[LB735 LB860 LB875 LB993]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, February 11, 2014, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB735, LB993, LB860, and LB875. Senators present: Mike Gloor, Chairperson; Mark Christensen, Vice Chairperson; Kathy Campbell; Tom Carlson; Tommy Garrett; Sara Howard; Pete Pirsch; and Paul Schumacher. Senators absent: None.

SENATOR GLOOR: Welcome to Banking, Commerce and Insurance. My name is Mike Gloor, I'm Chair and I'm a representative of the 35th District, which is Grand Island. I serve as Chair; I guess I said that. The committee will take up the bills in the order posted outside on the agenda. If you looked at the agenda yesterday, the heads-up to you is, it's different. We've had a bit of juggling with some of the senators in agreement. And so it's a little different than what was posted yesterday. But we'll follow the agenda that you...most of you probably have in front of you and was outside on the door. I'd ask you to follow our simple set of rules over here on the board. Let me run through the more important ones. Please turn off your cell phones. If you're speaking, I'd ask you to be quick to get to the chair in front or move up front. The order of testimony will be the introducer, proponents, opponents, those in a neutral capacity, and then closing by the introducer. Please sign in and fill out one of the pink or coral-colored sheets, as I like to say, and be sure and hand that to the clerk or one of the pages as part of your testimony. When you begin your testimony, please give us your name and spell it for the benefit of the testifiers. And although we're not using a light system today, I would ask people to be concise and try and keep your comments to about five minutes. Written materials, we need ten copies so those can be passed around to all of us who need them. If you don't have copies, now would be a good time to get the attention of the pages so that we can be sure and get you ten copies. One of the new comments that we make is, please be sure and speak to the mike. That relates to senators as well as those of you who are testifying so the transcribers can pick up your words of wisdom and those comments you would like to have as part of the record. To my immediate right is counsel, Bill Marienau. At the end of the table is Jan Foster, is committee clerk. And I would ask senators to introduce themselves starting with Senator Schumacher.

SENATOR SCHUMACHER: Paul Schumacher, District 22, which is Columbus, Platte County and parts of Colfax and Stanton County.

SENATOR PIRSCH: State Senator Pete Pirsch, District 4, parts of Douglas County and Omaha.

SENATOR CAMPBELL: Kathy Campbell, District 25, east Lincoln and eastern Lancaster County.

SENATOR CARLSON: Tom Carlson, District 38. I live in Holdrege and I've got seven counties and that's too many to mention.

SENATOR HOWARD: Sara Howard, I represent District 9 in midtown Omaha.

SENATOR GLOOR: And our pages today are Emily Schiltz who is from Sioux Falls, South Dakota, and Steven Schubert. Steven is from right here in Lincoln. And they'll be glad to help you if you have needs. They'll certainly be taking care of us, as Senators, as they usually do. Senator Christensen and Senator Garrett will be joining us shortly. In fact, Senator Christensen, I believe, probably just forgot something and went back to get it. He serves as Vice Chair of the committee. We'll start with LB735. Senator Bolz, welcome to Banking, Commerce and Insurance. [LB735]

SENATOR BOLZ: (Exhibit 1) Good afternoon, colleagues. A constituent contacted me this summer shortly after the death of a loved one. Her mother-in-law had passed away after a long convalescence. My constituent had her mother-in-law's affairs in order and began the sad work of moving belongings and closing bank accounts and other tasks. It was a very modest estate. Among those tasks was seeking a refund for the balance of her mother-in-law's insurance payment. She thought that the payment might help with funeral expenses or paying final bills. When she sought the refund, she received a letter saying that the refund was not due. I have a copy of that letter with some redacted information available here for you. The insurance company's policy was not to send the money unless a written request was received. Even then, they were not required to return the money. My constituent did push for and did, ultimately, receive a refund that amounted to $256. For her mother-in-law's estate that was something. That helped her make sure that funeral arrangements were made as nice as possible. The simple policy change of LB735 is this: To ensure that, in the event of the death of a loved one who has an individual sickness and accident or Medicare supplement policy, the insurer should provide a prorated refund when it is requested. I reached out to insurance companies in the state and, to date, have not heard any opposition to implementing this change. Twenty-seven other states have similar policies. I'm happy to take any questions. [LB735]

SENATOR GLOOR: Are there any questions for Senator Bolz? Senator Schumacher. [LB735]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you, Senator Bolz, for introducing this. The legislation refers...let me back up a step. So was it the position...is the issue here that the insurance companies are claiming they do not have to make a refund under existing law? Is that the issue? [LB735]

SENATOR BOLZ: The letter in front of you claims that my constituent was not entitled to a refund. And that's what this legislation intends to change. [LB735]

SENATOR SCHUMACHER: Have you been able to ascertain whether that, in fact, is a true statement or that was just some clerk writing a letter? [LB735]

SENATOR BOLZ: My understanding is that there is nothing proactively stated in our statutes that says that folks are required to a refund. And that's what this legislation would do. [LB735]

SENATOR SCHUMACHER: Okay. That leads, then, to the second question here. The language of the bill states that: Upon request for a pro rata refund by a party entitled to such a refund, the provider shall refund. Who...if you were an insurance company and you got a letter from somebody, how would you know that it was a party entitled to a refund? [LB735]

SENATOR BOLZ: Uh-huh. [LB735]

SENATOR SCHUMACHER: Perhaps, for example, there was a will that said I leave everything to my church. [LB735]

SENATOR BOLZ: Uh-huh. [LB735]

SENATOR SCHUMACHER: But you got the letter from a child. [LB735]

SENATOR BOLZ: Uh-huh. [LB735]

SENATOR SCHUMACHER: How does the insurer, under this language, know who is a party entitled to a refund? [LB735]

SENATOR BOLZ: Uh-huh. Uh-huh. It's an excellent question. I don't have deep familiarity with insurance and so it's a question that I'll circle back to you about. In this circumstance, however, my constituent was the executor of the will. She was the person who was legally responsible for managing her mother-in-law's estate. So in this particular circumstance, there was legal documentation that it was a responsibility of my constituent to make sure affairs were handled. [LB735]

SENATOR SCHUMACHER: If we move forward with this particular thing, do you think it would be good to have or require that if somebody wanted a refund that they have that information who would be entitled on the policy because a lot of estates are too small to mess with a personal representative? [LB735]

SENATOR BOLZ: Uh-huh. Uh-huh. [LB735]

SENATOR SCHUMACHER: That would be one way. And I think there's another way that says there's an affidavit that can be filed in small estates. [LB735]

SENATOR BOLZ: Uh-huh. Uh-huh. [LB735]

SENATOR SCHUMACHER: So we might want to say if we proceed with this, that the claim has got to be made in conjunction with such an affidavit or at least Probate Code. [LB735]

SENATOR BOLZ: Uh-huh. Uh-huh. Certainly. I'd be happy to work on an amendment to that end. [LB735]

SENATOR SCHUMACHER: Thank you. [LB735]

SENATOR BOLZ: Uh-huh. [LB735]

SENATOR GLOOR: Other questions for Senator Bolz? Senator Carlson. [LB735]

SENATOR CARLSON: Thank you, Senator Gloor. I'm not a stickler on this and I don't know on other policies this would be part of it, but there isn't indicated any time limit. So I could see how a company would balk if the request comes two years after death... [LB735]

SENATOR BOLZ: Uh-huh. [LB735]

SENATOR CARLSON: ...or more. [LB735]

SENATOR BOLZ: Uh-huh. [LB735]

SENATOR CARLSON: But it's just a question. [LB735]

SENATOR BOLZ: Uh-huh. Sure, that's a fair question as well. We'll look into it. What I will say, and this is never a reason not to make the language technically accurate, but I will say that we modeled the language after this 27 other states. So there are policies in other states using this language who are...that are working effectively. That said, Senator Carlson, I'd be happy to work on some additional language. [LB735]

SENATOR CARLSON: Okay. Thank you. [LB735]

SENATOR GLOOR: Seeing no other questions, thank you, Senator Bolz. Will you be staying to close? [LB735]

SENATOR BOLZ: Sure. I'll stick around. [LB735]

SENATOR GLOOR: (Exhibit 2) Okay. We will now move to those who wish to speak in support. And while we're doing that, I have a letter here from the National Association of Insurance and Financial Advisors, a letter of support, I'll ask the pages to circulate. [LB735]

MARK INTERMILL: Thank you, Senator Gloor 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 am here today on behalf of AARP in support of this important bill. I think the policy issue that we need to be looking at is whether or not a person who is no longer...who is deceased should be paying health insurance. I think there's an issue of whether or not those premiums are earned. And I think this bill does provide a good means of providing a means of being able to provide that refund for those services that are no longer needed. I think you have raised some good issues here in terms of the limitation on time. And I think that would probably be a good addition as well, as well as being more clear about that it is the estate that is the beneficiary of the refund. So with that, I will close and be happy to try to answer questions. [LB735]

SENATOR GLOOR: Mr. Intermill, have there been...has this been an issue that's come up within AARP nationally? I'm guessing that you did a little background check to see what's happened there. [LB735]

MARK INTERMILL: There are a lot of states that already have this type of law in place. I know in my own circumstance, we did receive a refund for health insurance for my parents. So I just think that it's...just as a matter of policy, it makes sense to have some sort of consistency across the country. As Senator Bolz said, there are a number of states that do have this in place and we've looked at a couple of those laws. And I think this is very consistent with what we see elsewhere. [LB735]

SENATOR GLOOR: Was there an issue in your case on whether the check went to the estate, to you? [LB735]

MARK INTERMILL: It went to the estate. [LB735]

SENATOR GLOOR: Okay. Other questions? Seeing none, thank you... [LB735]

MARK INTERMILL: Thank you. [LB735]

SENATOR GLOOR: ...for your testimony. Other proponents? Anyone who wishes to speak in opposition to this bill? Anyone who wishes to speak in a neutral capacity? Seeing none, Senator Bolz, you're recognized to close. [LB735]

SENATOR BOLZ: I'll only add that my sharp legislative aide has pointed out to me that Chapter 44, which is referenced in the last line of the bill, does reference a two-year time limit. So the rest of the statute does reference a time period which this would apply to. [LB735]

SENATOR GLOOR: Senator Christensen. [LB735]

SENATOR CHRISTENSEN: Thank you, Chairman. I got here a little bit late, maybe you said it. But just looking over this letter, I see that the letter is dated August 28 of '13, and the premium was paid up to September 1, 2013, and, therefore, no refund is due. When was the death? [LB735]

SENATOR BOLZ: The death was actually on the second of the month. [LB735]

SENATOR CHRISTENSEN: The second of September? Okay. [LB735]

SENATOR BOLZ: No. The second of August... [LB735]

SENATOR CHRISTENSEN: Oh, second of August. Okay. [LB735]

SENATOR BOLZ: ...and the letter is dated August 28 so it took that amount of time for them to process her request. [LB735]

SENATOR CHRISTENSEN: Okay. Thank you. [LB735]

SENATOR BOLZ: Uh-huh. [LB735]

SENATOR GLOOR: Senator Carlson. [LB735]

SENATOR CARLSON: No. [LB735]

SENATOR GLOOR: Senator Campbell. [LB735]

SENATOR CAMPBELL: I'm just noting for the record that the letter that you provided to us said they would not give the refund, but they would plant a tree in the person's memory in Michigan and the company is located in Nebraska. I think that's really poor. I'm sorry. It's an editorial comment, but. [LB735]

SENATOR BOLZ: Well, I'll add...and my constituent is not...she's not the type of person to be overdramatic. She's a calm, reasonable person and not one to draw a ton of attention. But she did mention that when she spoke to the representative on the phone, she wasn't sure where the representative was working from, and the representative looked at a list of states that had this policy in statute, saw that Nebraska was not on the list, and told her she was not eligible for the refund. So, you know, I could certainly circle back to her, but my understanding was that the person on the phone did work with multiple states and they simply referenced the policy that's in statute. [LB735]

SENATOR CAMPBELL: Thank you. [LB735]

SENATOR GLOOR: Other questions? Seeing none, thank you, Senator Bolz. [LB735]

SENATOR BOLZ: Thank you. [LB735]

SENATOR GLOOR: That closes the hearing on LB735. We'll now open the hearing on LB993. Senator Christensen. [LB993]

SENATOR CHRISTENSEN: Thank you, Chairman Gloor 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. I represent the 44th Legislative District. A bill that defines health care sharing ministries are, and exempt them from, Nebraska insurance code. LB993 was brought to me by the Alliance of Health Care Sharing Ministries. Currently, health care sharing ministries facilitate more than $175 million per year in health care costs among more than 215,000 individuals in 50 states. In Nebraska, the total number estimated utilizing health care sharing ministries as of January 1, 2014, is 875 households and 3,000 individuals. Health care sharing ministries operate on a completely voluntary basis and are regulated as charities in their home states under each state's charity laws and each state's attorney general and as 501(c)(3) charities by the Internal Revenue Service. Fundamentally, health care sharing ministries involve a community of Christians who share their medical bills without insurance. The bill would define health care sharing ministries as a faith-based, nonprofit organization that is tax exempt under Internal Revenue Code which meets certain criteria that are detailed in section 1, subsection (2) of this bill, on page 2 and 3. Fundamentally, this bill defines a health care sharing ministries are, and then exempt them from, our insurance code because they are nonprofit, charitable organizations, not insurance companies. I would note that the health care sharing ministries have been in existence since 1982. And they are administered by a not-for-profit religious organization, acting as a clearinghouse for those who have medical expenses, those who desire to share burden of those medical expenses. Currently, there are 25 states that have clarified in their insurance codes that health care sharing ministries are not insurers. Following me in testimony will be an individual who is familiar with the health care sharing ministries. I think you will hear some very interesting information about the ministries, how they work, and who benefits from them. I hope you will listen to what they have to say. Thank you for considering LB993. [LB993]

SENATOR GLOOR: Senator Christensen, you made a mention, I don't see it in the bill, but Christian-based ministries. But you're actually using the Internal Revenue's Code to make the determination of whether it's a religious organization, regardless of whether it's Christian or Jewish or... [LB993]

SENATOR CHRISTENSEN: Right. [LB993]

SENATOR GLOOR: Okay. [LB993]

SENATOR CHRISTENSEN: Yes. [LB993]

SENATOR GLOOR: Okay. Go to questions for Senator Christensen at this time. Senator Schumacher. [LB993]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you, Senator Christensen, for introducing this bill. Do...a participant in this program, what...are they exempt then from the insurance requirements of the Affordable Care Act? [LB993]

SENATOR CHRISTENSEN: Yes, they are. [LB993]

SENATOR SCHUMACHER: They are? [LB993]

SENATOR CHRISTENSEN: Yes. [LB993]

SENATOR SCHUMACHER: Okay. And when you say that they have to be of a similar faith, what is meant by that? They all have to be Catholics or Lutheran or are we talking Muslim versus Buddhist or WoW? What's a similar faith? [LB993]

SENATOR CHRISTENSEN: I guess I'm going to let...see if the guy behind me can define that. I would define it like you're saying, that whether they're similar faith being Christianity or Muslim or something that direction, but I guess I can't fully answer that question. [LB993]

SENATOR SCHUMACHER: Thank you, Senator Christensen. [LB993]

SENATOR GLOOR: Senator Carlson. [LB993]

SENATOR CARLSON: Thank you, Senator Gloor. I'm a little bit familiar with this type of policy. Are you fairly familiar with it? [LB993]

SENATOR CHRISTENSEN: I've not used one, but I've known people that have it. [LB993]

SENATOR CARLSON: Well, we do have somebody following that should know the details? [LB993]

SENATOR CHRISTENSEN: Yes. Yes. [LB993]

SENATOR CARLSON: Okay, I'll ask him. Thank you. [LB993]

SENATOR GLOOR: Seeing no further questions, thank you Senator Christensen. And we know you'll be staying to close. We'll now move to proponents of this bill. Good afternoon. [LB993]

JOEL NOBLE: (Exhibit 1) If you...thank you. Chairman Gloor and members of the committee, thank you for having me today. Because of the time and the many bills you have to consider, I will be brief. My name is Joel Noble, N-o-b-l-e, and I'm here from Peoria, Illinois. And I'm here representing the Alliance of Health Care Sharing Ministries and Samaritan Ministries, the largest of the three national health care sharing ministries. There are over 80,000 households nationwide taking part in health care sharing ministries. That includes over 800 households here in Nebraska. Health care sharing ministries have been formed to help meet the health care cost needs of members by sharing funds voluntarily among other members of similar beliefs. The monthly amounts or shares each member contributes are sent to another member to help pay for their medical expenses and are administered by the health care sharing ministry who acts as a clearinghouse for these shares. Health care sharing ministries do not assume any risk or guaranty payment of medical bills and operate with voluntary cooperative sharing without a contractual transfer of risk. Health care sharing ministries also put a heavy priority on seeking to meet the spiritual and emotional needs of members through prayer and notes of encouragement from member to member. LB993 will remove any vagueness that may arise in the future by recognizing that health care sharing ministries do not constitute the transaction of insurance business in Nebraska. Because of the unique nature of health care sharing ministries, well-meaning insurance regulators occasionally attempt to subject health care sharing ministries to the same requirements as insurance companies. It is impossible to meet such standards without destroying the voluntary ministerial nature of these ministries. And fighting the regulators in court is extremely expensive and strains the finances of the health care sharing ministry membership who already have chosen, in many cases, to live on the minister's salary. Additionally, the uncertainty created by such litigation can also harm the functioning of the ministry. I would ask that you support LB993, that will explicitly clarify the nature of health care sharing ministries as ministries and avoid any uncertainty and unnecessary waste of legal expenses. Thank you for your time and I'll remain here if you have any questions. [LB993]

SENATOR GLOOR: Thank you, Mr. Noble. And would you like to take a shot at answering Senator Schumacher's question about the Affordable Care Act? [LB993]

JOEL NOBLE: Can he repeat it one more time for me? [LB993]

SENATOR SCHUMACHER: I think I had two basic questions. [LB993]

JOEL NOBLE: Okay. [LB993]

SENATOR SCHUMACHER: One was whether or not your members are exempt under the terms of the Affordable Care Act from purchasing insurance. [LB993]

JOEL NOBLE: Yes, we are. Our members...there's a handful of requirements in there. The ministry had to be in existence before December 31, 1999. And that was kind of the language they put in there to make sure that folks didn't start fly-by-nights as a way to get out of the mandate. That's one of the main requirements in there. We're required to have an audit. It's similar beliefs, but our members are not subject to the tax penalty. And we're aware of three national ministries that would qualify under that exception. [LB993]

SENATOR SCHUMACHER: Now, did they have to be a member before the magic date or just the organization established before then? [LB993]

JOEL NOBLE: Just the organization had to be established and sharing continually since December 31, 1999. [LB993]

SENATOR SCHUMACHER: So those existing on that particular date, kind of have a monopoly on the field? [LB993]

JOEL NOBLE: You could put it that way. [LB993]

SENATOR SCHUMACHER: Okay. What are the percentage of members in your organization who do not carry insurance? [LB993]

JOEL NOBLE: I would say the vast majority of the members would not have another type of insurance, with the exception of we do have folks that choose to forego Part B of their Medicare and not get a supplementary to that and stay with us to take care of what Medicare doesn't pay. [LB993]

SENATOR SCHUMACHER: Okay. So can the...is every one of your members, all their medical bills paid by your organization? [LB993]

JOEL NOBLE: At Samaritan, we require that the members take care of the first $300 of a need and then after that we have some guidelines on what can be published, but yes, after the first $300. That's their responsibility and if they negotiate discounts, that goes towards that first $300. So if they had a $1,000 bill, they went to the hospital and said, if I pay this within 60 days, can you give me a 30 percent discount? And they take $300 off, they shouldn't have an out-of-pocket then. [LB993]

SENATOR SCHUMACHER: What happens in the event somebody has $250,000 cardiac surgery bill. Is it going to be paid? [LB993]

JOEL NOBLE: Yes. We have, at Samaritan, I believe as of July 2013 when I last looked, our largest need was $717,000. The other ministry in the Alliance that's in Florida, I believe was $820,000 was their largest need. And that was taken care of. [LB993]

SENATOR SCHUMACHER: Was that before or after negotiation with the medical provider? [LB993]

JOEL NOBLE: I believe that was before negotiations. And so... [LB993]

SENATOR SCHUMACHER: So that was what the bill was from the hospital? [LB993]

JOEL NOBLE: That was what the bill was, yeah. And when you're dealing with such a large amount like that, many providers are willing to take less if you're paying cash, which all our members are. [LB993]

SENATOR SCHUMACHER: So that was, then, after negotiation. I mean, there was a deduction or a discount, rather. [LB993]

JOEL NOBLE: There would have been a discount after that, yes. I'm not sure what those bills ended up being, but those are the largest before they were negotiated down that I'm aware of. [LB993]

SENATOR SCHUMACHER: Are members seeking a discount required to disclose to the medical provider that they're covered under your plan? [LB993]

JOEL NOBLE: Yes. We encourage them to explain how the process works of being a member. We also have another nonprofit ministry, separate from us, called The Karis Group that operates out of Austin, Texas. And they do that, not just for us, but for individuals also. They help negotiate bills down. And they partner with us to work with providers to get discounts. [LB993]

SENATOR SCHUMACHER: Okay. And then are...so is it safe to say that if someone becomes a member of your organization and runs up a big medical bill, that it's going to be paid by your organization? [LB993]

JOEL NOBLE: Shared by the other members, yes, that is correct to say. The other members are going to help share that medical cost. [LB993]

SENATOR SCHUMACHER: Is there any particular contract or agreement of any kind that you can supply the committee with that sets forth the rights and obligations upon which these people are relying? [LB993]

JOEL NOBLE: We do have a guideline booklet, but it does state that there's no contract and there is no transfer of risk and that if the members choose not to pay, that is their understanding. And the members go in knowing that there is a possibility that the members will not share with them. We have not had that ever happen in 30 years. But since we're not insurance, there is no guaranty that there will be payment. [LB993]

SENATOR SCHUMACHER: Is there any qualification? I mean, where someone with a bad preexisting condition, are they accepted into the program? [LB993]

JOEL NOBLE: We don't preclude anybody because of preexisting condition. There is limitations of what can be shared for preexisting conditions. [LB993]

SENATOR SCHUMACHER: And what would those limitations be? [LB993]

JOEL NOBLE: We...there is, on cancers of the same type, there's seven years...they need to go seven years with either no recurrence of the condition or be in remission. Diabetes and heart conditions, they have that that would be preexisting unless they go 12 months...excuse me. That's always preexisting. All other preexisting conditions, if they go 12 months without treatment or symptoms, we consider it arrested and it would be able to be shared. [LB993]

SENATOR SCHUMACHER: So you do not treat people who have diabetes unless they're 12 months of being without treatment? [LB993]

JOEL NOBLE: We would not treat any need related to that diabetes. But if someone coming in with a preexisting diabetes need, breaks an arm, has a heart attack, has cancer, anything that's not related to that preexisting condition would be shared. [LB993]

SENATOR SCHUMACHER: And then your members, then, are not contributing to the national insurance effort to share the cost of all the people who are seeking medical care and insured under the private insurance with the ACA or Medicaid? [LB993]

JOEL NOBLE: That's correct. [LB993]

SENATOR SCHUMACHER: Okay. So you're rather a narrow, select group that is trying to segregate itself off from the general insurance scheme? [LB993]

JOEL NOBLE: Well, yes. But since our members are sharing each other's needs, my understanding of the mandate in the ACA was that there would not be free riders, the folks that just show up at the emergency room to get free care. That was the case that we made, is that our members are sharing each other's needs. We're not a burden. Our members aren't seeking out Medicaid and taking money from the state for their medical needs. They're taking care of each other's needs. So that was the basis of exempt. We took the President's word that we like what we're doing, we can keep it. And in this case, it was true. They allowed us to continue what we were doing. [LB993]

SENATOR SCHUMACHER: Thank you for your testimony. [LB993]

SENATOR GLOOR: Has this question come up in this state by regulators? Or are you state by state seeking to make sure you've got a clarification to avoid that very thing? [LB993]

JOEL NOBLE: Yes, we are doing state by state. We have this similar safe harbor law in 25 other states, some of your neighbors, Iowa, South Dakota. A good example of why we're doing this kind of proactively, two years ago in 2012 on April 1, actually, we received a cease and desist from the state of Washington. And when I opened it, being it April 1, I thought, wow, this is someone who really knows how to pull a good prank. And...but it wasn't. And the state of Washington, not really understanding what we were doing, sent a cease and desist saying that we were practicing insurance. There was about two weeks left of the session. And we were able...one of our members was actually a state senator. He introduced a bill very similar to this in language, and it was passed in Washington in the last two weeks of session. Talking to our general counsel, we figure to travel out there to fight this, especially after the session, would have been about $250,000 to the ministry to fight a cease and desist. And once the bill was introduced, the Department of Insurance said you're not insurance and we moved on. So that's a good example of why we're doing this proactively. [LB993]

SENATOR GLOOR: And so the bill that we're looking at, really is model legislation that... [LB993]

JOEL NOBLE: It is, yeah. [LB993]

SENATOR GLOOR: ...that is the beginning... [LB993]

JOEL NOBLE: I don't believe there is...any of the 25 states are word for word the same, but they're all very, very similar. [LB993]

SENATOR GLOOR: I can imagine. [LB993]

JOEL NOBLE: Yes. [LB993]

SENATOR GLOOR: Senator Campbell and then Senator Carlson. [LB993]

SENATOR CAMPBELL: So the member, at this point, pays the medical bill up front and then is reimbursed by other members? [LB993]

JOEL NOBLE: Yes. There's not a requirement that they pay it up first. But, yes, they're responsible, as a self-pay patient, to pay it. A lot of members just talk to the provider and say, this is how the ministry works. I'm going to be receiving checks from other members in 30 to 60 days. And some of them usually make a minimum payment just to...you know, a good-faith payment. And then the majority of the members would, then, pay that off within 30 to 60 days. [LB993]

SENATOR CAMPBELL: In...I want to go back to the question that Senator Schumacher talked about. And that is, in case of a very high cost... [LB993]

JOEL NOBLE: Sure. [LB993]

SENATOR CAMPBELL: ...does the coordinating office, whatever, do they ever step in and try to pay that very large bill because the members cannot come up with that kind of money? [LB993]

JOEL NOBLE: No. We, as a ministry in the office, usually don't involve ourself with the providers because it looks too much like insurance. We do have the other ministry, the nonprofit that works alongside us to call and negotiate bills. There has been rare exceptions where there has been some transplants where the provider has said we want something put in escrow. And we'd preshare that. The members have sent, then, to that escrow fund. The money's gone in there and then it went from there, as a good faith payment, for the transplant. I can only think of one time at Samaritan that we've done that because it was a transplant. And the providers, obviously, you know, it's a large need and wanted something of insurance. So we did that. But normally, the members just pay the bills as they come. [LB993]

SENATOR CAMPBELL: Because this is a...I'm assuming you're a 501(c)(3) or that. [LB993]

JOEL NOBLE: We are, yes. [LB993]

SENATOR CAMPBELL: Do the members helping other members...is that a charitable deduction then? [LB993]

JOEL NOBLE: Since it's a gift, it is not, with the exception of the state of Missouri that passed legislation allowing members to deduct their monthly shares. But the other 49 states treat it as a gift and are not going to be able to deduct that. If a person sends money to the office to help upgrade our technology, infrastructure, fix our roof, something like that, that would be a 501(c)(3) deduction to charitable. [LB993]

SENATOR CAMPBELL: Okay. Thank you. [LB993]

SENATOR GLOOR: Senator Carlson. [LB993]

SENATOR CARLSON: Thank you, Senator Gloor. Tell me, how is a claim handled? How is a claim shared because I know that people cooperate to pay it. [LB993]

JOEL NOBLE: Sure. Absolutely. [LB993]

SENATOR CARLSON: So I'm a family of five and my neighbor is by himself or herself. How do we cooperate to pay that? [LB993]

JOEL NOBLE: Absolutely. A good example is...I got two of my three sons with me today. When they were born...actually, before they were born, I went to the hospital and they had a self-pay package. It explained what the bills were. I took that and submitted it along with what's called a need processing form. It's a front and back page where I just put my information on it. We have a pastor, a person of accountability, sign off to make sure that they're following the guidelines of the ministry. I then listed all the bills that were related to that need and I submitted it. Depending on when you submit it in the month, if it's earlier in the month then it's going to be closer to 60 days because it's not the very next month, but the month after that that it's published. So if I were to turn in a need today, it would be published in April, so not in March, but in April. So if I were to submit it closer to the 28h of February, that's closer to 30 days because it's closer to April. And then in April, I would get a list of all the people that are going to be sending to me. And then as those checks come in, I just check those off. And then that next month I send that list back in. Any people that didn't send, they will get a reminder in the mail saying, Joel has not received your share yet. And then, hopefully, they send. If they don't, then I send in a checklist, a much shorter checklist of people that haven't been sent. After about three or more months of people not sending, if they've not contacted us and indicated that there's something going on, the reason they're not sending, they're not having financial trouble that we can help them with, then we reassign that share to somebody else that will pay it. And then I take all those checks, cash them, and pay the bills. [LB993]

SENATOR CARLSON: Okay. Now I understand that. It's not quite answering what I was trying to get at. If...so let's say Senator Howard is by herself. [LB993]

JOEL NOBLE: Okay. [LB993]

SENATOR CARLSON: And I'm on the plan with my three children, so there's five of us and one of her... [LB993]

JOEL NOBLE: Uh-huh. [LB993]

SENATOR CARLSON: ...and you have a claim, how do we get assigned what we pay? [LB993]

JOEL NOBLE: Sure. [LB993]

SENATOR CARLSON: Do I have five times what she pays? [LB993]

JOEL NOBLE: No. At Samaritan, a family, regardless of size, shares $370, a couple is $315, and a single is $165. So each month when all the needs are inputted into our database and then our system goes through and grabs all the $370s and assigns all the $370s to a need until that need is taken care of. And then it takes another need and assigns all those $370s. And then it will take all the $315s and assign all that. So I may get a handful of $370 checks from families and then some $315 checks and some $165s. But all those checks together will come within, I believe, within $30 of whatever my total need is. And then if there's an overage, if somehow it doesn't round out, it's more than $30, then I will get a notice after it's done saying, you got $50, you got $70 more than what your need was. Sometimes folks get discounts after the fact and we're aware of that. And they end up with extra money and we just have that sent on with their next share. [LB993]

SENATOR CARLSON: What's the most that you and your family have ever been asked to pay in a month? Is there a limit? [LB993]

JOEL NOBLE: It is $370 for a family. [LB993]

SENATOR CARLSON: Oh, that's the $370? [LB993]

JOEL NOBLE: That's what...so every month, I'm writing a check for $370 to somebody and that's my understanding. I have every month. So I get a slip in the mail that tells me where to send it and then I write a card just telling them that I'm praying for whatever their need is. And I include a check for $370. [LB993]

SENATOR CARLSON: Okay. Now I think you covered how that if a new family comes on... [LB993]

JOEL NOBLE: Uh-huh. [LB993]

SENATOR CARLSON: ...there are certain sicknesses, illness coverage that's not there for a certain period of time. One of them you mentioned was seven years. But can this group have somebody that indicates they want to be a part of the coverage and say, no, you can't, we won't take you? [LB993]

JOEL NOBLE: Only if they're not able to sign off on the belief statements. We have a basic Christian belief statement close to the...like, if you're familiar with the Nicene Creed, a basic Christian tenet, we're signing off on. As long as they're able to sign off on that, we don't preclude anyone because of medical conditions. [LB993]

SENATOR CARLSON: Okay. All right, thank you. I think it's an interesting concept and I'm in your court on this. Thank you. [LB993]

JOEL NOBLE: Thank you. [LB993]

SENATOR GLOOR: Senator Howard. [LB993]

SENATOR HOWARD: Thank you, Senator Gloor. Thank you for your testimony. You work at Samaritan Ministry? [LB993]

JOEL NOBLE: I do, yes. [LB993]

SENATOR HOWARD: And what is your role there? [LB993]

JOEL NOBLE: I'm the public policy manager for Samaritan Ministries. And then, I guess, I technically volunteer my time to the Alliance, which represents Samaritan and Christian Care Medicare out of Florida. [LB993]

SENATOR HOWARD: Are there quite a lot of public policies that you keep an eye on? [LB993]

JOEL NOBLE: It's mainly, we do a bill like this usually within about three states, including here. Mississippi is considering this also. And then in March when Louisiana starts their session, they will look at this legislation also. We usually look at about three states with this kind of law. And then, other than that, I'm just tracking what the federal law looks like to make sure there's no change to the ACA. And then every once in a while, we'd like to, like Missouri, we'd like to have more states that allow us to deduct the shares. And so that's some of that. After I leave here, I'm going to travel to Florida to meet with Christian college administrators because we found that many colleges require their students to carry insurance. And since we're kind of unique, a lot of times they don't understand what we do. And so I'm going to be meeting with administrators there to talk about if they take health care sharing ministries for their students. [LB993]

SENATOR HOWARD: And just out of curiosity, if you're paying $370 and it goes directly to somebody else who's sick, where does your salary come from? [LB993]

JOEL NOBLE: That's an excellent question. At Samaritan we have what's called 11 and 1. So 11 months out of the year, they send to another person. And then one month out of the year, they send to the office. Also, when someone signs up, they're...the first three months that they share is assigned to the office. So that's where all our office expenses come out of. [LB993]

SENATOR HOWARD: Thank you. [LB993]

JOEL NOBLE: You're welcome. [LB993]

SENATOR GLOOR: Other questions? Senator Schumacher. [LB993]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Just a couple more questions. You mentioned that the central office calls and negotiates. Do they negotiate with the hospital or the doctor? Is that who they negotiate with? [LB993]

JOEL NOBLE: We don't at the office. There is...the members do a lot of their own negotiation and then we have a separate ministry that we partner with that does bill negotiations as a ministry. That's their function as a ministry. And they do the bulk of our discounts. [LB993]

SENATOR SCHUMACHER: Do the negotiations ever go something like this? Listen, Mrs. Jones owes you $100,000. She doesn't have any money. And so you can either take $25,000 or you can take Mrs. Jones to bankruptcy court? [LB993]

JOEL NOBLE: No. It would go with, Mrs. Jones is a member of Samaritan Ministries. She's going to be receiving checks from other members to pay her bills. Our understanding of this procedure should normally run $70,000 to an insurance company. Would you be willing to take the same amount that you're billing insurance? And then a lot of times they would say, well, no. And they'd say, well, can you take 20 percent higher than what you're billing insurance, for instance? And so there's very good resources out there like Healthcare Bluebook that, much like the Kelly Blue Book, explain what procedures should cost. And it's been a very good resource for our members to understand what they should be paying for their bills as opposed to what they're actually being charged. [LB993]

SENATOR SCHUMACHER: As part of your promotion and advertising, do you advertise that this is a way to escape the requirements of the Affordable Care Act? [LB993]

JOEL NOBLE: No. We make people aware, as much as we can, but we have purposely avoided trying to explain it as an escape hatch or an alternative. We do explain, because that's obviously the first question with the mandate is, how can I be a part of this and meet the mandate. So we do, in a lot of the advertising, explain that it does meet the requirements of the ACA, but by and large, we try to avoid putting it out there as an exception or alternative. [LB993]

SENATOR SCHUMACHER: The...when somebody makes a check out for their share, who's that check payable to, the original provider, to the person, or the central organization? [LB993]

JOEL NOBLE: To the member. So when I receive checks, it's made out to me to pay my bills. So I'd... [LB993]

SENATOR SCHUMACHER: And so each person sends you $370 or whatever? [LB993]

JOEL NOBLE: Yeah. For a family, yes. And so depending on the size of the need, sometimes that can be, you know, 10 checks, 15 checks, 1 or 2 checks. [LB993]

SENATOR SCHUMACHER: In connection with this operation, is there any effort to comply with the state and federal securities acts? [LB993]

JOEL NOBLE: You know what? I don't know. I'm not sure how that would work. I honestly don't have a answer for that. [LB993]

SENATOR SCHUMACHER: Thank you for your testimony. [LB993]

SENATOR GLOOR: Have you had cases where...I mean, I could see providers asking for assignment of some kind to make sure that those dollars did get to the provider, especially if it had been negotiated. [LB993]

JOEL NOBLE: Yeah. [LB993]

SENATOR GLOOR: Have you had occurrences where those dollars have not found their way? And how do you rectify that? [LB993]

JOEL NOBLE: One of the good ways that we know is this ministry that I have mentioned several times that does negotiation. Since they're negotiating, it's a good way to know if the...what the bills are because they call up and say, Mrs. Smith has a, you know, $1,000 bill. Will you take...And they say, well, I've already given Mrs. Smith a 50 percent discount. That's a good way to know that...what it actually is. So that's kind of a safeguard for folks not getting discounts and not telling us. In the time I've been at Samaritan, I'm aware of one woman that called us up several months later and said, I got some discounts. No one knew about that and I kept the money. And she apologized. We worked up a way for her to pay that back within her shares. I believe her share was $15 higher for about 13 or 14 months to pay that back. That's the only fraud that I'm aware of and...but, as I mentioned, that ministry that does negotiations would catch anything like that, so. [LB993]

SENATOR GLOOR: Okay. [LB993]

JOEL NOBLE: But, I mean, there could be folks because the money's coming in and it's basically being pooled together with all the rest of their income, it's possible that someone could use the checks to pay their gas bill. But then they still have to pay the providers. They're going to have to borrow from their gas bill money to pay that. So since it's being pooled together, I mean, I think probably money is being used for other things, but the bills still have to be paid. [LB993]

SENATOR GLOOR: Senator Campbell. [LB993]

SENATOR CAMPBELL: Thank you, Senator Gloor. How many members are in Nebraska? [LB993]

JOEL NOBLE: Samaritan has 521 households. The other ministry in the Alliance has a little over 200, I think it's 260. The third ministry that's not in the Alliance that's in Ohio, they're roughly the same size as Medi-Share in Florida. So I would estimate probably another 200 there. When I said 800, I was shooting kind of low. But it could possibly be closer to 1,000 households, depending on if you add all three ministries. But the two ministries in the Alliance would be about 800. [LB993]

SENATOR CAMPBELL: And so how long have those...have many of those households in Nebraska been with the company since its beginning? [LB993]

JOEL NOBLE: Yes. I don't know exactly the breakdown of the states. But we would have had members in all 50 states very, very early on. The ministry, not the Alliance in Ohio, started in '82. The one in Florida, '93. And Samaritan started in '94. [LB993]

SENATOR CAMPBELL: And you know, obviously, I don't think I've seen your advertisements anywhere. So basically, you're gaining members by word of mouth or... [LB993]

JOEL NOBLE: Word of mouth is the biggest way. World Magazine, which is kind of a Christian version of Time or Newsweek, runs an advertisement, usually full-page, for one of the ministries each month. And then, for whatever reason, a lot of our members are also part of the homeschool community. And so a lot of advertisements in homeschool publications, also. It just happens to be the demographics of our members. [LB993]

SENATOR CAMPBELL: Thank you. [LB993]

SENATOR GLOOR: Have you been to Louisiana before in your... [LB993]

JOEL NOBLE: I have not been to Louisiana before. [LB993]

SENATOR GLOOR: When you get there, take a look at their capitol building... [LB993]

JOEL NOBLE: Okay. [LB993]

SENATOR GLOOR: ...you'll see a striking familiarity to this building. [LB993]

JOEL NOBLE: Okay. [LB993]

SENATOR GLOOR: It's because Huey Long stole this design when he built his. [LB993]

JOEL NOBLE: Okay. [LB993]

SENATOR GLOOR: Not knowing, but when you see it, you'll go, oh, okay. Now I know the rest of the story. [LB993]

JOEL NOBLE: Okay. [LB993]

SENATOR GLOOR: Thank you, Mr. Noble. [LB993]

JOEL NOBLE: All right. Thank you. [LB993]

SENATOR GLOOR: Other proponents? Anyone who chooses to speak in opposition to this bill? Anyone in a neutral capacity? Seeing none, Senator Christensen, would you like to close on this bill? [LB993]

SENATOR CHRISTENSEN: Not unless somebody has got a question. [LB993]

SENATOR GLOOR: I see no questions. We know how to find you, too, Senator Christensen. That ends the hearing on LB993. And with that, we'll move to LB860. Welcome, Senator Nordquist. [LB993]

SENATOR NORDQUIST: (Exhibit 1) Thank you. Thank you, Mr. Chairman, members of the committee. My name is Jeremy Nordquist, N-o-r-d-q-u-i-s-t, and I represent District 7 which covers downtown and south Omaha, here today to introduce LB860 which would adopt health insurance requirements that relate to dollar limits, rescissions, preexisting conditions, and dependents. Federal Patient Protection and Affordable Care Act, also known as the ACA, was passed by Congress with the intent to put consumers back in charge of their health care and give people the stability and flexibility they need to make informed choices about their health. Despite the much needed consumer protections in the Affordable Care Act that that law put into place, there has been multiple attempts, 46 in particular, to...exactly, to repeal these protections on the federal level. I introduced LB860 to put into state statute the safeguards aimed to protect consumers should the federal law be repealed. These provisions are simple and straightforward and add no new burdens to insurance companies as insurance companies already have to comply with them under the federal law. LB860, in particular section 1, would prohibit lifetime and annual limits. Plans would not be allowed to establish lifetime limits on dollar values of essential benefits or unreasonable annual limits on dollar values of beneficiary benefits. Section 2 involves rescissions. Coverage may not be rescinded for fraud or intentional...except for cases of fraud or intentional misrepresentation of material fact, as provided by the terms of the coverage. Prior notification must be made to policyholders before cancellation in those cases. Section 3 would prohibit discrimination based on preexisting conditions. Health insurance coverage would not be...may not be...health insurance coverage may not impose preexisting condition exclusions under section 3. Under section 4 there would be a requirement of additional information being provided to the Director of Insurance that would include expenditures on clinical services, activities that improve health quality, and all other nonclaims costs, including an explanation and excluding state taxes, licensing, regulatory fees. That information provided under section 4 would then be used in section 5 to ensure that insurers are spending at least a certain percentage of health care dollars on providing health care. This is what's known in the federal law as the medical loss ratio. Myself, I have benefited from the...I received a rebate check under the medical loss ratio of the federal law. Section 6 would establish an appeals process. The group health plan and health insurers must implement an effective appeals process of coverage that includes an internal claims process, provides a linguistically appropriate notice to enrollees of available internal and external appeals process, and consumer assistance would allow enrollees to review their files, present evidence, and testify when continuing coverage until a determination is made, and provide an external review process that includes consumer protections in the Health Carrier External Review Act. I know our state has taken some actions already in that area. Section 7 would be...would establish, essentially, what's called community rating where health insurance premiums would only vary based on individual or family coverage, the rating area, age, and tobacco use. And then sections 8, 9, and 10 would make some small changes, putting a minimum age of 26 to allow people to stay on their parents' plans. We have already taken some action in that area, but this would establish a minimum floor. I have provided the committee with an amendment that would exempt companies who provide some sort of supplemental insurance. As the bill is originally drafted, sections 1 through 7 would apply to those companies. And that was not the intent. So if it's a supplemental insurer, the amendment would take care of that. This bill would just allow us to make sure we have these key protections in place for Nebraskans. I can just say that there's been a number of national polls that show, individually, these policies are very popular. And then back in the fall of 2010, after the

Affordable Care Act was passed, I launched a web site called yourhealthcarepriorities.com. And we had good coverage of it and there was about, roughly, about 1,000 Nebraskans that responded to that. And the full report is still on yourhealthcarepriorities.com. But we asked questions about the specific provisions and do you think these provisions are important or not. Ninety-two percent of Nebraskans say it's important that health insurers cannot deny coverage for preexisting condition. Ninety percent think it's important that insurance companies are not allowed to impose lifetime limits. Ninety-four percent said it's important that they not be allowed to rescind health policies. Eighty percent said it's important to allow young people to stay on their parents' health insurance, and eighty-five percent said it's important that health insurers spend at least eighty percent of their health care premium dollars providing health care. So these are, I think, popular nationally and popular individually. And these would just put these basic protections into our state statute should the federal law be repealed. Thank you. [LB860]

SENATOR GLOOR: Senator Nordquist, do you want to speak to the fiscal note that came with the bill? [LB860]

SENATOR NORDQUIST: Yeah. I would just look at what the fiscal office has said, that it doesn't look like there would be much impact, again, should the law be in place. Should it be repealed and additional funding for some of these positions go away, I think we would have to look at it. I know that the Department of Insurance has received significant dollars under the Affordable Care Act for some of these staffing pieces already. But I haven't had a chance to speak specifically about this with them, so. [LB860]

SENATOR GLOOR: Okay. Questions for Senator Nordquist? Senator Schumacher. [LB860]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you for your introduction of this bill, Senator Nordquist. If...I mean, this thing, if it only has applicability upon the repeal of the ACA, then something really big must have happened in Washington. And why would we want to be saddled with this in our own law? Why wouldn't we want the flexibility to, then, do whatever response to whatever the big event was that occurred in Washington that caused the ACA to go away? What's the necessity of this? [LB860]

SENATOR NORDQUIST: To make sure that when we get to that point, if that point ever comes, that our consumers have these protections in place, which I think are very popular and I think make good policy sense. Now if something big happened, it could be just a simple change in an election outcome. Probably the first time that there would be an opportunity for that to happen would be 2016. But if the swing in an election could lead to the repeal of the act and consumers, then, would no longer be protected from...if you're a cancer patient, you're no longer protected from being denied coverage. Just last week in Appropriations, we had parent after parent come in of pediatric cancer patients. Many of them said their health costs in their first year or two of their child's life, exceeded $1 million of cancer treatment. These are Nebraskans who, that child, if there were still lifetime limits in place, that child would no longer be insurable, pretty much, for the rest of their lives. So I think it's important to keep these protections in place regardless of what Washington does. [LB860]

SENATOR SCHUMACHER: Thank you, Senator Nordquist. [LB860]

SENATOR GLOOR: Other questions? Senator Carlson. [LB860]

SENATOR CARLSON: Thank you, Senator Gloor. I'm going to ask two or three questions, Senator Nordquist, because I think you're fully capable of doing this, but I would ask anyway. Did you write the bill? [LB860]

SENATOR NORDQUIST: My staff and bill drafters did, yeah. [LB860]

SENATOR CARLSON: Okay. So this isn't something that you used an example from another state? [LB860]

SENATOR NORDQUIST: No. No. No. [LB860]

SENATOR CARLSON: This is yours. Okay. The other question is, and I don't know how much of the previous hearing that you were in on, but if you were, do you have an opinion about health care sharing ministries? [LB860]

SENATOR NORDQUIST: No. It's an interesting concept. And I think that the fact that it was excluded from the mandate in the ACA shows that at least those writing the ACA had some confidence in that program. And I don't see any reason why we wouldn't allow them to operate. [LB860]

SENATOR CARLSON: I'm sorry, what was your last statement? [LB860]

SENATOR NORDQUIST: I wouldn't see any reason why we shouldn't allow them to operate. [LB860]

SENATOR CARLSON: Okay. Okay. All right. Thank you. [LB860]

SENATOR NORDQUIST: Yeah. [LB860]

SENATOR GLOOR: Other questions? Thank you, Senator Nordquist. [LB860]

SENATOR NORDQUIST: Thank you. [LB860]

SENATOR GLOOR: Are you going to stay to close? [LB860]

SENATOR NORDQUIST: Yeah, I'll be here. [LB860]

SENATOR GLOOR: Okay. We'll move to supporters, proponents of LB860. [LB860]

MARK INTERMILL: Good afternoon, Senator Gloor and members of the committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l. And Senator Gloor, I appreciate you scheduling all the bills that we're interested in on the same day. We do support the concept of LB860. We have been talking to our members about the Affordable Care Act since 2009. We talk about the different elements that are included in it. What we have consistently found is that they support the idea of the basic insurance reforms that you shouldn't be denied coverage on the basis of a preexisting condition, that you shouldn't have your insurance rescinded, that there should be some limits in terms of what your premiums are charged. And I think what this bill does is, it places those protections in state statute. And in response to the question of what would happen if the Affordable Care Act would be repealed, I could see a couple of circumstances where that could occur. One would be where it would just be repealed outright and we would go back to the previous system, which I think our members would struggle with. And I think they would appreciate having some sort of protection if that occurred. The other option would be if we moved in the other direction towards a more comprehensive health insurance program, which I can't imagine wouldn't include these types of protections. So for that reason, we do support LB860. And I'd be happy to try to answer any questions. [LB860]

SENATOR GLOOR: Thank you, Mark. Are there any questions for Mr. Intermill? Senator Schumacher. [LB860]

SENATOR SCHUMACHER: Thank you, Senator Gloor. The ACA not only has these protections, if we call them that, but it also is coupled with the mandate that everybody carry insurance to put money into the pool so that these protections are funded. Absent from this bill is a requirement that one maintain insurance. How does this work without such a requirement? Wouldn't this leave us in a real pickle with saying we want all the good things, but we don't want to pay the bill? [LB860]

MARK INTERMILL: You eat the dessert before the asparagus, in other words. Yeah, I...it does create a challenge, I think. I guess the question is, do we want to move backwards? At any rate, I think the...our membership that this really applies to are those individuals between the ages of 50 and 64. And I have often said that Nebraskans between the ages of 50 and 64, especially those getting closer to 64, pay some of the highest health insurance costs in the world because of things like preexisting conditions and other things...the types of things that this bill attempts to protect them from. So I agree that without those types of protections, that this would be a challenge, but without these protections and going backwards, we expose a lot of individuals to a very difficult situation. So I don't...I'm sure that's not a very good, satisfactory answer to the question, but I'm not sure I have a really good answer. I don't know how you do one without the other. [LB860]

SENATOR SCHUMACHER: Thank you. [LB860]

SENATOR GLOOR: Are there questions? Seeing none, thank you. [LB860]

MARK INTERMILL: Thank you. [LB860]

SENATOR GLOOR: Other proponents? Good afternoon. [LB860]

JERUSHA HANCOCK: (Exhibit 2) Good afternoon, Chairman Gloor and members of the Banking, Commerce and Insurance Committee. My name is Jerusha Hancock, J-e-r-u-s-h-a H-a-n-c-o-c-k. I'm a staff attorney with Health Care Access Program at Nebraska Appleseed. Nebraska Appleseed is a nonprofit, nonpartisan public interest law firm fighting for equal justice and opportunity for all Nebraskans. I'm here today to testify in support of LB860. As you know, the ACA made several major changes to the health insurance market to ensure that consumers could purchase and keep their health insurance coverage. Those protections have made a huge difference for many families in Nebraska already. In fact, according to the U.S. Department of Health and Human Services, 18,000 young adults have been able to stay on their parents' insurance in Nebraska and over 42,000 Nebraskans have received rebates because their insurance carrier did not spend at least 80 percent of their premium dollars on medical costs. Over 700,000 people in Nebraska, including over 250,000 women and 192,000 children, are free from worrying about lifetime limits on coverage. And as many as 767,878 nonelderly Nebraskans have some type of preexisting health condition, including over 100,000 children, and are now able to access care. LB860 would codify consumer protections in state law and would ensure uniformity and clarity regarding consumer rights. Specifically, LB860 would pull various provisions scattered across the U.S. Code into one location in Nebraska law which can help ensure legal requirements are clear and accessible. The bill would also ensure there is consistency between federal and state law. And finally, the law would underscore the importance of these consumer protections. For example, prohibiting insurance carriers from excluding coverage for those with preexisting conditions ensures chronic conditions can be managed. And requiring carriers to spend a set percentage on costs ensures that consumers are getting value for their money. For these reasons, we respectfully request that the committee advance LB860. [LB860]

SENATOR GLOOR: Thank you. Are there any questions for Ms. Hancock? Senator Pirsch. [LB860]

SENATOR PIRSCH: I just want to say thank you very much for coming out today. You did a fine job explaining your position on the issue. And so this...were you originally the entity who approached Senator Nordquist with the legislative idea then or... [LB860]

JERUSHA HANCOCK: We were not, no. [LB860]

SENATOR PIRSCH: Okay. Okay. So...and...well, that's all the questions I have at this time. [LB860]

SENATOR GLOOR: Other questions? Seeing none, thank you for your testimony. [LB860]

JERUSHA HANCOCK: Thank you. [LB860]

SENATOR GLOOR: Other proponents? Seeing none, we'd now move to those who are in opposition to this bill. Mr. Ramge. [LB860]

BRUCE RAMGE: (Exhibit 3) Good afternoon. Good afternoon, Senator Gloor 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 LB860. In reviewing LB860, I would like to first note that many of the issues raised in this legislation have already been addressed by the Legislature when it codified Nebraska Revised Statute 44-710.03(13), which requires compliance for sickness and accident insurance delivered in the state that conform with state and federal law. Additionally, this body adopted a federally compliant external review, which can be found at Nebraska Revised Statute 44-1301 to 44-1318, which became effective on September 6, 2013. Many of the concerns raised in LB860, by virtue of the contract requirements already mandated under Nebraska law, are addressed. The Department of Insurance, as the reviewer of insurance policies and regulator of the business of insurance in Nebraska and in conjunction with federal reviewers of policies, assure that the Affordable Care Act provisions are within the contract. The Affordable Care Act was, as most on this committee know, the most significant piece of federal health legislation passed into law since the introduction of Medicare and Medicaid. And it contained some 2,000 pages within the act itself, and we are nearing, if not already exceeded, 20,000 pages of regulation with this law, yet with more to come. Even as I testify here today, federal Health and Human Services continue to issue rules, regulations, guidance, question and answer documents, informal and formal opinions, and sometimes merely oral guidance on numerous aspects of the Affordable Care Act. There are also pending court cases that may have a dramatic effect on pieces of the Affordable Care Act. While the act, itself, has been upheld, the court battles over the implementation of the act are far from over. The National Association of Insurance Commissioners, made up by state insurance commissioners, insurers, and consumer groups have been, for several months, discussing updates to model acts and regulations to allow state legislative bodies, if they so desire, to update their statutes to modify aspects of their insurance code to comply with the Affordable Care Act provisions. That work has yet to be completed because many rules and regulations have yet to be promulgated still by the federal government and/or have been modified or, in some cases, certain portions of the Affordable Care Act have simply been ignored. And that's ignored by the federal government, I'd like to point out. That being said, that work continues into this spring on this project. It is hoped that the model updates will be completed by the summer national meeting, but again, much of this depends upon the federal government and their interpretation, by way of regulation, of the Affordable Care Act. We understand that LB860 is an attempt to codify only select provisions of the Affordable Care Act. We would denote that while this bill requires the elimination of lifetime limits and unreasonable annual limits, and more importantly, mandates to guarantee the issue of health insurance policies, it does not contain an individual mandate to purchase insurance. It should also be noted that when there is picking and choosing of certain parts of the Affordable Care Act, there is a risk that taking various tie-in provisions that attempt to harmonize the act as a whole, but are not included in this particular bill, may have a dire outcome. For example, with the passage of the Affordable Care Act, one control measure was the individual mandate forcing the purchase of insurance. While we do not advocate for this position, it is one measure of a control considered by the Affordable Care Act to counteract sick individuals from flooding the marketplace because there are no preexisting condition exclusions any further without contribution from young, healthy individuals. Another control factor was what was called the three R(s) program which is a federally run risk adjustment, reinsurance, and a risk corridor program which was designed to transfer contributions from insurers and from taxpayers into a fund to assist insurers who take on too much bad risk to recoup some of the losses from insuring those risks as they are under the Affordable Care Act, that they are required to do. By selecting only certain parts of the Affordable Care Act, there is a danger that, if passed and if the ACA is repealed, that Nebraskans would be left without certain stop gap measures designed to prevent financial collapses of companies and, worse, the inability of those entities to pay claims. Finally, with regard to the appeals process within the bill, I earlier mentioned about how Nebraska has a compliant internal and external review process as required by the Affordable Care Act because it complies with the National Association of Insurance Commissioners model act. This bill appears to go further, however, by mandating the availability of any applicable consumer assistance in the Department of Insurance, to assist such enrollees with the appeals processes. While the department's consumer Affairs Division already does some of this via helping consumers by informing them of what their rights are, investigating consumer complaints about appeals and monitoring company compliance with the internal and external appeals process, this provision goes beyond that requirement by seemingly assisting enrollees with the appeals process which could be interpreted as leading an individual consumer through the appeal process, perhaps even providing legal or other advice, acting more as an ombudsman than a regulator. If passed, this bill would create new work tasks for our agency and additional staff would be required to perform this role at a cost to taxpayers. I would be happy to answer any questions you have and I have also brought along the department's resident Affordable Care Act expert, Martin Swanson, to help answer questions. [LB860]

SENATOR GLOOR: Thank you, Director Ramge. Are there questions from the body? Senator Campbell. [LB860]

SENATOR CAMPBELL: Director, are any of the specific protections that are laid out by LB860 already in statute in Nebraska? [LB860]

BRUCE RAMGE: Besides compliance with the act in general, you know, the catchall provision... [LB860]

SENATOR CAMPBELL: Right. [LB860]

BRUCE RAMGE: ...we have a requirement that addresses rescissions. We have a provision that requires the coverage of dependents up to age... [LB860]

SENATOR CAMPBELL: Twenty-six. [LB860]

BRUCE RAMGE: ...26. We have the internal and external review requirements. [LB860]

SENATOR CAMPBELL: But we don't have any, at this point, any protections for lifetime limits or... [LB860]

BRUCE RAMGE: We don't have lifetime. [LB860]

SENATOR CAMPBELL: ...preexisting conditions, which are probably two of the most favored parts of the ACA, even when people don't really know what they're saying. [LB860]

BRUCE RAMGE: That's correct. And of those... [LB860]

SENATOR CAMPBELL: I mean, you know, time and again, that's been projected to be two of the most important parts. [LB860]

BRUCE RAMGE: Yes. And of those two, the one that could have the most impact, in my estimation in terms of potential for adverse selection, would be the preexisting conditions without some way for a company to counteract that with waiting periods or ability to underwrite. [LB860]

SENATOR CAMPBELL: Prior to the ACA being passed, in the state of Nebraska if someone had a preexisting condition and was turned down, their only...well, perhaps not their only, but their major option would have been the adult CHIP? [LB860]

BRUCE RAMGE: Yes. The...yes, the Nebraska Comprehensive Health Insurance Pool. Yes. [LB860]

SENATOR CAMPBELL: Thank you. [LB860]

BRUCE RAMGE: You're welcome. [LB860]

SENATOR GLOOR: Assuming that the individual mandate was added onto this bill or was another bill at some time, is it possible for the department to enforce an individual mandate if it ever came to that? [LB860]

BRUCE RAMGE: Well, to look at how it's enforced on the federal level, that requires the assistance of the Internal Revenue Service. I don't believe that the Nebraska Department of Insurance could enforce the individual mandate without probably the work of the Department of Revenue or the federal IRS. [LB860]

SENATOR GLOOR: So it would probably take a collaboration with the Department of Revenue as relates to our tax... [LB860]

BRUCE RAMGE: I believe so. [LB860]

SENATOR GLOOR: ...returns as relates to the...of the state. [LB860]

BRUCE RAMGE: Yes. Yes. [LB860]

SENATOR GLOOR: Okay. Senator Schumacher. [LB860]

SENATOR SCHUMACHER: Thank you, Senator Gloor. This bill is predicated upon a possible repeal or that contingency occurring, for us to analyze whether this is something we should think about doing or not. It would seem that you would need somewhat of a handle on how well implementation of the ACA is going in Nebraska. Do you have any indication in your office of the amount of participation in the federal exchange in Nebraska and the amount of people who are ineligible for participation because they have low income? [LB860]

BRUCE RAMGE: A lot of those numbers are still in flux. I know that, as of the end of the year, there were roughly 14,500 individuals who had signed up through the federal marketplace. And of those, like, 85 percent were eligible for some type of federal advance tax credit or subsidies. And in terms of some of the other figures, that's still yet to come and things we are watching for. The implementation was impacted, I believe, by the rollout of the web site that was not ready. And it, I think, it scared a lot of consumers away. [LB860]

SENATOR SCHUMACHER: Have you gotten any indication whether or not, since they got the computer working better, if things picked up or is that just speculative? [LB860]

BRUCE RAMGE: It's better on the consumer side. There are still components of it that I would call...how it communicates, for example, with the various state Medicaid divisions. That's still a problem. There are certain consumers who have trouble getting things corrected. So there are still bugs that they're working on, but it's a big improvement from October and November. [LB860]

SENATOR SCHUMACHER: Thank you very much. [LB860]

BRUCE RAMGE: You're welcome. [LB860]

SENATOR GLOOR: Senator Howard. [LB860]

SENATOR HOWARD: Thank you, Senator Gloor. Thank you, Director Ramge, for your testimony. [LB860]

BRUCE RAMGE: You're welcome. [LB860]

SENATOR HOWARD: Did you work with Senator Nordquist at all on this legislation? [LB860]

BRUCE RAMGE: No. We have not had an opportunity to work with Senator Nordquist. [LB860]

SENATOR HOWARD: I guess this is more a statement than a question. Often when I see you... [LB860]

BRUCE RAMGE: Yeah. [LB860]

SENATOR HOWARD: ...here, which is always welcome, you are talking to us about how important it is to align Nebraska law with federal law and, especially, when it comes to insurance. And so I guess I was more surprised to have you in opposition to something that aligns us with federal law. [LB860]

BRUCE RAMGE: Well, the problem is, again, because this isn't fully in line with the federal law. It takes some of the provisions, it picks the most popular provisions. But, again, without some of these other important aspects, if that federal law were to go away, it could lead to tremendous boosts in rate increase and make health insurance unaffordable for us here in Nebraska. The other possibility is, you know, it was mentioned that this would be a placeholder in case the Affordable Care Act were repealed. But the other possibility is that the Affordable Care Act could be modified and then, again, we would be out of sync with the federal law. [LB860]

SENATOR HOWARD: And annually you come to us and talk to us about how to sync up with the federal law. [LB860]

BRUCE RAMGE: Yes. Yeah. [LB860]

SENATOR HOWARD: You're so wonderful at doing that. [LB860]

BRUCE RAMGE: We try. [LB860]

SENATOR HOWARD: I guess my only question then is, is your opposition only because it picks and chooses rather than being a comprehensive implementation of the federal law on the state level? [LB860]

BRUCE RAMGE: The primary concern is that. Yes, it is. [LB860]

SENATOR HOWARD: Okay, thank you. [LB860]

BRUCE RAMGE: And also, as I pointed out, you know, the National Association of Insurance Companies is working on trying to go through those existing models and harmonizing them to make those up to date. And it's always good for insurers when they have a consistent set of parameters to work with. [LB860]

SENATOR HOWARD: Absolutely. Thank you. [LB860]

BRUCE RAMGE: You're welcome. [LB860]

SENATOR GLOOR: Senator Carlson. [LB860]

SENATOR CARLSON: Thank you, Senator Gloor. Director Ramge, in looking at this, and I don't know how much you've been able to study it in detail, what would be your opinion about the affordability of a policy like this for the people of Nebraska? You deduct...is that a consideration you've made? [LB860]

BRUCE RAMGE: That would be a huge consideration. And it would make health insurance unaffordable for many people without some of these other provisions. For example, one thing that helps prevent adverse selection are enrollment periods. And having specified enrollment...not having specified enrollment periods would be detrimental. People would wait, literally, until they needed to buy insurance. [LB860]

SENATOR CARLSON: Okay. Thank you. [LB860]

BRUCE RAMGE: You're welcome. [LB860]

SENATOR GLOOR: Further questions? Seeing none, thank you for your testimony. [LB860]

BRUCE RAMGE: Thank you, Senator Gloor. [LB860]

SENATOR GLOOR: Others in opposition to this bill? [LB860]

ERIC DUNNING: (Exhibit 4) Good afternoon, Chairman Gloor and members of the Committee. My name is Eric Dunning. For the record, that is spelled E-r-i-c D-u-n-n-i-n-g. I am the director of government affairs and a registered lobbyist for Blue Cross Blue Shield of Nebraska, here today to testify in opposition to LB860. As some background, Blue Cross Blue Shield is a Nebraska domestic, mutual benefit company. We're a not-for-profit entity. This year we're celebrating 75 years of service to our members. We have 720,000 Nebraskans as those members and we employ about 1,100 people in Omaha working to pay claims for those Nebraskans. LB860 provides an answer to a question that has not been asked yet. And any time you provide an answer before a question is asked, there is a significant chance you're going to get the answer wrong. LB860 addresses a potential repeal of the act, but if or when the act is repealed, LB860 could take its place. However, if federal health care reform is repealed, then Nebraska should start with a fresh start, taking into account all of the changes made by those changes in federal law. As currently structured, as mentioned earlier, LB860 would need further work to make it work with existing Nebraska law. Again, I'd refer you back to what's existing section 6 of the bill which would be, to some extent, in conflict and would need to be knit together to work with the Legislature's new requirements for external review passed just last year. But the larger problem, from our perspective, is that serious consideration needs to be given to the entire structure of any response to changes in the ACA before this would become law. While (LB)860 requires insurers to issue coverage regardless of health status, there's no provision for an open enrollment period, as Director Ramge mentioned a few minutes ago. And we're concerned that without a limited open enrollment period, consumers would not purchase coverage until they were sick. And this would create a situation in Nebraska similar to that found in New York and New Jersey where the cost of individual health insurance increased following the adoption of state-based provisions similar to these. But beyond these concerns, in the event of a repeal of the ACA, we believe that a fresh start should incorporate work done by the LR22 committee formed last year and include elements encouraging the use and development of wellness and patient-centered medical home projects. We ask that you not advance LB860. Thank you. [LB860]

SENATOR GLOOR: Thank you, Mr. Dunning. I'm surprised to hear that the work of the LR22 committee is already gathering the kind of attention that would find its way into... [LB860]

ERIC DUNNING: Senator, I'm paying attention. [LB860]

SENATOR GLOOR: ...the testimony. Thank you, Mr. Dunning. Are there other questions? Seeing none, thank you for your testimony. [LB860]

ERIC DUNNING: Thank you. [LB860]

SENATOR GLOOR: Are there others in opposition to this bill? We'd move to neutral testimony. Anybody here in a neutral capacity? Senator Nordquist, you're recognized to close. [LB860]

SENATOR NORDQUIST: Thank you, members. I'll be brief. Just on where this bill came from, I think it was sometime around the 40th repeal vote from the U.S. House that I was probably composing a tweet and said, what if this really did happen? All these protections that people are now counting on would be gone. And so I told my staff to pull me a list of all the protections in the ACA and I started sifting through them looking back at the responses from Nebraskans on the web site we did back in 2010. As far as some of the concerns, other states have moved forward with community rating and preexisting condition exclusions without a mandate. So that's something that certainly can be addressed. I think if you do have specified enrollment periods, that would address it. But the problem with going back to square one after the act is repealed, that's what's concerning to me. This would set up a floor to say we're not going to go back all the way back to square one. We're going to keep some of these protections in place because what happens...we had a rolling uninsured rate in this state of about 200,000 people for, roughly, for more than a decade that didn't get addressed year after year after year. If the law is repealed and we don't make any of these changes permanent and we go back to square one, how long do those people have to wait? How long will the people with preexisting conditions or the child that we saw in the Appropriations Committee last week with pediatric cancer, how long are they going to have to wait till they're insurable and there's protections in place. So that's why I wanted to establish this. And I just...while the exchange came up, I want to give my own consumer experience. I am one of the 14,000 that enrolled December 1. I did not apply for any subsidies, my family didn't qualify for any. It took me about...so because of that, it only took about 20, 25 minutes. And I compared that to my experience when I first got elected to the Legislature. I was leaving employment as a legislative aide, I was on the state health insurance and got...went to the individual market at that time. And I had to fill out the typical forms of insurance that you used to have to fill out in the individual market which asked for ten years, and I have the application at home, ten years of medical history which means...at that time, I was 27. I had to look back to my high school days to try to look back at any doctor's appointments or any medical history that I had had. And luckily, it was light. But now, instead of going through that whole process of mapping out ten years of medical history, we have a process where I can apply for insurance and be approved within 20 minutes. So there has been a substantial change. Thank you. [LB860]

SENATOR GLOOR: Other final questions for Senator Nordquist? Thank you, Senator Nordquist. [LB860]

SENATOR NORDQUIST: Thank you. [LB860]

SENATOR GLOOR: (Exhibit 5) And for the record, we have a letter of support from the Nebraska Association of Behavioral Health Organizations. And we'll distribute copies of this to committee members. And that closes the hearing on LB860. We'll now move to LB875. Senator Howard, welcome to the front of the classroom. [LB860]

SENATOR HOWARD: Good afternoon, Chairman Gloor and members of the committee. For the record, I am Senator Sara Howard, H-o-w-a-r-d, and I represent District 9. Today I am pleased to introduce LB875 on behalf of AARP and its members in my district. LB875 is a consumer protection bill to assist individuals who are being charged high premiums for long-term care insurance policies. I want to begin by saying that there are several long-term care insurance companies that provide a quality product to their customers and pay benefits without making unreasonable demands. This bill does not seek to place any additional burden on those companies. Instead, this bill targets companies who have raised their premiums to extraordinary levels over the course of the policy. Under LB875, if an individual has paid into a long-term care policy and the premium increases to the point where it is greater than 6 percent per year over the course of the policy, the insured person is given the option of taking a lump sum distribution from the insurer that is equal to the amount of premiums paid, multiplied by 14 percent. I'm sure that Mr. Intermill from AARP and I may reserve questions of that nature around the percentages for him, will speak more to the specifics of this, but the 6 percent number is based on recent increases in the cost of long-term care services. The 14 percent payback is the same penalty rate as the fee for late payment of property taxes. The essential point of LB875 is this: If the premium increases are extraordinary, the customer can get back what they have paid into the insurance policy plus an additional amount because we recognize that their money is worth less now than when it was paid in. Let me give you an example of the kind of premium increases that we've seen. One AARP member named Jerald purchased a long-term care policy in 2003 at the age of 78. In 2003, Jerald's premium was $1,513 annually. In 2014, his premium will be $4,287. Over the last 11 years, he has paid $30,118, but his income has not increased. Jerald cannot afford a premium that is 283 percent more than it was when he purchased the policy. Because rates have increased past what is allowed in the statute, Jerald would qualify for a paid-up long-term care insurance plan for the $30,000 he has already paid. In essence, Jerald has given the insurance company a no-interest loan for the past 11 years. That $30,000 loan would now pay for about five months of nursing home care. And Jerald is not alone. Some folks have reported to us that long-term care premiums account for the entirety of their monthly income and that they are attempting to live on dwindling savings. Others are forced to choose between paying for their policies or paying for necessities. This is the problem LB875 seeks to address. These policyholders are individuals who planned ahead. In anticipation of long-term care costs late in life, they purchased policies to cover the care they would need and now these Nebraskans are left without the coverage they were counting on. Thank you for your time and attention to LB875. I would be happy to try to answer any questions you may have. [LB875]

SENATOR GLOOR: Are there any questions? Senator Christensen. [LB875]

SENATOR CHRISTENSEN: Thank you, Chairman. And I'm fine if you defer this question. [LB875]

SENATOR HOWARD: I might. [LB875]

SENATOR CHRISTENSEN: Are these increase in benefit plans, then? Because I guess, with actuarial science, I would expect if they could project if it was a...like, my dad's policy is a defined cost or defined benefit that he can get, and so I haven't seen increases like that on his. And I guess I wondered if there was an increase in benefit, unlimited time it could be collected, or what was driving it to change that much. [LB875]

SENATOR HOWARD: That's a good question that I'll leave to Mark Intermill. [LB875]

SENATOR CHRISTENSEN: Okay. [LB875]

SENATOR HOWARD: He can explain the situation a little bit better than I can. [LB875]

SENATOR CHRISTENSEN: That's fine. Thank you. [LB875]

SENATOR GLOOR: Senator Schumacher and then Senator Campbell. [LB875]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you, Senator Howard, for being here today. The...so if their premium went up more than the average of 6 percent a year from whenever the inception was, they'd be entitled to their money back with 14 percent interest? [LB875]

SENATOR HOWARD: We wanted to make sure that the premium...that it didn't feel like they were just giving a loan, a no-interest loan to the insurance company, that there would be a penalty for increasing rates by more than the cost of long-term care had been increasing. [LB875]

SENATOR SCHUMACHER: And is 14 percent the rate of increase in long-term care? [LB875]

SENATOR HOWARD: Six percent is the rate of increase in the cost of long-term care. [LB875]

SENATOR SCHUMACHER: Where can we get 14 percent interest on your money these days? [LB875]

SENATOR HOWARD: Nowhere. The market? I don't know. Nowhere. [LB875]

SENATOR SCHUMACHER: Okay. Thank you, Senator. [LB875]

SENATOR GLOOR: Senator Campbell. [LB875]

SENATOR CAMPBELL: Just in your visiting with the constituent, how long would he have expected to pay for the long-term care policy? [LB875]

SENATOR HOWARD: You know, that's a good question. We actually have some folks here who can speak to that question a little bit better. [LB875]

SENATOR CAMPBELL: Okay. Thank you. I'll ask them. [LB875]

SENATOR HOWARD: Thank you. [LB875]

SENATOR GLOOR: Senator Howard, did you have a discussion with yourself or whomever about, are we beginning to blur the lines between insurance and investment? [LB875]

SENATOR HOWARD: That's a good question. The conversation that I had was with my own grandmother who had a long-term care insurance policy plan who has become almost unaffordable. So a lot of us grandchildren are actually chipping in to help pay for it for her. But that's a really good question and it may be more appropriate for Mr. Intermill as well. [LB875]

SENATOR GLOOR: Well, certainly we've heard of and I think probably have all heard from constituents who are concerned about premium increases. It seems to be dependent upon what company has their insurance with some not put in the position of those sorts of big premium increase and some who may have had problems. But my guess is we'll hear from the department a little bit about this. So thank you. Any other questions? Senator Carlson. [LB875]

SENATOR CARLSON: Thank you, Senator Gloor. Senator Howard, do you know on this particular example what the daily benefit was? [LB875]

SENATOR HOWARD: For Jerald's plan? [LB875]

SENATOR CARLSON: Well, this...yes. [LB875]

SENATOR HOWARD: I don't. I have a letter from Jerald that I can share with you that outlined his premium increases. But I would...yeah, but I don't know offhand what his benefit was. [LB875]

SENATOR CARLSON: Okay. And I don't...that's okay. I don't think you know whether...you used to be able to sell long-term care policies. You could have a two-year benefit or a five-year benefit or a lifetime benefit. [LB875]

SENATOR HOWARD: Uh-huh. [LB875]

SENATOR CARLSON: And you don't know what it may have been on him. Okay. [LB875]

SENATOR HOWARD: No, not offhand. [LB875]

SENATOR CARLSON: All right. Thank you. [LB875]

SENATOR HOWARD: Good question, though. Thank you. [LB875]

SENATOR GLOOR: Seeing no further questions, thank you, Senator Howard. [LB875]

SENATOR HOWARD: Thank you. [LB875]

SENATOR GLOOR: We'll move to other proponents. [LB875]

MARK INTERMILL: (Exhibit 1) Good afternoon, Senator Gloor 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. We're here today to talk about long-term care costs and the financial tools that are available to people to pay for those costs. People turn to those tools because long-term care is expensive. I've documented $170 a day is the average for Nebraska, according to the 2012 MetLife Market Survey of Long-Term Care Costs, where people who don't have long-term care insurance when they enter a nursing home, they begin the process of spending down to Medicaid eligibility. And that is when they spend down to $2,000 in assets. In 2000, which is the last date that I have this information for, the median period of time that it took a person to spend down to

Medicaid eligibility after admission to a nursing home in Nebraska, was 13 months. So Nebraskans are purchasing a long-term care insurance policy to protect their assets; that's the goal. And since we have a larger than usual number of individuals who earn their income from assets, namely in farming and small business, we have a lot of people who are buying long-term care insurance policies. AARP's Public Policy Institute found that there were 83,702 long-term care insurance policies in effect in 2000. That's 101 for every 1,000 Nebraskans over the age of 40, which is the sixth highest penetration rate in the nation. We used to be second, but we seem to have fallen to sixth over the last...from about 2000 to 2010. And I think one of the issues is that that penetration rate isn't consistent with the proportion of nursing home residents who have a portion of their care covered by private insurance. According to CMS in 2010, 7.7 percent of residents were using private insurance to pay for their care; we ranked 24th. Sixth in terms of the number of people who had insurance, 24th in terms of the number of nursing home residents whose care was being paid by insurance. But LB875 is addressing the issue of premiums. We have heard from members that they're struggling with long-term care insurance premiums. We began here this...as we would go across the state and talk to members, so we put an article in our AARP Bulletin that goes to every member in the state and asked for people's experiences with long-term care insurance. And we do that from time to time on different issues and, generally, we get a handful of responses. On this particular one, we had five the first week and have continued to get contacts. We're learning that people don't read their AARP Bulletins for several months after they come out, but this has been probably the single issue that has raised the most concern from our members. And we have several of those...three of those individuals here today. What LB875 would do is, in the event that a long-term care insurance policy increased by an average of 6 percent per year, there would be an option for the consumer to go back and receive back the premiums that they've paid plus a flat amount of 14 percent. So that's not 14 percent per annum, it is whatever that premium amount has been adjusted by 14 percent. We want to, just as a means of trying to provide some protection for those consumers, we feel that this approach...and there may be some adjustments that probably need to be made. But some sort of protection for consumers to be able to have a little bit more confidence in long-term care insurance. We see that, just in terms of the penetration rate, in terms of our loss of ranking in penetration rate, that may indicate that there is not as much confidence in the market here in Nebraska as there could be or there needs to be. So what we're bringing to the committee today is probably more of a problem than a solution. We have a solution that we think we'd like you to consider, but the main thing is, that we need to take a look at this long-term care insurance market. There are a lot of good companies that are offering coverage. I've talked to members who have actually seen premiums decrease as they have gone along, but we have some companies that are just not doing a very good job and not serving the interest of consumers. We need to look at what we can do to protect consumers who have purchased those types of plans and be able to assure them that they can get some value for the dollars that they've paid into those policies. And with that, I would try to answer questions. [LB875]

SENATOR GLOOR: Well, I have a couple of questions and I know other senators do, too. But I think the department has at least one authority to disapprove rate increases and that's to revoke the license of the insurance company to sell in the state, but I would think that would be pretty dramatic in the eyes of those people who paid premiums in and seem to be getting something for their dollars. So we at least know that much. But my guess is we're going to have the department up here and they can address that question more specifically. [LB875]

MARK INTERMILL: There's also the nonforfeiture of benefits provision that allows a person to receive the value of the premiums that they have paid, as Senator Howard mentioned, back in terms of benefits. But as she mentioned, that is...I'm not sure that that is a good value for consumers as there may need to be another intermediate step or an intermediate remedy that we need to take a look at. [LB875]

SENATOR GLOOR: How many...do you know, Mark, how many companies sell long-term care insurance in this state? [LB875]

MARK INTERMILL: No, I don't. [LB875]

SENATOR GLOOR: The discrepancy between the number of people who have policies versus the number of people who are using them in long-term care facilities is interesting. And one could conjecture that the insurers have had a great sales staff who sold an awful lot of policies to people but, in fact, the demand for that level of penetration isn't proving to be that high, at least in this state, and perhaps in South Dakota, too, if South Dakota is faced with the same problem. [LB875]

MARK INTERMILL: Yeah. I think that that discrepancy between utilization of policies and the penetration rate also could have something to do with our high rate of utilization of nursing homes. So that there is the denominator of the utilization calculation is larger in Nebraska than it may be in other states. I would note that the penetration rates tend to be higher in the upper Midwest which is also places where we have high utilization of nursing homes and also have higher proportions of people engaged in small business and agriculture who need to protect assets from long-term care costs. [LB875]

SENATOR GLOOR: We also have a high overall age rate percentage of elderly, I think, which also would figure into the calculation. Senator Christensen, I know you had a question. [LB875]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Mark. If I understand this bill correct, then it would be retroactive back on current bills now to take it back to the 6 percent growth and they got to pay back the balance? [LB875]

MARK INTERMILL: If the average premium increase over the life of the plan... [LB875]

SENATOR CHRISTENSEN: Uh-huh. Right. [LB875]

MARK INTERMILL: ...averaged 6 percent... [LB875]

SENATOR CHRISTENSEN: Correct. [LB875]

MARK INTERMILL: ...that would be the trigger. [LB875]

SENATOR CHRISTENSEN: So can we make this retroactive that way or do new laws and statute have to go forward? [LB875]

MARK INTERMILL: I don't know that I know the answer to that question. That may be something that committee counsel could help us with at some point. [LB875]

SENATOR CHRISTENSEN: Okay. Another question. I assume, because my dad, he'll be 90 here in March, he just went into a home a week or two ago. But...so we're using his long-term care. But once you're in, there's no other alternative to purchase, correct, because you buy a long-term care plan before you use it. Once you start using it, there is no alternative for these people if they're getting these high increases other than to cancel it or to pay it, is that correct? [LB875]

MARK INTERMILL: I think some of the plans offer provisions where, once you enter a facility, you may not have to pay. [LB875]

SENATOR CHRISTENSEN: To pay further. [LB875]

MARK INTERMILL: Yeah, yeah. [LB875]

SENATOR CHRISTENSEN: But you're collecting a defined... [LB875]

MARK INTERMILL: But that's...there's so many variations of plans that are out there. And it's...one of the challenges for consumers is trying to sort through all the different options that are included in plans and trying to determine which ones might...and then trying to apply them to what their situation might be. So it's a very complicated, from the consumers' perspective, process of trying to determine what sort of long-term care plan makes the most sense. [LB875]

SENATOR CHRISTENSEN: I can understand that statement having helped dad shop for his years ago. But I guess I see if a bill like this went into place, whether it can go retroactive back or not, yet all that's going to do is drive every policy to a defined price and a defined benefit. And that...my dad's is that way. We'd been paying a flat fee forever and we know we're going to get X many dollars per day for the time he's in. And it's obvious, since he isn't going in till age 90, he'll never get his money back. But that's okay, it's still helping cover the cost of things at the current time. So I guess I look at the unintended consequences of doing a bill like this is going to define everything. Everyone is going to say, well, you started at this age. Actuarial science tables say we charge this to get this much benefit, and there will be no ability for that to grow. And that is the way my dad's is. We knew what he was going to get per day. It's a lot older policy. And I think there is newer ones that is more flexible now, but wouldn't it take that flexibility out and just drive everybody to have it defined? You're going to pay $100 every month for...from now till whenever and you're going to receive $200 a day when you're in the home. I'm afraid it may backfire on what you're wanting. [LB875]

MARK INTERMILL: I don't believe that it would change the ability of a company to offer different types of more flexible plans. I think what they would need to do...and I think if I go back and try to figure out where some of these things went wrong and some of the people that have seen these enormous increases, it's probably in the actuarial evaluations in the design of the product. There was an assumption, I think, in many cases that X percent of the people who bought the coverage would drop the coverage. And so the product was priced accordingly and it may have been underpriced. [LB875]

SENATOR CHRISTENSEN: Uh-huh. [LB875]

MARK INTERMILL: And when those individuals didn't drop their plans because when you buy a long-term care insurance plan, you make a commitment. [LB875]

SENATOR CHRISTENSEN: Right. [LB875]

MARK INTERMILL: I think that's kind of the approach that many people take. Then the companies got into the situation where they were having more claims than premiums coming in. So I think the problem probably originates back in those actuarial evaluations at the outset. And if we had some sort of a provision as is included in LB875, that let companies know that there could be consequences for making these bad actuarial evaluations, it may lead them to be more careful. [LB875]

SENATOR CHRISTENSEN: And leading them to be more careful is going to...up front...more premiums up front, raise the initial cost. [LB875]

MARK INTERMILL: It may. But at least you wouldn't be in the situation where, at the point in time where you're getting close to needing the product, you get an 80 percent year over year increase. [LB875]

SENATOR CHRISTENSEN: Okay. Thank you. [LB875]

SENATOR GLOOR: Senator Campbell, did you have a question? [LB875]

SENATOR CAMPBELL: Yes, I did. But don't you think part of it has come from some of those tables really didn't think people were going to live as long as they do or need the kind of care that they may need? [LB875]

MARK INTERMILL: That could be part of that actuarial evaluation as well. But just...I also think it's the assessment of how many...what the evaluation was of the number of people who had just bought their coverage who would drop their coverage. [LB875]

SENATOR CAMPBELL: The number of people that would... [LB875]

MARK INTERMILL: Would drop their coverage... [LB875]

SENATOR CAMPBELL: Oh, that would drop the coverage. [LB875]

MARK INTERMILL: ...before they got to the point where they would need it. [LB875]

SENATOR CAMPBELL: Do any of these plans cover care outside of a long-term care facility? [LB875]

MARK INTERMILL: There are plans that do provide that coverage. And, you know, I guess if I were in the long-term care business, I would certainly take a look at that because that is less expensive care. And anytime you can delay admission to a nursing home, you would probably be saving your company money. [LB875]

SENATOR CAMPBELL: It's certainly one of the issues that we have looked at in the Health and Human Services Committee, in terms of do we have the kinds of services throughout the state of Nebraska to allow seniors to stay in their home. And in a lot of cases, no, we don't. [LB875]

MARK INTERMILL: Uh-huh. [LB875]

SENATOR CAMPBELL: And so they're forced into...forced meaning, you know, they need that help and so they have to go to a long-term care facility which does a good job of taking care of them, but at a much more expensive rate. Mark, I asked earlier, do you happen to know what the average number of years that people pay into such a plan? [LB875]

MARK INTERMILL: I don't know that. [LB875]

SENATOR CAMPBELL: Okay. I was just trying to get a gauge of what Senator Christensen was talking about. [LB875]

MARK INTERMILL: We do have several individuals who have had experience. Actually, in meeting with them over lunch, they've all had experience with the same company. And I think, as I've talked to a wide range of members who have coverage from other companies, their experiences have been different than what we have seen with this company. So I'm not sure what the answer to that question is, but several of these folks can tell you how long they've had coverage. [LB875]

SENATOR CAMPBELL: Okay. Thank you. [LB875]

SENATOR CHRISTENSEN: Senator Carlson. [LB875]

SENATOR CARLSON: Thank you, Senator Christensen. It looks to me like that this is an approach on something and it's trying to solve a problem. But Senator Christensen mentioned it, I don't think there's any doubt if this bill became law, that a lot of long-term care policies would be unaffordable from the start because the companies have got to protect themselves. Now in this bill...did you write the bill? [LB875]

MARK INTERMILL: Yeah. [LB875]

SENATOR CARLSON: Okay. There...if you go to page 2 and line 20 and on that last section, there isn't anything in there that talks about the length of time that we're talking about here when premiums have been paid before this feature could be demanded, I guess I'd say, and that's pretty important. If a company is going to try and gear a premium so that they don't get into this situation...they don't want to get there. And the only way they can avoid not getting there would be to set the premium high enough to begin with so that over time they don't think they're going to have those kind of increases. Generally speaking, an insurance company doesn't make claims or doesn't cause conditions that would require long-term care. They simply take care of premiums and they're supposed to charge an adequate amount so that it's fair over a period of time, but there's not a time element in here, and I think that's a problem. [LB875]

MARK INTERMILL: Senator, I would agree. And I would feel comfortable with including a five or a ten year period or something of that nature so that after that point, if the average has been more than 6 percent, I can see the point. If it's one year and the premiums go up 8 percent, that's probably not fair to the company. [LB875]

SENATOR CARLSON: Well, there's another thing. And this isn't to be critical of anybody that's bought a long-term care policy because it's an indication to me that they're trying to plan ahead and take care of themselves rather than depend on the government. At the same time, you know, there's an old saying that in the long run, you get what you pay for. And if you buy a policy that's got a terribly low premium to begin with, although you're probably an individual that doesn't know much about this and not know what to look for, you're in for a bad deal if the premium is too good right off the bat. So the quality of the company is really important to people that need long-term care. Otherwise, unfortunately, I think you end up getting what you pay for. [LB875]

MARK INTERMILL: I would agree. I would also point out that in the circumstance of the company that seems to come up frequently, it was not the company that the individuals bought the policy from, is not the company that currently owns the policy. So there...and that's something a consumer can't anticipate either. So that's... [LB875]

SENATOR CARLSON: Yes. And that's an unfortunate situation where companies try and get into a business and they want low premiums to begin with so they get customers. And then it doesn't work out so they sell that block to somebody else. And whoever they sold it to is smart enough to realize, we can't make this go unless we put these premiums up where they need to be. So it makes it bad for the consumer. [LB875]

MARK INTERMILL: Yes. And as I said, I may be bringing more of you a problem than a solution, but it is a problem. And to close blocks of business have bedeviled long-term care insurance consumers for years. And I think it's probably time that we address that through some sort of public policy. [LB875]

SENATOR CARLSON: Okay. Thank you. [LB875]

SENATOR CHRISTENSEN: Senator Schumacher. [LB875]

SENATOR SCHUMACHER: Thank you, Senator Christensen. Thank you, Mark, for your testimony. To what extent has been the simple fact that the insurance companies have not been able to get the kind of returns on investments of their reserves? I mean, when they were selling these policies ten years ago, the reason they anticipated they could pull down a good, sound 7 percent annual return, kind of like some of our retirement plans project, when in reality, that is just not going to be in an age of deleveraging. [LB875]

MARK INTERMILL: No, and I'm sure that that is part of the...a piece of the puzzle, a piece of the challenge. [LB875]

SENATOR SCHUMACHER: Thank you, Mark. [LB875]

SENATOR CHRISTENSEN: Are there any other questions? Thank you, Mr. Intermill. [LB875]

MARK INTERMILL: Thank you. [LB875]

SENATOR CHRISTENSEN: Any more proponents? [LB875]

JIM JACKSON: Good afternoon. I'm Jim Jackson, J-a-c-k-s-o-n. I'm here as a proponent of this bill due to the fact that I've experienced it. [LB875]

SENATOR CHRISTENSEN: Can you spell your name, please? [LB875]

JIM JACKSON: Jackson, Jim, Jim. [LB875]

SENATOR CHRISTENSEN: Oh, you did? Sorry. [LB875]

JIM JACKSON: Jim J-a-c-k-s-o-n. I'll just start off answering a couple of questions that you had. [LB875]

SENATOR CHRISTENSEN: Can you sit down so the mike picks it up better, please, for the transcribers? [LB875]

JIM JACKSON: Okay. My policy is $150 a day for a lifetime. And to Senator Campbell's question, I've been in it 11...for 2001...actually, 13 years. And I come from a blue-collar family. My parents had no long-term insurance. Therefore, my mom died and Jan's father died (inaudible) family. And it really was not a hindrance at that time, actually a blessing. Those were wonderful years. But times have changed and I'm not looking for a handout now. I'm not looking for anybody to take care of me. I'm not looking for an investment. I'm looking for something I think every American family should have, that's insurance that would take care of the elderly for their lifetime. I went with a company called Mutual Protective Insurance Company/Medico Life Insurance Company, formed in 1930. You'd think a company that length of time would be a company you could have trust in, but as I found early on, it was not. I just wrote down a little chronological summary of how the premiums increased and what we ended up with. Jan and I started in 2001, premium of about $200, $230. In October of 2002, one year later, they increased the premium to...increased Jan's premium by $19 a month and mine by $30-some-odd a month. In 2003, they increased it again $137 for Jan, $215 for me. It's quite obvious that this company was undercapitalized to start with. And I would presume, you're talking about keeping regulatory systems going, you'd think the...I imagine there's a board. I don't know. Some kind of a board that regulates insurance here in Nebraska. [LB875]

SENATOR CHRISTENSEN: Uh-huh. [LB875]

JIM JACKSON: Don't they review these things and don't they think increases that soon and that much should be looked at? Evidently not. In 2004, this company that I signed with was still undercapitalized and they put out a return-of-premium rider which, in essence, said you pay a little extra on this rider, at the end of ten years, we'll return 80 percent of your premium and then you can continue under the starter plan or go back.

Well, that plan lasted exactly one year. It was terminated 2005 and the premium for that rider was returned. In 2005, the Protective Insurance Company reorganized in a mutual insurance holding company and the name change to Medico Insurance was given. The Mutual Protective Insurance Company was dropped. Now we're dealing with Medico Company itself. In April 2006, the policy changed to a qualified tax policy. I don't know...a tax-qualified policy is what it was changed to. And then it said to be eligible for any benefit you must show to be chronically ill. And I think about that time, they had quite a few large claims that they were contesting. In July of 2009, Ability Insurance Company...you might write that name down in big letters because they should certainly be looked at closely, they replaced Medico Company as the insurer. And both the Medico Insurance and the Medico Life Insurance Company ceased marketing long-term care plans. In other words, it was all in the court of Ability Insurance Company. Their premiums continued to increase and in August of 2013, Jan and I cancelled our policies due to a rate increase of 85 percent. In talking to my fellow members here, it looked like 85 percent was the going increase at that time. And then, so I requested...I thought I'm spending good money after bad. Why stay with this company? We'd paid in $19,315 at the time. So in lieu of continuing, I wrote the company a letter saying as of that date, that I was terminating my policy and I would like my $19,315 to be returned; no interest, no nothing. I got nothing from them. I just wanted my money back, I wanted to get out of it, it's a bad company. They wrote me a letter and said, well, this is not possible because the premiums that we're now getting on our policies are not going to cover the amount that we're going to have to give out to you people that are terminating. I thought Madoff, I thought he was in prison, but evidently, his policy is still playing. The same premise as a Ponzi scheme, you're paying premiums with the premiums of new customers to pay the old people. So they said what they would do in lieu of that, they would give me $150 per day while I was in a facility or the amount of the money that I had incurred which was $19,315. So that would come out to about three and a half years, if I went into a facility, I would be covered for. After that, it's all in all, whatever. So I always wanted to be able to take care of Jan and myself, but that appeared not to be so. And I'm really not counting on my kids to take care of me, although Jan and I took care of my dad for 13 years and her mother for 7. They were good years. We were able to do it. I just don't look upon the younger generation now that are going to do that for us older people. So our parents had no insurance. We have no long-term insurance. So I'm not here to ask for a handout. I'd just like somebody to do something to regulate these insurance companies. They go helter-skelter, they raise premiums whenever they want. You have a big storm or something, they double your premiums. If they can't pay, then they raise your premiums. I don't see, if you have an insurance regulatory board or whatever, why don't they look into these companies like Ability and see they're undercapitalized, shouldn't even be in business still. Though I saw in the paper a few...well, I don't know, probably longer than I think it is, that they had hired Shane Osborn, a war hero, to be on their board or whatever position that he's going to take. I don't know if he's still on it. I know he's running for office again so I would think that he wouldn't be. It would be kind of a conflict of interest, but that, to me, was just a PR move. And I don't think we need to hire more politicians to try to oversee some things. It's an injustice to the middle class and the poor. So that's my story. And I would...like I said, I'm not looking for anything. I don't expect to get my $19,000 back. I don't expect to get $150 paid bed for three and a half years. I'd just like for you people to do something about it if you have a way so to do it and the means to do it. I don't know who regulates the insurance boards around here. It's just a question I'd like to know. It's not so much the...somebody said it's an investment. All right. This was certainly...if this was an investment for me, it was a very bad one. I don't think it was an investment. We don't go into long-term insurance for an investment. We go into it to save our kids from having to raise us or take care of us. It's just a simple question. That's what I'd like to know. [LB875]

SENATOR GLOOR: Thank you. Are there questions? Senator Schumacher. [LB875]

SENATOR SCHUMACHER: Just quickly, was that $150 times three and a half years, was that part of the policy or... [LB875]

JIM JACKSON: That came out...well, I had paid in $19,315. And when I terminated the policy they said, we won't give your money back, but we will give you a bed. We will give you $150 for a bed for the total was $19,315, which would equate to three and a half years. [LB875]

SENATOR SCHUMACHER: And do you have that in writing someplace? [LB875]

JIM JACKSON: I do. [LB875]

SENATOR SCHUMACHER: Thank you. [LB875]

SENATOR GLOOR: Other questions? Seeing none, thank you for your testimony and your time. [LB875]

JIM JACKSON: Thank you. [LB875]

SENATOR GLOOR: Other proponents for this bill? Good afternoon. [LB875]

CAROLYN KASSEBAUM: (Exhibit 2) Good afternoon, Senators. Thank you for having us. My name is Carolyn Kassebaum, that's spelled K-a-s-s-e-b-a-u-m. I'm here today at the request of AARP. I'm representing myself. I support the bill. The handouts I have prepared for you have a history of our insurance on long-term care. My husband and I took out identical policies at the same time. So some of the documents that are in that handout are for me, some are for my husband. I didn't want to duplicate everything. But I have the original policy in there which we took out in 2001. We were in our early 60s at the time and we checked around with a few long-term care insurance policies and we finally decided to go with, again, the Mutual Protective Insurance Company. We had a premium raise in 2001 and it was...well, we started out at $68.85 a month. In 2001, it went to $82.45. I'm not going to go through all those numbers with you because you have them in front of you. But we had a raise in 2003, a raise in 2006, and as the gentleman before me testified, this is the same company. And in 2001, we appealed to the state insurance department and got nowhere. We had another raise in '11 and another raise in '12. I, again, appealed to the Nebraska state insurance department and got no satisfaction there. Now in 2013, they came in and wanted an 80 percent raise. The original policy was for a defined benefit of $120 a day, which at that time seemed like a pretty generous amount. That's been 13 years, and we've paid the premium faithfully ever since. Now they wanted $322.54 or we could downgrade our policy from lifetime to five years. Well, as you know, there's a five-year look-back on Medicaid. And so we opted to go with the five-year benefit and that saved us about $200 a month, between the two of us. And that's a little bit scary to only have five years. Now I know the average nursing home stay isn't that long. But my sister is in the nursing home, she's been there for 13 years. Her husband died there about five years ago and, of course, she's on Medicaid. She gets $50 a month to spend on herself. You know, that's the price of maybe a permanent or maybe the next month she can pay her telephone bill or whatever. But anyway, that's beside the point. Her twin sister had insurance with the same company that we had. And finally, three or four years ago with these tremendous increases...she is a widow...dropped out of her insurance. And they supposedly are holding $30,000 for her as the premiums which she had paid in for her to draw out when and if she goes into a home. But at the most at today's prices, that might cover five months in a home or six. We investigated other insurance companies last year and we've talked with friends who have long-term insurance. None of them had this kind of a problem with their long-term insurance companies. And so when my sister informed me that AARP had this little note in their bulletin that you could contact them, we did this. Now this last time that we appealed to the state Department of Insurance, my husband had an Ability...we're talking about Ability Insurance again, they had a rep on the phone. And when he was asked whether all of these increases were across the board, the reply was, all persons in our category in Nebraska. Whether that meant something further than whether other states are more favorable to them, I don't know. But additionally, when we called the consumer protection agency in Nebraska, the representative asked...no...he asked the company name and immediately recognized it, giving the impression that ours was one of many complaints about this company. And we're at a dilemma. We're, of course, retired and on a fixed income and these premiums are exorbitant when you consider that we also have Medicare, Medigap, Medicare D premiums to pay. My Social Security might just as well not be there. And that's about where we're at on this bill. So we wanted to testify and give our story. [LB875]

SENATOR GLOOR: Thank you, Mrs. Kassebaum. And thank you also for the documentation that goes along with this. [LB875]

CAROLYN KASSEBAUM: I'm sorry? [LB875]

SENATOR GLOOR: Thank you also for the documentation that goes along with this. [LB875]

CAROLYN KASSEBAUM: Thank you. Yep. [LB875]

SENATOR GLOOR: Are there other questions? Senator Campbell. [LB875]

SENATOR CAMPBELL: Just to comment, Senator Gloor and I serve on the Health and Human Services Committee. And there is a bill before our committee to raise that monthly from $50 to $75. And we had some really good testimony. [LB875]

CAROLYN KASSEBAUM: Well, that would be wonderful. That would be wonderful. [LB875]

SENATOR CAMPBELL: We had some great testimony and it's been a very long time... [LB875]

CAROLYN KASSEBAUM: Uh-huh. [LB875]

SENATOR CAMPBELL: ...since we've, as a state, looked at the personal allowance. So I would say my colleagues will probably be seeing that bill. [LB875]

CAROLYN KASSEBAUM: I would think so. She will appreciate that, I'm sure. A lot of...I'm power of attorney for her and so a lot of the things that she needs, we buy for her as long as we're able. So thank you for your consideration. [LB875]

SENATOR GLOOR: Thank you for taking the time to visit with us. Other proponents? Good afternoon. [LB875]

LORRAINE SHALD: (Exhibit 3) Lorraine Shald, S-h-a-l-d, and I have a problem, too. I do not want to be a burden to the state. I've been a widow for 28 years. My insurance started out in the same as his and it's gone through all the changes. And it started out at $97 a month until this spring, it was $252, now it's $456. And with the increase in...my house had hail damage and not that that's anything here, but with all the insurances going up because of the youth, it's taking about all of my Social Security check. And I don't have a whole lot of assets to protect, but I don't want to be a burden to my five living children. And I'm going from $252 to $456 or whatever it was, it's just kind of a...I had several different options, but it's just pretty incomprehensible to see that they could raise over $200 a month just...and I just want to make sure that there's something that can keep something from happening like that again next year and the year after that to price you out of the...if you want to stay self-sufficient and not be a burden to your children or your state, I just can't see any sense in them being able to raise the price like they do, so. [LB875]

SENATOR GLOOR: Mrs. Shald, thank you for your testimony. Does...it looks like in what you've given us... [LB875]

LORRAINE SHALD: What? [LB875]

SENATOR GLOOR: ...that you might have gone with the decision to go with the five-year for a lower amount? [LB875]

LORRAINE SHALD: I could have, but I was afraid to because I just...you don't know what's going to happen. You may have a cerebral...I'm going to be 82 and you don't know when you're going to have a stroke or a whatever. My mother died of a stroke. My aunt, a cerebral hemorrhage, and they were...my mom was 62 and my aunt was 74, so. [LB875]

SENATOR GLOOR: Sure. [LB875]

LORRAINE SHALD: I just don't want to be a burden to somebody. And it just...I don't know what...I mean, I don't want to go on Medicaid and all the rest of it. [LB875]

SENATOR GLOOR: Are there other questions? Thank you for taking the time to come down here and testify. [LB875]

LORRAINE SHALD: Thank you. [LB875]

SENATOR GLOOR: Other proponents for this bill? Are there...well, then, if we don't have any further proponents, are there opponents to this bill? [LB875]

GALEN ULLSTROM: Chairman Gloor and members of the Banking, Commerce and Insurance Committee, my name is Galen Ullstrom, that's G-a-l-e-n U-l-l-s-t-r-o-m. I'm senior vice president and a registered lobbyist for Mutual of Omaha Insurance Company appearing today in opposition to LB875. The reason for our company's opposition is that we think this bill would have significant unintended consequences. And that's primarily due to what rates we would have to charge should this bill be implemented. We've...and I think the rates, as I hopefully will explain, might make this product of long-term care in Nebraska unaffordable or potentially unavailable, depending on what companies would stay in the market. We've had some experience in the return-of-premium benefits. We currently offer an optional benefit, return of premium, but unlike this bill, it's paid upon death. It is reduced by any claims paid and it also does not have an interest factor. So it's just return of premium. Our average premium for that benefit is about 50 percent of the regular premium that somebody pays. So it varies by age because older ages pay more for long-term care insurance. As we asked our actuaries to price this benefit, which would not allow you to offset any claims paid against the return of premium, it would also require interest at 14 percent. We read the bill at, potentially, 14 percent per annum. But that came up today, it's 14 percent in total. I don't know how that would work, but we read it as 14 percent per annum. We estimate that, at a minimum, there would be an 80 percent rate increase for lower ages. And if you take someone age 67, we think it would be a 350 percent rate increase of the premium of the base premium that is paid. And to put that into perspective, right now we have, for the first time, sex-distinct rates, so male and female. But a female rate, age 67 for a policy that's $150 a day, a 3 percent common inflation factor, a 90-day elimination, which is pretty consistent of what we would sell, is $4,475 per year that would go to $15,552 per year under our estimates under this bill. So the concern I have, in fact, and when we looked at those type of increases, we don't know that there's a market. And our product people have said we probably would not sell long-term care insurance in Nebraska should this bill pass. This is a bill that's unique to Nebraska. We have not seen this bill anyplace else in the country. It may come from AARP, but it doesn't come from the national AARP. So we don't think that Nebraska citizens should be, effectively, priced out of the marketplace. We think there is a market in Nebraska. We would like to stay in that market, assuming we can. There are...I heard the proponents. There are horror stories. There are companies that have raised rates. There are companies that have not raised rates. And there's a lot of reasons why long-term care has changed over the years. I'll give you a couple examples. We first came out with a long-term care product in 1987. At that time, it was a nursing home product. And it had a trigger that said you had to have prior hospitalization for at least three days before you could access the long-term care benefit. Well, because of regulatory changes, that was no longer deemed appropriate and so you could not require prior hospitalization. And most of the coverages moved to either significant cognitive impairment or activities of daily living. If you could not perform certain activities of daily living, you qualified for benefits. So effectively, the coverage that we priced back in '87 when we didn't have a lot of experience in pricing it, was changed. The benefit, effectively the trigger, had become less onerous to me. In the same way, we provided, at that point in time, that we only covered skilled nursing facilities. Well, since that time, because of state law changes and otherwise and expansions, we cover significantly more than that. We cover extended care facilities, we cover home health care benefit, and those have been changes that have been made by regulatory decisions over the years. So the coverage that we initially priced for is now expanded and a lot of people didn't price for it. Now we have products...our rate history...we have certain products that we've never raised rates on. I took a product out in 1992. It has not had a rate increase. We have other products that we've raised rates between 0 and 45, 50 percent over the period of time. A lot depends on the benefit period. I can tell you that a lifetime benefit period, which is what I understand a lot of the people had that testified, is a product that we have raised rates on because the losses on that product have been significant, but a lot of the changes have been just in increased mortality. People are living longer, and when people live longer, they tend to have certain circumstances that cause them to use a long-term care facility and so the exposure has been greater. But we don't intentionally try to raise rates. It's not good. The companies that have raised rates have certainly not done their marketing side any good by doing that. But it has happened in some cases but it's not intentional. Our concern is, this bill is...would really put Nebraska citizens at a disadvantage in purchasing long-term care in the future if it was enacted the way I...the way we understand it as it is now. So with that, I'd be glad to try to answer any questions that you might have. [LB875]

SENATOR GLOOR: There are some of us who have been given complaints from constituents that have been asking questions for a while leading up to the start of session let alone this hearing. And I begin to ask myself, are we dealing with a few bad players who didn't sharpen the pencils well enough? Are we dealing with a product problem? You mentioned that lifetime benefit. Are we dealing with longevity? Are we dealing with increased costs? I've also heard increased cost of health care, especially long-term care, being part of the problem. You've mentioned all of the above, I think. Is that a fair representation of your testimony? [LB875]

GALEN ULLSTROM: I truly think it is. I think some of the companies that have had rate increases certainly underpriced their products. Their assumptions were not correct in what the costs might be going forward or what the incidents would be. And I also think coverage has expanded. Cost of coverage has expanded. So it is kind of all the above. And I think that's why. I would say 20 years ago, 15 years ago there were probably 100 companies, private companies selling long-term care insurance. I'd say we're under 20 now, probably closer to 15 to lower. A number of the large companies, a number that you've heard of, Metropolitan, John Hancock, Prudential, have either restricted certain products or have gotten out of the market. And it's because of their inability to be able to price it in a way that is consistent and that they think they can do it for the long haul. You know, you've been very aware of the Medicaid issues with long-term care. We don't know in the private sector whether this is a viable product, long term, given the changes. We hope that it is, we hope to be able to provide the benefits that we promised. But would we want to be...have all of our business in long-term care right now? No. The answer to that is, no, because it is a very uncertain product. But again, we're trying to hold rate increases to a minimum and we want to do that. And we don't like the bad press that a lot of people are getting for the rate increases they're putting in. But a lot of it has been things beyond, I think, their pricing actuaries' ability 20 years ago when they priced the products, so. [LB875]

SENATOR GLOOR: Okay. Senator Schumacher. [LB875]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you for your testimony. [LB875]

GALEN ULLSTROM: Sure. [LB875]

SENATOR SCHUMACHER: What role has the limited return on investment on reserves and everything else played in this mess? [LB875]

GALEN ULLSTROM: Senator, that certainly had some role in it. Interest rates and investment returns have made some difference. Usually, when you price a product and the rates are filed...all these rates have to be filed and approved by the departments of insurance in the various states when they're out there. You make various scenarios about that. I think they have the right to, say, if you're anticipating an 8 to 10 percent return, they're going to say that's not realistic. It should be closer to 2, 3, 4, whatever it is. So it does have some, but you usually price for adverse scenarios, too. I mean, we provide an interest rate risk so the fact that we're not making 8, does not mean we automatically have a 10 or 20 percent rate increase. I mean, we price...we try to price for adverse scenarios. Especially, on a product that, again, we started...we came out with it in '87. We hoped to be in the market...that is really a long-term product. So it has had an impact. I don't...I think some companies probably overestimated their return. [LB875]

SENATOR SCHUMACHER: To the extent you described a big decrease in the number of providers out there...well, not providers, but insurance companies... [LB875]

GALEN ULLSTROM: Right. [LB875]

SENATOR SCHUMACHER: ...participating expressed concern about whether or not these products were viable at all. Having dealt with this demographic, having looked over the situation of how the costs have increased, what should we, at a state level, be planning for then, knowing we're having this slew of baby boomers about to hit that age? If the long-term care is not a viable option, how would you anticipate that affects our state budget? [LB875]

GALEN ULLSTROM: Well, as you know who are sitting on the Health Committee, the Medicaid budget is a significant piece. And the seniors' long-term care component of that is the largest piece. We had hoped...and that's why we've tried to encourage the private sector, you know, filling a void and a role for at least a portion of the public. We still think that's viable. We still think the private sector can help the public sector out and not get people so they spend down to Medicaid very...so we still think there is a place for the private sector. What I said is long-term, though, we're not sure as companies get out of the market, depending on what the regulatory framework becomes later down the line, if rate increases that are justified are not approved, for example, which we've seen some states arbitrarily not approve rate increases. If companies leave the marketplace, that is going to limit the private sector ability to kind of protect the Medicaid budget. So we still think there's a market. We still think that's where we ought to be encouraging it. I've testified a number of times in front of the Revenue Committee proposing a tax credit for the purpose of long-term care, trying to incent it because, unfortunately, this product is not a commodity. Most people don't think about it. And especially, younger people don't think about it. They think about other kinds of insurance. Medical insurance, they think about. They don't think about long-term care. And until you're faced with someone, a relative that's been in a facility and you understand the costs of it and you also understand the fact that most people think, well, Medicare must help you pay for it or Medicaid helps you pay for it. Well, the reality is, Medicare doesn't pay for it except a very limited benefit. And Medicaid, you have to spend down to be eligible. So they don't think they need it. And that's why it's a tough...some people prepare for it, some people don't. [LB875]

SENATOR SCHUMACHER: But if the rate increases are approved, then the market may automatically adjust with the drop in the number of participants. [LB875]

GALEN ULLSTROM: And it can, Senator. I... [LB875]

SENATOR SCHUMACHER: And I guess what I'm getting to, in the next couple of weeks we're going to be asked to cut income taxes by hundreds of millions of dollars. And, you know, whether we say yea or nay on that, may very well depend upon an intelligent guesstimate of how we're going to handle this aging situation that we're looking at for the next 20 to 40 years. [LB875]

GALEN ULLSTROM: And I agree with you that the state budget and the Medicaid budget is a major component of that decision. And it has to be. [LB875]

SENATOR SCHUMACHER: I was hoping you'd have an answer for us. [LB875]

GALEN ULLSTROM: But there's no...no, I wish I did, Senator. I certainly wish I did have an answer, but I don't. [LB875]

SENATOR SCHUMACHER: Thank you. [LB875]

SENATOR GLOOR: Senator Campbell. [LB875]

SENATOR CAMPBELL: But I think, you know, speaking from the Health Committee, what we've spent time talking about the last couple of weeks is, Senator Bolz has an Aging Task Force to put together. We're trying to figure out how does long-term managed care fit in with this. [LB875]

GALEN ULLSTROM: Uh-huh. Uh-huh. [LB875]

SENATOR CAMPBELL: How do some of the other components...because really, you know, if you can get the services to keep people at home, if they're able to... [LB875]

GALEN ULLSTROM: No question. [LB875]

SENATOR CAMPBELL: That is, Senator Schumacher, one of the keys to the future... [LB875]

GALEN ULLSTROM: Yep. [LB875]

SENATOR CAMPBELL: ...for an aging state and the baby boomers, if you can keep them in your home. But we're going to have to put some money, probably, into those networks to make sure that care is there and particularly in the rural part of Nebraska because it's more challenging. [LB875]

GALEN ULLSTROM: Uh-huh, it is. And that's why we pay benefits for home health care because it saves us money as opposed to the institutional costs. [LB875]

SENATOR CAMPBELL: Right. [LB875]

GALEN ULLSTROM: So...and I think that most companies, now, do. This is really regulated by model laws passed by the National Association of Insurance Commissioners' laws and regs. And so there aren't many state variations and that's why I would urge the committee not to do anything unique for Nebraska. They are looking at this rate stability question right now and it's on a fast track of trying to see if they can tweak the model to make some changes to more protect consumers. And I'm sure when those changes are adopted, I'm sure the Nebraska department will be back here if it requires statutory changes or regulatory changes to do that. So, appreciate it. [LB875]

SENATOR GLOOR: Thank you. [LB875]

GALEN ULLSTROM: Thank you, Senator. [LB875]

SENATOR GLOOR: Other opponents to this bill? [LB875]

JAN McKENZIE: (Exhibit 4) Senator Gloor, members of the Banking, Commerce and Insurance Committee, for the record, my name is Jan McKenzie, spelled J-a-n M-c-K-e-n-z-i-e. I'm here today testifying on behalf of the Nebraska Insurance Federation member companies in opposition to LB875. I'm also asking that a letter be passed out to you from AHIP, our national trade association, with some additional points. You know, when I've come and spoken before you before, except with the exception of maybe Senator Garrett, from my perspective representing the Nebraska domestic industry, we try as our primary focus, to keep Nebraska's industry well regulated and healthy and competitive for Nebraska consumers, and to be able to keep jobs here in Nebraska and to continue to attract the jobs. And I think you've heard today examples about how there can be various, sometimes not good, experiences depending on a product or a company that a consumer purchases and maybe even, over time, adverse circumstances that happen because of products not being priced correctly and then trying to figure out how in the world you manage to keep it, at least somewhat, together. I think this is a good example of where we want to try to keep as many good, healthy, strong companies here in Nebraska as possible. And as stated by Mr. Ullstrom, the way this bill is drafted would have adverse effects toward our consumers' and citizens' ability to shop the market for good products in the long-term care insurance market. I've been behind Mr. Ullstrom many times in Revenue Committee working to try to get good incentives or some sort of way to get younger people to buy long-term care insurance because it's a little like our argument on LB860 about how you make it work when you have a guaranteed issue, no preexisting conditions, no lifetime limits on a product without young, healthy people in the pool. And part of what I think we've looked for in trying to encourage purchase of long-term care insurance has been to have younger people buying earlier so that it supports the pool toward those seniors who are now getting close to the point of having to utilize. With that, I would just reiterate our opposition to LB875 and answer any questions you might have. [LB875]

SENATOR GLOOR: Are there questions for Ms. McKenzie? Seeing none, thank you for your testimony. [LB875]

JAN McKENZIE: Thank you. [LB875]

SENATOR GLOOR: Other opponents? We'll move to those who wish to speak in a neutral capacity. Hello again, Mr. Director. [LB875]

BRUCE RAMGE: (Exhibit 5) Good afternoon, Senator Gloor 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. I'm here to testify in a neutral capacity on LB875. My staff and I talked with Senator Howard about this bill after it was introduced to provide her with some background on long-term care insurance. In light of the issues surrounding long-term care insurance premium increases and the financial solvency of the companies involved, I agreed to Senator Howard's request to provide the committee with the same background from the perspective of the regulator. Long-term care insurance was first offered in the 1970s under the design of Medicare. It became more popular in the 1980s and was originally based on the nursing home system as it existed at the time with actuaries basing the pricing initially on Medicare supplement pricing and assuming lapse rates would be similar to that of life insurance lapse rates. Because long-term care was a new product, industry did not have claims experience specific to long-term care insurance to consider in pricing at that time. As time went by and consumers utilized their long-term care policies, the lapse rate experience was lower than expected at the time of pricing. This left a larger pool of potential claimants and rates were deficient and the total claims dollars needed will be much higher than originally priced. In addition to having a larger pool of active policies, claims costs per policy are expected to be higher than assumed with original pricing. Claims costs go up because consumers are entering the nursing homes sooner than they might have in the past based on societal changes. For example, children not being able, financially or close by, to assist aging parents. In addition, changes to the care delivery system, which accommodate a person's desire to remain independent for as long as possible, are not contemplated in the policy benefits purchased by consumers initially. Over time, long-term care insurance has been required to increase the amount and types of benefits provided. Insurers are obligated by contract language at the time of issue which generally must be interpreted at the time of claim based on how the care delivery system has evolved. In the past, this has included refining contract language for newer contracts to specify that skilled nursing home care must be required, not just that an insured is being housed in a facility that is similar to a skilled nursing home, such as an assisted living facility. Changes in care delivery, as well as societal changes that affect attitudes for receiving care and the availability of family resources that have historically delayed the need for care, all contribute to an increase in incidence rates and the total cost of care received from the time an insured begins to receive care and the end of the incidence of care. So where are we now with pricing? Every state recognizes that pricing on long-term care policies is an issue. As you know, states work through the National Association of Insurance Commissioners, which is the U.S. standard-setting and regulatory support organization created and governed by the directors and commissioners of insurance for the 50 states, the District of Columbia, and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate the regulatory oversight of the insurance industry. The NAIC has created a specific task force consisting of insurance regulators and actuaries who have sought input from consumer groups, industry, and other interested parties to address the issue of pricing of long-term care insurance products. That work continues to progress and, as one would expect, there are no easy answers. Generally, the NAIC long-term care pricing working group is considering a number of options such as rate stability requirements, more uniform requirements for rate increase justification, revisiting the nonforfeiture requirements which were already revised as part of the 2002 rate stability requirements, and other benefit reduction requirements that allow a consumer to manage premiums at the time of a rate increase, but not have to go as far as nonforfeiture benefits would be. The danger for consumers is to allow a long-term care insurer to become insolvent. It would be extremely difficult for the consumer to replace coverage given underwriting requirements which are dependent on the consumer's current age. Insolvency limits the amount of benefits available to the consumer. It is important to note that there are products that are properly priced that include a return of premium rider. However, companies have already taken those into account when they sold the product and the consumer has made a conscious choice to purchase that particular product. At this time, the department feels an appropriate course of action would be for the department to monitor the progress at the National Association of

Insurance Commissioners, then to evaluate the resulting work for potential follow-up. I'd be happy to answer your questions. [LB875]

SENATOR GLOOR: Well, the first...thank you for your testimony and for being here to help with this. [LB875]

BRUCE RAMGE: You bet. [LB875]

SENATOR GLOOR: My first question is, so how long would we have to wait for the long-term care pricing workforce group...working group? [LB875]

BRUCE RAMGE: You know, they're addressing this in two different perspectives. One perspective for the existing policies that are in force and the other perspective of pricing for new products. I believe that they're moving forward. I would give it another...I mean, to the end of this year. We hope to have a final product. [LB875]

SENATOR GLOOR: For existing or are you saying for both? [LB875]

BRUCE RAMGE: For both, yes. [LB875]

SENATOR GLOOR: Okay. Are you serving on either one of those? [LB875]

BRUCE RAMGE: Yes. We follow that very closely because this, again, is a major issue and a big regulatory concern. [LB875]

SENATOR GLOOR: Mr. Ramge, why don't you, if you would, remind the committee and those listening, what is your authority? What are your options when it comes to these policies and premium increases? [LB875]

BRUCE RAMGE: The...basically, the guidelines we use are actuarial in nature. And the rates need to be adequate to cover the costs. And that's the basic premise for making sure that the insurance companies stay solvent. We also want to make certain that they are not excessive nor unfairly discriminatory. So those are the three basic standards. Now there's a lot more that goes into it because we have to look at the experience that the company submits. In other words, the claims that they've been paid out versus the premiums they're taking in and look at...the actuaries look at the credibility of that. And credibility often means based on the size of the pool of insurance. If you've got a company with just a handful of policies, then they'll have to look at a larger block of policies, maybe nationwide experience, to see if a rate increase is appropriate or warranted. [LB875]

SENATOR GLOOR: I'm formulating another question... [LB875]

BRUCE RAMGE: Okay. [LB875]

SENATOR GLOOR: ...but it doesn't come to me right now. Are there other questions? Yes, Mr. Garrett, Senator Garrett. [LB875]

SENATOR GARRETT: Thank you, Senator Gloor. Bruce, I'm curious and new to the committee and everything. If there appears to be, for lack of a better term, a bad actor where an insurance company that is too aggressive in its pricing... [LB875]

BRUCE RAMGE: Uh-huh. [LB875]

SENATOR GARRETT: ...and then cannot service those policies without huge rate increases, what's the state's ability to "delicense" or somehow... [LB875]

BRUCE RAMGE: There are numerous alternatives that we, as regulators, can take. And, for example, a company can be placed into what's called...excuse me, for the term...well, receivership, liquidation, and rehabilitation. Rehabilitation is probably the initial step. And that's where the department will require the company to submit major decisions, major expenditures to the department for our approval and, also, more frequent financial reporting. [LB875]

SENATOR GARRETT: I mean, it appears obvious to me that all the testimony...a lot of the testimony here this afternoon had to do with one specific company. And, you know, there are great insurance companies that don't have these problems. When we identify one with a problem like that... [LB875]

BRUCE RAMGE: Some of the companies who specialized in this product had this as their sole product and now may not be selling new products, they have this closed block of business, have experienced more pressure than companies who are more well diversified and may be able to weather the bad experience. Not that we would require them to do that because if the products, you know, deserve to have a rate increase actuarially, you know, it wouldn't be denied just because they have other business. We wouldn't expect a cross subsidization. But when it comes to solvency concerns, you know, the product or companies who have just this one type of business, it would be of a more concern. [LB875]

SENATOR GARRETT: Okay, thank you. [LB875]

BRUCE RAMGE: Yeah. [LB875]

SENATOR GLOOR: Senator Garrett's question helped jog and prime my memory. I guess my question fits another category of, does involvement by the Department of Insurance that takes a strong action, that being to place it on one of the three categories that you gave as an example or to deny a rate increase, does that set up an inevitable death spiral? [LB875]

BRUCE RAMGE: It can. Denying a rate increase can, basically, prohibit...or a company from getting back on its feet financially. And for a company, then, to become...result in, you know, insolvent would not be a good situation for the existing policyholders. [LB875]

SENATOR GLOOR: Then they have nothing. [LB875]

BRUCE RAMGE: Exactly. [LB875]

BRUCE RAMGE: I mean, they'd have the guarantee fund, but again, there are just limitations on what it would cover. [LB875]

SENATOR GLOOR: Thank you. Senator Christensen. [LB875]

SENATOR CHRISTENSEN: I guess my question comes, it appears to me that either they used a starter price to draw people in or they didn't anticipate the future or do their actuarial figures right because you take $150 a day and 365 days a year, it's $54,750. If it's $170 a day, it's $62,000. And when we look at the premiums that people shared with us here today that they've paid $19,000 to $30,000 in, then either they're assuming three out of four policies will be dropped or they're starting this out, like I said, with a starter premium to pull people in. How do we make sure we're not getting a starter premium to get people started and we're actually getting this done by sound science because that almost appears to me maybe what's happened. I realize prices have excelled, but we could have major inflation come yet which would blow this out. [LB875]

BRUCE RAMGE: Right. And that's something that on the front end we would really try to catch. We wouldn't want companies to come in and intentionally lowball their premiums in order to make sales. We would make certain that there is actuarial justification filed with it and that their assumptions are reasonable. But, again, just going back, as...since this product was relatively new in the scheme of things, the mistakes were made, I mean, in terms of the expectations. Again, Senator Schumacher mentioned investment income. That certainly has played a factor over the years. [LB875]

SENATOR CHRISTENSEN: Because you know, I look at it, we all know that if you're talking life insurance and term, generally people don't collect on them contracts because the premium goes up so fast every year, sooner or later they drop it when... [LB875]

BRUCE RAMGE: Uh-huh. [LB875]

SENATOR CHRISTENSEN: ...either they have met their obligation of paying off their home, their business, whatever it is. And people that want to stay in are in the whole life or other products like this. So that's just part of my question is, I know you agreed there's been mistakes made. But is that what happened, they thought this was more like term insurance and three out of four would drop out? [LB875]

BRUCE RAMGE: I think that contributed to the problem. You've hit the...one of the problems square on, yes. [LB875]

SENATOR CHRISTENSEN: Because I guess that's the only way I can...you know, I sit over here playing on my calculating going, there's just no way with the premiums they were started, that they didn't plan on a huge exiting... [LB875]

BRUCE RAMGE: Yes. [LB875]

SENATOR CHRISTENSEN: ...like term life. [LB875]

BRUCE RAMGE: Yeah. [LB875]

SENATOR CHRISTENSEN: And that's where I come with that example, so thank you. [LB875]

BRUCE RAMGE: You bet. [LB875]

SENATOR GLOOR: Senator Campbell. [LB875]

SENATOR CAMPBELL: Thank you, Senator Gloor. Director, how many...just off the top of your head, how many companies are we regulating at this point in this field? I mean, Mr. Ullstrom testified that, you know, we've just seen such a decline. But do you happen to know? [LB875]

BRUCE RAMGE: Yeah. We still regulate, you know, the existing ones. Even though there are maybe only about 20 in the market selling, there are still 100-or-so-plus who have sold it over the years and still have the policies in place. [LB875]

SENATOR CAMPBELL: Okay. So they're finishing out the policies that they had. [LB875]

BRUCE RAMGE: Yes. [LB875]

SENATOR CAMPBELL: But they weren't adding any more... [LB875]

BRUCE RAMGE: Yes. [LB875]

SENATOR CAMPBELL: ...because they diversified, they were into other things? [LB875]

BRUCE RAMGE: Correct. And some of them have been...have cut back. For example, there are probably fewer companies now or very few that will offer lifetime benefits. [LB875]

SENATOR CAMPBELL: Uh-huh. [LB875]

BRUCE RAMGE: It's more standard to see like a five-year benefit term. [LB875]

SENATOR CAMPBELL: A five-year benefit... [LB875]

BRUCE RAMGE: Yes. [LB875]

SENATOR CAMPBELL: ...and you pay that defined cost? [LB875]

BRUCE RAMGE: Yes. [LB875]

SENATOR CAMPBELL: Is that the deal? [LB875]

BRUCE RAMGE: Yes. [LB875]

SENATOR CAMPBELL: Okay. Thank you, Director. [LB875]

SENATOR GLOOR: Senator Schumacher. [LB875]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you, Director Ramge. [LB875]

BRUCE RAMGE: Uh-huh. [LB875]

SENATOR SCHUMACHER: Just a couple of quick questions. About what percentage of the population, say over 60 years old, has these kind of policies? [LB875]

BRUCE RAMGE: You know, that...I don't have that statistic, but would be able to try to do some research and get back to you, if you'd like. [LB875]

SENATOR SCHUMACHER: That would be kind of interesting to see what... [LB875]

BRUCE RAMGE: It would be. [LB875]

SENATOR SCHUMACHER: And then the other thing, of the people that have the insurance, how many are in a situation that, but for the insurance, they'd be destitute... [LB875]

BRUCE RAMGE: Uh-huh. [LB875]

SENATOR SCHUMACHER: ...or as opposed to, but for the insurance, they've still got a farm, a pile of CDs, some stocks... [LB875]

BRUCE RAMGE: Uh-huh. [LB875]

SENATOR SCHUMACHER: ...other pension and 401(k) income. How many are well enough off and what we have here is really a state insurance? [LB875]

BRUCE RAMGE: Yeah. And that, again, is a very good question. I don't think we would have a way to measure that. But it certainly is a tool that people use to preserve their assets, especially people who want to have something to pass on to the next generation or...but then, also, these policies have generally been attractive to certain income ranges because if you're too, you know, wealthy, you probably would have the means to pay. If you're not wealthy enough, then you can't afford the premium. So it's kind of a narrow range that this is an attractive policy to. [LB875]

SENATOR SCHUMACHER: Thank you. [LB875]

BRUCE RAMGE: You bet. [LB875]

SENATOR GLOOR: Other questions? Seeing none, thank you for taking the time. [LB875]

BRUCE RAMGE: Thank you, Senator. [LB875]

SENATOR GLOOR: Other folks who would like to testify in a neutral capacity? Seeing none, Senator Howard, you're recognized to close. [LB875]

SENATOR HOWARD: (Exhibit 6) Thank you, Chairman Gloor and members of the committee. As you can see, this is a bigger issue than just what my grandma and I talked about over Sunday dinner. I did bring the letter from Jerald, who I mentioned in my opening. So you can all have copies of that, but I just want to thank you for your consideration and for hearing the stories of folks who are struggling with this issue. I also really want to thank the Jacksons, Mrs. Kassebaum, and Mrs. Shald for sharing their stories with you. I would be happy to try and answer any questions but I think it's clear that this is a much larger conversation than any of us anticipated. And I appreciate your time. [LB875]

SENATOR GLOOR: Any final questions for Senator Howard? Seeing none, thank you, Senator Howard. [LB875]

SENATOR HOWARD: Thank you. [LB875]

SENATOR GLOOR: And that will close the hearing on LB875. We would ask people to move, if they would, to the exits and outside. We have to continue meeting as a body and would like... [LB875]