, I'm going to go through first the legislation, and then I want to address some of the issues that have come up and some of the questions, Senator Gloor, you've brought up, and we'll go from there. Okay? So from the legislation, basically, what we've done differently is that the fiscal note issue that Senator Cornett brought up, it should be zero, because what we heard from the payers is that the university and state employees do not have a specialty tier. We're thrilled that that's not going on. We don't want to affect their policies there, so we're exempting that. However, we put, and I like to say because I'm coming from Washington, D.C., we tend to call it report language. But we want to put language in, saying that we want to ensure that if that does come up, that the Department of Insurance would consider that potentially discriminatory and would not consider not contracting with those type of policies. And I'm hoping that you'll listen to what I'm saying with these policies to understand that and understand we're not talking about mandates here. We also heard the issue about the copay issue, that some copays for generics are zero dollars, and we had 500 percent of zero. It's not our intent to have zero dollars for specialty tiers. People have to pay...we pay for our insurance; we all get health insurance; we pay our deductibles, pay our premiums, we pay copays. And so, we're looking for a fair amount that people pay for these therapies, so that it's still accessible. And so we changed the language to make sure it's the lowest amount paid, so there's a percentage to that, so it never ends up being zero dollars. We also made a change in there, and I was listening to the hearing earlier today about healthcare reform and about the exchanges coming to

the states. And what that may mean to the states in terms of mandatory benefits, states having to pay more money, and maybe we shouldn't just...maybe we should just sit back and not do anything at all. And we thought about that, and at the interim study, an idea came up, and I'm sorry that Chairman Pahls is not here, because it was something he discussed in the interim study. Maybe we could put a sunset in here...sunset it, so that when that comes up, and if it's going to cost the state money, we revisit this, because we don't want to add money to the state. Okay? So that's really...those changes we put in place, we will work with the fiscal office to make sure that the language is correct, so there is no money cost to this bill. I do want to say, because I did hand out a video to all of you, and we've been going around the country filming and interviewing patients, and that's just a little...that's Nebraska, and that's a trailer to a documentary we're doing, and we'll be back here to share the documentary with you. And it shows about...it's all about people who have health insurance and who are paying and happy to have insurance, but some of the problems that occur. And so, as I've been going through this, I wanted to share with you. Do you know how many states have legislation before them dealing with issues like this? I'm going to read to you, because it's amazing. Either have introduced this year or are in the process of introducing...Arizona, California, Florida, Georgia, Hawaii, Illinois, Indiana, Kansas, Louisiana, Maryland, Minnesota, Ohio, Pennsylvania, Virginia, and the state of Washington. This same bill that is before you, identical is in the state of Washington and the state of California. There's versions of this bill and there can be versions of it. There are different issues that we're looking at here, and there are issues where patients are paying specialty tiers, and coinsured goes up. You don't know. During a moment, while you're having your plan every month, every two months, every six months, you don't know how to plan out what the costs of the drugs are going to be. So an idea was in the state of Arizona, to make sure that you don't change during the year; it stays the same. Okay? Also, making sure that one drug per category per class must be on a Tier 1 or Tier 2, so you don't bombard, so you have so much financial stress that patients are going off these therapies. Limit patient out-of-pocket costs. You need to put caps on some of these plans and limit the deferential relation of tiers, prohibit your placement on all different things here, but really looking at what the cost thresholds should be like. In our state of Nebraska, this really started in 2009, but really has gone big time last year, and your biggest payers, your biggest plans here...UnitedHealthcare, 30 percent coinsurance; Blue Cross Blue Shield for many of their plans, 30 percent coinsurance; Principal, 20 percent coinsurance; Aetna, 20 percent coinsurance; Humana, 25 percent coinsurance. Senator Gloor, you asked what drugs are on these tiers. You're talking about most of the drugs for cancer. They're following, and I hate to say this...Medicare, Medicare Part D, and I'm going to tell you what's happening, why this happened. You have Medicare Part D put in place, a drug benefit...that's fine. All these drugs were always covered under Part B, major medical. They were administered in hospitals or physicians' offices. The Part D drug plan came into effect, and all of a sudden, you can receive these in home care. Okay? So, another side of care, potentially cheaper side of care, but whatever best side of care for patients. And all of a sudden, these therapies

became on part of the formularies. So instead of having a Tier 1 your generics, Tier 2 your preferred brand, and Tier 3 your nonpreferred brand, your Tier 4 popped up as your specialty therapies, anything over $500 that's injectable or infusible has fallen under that. Medicare today, Part D, 90 percent of plans have coinsurance at 33 percent. Okay? It was not meant to be. It was not the intent of it. The government accounting office, MedPAC, have all been up there and have put reports out, and Congress needs to deal with this. And it spread like wildfire. Okay? You're looking at all of your autoimmune drugs, all of your cancer drugs, all of your anti-rejection drugs for transplants. Why do organ transplants, if you're not going to cover anti-rejection drugs at reasonable prices? This is what's going on. That list keeps on spreading and spreading, and it's horrific, and I went through the plans here in Nebraska, and the lists. And I encourage you to do that, and I'm more than happy to send it to you to look at, because it's long. Now also, the issue came up about what do you do in terms of the cost? And if patients go off the cost of...off these therapies, doesn't it bring up the costs in the hospitals? And why haven't we addressed this, and wouldn't that be of concern to the payers? And this has been an issue that's come up, and a lot of organizations have tried to do studies on this, and data has come up, and yes, you're right, Senator Gloor. Patients go off therapy, they end up in the hospital. And I'm going to use, you know, an example. With Senator Cornett, with her therapy and her disease, primary immune deficiency, she's able to work and do great, and her insurance covers it. And there's many plans here in the state of Nebraska that cover it under copays, and everybody is doing great. If she went off therapy, she would have pneumonia all the time and have severe infections, and it would continue, and be hospitalized. What does that cost to the system? And studies have been done for the primary immune deficient community to share with insurance companies to cover those diseases. And I'm seeing...and those are genetic disorders. We get into, which are on these lists, so when I look at this, and I say, why? Why go in this direction? I say, there was a chance to go in this direction and spread the risk. I mean, we spread the risk, but to go after people who we can try to charge more. It's not fair. New York found it discriminatory. They haven't seen premiums go up in that state, and I've heard that argument as well. I heard the argument that this is a mandate. It's not a mandate. These drugs are already covered. And I looked at the prices and gone back to what the prices were of these drugs prior to going to coinsurance to where they are now. There hasn't been significant change. Same therapies have been here and covered under major medical for 20 years or more, so I don't understand it either. And I'm asking the committee to move forward on this, and I'm looking forward to working with the payers on this, because we need to move in this direction, because the states across the country are moving in this direction. [LB322]

SENATOR GLOOR: Thank you. The king is back in the castle and so we'll turn it back over to Senator Pahls. [LB322]

SENATOR PAHLS: Any questions? Seeing none, thank you for your testimony. [LB322]

MICHELLE VOGEL: Thank you. [LB322]

SENATOR PAHLS: Proponents? Okay, thank you. Opponents? Could I have you move forward? Right now I just see two, three, four. Thank you. [LB322]

CLINT WILLIAMS: Thank you, Chairman Pahls and members of the Banking, Commerce and Insurance Committee. My name is Clint Williams spelled C-l-i-n-t W-i-l-l-i-a-m-s. I'm the director of pharmacy at Blue Cross Blue Shield of Nebraska. Blue Cross Blue Shield Nebraska is opposed to LB322. Blue Cross Blue Shield of Nebraska is a not-for-profit mutual company that insures over 700,000 Nebraskans. We do not have shareholders and are not publicly traded. Blue Cross Blue Shield Nebraska pays out approximately 85 cents on every dollar in medical claims with 14 cents going to administrative costs and one cent going to reserves. In order to insure our members, premiums are not increased unnecessarily. We consistently oppose mandates. Discerning the intent of this legislation, the bill is written more broadly than its intended purpose of discussing the cost of Tier 4, especially medications. LB322 was broadly written to encompass all prescription drugs including generic, brand name, and specialty drugs. The broad scope of LB322 that requires no copay be more than 500 percent of the lowest copay for a plan is particularly problematic for those plans that have zero dollar copays for generics. For those particular plans, brand-name drugs would have to be changed to zero dollar copay as well which is certainly something we do not want to do in the insurance industry. A $5 generic copay would limit a non formerly bearing copay to $25. The proposed legislation limits the ability to encourage lower cost generic options and will immediately raise the cost to members for generic cost sharing on many plan options. One of our more popular individual plans includes zero dollar generics. We would have no choice but to increase that to $10 or more if this bill became law. Today the average 30-day cost of a brand-name drug for Blue Cross Blue Shield Nebraska is $160 compared to the average cost of a generic which is just under $20. Drugs listed on our specialty tier list cost an average of $2,520 per 30-day supply. Through the first three quarters of 2010, we experienced an 11 percent increase for brand drugs, while generic drugs increased by 8.4 percent, but they were still under $20. Specialty drugs increased by 8.4 percent as well. We've seen similar increases year over year with brand drugs. We haven't always seen this with generic drugs. In fact, in recent years, we've seen a decline in the cost of generic drugs which is most likely due to increased competition in $4 generics. Almost 70 percent of our drug claims are now for a generic drug. We use a specialty tier to incentivize or require the use of our specialty pharmacies where we get better pricing, and they take extra steps with our members to ensure that they have the information and products needed for that medication. This is a high-touch approach where nurses and pharmacists ensure that our members are not having problems with their medications. They also make calls to ensure that patients are taking their medications. For our members to use a drug on a special list, they paid 4.6 percent of the total cost of the drug whereas now specialty

drugs, our members paid 30.6 percent of the total cost of the drug. It's not our intent to make these expensive medications unaffordable for our members. Blue Cross Blue Shield Nebraska does not use flat coinsurance for insured plans for specialty drugs on the pharmacy side, but rather a combination of coinsurance with maximum out-of-pocket or flat copays. This limits out-of-pocket expenses for our members, and this benefit improves generic and formulary brand use and steers members to specialty pharmacies with the best discounts to help medicate drug trend increases. For our many benefit designs with the specialty tier, and provided they use a preferred specialty pharmacy, we have limited the monthly cost to be typically no more than $100 and in many cases, less. Even if coinsurance is utilized and recommend this when we are asked by our self-funded groups for advice regarding benefit design. LB322 places limits on annual out-of-pocket expenses for prescription drugs either on the pharmacy benefit or by including these under the plan's total limit. This, too, will lead to increased premiums and could create less incentive to use generic drugs when appropriate. There was some testimony earlier on another bill about the effects of PPACA and mandated benefits. I'm not going to go through those now, but that could be potentially an issue with this bill as well. Any state mandates that the Legislature requires...it's for these reasons Blue Cross Blue Shield Nebraska opposes LB322. We would ask the committee to indefinitely postpone this bill, and I'm happy to take any questions at this time. [LB322]

SENATOR PAHLS: Senator Gloor. [LB322]

SENATOR GLOOR: Thank you, Chairman Pahls. I'll ask you the question I asked the proponents which is unlike some of the mandate that we get brought to us that's a quality of life issue for people that they would like to have covered. What we're talking about here in many cases are issues that are or meds that are the difference between somebody getting sicker or somebody maintaining their current status, which may be ill health as opposed to even worse health or maybe good health. But my point being, doesn't the insurer run the risk of driving up the overall expense to care for that patient by putting them in a position of not being able to afford the medications that might, in fact, keep that condition under control? [LB322]

CLINT WILLIAMS: Yeah. Well, we're obviously very concerned about our members not needing to use a hospital or any other services, and if there's a medication that can prevent that, certainly it's our goal that those members take those drugs, so we are concerned about that. I mentioned that our policy around our benefits...these drugs are very expensive. We've seen some dramatic increases over time, and so we've done what we can in order to mitigate that and still to have an impact on drug trends, and the increases that we've seen. This bill will dramatically change how we have our benefit designs which have been very successful in helping with that, especially with the 500 percent limit on the highest tier. So we would be severely limited by being able to...getting people to use generic drugs and brand-name drugs which help, quite

honestly, help pay for some of these...quite a few of these specialty drugs by being able to get more use out of those. [LB322]

SENATOR GLOOR: But...and I understand that, but are you saying if somebody is under a Tier 4 drug...on a Tier 4 drug, that they could appeal and have that covered, at a lower copay amount, because it would keep them from being in the hospital for prolonged periods of time? [LB322]

CLINT WILLIAMS: Yeah. Well, let me state one thing. I think it was stated earlier that Blue Cross Blue Shield has a 30 percent coinsurance on its specialty tier. That's not the case. We don't have that, so we are trying to avoid that. And, of course, this would be very expensive, and we would not want people to not be able to afford their medications. So I'm not sure I'm answering your question exactly,... [LB322]

SENATOR GLOOR: No, you're not (laugh). [LB322]

CLINT WILLIAMS: ...but I'm trying to. We are very...all I can say is at Blue Cross, we are very concerned about that, and we've done...we think we've taken steps to avoid that from happening, so that folks would be able to afford their medications. Again, we have a cap, essentially that says this is the monthly out-of-pocket, so we can avoid that. I guess I can't speak to other carriers because, obviously, we're not one of them, but that's what we've done. That's what we've done to avoid that, if that helps. [LB322]

SENATOR GLOOR: You've given me one example. [LB322]

CLINT WILLIAMS: Okay. [LB322]

SENATOR GLOOR: Thank you. [LB322]

CLINT WILLIAMS: Um-hum. [LB322]

SENATOR PAHLS: Senator Christensen. [LB322]

SENATOR CHRISTENSEN: Going a little further on that, like what would that cap be? [LB322]

CLINT WILLIAMS: Well, for our case, most of them are set at $100, but some of them are less. A lot of our small group products are less than $100, and it varies on the option that the employer chooses. But we have some other groups that have used that $100, provided they use one of our preferred specialty pharmacies. [LB322]

SENATOR CHRISTENSEN: Thank you. [LB322]

CLINT WILLIAMS: Um-hum. [LB322]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony. [LB322]

CLINT WILLIAMS: Yes. Thank you. [LB322]

SENATOR PAHLS: Next opponent? I'm hoping to find new information. [LB322]

DAVID ROOT: Thank you for having us here today. My name is David Root. I represent Medco Health Solutions. We are a pharmacy benefits manager, currently serving approximately 27 percent of the state of Nebraska. In honoring the committee's last bullet point on the board and also your most recent comment, Mr. Chairman, what I'd like to do is very quickly turn your attention and make sure that you've all had at least an opportunity to glance at the fiscal note. There was some conversation among the previous testifiers with respect to the getting around, so to speak, the fiscal note. The issue actually that drives the number from the fiscal note is not the 500 percent of the lowest copay. The department of DAS and the University of Nebraska indicate the bill increases the cost of health insurance plans provided to state employees the primary component of the bill which increases plan costs is the requirement to exclude expenditures for prescription drugs within the total out-of-pocket limit for the health insurance plan. DAS estimates increased costs for the state employees plan...you can read those numbers. The University of Nebraska projects increased healthcare costs, again. Currently, each of these plans is funded, in part, by an employer/employee contribution with the employer contribution about 75 to 79 percent of the plan cost. The fiscal impact of the bill for the state and the university will depend upon how the increased costs are shared by the employer and the employee. I think that's very important for everyone to understand that. Again also, there is even still, within the university, again, looking to the fiscal note from the university plan, the university also indicates, under its wellness plan in some circumstances, there is a zero copay which would have to be adjusted or the bill would result in no copays at all for the prescription drugs. And then there is the Comprehensive Health Insurance Plan or the CHIP plan, and pretty much the same impact to that as well. The issue here is that these drugs are very expensive, and they're new, and they're becoming new, and they're putting out new products every day. They're expensive, and the question is, someone has to pay for them, and the only way a plan can pay for them is through copays or coinsurance, copays, or premiums. If the plan can't pay for those drugs, then we run the risk of getting into a situation where the plans simply don't offer the drug plan. And in today's modern medicine, as Mr. Gloor, I'm sure will be willing to attest to, if you have a health insurance plan that doesn't involve a drug plan, you don't really have much of a health plan. Almost all disease states right now, their first line of treatment is some sort of drug, either a pill or an injectable. With that, I'll take any questions. [LB322]

SENATOR PAHLS: Seeing none, thank you for bringing those points forth. [LB322]

JAN McKENZIE: Senator Pahls, members of the committee, for the record, my name is Jan McKenzie, J-a-n M-c-K-e-n-z-i-e, testifying in opposition today to LB322 on behalf of the Nebraska Insurance Federation. I'd answer any questions if you had any. [LB322]

SENATOR PAHLS: I'm assuming you just oppose. [LB322]

JAN McKENZIE: Yes, sir. [LB322]

SENATOR PAHLS: Okay. Thank you. [LB322]

MICK MINES: Me, too, Senator. For the record, my name is Mick Mines, M-i-c-k M-i-n-e-s. I'm a registered lobbyist representing the Nebraska Association of Insurance and Financial Advisors. We oppose the legislation for all the reasons that we stated in the previous bill. I'd be glad to answer any questions. [LB322]

SENATOR PAHLS: Seeing none, thank you. Thank you. [LB322]

MICK MINES: Thank you so much. [LB322]

JACK CHELOHA: Senator Pahls and members of the committee, my name is Jack Cheloha. That's J-a-c-k. The last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I want to testify briefly in opposition to LB322. The city of Omaha has roughly about 2,500 employees. We do provide a comprehensive health insurance program to our fellow and co-employees. However, the city is self-insured, and as most companies and insurance industry members could tell you in the past decade or so, we've had double digit inflationary growth in our healthcare costs. And just out of concern for the increased costs, we, too, would have to oppose the bill at this time. I'd try to answer any questions. [LB322]

SENATOR PAHLS: Okay. I heard you correctly. You say you're self-insured? [LB322]

JACK CHELOHA: Correct. [LB322]

SENATOR PAHLS: Okay. Thank you. See no questions. Thank you for your testimony. Any more proponents (sic: opponents)? People in the neutral? I think we have the senator here for closing? [LB322]

JACK CHELOHA: Thank you. [LB322]

SENATOR CORNETT: Thank you, Chairman Pahls, and I apologize, again, for having to leave during the hearing. I didn't know if I was going to be able to make it back. I was able to listen to part of the hearing in my office and was here for most of opposition

testimony. I understand the bill, as drafted, has issues with copay. My staff and I are more than happy to sit down with any of the insurance companies and work through the issues that they have in that regard. We will also look at the fiscal note. I do believe that we can correct that. I'd be happy to answer any of your questions at this time. [LB322]

SENATOR PAHLS: Just...okay, you think the fiscal note could be...something could be changed there to make it more realistic... [LB322]

SENATOR CORNETT: Yes. [LB322]

SENATOR PAHLS: ...and also the copay... [LB322]

SENATOR CORNETT: It's my under...I was going to say, it's my understanding the University of Nebraska provides these medications now already, so there should not be any additional costs in that regard. [LB322]

SENATOR PAHLS: Right. I've heard conflicting ideas today, so I need to have that straightened out. Also,... [LB322]

SENATOR CORNETT: And I do also. [LB322]

SENATOR PAHLS: ...the copay, you see that as something... [LB322]

SENATOR CORNETT: The copay is something that I'm more than happy to work with. That was...it was not the intent to eliminate copays. I think everyone that has insurance policies with copays now is perfectly understanding that that was the agreement that they made when they got insurance. [LB322]

SENATOR PAHLS: Okay. Well, it appears that you have to do some discussion then and we will talk. [LB322]

SENATOR CORNETT: Um-hum. [LB322]

SENATOR PAHLS: Seeing no...thank you for... [LB322]

SENATOR CORNETT: Thank you very much. [LB322]

SENATOR PAHLS: Yes. That will close the hearing on (LB)322. We are now ready for LB240. Senator Nordquist. We'll wait till everybody clears out a little bit. Again, I'd like to have the people start moving forward if you are going to testify. Senator ready? Any time you are ready, Senator, the floor is yours. [LB322]

SENATOR NORDQUIST: (Exhibits 1, 2) Great. Thank you, Chairman Pahls and

members of the committee. My name is Jeremy Nordquist, N-o-r-d-q-u-i-s-t, and I represent downtown and south Omaha in the Legislature. LB240 creates the Nebraska Insurance Choices Exchange Task Force to study, evaluate, and develop recommendations regarding the potential establishment of a health insurance exchange in Nebraska. As introduced, LB240 creates the task force whose membership would consist of the director of insurance or his designee, the CEO of DHHS or his designee, the chief information officer of our state or her designee, three members of the Legislature appointed by the Exec Board and three public members appointed by the Governor representing each congressional district. The task force would report to the Legislature by December 1, 2011, and oversee implementation of the exchange until June 30, 2012. I've introduced LB240 because it's the utmost importance of the health insurance exchange to the implementation of health care reform in our state. The federal health care reform bill, the ACA, Affordable Care Act, requires the creation of health insurance exchanges to make healthcare affordable, available, and accessible to individuals and small businesses. The CBO estimates that by 2019, 24 million people will purchase their coverage through the insurance exchanges. The ACA offers states a significant amount of freedom in the design of the exchange in a way that best suits each state, even gives states the opportunity to forego creating the exchange and let the federal government create one for them or even the potential to create multistate exchanges. Specifically, the exchanges will be required to perform a variety of functions including administering a system of qualified health plans, certifying plans that can participate in the exchange, rating plans based on their quality and price, and reviewing plans' premium increases; also supporting enrollment in the health plans through on-line and telephone assistance, and establishing a system of navigators. Also, the exchange will determine eligibility for assistance in obtaining insurance. The exchange must act as a front door to determine whether participants are eligible for Medicaid, SCHIP, or exchange subsidies. The exchange must also be self sufficient, financially self sufficient, by 2015 and the states have a variety of options related to that funding whether it's to establish assessments or fees. The task force created by LB240 is an effort to create an open and transparent process to exchange implementation in our state. The Department of Insurance has recently received a million dollar grant to conduct a study on the exchange in the Affordable Care Act, and I respect and appreciate their expertise related to this study. However, the implementation of the exchange, I believe, will require input also from the Legislature and be a process that has all the stakeholders at the table, involves the Legislature closely, ultimately will have to be...there will have to be legislative...enacting legislation probably in the next Legislature in 2012. It's a very detailed policy. It's a policy experiment that very few states have taken on, and I really think that we need to have everyone at the table. The task force is unique, because it brings together all of the agencies that must be there. As I said earlier, it's going to be the front door to Medicaid, to SCHIP. That's why I think the Department of Health and Human Services certainly needs to be at the table. The exchange ultimately will offer bargaining power and scale to an individual, and the individual insurance market that is usually only available only to large employees. All plans in the exchange will all have to

offer essential benefits. Those will be defined by the federal government and potentially state governments too in the coming months. Earlier this week, I got a letter, or last week, I guess, I got a letter from Speaker Flood. I think Chairman Pahls was copied on it. He did raise some potential constitutional separations of powers issue, and I certainly after talking it over with him, I understand his concerns about having the Legislature be on a committee with agency and public members appointed by the Governor. Ultimately, the bottom line of this bill is to create an open and transparent process where we can have all the key stakeholders at the table, that the Legislature is there when the decisions are being made, and that's the point of this legislation. So I look forward to working closely with the committee to work on this and figure out a way that we can do that, that we can set up a process that allows the public to have a voice that allows all the key stakeholders to have a voice as we look at establishing an insurance exchange next year. Thank you. [LB240]

SENATOR PAHLS: Senator Utter. [LB240]

SENATOR UTTER: Thank you, Chairman Pahls. Senator Nordquist, I'm curious that there is not anyone from the insurance department on this steering committee. [LB240]

SENATOR NORDQUIST: The director of the department is... [LB240]

SENATOR UTTER: The director? [LB240]

SENATOR NORDQUIST: Yeah, yeah. [LB240]

SENATOR UTTER: Okay. [LB240]

SENATOR NORDQUIST: Yep, yeah. Certainly. [LB240]

SENATOR PAHLS: See no further questions. [LB240]

SENATOR NORDQUIST: Thank you. [LB240]

SENATOR PAHLS: I just want to show, so I have a feel. How many proponents? One, two, three, four, five, six. Again, I want you to be aware of the time. There's six of you. Thank you. [LB240]

JAMES CAVANAUGH: Chairman Pahls, members of the Banking, Commerce and Insurance Committee. My name is James Cavanaugh. I'm an attorney and registered lobbyist for the Independent Insurance Agents of Nebraska. I appear here today in support of LB240. I think Senator Nordquist should be commended for bringing this matter to you. The Affordable Care Act is, everybody who's had any experience with it, is complex and in many cases confusing initiative. And it's going to take all the help that

we can get to get up to speed for implementation on 2014. We'd be happy to participate in this or any other initiatives that the insurance department or anyone else may undertake between now and then for purposes of making it comprehensible to the average consumer, the people that we represent in the insurance market. For those reasons, we'd be happy to join in this initiative again or any other initiatives that the government might put forward on the state of Nebraska level to help in enabling people, the Nebraska consumers, to understand the Affordable Care Act and its implications. I'd be happy to answer any questions you might have. [LB240]

SENATOR PAHLS: Seeing no questions, thank you. Next proponent? [LB240]

CECILIA ROSSITER: Hello. I'm Cecilia Rossiter. Thank you for listening. I have two parts...who I am and a request. Cecilia Rossiter is C-e-c-i-l-i-a. Rossiter is R-o-s-s-i-t-e-r. I was diagnosed with multiple sclerosis in 2000 when I was working as the senior project assistant at the National Academies of Science in Washington, D.C. After the disasters in 9/11, I was skillfully coaxed by my doctors to retire at age 39. The Social Security Administration recognizes my retirement as October 2001. It took me nine months to imagine that truth, and to see I could no longer sustain my formerly high level of cognitive abilities and responsibility and reliability. I had no imagination for not working. Since I was born in Omaha, I saw this opportunity of home ownership here in Lincoln, and I am proud to have received...this is the NeighborWorks residential property award of 2007. And this is the multiple sclerosis plaque in recognition of innovative support of their mission in 2009. I, like many of my friends with complicated and expensive treatment needs are managing payments. My primary insurance is Medicare; my secondary insurance is...runs between $6,000 and $8,000 per year, depending on the copays. If I don't manage these premiums, I will lose any equity; I will lose my house, my savings, and anything of value, probably within six months due to the high cost of my drugs which you've heard about earlier today. At this time, my drugs cost more than $50,000 per year. You can see how I will quickly qualify for Medicaid without insurance, and I would also go broke if I had not good coverage. So my point is, is that we in Nebraska need insight and accurate information in four areas: the way that the insurance covers the costs, what are the medical requirements for people responsibly, how drug companies target their sources of profit and deal with that, and what actually is the struggle of more than 10,000 Nebraskan families who live with a diagnosis like my own. These are Nebraskans who are not interested in receiving Medicaid. With LB240, we all have this chance to work with the Department of Insurance as it provides the advice to the state on our opportunity that is everybody being insured. Our cohorts which also includes those diagnosed with Parkinson's and ALS, Alzheimer's, and immune disorders, are a group of people with complex medical demands. None of us would want to see this group being impoverished and on Medicaid. Without care in what we create regarding insurance, we may be looking at a tidal wave of unintended consequence. I'm sincerely requesting support of LB240 which will, if it's passed, have us be responsible for great legislation for Nebraskans. Thank

you. Do you have any questions? [LB240]

SENATOR PAHLS: Seeing no questions, thank you for your testimony in support. [LB240]

MARK INTERMILL: (Exhibit 3) Senator Pahls and members of the committee, my name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today representing AARP in support of LB240. We supported the enactment of the Affordable Care Act, and now we're interested in making sure that it's implemented effectively in the state. The Affordable Care Act really didn't set up a national health insurance program. It set some parameters and authorized states to set up health insurance exchanges within their states and also provides insurance companies some latitude in offering plans within those exchanges. We think that the process is going to require an extraordinary amount of cooperation, exchange of information to make sure that we are able to do all the things that are needed to implement this program well. There's a lot of interplay that needs to take place between Medicaid and the Department of Insurance to make sure that there's a seamless...there can be seamless movement between different parts that will exist in the program. We commend the Department of Insurance for the work that they're doing. They've been very open with AARP and their staff in meeting with us. We're looking forward to the hearings that they're going to be holding, beginning this week to hear from the public about the health insurance exchanges. But we think this group, some sort of ongoing effort to make sure that everybody who...the key individuals at the table plus the public are sitting down together to make sure that this has the best chance of being successful. So, for those reasons, we do support LB240, and I'd be happy to try to answer any questions. [LB240]

SENATOR PAHLS: Seeing no questions, thank you for your testimony. [LB240]

AL GUENTHER: (Exhibit 4) Chairman Pahls, members of the committee, the Banking, Commerce and Insurance Committee. My name is Al Guenther, G-u-e-n-t-h-e-r, and I raise cattle on a farm near Dunbar, Nebraska. For 35 years, I taught economics, small business finance and accounting at the high school and community college level. I come before you today to offer testimony in support of LB240. First, I would like to share a short story of a couple attempting to start a small cattle ranch in Nebraska. Because of the high cost of health insurance, the couple was forced to purchase a $10,000 deductible policy. It was hoped that after the start-up phase of the business, they could afford a better policy. Disaster struck. Several years after starting, the man suffered a heart attack. Thirty days after admittance to the hospital, and while still in rehab, the hospital's lawyers were after them for nonpayment of the deductible. The small rural business entrepreneur is faced with a different set of rules regarding hospital collection of debt. Making a long story short, at the end of one year, they were now saddled with a $10,000 hospital bill plus $3,000 in legal fees. Obviously, that is not a good way to start a business. That man now sits before you to testify in support of LB240. Affordable

healthcare is obviously a huge obstacle to overcome for anyone wishing to pursue their entrepreneurial dreams. This is particularly true in the rural areas of Nebraska as the following facts will show. Some of those facts: Anything that affects small business owners will disproportionately affect rural people; 33 percent of rural residents are self-employed compared to 21 percent of urban residents. People who work for small businesses are twice as likely to be uninsured. As a result of high healthcare costs, the percentage of firms offering health insurance coverage has declined. On average, small businesses pay up to 18 percent more than large firms for the exact same health insurance policy. I would like to talk about why a robust health insurance exchange will help small businesses when it is established in 2014. Energy costs are doubling; food costs are going higher and will probably inflate at an ever increasing rate. Healthcare costs are going through the roof. With energy, food, and healthcare consuming the greater proportion of our disposable income, we are now looking at a probable increase in property tax, not a real rosy picture for Nebraska and particularly rural Nebraska. In addition, even though we pat ourselves on the back for our supposed low unemployment rate, the national unemployment rate is exceeding 16 percent. Nebraska would be at double its unemployment rate of 4.5 or approximately 9 percent. Underemployment jobs consist of jobs offering less than full time and no benefits for skilled workers. Therefore small businesses who participate in the exchange will have more affordable choices to provide for their employees. Self-employed individuals will be able to purchase insurance in the exchange and won't be turned away due to their health. The exchange will provide tax credits to make sure insurance plans are affordable. Small businesses will be protected from the insecurity of unjustifiable double digit rate increases. In addition, it is important that LB240 pass so that we are assured an open dialogue on how the exchange will be run. Participation in the exchange task force by small business owners, self-employed individuals and others who will use the exchange is of utmost importance. Every effort must be made to avoid conflicts of interest. Small business owners and self-employed individuals will not benefit nearly as much from the exchange if insurers and insurance agents are allowed to use the task force to game the system and reap additional profits. Small businesses and household consumption are the economic drivers of Nebraska, especially in our rural communities. By making health insurance affordable and stable through robust exchanges, Nebraska lawmakers can increase rural household disposable income, rural entrepreneurs, and a stronger rural economic environment that creates good Nebraska jobs and a slowing of our rural brain drain. I believe the task force created by LB240 will benefit small Nebraska businesses. The most important issue to keep in mind is that the issues and challenges facing many Nebraskans who are trying to make a living. Their voices must be heard and represented in the process of creating the exchange. Thank you for this opportunity to speak in support of LB240. I hope the committee advances LB240 with the recommended changes. Thank you. Any questions, comments? [LB240]

SENATOR PAHLS: I see no questions. Thank you for your testimony. [LB240]

AL GUENTHER: Thank you. [LB240]

EMILY SCHLICHTING: (Exhibit 5) This is a big chair. Good afternoon, everybody. My name is Emily Schlichting. That's E-m-i-l-y S-c-h-l-i-c-h-t-i-n-g. For the record, what I gave you, I'm actually kind of shortening it a little per your request, so if you'd like an abbreviated copy, I can definitely make that available later. I'm 21 years old. I'm a junior at the university just down the street over there, and I'm here today because my life has been drastically changed for the better thanks to the Affordable Care Act and health reform. And I'd like to share with you just how that reform has affected my life and why an insurance exchange task force is really important to me as a consumer of insurance in Nebraska. The summer before my senior year of high school, just to give you a little background, I started experiencing a lot of really odd symptoms that my doctors couldn't really link together. They started with painful open ulcers that would get extremely dangerously infected and throughout the two years of my diagnosis process, it grew to include really swollen joints, a lot of high-grade fevers, and it ended in a week-long hospitalization when I was 19...well, I guess I was 18 at that time. I was in my first semester in college. And after all of this, I was finally diagnosed with Behcet's syndrome which is a pretty rare autoimmune condition. And it was all kind of a lot to deal with as a young 19-year-old, but when all of that happened, I was extremely lucky, because I was on my parents' health insurance plan. So due to my mother's wonderful insurance, I was covered. But I am slowly approaching the age where I will no longer be able to be on my mother's health insurance plan even with the passage of the Affordable Care Act. Luckily, it has been extended to 26, and I'm very grateful for that, but I am 21 now. That means there are less than five short years until I am an individual who needs to find insurance in this state. My healthcare is expensive. I see a rheumatologist, an ophthalmologist, a dermatologist, an internist when things get bad, and a couple other doctors in between. And I also take a fairly expensive kidney transplant immunodeficiency medication. It's an immunosuppressant on a regular basis every day, and that's pretty expensive as well. So for me, what's invested in this bill is the fact that I can now have insurance through an insurance exchange, because I'm able to access more affordable insurance in a group versus having to struggle to keep my head above the water in an individual market where plans are really expensive and can...I mean, paying for my healthcare by myself would bankrupt me. But I'd really like to go into work for a nonprofit, and so paying for it in an individual market without a larger group to kind of help pool that risk could potentially bankrupt me as well. So as a young person in Nebraska, it's really important to me that we examine how this exchange is going to be implemented in our state. And I think it's wonderful that Senator Nordquist is proposing a bill and a task force that will do just that. This would allow me to, hopefully, if the task force produces what it is supposed to do, insurance that best serves me as a Nebraska consumer. And currently, I'm on my parents' plan, but as I've already said, I'm not going to be on that plan forever. And so creating this bill to look at how we can best implement this in Nebraska, bringing in all the different players and putting them at the same table including some insurance consumers which I think is really, really important is

something that I strongly stand behind, and it's something that I'm going to need in five years. And so, I know, it seems like it's a little bit down the line, but this is something that is extremely important to me as a Nebraska consumer. And it...I mean, at the end of the day it means I'm not going to get ripped off by an insurance company, and that's a really, really big deal. I guess I'd just like to leave you with this. Healthcare is something that is really easy not to care about when you're young and you're healthy. I know, I used to not care about it at all (laugh), but someday not all of us are young and most of us do end up getting sick at some point. This is a really important bill, because establishing a quality insurance exchange is not only going to help people in four years when it gets...in three or four years when it gets implemented. It's going to keep helping Nebraskans years and years after that, but we want to make sure that we do the research, and that we set the right framework, so that we can keep serving Nebraskans years and years down the line. I'm really hopeful that the committee will send this bill to the floor, so that Nebraska can do that and determine the best way to shape healthcare exchanges for Nebraska consumers and serve the needs of all of its citizens, even the young ones. Thank you. [LB240]

SENATOR PAHLS: I have a question. [LB240]

EMILY SCHLICHTING: Yes. [LB240]

SENATOR PAHLS: And I understand your predicament that you could be in. [LB240]

EMILY SCHLICHTING: Um-hum. [LB240]

SENATOR PAHLS: I'm just curious. Your knowledge of this bill surprises me that...how did this just come up on your radar screen? [LB240]

EMILY SCHLICHTING: And actually, this is a...I've done a couple different things around healthcare reform. I've testified, most recently, about two weeks ago, I testified in front of the Senate Health Education, Labor, and Pensions Committee. They had a hearing about the impact of the act, and there were a couple of different consumer witnesses. And I spoke on behalf of young people. [LB240]

SENATOR PAHLS: Okay. I see. [LB240]

EMILY SCHLICHTING: So that, and I just...I don't know, when you're sick and healthcare is changing, it seemed like something I should maybe want to be interested in (laugh). [LB240]

SENATOR PAHLS: Good. Good answer. Thank you, thank you. [LB240]

EMILY SCHLICHTING: Thank you for your time. Yes. [LB240]

SENATOR PAHLS: Oh not so easily. Senator Gloor. [LB240]

SENATOR GLOOR: Thank you. And I'll be very brief with my comments, but just to share a truism with you. By the way, it appears your Behcet's disease is controlled nicely,... [LB240]

EMILY SCHLICHTING: Yes. [LB240]

SENATOR GLOOR: ...although I'm sure you put a lot of time and effort and expense into it. So thank you for providing testimony, but not only is it true that a lot of young people don't care about healthcare or the cost of healthcare, because they're healthy. Most people of any age category don't care about healthcare, healthcare costs as long as they're healthy. And therein lies a big, big challenge for us as a society as we go through this... [LB240]

EMILY SCHLICHTING: Um-hum. [LB240]

SENATOR GLOOR: ...and usually by the time you're sick, it's a little hard to advocate for yourself and for others. So it's a real...it's a reality, that healthy people really don't care about ill health. [LB240]

EMILY SCHLICHTING: Which is ironic that healthy people don't care about it, but it's very true. [LB240]

SENATOR GLOOR: Yeah, but very true. Thank you for taking the time. [LB240]

SENATOR PAHLS: Seeing...thank you for your testimony. [LB240]

EMILY SCHLICHTING: Thank you. [LB240]

SENATOR PAHLS: I see we have two more? [LB240]

STEPHANIE LARSEN: (Exhibit 6) Good afternoon. My name is Steph Larsen, S-t-e-p-h L-a-r-s-e-n. I'm the Assistant Director of Organizing at the Center for Rural Affairs in Lyons, Nebraska. On behalf of the Center for Rural Affairs, I come before you today to offer testimony in support of LB240. Before I begin, though, I want to add a personal note to my testimony. About a year ago, I bought a small piece of land near Lyons, Nebraska, to grow food for my family and members of my community. We sell lamb, eggs, and apples, and we hope to expand into vegetable, fruit, and herb production. And I hope someday that this venture will become income generating. Farming is becoming almost surprisingly popular alternative to urban desk jobs these days for many young people, and they want farms that are viable businesses. An untold number

of young people are stopped before they even start a farm, however, because of the lack of affordable health insurance access. The same holds true for young entrepreneurs. So today, I'm not speaking solely on behalf of the Center for Rural Affairs, but also for those who would like the option to farm or to work for themselves full time, if only they had health insurance for their family. The Center for Rural Affairs appreciates the opportunity to provide comments on LB240. An effective health insurance exchange is critical to making the health insurance affordable for rural families and businesses. Rural residents have unique circumstances that must be considered and addressed in the development of the health benefits exchange. By their very nature, rural places and their residents are more isolated. The task force envisioned by LB240 would allow these circumstances to be considered and addressed as Nebraska develops its exchange. Over 86 percent of Nebraska businesses have fewer than five employees, and the vast majority of these businesses need better access to affordable comprehensive health insurance. More rural people purchase health insurance than the individual or small group market often at a greater cost and with less coverage. These people are the people that health insurance exchanges are most meant to serve. And so the task force created by LB240 will ensure that the Nebraska exchange meets the needs of the people that it's intended to benefit. There are a number of issues that the Center for Rural Affairs hopes the task force will address. First, it's important that the exchanges are accessible statewide including very remote parts of the state. While broadband internet may be available to many, and would be an easy way to set up the exchange, it's necessary that exchanges also have physical offices for people who don't have access to computers, so that everyone can benefit. The exchanges must also offer plans with a wide network of providers, so that more people will be able to buy into the exchange and have a doctor near them. No one knows the challenges and experiences of small business owners and entrepreneurs better than the people who live those challenges and experiences, so it's vital that the process of establishing an exchange be open as possible, soliciting lots of input and feedback from the people who will benefit by the exchange, and also to have them represented within that decision making process. To this end, the Center for Rural Affairs, while we support LB240, we would like to make some suggestions as to how the task force can be stronger. The people who buy insurance through the exchange must be included in every step of this process, so we have a couple of suggestions. I think we should increase the number of appointed members of the task force, and additionally, tasking the state director of insurance with making some of the appointments instead of just the Governor. We recommend that public members of the task force be defined not necessarily by their geographic location in the state, but by the expertise or perspective that they bring to the task force. We urge that they be defined as follows: One member of the public who is a representative of the business community likely to be eligible to purchase health insurance from the exchange; one member of the public who is not a representative of the business community, but is likely eligible to purchase health insurance from the exchange; one member of the public with expertise on health access; one member of the public who is a representative of rural health community;

and one member of the public who is representative of health advocacy organization with experience in healthcare access or finance. Obviously, to the extent possible, we urge geographic diversity as well. And we also recommend, thirdly, that we need to avoid a clear conflict of interest that no members of the task force be an employee, consultant to, on the board of, or otherwise affiliated with a health insurer, health insurance producer agency, or trade association. With these additions to LB240, we believe that the task force would create a truly representative exchange for the public and members who stand to benefit. Thank you for the opportunity. I urge that the committee advance the bill, and I'd be happy to answer any questions. [LB240]

SENATOR PAHLS: Senator Gloor. [LB240]

SENATOR GLOOR: Thank you, Chairman Pahls. I'm going to go to the last page, number two, when you say, we recommend the public members of the task force be defined not by their geographic location in the state such as congressional district, but by the expertise or perspective they bring. But your last sentence says, to the extent possible, we would urge geographic diversity of the task force public members. [LB240]

STEPHANIE LARSEN: Sure. [LB240]

SENATOR GLOOR: So which would you like? I think... [LB240]

STEPHANIE LARSEN: So you can imagine that if you look only at geographic diversity, you could have three people from different parts of the state as it's set up right now that would all be business owners. And so that perspective would be particularly weighted heavily on the task force. Also, if you had only, as we defined, areas of expertise--all those people could be probably found in Omaha or Lincoln, and not giving proper weight. So we want a balance of geographic diversity, while at the same time finding people from diverse parts of the state who also meet these different areas of expertise. [LB240]

SENATOR GLOOR: Can I say that a different way for my benefit? You think the expertise is probably more important than the geographic diversity? [LB240]

STEPHANIE LARSEN: I do. [LB240]

SENATOR GLOOR: But to the extent possible, you'd like the geographic diversity. [LB240]

STEPHANIE LARSEN: Yes. [LB240]

SENATOR GLOOR: Okay. Thank you. [LB240]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony. [LB240]

STEPHANIE LARSEN: Thank you. [LB240]

JENNIFER CARTER: (Exhibit 7) Good afternoon, Chairman Pahls, members of the committee. My name is Jennifer Carter, J-e-n-n-i-f-e-r C-a-r-t-e-r, and I'm the Director of Public Policy and Health Care Access Program at Nebraska Appleseed. And on behalf of Nebraska Appleseed, we're also here in strong support of LB240. I just want to highlight...you have my written testimony, a few things. I think as we've heard, the exchanges will be really the centerpiece of improved consumer access to private insurance. They should provide better information, more comparable information, and, obviously, will be the doorway to tax credits and things that might help people access coverage. So, it is...from our perspective, incredibly important that really all stakeholders in creating the exchange are at the table including consumers. And while we...because so many decisions, large and small, are going to be made over the next few years or actually over the next couple of months to a year about what this will look like. We as AARP mentioned, also appreciate the willingness of the Department of Insurance to sit down and talk with us, and we've met with them a few times. We actually had the opportunity to meet with the Governor and express some of our views as well, and we hope to meet with HHS. But overall, there has been a certain lack of transparency and consumer input in the process, and I think the key is that there's no formal public structure for this implementation process. So, while it's possible, and we appreciate the DOI has been open to hearing from us, there's no...it's very hard for members of the public to know, are the agencies talking to each other? What are they talking about? What kind of information do they need? We don't have a great sense of...and to some extent, I think it's because this is new for everyone, and they're moving through the process. But because those questions aren't being asked publicly, there's no real sense of when decisions are being made, which agencies are actually making them, because they're different...so many different parts that need to be covered, and what questions they're grabbling with. So it becomes difficult as consumers and consumer advocates to figure out, especially if you have limited time and resources, what information do they need when? What's most helpful? And I think there's a lot of information that could be helpful as these groups go and as eventually, the Legislature will have to decide what an exchange looks like. Can you make it all Web-based? Do we need to have offices? What are the barriers that different groups in Nebraska are going to face--small businesses, seniors, Nebraskans with disabilities? There are many, many questions to be answered, and it would be extremely helpful to have this be a more public process where people can understand how all these different agencies are working together, all of whom have some role to play in creating the exchange, and that includes the Legislature as well. As others have mentioned, our one concern with the bill is that the public members are not defined in any way to include consumers specifically, so we would really like to see the bill amended to specific...and if that requires increasing the size of the task force we're comfortable with that, but to actually require some consumer

input. And, again, that to me is a range that is small business owners; that's Nebraskans with disabilities; that's low-income Nebraskans, because Medicaid will be a huge part of the exchange and how it works seamlessly. So those are our main concerns, but what we like so much about this bill is that as all of us who have been really interested in this and working hard, it's still...it's big, and it's hard to grapple with when there's no central place or structure to work on all of this together. So we would really urge the committee to move the bill to General File with, hopefully, an amendment that allows for more consumer...specific consumer input. And I'm happy to take any questions. [LB240]

SENATOR PAHLS: Seeing none, thank you for your testimony. Thank you. [LB240]

JENNIFER CARTER: Sure. [LB240]

BRUCE RIEKER: (Exhibit 8) My name is Bruce Rieker. It's R-i-e-k-e-r, vice president of advocacy for the Nebraska Hospital Association on behalf of our members, testifying in support of LB240. The only area that we would like to make some comments on at this time is that with regard to the composition of the task force seems to be an area that many are concerned with as well as the process. We don't have the panacea of what that task force would look like, but we would like to work with the committee to help develop the task force as well as the process, and we do contend that as providers, we have some expertise to bring to the table. [LB240]

SENATOR PAHLS: (Exhibits 9, 10) Any questions? Thank you for your testimony. Any more proponents? Let me just read into the record, the American Cancer Society supports LB240, and the Nebraska Rural Health Association supports LB240. Now we're ready for opponents. [LB240]

BRUCE RAMGE: Good afternoon. Good afternoon, Senator Pahls and members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge for the record. That's spelled B-r-u-c-e R-a-m-g-e. I'm the Director of Insurance, and I'm here to testify in opposition to LB240. Adoption of LB240 would needlessly duplicate efforts already underway, create additional unnecessary costs, and would create a study commission with a makeup that is constitutionally suspect. LB240 would create a body to develop recommendations regarding the establishment, governance, and requirements of the health insurance exchange to facilitate the purchase and sale of qualified health plans, and to evaluate the establishment of a small business health options program, an exchange to assist qualified small employers in the state in facilitating the enrollment of their employees in qualified health plans offered in the small improved market. In other words, it appears that the intent is to duplicate efforts currently underway to study the exact same issues under a grant received from the federal government. Under that grant, the department has hired two insurance health policy analysts primarily to conduct research and study the various issues required to make a determination as to the viability of a state exchange in Nebraska and the type of

exchange. The department is also devoting significant time of preexisting staff to weave together the exchange planning process with Affordable Care Act implementation. In addition, our administration believes that the bill is constitutionally suspect. The bill calls for a board made up of both executive department staff and three members of the Legislature under State ex rel. Stenberg v. Murphy, 247 Neb. 358, 527 N.W.2d 185, the Nebraska Supreme Court ruled that a judge's dual service as judge and member of an executive branch commission with policymaking authority violated the separation of powers clause of the Nebraska Constitution. Even though the Executive Board would appoint the legislative members under this bill, we believe the same reasoning would apply in this situation. The analysts I referred to earlier have extensively reviewed existing literature on health insurance exchanges, identified useful resources in core planning areas to consider if the materials available are a basis for use in a study. They have been instrumental in preparing preliminary analysis and gathering information that will be used in a request for information with the objective of gathering input from a wide array of stakeholders. They have also prepared the draft scope of work that will be used in the proposal, RFP solicitation for the purpose of acquiring contractual services for the planning and exchange. We're in the process of conducting preliminary research on governance models using background research information for Massachusetts, Utah, and California, which are states that already have existing exchanges. We continue to explore governance models and funding options for an exchange in Nebraska. Nebraska Department of Insurance staff has also subscribed to an open information-sharing LISTSERV with other states which has proven to be very helpful in drafting a preliminary analysis. The department began identifying its soliciting stakeholders for suggestions of additional key stakeholders who should be engaged in the exchange planning process. There has been an extensive interest in the exchange planning process by a cross-sectional array of stakeholders including consumers, healthcare providers, insurance leaders, advocacy groups, hospital and medical associations, brokers, agents, and legislators, to name a few. To date, several informal stakeholder briefing meetings have been convened led by both Governor Heineman and by Nebraska Department of Insurance staff. Formal stakeholder public hearings are scheduled to commence later this week in Gering and Kearney. I will be spending Monday in Norfolk, one of the public hearings. These events have been publicized by press release and by ads placed in newspapers across Nebraska, advertising the event to the public, using the services of the Nebraska Press Association. We have e-mailed people who have asked to be considered stakeholders, alerting them to these meetings. We have asked stakeholders to suggest other stakeholders. Although we believe that LB240 is unnecessary, we agree that it is important that the Banking, Commerce and Insurance Committee be kept fully aware of our activities. We look forward to working with the committee as the committee with oversight over the department and the business of insurance to keep it briefed on our progress. For these reasons, I ask that you not advance the bill. I would be happy to answer any questions you have. [LB240]

SENATOR PAHLS: The question on the...being...you know, meeting the needs of the

Constitution, the task force. Now, that could be changed. I mean, just by changing how it's formatted could...to me, that could eliminate that issue. [LB240]

BRUCE RAMGE: Okay. [LB240]

SENATOR PAHLS: I keep hearing the word, transparency, so you're telling me, Director, that by your meetings that you've had in the past and by your meetings...well, in fact, I think you're meeting in front of us, I think March 14. [LB240]

BRUCE RAMGE: Yes. [LB240]

SENATOR PAHLS: At 2:00 here, you're going to sort of give us an update of what you're doing. [LB240]

BRUCE RAMGE: Absolutely. [LB240]

SENATOR PAHLS: It sounds like whatever we do, transparency and updating is just going to be paramount or there's going to be a suspicion if we do not go ahead with something like a task force. [LB240]

BRUCE RAMGE: We're fully...want to keep you informed, and we want you to know everything that we know. Up to now, it's been in such early stages of the process that there really hasn't been a lot to share. After this weekend, we'll have some really good public feedback. I think that will help us to provide more information to you as well. We'll also be moving away from looking at what an exchange entails, but now looking at issues such as how it would become self-sustained, what it would cost to build it, what are the IT components that are going into it? We've had conversations with the Nebraska Department of HHS, so that we can begin that framework of understanding how computer systems will need to mesh and work together, so there's communication among the various agencies as well. [LB240]

SENATOR PAHLS: Okay. You're saying simply because we're in the beginning stages, that's why there's still an uneasiness? [LB240]

BRUCE RAMGE: Um... [LB240]

SENATOR PAHLS: Not with you, but everybody else wanting to know what's going on? [LB240]

BRUCE RAMGE: Yeah. There's not been a lot of information... [LB240]

SENATOR PAHLS: Okay. [LB240]

BRUCE RAMGE: ...to share up to this point, but we certainly want to keep everyone apprised of what we learn as we learn it. [LB240]

SENATOR PAHLS: Okay, okay. Seeing...thank you for your testimony. [LB240]

BRUCE RAMGE: Thank you. [LB240]

SENATOR PAHLS: Other opponents? Anyone in the neutral? [LB240]

JUSTIN BRADY: Senator Pahls and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Association of Health Underwriters in a neutral capacity. They've had, as you can imagine, inside their association along with others, multiple conversations and thoughts about this process of the state exchange. They have...the agents under the Health Underwriters represent an array of individuals and small group plans across the state and, obviously, trying to compare what may be needed in Omaha or Lincoln compared to western Nebraska. They're having those discussions both internally and with the department and the administration. And when we've had those discussions with the department administration, we've been impressed with the process that they have so far laid out as far as gathering information and going forward. You heard the director talk about the stakeholder meetings that they plan on having across the state. I know the Health Underwriters plan on being there and participating in that. However, I understand, they understand that if the Legislature were to decide that this is the policy you'd like to go forward with the task force, they understand that, and like some of the other groups have said, they believe that the agents have a part to add and would like to be part of that, but are, like I said, impressed with what the department and the administration have done to this point. So with that, I'd try to answer any questions. [LB240]

SENATOR PAHLS: Seeing none, thank you for your testimony. [LB240]

JUSTIN BRADY: Thank you. [LB240]

SENATOR PAHLS: I think, Senator, we'll allow you to close. [LB240]

SENATOR NORDQUIST: Senator Pahls and members, just a couple of quick points. Certainly related to the constitutional issues, as I said in my opening, I'm open on working on the committee on that issue, on the committee makeup, whether or not the Legislature is involved at all, or whether the larger public entity of public members and agency representatives. On the issue of transparency, I think, you know, we're going from here eventually to a bill that's going to be enacting legislation, and along the way, it's going to be like a decision tree where there are lots of forks in the road. And the transparency doesn't just come in at the end, or it's just not a one-time thing. But it's on

how all of those decisions are being made, and I think that this task force gives us the ability to make sure that the public is aware of when those decisions are made and how those decisions are made. And then I appreciate the director and everything they've been doing so far. Certainly, whether or not this bill goes forward, I think it's important to keep other committees of the Legislature apprised as well. I know HHS committee and appropriations are certainly concerned about this, because it is...the exchange ultimately...if the Affordable Care Act is implemented in 2014, the exchange is the linchpin of our entire healthcare system at that point. So I think it's important to make sure that everyone is brought to the table. [LB240]

SENATOR PAHLS: (Exhibits 11 and 12) Thank you. That concludes the hearing on (LB)240. Now we are ready...oh, wait just a second till people clear...if they do clear out. LB422. Okay. I see we have people ready to speak come forth. Thank you. [LB240]

SENATOR NORDQUIST: Thank you, Chairman Pahls and members of the committee. Again, my name is Jeremy Nordquist. I represent District 7 in downtown and south Omaha. According to its website, the purpose of the Nebraska Comprehensive Health Insurance Pool or CHIP is to provide health insurance to Nebraska residents, who are unable to obtain it at an affordable price or without restrictions because of a medical condition. The purpose of LB422 is only to allow individuals to purchase short-term health insurance policies in lieu of COBRA or the state's alternative to COBRA, and not be subject to the preexisting condition exclusion for the first six months of their coverage under CHIP. It is not the intent of LB422 to open up eligibility to CHIP. In fact, I attempted to draft it in a way such as to parallel or maintain the time in which potential applicants would be obtaining coverage outside of CHIP. The bill is simply an effort to provide coverage for those who try to do the right things by purchasing health insurance for themselves and their families but get caught between permanent sources of coverage and are diagnosed with a condition that will follow them into their next plan. This issue was brought to me by Dr. Duehrssen, who will testify before you today. He purchased short term insurance which is marketed as an alternative to COBRA. He purchased this less expensive option, because COBRA was not offered to him through his previous employer. He then developed leukemia. When his short term policy ran out, after exhausting all other coverage options, he applied for the comprehensive health insurance pool and was accepted. However, by purchasing the short term policy, which does not fall under either federal or state continuity of coverage law, despite the fact that he maintained continuity of coverage, because he was diagnosed with leukemia while on his short term policy, he was then subject to the six-month preexisting condition ban in CHIP. That would mean six months of expensive cancer treatment paid out of his own pocket despite the fact he did the responsible thing and maintained continuity of coverage. Currently, an individual who meets all other requirements of CHIP eligibility is subject to the six-month preexisting condition exclusion with few exceptions, one being those who exhaust continuous coverage policies recognized under federal or state law. LB422 adds an individual who meets all other eligibility

requirements for CHIP can purchase a short term health insurance policy instead of COBRA, instead of the state's alternative to COBRA or if they're not eligible for continuation coverage under either federal or state and not be subject to the six-month preexisting condition exclusion. For Nebraskans who purchase short term policies in lieu of plans with guaranteed continuous coverage provisions under state and federal law in order to access more affordable health insurance through CHIP, those people are faced with two choices, either pay both a private policy and a CHIP premium to get through the waiting period or go without coverage on their preexisting condition for six months. These are not choices we should be giving Nebraska citizens, especially when the exact purpose of CHIP is to provide them with health insurance to Nebraska residents who are unable to obtain it at an affordable price or without restrictions because of medical conditions. It is the intent, again of LB422 to offer lower cost alternatives to CHIP and the state's alternative to COBRA under (section) 44-1640 through the purchase of short term health insurance policies while, at the same time, protecting continuity of coverage into CHIP. Essentially, those persons who try to do the right thing by purchasing short term insurance policies rather than joining the ranks of the uninsured, should be protected from unlucky and sometimes tragic circumstances when they develop preexisting conditions. I'd appreciate any questions at this time. [LB422]

SENATOR PAHLS: Seeing no questions, any proponents? I'm going to start using the lights. Of course, green you know what that means. Amber means you have one minute, and red means that...hope you wrap it up. [LB422]

MICHAEL DUEHRSSEN: Senator Pahls and senators in the Insurance Committee, thank you for the opportunity to testify. My name is Michael Duehrssen spelled D-u-e-h-r-s-s-e-n. It's a crazy spelling--I don't know if you got that. Just like to give you a brief personal history. I'm an ER physician, and I worked in Cortez, Colorado for 14 years running a trauma center. In my prayer time, I came up with a four-year bachelor of science degree called international rescue and relief where we train young adults for disaster response. I pitched it to Union College here in Lincoln, Nebraska, and they decided to run with that degree, so I moved my family here and became the director of the program at Union College. Every year we'd take students overseas to do humanitarian work. As a matter of fact, we sent fourteen into Haiti. After five years earning this degree, I felt like I needed to go back into emergency medicine just to keep up my skills. So I resigned from Union College as full-time director of the program. When I resigned, I was not given the option of COBRA insurance, because Union College is a 501(c)(3) Christian school, and they're not obligated to honor COBRA. So I purchased a short term policy, thinking that I would end up working at a hospital or an emergency group would be under their health insurance. I took a sabbatical, went overseas with my family, came back last March, and looked at getting a longer policy, but I didn't have time. I had a contract to teach technical rescue that summer for Union College, so I quickly just renewed my short term policy which was the wrong thing to do,

but I couldn't foresee the future. In the Lincoln Marathon last May, I started having bizarre symptoms. My leg went to sleep for the first eight miles of the marathon, chest pain, bone pain. After the marathon, I went out to Colorado to teach students technical rescue. The third day teaching, I couldn't hike up the hills, so I went to see an internal medicine doctor and then an oncologist, hematologist, and they diagnosed me with acute myelogenous leukemia. Subsequently, I was airlifted to Denver, spent four months in the hospital undergoing chemotherapy and almost died several times, but fortunately God spared my life, and I'm here right now in remission. At the end of that chemotherapy, my short term insurance policy ran out which caused significant problems and was alarming to me, because my understanding of short term policies, even being a physician in healthcare is that short term policies would still extend the coverage if you had a devastating illness or injury, but it does not. And so, I was left uninsurable and thankfully, in the state of Nebraska here, you do have the CHIP program, but of course, I had a preexisting condition of leukemia so for the first six months I was uninsured for the leukemia, and had excessive bills which was definitely a financial burden. So this bill, LB422 will significantly help me and others be able to get short term policies in an option to COBRA. Thank you. Any questions? [LB422]

SENATOR PAHLS: Any questions for...? Thank you for your testimony. [LB422]

MICHAEL DUEHRSSEN: Thank you. [LB422]

DICK NETLEY: (Exhibit 1) Good afternoon, Senators. My name is Dick Netley. That's spelled N-e-t-l-e-y. I serve on the board of directors of the Nebraska Comprehensive Health Insurance Pool, also known as NECHIP, and I point out that we are trying to use that term now, NECHIP to make a distinction between it and the SCHIP program. I'm here today, not as a representative of the board, but in my capacity as a consumer advocate in support of LB422. As a side bar, before I proceed, I'd like to take this opportunity to recognize the father of this program, former state senator, Don Wesely, who created this program, sponsored the...creating legislation in 1985, and 21 years ago, he sponsored a bill on behalf of my family that created the very first waiver of the preexisting condition requirement. State laws, passed pursuant to federal HIPAA portability laws, require citizens to elect and exhaust COBRA or state continuation coverage if offered by their employer in order to maintain their rights to guaranteed coverage in the future. Individuals soon discover this insurance can be very expensive. Smaller companies with bad claims experience can have rates two to three times as much as the standard risk rate. Consumers are desperate for affordable health insurance. Unfortunately, one of these options, short term temporary policies, can be a dead end trap for the unaware. Misleading advertising by some insurers entices applicants with claims that their product is a more affordable alternative to COBRA. The average consumer won't know that they will be giving up their rights to guaranteed future coverage unless they are advised of it. In this case, criminals are better advised of their rights than those of citizens trying to do the right thing. LB422 requires insurers

to advise short term policy applicants of their rights before purchasing a noncompliant policy. LB422 legitimizes certain short term policies as viable alternatives to COBRA or state continuation coverage. It protects consumers and allows them to have more affordable health insurance without sacrificing their rights. All applicants for short term policies will be subjected to the insurers underwriting requirements. As a result, only the individuals who become ill or injured during the term of the temporary policy will take this avenue onto NECHIP, just as they eventually would have if they had elected COBRA. If you would, please refer to the flow chart that I passed out, and I assume everyone has a copy of that. This should help illustrate the chutes and ladders that currently control access to NECHIP, and how this bill will parallel those. Currently, there are three possible starting points for employment situations that determine one's eligibility for future coverage. The first is large companies with 20 or more employees that fall under federal law referred to as COBRA. Typically, COBRA benefits last for 18 months. In cases of disabilities and divorces, COBRA benefits can be extended for an additional 11 and 18 months respectively. However, in the case of disabilities, that would most likely be a preexisting condition and disqualify or preclude the individual, the applicant, from qualifying for a temporary policy. A divorced spouse who becomes ill during the term of the temporary policy could conceivably come onto NECHIP sooner than if they had remained on COBRA. LB422 sets the minimum term at 18 months. The second possibility is for small companies with fewer than 20 employees who fall under state law referred to as Nebraska continuation coverage. Typically, these benefits last for six months, but can be extended to 12 months for a dependent family of a deceased worker. LB422 sets the minimum term of the temporary policy at 12 months, effectively delaying entry into NECHIP by six months for these employees. The third, as Dr. Duehrssen referenced, is for companies that offer group insurance under so-called church plans that are exempt from both federal and state law. Currently, there is no option for continuation coverage other than to go directly to a public program such as NECHIP if they are sick or to the private sector if they are healthy. Under LB422, individuals such as Dr. Duehrssen would need to be covered for at least 12 months on a short term policy before he would be eligible for NECHIP. In 2009, the Legislature passed LB358. Among other things, that bill removed the COBRA and NECHIP waiver for sick individuals faced with excessively high COBRA premiums. The intent and effect of that bill was to create a higher fence around NECHIP to keep sick individuals out of the program for the term of their COBRA or state continuation coverage. The intent of LB422 is to maintain the height of that fence, but to allow a more affordable option. A fiscal note has been prepared that indicates approximately 342 people would have come onto NECHIP six months sooner and increased expenditures by nearly $800,000 if this plan had been in place last year. I take exception with this analysis. These individuals will not come onto NECHIP any sooner than the vast majority of COBRA enrollees. Most short term policies in 2010 were for six and twelve-month duration. As a COBRA alternative, under LB422, the term of these policies must increase to at least 18 months in duration to qualify as an acceptable alternative. If these individuals had elected COBRA, instead of a short term... [LB422]

SENATOR PAHLS: I'm going to ask you to sort of try to wrap it up, and give written testimony to us. [LB422]

DICK NETLEY: Okay. It's unfortunate. [LB422]

SENATOR PAHLS: You can give us a written copy of that, but... [LB422]

DICK NETLEY: Well, it's rather marked up. [LB422]

SENATOR PAHLS: Okay. [LB422]

DICK NETLEY: I guess that's it. [LB422]

SENATOR PAHLS: Okay. Any questions? Thank you. So you may, if you want to, give us and...we'll make copies for the rest of the people. Next. [LB422]

DAVID HOLMQUIST: Once again, my name is David Holmquist, D-a-v-i-d H-o-l-m-q-u-i-s-t. I am a registered lobbyist representing the American Cancer Society of Nebraska, and I simply want to say that the American Cancer Society supports this bill. We feel that no one should have to do the kinds of things that the doctor did to stay alive in between coverages. That is certainly, as far as we're concerned, not the American way, and we need to find a way to provide a bridge that is viable for cancer patients and patients of other chronic diseases. And that, I'm done. [LB422]

SENATOR PAHLS: Any questions for Mr. Holmquist? Thank you for your testimony. [LB422]

DAVID HOLMQUIST: Thank you. [LB422]

BRUCE RIEKER: (Exhibit 2) My name is Bruce Rieker, it's B-r-u-c-e, R-i-e-k-e-r, vice president of Advocacy for the Nebraska Hospital Association, testifying in support of LB422. Our hospitals appreciate the intent of this legislation to provide parallel avenues of continuous coverage into the comprehensive health insurance program. We also support the provision that would require an insurer offering a short term health insurance policy that does not fulfill the above provisions to include a written notice that that policy does not conform to Nebraska law continuity of coverage into CHIP. For those reasons, we support the bill and is my testimony. [LB422]

SENATOR PAHLS: Just for clarification, the short term...run that through one more time. [LB422]

BRUCE RIEKER: There's a provision as we read LB422 that requires an insurer that

offers a short-term health insurance policy that does not fulfill the obligations of the short-term policy as defined by the legislation. That insurance policy must have a written notice on the application that that policy does not conform to Nebraska law, guaranteeing continuity of coverage into CHIP, and that electing such policy will disqualify the applicant from guaranteed continuous coverage. So what we're saying is a consumer protection clause. [LB422]

SENATOR PAHLS: Yeah, okay. Thank you. Seeing no...thank you for your testimony. Any more proponents? Opponents? [LB422]

BRUCE RAMGE: Good afternoon. Good afternoon, Senator Pahls and members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge. For the record, that's spelled B-r-u-c-e R-a-m-g-e. I'm the director of insurance, and I'm here to testify in opposition to LB422. Adoption of LB422 would represent a step backwards in our efforts to keep the state subsidy for the Comprehensive Health Insurance Pool under control. It would increase the costs of the program to taxpayers by reducing an important cost containment and antiselection measure in a way that is not sound public policy. LB422 would eliminate the six-month preexisting condition exclusion for individuals who had purchased short term health insurance policies prior to applying to CHIP. Two years ago, the Legislature, with the passage of LB358, took painful steps necessary to restrict eligibility for participation in CHIP. Among other things, LB358 required group coverage purchase and COBRA participation. LB358 repealed the problematic addition to their original CHIP law that allowed participation if their COBRA premium was higher than their CHIP premium. LB358 repealed another problematic addition to the original CHIP law that cut rates for children below market rates. These steps were painful but necessary. To keep the program within its dedicated funding source, they reined in a program that had been expanded in response to proposals that came before the Legislature on a piecemeal basis. Expanding the number of people who can purchase CHIP without a preexisting condition exclusion is expensive. According to an estimate we received from the administrator, this bill would cost nearly $800,000 per year. This would result in a diversion of $319,000 per year from the General Fund in the first full year alone. But setting aside the issues related to the budget, this expansion of CHIP not only is not sound public policy. The heart of the bill appears to require an analysis of whether the short term major medical plans are equivalent to COBRA. They are not. These short term major medical plans are simply not the sort of plan that should be allowed as the substitute, essentially, for COBRA or other coverage, but they are issued for a short duration up to a year, and are only renewable at the option of the insurer. By contrast, COBRA can last longer than a year. That's why they're less expensive than COBRA, and they should not be used as a basis for portability. They do not cover, generally, all conditions and any preexisting conditions can be excluded. Short term plans are not comparable, for the most part, to individual or group plans, so in a majority of cases, the short term duration plans are for limited benefits not comparable to COBRA which covers all conditions that were covered under

the previously held group plan. Short term duration plans are generally for periods of 12 months or less. When this idea first came to the department's attention, it was because a consumer was given erroneous information that the short term major medical coverage would allow the insured all the advantages of COBRA with less cost. This wasn't true. Instead of pursuing this problem administratively, LB422 brings the law into that erroneous promise. I ask that you not advance the bill. I would be happy to answer any questions you have. [LB422]

SENATOR PAHLS: Okay. So I'm to understand the short term is not a viable solution. Is that what you're telling me? [LB422]

BRUCE RAMGE: They're not all created equally. They're often like a...not as comprehensive coverage as under a COBRA policy. [LB422]

SENATOR PAHLS: Okay. Seeing no questions, thank you for your testimony. [LB422]

BRUCE RAMGE: Thank you. [LB422]

SENATOR PAHLS: Any more opponents? Neutral? Senator, it's yours to close. [LB422]

SENATOR NORDQUIST: Thanks, again, members of the committee. I know you're hurrying to get out of here and another bill yet to go, but this bill is focused on really the two cases where we're falling short. I think there's Nebraskans who either can't afford the COBRA option and then have no other choice but to go uninsured, or there are some Nebraskans like the case you heard today that aren't offered the COBRA option. So this really focuses on that, and I will also highlight the importance of the provision about the consumer information piece that puts it on the application even in the case from Dr. Duehrssen today, a healthcare professional, wasn't sure that this policy was what he needed to do. So I think that consumer protection and consumer information piece is absolutely critical, too, in this bill. Thank you. [LB422]

SENATOR PAHLS: Senator Pirsch. [LB422]

SENATOR PIRSCH: Just to give me...perhaps I should have asked this earlier of one of the testifiers,... [LB422]

SENATOR NORDQUIST: Yeah, that's all right. Oh, man. [LB422]

SENATOR PIRSCH: ...but since you're... The uses of these short term policies, what do they typically...who's the average user of these short term? [LB422]

SENATOR NORDQUIST: That I wouldn't know. Yeah, I can (inaudible) that. Yeah. [LB422]

SENATOR PIRSCH: Are they...yeah, well, I appreciate. We'll correspond. [LB422]

SENATOR NORDQUIST: Yeah, I don't know if it's similar to other utilization or not. [LB422]

SENATOR PAHLS: Yeah. We'll get that information. Okay. Thank you. Thank you, Senator. [LB422]

SENATOR NORDQUIST: Yeah, okay. Yeah, thank you. [LB422]

SENATOR PAHLS: That closes the hearing on LB422. We will now open up with (LB)409. We'll wait a little bit till... Okay, I think we're still shifting a little bit here. Okay. I'm glad to see the proponents and opponents are moving forth. Senator, the floor is yours. [LB409]

SENATOR UTTER: (Exhibit 1) Thank you, Chairman Pahls. I don't know whether I should say good late afternoon or good evening. [LB409]

SENATOR PAHLS: It's still early day. [LB409]

SENATOR UTTER: But I think maybe the last bill of the day always moves along faster than any of the others, so we'll see how this goes. I'm Dennis Utter spelled D-e-n-n-i-s U-t-t-e-r, and I represent District 33 in the Legislature. I'm here to introduce LB409. LB409 provides a procedure to help guarantee that an owner of a building destroyed by a fire or a natural disaster will remove debris and make the premises safe and secure. I introduce this bill on behalf of the city of Hastings through the League of Nebraska Municipalities. The city of Hastings, along with other communities in Nebraska have encountered problems with property owners, both commercial and residential, whom abandon their property--their damaged property once they collect the insurance money. Failure to clean up a building destroyed by fire or a natural disaster is not only an eyesore and can be unsafe, but in the end, the taxpayers have to foot the costly bill to clean up the site. I believe LB409 would help alleviate that problem. As originally introduced under LB409, 25 percent of the actual cash value of the property, 25 percent of the final settlement, or $15,000, whichever is greater, is withheld by the insurance company from the payment of the insured when the property is significantly damaged by flood, fire, explosion, vandalism, or other similar events. I will tell you that we have been meeting and talking with folks from the insurance companies since the date of introduction, talking with the people from the insurance companies along with the Nebraska Bankers Association, along with the municipalities, particularly folks from the city of Hastings, and I believe, the city of Columbus at the time, to talk about the objections that there might be for this bill, and to see if there were ways that we could make it something that everyone could support. And so the bill has been vetted by

several different people, and have talked back and forth, and I've passed out to all of you, not in the form of an amendment yet, but in the form of a proposed amendment that will be officially drawn that basically will replace the bill. And it changes the procedures in a way that seems to be acceptable to, I would say, most people, and we'll find out whether it's everybody or not when you ask for opponents to this bill. But that...it changes the...I think the important change is, is number one on the sheet that I passed out to you. It says that an insurer after making payment in full of any mortgage shown in the property shall reserve $10,000 or 10 percent, whichever amount is greater of the face value of the policy covering such real property on which the insured has issued a fire and casualty insurance policy on which the coverage applies as a demolition cost reserve if the following things are applicable. And it goes on to list them, and I won't go into them with you in the interest of time. There will be...I'm just the messenger. Don't shoot the messenger (laughter). There will be folks behind me to...that will address any questions that you may have. I can tell you, this has been a serious issue in Hastings on more than one occasion. The most recent one has been a commercial building that burned, and the insurance proceeds were paid to the property owner, and I think he ended up back in a foreign country somewhere. And the city of Hastings was left with the cleanup bill somewhere in the neighborhood of $120,000 just to clean up that property. That became an expense to the taxpayers. So this is an important issue to the cities and towns and villages of Nebraska where there are cleanup problems as a result of this. With that, I will close and will tell you that we will reduce the paper that I've passed out to all of you to the form of an amendment that will take the place of this bill. And I will leave it to the folks behind me to give you testimony. [LB409]

SENATOR PAHLS: Just let me...they have seen these seven points...the people you have. [LB409]

SENATOR UTTER: Yes, yes. This is... [LB409]

SENATOR PAHLS: This is a negotiation... [LB409]

SENATOR UTTER: Yes, this has been done through negotiation with the insurance companies, with the municipal folks, the League of Municipalities, and the Nebraska Bankers Association. [LB409]

SENATOR PAHLS: Okay. Thank you, thank you. How many proponents? Okay. That means we have four. How many opponents? We have one. Jan, lights. Yes. [LB409]

ROBERT M. SULLIVAN: (Exhibit 2) Senator Pahls, members of the committee, my name is Robert M. Sullivan. I'm an attorney in Hastings, Nebraska, and I'm here as the Hastings city attorney to give you a little more background about what we've been faced with in Hastings for the past several years. We're really one city with the tale of three different fires. Several years ago, there was an old cigar factory in downtown Hastings

that burnt down. It was adequately insured. Within a matter of a few weeks, the building was properly demolished; all the debris was hauled away, and everything was cleaned up in a timely manner, thereby alleviating any harm to the community. A few years after that, I was out of town, turned on the news, and learned that there was another fire at the time going on in Hastings, Nebraska. This time things were a little different. The owner of that property had, I think, some financial issues going on, some legal issues going on, and did not clean up the property in a timely manner. When we were in the process of litigation, we suspected that the owner may want to leave the jurisdiction upon getting paid by the insurance company, so we used a statute that's on the books in an effort to get a prejudgment attachment on the insurance proceeds, anticipating the problem. We filed it appropriately with the court, argued it before the court on a motion. The judge didn't agree with us. The proceeds were paid to the property owner after being released from jail, and the property owner left town immediately with all the money, and has never been seen again by anybody including law enforcement, and there are warrants out for the individual. The city of Hastings then had nobody to turn to, to get the property cleaned up. We had a hole in the ground that the building had pancaked into full of rubble. We had adjacent structures that had been damaged by smoke, and we had all kinds of structural issues on the neighboring building, because when you're in a downtown area that's been built up approximately 100 years ago, these commercial buildings sometimes lean on each other. And sometimes when you take one building down, the next building is going to fall down right with it, so there's engineering issues to take in consideration, a lot of money spent to make sure that you only really knock down one building when you knock it down. We finally were able to go through the litigation process to get a court order to go ahead and finish the demolition of that building. We incurred a bill of in excess of $85,000 just on the demolition itself and disposal, not to mention all of the staff time, all of the fees for legal services, and things such as that. So, now we have a vacant lot in downtown Hastings that has to be somehow sold and redeveloped to help our community, and time is of the essence on that. The third fire that we had happened shortly thereafter, a factory...an abandoned factory along the railroad tracks, also in downtown Hastings suffered vandalism and burnt significantly to the point where it had to be demolished. That building had been sold at a tax sale, but the deed had not been placed...been filed with the purchaser of the sale by the time the fire occurred, so the previous owner, who had not paid the taxes was still the record title holder. The person that purchased the real estate at the auction had not filed the deed, and so, there's now an argument between two corporations as to who really owns the property, and so we have to sort out who the owner is before we can figure out if there is insurance available, and who has to pick up a bill of in excess of $100,000 to demolish that property which has already been done by the city because of public safety issues. So Hastings has suffered something over the course of the past eight to nine years that is not unique to Hastings, but we've just had a series of events that brings us here today. And so, we are here to get something on the books to protect the taxpayers and to make sure that as much process is followed to protect those taxpayers as possible. So with that, I'd take any questions.

[LB409]

SENATOR PAHLS: Senator Pirsch. [LB409]

SENATOR PIRSCH: When did these...the two latter fires occur? [LB409]

ROBERT M. SULLIVAN: The Urling's fire occurred approximately four to five years ago. The Marshalltown fire occurred about a year to a year and a half after the Urling's fire. And so, I don't know the exact dates of those, but it's been a number of years. And the problem that you get with these cases is litigation moves with a fairly decent pace if there's no opposition, but when there's a lot of money at stake, things can slow down significantly. [LB409]

SENATOR PIRSCH: Thank you. [LB409]

SENATOR PAHLS: Seeing no questions. Thank you for your testimony. Next proponent. [LB409]

JIM DOBLER: Senator Pahls, members of the committee, my name is Jim Dobler. That's D-o-b-l-e-r, general counsel, Farmers Mutual of Nebraska, appearing today as a registered lobbyist on behalf of Nebraska Insurance Information Service which is a trade organization of property and casualty insurance companies. And I appear in support of LB409, as amended. First, I want to express my appreciation to Senator Utter and his staff for the work they did in getting the interested parties together, and the result of that work is the amendment. From the insurer perspective, very briefly, if a building is damaged to the extent of 75 percent or more of the amount of insurance on that building, that triggers our obligation to establish this demolition reserve of $10,000 or 10 percent of the coverage. Once we do that, we notify the city of that fact. That demolition reserve sits there until one of two things happen. Either the building is rebuilt or repaired, and we are told of that, in which case the reserve goes away, or if the city fails to institute a demolition proceeding within 90 days of being notified of the establishment of the demolition reserve, then we no longer need to maintain it, and that reserve goes back and becomes part of the policy proceeds. If the city does incur an expense for demolition, that is something they can present to us at the point where that gets finished, and here again, it's important to point out that any mortgagee on the policy has a priority to the funds in the policy that is superior to anything we might have to pay under that demolition reserve. With that, I'd be happy to answer any questions. [LB409]

SENATOR PAHLS: Senator Christensen. [LB409]

SENATOR CHRISTENSEN: Senator Pahls, thank you. If...and I understand full of any mortgagee, meaning not just physical building mortgage, but if somebody's got a lien against that business for inventory or something like that, will be covered first? [LB409]

JIM DOBLER: No, Senator. The interest we would protect would be the interest of any lender that's shown on our policy. Typically, that's called a mortgagee. Now, theoretically, if someone loaned the business owner money for inventory, and that person insisted that they be named on the policy, then, yes, that person would be protected. But anybody that loans money but are not shown on the policy, then those folks would not have a priority as this thing is written. [LB409]

SENATOR CHRISTENSEN: So it's actually, you could be jumping ahead of some other people that think they're secure by that building on the business like inventory and things with this bill. [LB409]

JIM DOBLER: Well, the banking people might address this better than I. But whoever might have an interest, who's ever loaned money, they're going to have their own priorities as regards where they have filed their security interests. And that's really not the insurance company's issue. The only thing we will look at is who is on our policy. Now, with regard to that demolition amount, yes, as between a person that is a mortgagee on the policy and someone that's not, yes, the mortgagee on the policy would have a leg up on the person that's not on our policy. [LB409]

SENATOR CHRISTENSEN: Okay. That's the way I was reading it. [LB409]

JIM DOBLER: Yep. [LB409]

SENATOR CHRISTENSEN: Thank you. [LB409]

SENATOR PAHLS: Thank you for your testimony. [LB409]

JIM DOBLER: Thank you. [LB409]

SENATOR PAHLS: Next proponent. [LB409]

GARY KRUMLAND: (Exhibit 3) Senator Pahls, members of the committee, my name is Gary Krumland, G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB409 and supporting the amendment that was distributed by Senator Utter. The handout you're receiving is a letter from the city of Columbus in support of the amendment also. They were not able to be here, but they have been involved with some discussions and do support the agreement. Those of you who have been on the committee for awhile have heard this bill over the last several years, and it's been kind of a head-to-head sort of thing, so we really appreciate Senator Utter introducing the bill and getting all the parties together, and really appreciate the representatives from the insurance industry and from the banking industry who have been willing to sit down with the cities and work out a solution to the problem. And so,

we do support the amendment, and we do ask that the committee consider it and adopt it as an amendment and advance the bill to the floor. [LB409]

SENATOR PAHLS: Senator Pirsch. [LB409]

SENATOR PIRSCH: This would be as amended for a sum of $10,000? Is that right? [LB409]

GARY KRUMLAND: Yeah. The way the amendment reads, it's $10,000 or 10 percent of the proceeds. [LB409]

SENATOR PIRSCH: At that level, does that seem to catch a lot of the size of the problems you've been experiencing? [LB409]

GARY KRUMLAND: It probably does for residential. For commercial, it probably doesn't, but at least it's a start and gives some reimbursement to the local governments who have to come in and take care of the demolition. [LB409]

SENATOR PIRSCH: Are most of the problems that you experience, in turn, residential or commercial? [LB409]

GARY KRUMLAND: From the stories I've heard, and I (inaudible), it's just been a variety of both. It has seemed to be residential until recently. Now, it seems commercial, too, is coming up. [LB409]

SENATOR PIRSCH: Thank you. [LB409]

SENATOR PAHLS: So, you're telling me that I need to get Senator Utter involved in some other bills that keep coming in front of me, and my life would be better (laughter). [LB409]

GARY KRUMLAND: (Laugh) Well, it worked for us. [LB409]

SENATOR PAHLS: That's the part I like about you. It worked for you guys. Thank you very much for your testimony. [LB409]

GARY KRUMLAND: Um-hum. [LB409]

SENATOR PAHLS: Next proponent. [LB409]

JACK CHELOHA: Good afternoon, Chairman Pahls and members of the committee. My name is Jack Cheloha. The last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I want to testify in support of LB409 today. First of all, I

want to thank Senator Utter and his staff and also the League of Municipalities and the insurance industries for their hard work in putting together a compromise that's presented to you today. The city of Omaha has supported this and similar bills in the past before this very same committee. In the interest of providing you with new information, typically, in Omaha, if we have to move forward with a demolition on a residence, or, you know, a primary house or dwelling, it typically costs anywhere from $6,000 to $10,000 to demolish it and haul away the debris, etcetera. Obviously, in Omaha, we've had concerns relative to absentee landlords who will...as we have a number of universities and other situations within our community, we have a lot of temporary housing. And sometimes if there happens to be a fire, these absentee landlords may receive the insurance proceeds and then just move on or as the city of Hastings testified, you're unable to find the owner. And so, for those reasons, we think this is a good bill, a good compromise, that will help alleviate the taxpayers' burden of actually having to pay for these demolition costs. However, just to let you know, sometimes on commercial demolitions, the cost can be very expensive. For instance, we had to demolish and haul away debris from a packing plant in south Omaha where the cost was $1 million plus just to let you know that. So, I like the fact that in the compromise, there's a percent of the insurance proceeds as well. Finally, I've only had a chance to look at the compromise language since about noon today. I'm not saying we have a concern, but sometimes when we do have to have demolition done, we have to go out for bids, and I'll have to double check with my planning department if the 90 days is adequate. And for those reasons, we're in support of LB409. Try to answer any questions. [LB409]

SENATOR PAHLS: See no questions. Thank you for your testimony. [LB409]

JACK CHELOHA: Thank you. [LB409]

SENATOR PAHLS: Any more proponents? I see we have an opponent. [LB409]

JAMES CAVANAUGH: (Exhibit 4) Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is James Cavanaugh, C-a-v-a-n-a-u-g-h. I'm an attorney and registered lobbyist for the Independent Insurance Agents of Nebraska, appearing today in opposition to LB409. We would commend Senator Utter and his staff for the open and transparent way in which they have brought this issue forward and talked to all concerned parties including us. We have some concerns about this from a consumer point of view, because although you've heard some stories from various municipal organizations today, this bill would apply to everybody, to everybody with a house or a business insured in the state of Nebraska. And so, for the .01 percent of the bad actors that you've heard about today, you're going to put 10 percent of everybody's money under the amendment language in escrow if their house burns down, or if their business burns down. This, you know, is a classic case of, you know, hard cases making bad law. Yes, it's a horrible thing what happened

in Hastings, and, you know, what happened in other jurisdictions relative to people abandoning their property. But you're going to impose this standard on every single Nebraskan with a home or a business insured. The 10 percent reduction from 25 percent means that if you've got a $3 million building, now we're only going to hang on to $300,000 of your money regardless of what the cost of the demolition of the property is. It's better than 25 percent, but currently, the system that we have seems to work pretty well in 99.9 percent of the cases. To change that, so that you hold on to 10 percent of everybody's money, no matter what, no matter the price of the destroyed property, seems to be kind of a sledgehammer on a fly. I've handed you prepared statements from Mr. Dan Loring of Loring and Company who was here earlier and had to leave. Relative to the green copy of the bill, they're pretty applicable to the amendment which, again, improves it somewhat, but not enough. It also allows for kind of a couple of loopholes. First of all, as Senator Christensen pointed out, there's some confusion in the language of...if it's not covered under the policy or if it exceeds the limit, or relative to mortgage holdings in number six. And also, it goes around existing laws and ordinances relative to condemnation and removal of dilapidated property, which, again, work just fine in 99.9 percent of the cases of property ownership. And for that 1/10th of 1 percent or less to impose this on all property owners with insurance in Nebraska seems to be a little bit of overreaching. It smacks a little bit of government taking, because, as you'll notice in here, they take the money; they take the 10 percent, hold it for an indeterminate period of time, do the demolition and removal, but they don't pay anybody interest on that money whether they return you any portion of that or not. It's held interest-free by the entity in possession of the money. This doesn't particularly hurt the companies, because they're going to pay somebody some amount anyhow; certainly doesn't hurt the municipalities, because they're going to hold the money or at least bill the insurance company for whatever the cost is. It hurts the consumer. If your million dollar building burns down, and it's ultimately going to cost the city $50,000 to remove it, they've held on to $50,000 of your money interest-free. I'd be happy to answer any questions you might have. [LB409]

SENATOR PAHLS: Seeing none. Thank you for your testimony. [LB409]

JAMES CAVANAUGH: Thank you. [LB409]

JOHN LINDSAY: Senator Pahls, members of the committee, for the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of the Nebraska Association of Trial Attorneys. We have no position on the main thrust of the bill, nothing that's been worked out by Senator Utter with the other parties. Our concern is with, on page 5, lines 15 through 18, which provide an immunity from liability for insurers for complying with the law. As you've heard over the years, as a matter of fact, on this bill, it's what has been introduced in the past. NATA has a longstanding position in opposition to immunity provisions. This one, in particular, it's difficult to see exactly what activity they're trying to be protected from. There is, in all likelihood, no liability for

complying with that which the state directs that you do, so it may just be surplus language. But, again, our position has been that when you absolve people of accountability or liability for their actions, it tends to breed a carelessness in undertaking those actions. Our concerns would be resolved with the removal of that first sentence in subsection 6 on page 5. With that, I'd be happy to answer any questions. [LB409]

SENATOR PAHLS: I think we're growing in...because I saw one, and all of a sudden, I've seen four or five. Okay. [LB409]

MATT SCHAEFER: Good afternoon, Chairman Pahls, members of the committee, my name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, registered lobbyist, appearing today on behalf of the Nebraska Association of Commercial Property Owners. The association is opposed to LB409 in its introduced form. I have not seen the proposal that Senator Utter handed out, but we would say that lowering the amount that's withheld to 10 percent or $10,000 is a pretty good step in the right direction. Perhaps a real dollar maximum cap should also be considered. Another point of concern was that the interest that was accumulating is being paid to the political subdivision and not the insured. And, again, I haven't seen Senator Utter's new proposal, but we'd be happy to work with him on our concerns. Any questions? [LB409]

SENATOR PAHLS: Senator Pirsch. [LB409]

SENATOR PIRSCH: Towards your last, you said a maximum dollar...real dollar maximum cap, and then you said a second point, too, that in terms of who gets paid? [LB409]

MATT SCHAEFER: The interest...the interest is paid to the political subdivision and not the insured if there's anything left over at the end under the introduced legislation. [LB409]

SENATOR PIRSCH: Thank you. [LB409]

SENATOR PAHLS: Okay. Thank you for your testimony. [LB409]

MATT SCHAEFER: Thank you. [LB409]

SENATOR PAHLS: Any more opponents? Neutral? Getting the right category (laugh). [LB409]

JERRY STILMOCK: Chairman Pahls, members of the committee, my name is Jerry Stilmock, J-e-r-r-y Stilmock, S-t-i-l-m-o-c-k, testifying in a neutral capacity on behalf of my client, the Nebraska Bankers Association. Hats off to Senator Utter for getting, it sounds like, a lot of the people together, and the work by the league and the...certain

representatives of the insurance company. We're appreciative of the language that recognizes the lien priority position of Nebraska lenders, and we'd certainly be happy to continue to work with those interested parties to try to get this resolved, so we don't go back to the 2007 killed, 2009 killed. Let's...we'll work really hard to try to get this one out this year along with the committee. Thank you. [LB409]

SENATOR PAHLS: Senator Christensen. [LB409]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Jerry. You can answer my question. I used a business example last time, was probably a poor example. But on a home situation, if it's insured for $100,000, the contents is covered for $50,000. In your reading of this, is this going to take the content also, 10 percent of it, if needed? [LB409]

JERRY STILMOCK: No, I think...I don't believe so, not on...is this...and I'm referring to the amendment offered by Senator Utter, that the contents is something other than the bricks and mortar. My understanding is, the...Senator Utter's amendment goes to bricks and mortar and not contents. [LB409]

SENATOR CHRISTENSEN: Okay. [LB409]

JERRY STILMOCK: Yes, sir. [LB409]

SENATOR CHRISTENSEN: That's just one of my clarifications I wanted to know. [LB409]

JERRY STILMOCK: Yes, sir. [LB409]

SENATOR CHRISTENSEN: Thank you. [LB409]

SENATOR PAHLS: Okay. Thank you for your testimony. [LB409]

JERRY STILMOCK: Yes, Senators, thank you. [LB409]

KORBY GILBERTSON: Good afternoon, Chairman Pahls, members of the committee. For the record, my name is Korby Gilbertson. That's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Property Casualty Insurers Association of America in a neutral position. I, too, would like to thank Senator Utter for bringing us all to the table. As we dove into this issue, it seems that there are a number of states that deal with this in a number of ways, and the amendment that Mr. Dobler very graciously agreed to draft for everyone went to, I think, most of the language is out of Iowa. There are a number of other states that do it differently. Obviously, if we need to go back to the table and continue working with people, we're willing to, but we've run

this one by a lot of people, and this amendment takes care of the majority of our concerns, so with that, we would have no problem. [LB409]

SENATOR PAHLS: Yes. [LB409]

SENATOR PIRSCH: I do have a question. Since it seems like you've looked into it, could you tell me how other states kind of skin this cat...other...on proposed models? [LB409]

KORBY GILBERTSON: I would be happy to give you all a copy of a report I have. It is all over the board on what different states do. [LB409]

SENATOR PIRSCH: More than just two or three other ways to do it? [LB409]

KORBY GILBERTSON: Oh, definitely, yes. Probably twenty-some different ways. Yes. [LB409]

SENATOR PIRSCH: Okay. Thank you. I would like that. [LB409]

KORBY GILBERTSON: Okay. I'd be happy to provide that. [LB409]

SENATOR PAHLS: Thank you for your testimony. [LB409]

KORBY GILBERTSON: Thank you. [LB409]

SENATOR PAHLS: Senator Utter. Sit down at the table (laughter). [LB409]

SENATOR UTTER: At this late hour, we may have just a little more work to do, but we're going to do it. And I thank you all for your attention, and I think it's time to close this hearing (laughter). [LB409]

SENATOR PAHLS: You took the words right out of my mouth. Thank you. [LB409]