[LB342 LB456 LB531 LB632]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, February 9, 2015, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB342 LB456, LB531, and LB632. Senators present: Jim Scheer, Chairperson; Matt Williams, Vice Chairperson; Kathy Campbell; Joni Craighead; Mike Gloor; Sara Howard; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR SCHEER: Welcome, and it's a little past the appointed time, so we will start the committee hearing. My name is Jim Scheer, I'm from Norfolk and I represent the 19th District and I serve as the Chair of the Banking, Commerce, and Insurance Committee this year. The committee will take up the bills somewhat in the order as presented. Senator Howard is running a bit late and so, consequently, we will move to the next bill which is Senator Gloor's bill, (LB)456. And if Senator Howard comes in during that point in time, we will do hers next, otherwise we will follow the schedule, other than Senator Howard's bill and we'll put hers in whenever she gets here. The committee members might be coming and going during the committee hearing. We have to introduce bills in other committees and sometimes we're called away. It's not an indication that we are not interested in the bill being heard at the time, it's just part of our process that we have to do. To better facilitates today's meeting, I would ask that you abide by a few procedures. Please turn either your phone off or on silent so that we aren't interrupted by rings. The order...if you are testifying, please move towards the front of the room so that we know how many people might be testifying or how many we have left. The order of the testimony will be the introducer, proponents, opponents, neutral, and closing. Testifiers will need to sign in utilizing this pink sheet and please fill it out. And we will now move with...back to our agenda schedule which will be Senator Howard. It's good to see you. Thank you for joining us. Please fill it out and turn it in to the clerk, which is Jan on my far left, your far right. And when you start your testimony, if the first thing you could do is please give us your name and spell both your first and last name for the transcribers so that at least it's correct in the record. If you choose not to testify, but want to go on record in either support or opposition to a bill, there are these white sheets on the tables in the back and you can sign your name and show your opposition or your support of whatever bill it is that you're here to listen to. I would ask that you be concise. We will be using lights today. The green light will go on when you start; you'll have five minutes for your testimony. The yellow light will come on when you have one minute left. The red light will turn on when your time is up. And if you don't end up stopping in the fairly quick amount of time, I might urge you to do so. If you...written materials, if you have something that you're going to be passing out or want passed out we will need ten copies. Jake over here, the page, will be glad to do that. I would suggest that you give those to him to make copies before your testimony so that we would have them by the time you testify. To my right is Bill Marienau who is the committee counsel. And, as I've introduced before, Jan Foster, is the committee clerk,

your far right. And I'll let the committee introduce themselves and we will start with Senator Howard and then I'll go over to this side.

SENATOR HOWARD: I'm Senator Sara Howard; I represent District 9 in midtown Omaha.

SENATOR SCHUMACHER: I'm Senator Paul Schumacher, representing District 22, which is Platte, parts of Colfax, and Stanton County.

SENATOR LINDSTROM: Brett Lindstrom, District 18, northwest Omaha.

SENATOR WILLIAMS: Matt Williams, District 36, Gothenburg.

SENATOR CRAIGHEAD: Joni Craighead, District 6, Omaha.

SENATOR CAMPBELL: Kathy Campbell, District 25, Lincoln.

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

SENATOR SCHEER: And our page, again, is Jake Kawamoto from Omaha. Correct?

JAKE KAWAMOTO: Yeah.

SENATOR SCHEER: Okay. All right, so we are back on schedule. We are going in order. So, Senator Howard, it is yours.

SENATOR HOWARD: Thank you, Chairman Scheer. And my apologies, I was chatting with the Governor and I was distracted, which won't happen again. Okay. (Laughter) Good afternoon. Okay, he's very nice. For the record, I am Senator Sara Howard, H-o-w-a-r-d, and I represent District 9. LB342 was introduced on behalf of the Nebraska Pharmacists Association to recognize the cognitive services and clinical role that pharmacists play as members of the entire health care team. LB342 does not expand the scope of practice for pharmacists and it does not mandate additional benefits for insurance policies or plans. LB342 recognizes pharmacists as providers of health care services for benefits already included in insurance plans and policies which pharmacists are allowed per their license to provide. LB342 also allows insurers to contract with pharmacists for these clinical services and specifically states that the clinical services are not part of the prescription filing and dispensing process which occurs in pharmacies. That distinction is made because clinical services and dispensing are not the same. Clinical pharmacy is a health science discipline in which pharmacists provide patient care that optimizes medication therapy and promotes health, wellness, and disease prevention. The shortage of primary care providers is something the Nebraska Legislature has discussed frequently these past few years. And what you may not know

is that there is not a shortage of pharmacists. As a public health policy, it makes sense to pay physicians, nurse practitioners, and physician assistants for...to care for acute medical needs such as fixing broken bones, surgery, and emergency traumas, but it also makes sense to allow insurance companies the opportunity to pay pharmacists, the medication experts, and allow them to spend time conducting patient education. Many things, such as medication adherence, management of chronic diseases through medication, providing medication reconciliation and care transition from the hospital to the long-term care facility or home setting, and even at dismissal from the hospital are examples of counseling a pharmacist might provide. Nebraska Medicaid and Medicare currently credential and recognize pharmacists for tobacco cessation counseling and recently added immunizations to the list of services that pharmacists can provide and be paid for in Nebraska. The clinical services that pharmacists provide to their patients not only improve health outcomes, but are cost savings for employers, insurers, and the health care system. And just for a little bit of background, I actually asked the pharmacy association if they were interested in doing something like this. My...the federally qualified health center that I work at piloted a clinical pharmacy program. So we took .2 FTE of a clinical pharmacist and had her focus in on two very specific populations: a small population of hypertensive patients, and a small population of geriatric patients. And what she focused on was med reconciliation for geriatric patients around the Beers list medications, which are medications that are often prescribed to elderly patients, but maybe don't have positive health effects anymore or best practices no longer show them as being effective. In terms of hypertensives, we had the clinical pharmacist work with a provider and she was able to provide free blood pressure checks and nutrition counseling to this specific population of hypertensive patients and allowed to titrate their medication in concert with the physician so that their medication would actually work with them. She tried to address barriers like transportation or...I noticed you're picking up your Oxycontin instead of your Lipitor. And what we found was that the clinical pharmacist had a true impact on the health care outcomes for those patients. And so allowing insurance companies the opportunity to contract with pharmacists in order to do this type of work could see some health benefits for a larger population. While many of our patients are not insured by private insurers, the number of individuals my clinic expects to see with insurance we expect will increase because of the Affordable Care Act. As more of our patients become insured, more accountable care organizations come into existence, medical home models are implemented, and managed care plans take shape, and the number of primary care providers decrease and the shortage continues. Pharmacists are uniquely qualified to provide chronic disease management, medication therapy management, and other health care services within their scope and training to allow primary care providers more time with acute patients. Thank you for your time and attention to LB342 and I would be happy to try to answer any questions you may have. [LB342]

SENATOR SCHEER: Thank you, Senator Howard. Senator Craighead. [LB342]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Senator Howard, I'm just curious, do other...do insurance providers contract with other allied health professionals at this point in time such as physical therapists, occupational therapists, medical technologists, all of those other allied health professions? In other words, are pharmacists the only ones who do not have the ability to contract with insurers at this point? [LB342]

SENATOR HOWARD: I will check on the answer to that and answer it in my closing. [LB342]

SENATOR CRAIGHEAD: Okay. Thank you. [LB342]

SENATOR HOWARD: Thank you for the question. [LB342]

SENATOR SCHEER: Other questions? Senator Schumacher. [LB342]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you for introducing this bill. Again, one little question, the operative sentence is--an insurer may contract with a licensed pharmacist for pharmacist professional services. What would they...what would the substance of such a contract be? What they say? What would they be contracting to do? Who would be the client? Who could sue if they screwed up? [LB342]

SENATOR HOWARD: Certainly. Often you'll find clinical pharmacists are housed within hospitals or long-term care settings. And so they would be paid directly by their hospital or pharmacy that they work for, but their services would be billable, similar to the way that it's often set up in a clinical setting with a provider. So a provider provides the service and it's billed by the clinic to the insurance company. And if there's a mishap, then the client is able to sue the clinic directly. [LB342]

SENATOR SCHUMACHER: So are these services not being provided now by the pharmacist? [LB342]

SENATOR HOWARD: So, it really depends on the pharmacy or the type of clinic that they work in. Often it's cost prohibitive to have a pharmacist on site to do this type of work. And so it's something that is piloted and shown as a best practice; but because it's not a billable at this point in time, it's very hard to afford for most clinics. [LB342]

SENATOR SCHUMACHER: So this is a way for some pharmacists who are doing it for free now to bill for it. [LB342]

SENATOR HOWARD: Exactly. [LB342]

SENATOR SCHUMACHER: And that has what effect on insurance costs? [LB342]

SENATOR HOWARD: You know, Blue Cross and Blue Shield, I believe, is coming in in support right behind me and they actually helped draft the bill. You will remember I brought it last year and there were fireworks and upset feelings, and so Blue Cross and Blue Shield was kind enough to work with me over the summer on language that worked for them within their insurance statutes. [LB342]

SENATOR SCHUMACHER: Thank you. [LB342]

SENATOR HOWARD: Thank you, Senator Schumacher. [LB342]

SENATOR SCHEER: One final one, Senator Howard. If I understand this correctly, for example, if I got my flu shot at ABC Pharmacy, ABC Pharmacy can bill Medicaid or the insurance provider, but if my next door neighbor was the pharmacist and I happened to be in her office and she provided that to me on sort of a personal basis, not part of the pharmacy, she individually can't bill for those services...would that be...is that a fair...? [LB342]

SENATOR HOWARD: You know, that's a good question. She would have to have a billing number and an agreement with an insurance company in order to be able to bill, and specifically your insurance company in order to bill for that service for you. [LB342]

SENATOR SCHEER: But it's normally the pharmacy that is the...is the payee, not the pharmacist, is that a correct statement? [LB342]

SENATOR HOWARD: Normally, um-hum. [LB342]

SENATOR SCHEER: Okay. Question? Senator Craighead. [LB342]

SENATOR CRAIGHEAD: Thank you. Can pharmacists practice independently? [LB342]

SENATOR HOWARD: You know, I believe so, but I'd have to check. [LB342]

SENATOR CRAIGHEAD: Yeah, I know like medical technologists have to work under the auspices of a pathologist...like a AACP pathologist and there are different ones. I just didn't know if pharmacists had the ability to... [LB342]

SENATOR HOWARD: Sort of put up a shingle. [LB342]

SENATOR CRAIGHEAD: Right, to practice independently or if they were under the auspices of, you know... [LB342]

SENATOR HOWARD: Sort of a larger limited liability corporation or something like that. [LB342]

SENATOR CRAIGHEAD: Right. Right. I don't know. [LB342]

SENATOR HOWARD: I can check on that and circle back. [LB342]

SENATOR CRAIGHEAD: Thanks. [LB342]

SENATOR HOWARD: Thank you. [LB342]

SENATOR CRAIGHEAD: That's it. [LB342]

SENATOR SCHEER: I think that's it. Are you... [LB342]

SENATOR HOWARD: Thank you, Senator Scheer. [LB342]

SENATOR SCHEER: Obviously, you're sticking around or do you have someplace else to go? [LB342]

SENATOR HOWARD: I promise not to go anywhere. [LB342]

SENATOR SCHEER: Okay, now open to proponents. [LB342]

JEROME WOHLEB: (Exhibits 1 and 2.) Good afternoon, Senator Scheer and co-senators. My name is Jerome Wohleb, J-e-r-o-m-e W-o-h-l-e-b, and I am the pharmacy director at Bryan Medical Center here in town. And my responsibilities are quite inclusive of a variety of services and so some of the question I felt I'm compelled to answer. I'm here in support of this bill. The support is representing the Nebraska Pharmacy Association and myself as a Chair for the Nebraska hospital and health system section of NPA. The value of this bill is really to perform a change in how we are seen from a provider status perspective so that reimbursement is an option. Right now we are one of the only allied professionals or professionals that do not, necessarily, bill directly for clinical cognitive services. And I think that was a question, maybe, Senator Schumacher had asked. The value of this is not only on a local level in the state of Nebraska, it's also a value at nationally. And so, there are two major bills that are being presented this year at the Senate and also in the House to address the same topic. So this is not unique for Nebraska is the point. And we are looking to try to support some of the physician practices, nurse practitioners, physician assistants so they can provide additional time to see more patients and provide those necessary skills that they are excellent at. The pharmacist is also excellent at medication management or sometimes referred to as MTM. Sometimes it's referred to also as collaborative practice. Those are both two examples of cognitive situations that currently are being performed by most clinical pharmacists. There are CMS-providing grants right now on a federal level or on a local level of which we are supporting one of those grants, or trying to participate in

one of those grants. And on a national level, those grants are well received. So I guess what I'm trying to set the stage for is dispensing of medication that you typically see in a retail setting is quite a bit different than providing ideal care of medication management, which is what we're talking about...or what I'm presenting. So one of the questions that I believe, maybe, Senator Schumacher had asked is what is the role and what is the difference relative to a clinical pharmacists versus a dispensing pharmacist? If I'm a dispensing pharmacist, I'm not, necessarily, incentivized to dispense less medicines unless there is a risk or a safety concern for patients. As a clinical pharmacist, I am incentivized to maximize or optimize their care. So as an example, I see generic patients...or generic medications used, which is fine; but I see geriatric populations where they may receive 12 medications at the same time. That creates side effects, that creates risks for the patient that is unnecessary. So we did the study at the hospital that is something that was recognized by the Nebraska Hospital Association as a quest for excellence award which is a performance improvement initiative identifying the value of medication reconciliation of those medications. That would be an example of something that today in greater Nebraska there is no payment for that. So we're looking to see if we could provide those opportunities and expand that functionality. You may ask--what about other supporters? The Surgeon General has come up with a nice report that has indicated their contribution and support for a clinical pharmacist. The CDC has established a collaborative practice agreement; and MTM, transition of care, are recognizing pharmacists as a provider. But today, the Social Security Act prevents pharmacists from being recognized as a provider for reimbursement. So that's an example of why we want to continue this. I mentioned already, on the federal level there are two Senate and House bills going in place for approval this year. The public health services have supported it. And on top of that, there has been some Federal Register in December of this last year, 2014, has indicated that pharmacists do have a role in providing ideal medication management and should be recognized as a provider, and in that case, supporting this initiative. But again, it has to go through the Social Security Act for that to be recognized as a payment. So with that I wanted to thank you for your time and your support of listening to our request to provide better patient care to the members, your constituents, of Nebraska. Any questions? [LB342]

SENATOR SCHEER: Thank you. Senator Craighead. [LB342]

SENATOR CRAIGHEAD: Dr. Wohleb, thanks so much for being here today. I don't...I hope I didn't hear this correctly, the difference between a dispensing pharmacist and a clinical pharmacist is the quality of care based on the cost. Did I hear that right? [LB342]

JEROME WOHLEB: So let me explain, thank you for asking, Senator Craighead. The goal really is to maximize the full picture relative to the patient's care. The retail pharmacist does an ideal job of managing patient safety. And so I don't want to underscore that component. In a lot of setting though in the clinic settings that Dr. Howard referred to is we have access to laboratory information, we have access to

diagnosis, a lot of information that is very valuable that a retail pharmacist won't necessarily have. So I think in conjunction, the goal is really to work together. And that's kind of what I'm trying to describe. Thank you for asking that. [LB342]

SENATOR CRAIGHEAD: Okay. And then one more question on that, and I asked this before, do insurance providers contract with other allied health professionals and are pharmacists the only ones who are not being allowed to be contracted with? [LB342]

JEROME WOHLEB: Senator Craighead, to my understand, that is correct. We're trying to... [LB342]

SENATOR CRAIGHEAD: So, MTs, PTs, MT, everybody can be an independent contractor, but not pharmacists, is that correct? [LB342]

JEROME WOHLEB: As it states today, that's my understanding. [LB342]

SENATOR CRAIGHEAD: Okay, thank you. [LB342]

SENATOR SCHEER: Senator Gloor. [LB342]

SENATOR GLOOR: Thank you, Chairman Scheer. And thank you, Mr. Wohleb. Is it Doctor Wohleb? Are you a Pharm.D.? [LB342]

JEROME WOHLEB: I am. Thank you. [LB342]

SENATOR GLOOR: Okay. This bill though doesn't speak specifically to somebody being a Pharm.D. as opposed to a benched pharmacist without their doctorate does it? I mean... [LB342]

JEROME WOHLEB: It does not. [LB342]

SENATOR GLOOR: Okay. As long as you're licensed as a pharmacist in the state of Nebraska takes effect. [LB342]

JEROME WOHLEB: That's my understanding, yes. [LB342]

SENATOR GLOOR: Okay. Thank you. [LB342]

SENATOR SCHEER: Any other questions? Seeing none, thank you very much. [LB342]

JEROME WOHLEB: Thank you. [LB342]

SENATOR SCHEER: Other proponents. Welcome. [LB342]

ERIC DUNNING: Good afternoon, Chairman Scheer and members of the Banking, Commerce, and Insurance Committee. My name is Eric Dunning; for the record that's spelled E-r-i-c D-u-n-n-i-n-g. I'm a registered lobbyist and director of government affairs for Blue Cross and Blue Shield of Nebraska, here today to testify in support of LB342. LB342 would provide specific authority in the statutes to allow us, as insurers, to contract directly with pharmacists to provide services that are within the scope of their legal authority, meaning the pharmacist could contract directly with us to provide services that are within the scope of practice such as chronic disease management, bill the insurer, and receive payment. Under the bill, insurers would not be required to contract the pharmacist. The pharmacist would not be required to contract with insurers. While we do not believe that insurers need specific authority to enter such contracts, this provision of law would provide a clear procedure for pharmacists who believe they have a service that we would want to provide to our members to bring that proposal to the insurer. We understand that pharmacists do more than provide a pharmaceutical and dispense the pharmaceutical and that there's a range of services that they can provide that are a benefit to our members. And we're on the lookout for those opportunities. While we opposed last year's approach with its required contracting and mandated benefits, we agree that pharmacists are great partners and have a great potential to provide services to our members in a cost effective and convenient way. We think this bill encourages those efforts and we really appreciated working with Senator Howard to approach the bill in a different way and we're asking that you advance the bill. [LB342]

SENATOR SCHEER: Thank you, Mr. Dunning. Questions? I guess you answered them all. Thank you. [LB342]

ERIC DUNNING: Thank you. [LB342]

SENATOR SCHEER: Other proponents. Welcome. [LB342]

ANN FROHMAN: Hi, Mr. Chairman, members of the committee. My name is Ann Frohman. For the record that's spelled A-n-n F-r-o-h-m-a-n. I'm a registered lobbyist and attorney here on behalf of the Nebraska Medical Association. The Medical Association has approximately 2,400 member physicians serving Nebraska residents and their health care needs. Today, I'm here to testify in support of this bill, in particular because as Senator Howard had noted in her opening, we believe that this is an innovative approach that the insurance industry and the other health care providers out there need to be looking at innovative ways to provide services. And to the extent that this bill does not, you know, address any scope issues or expansion of scope of practice, we see no reason not to support it and move it forward. Any questions? [LB342]

SENATOR SCHEER: Thank you. Senator Schumacher. [LB342]

SENATOR SCHUMACHER: Thank you, Senator Scheer. And thank you for your testimony today. What do you see is one of these contracts saying? What obligations does a pharmacist take on? And I assume the insurance company just takes on an obligation for payment for those services, but what...it says--it may contract...what do you see the contract saying? [LB342]

ANN FROHMAN: You know, very good question. I think it's more of an opportunity to be flexible and innovative. I don't know if it's necessarily changes anything with respect to networking, because that already exists today. So, perhaps, it's actually within the services that are within their scope. And I do believe that there are probably some pharmacists that want to get paid from some services breaking out that they aren't currently getting compensation for, perhaps. So it allows for, at least, some discussion on those points and opens that up a little more. [LB342]

SENATOR SCHUMACHER: To the extent we start paying for some things that we aren't paying for now to the pharmacist that the pharmacists are delivering without charge, where are the savings, the counterbalancing savings? [LB342]

ANN FROHMAN: It's a negotiated item. That's why you have the insurance company on the other side and they can discuss these items and as they come forward into the future, I'm not saying that is where it is today with stuff they're providing today, but anticipating that as service deliveries change and we're moving forward and it's becoming...it's flexible in terms of what they may be doing in the future that they will have the tools to have those discussions and make sure that there is compensation. So I'm not looking at an historical context, but more of a forward-looking opportunity. [LB342]

SENATOR SCHUMACHER: I guess if pharmacists are doing it for free now, that's not...there's not much better price than that. So if we start paying or having insurance companies pay the pharmacist for doing that, is there somebody...is there any savings in that equation? [LB342]

ANN FROHMAN: Yeah. And your point is well taken. What I've been trying to say, and I may have misstated this, it's more of a...not looking at current services, but future services. [LB342]

SENATOR SCHUMACHER: Thank you. [LB342]

ANN FROHMAN: I couldn't speak to the current. [LB342]

SENATOR SCHUMACHER: Thank you. [LB342]

SENATOR SCHEER: Senator Gloor. [LB342]

SENATOR GLOOR: Thank you, Mr. Chairman. Thank you, Ms. Frohman. I'll give you sort of an example of how I've been thinking about it that gets to Senator Schumacher's question and that is, I could see an insurer...maybe more so for a group of self-insureds contracting with a pharmacist to go in and put together a formulary that relates to generics as well as nongeneric medications and overseeing and educating groups of patients or physicians about that on behalf of the insurer, or insured, being in this case an employer under self insurance. But I could see it with a traditional insurance plan also under that. You may have two pharmacists who all they do is run around from clinic to clinic talking about the formulary for that group and trying to educate and move towards lower-cost medications that, hopefully, accomplish the same thing. Is that an example of something that you could... [LB342]

ANN FROHMAN: Yes. More education as we're trying to focus more on preventative in the self-funded arena. That's a perfect example of something that in the historical context we haven't necessarily seen, but in the future we can expect there's going to be more dynamic intervention to try to make sure that we're efficient and how we're using pharmaceuticals. [LB342]

SENATOR GLOOR: And with chronic disease, perhaps the focus on certain types of hypertensive drugs that work better for certain patients and the other in the clinical pharmacist, in this case, or the pharmacist, in this case, may be working just the meds as it relates to that particular disease process. That another reasonable example to think about? Okay. Thank you. [LB342]

SENATOR SCHEER: You were shaking your head yes as if they will be able to pick that up on the microphone, so...(laughter), Senator Craighead. [LB342]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Hi, Ms. Frohman, thank you for being here today. So it sounds to me like...and I'm trying to piece all this together, we're trying to either close a loophole, close a gap, or trying to do something with this legislation, and you know, obviously, there are things that are not being done. I don't quite understand what has not been done that needs to be done. Am I making myself clear? [LB342]

ANN FROHMAN: Yes. [LB342]

SENATOR CRAIGHEAD: Can you connect the dots for me here? [LB342]

ANN FROHMAN: I'm not the expert in the history of how we arrived at this in terms of the pharmacists having their negotiating challenges, but, again, I see it more as an innovative...that we're opening up for the future, less than solving a problem in the past.

[LB342]

SENATOR CRAIGHEAD: Do you think that there needs to be a difference, you know, as far as (inaudible) care versus a bachelors degree pharmacist versus masters versus a Pharm.D.? Should there be...should there be a differentiation in payment or being able to provide care as an independent provider and practitioner? In other words, should a bachelors degree pharmacist have the same ability to, for lack of a better word, prescribe as a Pharm.D. does? [LB342]

ANN FROHMAN: I think that's a great question. I do not think I'm the individual with the expertise to answer that. [LB342]

SENATOR CRAIGHEAD: Okay. Thank you. [LB342]

SENATOR SCHEER: Any other questions? Seeing none, thank you very much. [LB342]

ANN FROHMAN: Thank you. [LB342]

SENATOR SCHEER: Next proponent. [LB342]

JONI COVER: Good afternoon, Senator Scheer, members of the committee. For the record, my name is Joni Cover, J-o-n-i- C-o-v-e-r, and I'm the executive vice president of the Nebraska Pharmacist Association. I wasn't planning to testify today, but you all have some very good questions that, hopefully, I can shed some light on. I have my little piece of paper right here for you. Senator Schumacher asked the question about the contracting. And I believe that Dr. Wohleb handed out a paper, looks like this, this is National Governors Association. They just put together a paper that talks about the expanding role of pharmacists and transformed health care systems. So Senator Gloor, Senator Campbell's medical home model, this is exactly what we're talking about and this is one of the reasons why we want to include pharmacists as individuals who can contract. Pharmacists get paid right now to dispense drugs; and they get paid a salary working in a pharmacy and the pharmacy gets paid the reimbursement. And some insurers will pay for them to administer vaccines. So you can get your flu shot at your local pharmacy or Walgreens or whatever. So that's what they get paid to do. We have Pharm.D.s; we have bachelor degree pharmacists; we have different levels of education--some are board certified, and they all have learned the same things. So whether bachelor degree or Pharm.D., it's just the degree has changed. They're all Pharm.D. now. So if you've got bachelor degree pharmacists, they've been practicing awhile, and they've probably got lots of experience. So I guess it's experience versus education. I would say that some of those experienced folks probably can outdo the more educated ones with the Pharm.D. program any day of the week. Your question, though, about the contracting and is there a cost savings? I would turn to page 7 of the National Governors Association report. If you look at the top paragraph, it talks about

Ohio's MTM services for Medicaid-eligible patients. And it talks about how getting pharmacists involved in the managed care plans and being able to provide medication therapy management and chronic disease management was actually a $4.40 return on every dollar spent; so there's a return on investment. And what we're seeing is, pharmacists are able to get in to do more of these clinical type roles to provide more chronic disease management in conjunction with providers. So pharmacists can't just go do these things unless they have a prescription from a physician, a collaborative practice agreement with a physician, that's the kind of arrangement that they say--okay, you go take care of this patient, they've got a chronic disease. We know that since you're the medication experts, you're the ones who can best manage them. So we believe that payment of a dollar will result you in a $4.40 return on your investment. And I believe now that if pharmacists are doing these clinical services in hospitals and in clinics and in pharmacies and in wherever they're doing them, you're getting a billing rate of incident to practice of the physician. So I'm guessing...now I hope you're all very kind and want to pay, and as the insurers are, will pay pharmacists exactly what you pay the other group, but I doubt you will. So there's a cost savings right there. Now I'd be happy to advocate for full physician fees, but I just don't think this group is going to go for that. So we believe that there are some services that pharmacists can provide as part of the health care team that will manage chronic disease. The insurance companies are starting to see the value. We see it in Medicare Part D with medication therapy management. And so, hopefully, that this legislation will elevate the opportunities for our insurers in Nebraska to look at the pharmacists and say, oh gosh, you can do something other than dispense medications. And we can see a cost savings; we can see better patient health and we'll reimburse you for that. I hope that clarifies a little bit of the questions. [LB342]

SENATOR SCHEER: Questions? Senator Williams. [LB342]

SENATOR WILLIAMS: Thank you, Senator Scheer. Miss Cover, I have a question about...we've talked about clinical pharmacists and dispensing pharmacists, and in particular, when we get to our smaller rural communities where the pharmacist might be trying to wear both of those hats at the same time as opposed to somebody that's working at Bryan where you're hired separately. Right now it seems like to me many of our local pharmacists in small communities are offering advice on management of diabetes, obesity, these kind of things. If their client now with one of these agreements calls in and says, you know, I'm struggling with my diet, my medications for my diabetes, have you got...Rick, have you got any help for me? And our local pharmacist, Rick, answers the question, talks about this and that, is all of a sudden now that's going to be charged for? [LB342]

JONI COVER: No, not unless...unless your insurance company has said to Rick, we'd like you to do...provide this service for these patients. Rick does it now and Rick doesn't get paid for it. [LB342]

SENATOR WILLIAMS: I know he doesn't. I'm to your question, Senator Schumacher. [LB342]

JONI COVER: Right. So we have a lot of pharmacists that are providing these services now and they're not getting reimbursed for it. And so let's...if we back up a little bit, when Medicare Part D first passed, one of the things that pharmacists were very excited about was the inclusion of medication therapy management in the benefit. So medication therapy management is more than...when you go into your pharmacy and you get your medications and you talk to your pharmacist. That counseling part is required. It's the extra step; it's the reviewing of all of your meds. It's that people who have Medicare Part D are allowed to have a complete med review every year. There are certain processes, if you're a long-term care patient, you get to have more. So it's more inclusive. Rick could actually charge you for that service right now, just to pay...you could pay for it. And some pharmacists have tried that. And it hasn't gone very well because people look at him and go--well, you know, I could just call you up on the phone and most of our pharmacists are really nice and they won't charge you for it, so why would I pay you? Why would I pay you? It's a free service, right? Well, what we're finding out is there are more things that pharmacists can do that people aren't taking advantage of. Pharmacists are the medication experts. And we have a huge medication problem in our country. We have prescription overdoses, which is a whole other hearing in a whole other...you know, adherence; people not getting their prescriptions. So just because you go to the doctor and get your script doesn't mean you're going to go to the pharmacy and get it filled. And then it doesn't mean you're going to take it correctly. All of that has been looked at with the Medicare Part D plans and so Medicare Part D said we want to see some medication therapy management. And actually that benefit under Medicare is evolving because the way it started was you could provide MTM via the phone and they're finding out that they're not having as much success as if you go into your pharmacy or your have an appointment with your pharmacist and have some face to face. So this is an evolving process. For years and years and years, pharmacists have just been doing some of this for free. But what we're finding out is we have more complex cases; we're spending more time with these patients, we have, you know, more acuity. And if we want pharmacists, if we want the outcomes for our patients, then we need to start treating the pharmacists as health care providers just like we do with the rest of the health care team. So that's really the crux of why we're doing this is because we believe that involving a pharmacist in the patient's health to more extent than what we already are and paying them for the service will reap rewards for not only the pharmacists but for the patients. And hopefully for the insurers because, you know, they're the ones paying for it. And we're all paying our insurance claims to them...our insurance policies for them. So, you know, hopefully we'll all save on this. [LB342]

SENATOR WILLIAMS: Thank you. [LB342]

SENATOR SCHEER: Yes, Senator Craighead. [LB342]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Thank you for being here today. [LB342]

JONI COVER: You're welcome. [LB342]

SENATOR CRAIGHEAD: I agree with you; pharmacists are great. They know a lot; they teach us a lot. It almost sounds like what we're asking for here is a paradigm shift in health care delivery. Correct? Almost? [LB342]

JONI COVER: Slowly, yes, we're getting there. [LB342]

SENATOR CRAIGHEAD: Okay, okay. Will pharmacists work... [LB342]

JONI COVER: I looked at Senator Gloor because he's trying to get this shift. He and Senator Campbell have worked hard to make some of this shift happen in our state. [LB342]

SENATOR CRAIGHEAD: Okay. They're working on it. [LB342]

JONI COVER: They're working on it. [LB342]

SENATOR CRAIGHEAD: Now, did you say the pharmacists would work in collaboration with physicians? I mean, will there still be... [LB342]

JONI COVER: Yes. [LB342]

SENATOR CRAIGHEAD: ...physician say to pharmacists--okay, we need to, you know, educate patient A on XYZ, things like that? [LB342]

JONI COVER: Right. Pharmacists can't dispense drugs and they can't administer drugs unless they have a prescription or a collaborative practice agreement. So there's already that collaboration going on right now. [LB342]

SENATOR CRAIGHEAD: Thank you. [LB342]

JONI COVER: You're welcome. I hope I clarified some things for all of you. Or maybe I just made you more confused and you'll need to call me later and ask me more questions. [LB342]

SENATOR SCHEER: Thank you very much. [LB342]

JONI COVER: Thank you. [LB342]

SENATOR SCHEER: Any other proponents? Seeing none, are there any opponents? Anyone that would like to testify in a neutral capacity? Senator Howard to close. [LB342]

SENATOR HOWARD: I'll be brief, but in closing I just want to thank the committee for their consideration of this bill. I think last year I learned a lot of valuable lessons about checking with people before you throw things in and it was a good learning experience to work with the insurance company as to what type of language would work best for them when we start talking about pharmacists. In regards to some of the questions that came up, a lot of pharmacists are performing a lot of these sort of clinical services, but many aren't because they can't get paid for it. And so I think that's a challenge that this bill would, hopefully, address. And it would allow them the opportunity to get paid for services that, maybe, they would like to provide more of, but don't have the opportunity to do so because they can't afford it. I'd be happy to try to answer any questions you may have. [LB342]

SENATOR SCHEER: Final questions? Seeing none, that would end the hearing on LB342. [LB342]

SENATOR HOWARD: Thank you. [LB342]

SENATOR SCHEER: Thank you, Senator Howard. We will now move to LB456 and Senator Gloor. [LB342]

SENATOR GLOOR: Thank you, Chairman Scheer, fellow members of the Banking, Commerce and Insurance Committee. My name is Mike Gloor, G-l-o-o-r. The Nebraska Exchange Stakeholders Commission was established in 2013 to make state-based recommendations regarding implementation and operation of an insurance exchange and to work with federal officials to make the requirements of the Affordable Care Act. The statute currently states that the commission will meet at least four times a year. LB457 (sic: LB456) will save us money. LB457 (sic: LB456) will reduce that number from four to three times a year. With the federal exchange structure, this commission at this point in time has reporting and monitoring duties so they don't feel like they need to meet all four times a year. LB457 (sic: LB456) contains an emergency clause to enable the commission to reduce the number of meetings this year. I want to make note, if you look at the bill, the two cosigning senators are important, I think, as relates to the history of this bill. Senator Nordquist introduced the original bill to create the commission back in 2013. Senator Groene is a former member of this commission. Both were happy to sign on to the bill when I approached them. J.J. Green, who is the current chair of the commission will follow me with his testimony to tell you more about the commission. Thank you and I'd be glad to ask any questions...answer any questions if you have any. [LB456]

SENATOR SCHEER: Any questions for Senator Gloor? Seeing none, thank you. Good afternoon. [LB456]

J. J. GREEN: Good afternoon, Chairman and members of the committee. J.J. Green, I'm from Grand Island and I represent the small businesses of Nebraska on the commission and I currently sit as the chairman. And the Nebraska Exchange Shareholder (Stakeholder) Commission, as Senator Gloor mentioned, was brought into statute in 2013, and we've been meeting since then. Currently, the statute mentions four times a year. Our duties to date have been inviting participants of the Nebraska federal exchange marketplace to share information about the status of the federal marketplace in Nebraska and how the mechanics have been working. To this date we've been inviting participating health insurance carriers, navigators, federal health centers, the Nebraska Department of Health and Human Services, and the Nebraska Department of Insurance. We started, of course, with the challenges of the HealthCare.gov rollout last year, working through that. The carriers have done a great job in working with HHS and CMS on the federal level of getting the Nebraska exchange up and running. Quite frankly, it's doing quite well. And so for now a year later we feel that it's been streamlined to the point where as the reporting has become more streamlined, we feel like three times a year meeting would be as efficient as we have been four times. We've become more of a reporting entity. And the fact that three times seems to be pretty adequate right now. So pretty much I...have any questions regarding that? [LB456]

SENATOR SCHEER: Any questions? Senator Schumacher. [LB456]

SENATOR SCHUMACHER: Thank you, Senator Scheer. And thank you for your testimony today. You kind of have a little bit of a bird's-eye view of the operating of the exchanges, is that accurate? [LB456]

J. J. GREEN: Yes, sir. [LB456]

SENATOR SCHUMACHER: Suppose the Supreme Court says, look, there's no subsidies unless you're a member of the state exchange; you can't get them as a member of the federal exchange. How quick, from your perspective, how easy would it be for us to shift to a regional or state exchange? [LB456]

J. J. GREEN: Well, probably, and this would be my opinion because we haven't had an actual conversation with the Department of Insurance, but the Nebraska Department of Insurance would be probably in position to get ready to move forward on that. For those of you who are not familiar, the Supreme Court has been asked to rule whether the word "state" or "federal" come into play for the federal tax subsidies that Nebraskans have applied for. Since Nebraska is a federal exchange/marketplace, we will be affected by that decision. The ruling is due to come out in June by the Supreme Court. And,

quite frankly, there's going to be a lot of chaos if that happens in terms of...there's 9.8 million people right now receiving federal subsidies. And, thirty...I believe it was 34 or 37 states are federal marketplace states. [LB456]

SENATOR SCHUMACHER: Do you see this commission, should that happen, having a role...needing to play a role...needing to meet more often then? [LB456]

J. J. GREEN: I think what we would probably do since the minimum would be required by this statute of three times, we could certainly always call special meetings if we need to help observe what's going on and create an environment where we would be in a reporting position. [LB456]

SENATOR SCHUMACHER: Thank you. [LB456]

J. J. GREEN: You bet. [LB456]

SENATOR SCHEER: Any other questions? Seeing none, thank you very much for coming down. [LB456]

J. J. GREEN: Okay. Thank you. [LB456]

SENATOR SCHEER: Other proponents. Good afternoon. [LB456]

KORBY GILBERTSON: Good afternoon, Chairman Scheer, members of the committee. For the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Nebraska Association of Health Underwriters in support of LB456. And the last little discussion that you just had with J.J. kind of brought up our discussion with the bill in that we're very comfortable with the three meetings since it's not a maximum and they can always get together if there is...if things develop that need to be discussed with that. I'd be happy to take any questions. [LB456]

SENATOR SCHEER: Thank you. Any questions? Guess not, thank you. [LB456]

KORBY GILBERTSON: Thank you. [LB456]

SENATOR SCHEER: Any other proponents? Are there any opponents? Anyone in a neutral capacity? Seeing none, Senator Gloor. [LB456]

SENATOR GLOOR: Just by way of clarification, Mr. Green pointed out to me that my notes reference LB457. This, for the record, it is bill (LB)456. I'm sure (LB)457 is a wonderful bill. I have no idea what it is, but my bill is (LB)456. Thank you. [LB456]

SENATOR SCHEER: Thank you for the clarification and this would close the hearing on LB456. So thank you. You know, we've not been at it that long, let's go ahead and continue forward to LB531 if we could, please. Senator Kolterman. [LB456]

SENATOR KOLTERMAN: Thank you, Chairman Scheer and members of the Banking, Commerce and Insurance Committee. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. I represent the 24th District of Seward, York, and Polk Counties. And I'm pleased to be here today to introduce LB531. LB531 creates protections for consumers to aid them in selecting the best insurance plan that fits all their medical needs. Since the passage of the Affordable Care Act, many consumers are either purchasing plans for the first time or going into plans different than they had in the past because they're now dealing with the metallic levels, as well as essential health benefits, along with being unfamiliar with the process. This, ultimately, leads them to believe that the best plan is the one with the lowest premium. Too often when consumers purchase these low-premium plans, they find out after the fact that they're out-of-pocket expenses are significantly greater than they had in the past. Copays and deductibles for in-network and out-of-network are greater than the total premium paid for health benefit plans in many cases. I see this happen all too often in my professional dealings as a small-town insurance agent in Seward. LB531 will be a step to help alleviate these issues by bringing transparency to the consumer. LB531 requires all health insurers to make information available in one location about a plan's covered benefits including generic drugs, formularies, specialty drugs, along with the information to appeal a denial of coverage. LB531 also requires that Websites maintained by company providers for the sale of health insurance prominently provide a link to internet-based tools and calculators. Such tools can be very helpful to consumers in estimating out-of-pocket costs prior to purchasing a health insurance plan. This could be accomplished in a similar fashion to Medicare Part D calculators that we're already utilizing in the industry. Codifying these standards is part of a requirement for doing business in health insurance issuer in Nebraska giving the Department of Insurance the authority and flexibility to oversee more specific standards and tools to help Nebraskans compare and purchase health plans that meet their needs. Nebraska continues to have a primary role in regulating insurers including those offering on the federal facilitated health insurance and marketplace. So it is our duty to provide a consumer with as many tools and information as possible when they purchase these plans. Thank you for your time and consideration of LB531 and I'd be happy to answer any questions pertaining to this bill. [LB531]

SENATOR SCHEER: Thank you, Senator. Questions? Senator Gloor. [LB531]

SENATOR GLOOR: Thank you, Mr. Chairman. Senator Kolterman, thank you for bringing this bill. And although I agree with what it attempts to do, I'm trying to decide how it can be rolled out. I'll use an example that's my own which is when I left my employer and was running for office in that never-never land between losing my

insurance and needing to pick up insurance, I ended up signing up with an insurer; made sure on-line that my physician was, in fact, part of the network. But unbeknownst to me, the group had sent in a letter cancelling their participation as an in-network provider. And so I got caught with an insurer who had information on the one hand, but the documents, including both on-line documents, hadn't been changed yet to reflect that. What's the reasonableness test here in terms of...although I was aggravated, I could understand why it might be hard for the insurer to make an instantaneous change in their coverage and their network reliability. So how do we address that or is there any way to address that? [LB531]

SENATOR KOLTERMAN: Thank you, Senator Gloor. You know, that's a tough question, because, obviously, we all know what's going on in the industry in Nebraska throughout the past year. And many of our consumers have been caught up in that same dilemma. Their provider all of a sudden, because of contractual issues, have been taken out of the network. And so, like in your area, there are very few providers out there that are even offered through some of those plans. I don't know if this addresses that particular issue. I don't know how we get to a situation where we do address that. The only thing I could tell you is under the Affordable Care Act you can make a change once a year during the open enrollment. So, you know, you might...well like, as an example, this past year, I think that the one company took themselves out of a network situation with the hospitals in your area and I think that happened in September. So as the consumer started looking at January renewal, they could then move to a different provider. So at least being able to move from one company to the next on an annual basis limits the amount of exposure you have there. On the other hand, I don't know how you address the issue when it happens. Let's say it happened in February, you've got to go ten months; other than the fact that you do have the ability to go to another provider to get back in network. [LB531]

SENATOR GLOOR: Well, are you looking for some degree of standardized reporting with insurers that list, you know, on some sort of a chart or form of some kind with your plan--here's what's covered, here's the copay, here's the deductible, here's the office visit fee maximum, etcetera, and right down the line so that you could take two insurance plans and put them together and compare it from a comparative standpoint? [LB531]

SENATOR KOLTERMAN: You already have the ability to do that on HealthCare.gov to a certain extent. What I'm...what concerns me is...and I alluded to Medicare Part D, and you heard that earlier under the previous testimony when they're talking about pharmacy, a large part of the insurance premium today deals with pharmacy. And I'm going to use them as an example. Under Part D, once a year from October, I believe it's October 15 till December 7, if you're 65-plus, you have the ability to go in and you can actually input your prescription drugs into the system, the dosage that you use, where you get them at, and then also how often you take them. And then what happens is, I

believe this year there's 15 providers on that particular network. They shoot back a list of all the companies that provide benefits for those list of drugs that you've inputted. And it actually gives you a price of where you can get your best bang for the buck, so to speak. And we're already doing that at the present time with Medicare Part D. And there are...I think there are 15 companies that are marketing that at the present time in Nebraska. Now if we were able to do that...I mean, in all the companies that I'm aware of in Nebraska that are doing major medical, are part of that Medicare Part D benefit. So it's not like we'd be asking the companies to add a lot of new benefits. It would be asking them to clarify what the cost might be associated with those particular drugs. So as an example, right now if you go on-line and you, let's say for example, you click on the Aetna policy and the Aetna policy shows you in there that we have these particular levels of prescription drugs, and there might be four levels. There's typically your generic, there's your formulary, there's your brand name, and there's your specialty drug. It tells you exactly what your copays are going to be in those cases or what your coinsurance is going to be, but it doesn't tell you what the cost is. And so if we could implement something similar in Part D to that arena, we would at least give people that are on therapeutic drugs for arthritis or diabetes and things of that nature, the ability to see what their drugs are costing and what their out-of-pocket expenses are going to be. And utilize that to their advantage when they pick a higher deductible or maximum out-of-pocket. [LB531]

SENATOR GLOOR: Do you think the biggest benefit is going to be a pharmacy one? [LB531]

SENATOR KOLTERMAN: I think that will be probably the biggest benefit. I don't know how we start to control costs on the other arena. But to give you an example, I did this for myself and my wife and I, and I went on-line and I put in my information...our information. And it came back that for me the cheapest plan, the less expensive plan I could buy was $12,000 a year in premium and a $12,000 out-of-pocket maximum. That was a high-deductible health plan and then I could go out and fund a HSA as well which would be another $6,300 this year. Now some of that goes towards your out-of-pocket maximum. But the point is, I don't know how we're going to start to control this, but I am worried about those...as an example, there's an example where I can click on pharmacy and find out if they're in the network or not in the network or if they're a preferred pharmacy or nonpreferred, but I can't tell what the cost is simply because under high-deductible health plan there's no $15 copay or $30 or $45 copay. And so this would be a tool that would at least give me the ability to go in and look at the type of cost associated with the pharmacy that I take. And that's just one example. That answer your question? [LB531]

SENATOR GLOOR: Okay. Thank you. [LB531]

SENATOR KOLTERMAN: Thank you. [LB531]

SENATOR SCHEER: Senator Campbell. [LB531]

SENATOR CAMPBELL: Thank you, Chairman Scheer. Senator Kolterman, I'm trying to find in the bill, and I may not be looking in the right place, but sort of piggybacking off of Senator Gloor's question, do we need to put something in here in terms of a deadline, at least on annualized basis that this needs to be here? I couldn't find it and I didn't know whether it was in... [LB531]

SENATOR KOLTERMAN: It deals with the Affordable Care Act primarily. Going forward that's where it will be. Now there's still some companies that are not...there's some companies that have allowed you to keep your old plan if they are grandfathered, but going forward, I think most people are going to be on the metallic-type of plans. And they're going to be subject to the rules of the Affordable Care Act. And that's pretty much spelled out that the open enrollments...now this year they moved it to November 15 to February 15, but in the past it was October 15 to February 15. I think that that will be spelled out in there and it will allow people ample time to make a conscientious decision. [LB531]

SENATOR CAMPBELL: Right. Okay. I just wondered from your expertise...professional expertise whether we needed it there just so that the consumer has some idea of when to expect it that changes might be on-line. But you can think about that one. It's not critical. [LB531]

SENATOR KOLTERMAN: I will. [LB531]

SENATOR CAMPBELL: And just to tell you that I agree with you. My husband did just exactly what you're talking about on Part D and then was able to take that and also talked to our physician or phar...and saying--what does this mean? Answer any questions, but you really had a full view of what your options would cost you exactly. [LB531]

SENATOR KOLTERMAN: I agree. And it makes you a more educated consumer. The consumer has to jump through a few hoops and they have to work with somebody that knows what they're talking about, but that's out there. There's a role for people to play in that regard. And we will tell you that as we looked at this bill, we're working on an amendment to exclude specialty products, things like the Aflac products that don't have anything to do with pharmacy, or Mutual of Omaha has similar products, there's a bunch of companies that sell specialty products. We'll probably be coming in with an amendment to clear that up, because it wasn't our intent to deal with somebody that wants to buy a cancer policy as an example. So that will probably be an amendment that we'll be bringing to the committee. [LB531]

SENATOR CAMPBELL: (Inaudible) Thank you. [LB531]

SENATOR SCHEER: Senator Craighead. [LB531]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Senator Kolterman, thank you for bringing this. Would it be possible to extrapolate all the possible expenses that a person is going to pay for their medications and then also tell them when they will hit the doughnut hole? [LB531]

SENATOR KOLTERMAN: That's...now we are talking about two different things. We're talking about Part D which is not really my intent, I just wanted to use that as a model that we could use. [LB531]

SENATOR CRAIGHEAD: Okay. [LB531]

SENATOR KOLTERMAN: But that's already the case. If you're working on Part D, that's already in the software that we use. [LB531]

SENATOR CRAIGHEAD: Thank you. [LB531]

SENATOR KOLTERMAN: You're welcome. [LB531]

SENATOR SCHEER: Other questions? Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you, Senator Kolterman, for bringing these issues to our attention. In calling for this information, basically, to be made available and looks like, probably, on a Website is where it would be made available mostly, is it realistic to expect that the average consumer will be able to understand and comprehend and work through this? And if that's not realistic, what role do agents now play, or should they be allowed to play, in doing what we, basically, expect of whoever sells this insurance and that's to tell us what's a good deal for us. [LB531]

SENATOR KOLTERMAN: Thanks for the question, that was a really good question. And I'd like to tell you that I've been a professional insurance agent for nearly 40 years. I think that's a role that we can play. Several years ago when we were talking about implementing the Affordable Care Act, we talked a lot about the professional role that we as agents can play. I'm taking off my senator hat right now. There's a distinct difference between a navigator and an insurance agent. And I believe that there's a tremendous role that we can play to help educate the public in that regard. And we do do that now. But to expect someone to just go on-line and purchase, they're there at their own mercy, so to speak. And I think we...even for them, we need to make it as easy as possible. But at the...and there are consumers that just want to buy direct; that's

fine, but we have a built-in mechanism throughout this state, every small town has an agent that can explain this. Now it takes some time, because in order to sell on the exchange, as an example, you have to get certified once a year. That certification process has to take place. And if you are selling Part D, as an example, each company requires you to take their own licensing...or their own examination. That can take up to five hours per company. So in our case, we choose to use only two or three different companies. Because you don't get rich selling these plans, but it is something that we utilize as agents. In our case, we use it as a customer service type of approach. If we're going to sell them something else, we need to help them in all aspects of the insurance. But there's some challenges, but I think that there's plenty of agents licensed and regulated well enough to step up to the plate and meet the needs. Does that answer your question? [LB531]

SENATOR SCHUMACHER: I think so. I mean, I've always been troubled by the fact that the Affordable Care Act kind of missed the boat by not employing the resources of all the agents out there and expecting this thing to somehow run on autopilot. [LB531]

SENATOR KOLTERMAN: We couldn't agree more. [LB531]

SENATOR SCHUMACHER: Thank you. [LB531]

SENATOR SCHEER: Other questions? Seeing none, are you going to stick around to close? [LB531]

SENATOR KOLTERMAN: Yeah, I'll be here to close. Thank you. [LB531]

SENATOR SCHEER: First proponent, please. [LB531]

MICK MINES: Chairman Scheer, members of the committee, my name is Mick Mines, M-i-c-k M-i-n-e-s. I'm a registered lobbyist representing the National Association of Insurance and Financial Advisers or NAIFA, Nebraska. On behalf of our 1,100 member insurance agents and financial professionals, I'm here today in support of LB531. This is an easy bill to support. NAIFA has long advocated transparency and full disclosure for our clients who struggle to find the best health plans for their needs, especially those first-time customers. By properly disclosing deductibles, copayments, and coinsurance, as well as formulary coverages, all consumers are better informed and can make better decisions for themselves and their family. Again, we support the bill and ask that you advance it to General File. [LB531]

SENATOR SCHEER: Thank you. Any questions? Seeing none... [LB531]

MICK MINES: Thank you. [LB531]

SENATOR SCHEER: ...thank you very much. Next proponent. Welcome. [LB531]

KARI WADE: (Exhibit 1) Good afternoon, Senator Scheer and members of the committee. My name is Dr. Kari Wade, K-a-r-i W-a-d-e, and I'm a member of the Nebraska Nurses Association and I represent them here today as our association supports LB531. Nurses are bound by professional standards of practice and a code of ethics to be the best advocates possible for our consumers and patients. This is what underscores our support of this bill. The strengths of the bill, from our perspective, include the following: It provides transparency information and best education for consumers and patients when obtaining insurance policies; it facilitates patients obtaining the insurance policy best suited to their individual circumstances; and it prevents surprises, great financial concerns, and much anxiety and further illnesses when a patient discovers that he or she may, literally, not have insurance to cover their particular illness needs. Nurses are on the frontline daily, around the clock, and care for patients in many settings. They know first hand the stories of mental anguish, pain and suffering when the lack of health insurance occurs in families. Knowledge of a comparison of insurance policies matters. We ask that you support LB531 and please join us in advocating for the best health practices for our Nebraskans. Thank you. [LB531]

SENATOR SCHEER: Thank you, Any questions? Seeing none, thank you very much. [LB531]

KARI WADE: Thank you. [LB531]

SENATOR SCHEER: Good afternoon. [LB531]

TIM NEAL: Good afternoon. Members of the committee, my name is Tim Neal, T-i-m N-e-a-l. I came to testify on behalf of LB531. I am the chief executive officer of the Nebraska Kidney Association and advocacy is part of our mission. I ran this legislation by our medical and scientific advisory committee made up of health care professionals, physicians, dieticians, social workers, and nurses, and they were unanimous that we should support this legislation. One, it brings more transparency; and I think you're hearing that over and over again today. It also requires insurance organizations to list specifics on medication and procedural coverages. In this way at least you could make a comparison--apples to apples. I also heard that this would be helpful to all those making insurance decisions, not just those on the health exchange. That's all I have to say. [LB531]

SENATOR SCHEER: Okay. Thank you very much. Any questions for Mr. Neal? Seeing none, thank you again for coming down. Next proponent. Good afternoon. [LB531]

JAMES CAVANAUGH: Good afternoon, Mr. Chairman. Members of the Banking,

Commerce, and Insurance Committee, my name is James Cavanaugh, J-a-m-e-s C-a-v-a-n-a-u-g-h. I'm an attorney and registered lobbyist for the Independent Insurance Agents of Nebraska, and appear here today on their behalf in support of LB531. We are the oldest and largest property-casualty insurance agent association in Nebraska. And as such, see our goal as protecting our clients, the consumers and their choices on insurance. This particularly good consumer protection proposal, and we commend Senator Kolterman for bringing it. It is a step in that direction. It's difficult to navigate the complicated and complex world of insurance for us, let alone for the average consumer. And this makes that difficult journey easier by educating the shoppers and providing them with reliable, available information so that they may make informed, intelligent choices. We'd urge you to act in a positive way on LB531 and I'd be happy to answer any questions you might have. [LB531]

SENATOR SCHEER: Thank you, Mr. Cavanaugh. Any questions? Seeing none, thank you again. [LB531]

JAMES CAVANAUGH: Thank you. [LB531]

SENATOR SCHEER: Next proponent. [LB531]

DAVID HOLMQUIST: Good afternoon, Senator Scheer and members of the committee on banking, insurance and commerce. Not in that order apparently. My name is David Holmquist, D-a-v-i-d H-o-l-m-q-u-i-s-t. I am a registered lobbyist. I represent the American Cancer Society, Cancer Action Network. We are the advocacy sister organization for the American Cancer Society. One of the concerns that the American Cancer Society has had since the inception of the Affordable Care Act and the Metallic plans is that there be as much transparency as possible as consumers are out in the marketplace trying to determine what kind of plan is best for them. And we've had concerns with some of the lower-priced plans that they may look good on the surface, you know, buying the store brand may be less expensive than buying the name brand mayonnaise, for instance, but perhaps the ingredients inside the less expensive plan are not the appropriate ingredients for that consumer. And so we are really supportive of the transparency across the board with all these insurance plans. And this particular bill seems to address a lot of the transparency issues that we know people have. And I think Nebraska has been faced with some issues recently that don't appear to be very transparent. I think this is a step in the right...not in the insurance industry, but just across the board. And we think this is a step in the right direction. I, too, have run it up the national chain of command and they have said that this is very much a step in the right direction. So we would support this bill based on the transparency that it will provide for consumers. And we support any measures that can be taken to make the consumer's job easier in trying to determine what kind of health insurance is most appropriate for them. I'd take any questions if you have them. [LB531]

SENATOR SCHEER: Thank you. Any questions? Seeing none, thank you very much. Welcome back. [LB531]

KORBY GILBERTSON: Good afternoon again. Chairman Scheer, members of the committee, for the record, my name is Korby Gilbertson, spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Nebraska Association of Health Underwriters. Senator Howard can probably recite the number of the bill from memory, but I have managed to wipe it out of my mind, but this has been a...the issue of transparency and being able to give consumers as much information as possible and help them to be educated purchasers of insurance since the ACA was implemented, has been something we've been working on since before Nebraska decided to join the federal exchange. NAHU has worked very hard, we've worked on the navigator bill a couple of years ago with Senator Howard and others to ensure that consumers who aren't as sophisticated as sometimes they'd like to think they are, as far as being able to navigate a Website, can be able to get as much information as possible. And we think this is a good step in the right direction. [LB531]

SENATOR SCHEER: Thank you. Any questions? Seeing none, thank you. [LB531]

KORBY GILBERTSON: Thank you. [LB531]

SENATOR SCHEER: Good afternoon. [LB531]

JACKIE NEWMAN: (Exhibit 2) Good afternoon. Thank you. My name is Jackie Newman, J-a-c-k-i-e N-e-w-m-a-n. And I am here on behalf of...or as an advocate of the Arthritis Foundation. My 10-year-old daughter, Zoe Newman, was diagnosed with Juvenile Arthritis at the age of two. And she has knee pain; she has uveitis which is arthritis within the eye. And if left untreated, it can cause loss of vision. She also has fatigue and poor appetite. After her diagnosis, we spent two years trying to find the right medication to make her be almost as, you know, like the rest of the kids her age. We tried Naproxen which worked on her joints but caused her to vomit daily. We tried Celebrex, didn't work at all for her. Mobic was another drug that we tried and she was about three at the time and for potty training it was horrific because it made her have accidents. And then finally we tried Methotrexate which is a very common drug used to treat arthritis, but it gave her horrible sores on her mouth and face and other parts of her body. So after two years of trying all of these drugs, we finally came across Humira, which we call Zoe's wonder drug, her miracle drug, because after about four weeks on this drug, she was not only able to walk like a normal four-year-old, but my four-year-old little girl could run. And since being on Humira, she's been able to play soccer, play basketball and dance like, pretty much, a normal 10-year-old kid should. If insurance didn't cover Humira, it would cost us about $3,032 a month. There are more than 1,800 children in Nebraska that suffer from arthritis. And there are two pediatric rheumatologist in the state to help those kids. So it is very important that as parents of

these kids, we know what is covered for our children when choosing a health care plan. So thank you for your time and your support of LB531. [LB531]

SENATOR SCHEER: Thank you. Any questions? Seeing none, thanks for coming down today. [LB531]

JACKIE NEWMAN: Thank you. [LB531]

SENATOR SCHEER: Good afternoon. [LB531]

MICHELLE GROSSMAN: (Exhibit 3) Good afternoon. My name is Michelle Grossman, M-i-c-h-e-l-l-e G-r-o-s-s-m-a-n. And I'm coming to you today as the president and CEO of Community Health Charities of Nebraska. Senator Scheer, and the members of the committee, thank you so much for allowing me to talk today. And thank you to Senator Kolterman for introducing LB531. I have the great opportunity every day, through my work with Community Health Charities of Nebraska, to work with 18 statewide Nebraska-based health charities. I've also provided you with the handout so you can see exactly which charities those are. It's through these 18 charities, such as the Komen Foundation, JDRF, and Muscular Dystrophy Association, and the American Lung Association, and others, that we work with almost all Nebraskans, if it's via the actual patient or client that's being served or their friends, family members, or caregivers that work with these ill individuals. It's vital that these individuals with diabetes, cystic fibrosis, COPD, and many other chronic health conditions have a clear understanding as they shop for their health insurance of exactly what their out-of-pocket costs and expenses may be; and exactly if their desperately-needed medications and medical procedures are covered by the plans they are selecting. It's important that shoppers can go on-line and be easily educated by the costs and benefits of these potential plans that they are selecting. I feel this bill is important because it creates a protection for consumers, especially those with existing chronic disease issues, and it also makes it easy and efficient for consumers to get the correct coverage they need for their long-term health sustainability. And I've also provided you with the article that I wrote that was published in the World-Herald on February 1. Thank you for your time and consideration of this bill. [LB531]

SENATOR SCHEER: Thank you, Miss Grossman. Any questions? Seeing none, thank you again. Any other proponents? Yet another repeat performer. [LB531]

JONI COVER: (Exhibit 4) Good afternoon, Senator Scheer, members of the Banking, Commerce, and Insurance Committee. My name is Joni Cover, J-o-n-i C-o-v-e-r and I'm the executive vice president of the Nebraska Pharmacist Association. I'm here on behalf of the Nebraska Pharmacist Association in support of LB531. I'd like to thank Senator Kolterman for introducing the legislation. We're very supportive of (LB)531 for its transparency in the tiers that are offered to buy pharmacy benefits for insurance plans.

It's usually when the patient is standing at the pharmacy counter that they learn that their insurance plan doesn't cover that particular drug or it's, maybe, in a tier that's different than what they had expected. So, unfortunately, we get to see this every single day on the faces of our patients when they find out that their drug benefit doesn't cover something that they're currently taking. I passed out a letter from one of our pharmacists who lives in Hemingford, Nebraska, Mr. Dave Randolph, who was wanting to be here today, but he couldn't get here. Mondays are bad days for community pharmacists to appear before the Legislature. So he provided a letter of testimony with some other issues regarding transparency. One of the things that pharmacists are encountering right now is the high cost of generic drugs. So patients may have signed up for a prescription benefit and then the cost of the drug goes up a lot. And so we have some maximum allowable cost issues. And so we, you know, bring that up, that was one of the issues that Mr. Randolph wanted to talk to with you about. So I'll let you read his letter. I would be happy to work with Senator Kolterman as far as with specialty drugs, that's one of the areas where high cost doesn't necessarily mean specialty. And so we need to really look at that because that's one of the...sort of the price sticker shocks that patients get when they're at the pharmacy counter. I will tell you that, believe it or not, Nebraska Medicaid has a really good program as far as being able to check to see what drugs are covered. They update their list quite often. They update the prior authorizations if you need to have one of those. It's a very efficient system and, quite honestly, they're talking about changing the pharmacy benefit to managed care which causes us some great concern because we think the program we have now works pretty well. But I will tell you that if you want to look at a program that works, even I would say better than Part D, because with Part D pharmacy benefits are allowed to change, I believe, quarterly. So just because you signed up for a plan that has a benefit this month, two quarters from now it may have changed. So I just wanted to bring those things to your attention to let you know that we do support LB531 and would be happy to work with the committee or Senator Kolterman on any issues that you may have. [LB531]

SENATOR SCHEER: Thank you, Miss Cover. Any questions? [LB531]

JONI COVER: Thank you. [LB531]

SENATOR SCHEER: Thank you very much. Any other proponents? [LB531]

PHIL KOZERA: Thank you, Senator Scheer, and committee members. My name is Phil Kozera, last name is K-o-z-e-r-a. I'm the executive director of Bio Nebraska. And one of our missions is to advocate for patient rights. And with LB531, our organization appreciates the fact that it simplifies something that can often be complicated for Nebraska families that are getting coverage on the federal health care exchange. We think it's critically important for individuals to get the medication and treatment and care they require. And we certainly see this as an opportunity to provide greater

transparency. [LB531]

SENATOR SCHEER: Thank you. Any questions? I guess not. Thank you very much. [LB531]

PHIL KOZERA: Thank you. [LB531]

SENATOR SCHEER: Any other proponents? Any opponents? Anyone wish to speak in the neutral position? Good afternoon. [LB531]

ERIC DUNNING: (Exhibits 5 and 6) Good afternoon, Chairman Scheer, members of the Banking, Commerce, and Insurance Committee. My name is Eric Dunning. For the record that's spelled E-r-i-c D-u-n-n-i-n-g. I appear today as a registered lobbyist and the director of government affairs for Blue Cross and Blue Shield of Nebraska. And I'm here today to testify in a neutral capacity so I can share with you how we worked to explain to our members or prospective members the benefits that we bring under our policies. Let's begin by saying that Blue Cross and Blue Shield of Nebraska has worked hard to provide solid information to our members and perspective members about the products that we cover. We have a team of people who work to develop information on materials for our members, while also remembering that insurance is very complicated and so prioritizing that information is a key consideration in helping people to understand the products that they buy. Insurers have to be aware that without prioritizing information carefully, the experience can be a little like drinking from a firehose. We also have existing duties under state and federal law to develop and provide information. And most important, we believe that insurance agents and brokers are a key partner in helping our members and perspective members get the information that they need. Much of this bill is focused on prescriptions and coverage for prescriptions so as Exhibit A I've provided screen shots of our tools for both members and prospective members to understand the coverage options for prescription drug offerings available to them. Our pharmacy benefit manager, Prime Therapeutics, has a great Website called "Prime Helps." Using Prime Helps, which is available from our Website, members can enter their zip code information and whether or not they're eligible for Medicare Part D coverage and the prescriptions that they're interested in. Once that has happened, they can obtain information on specific drugs, the reimbursement levels, and potential exclusions. It's hard to capture the essence of a Website on hardcopy pages, so I'd encourage people who are curious about the information available to brokers and members to try it out. The Website is www.primehelps.com. Moving beyond prescription drug coverage under the Affordable Care Act, we are required to provide extensive documentation on what our plans cover and what they don't cover. And I've attached a sample as Exhibit B. This is for one of our bronze-level plans. These are called a summary of benefits and coverage. They're available to both members and nonmembers alike on our Website without logging in. Because these documents run to more than ten pages apiece, I won't cover them

in-depth. But one thing that I would like to call out to you is some of the information that's designed to help our members and prospective members understand how this coverage applies to them. So for example, towards the end of the document there are two examples describing the costs associated for a typical member for having a baby or managing Type II diabetes under this plan. And again, this is for every level of coverage that we're providing, that is ACA compliant, i.e., the vast majority of our business. These two exhibits don't come close to exhausting all of the information we do provide on our Website. That Website is under continual development to make sure that it provides relevant information to both groups of people. That Website includes most of the information described under the bill. However, the bill does include some challenging language. It refers to a Website maintained by a state agency for the sale of health insurance. That language seems to refer only to a Website the state may maintain to help its employees understand the level of coverage so that our tool that I've described to you would tell you how a prescription, especially in Exhibit A, is treated under our plans. It would not stack up our coverage against our competitors' coverage as you might see if you were familiar with the Medicare Part D Website. That resource just doesn't exist in the state of Nebraska. Second, the bill requires insurers to describe the process under which an insurer may obtain a reversal...excuse me, an insured may obtain a reversal of a denial of coverage decision. This does not appear to be integrated with the very detailed notice requirements in the Health Carrier Grievance Procedure Act or as well as the increased requirements adopted by this Legislature in 2013 as part of the Health Carrier External Review Act, which is found under Article 13 of Chapter 44 of the Nebraska Revised Statute. Under current law, insurers are required to provide extensive notices of those processes at the time of the claim denial. While those processes are important for our members to understand, the information that is given to them at the time that the information is most useful to them at a denial. Our experience as an insurer does not show that the processes associated with appealing a claims denial are the most important consideration for consumers to consider when deciding between insurance products. This is especially so where the processes and notices must comply with very explicit standards set by state law. Last thought I'd like to share with you is that we know that health insurance is complicated. We spend a great deal of resources, time, and attention, and energy in this area and we rely heavily on our agents to help us develop understanding among consumers. Thank you, Mr. Chairman. [LB531]

SENATOR SCHEER: Thank you, Mr. Dunning. Any questions? Senator Campbell. [LB531]

SENATOR CAMPBELL: Thank you, Chairman Scheer. Mr. Dunning, what would you suggest to change the bill then? [LB531]

ERIC DUNNING: Well, I would suggest that the denial of coverage language is probably not necessary in the bill. Describing the process is for appeals and that sort of thing

under the health care grievance act. Again, the Legislature has provided very explicit instructions to us when we've denied coverage. And the regulations go so far as to promulgate sample letters even. Okay. [LB531]

SENATOR CAMPBELL: So that would be the change you'd make in the bill? [LB531]

ERIC DUNNING: That would, but I do want you to understand the limitations...the tools that we have are very good. But I do want you to understand that there is not a state Website that...created that we could provide this information to compare between coverages that we offer versus coverages that our competitors offer. It just doesn't exist. [LB531]

SENATOR CAMPBELL: And the reason for the question is because you're testifying in a neutral position and not in opposition, so I was trying to figure out how you would change the bill to get at the points that you raised. [LB531]

ERIC DUNNING: Right, right. It would be difficult, I think, to testify in opposition to a bill which mandates something that we believe that we already do. [LB531]

SENATOR CAMPBELL: But you...given that statement, the bill would need a lot of work in terms of developing such a site; is that what you're saying? [LB531]

ERIC DUNNING: The site doesn't exist. So I don't know, you know, how we would go about creating one. [LB531]

SENATOR CAMPBELL: Okay. All right. We'll follow up on that question. [LB531]

SENATOR SCHEER: Thank you, Senator Campbell. Any other questions? Senator Williams. [LB531]

SENATOR WILLIAMS: Thank you, Chairman Scheer. Mr. Dunning, with the information that your company provides, disregarding the fact that it's not a state-managed Website with everybody, do you feel that your company is providing the information that would meet the standards? [LB531]

ERIC DUNNING: Yes, Senator, we do. Yes, Senator, we do to the extent that there may be a gap that would be about the coverage denial, information in the appeals process. But again, those processes are set out in such depth that we think that the way the statute addressed that by requiring notice at the time of the denial is probably more appropriate. And, you know, I think it's also important to go back to this idea that we're providing a lot of information to people on the up-front. So you probably want to prioritize the information that people are getting. But we would think that the appeals language is probably a lower priority than some of the other things that are called out in

the act. [LB531]

SENATOR WILLIAMS: But the information that you are providing to a consumer to make a choice that would be required under (LB)531 is there. [LB531]

ERIC DUNNING: And, Senator, we believe that's true. [LB531]

SENATOR WILLIAMS: Based on your knowledge of your competitors, is that information available for your competitors? [LB531]

ERIC DUNNING: Senator, I don't know that I'd be comfortable answering that question. [LB531]

SENATOR WILLIAMS: Okay. Do you have any kind of numbers on what the cost might be from your standpoint to further comply with LB531? [LB531]

ERIC DUNNING: We have not looked into that question at this time. But I'd be happy to follow up with you. [LB531]

SENATOR WILLIAMS: Thank you. [LB531]

SENATOR SCHEER: Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Scheer. And thank you for your testimony today. It seems like you think there's magic in just putting all kinds of stuff out there. And somehow if you put enough stuff on enough Web pages or enough pamphlets somehow the consumer is going to understand. In putting your Websites and information together, has there ever been any follow-up study, any focus group after the fact to see does it do the job with the average consumer? Do they understand or are we just fooling ourselves? [LB531]

ERIC DUNNING: I actually...Senator, I can't answer that question for you. I do know that our corporate communications team spends a good deal of time with the resources that we make available to see if we can get people information in the most useful ways. The depth to which we're chasing that down with focus groups or other marketing research, I couldn't answer, but I'd be happy to get back to you. [LB531]

SENATOR SCHUMACHER: Because that would be kind of interesting to the extent, you know, you can put all kinds of stuff out there, but if it gets across, if it's used is... [LB531]

ERIC DUNNING: Senator, I think that's a challenge with...in the entire area. We make available many tools to our members to improve the transparency for cost. And we're a

little surprised, I think, sometimes, that there hasn't been more use of those tools. [LB531]

SENATOR SCHUMACHER: And that's what I'd almost guess this is more for the benefit of the preacher than of the congregation in putting a lot of this stuff out there. And it would be very interesting to know whether or not the...how effective the tools are, if they're used, if they're successful or actually influence the decision of the consumer, or if without an agent it's more or less a random shoot and miss? [LB531]

ERIC DUNNING: Okay. That's a good question. We can follow up with you on that. [LB531]

SENATOR SCHUMACHER: Thank you. [LB531]

SENATOR SCHEER: Any other questions? Senator Campbell. [LB531]

SENATOR CAMPBELL: Thank you, Senator Scheer. Mr. Dunning, I just want to go back, does your company have a part of it that does participate in the Medicare Part D? You know, the site that Senator Kolterman was talking about that, obviously, I (inaudible) in November. [LB531]

ERIC DUNNING: Yes. [LB531]

SENATOR CAMPBELL: Do you participate on that site? [LB531]

ERIC DUNNING: Part of our company does, yes. [LB531]

SENATOR CAMPBELL: Okay. So when you said--well, the site is not available, is it the idea that you couldn't transform that site or use that to somehow do what Senator Kolterman is trying to do here? [LB531]

ERIC DUNNING: Senator, what the state would choose to do to create a Website in this regard so that our products could be compared with other products, I think is a question best directed to the state. [LB531]

SENATOR CAMPBELL: Okay. And one of the questions, you know, when you look at the fiscal note to this, the fiscal note calls for an analyst in the Department of Insurance, that's it. And that analyst is to ensure that Websites are maintained by a state agency for the sale of, and, apparently, to monitor it. But there is no money suggested by the department for a development of a new Website or a new...you know, the kind of the things... [LB531]

ERIC DUNNING: And, Senator, once upon a time I could have given you much better

insight as to the development of a fiscal note, but I can't here. I will tell you that my suspicion is that that's about making sure that the insurer complies with the duties that are directly placed on the insurer. And I think it's subsection (b) of that subsection. [LB531]

SENATOR CAMPBELL: Okay. But it doesn't have any money in which you'd ripple all of those together to see in one chart and compare. [LB531]

ERIC DUNNING: Senator, I didn't see it. [LB531]

SENATOR CAMPBELL: Okay. Thank you, Mr. Dunning. [LB531]

SENATOR SCHEER: Thank you, Senator Campbell. Any others? Thank you, Mr. Dunning, for spending some time with us. [LB531]

ERIC DUNNING: Thank you, sir. [LB531]

SENATOR SCHEER: (Exhibits 7, 8, 9, 10, 11, 12, 13, and 14) Any others wishing to speak in a neutral capacity? Seeing none, while Senator Kolterman comes up, we did receive letters of support from the Arthritis Foundation, the Epilepsy Foundation, the Children and Family Coalition of Nebraska, the Visiting Nurse Association, Easter Seals of Nebraska, Leukemia and Lymphoma Society, and The Brain Injury Association, as well as March of Dimes. Senator Kolterman. [LB531]

SENATOR KOLTERMAN: Thank you, Senator Scheer. Well, as you can see, there's many challenges in this arena. And I don't pretend to have all the answers, nor does this bill have all the answers. A couple things that were brought up, I think that when we crafted this language, it was intended that the insurance companies, as part of their tools, would have these sites available and the Department of Insurance would actually just monitor those to make sure that they're in compliance, very similar to what they are today; that's why such a small fiscal note. And when we first put this in, we didn't have a fiscal note, but the department thought it was important that they might need one more analyst to come in and do this. So I don't know if that's necessary or not. I haven't talked to the department about that. The other thing I would say is, when we introduced this, it wasn't our intent to raise the cost of the health...or raise a lot of cost for insurance companies simply because that would just raise the premiums. But that's a possibility it could exist as a result of this, I suppose. As you can see, what's supposed to be the Affordable Care Act is very quickly becoming unaffordable care act. I mean, all you have to do is talk to these consumers back here and they're all challenged with the same problems--how can I afford my prescriptions? How can I afford my out-of-pocket maximums? How can I afford my deductibles, my copays? And the list goes on and on and I hear it when I'm in my business on a daily basis. I guess, number one, I did not solicit most of this testimony today. I did solicit a couple, but it's pretty obvious that you

start looking at all the people that came in support of this bill, that there's a lot of concerns about what's going on in our industry and how it affects them. I think...I'd like to thank all them for coming, both the pro and the neutral because they all bring up very good points. There are some examples we can turn to...or they can turn to. We heard today that Medicaid has a very good pharmacy program. We also know already that all these companies currently sell Medicare Part D and so they have those resources available. I don't think that should be a big challenge, but then again, I don't work for the insurance company. So in closing, I believe this is at least a strong step in the right direction. I think it starts the dialogue and moves us in the right direction. And I would actually ask you to support LB531 because that's why I'm here today. So thank you. [LB531]

SENATOR SCHEER: (Exhibits 15 and 16) Thank you, Senator. Any final questions? Seeing none, this will close the hearing on LB531. We will take a little longer than five-minute break. We will reconvene at 3:20 for our last bill, LB632. [LB531]

BREAK

SENATOR WILLIAMS: All right. We're back getting ready to go. If you could all find your seats. We will wait for our counsel to come back. Okay. All right, we will convene on the hearing on LB632 and invite Chairman Scheer to make his opening. [LB632]

SENATOR SCHEER: Thank you, Vice Chair Williams and members of the Banking, Insurance, and Commerce (sic: Commerce and Insurance) Committee. My name is Jim Scheer, S-c-h-e-e-r, representing the 19th District in the Legislature. LB632 would amend our insurance statutes to clear the way for an employer or an association and an agent or broker to enter into an arrangement that provides for compensation to be paid by the employer or association to the agent or broker for the sale of a group health insurance policy to the employer or the association. The bill would further provide that the compensation may be collected by the carrier and passed through the agent or broker. Compensation paid through such an arrangement shall not be considered premium. A direct arrangement allowed by this bill will provide greater assurance that agents and brokers are appropriately and fairly compensated for their services. Employers and associations would be able to see how many of their dollars are actually going to agents and brokers. This is permissive legislation. Nobody would be required to enter into such agreement, only those that wish to. I would urge you to advance this coming out of committee. I would answer any questions, but I think there might be those with more technical knowledge appearing after me. [LB632]

SENATOR WILLIAMS: Questions at this point for Senator Scheer? Seeing none, and I'm assuming you will close. [LB632]

SENATOR SCHEER: I'll stick around, yeah. (Laughter) [LB632]

SENATOR WILLIAMS: No place else for you to go, right? We'd ask our first witness to testify in pro on this to come to the stand. [LB632]

SENATOR KOLTERMAN: Thank you, Senator Williams. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, today...I do represent the 24th District, but today I'm here testifying as an independent insurance agent for the Kolterman Agency. The intent of this bill, really, is to allow an employer or an association to enter into a contract or an agreement or an arrangement with the insurance companies. And it deals, primarily, with compensation and how it is paid to the agent or broker for the sale of group health insurance plans. At the present time, we get paid a commission, strictly a commission, according to our contract unless we have a consultant's license. In this particular case, we're asking that we don't necessarily need a consultant's license, but they allow us to negotiate our fees directly with the consumer and take it out of the MLR calculations that currently exist on a federal level. And so as we see personally, as I see commissions go down considerably since this Affordable Care Act has come into play, we as agents, small town business people, are being asked to do a lot more for a lot less, almost to the point where you can't do it any longer. This will allow us to negotiate directly with our consumer, our consumer customers, to negotiate what we think is a fair compensation. And it would actually be collected by the insurance company, but they send the check to us. So I'm here to support this bill; ask that you give it strong consideration and appreciate that Senator Scheer has introduced the bill. [LB632]

SENATOR WILLIAMS: Questions for Senator Kolterman. Senator Kolterman... [LB632]

SENATOR KOLTERMAN: Yes, sir. [LB632]

SENATOR WILLIAMS: ...can you take us through an example of how this works currently, how you've been doing this and how it would work differently, specifically, under LB632. [LB632]

SENATOR KOLTERMAN: Okay. At the present time, as an example, I as an insurance agent have a contract with various companies, A through Z. And those companies spell out to me exactly what commission would be on a scale that's in their contracts--might be 5 percent, it might be 7 percent, it might be per person per month, but it's all spelled out. But what's happened over the last three or four years, or actually since the Affordable Care Act has come into play, our percentage of the commission...or our commissions have dropped substantially. And what this would do...and at the present time, the consumer gets one bill and that doesn't necessarily identify what the commission is inside of that bill. It's gets billed from...as an example, Blue Cross and Blue Shield; they collect the premium and once a month they send us the commissions. Under this bill, it would allow us to negotiate the contract directly with the consumer on what they're going to pay us. We have them sign a contract. And then the insurance

company would still bill them for the premium; they would also bill them for the commission, and then they would pay us our commission just like they have in the past. I'll give you an example of where I think this could be helpful, we just came through a situation where CoOpportunity Health was declared insolvent or going through the insolvency process. For the last three months, we, as agents, have not been paid a commission. We've done all the work; we did everything we could for our customers, but the Department of Insurance has said we don't think we...we just can't pay you a commission. Had this been billed as we're talking about now, the contractual agreement would technically be with the consumer and they wouldn't be able to hold that back from us. [LB632]

SENATOR WILLIAMS: You testified earlier that one of the best protections for the consumer is the relationship they have with their agent that works with them and counsels with them to choose the right thing. If commissions continue dropping on products like this, and you said substantial, will agents start making the decision that we just simply can't...it's not worth our time to offer this product and it will be less available? [LB632]

SENATOR KOLTERMAN: Some will. [LB632]

SENATOR WILLIAMS: And if it's less available, will there be the right kind of counseling going on to help consumers make the right choices? [LB632]

SENATOR KOLTERMAN: I'd prefer to think there won't be, but I'm somewhat biased in my opinion. I think, again... [LB632]

SENATOR WILLIAMS: That wasn't a leading question at all. (Laughter) [LB632]

SENATOR KOLTERMAN: I know, I know. Again, I think the agent has a lot to offer. And nobody knows this better than the customers that we serve. And I think they should be allowed to pay us for the value that we bring to them in a fair and marketable manner. If we're out of line, then they need to tell us that. If... [LB632]

SENATOR WILLIAMS: And that would be disclosed because that would be an arrangement between the agent and the consumer... [LB632]

SENATOR KOLTERMAN: Correct. [LB632]

SENATOR WILLIAMS: ...and they would know we're going to pay you 5 percent, 10 percent, a hundred dollars, whatever the... [LB632]

SENATOR KOLTERMAN: Correct. This is already being utilized in, I believe, in 31...at least with one company, in 31 different states, this pass-through type of commission

arrangement. [LB632]

SENATOR WILLIAMS: Are you aware if most companies would be able to do the billing process the way you're suggesting under (LB)632? [LB632]

SENATOR KOLTERMAN: There...I just found out minutes ago that there are some that would not be able to and they probably will testify in a few minutes. But there are others that can do it. And bear in mind, this is not a mandate that has to be done this way; this bill just gives them the ability to do it if they so choose to do it this way. [LB632]

SENATOR WILLIAMS: Okay. Senator Campbell. [LB632]

SENATOR CAMPBELL: Thank you, Senator Williams. Senator Kolterman, if I'm the consumer here that's sitting down with my agent and talking to them and the agent says--it's now time for us to discuss the commission, how will I, as that consumer, know what an appropriate amount is? [LB632]

SENATOR KOLTERMAN: Well, we have...you know, we utilize now what the companies provide to us. So in many cases, it's fair, but it's not necessarily enough. And so it becomes a situation where you're negotiating with the customer. I've had situations where...I've been doing this on some plans for several years and the commission has been negotiated simply because they were only willing to pay so much per month...per person per month. And when you're looking, sometimes, at a 30 percent increase, I was willing to negotiate downward a little bit just to help them offset some of that burden, and the company gave some as well. That's on a self-insured plan. I don't know if that necessarily would fit here, but the same type of thing. The consumer, if you're in a competitive situation, the consumer soon knows, you know. Now, are there concerns about this? There absolutely are. I mean, there are going to be some people that are going to say--well, I'll do it for nothing. But who knows, several years they're going to come back to you because a lot of times you get what you pay for. [LB632]

SENATOR CAMPBELL: I just didn't know whether there was a particular site...Website, or a place that I could go, because I wouldn't...you know, after many years of working with an insurance agent, I wouldn't want to shortchange them by the fact that I don't know enough about it.... [LB632]

SENATOR KOLTERMAN: Right. [LB632]

SENATOR CAMPBELL: ...is really...on the other hand, I probably wouldn't want to pay too much either, but I wouldn't know. And that's really where I'm trying to go here. [LB632]

SENATOR KOLTERMAN: That's a tough...that is...that becomes a tough decision. I'm

not...there's no question about that. [LB632]

SENATOR CAMPBELL: But there's no place to go for me to go to kind of get a reasonable idea. [LB632]

SENATOR KOLTERMAN: No, not that I'm aware of. [LB632]

SENATOR CAMPBELL: Okay, thanks. [LB632]

SENATOR WILLIAMS: Senator Craighead. [LB632]

SENATOR CRAIGHEAD: Thank you, Senator Williams. Senator Kolterman, it sounds to me like, just with this exchange, it's almost what this bill is proposing is very similar to a realtor negotiating a sales contract and then the commission that they are paid. Sounds very similar to me in this regard. And also, in that regard then, there is a little bit of variance and it's kind of what is customary...usual and customary in a community or area what is paid, so would that be a fair comparison? [LB632]

SENATOR KOLTERMAN: That would be a very good comparison. I never thought of that, but that's a very good comparison. And as you know as a realtor, sometimes you have to negotiate...you have a certain amount of flexibility, but at some point you have to say--no, I'm not going to do it for that. Correct? [LB632]

SENATOR CRAIGHEAD: That is right. [LB632]

SENATOR KOLTERMAN: I'm asking the questions, that's wrong. [LB632]

SENATOR CRAIGHEAD: Cats like to eat. [LB632]

SENATOR KOLTERMAN: Thank you. [LB632]

SENATOR WILLIAMS: Senator Schumacher. [LB632]

SENATOR SCHUMACHER: Thank you, Senator Williams. Thank you, Senator Kolterman. You said this is already being practiced in a couple dozen states. Was there specific law authorizing this practice in those states? [LB632]

SENATOR KOLTERMAN: I think it's very similar, a lot of this? [LB632]

SENATOR SCHUMACHER: Is there something in our law now that says this cannot be done? [LB632]

SENATOR KOLTERMAN: Yeah, we came before this committee several years ago.

One of the other companies had come to us and talked about this, and now I'm talking about the Nebraska Association of Health Underwriters and NAIFA Nebraska, the Big I, and the PIA all four of us came together. We had a national company that wanted to utilize this type of a system; in their particular case it was for a hundred lives plus because they were doing it all over the country that way. This particular...and at the time, the only way we could utilize that because of Nebraska statute was to have a consultant's license. What this would do is eliminate the need for a consultant's license specifically in negotiating commissions. And that's put into the statute. We actually worked with your legal counsel, Mr. Marienau, several companies, the Department of Insurance to get the proper terminology. [LB632]

SENATOR SCHUMACHER: Is the squeeze on commissions that has happened since the Affordable Care Act was adopted, is that due to the limitation on insurance overhead of 15 or 20 percent if they can't have more overhead than that? [LB632]

SENATOR KOLTERMAN: Correct. Yes. [LB632]

SENATOR SCHUMACHER: So that's the root of this particular issue? [LB632]

SENATOR KOLTERMAN: Yeah, the first...you know, I think it was passed in 2010, about 2012, late December, the companies came to the agents and said--this is what you used to make, this is what you're going to make. We had no say in the matter. We had to accept it or not do business with them. Since then we've had other companies come and go and the commissions vary, but by and large they're going the wrong direction. Because we're asked as agents to know a lot more about what we're doing...in other words, our accountability is very high, and yet we're getting paid a lot less than we used to get paid. [LB632]

SENATOR SCHUMACHER: So basically, the insurance companies said, look, if we're limited to 15 percent, let's take a lot of it out of the insurance agents' hide? (Laughter) [LB632]

SENATOR KOLTERMAN: You said it. [LB632]

SENATOR SCHUMACHER: Okay, thank you, Senator. [LB632]

SENATOR WILLIAMS: Further questions for Senator Kolterman? Seeing none, thank you for your testimony. [LB632]

SENATOR KOLTERMAN: Thank you. [LB632]

SENATOR WILLIAMS: Next proponent. Go ahead. [LB632]

STEVEN ROBINO: (Exhibits 1 and 2) Good afternoon, Senator Williams and members of the committee. Thank you for allowing me to testify. My name is Steven Robino, that's spelled S-t-e-v-e-n R-o-b-i-n-o, and I represent Aetna; I'm here as the director of government affairs and it's my pleasure to testify on LB632. I've also handed a copy of a letter that our national trade association, America's Health Insurance Plans, had written in support of LB632 and provided a copy of that, as well, to you. I'd like to thank Chairman Scheer and Senator Kolterman for introducing and cosponsoring (LB)632. We'd also like to recognize Director Ramge and the Department of Insurance. As Senator Kolterman said, we did meet with the Department of Insurance and talked to them about this issue. As Senator Schumacher...you know, the department really was interested in helping us with this, but felt that there was just some change in the statute to give them the authority and the ability to say yes to this process. And so they really helped us in thinking through the language, making sure that we got it correctly, and so I wanted to give them some kudos in recognition for their assistance in this process. To give you just a brief background about Aetna, Aetna is a 160-year-old company. Currently, we have about 48,000 employees across the globe, many here in the U.S., but some international. Here in Nebraska, we've been fortunate to be a growing organization. We have about 700 employees through both our insurance side and other products here in Nebraska and it's been a good opportunity for us and we look forward to continuing to grow and provide our service to Nebraskans. The issue before you today is very important, very timely. The health insurance industry is going through lots of change from the Affordable Care Act. It's not just here in Nebraska, but it's across the country. And there's been some positives. We can all point to additional people that have been able to gain coverage under the Affordable Care Act; many that are getting subsidies for it, for having that coverage. There's some of the hidden sides of that we don't see as much of and you're seeing part of that today. The Affordable Care Act has really challenged the industry in looking for and requiring us to be more cost efficient, cost effective and our admin costs, that 15 percent, 20 percent, Senator Schumacher, that you mentioned. And so we've had to look at really what we've spent historically on admin costs and find ways to really be, again, more efficient, more effective. A large portion of that has been in paying commissions to agents. And as Senator Kolterman said, that's a vital partner for us, a critical area that we want to continue to have. And in helping us in this process, they do play a vital role. What we've seen in other states, because of pressures on the admin costs and us having to cut back what we pay in commissions is we've seen some agents leaving the business; they're not making enough money. We've seen agents that were starting to sell their agencies. Just not something that we really wanted to see, because that, again, we need the insurance agents to really be a vital and supported partner for us. What we did do is we worked with a number of insurance departments across the country. You know, when the Affordable Care Act passed, the National Association of Insurance Commissioners was charged with coming up with the formula for the medical loss ratio. And there was a lot of discussion, a lot of debate about whether to include or exclude broker commissions from the process. And, you know, those that really were...were arguing to exclude it

were concerned about this very issue. Ultimately, it was included and so we've had to work with states to find a different way of doing things. So we've had to get a little bit creative with this pass-through process. We're actually the company that currently uses this pass-through process and 31 other states plus the District of Columbia. There's two states, and Nebraska is one of those, that we'd like to use this in, but currently we've not been able to. So we would urge you to support LB632 and help us to provide this alternative to insurance agents. [LB632]

SENATOR WILLIAMS: Thank you, Mr. Robino. In the other states that you deal with, and this question was sort of asked, but I want to revisit it, did it take enabling legislation to allow you to do that in those states? [LB632]

STEVEN ROBINO: And not that I'm aware of. I cover six states; I have...actually have a map with me, but I have several states where we currently use this process today and it did not require enabling legislation. I don't know if there was, you know, just enough there that gave the departments of insurance the ability to approve it, but we did not require. [LB632]

SENATOR WILLIAMS: LB632, as drafted, only covers health benefits. Aetna also sells lots of other products other than health. [LB632]

STEVEN ROBINO: Correct. [LB632]

SENATOR WILLIAMS: You do something similar to this with other products? Let the agent negotiate the commission with the consumer? [LB632]

STEVEN ROBINO: Yes, we have some large groups that have consultants versus agents and they typically pay those consultants directly. The self-funded side, they typically pay their consultants directly. The other products like life products, we don't have the same types of Affordable Care Act restrictions, limitations on admin costs that we have here. So it's really...it's really focused on the health side that we've had to kind of think outside the box and come up with a different methodology to be able to pay agents, you know, what they're worth and the value that they bring to the consumer. [LB632]

SENATOR WILLIAMS: Questions for Mr. Robino? Senator Howard. [LB632]

SENATOR HOWARD: Thank you, Senator Williams. Thank you for your testimony today. As I read this, would you consider this bill like a mandate? [LB632]

STEVEN ROBINO: Not at all. As it's written, it's really to allow this process to be used, but does not require it. [LB632]

SENATOR HOWARD: Okay. And then this applies to employers regardless of size? [LB632]

STEVEN ROBINO: Correct. [LB632]

SENATOR HOWARD: Okay. [LB632]

STEVEN ROBINO: Correct. This would not apply to individual policies, especially...it's really too complicated, especially with the marketplace. So this really only applies to the group side. What I will tell you is, and as Senator Kolterman shared, it's really...in our experience in other states, it's really the small agencies, the small agents, the small groups where the agents have been most affected by the MLR pressures and the downward trend on insurance or on commission payments. So, you know, I think it would apply to any size group, but I think it's really the small group and the midsize groups that would really benefit the most from this methodology. [LB632]

SENATOR HOWARD: Thank you. Can you speak to, sort of, the impetus or the reasoning behind the MLR? [LB632]

STEVEN ROBINO: All I can...my understanding is, and I think it's good to ensure the consumers that a reasonable amount of dollars that they're paying for in premium is going toward medical expenses. And I think that was the impetus behind the medical loss ration was to ensure that there was at least 80 percent or 85 percent, depending on the size of the group, that is really being spent on true medical costs. [LB632]

SENATOR HOWARD: Thank you. [LB632]

STEVEN ROBINO: You're welcome. [LB632]

SENATOR WILLIAMS: Senator Schumacher. [LB632]

SENATOR SCHUMACHER: Thank you, Senator Williams. And thank you for your testimony today. Federal government made some very specific efforts to limit the overhead cost to either 15 or 20 percent. And the Affordable Care Act or the fairly comprehensive piece of legislation some would say--too comprehensive. And this particular thing appears to be a form over substance mechanism to do more than the 15 or 20 percent. So the question is: Has not the federal government preempted this field? [LB632]

STEVEN ROBINO: I'm not sure I'm qualified to answer that question. I mean, like I said, we do have this mechanism in place in many other states with the support of the regulators in those states. It's not come up as a question as of today. [LB632]

SENATOR SCHUMACHER: But this is a specific law that seems to very specifically...very hard to read it any other way say--we're going to do this in order to supplement and get around the 15 to 20 percent limitation that the federal government imposed and, I mean, preemption just jumps right out at me when I read it, doesn't even seem to be an attempt to conceal that that's what's going on here. So that was just a question of whether or not. In other states where they haven't passed any specific legislation, the question of whether or not their proposed legislation was preempted probably didn't come up or if it did it would be interesting to know. [LB632]

STEVEN ROBINO: Yeah, I don't know. [LB632]

SENATOR SCHUMACHER: Thank you. [LB632]

SENATOR WILLIAMS: Senator Campbell. [LB632]

SENATOR CAMPBELL: Thank you, Senator Williams. I'm going to sort of piggyback on Senator Schumacher's question. So when this came into play, did Aetna then have to feel like they were forced to say to their agents--your commission will be less? I mean, was that company-wide said to the agents? [LB632]

STEVEN ROBINO: Yeah, it was company-wide. It was not just Aetna; it was really the industry. As Senator Kolterman said, there were agents that...the agent commission was a fairly significant part of our admin costs. And just as we've had to find ways to reduce and eliminate some of our own costs, we...we...that was part of it. So it's not something we really wanted to do, it was just something that we had to do. And at the same time, like I said, working with other states and other departments to look at are there alternative ways that we can, you know, we can look...think outside the box and ensure that agents have a mechanism to be paid fairly without having to, you know, address this through the medical loss ratio. [LB632]

SENATOR CAMPBELL: Was the cut uniform across...for Aetna across all of the agents or are there different cuts made depending on the state or size of...? [LB632]

STEVEN ROBINO: It really depended on the state. Some states had commission rates that were a little bit different than others. So it was really a state-by-state evaluation. [LB632]

SENATOR CAMPBELL: In terms of how much that cut was going to be down. [LB632]

STEVEN ROBINO: Correct, correct. [LB632]

SENATOR CAMPBELL: Would you say that industry wide on how the other companies looked at it state by state or, you know, kind of...okay, we're cutting everybody by this

percent? [LB632]

STEVEN ROBINO: My assumption would be that they had to look at it state by state. The medical loss ratio is a calculation that's based on a licensed entity within a state. So we have to calculate our medical loss ratio state by state. To my assumption they would have to look at it that way as well. [LB632]

SENATOR CAMPBELL: Thank you very much. [LB632]

STEVEN ROBINO: You're welcome. [LB632]

SENATOR CAMPBELL: Thank you. [LB632]

SENATOR WILLIAMS: The testimony we heard was that the commissions paid to the agents on these products dropped substantially. Can you shed some light on what substantial would mean? [LB632]

STEVEN ROBINO: You know, I don't know about here in Nebraska; I can tell you...I'm more familiar with some of our products in Kansas and Missouri, just south of here, where historically, especially the small group agents were paid, you know, 8 to 10 percent commission rates. And as the MLR requirements came into play, that was dropping down to 3 or 4 percent. And then when we were able to put the pass-through process in place, agents were back to making, not 8 to 10 anymore, but definitely more than 3 to 4. They're typically making between 5 and 7 percent today. And I think, Senator Campbell, the question that you asked earlier is an important one about what is the standard rate. I think the industry itself...what we've seen in other states is the industry itself is pretty much found that middle ground between what they were making and what they...before the ACA and after the ACA have, for the most part, come up with the standard. And that's fairly typically is what is charged across the board in other markets. You may have a couple of agents that can negotiate something higher because maybe they provide some other services or you may have a couple that provide some...or contracted at a lower rate. But for the most part, what our experience has been is that the vast majority will typically use that standard rate for all of their pass-through contracts. [LB632]

SENATOR CAMPBELL: And that's now leveled at what, 5 to 6 percent? [LB632]

STEVEN ROBINO: Yeah, and I know in Missouri and Nebraska, typically, it's between 5, 6, 7 percent, depending on the group size. [LB632]

SENATOR CAMPBELL: Thank you. [LB632]

STEVEN ROBINO: You're welcome. [LB632]

SENATOR WILLIAMS: Further questions? Senator Schumacher. [LB632]

SENATOR SCHUMACHER: Thank you, Senator Williams. I just Googled Aetna's profits. Seems like you had...the last quarter was a little down a bit, but generally they've been up as a whole company. Why take it out of the insurance agents' hide? [LB632]

STEVEN ROBINO: Senator, if the...if we didn't cut the commission rates to fit into our medical loss ratio targets, then it really requires us to go back and issue rebates back to consumers since we were spending too much in admin costs. So really this is...this is trying to fit within that bracket, that range, that we were given of the Affordable Care Act in total admin costs. If that answers your question? [LB632]

SENATOR SCHUMACHER: So you...with the higher insurance, it was a choice between profits, take the bottom line or executive compensation or something, to cut that in order to get below the 15 or 20 percent, or cut the insurance agents, or I suppose dividends--I don't know if you declare dividends in this period or not. But in that choice instead of taking it at the corporate level, you took the...and had an increase in growing profits, you took it at the expense of the agents. [LB632]

STEVEN ROBINO: Again, I think the way to think about this is--if we were to continue to pay commission rates at the rates that they were before, or to continue to pay a dollar equivalent at what the rates were before, and if you wanted to continue to pay that same rate, but have enough dollars that you don't exceed that 15 or 20 percent limit, that maximum on admin costs, the only way to do that, really, would be to raise rates which is not something that we would want to do. [LB632]

SENATOR SCHUMACHER: Or take some of the increase in profits and rebate it back to the consumer like the law anticipated you should do. Right? [LB632]

STEVEN ROBINO: It's not the profit side. It's that if you didn't spend the 80 percent or 85 percent on medical costs and you had to rebate that difference back to the consumer. [LB632]

SENATOR SCHUMACHER: And you weren't. You were spending less than the 80 or 85 percent; so in order to get to that number, you either could rebate some of it, which would come out of your earnings, or you could cut the agents which would come out of their hide. And you chose to cut the agents. [LB632]

STEVEN ROBINO: Well, what we did was actually we...we had to find reductions across the board. It wasn't just the agents. We had to find our own reductions in admin costs so that we didn't exceed that 15 or 20 percent admin. [LB632]

SENATOR SCHUMACHER: But you're...am I...is this whole Google thing correct when it indicates your profits have been just pretty darn good? [LB632]

STEVEN ROBINO: Profits have been good. I would say that Aetna is not just a health insurance company. We have revenue and profits that come from many different areas. But really, this is...this is really an issue that goes back to the Affordable Care Act on medical plans in the states. Our medical loss ratio targets, typically, today are in that 80 to 83 percent range where we have to show an 80 percent medical loss ratio. So it really was an effort to look at admin costs across the board, not just in commission payments, but also in our own admin costs. [LB632]

SENATOR SCHUMACHER: So what we're being asked to do here is in order to keep these earnings growing, to supplement the insurance agents' salaries with a extra charge on the consumer that's nontransparently passed through the insurance bill back to the agent. [LB632]

STEVEN ROBINO: And actually from the consumers' prospective, that's a little bit...it's actually a little bit different than what you described. From the consumers' prospective, with the pass-through payments, so today if we're paying a commission on the sale of an insurance product, the consumer sees...doesn't see that at all. They have no idea what that amount is. And let's say that we're paying, you know, let's say the premium is a hundred dollars, just as an example, you know, a-hundred-dollar premium, let's say the commission rate was 5 percent. So we're charging a hundred dollars, we're paying $5 to the agent for their commission; and the other $95 goes toward medical expenses and our admin costs. When we have a pass-through approach, when we file our rates with the insurance department, we actually file them with the commission and without a commission. So if we were to use a pass-through process, we would only be charging that consumer $95 for the premium, not the $100. So really the goal is that there would be...unless the agent were to negotiate something higher with that consumer, the goal would be that there really isn't a net change the consumer is paying for their health insurance plus the broker's compensation. [LB632]

SENATOR SCHUMACHER: But the consumer is just going to look at the bottom line, just like you look at the bottom line of your phone bill without looking through all the Mickey Mouse ways of getting there. So the consumer is going to get a bigger bill here than he would if we did not pass this act and enable the pass-through and this mechanism. And the whole idea behind all of this is that that administrative cost, including your administrative cost, your profits, your earnings, every...the agent's cost should be in that 15 to 20 percent bracket depending upon...I guess the 15 or 20 percent of whether or not you're in a distressed area or something. So how is it this...that the consumer isn't getting hooked with a bill he wasn't intended to get, a bill that was intended to come out of the insurance company's earnings and profits? [LB632]

STEVEN ROBINO: You know, the only way I could answer that question, Senator, really is is to say that if we have to include the commissions as part of the premium and the medical loss ratio calculation, we're back to where we are today which is insurance agents that are getting paid a whole lot less then they were getting paid before. [LB632]

SENATOR SCHUMACHER: Or if you made... [LB632]

STEVEN ROBINO: And some that, really, you know, making some tough decisions whether to stay in that industry or not. [LB632]

SENATOR SCHUMACHER: Or if you made the decision the other way, instead of taking it out on the insurance agent's hide, you having a little less things appearing on here that your profits are up. I don't have any other questions. Thank you. [LB632]

SENATOR WILLIAMS: Any further questions of the witness? Thank you. [LB632]

STEVEN ROBINO: Thank you. [LB632]

SENATOR WILLIAMS: Next proponent. [LB632]

JAMES CAVANAUGH: Members of the Banking, Commerce, and Insurance Committee, my name is James Cavanaugh, J-a-m-e-s C-a-v-a-n-a-u-g-h. I'm attorney and registered lobbyist for the Independent Insurance Agents of Nebraska, the oldest and largest property-casualty agents organization in the state. I appear here today on their behalf in favor of LB632. More property-casualty agents, and so the majority of our business is with property-casualty lines rather than health insurance lines, although we have agents who do considerable health insurance business. And one of the reasons is, Senator Williams, as you indicated, agents are scattered around the state for the convenience of the consumers who are our clients and we work for them. And that's a good thing for the state because agencies and insurance agencies are the backbone of main street Nebraska businesses from Omaha to Scottsbluff. The committee has an agent for its Chair and both cosponsors of these bills are insurance agents and so you're lucky to have a wealth of knowledge at your fingertips relative to the informed questions you've been asking here today. We proposed similar legislation, and some of you members who have been in the body for a while may remember under the rubric of agents' fees for property-casualty lines some years ago. And primarily the same reason, the agents have been squeezed in the marketplace in recent years. And administrative costs, both in health lines and in property-casualty lines have inched up and they're precluded from taking compensation other than through premium commission. And so our proposal, agents' fees for property-casualty lines, is similar to this proposal, agents' fees, essentially, for health lines which would be negotiated with the consumer up front. And if you didn't want to pay those fees, well, you could go down the block or down the

way or on-line or dial a 800-number and find somebody who is not going to charge you those fees. There's nothing in here that says that you will be charged those fees, it's negotiated between the consumer and the agent. So if you don't want to pay those fees, you don't have to. This is a good idea from a consumer protection point of view because it's a good idea for consumers to have access to insurance agents, particularly in our opinion, independent agents; agents who don't work for companies, they work for you. For all of those reasons, we'd urge you to take a positive view of this concept. And going forward, if you think that this is worthy of passage, to revisit the issue of agent fees. Those senior members on the committee who were here when it was before you before will have good knowledge on that. And certainly your committee counsel who was here before all of us knows this issue very well. I'd be happy to answer any questions you might have. [LB632]

SENATOR WILLIAMS: Questions? Seeing no questions, thank you. [LB632]

JAMES CAVANAUGH: Thank you. [LB632]

SENATOR WILLIAMS: Next proponent. [LB632]

KORBY GILBERTSON: Good afternoon, Vice Chairman Williams, members of the committee. For the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Nebraska Association of Health Underwriters. I guess I get to give you the historical perspective of where we've been with this issue since the ACA passed. Some of you will remember that two years ago LB655, and I remember that number because it was the last bill introduced just like this year's last bill was 655, was introduced by Senator Carlson. And how that bill came about was...I got a phone call on a Sunday afternoon, it was the fifth day of the legislative...or about five days after the session started, I got a phone call and someone said, hey, we need you to show NAHU this bill. We want to change the way agents are paid and it will only be for groups larger than a hundred. We think you'll love this bill. So I drive home, start reading through it on my iPhone and realize, no, it actually covers all sizes, it covers everything, even single...or individual policies. And at that point we went and talked with Senator Carlson and others and said, we have some real concerns about this. Real concerns that it could run smaller agents out of business, that will have things that happen that we turn into bidding wars on who charges less or more depending on the size of the agency and things like that. Long story short, you never saw that bill advance out of the Banking, Commerce, and Insurance Committee because we never were able to work out a deal and get language that worked in a way that would benefit both sides of the issue. So during the interim this year, we started discussing it again and this is a result of those discussions. I was not part of drafting of this, but our discussions in board meetings for NAHU I will tell you they support this bill. And Senator Schumacher, you have brought up about 90 percent of the issues that were discussed during board meetings. However, the bottom line is that we don't live in

a vacuum, and we can't control what's happening here in Nebraska to control what's going on in the rest of the country. And if agents want to be able to negotiate a fee with their clients, this would be something where the consumer actually would know it. It wouldn't be hidden. And your question earlier about whether or not this will be preempted by federal law--I don't believe it would be, because consultants in Nebraska can already do this. The only difference right now is that there is either literal or suggested statutory prohibition against their being a pass-through, or for an insurance company to collect a fee and then pass it through to an agent. They can do that for a consultant. The issue is, you have quite a few consultants here on the eastern side of the state. You get out into greater Nebraska and you don't have consultants, you have agents that don't want to be hampered by the way things are turning in the industry. So this bill allows all of them to be able to negotiate fees with their clients and be able to run those through and then be collected by the insurance company. With that I'd be happy to try to answer any questions. [LB632]

SENATOR WILLIAMS: Ms. Gilbertson, describe to me the difference between just being an agent and being a consultant, what the requirements are that are different. [LB632]

KORBY GILBERTSON: There's a different exam, and then there's also different continuing education requirements. [LB632]

SENATOR WILLIAMS: Questions for the witness? Seeing none, thank...oops, excuse me, Senator Schumacher. [LB632]

SENATOR SCHUMACHER: One quick question,... [LB632]

KORBY GILBERTSON: Under the wire. [LB632]

SENATOR SCHUMACHER: ...we're running out of time. Thanks, Senator Williams. [LB632]

SENATOR WILLIAMS: No, it's not 7:00 yet. [LB632]

SENATOR SCHUMACHER: Well, I...I guess..you're right, you're right, well, in that case we've got...do consultants use a pass-through to...? [LB632]

KORBY GILBERTSON: They do now. They can, yes. [LB632]

SENATOR SCHUMACHER: They do use a consultant. And that was preexisting before the Affordable Care Act? [LB632]

KORBY GILBERTSON: Yes. [LB632]

SENATOR SCHUMACHER: Okay. [LB632]

KORBY GILBERTSON: They can direct bill as well. So they can...some consultants can just...you'll get your premium bill from the insurance company and then you'll get a separate bill from consultants. It just depends on how they have their business models set up. [LB632]

SENATOR SCHUMACHER: Thank you. [LB632]

KORBY GILBERTSON: Um-hum. [LB632]

SENATOR WILLIAMS: Thank you for your testimony. [LB632]

KORBY GILBERTSON: Thank you. [LB632]

SENATOR WILLIAMS: Next proponent. [LB632]

MICK MINES: Vice Chairman Williams, members of the committee, my name is Mick Mines, M-i-c-k M-i-n-e-s. I'm a registered lobbyist for the National Association of Insurance and Financial Advisors or NAIFA Nebraska. On behalf of our 1,100 member insurance agents and financial services professional I'm here today in support of LB632. Like NAHU, NAIFA had many of the same conversations. This is a very short bill and it has very far-reaching implications. And we certainly appreciate Chairman Scheer and Senator Kolterman engaging in it because they, obviously, have background. And it does provide an option for health benefit plan agents and brokers. As introduced, we believe LB632 is a good alternative for many of our members. However, some members have questions about the long-term implications, particularly with small groups. We respectfully request that these members, as well as NAIFA Nebraska, NAHU, and other stakeholders be given the time to coordinate with Chairman Scheer and Senator Kolterman and the committee to seek resolutions before this bill is advanced to General File. And you will hear from one of our members, Mr. Olson is coming in a neutral capacity, and I think he'll lend a different perspective on what we're all talking about. But again, this was a difficult decision to arrive at for some of our members. And consequently, we are in support, but we sure would like to be engaged to overcome some of the issues that we believe some of these members have. Thank you and I'll answer any questions you might have. [LB632]

SENATOR WILLIAMS: Questions for Mr. Mines? Thank you for your testimony. [LB632]

MICK MINES: Thank you. [LB632]

SENATOR WILLIAMS: Next proponent. [LB632]

JAN McKENZIE: Senator Williams, members of the committee, for the record, my name is Jan McKenzie, spelled J-a-n M-c-K-e-n-z-i-e. I'm executive director and registered lobbyist for the Nebraska Insurance Federation, which those of you who have been on the committee a long time know are the Nebraska domestic companies, those who are registered as...and regulated by Nebraska and includes health, life, property-casualty, title, and work comp. The federation legislative committee voted to be in support and on the record for LB632. I'd answer any questions if you have any. [LB632]

SENATOR WILLIAMS: Questions for the witness? Thank you. [LB632]

JAN McKENZIE: Thank you. [LB632]

SENATOR WILLIAMS: Any other proponents? Seeing none coming forward, we'll go to opponents. Are there any opponents? Seeing none, who would like to testify in a neutral capacity? [LB632]

CHUCK OLSON: Good afternoon, Senators. My name is Chuck Olson, that's spelled C-h-u-c-k O-l-s-o-n, and I'm here on behalf of OCI, a large general agency located in Nebraska... in Omaha, Nebraska, representing numerous carriers, and we represent agents and brokers across the state. We have approximately 950 agents contracted through us. And they're in the small communities throughout the state. And we are neutral on this bill as it's written. We like the intent...excuse me, we are neutral as far as the bill, but we have some concerns as to how it is written. And the opposition would be in the following...and I didn't know if I should be in opposition or neutral, but I'd rather be neutral than offending. Number one, the opportunity for rebating to arise when commissions are open to negotiations is concerning. One basic tenant of the industry is prevention of rebating. The confusion to the general public and to the trust they place in insurance is greatly diminished when insurance products are discounted. This bill may have the tenancy to promote this practice. And for you that aren't aware, rebating would be, obviously, saying--I'll do this, if you buy my insurance. And it's something that has been detrimental to the insurance industry. Number two, this bill would tend to favor larger agencies at the expense of the smaller hometown agent. Many of our agents are in the small communities around the state, and they depend on the commissions paid by carriers to run their operations. And unfortunately, economies of scale by larger, national and regional agencies including payroll companies and other business entities could lead to many of these smaller operations to be squeezed out of the market. Number three, this bill may lead to agents being left out of the insurance distribution as carriers release rates that do not include compensation to the agent. At first glance, this seems to be in favor of the final consumer, but in reality, the final consumer is much better served when assisted by a professional agent who is fairly compensated. And this is recently evidenced by the enrollment under ACA according to CMS and other entities. Number four, current law provides for this type of compensation model after obtaining a consultant license. Number five, those businesses that use SHOP. And I

don't know if you're aware of what SHOP is, but it is the mechanism to get rebates for businesses if they provide health insurance. Those businesses would lose the amount of credit because the broker fees would not be included inside the premium. So it's our opinion that this would be a very confusing system for those people who think they get a full credit on their SHOP and then find out that much of the cost is not going to be able to earn the credit on the...mentioning of the MLR, I think, was a very interesting part. I won't go into it because it has already been talked about, but we really think that this is a bill that a hundred lives or more, it makes a lot of sense. But when you get under the hundred lives, it really causes confusion to the final consumer, but it also causes problems to that smaller broker, that smaller agency out state. With that, we would like to continue working to help strengthen the bill to achieve the ultimate goal of protecting the professional insurance agent. I'd be willing to take any questions from anyone. [LB632]

SENATOR WILLIAMS: Questions for Mr. Olson? I have one. You mentioned a hundred lives and we keep hearing the term group thrown in here. But as I read (LB)632, it could apply to the sale of the individual policy to an individual. [LB632]

CHUCK OLSON: I didn't read it that way. I thought it did state a group of...and that would be two lives. [LB632]

SENATOR WILLIAMS: Sale of a health benefit plan... [LB632]

CHUCK OLSON: Okay, I would defer to the writers. [LB632]

SENATOR WILLIAMS: ...is there a definition back there from somebody that...when we get to that. [LB632]

CHUCK OLSON: But it would definitely include a two-person or a four-person group. And again, there may be those that it would affect under SHOP. [LB632]

SENATOR WILLIAMS: Do you have concern or thoughts about that if we move this way we're opening the door to changing, generally, how commissions may be paid to agents in the future? Will we, next year, have PC folks in here? [LB632]

CHUCK OLSON: For that I couldn't answer. But I do think that it could affect insurance...professional insurance agents across all lines. [LB632]

SENATOR WILLIAMS: Other questions? Thank you for your testimony. Next neutral. [LB632]

ERIC DUNNING: Mr. Vice Chairman, members of the committee, my name is Eric Dunning. For the record that's spelled E-r-i-c D-u-n-n-i-n-g. I appear today in a neutral

capacity as a registered lobbyist and the director of government affairs for Blue Cross and Blue Shield of Nebraska. I want to say that our interest in this bill was primarily in making sure that the bill was drafted in...was drafted clearly in a way that the committee could understand what the bill did and, hopefully, avoid moving this into the field of the consultants' licensure that we sought two years ago. Mr. Vice Chairman, I would tell you, as I read the bill, it would apply to a health benefit plan both in an individual, a small group, and a large group. That's how I would read it. With that, I'd be happy to answer any questions. [LB632]

SENATOR WILLIAMS: Questions for Mr. Dunning? Senator Schumacher. [LB632]

SENATOR SCHUMACHER: Thank you, Senator Williams. And your reading of the bill, is that, basically, because small and individual plans are also covered under Chapter 44? [LB632]

ERIC DUNNING: Yes. [LB632]

SENATOR SCHUMACHER: And so if we were to tweak that to make it a hundred or more, we'd have to get into that first part of that section? [LB632]

ERIC DUNNING: I would think so, yes. [LB632]

SENATOR SCHUMACHER: Thank you. [LB632]

SENATOR WILLIAMS: Other questions? Seeing none, thank you. [LB632]

ERIC DUNNING: Thank you. [LB632]

SENATOR WILLIAMS: Any additional neutral testifiers? Seeing none, Senator Scheer. [LB632]

SENATOR SCHEER: Well, I just want to follow up on a few things. First, as far as the envisionment that this is for a single policy, if you look on line 2 it specifically states--an employer or association. If you're an employer, you have to have an employee. So at the minimum that would be two. In relationship, there is quite a bit of discussion from one of the testifiers in relationship to compensation going down and the insurance company did or didn't make quite a bit of dollars. I would just remind the committee that the company that we were talking about, in this case it was Aetna, talking about its income, Aetna is a full-line insurer. What we're talking about is health insurance policy. I don't know what their health insurance portion may have made, but I will tell you that they have a healthy P&C base in the United States. And I'm going to guess quite probably a large portion of their dollars were generated from P&C rather than the health side of that industry. As far as making this a hundred, because we're concerned about

the small guy, well I got to tell you, I'm the small guy and this helps a small guy. Because if I've got an employer out there with two or three lives and I'm getting 3 or 4 percent, I can't afford to drive 13 miles out of town to go see the welding shop and talk to them and drive back. I'll lose money. This bill specifically tells you that it's a negotiated concept. So when I go out and talk to "Joe the welder," I'm telling him, here's how much the insurance is going to cost, that's the net. Here's how much you're going to pay me, that's my commission, that's my fee and that's the total. If we don't allow that, we're not going to have anybody to go out and call on Joe anymore. It's going to be all Internet or on the phones. They're going to get absolutely no service. They're not going to know...we just talked about buying products that we didn't even know what we were buying. Well, that's what you're going to get into here. We've got to start determining that it's okay to pay somebody something. We're talking about nets here. The net amount of insurance and being able to charge a fee above and beyond it for that service. Service costs money. Now I'm not....and I'm going to tell you, I'm not a health guy. I'm not licensed in health, but I know about health, I've been around for a long time. And the rule of thumb, yes indeed, years ago was it was a 10 percent line. It's no longer a 10 percent line, it might be a $10 line. If you have a group of some size, you might be being paid $10 a policy if they have quite a few. You got to have quite a few to make $10 work. There are some that are paying 3 or 4 percent. But I'm going to venture to say, unless you're a grocery store, which I've been involved in that industry as well, you don't make too much money if you're only going to average 3 or 4 percent margin. You're going to go broke. This is permissive legislation. It allows anyone that is buying a group policy to contract for the insurance, the cost of the agent, for a total cost of their average, that's it. You don't want to do that, you can buy on the straight basis. Perhaps the person that's calling doesn't want to sell you at that. But that doesn't stop you from going someplace else. This just allows you to basically help. The big boys in Omaha are going to do just fine. It's the smaller ones that are going to be hurt the worst because they live on the 2 and 3 life business. In my area, although we've got a considerable amount of business up in northeast Nebraska, those smaller communities the businesses are maybe 2 or 3 lives. They're not 15, 20s. There might be some out there, but the smaller the community, the less there are. Profit is not a bad deal. The health industry has gone...a huge change. You got to remember that when they have their loss ratio, and I believe it's 85/15 is what it is, they have a terrible year. It comes out of reserves. If they have a good year, it gets sent back to the insureds. How are they ever going to develop more and more reserves? This is on a collision path to go nowhere. That's just a personal assessment. But the P&C business is alive and well, and why? Because free enterprise is running it. If you don't want to buy it from them and you don't want to buy it from Travelers, you don't want to buy it from somebody else, there's somebody else that will always buy it...you can buy the product from. We narrowed the scope of who has even got the availability to sell the stuff anymore. And you've cut the margins so close that no one can afford to sell it anymore. Now, bad things are on the horizon. This might not be perfect, Senator Schumacher, I'll grant you that, but at least it keeps some of our rural areas, some of the small and moderate sized agencies alive

and the ability to sell a product. You're right, you can go out as an advisor or...and sell this on the same basis, but it's a separate license. We're not asking anybody to get into something they don't know. It's fully...it's your agreement. If I call on you, you have to say--yep, that's the way I want to do it. If you say--no, I don't want to do it, then say, well, you know, that's not something in my repertoire. I mean it...anybody that's going to try to buy a car, sometimes you don't buy the car from the first place because they don't want to sell it to you at that price, so you go to another dealership. That's all that's going to happen here. You'll know what you're paying. You'll know what you're going to be paying the other person. Right now, none of you know what that insurance costs. If you are in a group, not one of you right now know how much that's costing you because the commission is already built in. There's no transparency. If we want to have some transparency, then let's go ahead and break it out. At least give the availability to do so. This isn't a game changer. It's transparency and it's trying to keep smaller agents alive in rural Nebraska. Because you know, it may take 10 percent for those to write a policy. It might sound stiff, but that's might what it takes so that guy can answer the phone when you call and have a question. Maybe a guy is someplace else that's got a bunch of 300, 400, 500 life policies out there and he can get by with 3 percent or 4 percent; it's volume. Rural areas don't have volume, they have lives. And we got to start watching out to make sure that we don't lose more and more of those people out in the rural areas. This isn't a bad bill. You start playing around with the numbers, then who makes the magic number? If I plan I've got a hundred people, and I've got...I can go ahead and take advantage of it, oh but wait a minute, I just lost a secretary, so now I only have 99, so now I cant' do that? If I'm 15 and I lost a secretary, now all of a sudden I can't do it because you have to have 15? This isn't individual insurance policies, this is a corporate or a group policy. All I'm doing is asking for the ability to stay alive. It's transparent; it's good business. I'll answer any questions. [LB632]

SENATOR WILLIAMS: Questions for the senator. Senator Schumacher. [LB632]

SENATOR SCHUMACHER: Thank you, Senator Williams. Thank you for bringing this. Promotes all kinds of interesting questions as we all have a tendency to do these times. [LB632]

SENATOR SCHEER: Just for you, Paul. [LB632]

SENATOR SCHUMACHER: I know that. I should have asked Mr. Dunning this, but if you know, did Blue Cross and Blue Shield do the same thing and cut it's agents' commissions? [LB632]

SENATOR SCHEER: I couldn't tell you. And I apologize. Like I said, I'm not a health agent, so I couldn't tell you. [LB632]

SENATOR SCHUMACHER: Okay, and likewise you wouldn't know whether they've

been able to operate within the 80 or 85 percent limitation? [LB632]

SENATOR SCHEER: No. [LB632]

SENATOR SCHUMACHER: Thank you. [LB632]

SENATOR SCHEER: I'm certain...don't know if he's still here, but certainly can get the information for you if you like. [LB632]

SENATOR SCHUMACHER: Thank you. [LB632]

SENATOR WILLIAMS: Further questions? Thank you, Senator Scheer. That will close the hearing on LB632. That was the last bill that we'll be hearing today. [LB632]