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Banking, Commerce and Insurance Committee
February 19, 2008

[LB953 LB1002 LB1144]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, February 19, 2008, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1002, LB1144, and LB953. Senators present: Rich Pahls, Chairperson; Chris Langemeier, Vice Chairperson; Tom Carlson; Mark Christensen; Tim Gay; Tom Hansen; Dave Pankonin; and Pete Pirsch. Senators absent: None. []

SENATOR PAHLS: Good afternoon. Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Rich Pahls. I'm from Omaha and I represent District 31. I have the pleasure of serving as the chair of this committee. The committee will take up bills in the order posted. Our hearing today is your part of the legislative process. This is your opportunity to express your position on the proposed legislation. To better facilitate today's proceeding, I ask you to abide by some of the rules that we have posted over here. You've heard many of these a number of times, I'm sure, by this time. Please turn off your cell phone. Move to the front two rows if you plan to testify. We do have an on-deck chair when you're ready to testify. Our testimony will be the introducer, proponents, opponents, neutral, and closing. We ask the testifiers to sign in and put your little flier up in this box up here. Again, we're going to ask you to spell your name for the record and try to be as concise as possible. If you have copies that need to be distributed, we need at least ten. If by chance if you do not have ten copies, if you'd raise your hand right now, we will send the page out there to make copies for you. I must say this group is much better prepared than the other committee that I sit on, so I do appreciate that. To my immediate right is committee counsel Bill Marienau. To my immediate left is Jan Foster. I'm going to let the senators introduce themselves, starting... []

SENATOR CARLSON: Tom Carlson, District 38. []

SENATOR PIRSCH: I'm Pete Pirsch, representing Legislative District 4, home of Omaha Burke High School which is not only the 2007, but now the 2008 state academic decathlon champions. []

SENATOR LANGEMEIER: He was really stalling for me. Chris Langemeier, District 23, Schuyler. [LB1002]

SENATOR PANKONIN: I'm Dave Pankonin, District 2, Louisville. []

SENATOR GAY: Tim Gay, District 14. [LB1002]

SENATOR HANSEN: "Hell on Wheels" reached North Platte, Nebraska in 1866 in the spring. My great-grandfather was a member of that mobile housing unit that reached

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North Platte, Lincoln County that spring and that's where he got started with his family. I'm part of it, Tom Hansen from Lincoln County. (Laughter). []

SENATOR PANKONIN: What district is that? [LB1002]

SENATOR HANSEN: That'd be 42. []

SENATOR PANKONIN: All right. []

SENATOR PAHLS: Just to let you know, we are striving for economic development in the state of Nebraska and I want to go to North Platte. []

SENATOR HANSEN: Hey. []

SENATOR PAHLS: Thank you. Also our page over here is Ryan Behrns from Louisville. Okay. Are we ready? []

SENATOR LANGEMEIER: I'm ready. We'll now open the hearing on LB1002. Senator Pahls, you're recognized to open when you're ready. [LB1002]

SENATOR PAHLS: Appreciate that Senator Langemeier and members of the committee. Today I bring forth to you LB1002. This would enact a new section to the insurance statutes that provide that an insurer or an entity insuring a group health plan benefits to a group of 51 or more employees shall provide to the employer or to an insurance provider authorized by the employer annually, but not more than three months prior to the renewal date, the total amount of actual claims identified as paid or incurred and paid, and the total amount of premiums by line of coverage. This bill would provide that the line of coverage includes medical, prescription drug card program, dental, vision, long-term disability, and short-term disability. This bill would provide that a violation should be subject to the Unfair Insurance Trade Practices Act. I have been told that an amendment to this bill may be brought forth by one of the proponents. [LB1002]

SENATOR LANGEMEIER: Thank you very much. Are there any questions for Senator Pahls? Seeing none... [LB1002]

SENATOR PAHLS: Thank you. [LB1002]

SENATOR LANGEMEIER: Before we go to the next stage of this, Senator Christensen has joined us from the 44th District. Proponents? Welcome. [LB1002]

MICHAELA VALENTIN: (Exhibit 1) Good afternoon, Senator Langemeier, members of the Banking, Commerce and Insurance Committee. I am Michaela Valentin,

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M-i-c-h-a-e-l-a V-a-l-e-n-t-i-n, and I am a registered lobbyist on behalf of Blue Cross/Blue Shield of Nebraska. Blue Cross/Blue Shield of Nebraska provides or administers group and health insurance, and individual health coverage for more than 717,000 Nebraskans, including 2,500 companies and government entities. We insure roughly one in every three Nebraskans. The premise of LB1002 is to require insurers to disclose their claim experience for those group with more than 51 eligible employees. The disclosure is simply a statement that shows how much premium the carrier received from the insured group in the previous 12 months and how much the carrier paid out in claims in the previous 12 months. The scope of the bill does not apply to small employer groups of 2 through 50 because the statistical data on those smaller groups would be skewed if someone in a fairly small group became very ill and therefore it would reflect negatively for that group and its data. Groups with 100-plus members already receive experience data in those groups. Some insured groups had raised concern about the scope of the bill's application to their groups. I have an amendment that clarifies that this bill provides for claim transparency to single employer groups, association, and unions at the entity level. Multiple Employer Welfare Arrangements or MEWA groups have also asked to be included on the amendment and we will draft that language accordingly. I am working with Senator Pahls' office and other interested parties to refine the bill based on comments and suggestions I have received. Thank you. Are there any questions? [LB1002]

SENATOR LANGEMEIER: Thank you very much. Are there any questions? Senator Pankonin. [LB1002]

SENATOR PANKONIN: Thanks, Senator Langemeier. Michaela, why would a bill like this be brought forth? I mean, who kind of was behind this? [LB1002]

MICHAELA VALENTIN: Blue Cross/Blue Shield was behind bringing forth this bill. [LB1002]

SENATOR PANKONIN: Okay, and the reason why is? [LB1002]

MICHAELA VALENTIN: Because when you give our your claim experience data as a insurance carrier and other insurance carriers do not give that data out, there's not transparency across carriers. And basically if we provide that data and nobody else was providing it, other carriers can use it against us to write people at lower rates. [LB1002]

SENATOR PANKONIN: Okay. So you think it's a competitive advantage for you to have this then? [LB1002]

MICHAELA VALENTIN: Well, we think it's a consumer protection issue because as the consumer, don't you want to know, you know, what you're getting from your data with your insurance company? And you want to be able to use that if you need to to look for

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your best rates. [LB1002]

SENATOR PANKONIN: Okay. As a customer of your company and a smaller group, 13, 14, 15 individual, I mean, it gets skewed because if you have 1 bad experience...and I've been through that, but why wouldn't that information be valuable for everybody then down to 2? [LB1002]

MICHAELA VALENTIN: Well, as far as I know we just haven't provided it because of the skewed statistical data, but I can research that issue further for you. [LB1002]

SENATOR PANKONIN: I mean, it seems to me if you're going to do it down to 50, why not go all the way to 2 if they want it. [LB1002]

MICHAELA VALENTIN: Okay. If you'd like me to look into that, why we're not doing that, I will. [LB1002]

SENATOR PANKONIN: I would, please. [LB1002]

SENATOR LANGEMEIER: Senator Carlson. [LB1002]

SENATOR CARLSON: Senator Langemeier. Michaela, Blue Cross/Blue Shield already provides this information to customers, correct? [LB1002]

MICHAELA VALENTIN: Yes, we do. [LB1002]

SENATOR CARLSON: And this would be 50 or more. I understand the business about smaller groups and you got to be careful about an employer being able to zero in on an employee that has a lot of claims and maybe look for other reasons to remove them as an employee. But I lost my thought here so bear with me a minute. [LB1002]

MICHAELA VALENTIN: Okay. [LB1002]

SENATOR CARLSON: I'll maybe come back. I got to... [LB1002]

SENATOR LANGEMEIER: We'll come back. Senator Pirsch. [LB1002]

SENATOR PIRSCH: Thank you very much for your testimony. So the underlying premise behind the bill coming forward is transparency, apples to apples, comparisons for the consumer? [LB1002]

MICHAELA VALENTIN: Yes. [LB1002]

SENATOR PIRSCH: Could you give me an example of the type of information that then

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Blue Cross/Blue Shield currently provides that would give the consumer then more information? What the subject matter of this bill? [LB1002]

MICHAELA VALENTIN: It would just show the premium that was paid in and any kind of experience, minus the personal health information data that's the privacy data. So it would just show how many claims were paid out and at what amount. [LB1002]

SENATOR PIRSCH: You say the experience on... [LB1002]

MICHAELA VALENTIN: Um-hum. [LB1002]

SENATOR PIRSCH: Could you elaborate on... [LB1002]

MICHAELA VALENTIN: Over the last year, it would be the experience data for that particular group over the course of the last year. So the claims that were submitted over the course of the last year. [LB1002]

SENATOR PIRSCH: Oh, okay. And when you say premium data, would that be in the single or in the aggregate then? [LB1002]

MICHAELA VALENTIN: It would be in the aggregate for the group, how much was paid in for the group and then how much money the claims ate up of the premium that was paid in or if it went over or under. [LB1002]

SENATOR PIRSCH: I see, and then you said privacy data. [LB1002]

MICHAELA VALENTIN: Yeah, any kind of privacy data, like who the person was, what the disease was, that kind of stuff would be protected. [LB1002]

SENATOR PIRSCH: So this is meant to go to the employee, correct? [LB1002]

MICHAELA VALENTIN: It goes to the entity level. We would give the group sponsor, the policyholder. So whoever the sponsor of the group is. [LB1002]

SENATOR PIRSCH: So currently do most entities, say if they're not covered by Blue Cross/Blue Shield, they don't have this information then, is that correct? [LB1002]

MICHAELA VALENTIN: I don't know if they do or not. [LB1002]

SENATOR PIRSCH: Okay. So to the entity level, who the person was who experienced this, is that correct, the individual employee who experienced the type of claim, is that what, with regards to the privacy data, you were referencing? [LB1002]

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MICHAELA VALENTIN: Right. That would be excluded, so there would be no private data that was given out. [LB1002]

SENATOR PIRSCH: I see. So would there be any other data that would be related other than that you just talked about? [LB1002]

MICHAELA VALENTIN: As far as I know, it would be just basic data on the premium that was paid in and the claim experience. [LB1002]

SENATOR PIRSCH: Okay. I'd be interested I guess just in seeing if, you know, you might have to redacts some of the confidential information. But just the format of how you do that now just for my own personal benefit. [LB1002]

MICHAELA VALENTIN: Okay. Sure. [LB1002]

SENATOR PIRSCH: I appreciate that. [LB1002]

MICHAELA VALENTIN: Um-hum. No problem. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Gay. [LB1002]

SENATOR GAY: Thank you, Senator Langemeier. Michaela, if it's just claims experience for 12 months. If somebody is comparing insurance why wouldn't you go longer than 12 months because wouldn't you want the claims experience? Is this for actuary underwriting? Why wouldn't you want it for three years or longer? Are you going to keep these then so they can come to you or anyone else and say, well, here's our claims experience and shop the market? I mean, I guess use an example. Senator Pankonin asked the question I was going to ask initially. Can you give me an example of why this is so needed? What's happening out there in the marketplace that we need something like this? [LB1002]

MICHAELA VALENTIN: Well, the reason that was explained to me from our marketing department was that Blue Cross is already providing this data. We're putting it out there and it is being used against us by brokers and agents outside of Blue Cross to shop the market for other groups and take the business away. And so we thought if everybody would just be transparent about it then we would all know, you know, what eggs are in everybody's basket across the board. [LB1002]

SENATOR GAY: Okay. Ask a follow up question? Okay, so if the data is out there, they've still got go underwrite based on that...it's still a dollars and cents thing. You're going to charge a premium for the group, they're going to charge a premium for the group. They're just undercutting you is what you're saying. They're taking this and we'll do it \$1,000 cheaper. Is that what's happening? [LB1002]

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MICHAELA VALENTIN: Um-hum. That is. But then also the consumer... [LB1002]

SENATOR GAY: And how would this prevent that though? I mean, if everyone else is doing it, then you just say...I don't see the fairness part of it if you guys could...you'd be getting rid of a bad...the claims were more than the premium over a course of time. I guess I just don't see how this correlates into...how it helps the general marketplace. I know it's hindering you, but how's this helping the consumer in the long run? [LB1002]

MICHAELA VALENTIN: Well, I believe it provides them the ability to make an educated, you know, decision on what kind of health insurer they want to go with, whether it's us or someone else. And the law has been in existence in Iowa for quite some time and all the carriers seem to adhere to it just fine, as far as I know, and have researched with our Iowa team. There hasn't been a problem with the institution of the statute and we have tried to mirror that statute in Nebraska. [LB1002]

SENATOR GAY: Okay. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Gay. I'm going to go back to Senator Carlson, I think got his question back here. [LB1002]

SENATOR CARLSON: Okay. I've got my thought here a little bit better. In unfair competition, would your experience be that you tend to lose the good groups because the knowledge of their good experience, somebody else wants to know that and you retain the bad groups? [LB1002]

MICHAELA VALENTIN: You know, I do not know the answer to that question, but I can find out from our marketing division exactly how that works. [LB1002]

SENATOR CARLSON: Okay, and where I kind of lost my thought before was that there is a real concern about the privacy and not being able to zero in or identify a given claim. But I understand that this information does not divulge that and that's pretty important to a group of 50 or more versus the smaller group. Thank you. [LB1002]

SENATOR LANGEMEIER: Senator Pirsch. [LB1002]

SENATOR PIRSCH: I appreciate that, your testimony thus far. Just to be clear, so the disclosed information then that Blue Cross/Blue Shield currently makes and that is proposed in this bill universally would be simply or merely the amount of premiums, the intake there and then the amount of payout, so to speak, on claims and that's it? [LB1002]

MICHAELA VALENTIN: Yes. That's my understanding and I'll be happy to research that

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format for you and provide you with however we do that. [LB1002]

SENATOR PIRSCH: So it doesn't talk about in the disclosures differences and types of coverages or saying that's not information revealed on here. What is covered, the types of coverage, is that what's being protected against in this bill or not? In other words, is this trying to get at disclosure or making insurance companies disclose that they cover certain things, but not other things so that the consumer can be more educated and say, well, we might be paying higher premiums, but we're getting this additional service and this is listed here. That's not what we're talking about here in this bill, is it? [LB1002]

MICHAELA VALENTIN: No. That's not what we're talking about here. [LB1002]

SENATOR PIRSCH: Okay. Thank you. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. I have one question. You're providing this information, Blue Cross is providing this information today because they think it's good consumer public policy, correct? [LB1002]

MICHAELA VALENTIN: Um-hum. [LB1002]

SENATOR LANGEMEIER: And nobody else is doing it? [LB1002]

MICHAELA VALENTIN: That's right. [LB1002]

SENATOR LANGEMEIER: And you're scared that by providing this consumer information, other companies can use that against you in the bidding market? [LB1002]

MICHAELA VALENTIN: Yeah. We just want a level playing field. That's all we're asking for. [LB1002]

SENATOR LANGEMEIER: Are there any other questions? Senator Carlson. [LB1002]

SENATOR CARLSON: Yes. Michaela, you just made a statement that nobody else is providing it. [LB1002]

MICHAELA VALENTIN: Not that I'm aware of. [LB1002]

SENATOR CARLSON: That's not been my experience. And when I would go out to review with a group on their renewal, I wanted to know their experience from my company so that if that experience warranted a premium increase it was easier to explain. And so I've always had that information. So Blue Cross and Blue Shield is not the only company that provides it, but I wouldn't argue that there are probably many that don't. [LB1002]

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MICHAELA VALENTIN: Okay. [LB1002]

SENATOR LANGEMEIER: Any other questions? [LB1002]

SENATOR CARLSON: Thank you. [LB1002]

SENATOR LANGEMEIER: Thank you very much for you testimony. [LB1002]

MICHAELA VALENTIN: Thank you. [LB1002]

BILL MARIENAU: Are you going to offer amendments? [LB1002]

MICHAELA VALENTIN: (Exhibit 4) I can if you want me to if I even have a copy of it left. Just put it in? [LB1002]

SENATOR LANGEMEIER: That's fine. Further proponents? You'll set them there. He'll come around and get them. Thank you. Go ahead when you're ready. [LB1002]

RON RAPP: (Exhibit 2) Senator Pahls, members of the Banking, Commerce and Insurance Committee, I will attempt to bring you from a different perspective... [LB1002]

SENATOR LANGEMEIER: Can I get you to say and spell your name first? [LB1002]

RON RAPP: I will. I give you a different perspective. I am a street agent. I do this stuff. My name is Ron Rapp, R-a-p-p, and I'm from South Sioux. Our office provides employee benefit plans to many of the employers in the South Sioux area. Most of those benefit plans are group health insurance plans. Our employers have as few as 3, but most have 5 to 25 employees. LB1002 would greatly assist those employers in getting the best possible rates for their group plans. The present situation requires the employer to provide health information to another insurance company to get a credible proposal. This requires the employee to complete health questionnaires and puts the employer in a position of either protecting their health information or violating HIPAA. LB1002 would eliminate this procedure because the experience information, the employer, or his/her broker can easily get a credible proposals from competing companies. This would help to contain the double digit rate increases that make the news all the time. I know the Legislature is interested in actions of other states on similar issues. The Texas legislature passed HB 2015, and if it is effective January 1, 2008. A copy of the Texas law highlight is attached to these comments. The Iowa legislature is also considering Senate File 2115, which is supported by 87 percent of the Iowa members of National Federation of Independent Business. That particular bill, by the way, in the Iowa legislature cuts the number down to two and I have that bill if it be of value. I would urge the committee to amend (LB)1002 to include plans that have 3 to

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49 insured employees that would be subject to the Nebraska small employer insurability availability act, and that was LB1222 enacted by the Ninety-third Legislature, second session. I would further urge the committee to send LB1002 to the floor with the committee's priority. [LB1002]

SENATOR LANGEMEIER: Thank you very much. Are there any questions? Senator Gay. [LB1002]

SENATOR GAY: I got a question for you. I was looking on this Texas bill. It says, report must include 36 months of data for the request. [LB1002]

RON RAPP: When you questioned that, Senator... [LB1002]

SENATOR GAY: I mean, 12 months you're not going to get an accurate data. [LB1002]

RON RAPP: When you raised that question with the previous witness, Senator, that's why I wanted you to see that. [LB1002]

SENATOR GAY: Okay. Thanks. [LB1002]

SENATOR LANGEMEIER: Are there other questions? Senator Pirsch. [LB1002]

SENATOR PIRSCH: Just briefly, could you talk about...you said with the experience information that would be provided with this bill, correct, that a broker can easily get credible proposals from competing companies, is that right? [LB1002]

RON RAPP: Yes, Senator Pirsch. Now if you will give me a list of your employees, include gender, birthdays, and how many people are covered in the family, I can get a proposal and it isn't worth the paper it's print it on. I write for Blue Cross, I write for Principal, I write for United, I write for Alden, I write for lots of different companies, depending on in some companies in different states, and they'll be right up front and tell you that we're not very aggressive in this particular state at this point in time. Then other companies become aggressive and with the passage of HIPAA, of course, an employer is free to move about from company to company without dragging preexisting condition baggage with a particular employee. So it gives the employer much more flexibility, and of course we try to get a little creative. We've adopted in our office a mini self-fund arrangement that experience would help to see if that would be a viable suggestion for the employer. There are other things that we can do, and that experience is it would be extremely important because what an insurance underwriter underwrites, they underwrite for what they don't know. For what they do know they can do a good job, but they also have to put a fudge factor or whatever you want to call it in there for things that they don't know. Well, if they had the experience, then they could go back to the employer, and the proposal that I could bring that customer would have some credibility

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because they have seen the numbers and they know what's going on over two years or whatever the case may be. [LB1002]

SENATOR PIRSCH: I see. So it is a question of having then that experience related to would-be competitors who can then feel more confident about competing. [LB1002]

RON RAPP: Absolutely, Senator Pirsch. We are both proponents of the bill, but for different reasons. We would proponents because of the "power" that it would give the customer. Say okay, here's my census data, here's the gender, birthdays, number of people covered, and oh, by the way, here's what's happened over the last year, or two, or three. And so like I said, an insurance underwriter underwrites for what they don't know. So the more information we can give them as an agent because I might be able to take the customer from United, for example, and to Blue Cross because right now Blue Cross is pretty competitive in the state. [LB1002]

SENATOR PIRSCH: And without this disclosure, there's no way for competitors to know this information, is that correct? [LB1002]

RON RAPP: Well, the way we have to do it now is supply to the underwriter a health statement. We have to make sure that we don't get past, get anywhere near HIPAA. It's anonymous. It doesn't not have the person's name on it. It has gender, it has birthdays, it has medications you're taking, on and on and on. We can give that data to the underwriter and then the underwriter can give us a credible proposal. But without that, like I say I can get proposals all day long from Blue Cross, United, Principal, any of my companies, and they're not credible because the underwriter doesn't know what's going on. All he/she is seeing is a list of people. [LB1002]

SENATOR PIRSCH: And does that then giving those in a private manner, all those list of information, is that an unwieldy process? [LB1002]

RON RAPP: Very. [LB1002]

SENATOR PIRSCH: Cantankerous? So this is just kind of in your estimation a streamline process to get the information for would-be competitors. [LB1002]

RON RAPP: And to get the customers in the state, especially the ones that are subject to small group reform, the best possible premium rates for the coverage that they have. It allows them to compare companies, compare coverages. [LB1002]

SENATOR PIRSCH: Thank you. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Oh, we have more questions. Senator Pankonin. [LB1002]

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SENATOR PANKONIN: Thank you, Senator Langemeier. I'm going to ask you a question that's actually going to answer his question. As an employer, a small group employer...this is coming in a little more focus now that your testimony is here. And why it's beneficial for me as an employer is that with the limited amount of information that...the things you've mentioned, gender, age, you know, the birth dates, the census stuff, the proposal that you can give me is very limited in that if this information is available, from a timesaving standpoint or more realistic standpoint for both you as an agent and me as an employer, the type of information we're going to get on it in a proposal is going to be a lot closer to the mark. Where the system is now you get the basic census, you do kind of a guesstimate and then once you get all of these individual health things that you fill out through this process, then you fine tune it. So many times it can be a wide range from the initial. Is that it? [LB1002]

RON RAPP: Yes. Yes, Senator because what happens now because of Nebraska small group reform and I cited the statute that called for that, if you came to me with 12 employees and I took them to Blue Cross, Blue Cross has to issue that case because of small group reform. But they can sure play with you price-wise, like 66.6 percent... [LB1002]

SENATOR PANKONIN: Right. [LB1002]

RON RAPP: ...over there of what they call new sales rate or base rate. [LB1002]

SENATOR PANKONIN: So under this proposal, then that information would be a lot closer on that... [LB1002]

RON RAPP: So when I bring you a proposal for your 12 staff people I can say to you, Senator, it's going to be within probably 10 percent, 5 percent. [LB1002]

SENATOR LANGEMEIER: Thank you. Were you done? [LB1002]

SENATOR PANKONIN: Yes. [LB1002]

SENATOR LANGEMEIER: Thank you. Senator Carlson. [LB1002]

SENATOR CARLSON: Senator Langemeier. Ron, I think, and maybe I didn't hear right, I think you said something about that with the way things are now, employers have some more leeway in terms of being able to move to find a better deal. Did you say that they wouldn't have to account for a bad claims employee or how's that? [LB1002]

RON RAPP: Yes. Generally, Senator, HIPAA provides that...well, let me give you the previous proposal. You were working for an employer. You didn't like the job, couldn't

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stand the people, but you had a child that needed to be treated every two months for asthma. If you went from employer A's plan to employer B's plan, employer B's plan is going to say, hey, wait a minute, there's some baggage here, we're not going to cover that for six months or a year. HIPAA made that all go away. [LB1002]

SENATOR CARLSON: Okay. And I was looking at it from the standpoint of if I'm the employer and I want to change to another company, I can't leave out one of my high priced employees. [LB1002]

RON RAPP: No, sir. [LB1002]

SENATOR CARLSON: We're okay. I understand that. Thank you. [LB1002]

RON RAPP: I wouldn't. It's called discrimination. [LB1002]

SENATOR CARLSON: No, not a good idea. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator. Senator Christensen. [LB1002]

SENATOR CHRISTENSEN: Thank you, Senator Langemeier. You may have just answered my question. I guess I was coming the other side. I have a boy with Downs Syndrome, so I have a higher rating and run in a group plan, but that's still not going to effect my rate necessarily. It just with the more disclosure, is it going to make my rate worse and others lower? [LB1002]

RON RAPP: No, Senator Christensen. The reason for it, most companies that do small employer group reform type of business pool those risks. Now the advantage of a pool is if you have a shock claim, somebody winds up in the hospital for a month and there's \$100,000, that's not going directly reflect in your rates because the pool is large enough. On the other side of the coin, if you didn't have a claim all year, you get drug along kicking and screaming with the pool. But the concept in insurance is the law of larger number, substituting a relatively small amount, the premium, for the protection against a relatively large unforeseen loss. That's the whole principle of insurance. [LB1002]

SENATOR CHRISTENSEN: Okay. Thank you. [LB1002]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much. [LB1002]

RON RAPP: My pleasure, sir. [LB1002]

SENATOR LANGEMEIER: Just for my wellbeing here, how many more proponents do we have? Can I see a show of hands? Okay. How many opponents? Thank you. We're

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ready when you are. Welcome. [LB1002]

LEE JOHNSON: (Exhibit 3 and 5) Good afternoon. My name is Lee Johnson, L-e-e J-o-h-n-s-o-n. I am president of Mid-American Benefits located in Omaha, Nebraska. We are a third-party health claims administrator, also known as a TPA. We've been serving group health plans both private and public in Nebraska for over 25 years. As you are aware, the continually escalating cost of health insurance presents a tremendous problem for Nebraska employers of all sizes. LB1002, with some modification, can help employers get control of this cost spiral. It is a bill that is long over due. Most Nebraska employers, both public and private, have never had a fair chance when it comes to obtaining the best possible cost for their group health plan. Think about the ramifications of that statement. One of the largest expense components for any employer, after salaries, is health insurance. And yet Nebraska businesses are at a disadvantage in trying to do what is best for their employees at the best possible cost. Every employer, regardless of size, has the right to know the health claims history of their group. Not necessarily by individual and not in violation of privacy acts, but dollar claim history is important to help the employer understand cost and utilization. This information is extremely important so that the employer, if he or she so chooses, can release this data to any bidding insuring organization so that the bid process for a health insurance contract is a level playing field for all bidders. Currently, this opportunity does not exist for Nebraska employers. Until now, employers have been given several excuses from insuring entities as to why this valuable claims data is not available to them. In fact, if anyone speaks today opposing this bill, you may hear some of those excuses, such as the employer is too small to track or it would take us too much time, etcetera. If those excuses were valid and reasonable, then the following states would not have recently passed legislation or regulations similar to LB1002. Those states are Florida, Georgia, Texas, Indiana, Maine, Iowa, Kentucky, New Mexico, Oklahoma, and South Dakota. And more states are getting close to passage. I have not included in my suggested language anything that we, as a claims administrator, could not provide if requested. If a small 12 employee TPA can meet the requirements I have suggested, certainly every insurer can do so. These state legislators, mentioned above, have all done a tremendous service to the employers in their states. They have allowed their businesses to be more competitive by being less wasteful on health insurance premiums. Right now Nebraska employers are penalized. This legislation can erase that penalty. This legislation, properly worded, can give the people of Nebraska a fair chance at the best possible cost for their health insurance. There are two problems. The original language falls far short of what the Nebraska employer really needs for this legislation to be helpful. There are too many loopholes. I have provided you with a copy of changes that are necessary to give Nebraska employers the best opportunity at cost effectiveness. Some of this language has been borrowed from legislation in other states previously mentioned. The second problem is that the bill does not have priority status. As this is my first involvement with the legislative process, it is my understanding that this bill will, therefore, probably not be voted on during the current session. If that's true,

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it's sad that Nebraska employers will, for at least another year, be penalized and subjected to paying possibly more than necessary for their health insurance. Thank you for your time and attention. I do have modifications to the bill. [LB1002]

SENATOR LANGEMEIER: Are there any questions for Mr. Johnson? Senator Pirsch. [LB1002]

SENATOR PIRSCH: Thank you very much, Mr. Johnson for testifying. I appreciate learning more about this bill and I am intrigued, and just to kind of answer your question. There are, of course, ways with any bills that are not designated that kind of make the process go speedier. And so that aside, a couple of questions I have with respect to...you indicated that in a number of states a similar bill has already been enacted. And I think you kind of pointed to those in your testimony, Florida, Georgia, Texas, Indiana, Maine, Iowa, etcetera. Has the actual experience of these states been that it has empirically controlled healthcare costs? Do we have any kind of data that would show the experience of these states that have already implemented this? [LB1002]

LEE JOHNSON: I can guess that a lot of this legislation is too new for that to be discerned at this point in time. [LB1002]

SENATOR PIRSCH: When were the...among these states, which is the oldest in terms of time, when was the first bill enacted? [LB1002]

LEE JOHNSON: I'm not sure. I can't answer that. [LB1002]

SENATOR PIRSCH: Not sure. Relatively recently I assume. [LB1002]

LEE JOHNSON: The one that I'm most familiar with and was alluded to earlier by a previous testifier was the Texas bill, which I think is the finest bill of all the states that have passed it. [LB1002]

SENATOR PIRSCH: Okay. [LB1002]

LEE JOHNSON: That was passed just this past January. It went into effect January of 2008. [LB1002]

SENATOR PIRSCH: Okay. I'd be interested in learning more about experiences in other states as far as healthcare savings cost. My last question, is this, the requirement of this disclosure, would this place any...if you're not the correct person to maybe address this question, just let me know. But would this place any costly...would this regulation place any high cost upon the industry to provide this or is this a relatively simple matter? [LB1002]

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LEE JOHNSON: It's a relatively simple matter. Every organization has computers, every organization has computer databases, and as I said, we're a 12 employee organization. If we can provide it, Blue Cross can provide it, any carrier can provide it for any group size. And it's my belief that every employer in the state of Nebraska is entitled to know their claims history. The individual is protected by federal legislation. That's not to be necessarily a concern of this legislation because federal privacy laws are very adamant about how the individual is protected. [LB1002]

SENATOR PIRSCH: Yeah. I was just addressing the cost question, but I appreciate pointing out the privacy thing out again. Thank you. [LB1002]

SENATOR LANGEMEIER: Senator Pankonin. [LB1002]

SENATOR PANKONIN: Thank you, Senator Langemeier. Mr. Johnson, we appreciate you testimony. And you had the comments on page 2 of your cover letter or your testimony that the problem this bill doesn't have priority status and why do we have to wait a year. This is more of a statement than a question, although it can be a question. What you're seeing today is kind of how this process works. I'm fairly new to it, too. But we've got an idea and now as testimony goes on, we can see that some people have some different ideas how we may proceed. As a smaller employer, I'm interested in the numbers going down as you've heard. And Senator Gay was interested in the length of time, and obviously you had that in your proposal. So this is how this process works in that we may, you know, take what we have here and then this can be...we've got short session over the interim with our committee counsel, Bill Marienau, we look at this, we try to come up with the best possible language that everybody can agree with. And then someone can give it priority or the committee can give it priority states. So the process can work in this case and that's why sometimes it doesn't happen as fast as people would like to see, but as we're unwinding through this thing today, I think we're learning with every testifier about how to make this better. And so be patient with us a little bit. We may have a better bill by looking at these things. So appreciate you coming. [LB1002]

LEE JOHNSON: Sure. You bet. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. Senator Carlson. [LB1002]

SENATOR CARLSON: Senator Langemeier. Lee, I appreciate your testimony and I'm going to disagree with one of your statements here, but it's not aimed at you. [LB1002]

LEE JOHNSON: Go right ahead. It's okay. [LB1002]

SENATOR CARLSON: Second paragraph, continually escalating cost of health insurance, and it's really not the escalating cost of health insurance as it is the

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escalating cost of healthcare and utilization of that care. And the insurance company simply tries to pay claims and charge enough premium to cover those claims. But the more information, I won't argue, the more information that they have the better off they are in terms of providing a solution to the problem. But I think that this is an opportunity we as a legislators deal on many issues, and one of the things is public health. And if we can make decisions that help improve the public health, we'll help improve the cost of insurance and the smoking bill that we're debating is one of those. We're infringing on people's freedoms, but there may be a reason to do it. Thank you for your testimony. [LB1002]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. [LB1002]

LEE JOHNSON: Thank you very much. [LB1002]

SENATOR LANGEMEIER: You're welcome. Next proponent. Good afternoon. [LB1002]

CRAIG CHRISTIANSEN: Good afternoon. My name is Craig Christiansen, C-h-r-i-s-t-i-a-n-s-e-n, from Omaha, Nebraska. I am the chair of the Educators Health Alliance speaking for that group. I'm here to support this bill with the amendment that has been offered by Blue Cross/Blue Shield, and to give you some information from my perspective and the perspective of the Educators Health Alliance. Educators Health Alliance is the voluntary group that sponsors the health insurance for teachers in Nebraska. We started in 1941. We are a 501(c)(6), it's a nonprofit. We have 330 school systems, 438 subgroups including ESUs, community colleges, colleges, etcetera. Of the public school districts in Nebraska, only three districts are not voluntary members of this group. So what we offer is a benefit of a very large pool, a statewide pool, that has a statewide rating with a single premium. We do not make any distinction upon the utilization or the experience of individual school districts or individual subgroups. And so I'm in support of the amendment offered by Blue Cross/Blue Shield because it protects the disclosure of information at the entity level thereby protecting our pool. We have had a very good experience with Blue Cross/Blue Shield in terms of the disclosure of the information that they have outlined in Senator Pahls' bill. What we want to ensure is that we do maintain the pool by not allowing cherry picking, so to speak, by disclosure to all of our subgroups that is in there. As long as it is at the entity level so that the sponsor of the group receives that information, then we would be in support of this. And we believe that it, in fact, helps to protect that pool, which has worked very well for us and for the state of Nebraska. Because of the arrangement that we have, we have very small districts perhaps, a very high utilization. We have districts that could not on their own get the kind of rate that they currently have because we're in such a large pool, and so that is our concern. I want to share with you also that that translates into some real advantages in terms of public monies in Nebraska. This last week we announced a 4.8 percent increase in premiums for this next year, which we believe is due to not only the

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size of the pool, but due to the kind of management of that pool that we have been able to do. And so we ask you to support the amendment that has been proposed by Blue Cross/Blue Shield to protect the group aspect of these kind of things. So with that, that is my testimony unless there's questions. [LB1002]

SENATOR LANGEMEIER: Okay. Are there any questions? Senator Pirsch. [LB1002]

SENATOR PIRSCH: Just kind of an amusing...do you know if there's any other federal disclosure protection or does HIPAA cover disclosure past the entity level? [LB1002]

CRAIG CHRISTIANSEN: I do not know that. It is certainly possible for an insurance carrier to give individual subgroup information. We do not receive by policy of our group, the board of directors does not receive subgroup information. So for instance any of the school districts in Nebraska, I could not and never have had access and by policy do not have access to any of the information for any individual district. We don't operate that way. We have a statewide community rating and we want to protect that. And that's what I am arguing for is that that be protected so that there not be the kind of selection or selection pressures that might occur if we knew which district had the highest utilization. [LB1002]

SENATOR PIRSCH: Um-hum. Are you aware of any other similar entity to yours that does collect district or subgroup information? [LB1002]

CRAIG CHRISTIANSEN: I am not. I am not aware of any. [LB1002]

SENATOR PIRSCH: Okay. Thank you. [LB1002]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for you testimony. [LB1002]

CRAIG CHRISTIANSEN: Thank you. [LB1002]

SENATOR LANGEMEIER: Next proponent. You're doing a great job of moving up to that on-deck chair. I like that. Thank you. [LB1002]

DAVID McBRIDE: Everybody's well-trained. Good afternoon, Senator and members of the committee. My name is Dave McBride, D-a-v-e M-c-B-r-i-d-e. I'm the executive vice president and registered lobbyist for NAIFA-Nebraska, the National Association of Insurance and Financial Advisors of Nebraska. At this point, most of the points that I would make have been made I think by some of the previous testifiers. Our interest in this bill is from the perspective of our members who are the agents out working on behalf of the employers, including a number of the small employers that would be effected by this legislation, and we certainly feel that this is a fair and reasonable

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approach. Whether the details of this bill are, as it's introduced, are exactly in the best format, I've not seen the amendment that's been referenced here, but certainly the concept of this we think is fair and reasonable. Our members, in trying to represent the interests of the small business owners, certainly I think would feel that to be very useful and beneficial to have access to the claims data that is outlined in this bill, makes it easier and more effective to shop the market for the best possible rates and products for the employers. Obviously some people are getting that information now. It typically is being provided to larger employers now. I think it's only fair and reasonable that the same information be available in working with smaller groups as well. So we would encourage your support of LB1002 or LB1012 and would...or it is LB1002, and I'd be glad to answer questions if there are any. [LB1002]

SENATOR LANGEMEIER: Are there any questions? Senator Gay. [LB1002]

SENATOR GAY: Thank you. Dave, I agree with Senator Pankonin says, sometimes a process you hear and you weed through things. Do you think it should be any or over a certain limit of employees or just all? They should provide this data for all groups because this other gentleman said any group, you know, this is 50 and 25. We're throwing numbers around. Should it be for everybody? [LB1002]

DAVID McBRIDE: I think we'd certainly be supportive of making it available for any size group. [LB1002]

SENATOR GAY: Yeah. So that'd be probably the best for agents. Some of this really out market, trying to help a small business. [LB1002]

DAVID McBRIDE: Well, it's in the interest of trying to help the businesses get the best possible products and rates and all that. So whether you're a group of 12 or 62 or whatever, I mean, the same principle probably applies. [LB1002]

SENATOR GAY: Okay. Thank you. [LB1002]

SENATOR LANGEMEIER: Thank you. Senator Pirsch. [LB1002]

SENATOR PIRSCH: Just following up on that. How many in percentage of employees out there in the total spectrum, how many of those employees are included in groups of 50 or more and how many would be in a smaller, 49 and less? Do you have any clue? [LB1002]

DAVID McBRIDE: I don't have that percentage off the top of my head. I could get it for you if you'd like. [LB1002]

SENATOR PIRSCH: Would you think that the...I mean, do you have a ballpark

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guesstimate or not so much? [LB1002]

DAVID McBRIDE: I really don't, but I think generally speaking the smaller the sized group, the more difficult it probably is to find products that are affordable. And so the challenge is maybe even greater for the even smaller groups. But I wouldn't even be able to guess at the percentages, I guess. [LB1002]

SENATOR PIRSCH: Okay. Thank you. [LB1002]

SENATOR LANGEMEIER: Thank you. Any other questions? Seeing none, thank you very much for your testimony. Further proponents? Handout. Thank you. Just set it there and he'll grab it. Go ahead when you're ready. [LB1002]

KEVIN CONWAY: (Exhibit 6) Good afternoon. Thank you, Senator Langemeier and members of the committee. My name is Kevin Conway, K-e-v-i-n C-o-n-w-a-y. I'm vice president of Health Information for the Nebraska Hospital Association. I'm here to testify on behalf of the NHA and 85 member hospitals in Nebraska. As Nebraska employers, we employ 39,000 individuals within Nebraska, a sizeable group of employees for the state of Nebraska. As with other employers, rising healthcare costs are part of their business operations as well. We've heard prior testifiers giving testimony to the fact that this would help them manage their benefit programs and we would agree with those testimonies. We've heard about the ability to look at claims history, whether it would be 12 months or 36 months, as to valid amount of claims, whether this would give us the proper information. Obviously if this was out there, you could start trending tracking over time. Another benefit that nobody's really discussed is employers and when they undertake their wellness programs. As employers implement more and more wellness within their benefit plans encouraging employee lifestyle choices, activity choices and also preventative measures, with time they could track the impact of those benefit programs and those wellness programs. Are they decreasing actual claims activity for their employees? Are there long-term benefits for their employee base? We would encourage that you look at all groups, not just groups 51 or over. Obviously a group of 15 may have some claim activity. Within a 12-month period that could get wild swings, but there are ways to analyze that over time or looking at various statistical methods to take out those aberrations. So we believe it should be all groups, not just groups 51 or over. The other thing that we would also like the committee to consider is the definition of what the health insurer should be. We believe that this should also be expanded to include workers' compensation carriers. As with health insurance, workers' compensation is another benefit area that benefit managers, employers are having to manage. And having real claim activity and premiums paid over a time period would help them manage that and look at areas that need to be addressing for their internal safety programs, etcetera. With that, I would conclude my testimony and entertain any questions. [LB1002]

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SENATOR LANGEMEIER: Are there any questions? Senator Pirsch. [LB1002]

SENATOR PIRSCH: The underlying premise behind the bill is such that with more information, would be competitors have more confidence and then putting a more competitive quotes, I guess, and then the overall and the aggregate, the healthcare costs would then fall. Is it possible then, and I'm musing here and let me know what you think, when you reach some sort of critical level and go below that, say in this case as originally proposed the 50 employers, are the numbers so few that if you were to have cases with outlay or somebody had an exceptional illness or something to the extent that the costs of this small group then far exceed the premium payments, could that possibly in those cases inadvertently work against the way the bill was conceived, which is to encourage players to get into the market? Could that outlier discourage a would-be competitor seeing the outlier from then jumping into that market and filling the need with lower group sizes? [LB1002]

KEVIN CONWAY: Not being involved in the underwriting world I would not guess as to what motivates carriers and insurance companies to write for certain groups and not write for certain groups. Obviously this would be information that is in the possession of the employer and a current insurance company, and that gives them the power or the knowledge to know what is out there. I don't know if it's going to have a huge impact on the cost of delivering healthcare. What it will have an impact on is the margins that insurance companies are charging over their premiums versus claims activity. [LB1002]

SENATOR PIRSCH: Do you know how this operates in other states? If it is generally for a larger group, 50 and over or...? [LB1002]

KEVIN CONWAY: I'm not aware what the other states are. [LB1002]

SENATOR PIRSCH: Okay. Thank you. [LB1002]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you, Mr. Conway. [LB1002]

KEVIN CONWAY: Thank you. [LB1002]

SENATOR LANGEMEIER: Further proponents? [LB1002]

ROBERT HALLSTROM: Senator Langemeier, members of the committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB1002. I've also signed in on behalf of the National Federation of Independent Business in support of the bill as well. In the interest of time, I would just echo Mr. Christiansen's comments with regard to the NBA support for this bill with the amendment that's been proposed to the committee by Blue Cross/Blue

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Shield. We have a program that's very similar in nature to the Nebraska Education Association in providing health insurance coverage to bankers and their employees. With regard to the NFIB or small business interest, I think you've heard many of the comments with regard to the interest and benefits it will accrue to small business employers by virtue of the provisions of the bill and discussion we've had today. Be happy to address any questions you might have. [LB1002]

SENATOR LANGEMEIER: Any questions? I'm going to ask one. [LB1002]

ROBERT HALLSTROM: Yes, sir. [LB1002]

SENATOR LANGEMEIER: My understanding is as I go in as my company to get this group policy and they quote me a price that's here. They interview all my employees through questionnaires to their health and that sends that premium wherever it needs to be based on my employees. We get to the right premium at some point. It just may be 66 percent higher than what I was bid, correct? Am I with you so far? [LB1002]

ROBERT HALLSTROM: I think that's correct, but... [LB1002]

SENATOR LANGEMEIER: Roughly, and the idea of this would get you to this result or this result quicker? [LB1002]

ROBERT HALLSTROM: I don't know enough about that aspect, Senator. I think that's probably correct but... [LB1002]

SENATOR LANGEMEIER: Yeah. At some point you get to the right premium, but this would allow it to get there faster. [LB1002]

ROBERT HALLSTROM: You'll have better information from those that are issuing a bid on your business. [LB1002]

SENATOR LANGEMEIER: I am sure I will be e-mailed to that answer. So thank you very much. I think you're done. [LB1002]

ROBERT HALLSTROM: Thank you. [LB1002]

SENATOR LANGEMEIER: Thanks. Very good. Further proponents? We're skipping opponents. No, just kidding. No more proponents. Opponents? Wow. No opponents. Then it must be neutral testimony. Welcome. [LB1002]

KORBY GILBERTSON: Good afternoon, Vice Chairman Langemeier, 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. I'm appearing today as a registered lobbyist on behalf of Tyson

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Foods. Tyson originally had some concerns with LB1002 as drafted in that it would drag in self-insureds among the groups that would have to divulge this information. Obviously they have some concerns with having to divulge proprietary information, and it's my opinion that the amendment takes care of those concerns. We were just given the amendment this morning, so they haven't had time to run it all the way through the channels, but I think we should be fine. Be happy to..and one other comment based on the Hospital Association's comments. If the committee was deciding to extend this to other lines of insurance, I think that you would have a whole other host of folks up here to testify. So I would ask that that be made clear and notice went out so that we would have a chance to comment on that as well. Thank you. [LB1002]

SENATOR LANGEMEIER: Thank you. Any questions? Senator Pankonin. [LB1002]

SENATOR PANKONIN: In other words, don't surprise you with work comp (laughter). [LB1002]

KORBY GILBERTSON: That'd be nice. [LB1002]

SENATOR LANGEMEIER: Oh, what fun. Any other questions? Seeing none, thank you very much. [LB1002]

KORBY GILBERTSON: Thank you. [LB1002]

SENATOR LANGEMEIER: Any other neutral testimony this afternoon? Seeing none, Senator Pahls, you're recognized to close on LB1002. [LB1002]

SENATOR PAHLS: Thank you. This will be short and to the point. I think by the interests that you see the potential of a bill such as this and I do appreciate the number of questions because it did make us think a little bit. We were talking about this bill earlier and this is what we were hoping to see an interest in that and I think we found it. [LB1002]

SENATOR LANGEMEIER: Thank you very much. That concludes the hearing on LB1002. And I'll turn it back to the Chairman to open it up on the next one, which is LB1144. [LB1002]

SENATOR PAHLS: We'll let it clear just a little bit. [LB1144]

SENATOR MCGILL: Okay. Yeah, that's fine. I'll get myself organized then, make sure I have what I really need. [LB1144]

SENATOR PAHLS: Good afternoon. We are ready to begin the hearing on LB1144, Senator McGill. [LB1144]

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SENATOR MCGILL: Senator Pahls, members of the banking committee, I'm Senator Amanda McGill. I represent the 26th District and I come to you today to introduce LB1144. I first became interested in the payday lending industry when a very close friend of mine from college worked at one for about a year. He saw, you know, the transactions that take place and he's here to testify today because he brought to me a couple of ideas that he felt would make the industry more consumer friendly. There is a bill tomorrow being heard in the Judiciary Committee that would ban this industry all together. I want to make it clear that that is not my intent with this bill and it never was. From day one when I took an interest in this and started researching it, I met with Paycheck Advance, a company here in town, went and visited their establishment and saw what they do on a daily basis and, you know, opened that dialogue. I also scheduled a meeting in the fall to have some discussions with the industry to see what we could do about some of these issues, and they knew I was going to be introducing legislation on this. Again, it is not my intent to ban this industry or to run them under the ground, but I do think it's important to note that 12 states have decided to ban payday lending, so is the District of Columbia and several other states are looking to do that. The United States, including President Bush, signed off on a law that says active military personnel can't take out this sort of loan because it harms the military in that it's a national security risk to have people in this sort of financial situation to be taking out these loans with such high interest rates. So clearly there is some consensus that taking a closer look at the industry and trying to make sure that it's as consumer friendly as it can be is something that people are doing across the country. In some of the e-mails I've received in the last week, people said, well, you need to do more research here in Nebraska on what is going on here and not necessarily look at what some other states are doing. But as my staff and I found, there's very little data on this industry in Nebraska. We require audits every year, but we don't even know how many transactions take place in one year in Nebraska. That's part of the reason that my bill, this legislation, proposes a data base, so it would be easier to track some of this basic information about the industry. But more importantly, the database...we came up with this idea that many states have databases, this isn't something new, many states have them. It would prevent what already is illegal in our current law. Right now someone can only have up to \$500 taken out...or a cash advance for \$500. They're not supposed to be able to then take that out at one location and go to another one and take out another loan there, and then maybe go to a third one to pay off one of the first two. That's currently illegal, but there's no way to track that. They don't have their own network database except for within one company. The manager at Paycheck Advance that I visited with said the industry had thought about doing this on their own, but then you have issues of privacy. You don't want to be sharing your secrets or your clients with your neighbor. And that's why I've been working with the Department of Banking to try to come up with language for a database that they feel they can operate that would then be able to tell a business if somebody else has a loan out elsewhere and they shouldn't be giving a loan to them. The other part of the bill focuses on a 72 hour wait period,

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another thing that other states have in place. It means that if somebody comes in, fulfills a transaction, comes and pays it off, they can't turn around and go ahead and take out another loan right then and there...or not a loan but a cash advance right then and there. I think that time for them to go home, think about if they really need to be taking out this loan that has a rather high fee. It's \$15 for every \$100. That's \$75 if you're taking out \$500. It would give them a chance to go home and think about if they really need to be taking this out and getting themselves further in debt really. I want to bring up a situation that happened last week with some letters that we've received. I e-mailed the committee about this situation because I was very concerned about it and I have some comparative letters, too. Today in my office, as everybody did, we received some what I think are very reasonable letters from the organizations where they came up with a form letter. I'm sure they had customers sign these and sent them in. All the return addresses were filled out in the same handwriting, to me, perfectly normal. This is the sort of e-mails that we get also in bulk oftentimes. But last Friday we all received a variety of handwritten letters, all on different stationary, all in different handwriting that give personal stories. As winter was approaching, I knew my bills would be skyrocketing. When my car broke down, I needed a way to get it fixed right away. I was recently ill and had to be away from work for a while. Very personal stories, but the people who supposedly signed them, these aren't their stories. They're customers that came in, chatted with the staff, agreed to go ahead and sign some letters, but this isn't their personal story. The letters all came from one envelope with a return address that was Paycheck Advance, ironically the same company that I went and visited and reached out to. I feel that, you know, it's one thing to send out a form letter without a personal story, but then to give us the impression that these are people who cared enough to handwrite a letter and give us their personal story. I find this incredibly misleading and unethical, and it does make me question the bigger practices. If they're willing to behave like this when it comes to submitting testimony and trying to form a grassroots movement and mislead us in this sort of way, it does make me wonder what they do with their clients. Now my unhappiness is not aimed at the whole industry. I know that there are many great mom and pop shops and other businesses that do work in a more ethical manner, the ones who I'm sure sent out these letters. But it does make me question that one particular business and any testimony that they may have here today. When I first started looking into this, I actually e-mailed my entire list serve of constituents. I know we all get e-mails, whether we like it or not, from our district and we can, at least in my office, compile those e-mails. And I e-mailed the entire list serve, whether they like me or agree with me on things or not, to that entire list. Of all of the e-mail folks who responded, one said, stay away from the industry, there's a demand there, you shouldn't need to look into this anymore. A couple of people had stories of people they knew who had maybe used the industry, but didn't have personal responses. But we got over 40 or 50 e-mails from people who said that I think this is something worthy of looking into. So as far as I'm concerned, my constituents think that this is an important matter to take up. We have seven payday lenders within a square mile in my district, seven. That's as many as there are fast food restaurants. So I think

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that shows that at least I have a real desire and so do my constituents to take a look at this industry and see if there are ways to make it more consumer friendly. I'm more than willing to work with any of the lobbyists here today or the business owners to make LB1144 as reasonable for the businesses as possible, and I look forward to hearing their testimony today and the further conversations, but I hope that we can all work together as a committee as well as you get some legislation passed. Thank you. [LB1144]

SENATOR PAHLS: Any questions for Senator McGill? Senator Gay. [LB1144]

SENATOR GAY: Senator McGill, I've seen these popping up and I'm not that familiar with your district, but even in my own I see them popping up... [LB1144]

SENATOR MCGILL: Yeah. [LB1144]

SENATOR GAY: ...pretty frequently in what I think are nicer areas. So somebody is using these services and I know you're sincere as a consumer protection, I know on other issues that you've worked on. But I guess on that would we be...how do you justify that though if these people are willing to pay these? [LB1144]

SENATOR MCGILL: Yeah and that's why I'm not interested in shutting it down. I think part of it... [LB1144]

SENATOR GAY: I know there's a protection you have to have but why are the popping up in a lot of places? So you're just saying to study it a little bit and maybe go out and find out more data. [LB1144]

SENATOR MCGILL: Yeah. There are a lot of issues that play into the financial situation people in America are in right now. You can turn to other sorts of bad loans or mortgages or credit card, I mean, it's a huge problem that we're facing and I completely and utterly recognize that. I think that we're seeing that people...their pay on their jobs isn't keeping up with inflation and so more and more people are living paycheck to paycheck and do need these services to help them pay their regular bills. And that's sad and you know shutting down the industry isn't going to help that, but I do think that making sure there are protections there to make sure that people aren't getting in over their head. I was talking to Senator Karpisek earlier today and he said he has a friend who has a punch card for how many times he's used one of these places and like the tenth one is free of no fee and he's on his third card. And if people are caught up in that, I think that that's not healthy for our economy or individuals and we need to do what we can to make sure that people are using them when they need them, but not getting caught up in being dependent on that. [LB1144]

SENATOR GAY: So it's a revolving...probably do it a couple of times, you got to keep

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doing it? [LB1144]

SENATOR MCGILL: Yeah, well if you think about it... [LB1144]

SENATOR GAY: So are you saying this is becoming like a revolving loan almost? [LB1144]

SENATOR MCGILL: It can be and again, since the statistics aren't there in Nebraska, you know, it's one of the reasons I want to look into it a little heavily. And I don't want this to become a big, heavy emotional issue about, you know, what is the best way to solve some of these issues as far as, you know, the debt that Americans are getting into because it is a very big issue. But I think that we can at least...like I said, the database helps to close a loophole that's there. It's already illegal for people to be jumping around between locations. Of these handwritten letters, we talked to three of the people that signed these letters. One woman admitted to having gone to more than one location and all of them when we explained what my bill does said, that sounds reasonable and those were users of the industry. [LB1144]

SENATOR PAHLS: Senator Hansen. [LB1144]

SENATOR HANSEN: Thank you, Senator Pahls. Senator McGill, you've, I don't know between all of this, have kind of used both terms, loans and fees. Is this a 15 percent loan or is it a 15 percent fee? [LB1144]

SENATOR MCGILL: They're not technically loans in Nebraska. It's a cash advance and it's for every \$100 you take out, then there's a \$15 fee on top of that. [LB1144]

SENATOR HANSEN: Okay. I wanted to make sure that was clear. [LB1144]

SENATOR MCGILL: Yeah. They're not loans and I may have been using those words. Other states referred to them different ways, too, but it's a cash advance. [LB1144]

SENATOR HANSEN: I think of them have loans in the name of their business. [LB1144]

SENATOR MCGILL: I don't think they're supposed to. [LB1144]

SENATOR HANSEN: I don't think they should either. [LB1144]

SENATOR PAHLS: Senator Pirsch. [LB1144]

SENATOR PIRSCH: Would the 72 hour waiting period just apply to that particular store or chain or the whole industry? [LB1144]

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SENATOR MCGILL: Well, with the database I think that that would help clear that up. It's supposed to be at all. [LB1144]

SENATOR PIRSCH: It's supposed to be any further pay, kind of, check... [LB1144]

SENATOR MCGILL: And that's one element of the bill I'm willing to totally work on and see if, you know, there's something more reasonable to the industry on. [LB1144]

SENATOR PIRSCH: No, I was just trying to understand how it functioned. [LB1144]

SENATOR MCGILL: Um-hum. [LB1144]

SENATOR PIRSCH: And is it common then that sometimes people get...why would you go to more than one or why is it typical that...? [LB1144]

SENATOR MCGILL: Because you need more money, because people's paychecks aren't making...there's supposed to be a maximum of \$500. That's all you're supposed to have out and that's what current law says. [LB1144]

SENATOR PIRSCH: Okay. [LB1144]

SENATOR MCGILL: But right now there's not way to enforce that if they go to a different place. [LB1144]

SENATOR PIRSCH: So you might need \$1,300 and so you go to perhaps three, that's the idea. [LB1144]

SENATOR MCGILL: Yeah, a couple of places and really as I said, my friend Adam Knowlton, who worked at one is here to testify after me and I think...I would really encourage you to ask him a lot of questions... [LB1144]

SENATOR PIRSCH: Okay. [LB1144]

SENATOR MCGILL: ...about what he saw on a day-to-day basis and how things worked at least where he was at. [LB1144]

SENATOR PAHLS: Senator Langemeier. [LB1144]

SENATOR LANGEMEIER: Senator McGill, thank you for the testimony. To follow up on Senator Pirsch, he's talking about the \$1,300 and I think your fear is that they go get \$400 from this one. [LB1144]

SENATOR MCGILL: Um-hum. [LB1144]

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SENATOR LANGEMEIER: And then paycheck comes around there's nothing left, but I got to go pay them. [LB1144]

SENATOR MCGILL: Yeah. [LB1144]

SENATOR LANGEMEIER: So I go over here and take out another \$400... [LB1144]

SENATOR MCGILL: Yeah, that's... [LB1144]

SENATOR LANGEMEIER: ...which I only got \$350 of. [LB1144]

SENATOR MCGILL: Um-hum. [LB1144]

SENATOR LANGEMEIER: And now I'm still short to pay that off and so on and so forth. [LB1144]

SENATOR MCGILL: Um-hum. Yes. [LB1144]

SENATOR LANGEMEIER: Thank you. [LB1144]

SENATOR PAHLS: Seeing no more, are you going to be here for closing? [LB1144]

SENATOR MCGILL: Thank you. Yes. [LB1144]

SENATOR PAHLS: Okay. We will now go to the proponents. [LB1144]

ADAM KNOWLTON: Good afternoon. As Amanda said, my name is Adam Knowlton, A-d-a-m K-n-o-w...and I want to thank all of you for the opportunity to speak here with you today. I want to talk about the current state of the paycheck advance industry as I experienced it, and specifically the issue that I want to talk about is the issue of rollovers. When I started working in the paycheck advance industry it was drilled into my head that according to the state of Nebraska, I could not in any way give any kind of rollover. And as all of you probably already know, a rollover is when a customer just comes in and pays the fees or interest of their advance and then doesn't pay off the full price of the loan. However, my manager, at the time, admitted to performing rollovers for longstanding customers and the manager before her was even let go for reportedly performing the act of rollovers for her customers as well. What's worse, in the state of Nebraska the current rollover system is completely impossible to monitor. Currently, customers are allowed to reprocess their loans immediately after they pay off the loan. Because of this one simple fact, customers are essentially performing the act of a rollover and the state has absolutely no way of knowing whether or not the business performed a rollover or not. A brief example to illustrate my point, if I were to take out a

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\$425 loan at one of these companies, on average there would be \$75 in fees. Come payday if I was not able to pay back the full \$500 I would be either forced to go to a different company or overdraw my bank account to pay off the loan. And obviously because I do not want to leave my account overdrawn or have to pay back my other one, eventually I would have to immediately return to the business I had just paid the loan off at an retake out yet another \$425 loan. In this situation which happens countless times every single day, the customer is essentially just paying the interest of the loan which is the pure definition of what a rollover is, and this individual customer is now locked into this company providing the loan until somehow they provide an extra \$500 in discretionary income, and unfortunately, most of these people don't have that. This loophole in the regulation of rollovers is how individuals, I feel, get themselves so deep into financial hardships. Because of this I am a very big advocate of Senator McGill's bill, LB1144. By implementing this three day waiting period between the loans the loophole that allows these companies to victimize their customers will be closed, and the state of Nebraska will be better equipped to monitor the use of rollovers. What's more, with the ability of the state to prohibit multiple transactions at multiple stores with the database that McGill proposes, they would be able to keep these customers from the likelihood of collections in small claims court. In conclusion, this bill is essentially just enforcing the rules and regulations that are already on the books concerning the paycheck advance industry, yet does not create a situation where these people who are possibly in need of financial help will be able to get some. If there's any questions, I'd be more than happy to answer them at this time. [LB1144]

SENATOR PAHLS: Adam, I have a couple of questions. You said you were at one time an employee? [LB1144]

ADAM KNOWLTON: Yes, sir. [LB1144]

SENATOR PAHLS: And it appears that you were around long enough to see at least say, quote your boss dismissed because of rollovers? [LB1144]

ADAM KNOWLTON: Um-hum. Actually while I was there as manager, the state banking and finance actually performed a full audit of our company where I had to provide all of the customer transactions for every customer that was there during, I believe, a six month period, and it was a rather significant amount of paperwork I had to copy for them so that they could review all of the records. [LB1144]

SENATOR PAHLS: Okay. So apparently then the Department of Banking is doing some kind of monitoring, is what you're telling me. [LB1144]

ADAM KNOWLTON: This is true, but unfortunately the only way to tell if there's a rollover, the paperwork is almost...it's impossible to tell whether or not there's a rollover because the way that the system is set up, if someone comes in and says I only have

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\$75 in my pocket. Well, you can tell the computer that they paid \$500 and then immediately pulled out \$425 again and the computer thinks that you did everything, the books say that you did everything correctly, but you just performed an illegal operation by performing a rollover for that customer. By putting in the three day waiting period or one day or however they want to make it, it would absolutely force these companies to stop the practice of rollovers, and if they did it, it would be clear as day in the books and in the computer system. [LB1144]

SENATOR PAHLS: Senator Langemeier. [LB1144]

SENATOR LANGEMEIER: Thank you, Chairman Pahls. And Adam, thank you for your testimony. Here's where my problem is, if what you say is true and we have these people hooked, and I'm not arguing it, but if you have them hooked and they've got to do this where they come in and they do this rollover now, what are they going to do for the three days? Are they going to rob your house? Are they going to rob cars? Are they going to sell their first child? I mean, they're already in this system and utilizing. What are they going to do for three days? [LB1144]

ADAM KNOWLTON: Well and I completely understand that and the last thing that I want to do is put these people in a bad situation. In my experience working there, they're all extremely hardworking people that often have two, three jobs to try to stay afloat and the last thing that I want to do is put them in a difficult situation. However, it is my personal opinion that these companies are slightly misleading when you see ads out on television or radio, or big banners on the roadside that says, first loan free. You know, that's just begging people to come in there and end up getting hooked within the rollover issue or end up having to go to multiple places over and over and I've seen it way too many times to feel good about it. [LB1144]

SENATOR LANGEMEIER: So a follow up on that is if we were told earlier is Senator Nantkes I believe, is that right, has a bill in judiciary tomorrow to ban them totally? Are you a proponent, opponent, or neutral on that bill? [LB1144]

ADAM KNOWLTON: Well, I wouldn't...I mean, I guess I don't really have a whole lot of background on that bill. [LB1144]

SENATOR LANGEMEIER: Would you support banning them totally? [LB1144]

ADAM KNOWLTON: My personal belief is that it's not the role of government to tell whether or not someone can have a business. I do feel though that it is the role of government to make sure that we are enforcing the rules that are already on the books. [LB1144]

SENATOR LANGEMEIER: Thank you. [LB1144]

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SENATOR PAHLS: Senator Pirsch. [LB1144]

SENATOR PIRSCH: And I'm sorry if didn't glean from that the answer, but with respect to the three day period that would be implemented in this bill, what is the harm that would be cured by this three day period, by the waiting would eliminate what? [LB1144]

ADAM KNOWLTON: Well, personally I feel that a lot of these customers would either find a way to get things okay or they would go to the banks, which offer a lot better interest rates. One narrative if I could share for the moment, I had a customer come in and say he didn't want to go to the bank because he was overdrawn there. But you know, that bank, I think the highest they can charge is something around in the mid-30s of interest rate, whereas the company where I was working at was 450. And so it made absolutely no sense to me, but because this individual was so worried about financial issues and had so many things going on in his life, I don't feel that he took the time to adequately address where he was financially. [LB1144]

SENATOR PIRSCH: But is it common that these type of individuals who are caught in this cycle, then recycle back within the three day period then? [LB1144]

ADAM KNOWLTON: I'm assuming there would probably be some that would. The issue, I guess, that I would like to see addressed is the problem of customers being there every two weeks for four, five, six years and in turn, not making this the short term loan like it has always been intended to be. [LB1144]

SENATOR PIRSCH: And that's what I'm getting at. Does it need to in your opinion...you said two week period, I mean, is a three day do...? [LB1144]

ADAM KNOWLTON: Well in my opinion, if you have to take out \$5,000 to get your head above water, it would make a lot more sense to be going to a bank where there are, again, rules and regulations implemented to protect these customers instead of going to somewhere where the regulations say it's only supposed to technically be a two-week loan and end up getting themselves into even further financial hardships. [LB1144]

SENATOR PIRSCH: Okay. [LB1144]

SENATOR PAHLS: And let me ask you another question simply because you've worked in this area. I see a lot of, in the western part of Omaha, these businesses. Now that has to be a different clientele than what you're talking about. [LB1144]

ADAM KNOWLTON: I don't know. I mean, I don't want to get into specifics of where I worked. I will say though that it is not unique to one specific financial class. I mean I had the bluest of blue collar workers and I had some significantly white collar workers that

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were there every two weeks for extended periods of time. And so I don't really feel that it is necessarily in one economic class, if you want to label it that way. [LB1144]

SENATOR PAHLS: Okay, thank you. Senator Pankonin. [LB1144]

SENATOR PANKONIN: Thank you, Chairman Pahls. Adam, appreciate your testimony. Just a couple other questions to learn more about the industry. What happens when the people don't come back to pay? How does your industry collect? [LB1144]

ADAM KNOWLTON: Well I mean, I can speak from personal experience. But where I was working you called the banks every single morning. You had usually anywhere...if you were on top of things and you were doing a good job and the corporate office was happy with you, you had five, six checks most of the time. Most companies and most people that I talked to had anywhere from 18 to 25 checks and you would call all the banks that those checks were at and make sure...see if any of those would clear. [LB1144]

SENATOR PANKONIN: Are we talking paychecks, do you mean? [LB1144]

ADAM KNOWLTON: No, actual physical checks from the their checking account. All of the paycheck loans that are taken out, you have to verify first that they do have a job. You have to verify that job and you have to also verify how much they're paid. Off of that, you then have them write you a personal check and that is what we physically held was the personal check. [LB1144]

SENATOR PANKONIN: So that's your security is that person's check. [LB1144]

ADAM KNOWLTON: Exactly and what we would do every morning is you would spend the first hour and half of your work day calling all the banks to see if any of those checks would clear. If they did, you went and you got a cashiers check made for them so that the company could collect. If that did not work past a prescribed period of time, they were then sent off to corporate collections and it varies greatly on what happened to the customer at that point. [LB1144]

SENATOR PANKONIN: Follow up question just from your view of the industry and some of the comments you made. [LB1144]

ADAM KNOWLTON: Um-hum. [LB1144]

SENATOR PANKONIN: I think, you know, I do have concerns because I do think there's been abuses. On the other hand and Senator McGill said as well, when folks get in trouble they don't have a lot of alternatives because when you say, well, they ought to go to their bank and get that loan. But it's probably...my hunch would be in most

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situations there's nothing for the bank to have a security interest in and the rates that banks can charge are much less. For example right now in this rate environment, a higher rate would be 12 percent. Well, even on a \$5,000 loan, by the time you take a loan officer's time and the risk involved, where you folks are making...yeah, I mean obviously that industry is making tremendous amounts of fees and rates. So it is a problem for folks. I don't know what the solution is. I guess I'm asking the question, you probably don't either, but I guess this is part of the problem is that they're probably not bankable loans, loan customers. [LB1144]

ADAM KNOWLTON: Well one of the options that I know that I would personally throw out to my customers if they had been coming there for a very long time and it was getting to the point where I knew it was just going to end badly. I mean, oftentimes I would just tell them take it on a credit card. Who cares if you're paying 26 percent on that credit card. I mean if you're paying 26 percent on a credit card, it is significantly better than the 460 percent that you're going to be paying on that for the rest of this year if you keep doing what you're doing right now. [LB1144]

SENATOR PANKONIN: Yeah. Thank you. [LB1144]

SENATOR PAHLS: And Adam, just a couple of questions because you are being critical of the...and I understand that. How long did you work? [LB1144]

ADAM KNOWLTON: I worked there over a year, about a year and 2 months, about 14 months. [LB1144]

SENATOR PAHLS: Okay. Do you see any benefit to the services that are provided? [LB1144]

ADAM KNOWLTON: No and that's one thing I wanted to make sure I clarified for everybody was I do believe the intent is incredibly noble. I believe the intent was set up right. I don't know where things got lost in translation over the years, but I think helping people who are living from paycheck to paycheck is exactly what people need to do period, is help those who are in need. And I don't believe that necessarily every one of these places is inherently evil, and the people that I worked with will be more than happy to vouch that they're all very, very good people. I don't want it to come across that I'm completely against these. I think if they are used in the correct manner, if they're being used as a true short-term loan, then I don't feel that they're necessarily a negative influence. [LB1144]

SENATOR PAHLS: Okay. Seeing no more questions, thank you, Adam. [LB1144]

ADAM KNOWLTON: Thank you. [LB1144]

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SENATOR PAHLS: Proponents? [LB1144]

LEA WROBLEWSKI: (Exhibits 1 and 2) Good afternoon. My name is Lea Wroblewski, W-r-o-b-l-e-w-s-k-i. I'm an attorney at Legal Aid of Nebraska and I specialize in bankruptcy and consumer law. In my capacity as a consumer law specialist I train and supervise attorneys across the state, and I recently had an attorney that had been working in criminal law for a long time and then came to Legal Aid. And she was shocked when she got her first payday loan and she was saying, what happened to the usury laws in Nebraska? How can this possibly be happening? And in the time that she had been practicing criminal law, this entire industry had just gone crazy. I mean, they are on every corner and I was surprised that she wasn't aware of the interest rates that they're charging or the practices that our clients just get completely wrapped up in. I wish that we could talk about this industry with statistics from the state of Nebraska, but that's not possible. I am providing the committee with a copy of a report which is from the Center for Responsible Lending, and it includes national statistics about these loans, and I have no reason to believe that the state of Nebraska would be any different than the states that are discussed in this report. I think to address some of the questions that have been made, there's a table on page 8 which outlines what you can afford to pay off if your income is \$35,000, and I can assure you that's way above my client's annual income. But at \$35,000 you couldn't pay off one of these loans. The practices are designed to get people into a debt cycle and into a hole that they simply cannot get out of, and I see it every single day. I attached some examples, and these are just cases I pulled off the top of my desk I mean these aren't...I could bring in pages and pages and pages. My clients are embarrassed that they are in this situation. They feel that it is their responsibility, they signed these contracts, they are humiliated that they are in this situation. And when they come to me, there's really not a lot I can do for them because technically these places are following the law. And by following the law the way it's written in the state of Nebraska, they are putting people in a hole and putting families in such a situation that on payday they're driving from place to place to place, paying off one loan, writing more checks to go pay off the next loan, and just barely staying above water. The way these loans work with the checks, with these live checks, as the previous individual testified to, if there's money in your account, that check goes through and you may have checks outstanding for rent, or for utilities, or for groceries and those checks are all going to bounce. And you can't prioritize those types of debts anymore because that priority has got to be that delayed deposit, I call it a loan because it is a loan. I just have difficulty calling it anything else. And despite that, you know, we've created this industry and the law has been written to allow this industry to profit in the state of Nebraska. I would tell you that I think that this is a very serious problem and I think that keeping a record of how these transactions are conducted and limiting the number of transactions is a good start in the state of Nebraska. And I would welcome coming back to this is if we can really show that this is not a problem for the citizens in Nebraska. I will back off and say that it's just a low income person's problem. I guess it's just my individual cases or my...you know, I don't think that these cases are unique. And

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so based on the work that I do, I would suggest that this happens frequently in Nebraska, and I think that we are in desperate need for some regulations in this area, and I think that Senator McGill's bill is an excellent approach to finding out exactly how many of these transactions are going on, and limiting the number of transactions that are occurring. And I welcome any questions that the committee has. [LB1144]

SENATOR PAHLS: I just have one question. [LB1144]

LEA WROBLEWSKI: Sure. [LB1144]

SENATOR PAHLS: What kind of money do I have to make or not make in order to use you as an advocate for me? [LB1144]

LEA WROBLEWSKI: My clients have to be 125 percent of poverty level, so they can be above poverty level. A lot of my clients in the consumer area work, but I would note that another area I've seen grow particularly with these delayed deposit loans, is people receiving federal benefits who are able to write these delayed deposit loans. They can't work overtime. They can't go out and get a part-time job. You know, they're disabled. Their benefits are barely enough to cover their monthly benefits and they certainly can't repay a loan. [LB1144]

SENATOR PAHLS: Okay. Senator Pankonin. [LB1144]

SENATOR PANKONIN: Thank you, Chairman Pahls. We appreciate your testimony and examples. Go back to the question I asked earlier of Adam. Do you think that these sort of businesses do have a rightful place in the hierarchy of financial services? And obviously, without talking about individual circumstances like your examples, but how would you make this system better for folks like this to be able to get out of this trap that they're in and, I mean, to avoid getting in in the start? What's the...obviously you give advice about the credit cards...or he did, excuse me. How do we solve this? [LB1144]

LEA WROBLEWSKI: Right. I know that there is a growing response nationwide and specifically in the state of Nebraska to offer short term loans at much more reasonable rates, and also to include in that some counselling on budgeting and economic planning. And I think that that would be my preferred response to this. [LB1144]

SENATOR PANKONIN: Okay. Who would make those loans? [LB1144]

LEA WROBLEWSKI: The Salvation Army and other organizations are looking into starting those types of loans is my understanding. I also think that credit unions nationwide have often responded to these delayed deposit service loans by offering small short term loans. And in addition to that, the consumer has to agree to attend consumer credit counselling. [LB1144]

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SENATOR PANKONIN: Okay. Thank you. [LB1144]

SENATOR PAHLS: Senator Langemeier. [LB1144]

SENATOR LANGEMEIER: Thank you. I'm still thinking about my question. We have a difference between this payday lending and check cashing. Two different issues, I'm well aware of that. But in Schuyler check cashing has become a booming business for non-U.S. citizens, let's put it that way. How does that role roll over in your mind to these paycheck advances? Is that an area that make good targets or not? [LB1144]

LEA WROBLEWSKI: You mean as individuals that would write a payday loan? [LB1144]

SENATOR LANGEMEIER: That would want to do this service. [LB1144]

LEA WROBLEWSKI: That would write a delayed deposit loan you mean? [LB1144]

SENATOR LANGEMEIER: Right. [LB1144]

LEA WROBLEWSKI: I guess I'm not sure. I don't think that this particular bill addresses that issue. I guess I can just tell you anecdotally or however you want to think of it from my own experience, the individuals that you've described tend to operate on a cash basis and don't have checking accounts, and that's really the only basis for getting these loans is they have a checking account. I mean, they don't look at your monthly expenses or what other obligations you have. It's just your checking account. [LB1144]

SENATOR LANGEMEIER: You answered my question with the checking account. Thank you. [LB1144]

LEA WROBLEWSKI: All right. [LB1144]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony. [LB1144]

LEA WROBLEWSKI: Thank you. [LB1144]

SENATOR PAHLS: Anymore proponents? Opponents? [LB1144]

KURT YOST: Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is Kurt, K-u-r-t, Yost, Y-o-s-t, and I know all of you are probably sitting there wondering what am I doing here. I am here to share with you a little bit of the history of the payday lending industry in the state of Nebraska since I, 14 years ago, was involved in the creation of the legislation that we're having a debate about. It's a

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long story how I got involved but just trust me, suffice to say some friends came to me in the industry. I didn't know anything about the industry, never heard of the industry, they suggested that, in fact, the industry needed to be regulated, licensed, examined, and bonded. And they asked me to help them create legislation to do that, along with the then chairman of this committee, Senator Landis, current legal counsel Mr. Marienau, myself, legal counsel for the banking department, Patty Herstein, and then director Jim Hansen, we proceeded to do...to create legislation to bring the payday lending industry out of the dark ages, out of the alleys, if you will, and into the light of day. Now we have sat here today and talked about problems in the industry, awful lot of good questions. Unfortunately there are a lot of industries in the financial services arena that we could sit here and debate the pros and cons of, and all we have to do is turn on CNBC every morning to understand that. But the payday lending industry and the people that I...oh, and I forgot to mention who I represent. Pardon me, sir. I represent Midwest Check Cashing Inc. out of Bellevue, Nebraska, and I have for the past 14 years. They have ten locations in Nebraska: One in Lincoln, one in Grand Island, one in South Sioux City, and seven in the Douglas-Sarpy County area. They do business as EZ Money Check Cashing. We have worked...Senator McGill's legislative aide, Greg Butcher, has worked tirelessly to take a look at this industry, to the pros, the cons, the ups, the downs, the ins, and the outs. Some people that are going to follow me will talk about some of the technical aspects of the 72-hour cooling off period, the rollover, etcetera. Senator Langemeier asked a great question. What are certain people to do in that 72-hour period? Unfortunately the alternative, the alternative, particularly to Senator Nantkes' bill that we'll deal with tomorrow in Judiciary, is that we go back to the alleys in the urban areas. We force them to go across the river to payday lenders in Kansas, Missouri, South Dakota, wherever, Iowa, or more conveniently you Google paydaylending.com and you can do payday lending on-line, where the information you have to provide totally lays you out to ID theft and the rates you pay are far more substantial. In our negotiation process back in 1994, at the end of the day Senator Chambers, who is still here today, along with Senator Schimek, and Senator Ashford and Senator Dierks have come and gone and come again. Those four senators were part of the discussion or at least involved in the vote in 1994. Senator Chambers did engage himself and was involved and instrumental in setting the rate at \$15. And I'm here, gentlemen, to provide you with some historical background on this. Suffice to say that there is a group of payday lenders. My man is not a nationwide corporate individual, but there are a group of payday lenders who have a genuine concern about this industry. We try to work with the department and the department is more than accessible to us to work with us. We have tweaked the legislation through the years. A lot of it has to do with fees, etcetera. We have talked about these various subjects. We have not talked about Senator McGill's main interest, the database, but we have talked about the cooling off period, the rollovers, and those kinds of things through the course of time. And with that, I'll probably...you're getting tired of hearing from me, but that's kind of a little bit of the historical perspective of the payday lending industry. Senator...yes, sir. [LB1144]

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SENATOR PAHLS: Yeah, a question I have, Kurt, you say Senator Chambers was in agreement with the \$15? [LB1144]

KURT YOST: Well, let me just say that we had to do some negotiations with Senator Chambers. [LB1144]

SENATOR PAHLS: But he settled on that...or not he but that? [LB1144]

KURT YOST: That's where we ended up, yes. It started out, for your information committee members, it started out at \$22. That was the initial draft and the industry...my client and I met on two specific occasions with Senator Chambers in his office to try to find some common ground. But that's not to say that Senator Chambers was necessarily pleased. I mean... [LB1144]

SENATOR PAHLS: Yeah, it's called compromising. Senator Pankonin. [LB1144]

SENATOR PANKONIN: I think Senator Langemeier was first. [LB1144]

SENATOR LANGEMEIER: Go ahead, go ahead. [LB1144]

SENATOR PAHLS: I'll get you. [LB1144]

SENATOR PANKONIN: Chairman Pahls, thank you. Kurt, appreciate your...the testimony and the history, I think that was very helpful, the background behind it. But a couple of questions, you mention that Senator McGill and her staff has worked hard on this, and is there anything in the bill that you think could be a potential...? Are you opposed to everything or even the concept of looking at it? Your opposition is...? [LB1144]

KURT YOST: My client is not, Senator Pankonin, opposed to sitting down and trying to find some common ground. We suggested at the conclusion of a meeting that was held this fall that Senator McGill referenced that come back to us as the industry, tell us what it is you want, what information you want, and let's see if we can provide it without going out and hiring a vendor if you will, a software system to create this mechanism or database. [LB1144]

SENATOR PANKONIN: Okay. Appreciate that answer. Going back to the question I've asked before, you also represent Community Bankers Nebraska, correct? [LB1144]

KURT YOST: Right. [LB1144]

SENATOR PANKONIN: And my assumption that a lot of these folks in a situation they're at that those are not, for the size and the risk involved, are not bankable loans.

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[LB1144]

KURT YOST: Senator, that is unfortunately the case. [LB1144]

SENATOR PANKONIN: I know it is. [LB1144]

KURT YOST: Yeah. Right. [LB1144]

SENATOR PANKONIN: For the amount of money you make, for the risk and the time, on and on. You heard what the lady from Legal Aid said. I mean, what from a public policy standpoint...haven't been involved in this industry or both these industries for a long time. What's the way that we approach that to help these folks? She mentioned getting some credit advice and this sort of thing. I mean you know, that's what obviously we have to all look at to a certain extent. What's the best public policy way to solve or help these folks and maybe the industry works with them on and on? [LB1144]

KURT YOST: And that's a tough question, Senator, because in part there is a certain percentage of people that use a payday lender or use credit cards that are totally responsible. They don't have issues. Unfortunately there's a segment of our society, our consumer public that for whatever reason is always on the edge, whether it's too many credit cards, payday lending, installment loans, whatever. I'm not sure and I've often thought about this, I'm not sure how we get a precise handle on it. My client and I have personally met with a consumer counselling people, at their request, here in Lincoln to talk about this very thing in recent years. And it becomes more apparent in these kinds of times when everyday you turn on the TV and CNBC has got nothing but credit woes, big or small. And that's a tough question, Senator, it really is. But it's not one that we dismiss off hand, it really isn't. And I will make one observation...and the lady with Legal Aid mentioned the Salvation Army, I will share with you and you may be aware of this that the FDIC is currently doing a special project and has designated X number of banks to create a small loan environment to address this kind of situation and they've got a test market. There is a commercial bank in the state of Nebraska that is part of that test market. It's going to go over a period of two years. [LB1144]

SENATOR PANKONIN: Thanks, Kurt, appreciate your input and the history has been very helpful. Thank you. [LB1144]

SENATOR PAHLS: Senator Langemeier. [LB1144]

SENATOR LANGEMEIER: Kurt, thank you. You've been around here a long time? [LB1144]

KURT YOST: Thirty-three years. [LB1144]

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SENATOR LANGEMEIER: You talked about Senator Chambers meeting you at \$15 and you were at \$22, he was at what? Five? [LB1144]

KURT YOST: You know, Senator Langemeier, that's a good question and I can't recall totally where it was at. I do know that Senator Chambers is a tough negotiator and that my client and I spent some arduous hours in his office and came out licking our chops, so to speak. [LB1144]

SENATOR LANGEMEIER: I've dealt with Senator Chambers. I was trying to see how good a negotiator you were. Now my follow-up question is, is you've said you've talked to Senator McGill's office and you think you can work something out. The question is, can you get it worked...can you understand this system we live in here, can you have that worked out by Monday? (Laugh). [LB1144]

KURT YOST: No, no. [LB1144]

SENATOR LANGEMEIER: So you're never going to come to satisfactory agreement at this section with this bill? [LB1144]

KURT YOST: I would suspect not. [LB1144]

SENATOR LANGEMEIER: Okay. [LB1144]

KURT YOST: And I daresay I don't want to put words in Senator McGill's mouth. [LB1144]

SENATOR LANGEMEIER: Just yours. [LB1144]

KURT YOST: But I think I heard her say that the database is an important piece of this situation to her. I know for a fact because I had a conversation with the senator this morning that she is not interested in drawing a line in the sand, nor are we interested in drawing a line in the sand. Is that to say we can come to some kind of an agreement? I'm not sure, Senator Langemeier, but my client is willing to work on it. But I will be very honest with you, given the dynamics of the 2008 session and what I perceive to be big issues that have yet to come before you, I'm not sure that that can happen in 2008. And I may be wrong, but I think I shared that with the Senator's aid back when we've had some conversations, but that's just me personally. [LB1144]

SENATOR LANGEMEIER: We might like the challenge (laugh). Thank you. [LB1144]

SENATOR PAHLS: Senator Gay. [LB1144]

SENATOR GAY: Kurt, I'm going to ask you a question. If you think someone else would

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be better to answer it after you, that's fine. [LB1144]

KURT YOST: I'll try. [LB1144]

SENATOR GAY: When somebody comes into one of these places and they need money, you hold their check. Is there any suitability? Or do you...you said if you go on-line and do this you've got to give them some information. But is there any suitability? I can't imagine an industry want to go create more problems of trying to track down and chase the credit. What do you do? I guess, is there suitability at all in this, or do you just give it to anybody who comes in the door? [LB1144]

KURT YOST: Well, you know I'm not sure I can answer that question, Senator Gay, but a couple of people following me are hands-on in the industry. [LB1144]

SENATOR GAY: Yeah. I'd just like to know because you don't want bad customers, basically. [LB1144]

KURT YOST: No, no, no. [LB1144]

SENATOR GAY: You don't want to go chase down. There is a certain point here, just the ethics of... [LB1144]

KURT YOST: But we are far more at risk, I mean, because there's no collateral, there's... [LB1144]

SENATOR GAY: Right. I guess I'm interested in that process, so if somebody...I'll wait. [LB1144]

KURT YOST: Sure, sure. [LB1144]

SENATOR GAY: Thanks. That's all right, thanks. [LB1144]

SENATOR PAHLS: I want to challenge you, one more thing, because you said you've been around you said for a while. I've heard that we need to educate people. Now do you know, do any of these organizations do any form of educating their clients on...? [LB1144]

KURT YOST: I'm not sure. I can't honestly answer. [LB1144]

SENATOR PAHLS: Okay. Well, hopefully somebody following you will say this is what we do for those individuals. [LB1144]

KURT YOST: And they should be able to. You know and I know the Department of

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Banking is in the room, but the Department of Banking to their credit has worked diligently with the industry and is involved in making sure...the industry doesn't want bad actors involved. That doesn't do anybody any good and I can only speak for my client, but I would like to think I could speak for the industry that you don't...nobody is out to hurt anybody. That's just not good business. We can't save everybody unfortunately, but we don't want to hurt them. [LB1144]

SENATOR PAHLS: Thank you for your testimony. We'll let you... [LB1144]

KURT YOST: Thank you, Senator. [LB1144]

SENATOR PAHLS: Next proponent. [LB1144]

TRINA THOMAS: Hello. [LB1144]

SENATOR PAHLS: Good afternoon. [LB1144]

TRINA THOMAS: My name is Trina Thomas, T-r-i-n-a T-h-o-m-a-s, and unfortunately I am not as eloquent a speaker as the people before me. I am not really used to standing in front of a room and speaking. So I may have to read from my notes. Dear Senators, I would like to voice my opposition to LB1144. I am a board member and president of the association of the Nebraska check cashers. I have been in the business since before the delayed deposit licensing act (Delayed Deposit Services Licensing Act) was passed. In fact, I was one of the original business owners that sought regulation of the industry, along with Kurt's client, and we helped craft the current law. LB1144 may seem to be a reform to the delayed deposit licensing act, but these changes would also force delayed deposit companies out of business. Consumers have shown a demand for the product across the state with many storefront locations. The Nebraska delayed deposit licensing act is regulated and enforced by the Department of Banking. We are closely regulated and receive annual audits at each of our locations. If delayed deposit businesses are forced out of the state, consumers may resort to unregulated alternatives with even higher costs, such as Internet lenders. As stated above, without the delayed deposit industry presence, consumers have shown an increase in costly overdraft fees which have no maximum limitations and add further to their debt. I strongly urge you to consider what overregulating the delayed deposit industry has done to consumers in other states. It is in the best interest of Nebraskans to let them decide how to handle their finances and allow them to access short term cash as they see fit. Our industry offers products that consumers cannot obtain at other financial institutions. And I'm happy to answer any questions that you have. [LB1144]

SENATOR PAHLS: I'll ask you one, Trina. You and Kurt were one of the originators of this? [LB1144]

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TRINA THOMAS: Right. [LB1144]

SENATOR PAHLS: Okay and one of the questions that I posed, do you help your clients other than just the check cash? I mean, do you do any form of educating them? [LB1144]

TRINA THOMAS: Yes, we do, we actually do. We encourage the customers to reduce the amount. Maybe they come in this week, you know, and then they come in next pay period. We encourage them to maybe reduce it by \$100 or whatever it is to get over the emergency situation. We also hand out to them a list of overdraft fees. We list the different banks in town that have...well, it's just both Omaha and Lincoln separately, but that have the lowest overdraft fees, because a lot of times we find that our clientele actually they maybe went to McDonalds and then maybe they went across the street to get a pop and then maybe they put gas in their car. And now they've got three overdraft fees at \$105 and they don't even know it because, you know, the way that things are today with ATM cards and stuff like that. So we find that we get a lot of clients that are actually coming in to cover overdraft fees. [LB1144]

SENATOR PAHLS: Senator Pankonin. [LB1144]

SENATOR PANKONIN: Thank you, Chairman Pahls. How do you handle...we asked earlier a testifier, on collection efforts and what kind of percent do you, kind of from a business model, look at collection efforts in your loss percentage and that sort of thing? What are kind of the benchmarks? [LB1144]

TRINA THOMAS: It's kind of funny. I mean, I don't mean funny funny, but a lot of times, you know, you heard testimony, oh, they're just going out and giving all this money away. Well, you know if you look at it from a business owner standpoint, the last thing we want to do is give away money that we don't think we're going to get back. So there's actually there is this kind of built in thing, you know, within ourselves because for example, if a person comes into my store and applies, makes an application. We see this person's bank statement because we require it, and if we see that this person has taken out Internet loans or has money out in other stores, we just say we're sorry because the odds are...to be real honest with you, I'd like to get my money back. You know and that's...there is that element that kind of polices itself, if you know what I mean. [LB1144]

SENATOR PANKONIN: Sure. So to get your money back, obviously they've written a check, so to go after that, county attorney or what do you... [LB1144]

TRINA THOMAS: Oh no, we've worked with the Department of Banking now and they can come in and they can sign an agreement. For example, on a collection check where if they were paid like every other week, every other Friday, then we can...then they

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would agree on a payment schedule, and then we ACH maybe \$25 every other week or something like that. [LB1144]

SENATOR PANKONIN: Until you're paid. [LB1144]

TRINA THOMAS: Right, right and that was this year we just worked that out. [LB1144]

SENATOR PANKONIN: So do you have very many outright losses? [LB1144]

TRINA THOMAS: Oh, yeah. Yeah we have outright losses. There really are a lot of issues in terms of banks closing down people's accounts if they get severely overdrawn. So a lot of times they don't even know that their bank account is gone, and that happens frequently. [LB1144]

SENATOR PANKONIN: So then the check is worthless. [LB1144]

TRINA THOMAS: Right, exactly, yeah. [LB1144]

SENATOR PANKONIN: Okay. [LB1144]

SENATOR PAHLS: Senator Gay. [LB1144]

SENATOR GAY: So you talked about some of the questions you'll ask a potential customer when they come in. [LB1144]

TRINA THOMAS: Right. [LB1144]

SENATOR GAY: Is that a standardized form that you have to use? Are there certain questions that everyone is asking or is it kind of like you may create your own, I guess, underwriting standards? [LB1144]

TRINA THOMAS: Right, everybody kind of creates his own underwriting standards. But it's you know... [LB1144]

SENATOR GAY: So there's no general standards of...you know. [LB1144]

TRINA THOMAS: Right. [LB1144]

SENATOR GAY: So one could be very responsible and I assume you are. You know, let's say you're responsible, the other ones, whatever. But you have this vested interest, as Senator Pankonin mentioned, not to lose money. I understand that. [LB1144]

TRINA THOMAS: Of course, yeah. [LB1144]

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SENATOR GAY: But I guess what I was looking at is some kind of standard that we don't go prey on people. You know, it's not...we don't want that, but there's nothing like that now, as far as you know? [LB1144]

TRINA THOMAS: You know, you kind of get back to collections as you were talking about it before. You know, if somebody fills out an application and then we look at their bank statements and we look at their paycheck, you know, we're not... [LB1144]

SENATOR GAY: It's just not going to work, is what you're saying. [LB1144]

TRINA THOMAS: It's not going to work, you know, so we don't do it. And most business owners are the same way. Very few of my colleagues are out there opening their doors so they can lose money, you know what I mean. So yes, that is a part of the picture. I think more and more though I have seen people coming in when we talked to them. And we...because we did, we created a form that we hand to them and it tells the different bounce fees. We just picked about 15 banks that were the lowest and we just hand it to them and, you know, we say well, you know, you might want to choose another bank because you have \$315 in bounced check fees this month. And some of these people...you know, they're working one week a month to keep their bank account open. I mean, if they're making, and we see this, if they're making like \$1,600 a month and they have \$400 in bounced check fees, they're working one week a month to keep that bank account open. And the reason they have to keep the bank account open is because the employer says if we can't direct deposit your payroll, you can't work here. [LB1144]

SENATOR PAHLS: Trina, I'm going to follow up on this. You're telling me that you scrutinize the individuals who come into your store or stores. [LB1144]

TRINA THOMAS: Right. [LB1144]

SENATOR PAHLS: So the chances for them to bounce to other companies is not going to be very high because I'm assuming each organization scrutinizes that individual so tightly that they know that they just can't be jumping from one lender to another, paycheck casher to another because... [LB1144]

TRINA THOMAS: You know, I can't speak for everybody because I don't know how different people do business. But we have gone to the point of really getting banks statements from the customers when they come in because, like I said... One of the things when they were talking about that 72-hour thing, I can tell you right now, I can bring in a pile of bank statements this high and I can show you these people that are getting Internet lending. And the thing about it is, you know, if we keep the business here and, you know, the Department of Banking, they can audit us. They can come in

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and look at our books, they can do all of that, but when people come into the state and they're doing Internet lending, it's coming from the United Kingdom, it's coming from Canada, it's coming from all over the place and they can't really regulate that as well. [LB1144]

SENATOR PAHLS: Okay. Then that leads me to the next question. Do you have a strong working relationship with the Department of Banking? [LB1144]

TRINA THOMAS: Yes. We always have. We always have had...as a matter of fact, we have a convention every year and every year they come to the convention and they answer questions for all of the members. And so they usually spend about two hours answering questions and, yeah... [LB1144]

SENATOR PAHLS: Any further questions? Thank you for your testimony. [LB1144]

TRINA THOMAS: Thank you. [LB1144]

SENATOR PAHLS: Next proponent (sic: opponent). [LB1144]

BRENT UNDEREINER: Good afternoon. My name's Brent Undereiner, B-r-e-n-t U-n-d-e-r-e-i-n-e-r. I'm here on behalf of myself, basically. I'm a disabled veteran, I live in Beatrice and I have a fixed income. And I have used payday loans in the past and I will continue to use payday loans in the future if I need to. Every month I have X amount of dollars and every month my mom and dad taught me to make a budget. That budget is made out, the bills are paid, I have X amount of dollars left over for the rest of the month for whatever is going to happen. Things happen. Car breaks down, things like that. I need an extra how ever much money I need to get that car fixed and I can't get it from anywhere other than a payday loan place, so I'm going to there. I've used them, I don't feel like I'm being preyed upon. They're not coming to me, I'm going to them. There's no reason why I shouldn't be allowed to do with my money what I please. I'm doing it in a responsible manner, I'm not deceiving anyone and I don't feel like they're deceiving me on any level. As far as the information being put out about me, I have what I call a form of 21st century paranoia, you might say. I don't feel like I need to have anymore of my information being put out to anyone else than is already out there. When this stuff happens, I know that I can pay it back. I have it fixed that next month I'll have this amount that I can give back to them. It's done, it's over with. They're not giving me anymore than I can pay back because I'm responsible enough to use it in a responsible fashion. I'm sure that there are people out there using this in an irresponsible way, but that shouldn't cause me problems because I'm not the one being irresponsible here, it's other people. The gentleman who spoke earlier said something about, well, he's offered them...why don't you go get credit cards and use them. Well, that's just robbing Peter to pay Paul. That's not going to fix the problem. People have to fix the problem themselves by being responsible for their own money. You've got to know what you've got available

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and if you can't afford to use it, don't use it. Don't go out and buy scratch tickets if you can't afford to lose the money, and don't go to a payday loan place and take out a loan unless you can afford to give it back. Never have I gone to a payday loan place at all, and I've used them now approaching ten years, both in the state of Washington and here in the state of Nebraska. When I've gone there, I've never had anyone offer me money without me giving them a check, and when it comes time to pay that check back, there's one of two ways to do it. They ask you whether you want to come in and pay the loan back yourself or whether you want the check deposited. Not once have I gone into to pay one back and prior to paying it back have they given me money to pay it back, which is what it sounds to me like this rollover thing is, somebody giving you money to pay it back. That's not the case. I go to the bank and get money out and give it to them. Then if I choose to make another one, I can do that. But the money is mine, I used it, I get it back, I can use it again. But that's my choice. If I choose to let them deposit the check, I can't go in on the first of the month and write another check. I have to wait. I have to do that now. There's a certain amount of time. They have to have that check clear before they're going to give me money. Now whether that's the case with every place in the state that does this I don't know, but it has been the case at the places that I have gone. So I just feel like you're trying to overregulate something that doesn't need regulating. If anything, there needs to be some education put forth to people out there who are not being responsible with their money. Now being someone who's on a fixed income, I have to be responsible with my money because I don't have a lot of it extra every month. Like I said in the beginning, pay the bills, this is what is left over. If you've got some to set aside, fine. If you feel like going out and going to a movie or going to buy a comic book, that's fine. But whatever that money you use, you're not going to be able to use it later. Be responsible with your money. Find a way to educate people but don't take the ability away from those who might need to use this in a responsible manner to do so. Thank you for letting me speak. If you have any questions, I'd be happy to answer them. [LB1144]

SENATOR PAHLS: Any questions? Thank you for your service to the country and thank you for what you're doing. It seems like you have your act together, appreciate that. Thank you. [LB1144]

BRENT UNDEREINER: Thank you, sir. [LB1144]

SENATOR PAHLS: Next proponent. [LB1144]

WALT RADCLIFFE: Opponent. [LB1144]

SENATOR PAHLS: Or opponent. [LB1144]

WALT RADCLIFFE: Senator Pahls and members of the committee, my name is Walter Radcliffe, R-a-d-c-l-i-f-f-e. I'm appearing before you today as a registered lobbyist on

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behalf of Community Financial Services of America, the acronym CFSA. This is a national trade association comprised primarily of national...I caught myself, I was almost going to say payday lenders, but not...of the national licensees. They do belong as an association to the state association and many of their members do business in Nebraska. I'm going to be brief because there's just a couple of things that I wanted to specifically talk about. One, the first one goes back to the meeting that Senator McGill had called last fall and I was there, a number of people were there, and I'd just like to mention a couple of things. At the close of that hearing...and unfortunately Senator McGill was not able to attend, but I had offered...I said, tell us what you want, I mean as far as data and information goes, and I'll either get it for you or I'll tell you why we can't and very honestly, we haven't heard anything. That offer still stands. That's what I'm here to say today. If they feel there's some data, some information that they would like, let us know. I mean, we will definitely try to provide it or tell everybody why we can't. The other thing that was very interesting at that meeting or interesting to me was the banking department was there and was specifically asked, so do you have a lot of complaints about these businesses? The answer was no, we don't have very many complaints. This is a licensed and a regulated industry in the state, and on the issue of the rollover loans, it's against the law already. Now if the people who are charged with enforcing the law have a problem doing it...I have never seen any regulatory agency be shy about coming to the Legislature and saying we aren't able to enforce this because we don't have proper data. You haven't heard that, you haven't heard it. I'd submit to you that the issue of rollover loans really is not of any significant nature. The cooling off period that's specifically suggested in the bill is meaningless. I mean all that means is you got to wait three days before you can do anything in Nebraska. It doesn't mean you can't go across to Iowa, it doesn't mean you can't get on the Internet. It's simply going to drive that business somewhere else. The database that we keep being told that we are lacking...my question quite simply is, tell us what you want. What is that database that you're lacking and we'll come forth and try to do that. I think the bill has good intentions, I really do, and I say that because it is going at a particular issue that I believe is a perceived problem. But we've really heard no testimony here today that would sustain a judgment that this bill needs to be enacted and I would be happy to answer any questions. [LB1144]

SENATOR PAHLS: Walt, then you're telling me that if there is a problem of rollover, it's the department's responsibility to make sure it stops it? [LB1144]

WALT RADCLIFFE: The department is the enforcing agency, Senator. [LB1144]

SENATOR PAHLS: Right. [LB1144]

WALT RADCLIFFE: I think you...you know, that's one of those statements that Jerry Warner used to like to say was true but not accurate. [LB1144]

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SENATOR PAHLS: I hear you. [LB1144]

WALT RADCLIFFE: And it's not accurate to this extent. If the Legislature believes that any agency is not doing their job... [LB1144]

SENATOR PAHLS: Yeah. [LB1144]

WALT RADCLIFFE: ...if you're presented with sufficient evidence that an agency isn't doing their job, I think it's your duty to say: Why aren't you doing the job? [LB1144]

SENATOR PAHLS: Okay. [LB1144]

SENATOR PAHLS: Do you not have enough tools? Do you not have enough regulators? What can we do to help you do your job? Two things, one, I don't think you see that here. I don't think there's any evidence to show that the department isn't doing it's job, which would occasion you to ask those questions and secondly, the department isn't here saying we need help, we are unable to enforce this licenser law. So that's probably a more complete answer to your question, Senator. [LB1144]

SENATOR PAHLS: Okay. So You're telling me, where's Jerome when you need him? [LB1144]

WALT RADCLIFFE: No, I'm just simply saying I always liked his comment about, that's true but not accurate or in some cases it was accurate but not true. [LB1144]

SENATOR PAHLS: Senator Langemeier. [LB1144]

SENATOR LANGEMEIER: Chairman Pahls, thank you. Thank you for your testimony, Walt. I'll get you started on that database list. What I'd like to know is number one, in a monthly time, number of customers. [LB1144]

WALT RADCLIFFE: Aggregately? [LB1144]

SENATOR LANGEMEIER: Just total, yeah, 50, 100, 2,000, whatever they are and the percent that are return... [LB1144]

WALT RADCLIFFE: Okay. Now would you mean customers? Maybe we should customers or loans. [LB1144]

SENATOR LANGEMEIER: Loans. [LB1144]

WALT RADCLIFFE: Or not loans, advances. [LB1144]

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SENATOR LANGEMEIER: Let's go advances because my next question is going to be I want to know the percent of return advances. So let's say you do 1,000 advances in a month but one customer took 14 of those, he would be a percent of returns. [LB1144]

WALT RADCLIFFE: You mean repeats. Okay, okay. [LB1144]

SENATOR LANGEMEIER: Repeat, yeah, percent or repeats. And then when you're getting your bank data, can you get me their average...you know their income because you're looking at their paychecks. Can you give me their average income for that group of people? [LB1144]

WALT RADCLIFFE: Of the number of advances, the average income. [LB1144]

SENATOR LANGEMEIER: Yup, and the average loan amount, whether that's \$50 or \$500. [LB1144]

WALT RADCLIFFE: Okay. [LB1144]

SENATOR LANGEMEIER: That will be a start. Thank you. [LB1144]

WALT RADCLIFFE: And like I said, we will either get it... [LB1144]

SENATOR LANGEMEIER: And if you can't, you're going to tell me why, you already said that so I know. [LB1144]

WALT RADCLIFFE: That's right. [LB1144]

SENATOR PAHLS: Anymore questions? [LB1144]

WALT RADCLIFFE: Thank you, appreciate it. [LB1144]

SENATOR PAHLS: Thank you, Walt, appreciate your testimony. Next opponent. [LB1144]

SYDNEY KOLB: Sydney, S-y-d-n-e-y, Kolb, K-o-l-b, and I'm here because my husband and I own one store and our son runs it. And I just wanted to speak to this issue of the bank. When we first started we required people to bring the cash back and we did not run checks through the bank, and another store opened in our little town and the demand grew for running the checks through the bank so that's why we started doing that. When we first started it was strictly bring in the cash and give your check back. We did not run it through a bank at all. And I wanted to speak also about the issue of writing down on a check when a customer keeps going up and up and up. What we do is like Trina said, we start trying to write them back down again. I am not speaking to you as a

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person who has a lot of hands-on. I'm a school teacher, a full-time school teacher and that's what I do. Our son runs it. But I did want to tell you that the customers are the reason why we switched to running it through the bank. So that's a little bit of history. We've been open about eight years or so. But as far as any direct, day-to-day questions, I'm not sure I'd be able to answer those. [LB1144]

SENATOR PAHLS: Okay. Let's see, Senator Langemeier. [LB1144]

SENATOR LANGEMEIER: Thank you for your testimony. Before the customers demanded you run the checks through, were you still taking the check then at the beginning? [LB1144]

SYDNEY KOLB: Um-hum. [LB1144]

SENATOR LANGEMEIER: But you just said... [LB1144]

SYDNEY KOLB: Yeah, we just treated it like an IOU. [LB1144]

SENATOR LANGEMEIER: Just like...okay. [LB1144]

SYDNEY KOLB: You know, you say, here we're going to owe you how much and we said fine, just bring us the cash back and we'll give you your check, and we didn't run them through the banks. [LB1144]

SENATOR LANGEMEIER: Thank you very much. [LB1144]

SYDNEY KOLB: Which I thought was an interesting point to me. Okay. [LB1144]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony today. [LB1144]

SYDNEY KOLB: Thanks. [LB1144]

SENATOR PAHLS: Any more opponents? Neutral? Senator? [LB1144]

SENATOR MCGILL: Thank you, Senator Pahls and members of the committee for this great hearing today. I think we learned a lot about this industry and I want to thank the opposition for all the information that they've brought forward today. But I do want to point out that with the exception of Walt, very few made a case for why what I'm proposing is a problem. They made a generalization that this is going to shut down our industry. I know Trina said that my legislative...but back that up with no reason why these particular elements in this bill is going to put an end to their industry in Nebraska. The Internet is an option for people, it is now, and if I could do something about that I

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would, but at our level of government we can't. It doesn't mean that we don't try to do what we can on this level. People can gamble on-line, but that doesn't mean that we've made it legal here. So I would have at least appreciated from her a little more details as to why the elements of my bill would be devastating to her and her industry. And I would also like to point out that it was her company that sent those handwritten letters that I feel were very, very misleading. Beyond that again, I thank the folks for their testimony and I realize that, you know, this big issue that I'm trying to tackle, that this is just a very small element of it. We're seeing in our economy right now more and more people into debt. Thirty years ago people had savings accounts, today almost everybody is in debt. And I'd love to look at more proactive legislation to try to make some inroads in helping people opening checking and savings accounts. I also want to bring the credit unions into this debate. I know in a lot of states that have closed down payday lenders, it's the credit unions that are starting to step up and fill that void. And the reason that I'm initially opposed to just shutting down the industry in Nebraska is because the states that have done that...like there's just no definitive...you can't see if that was a good idea or not yet. You know some states are struggling because they didn't have anyone set up to fill the void when they closed down this industry, and they're working with credit unions to try to do that now, and I think maybe bringing them into this conversation to see what they're willing to do to help provide different alternatives to people if they're looking for something without this sort of rate. We had the gentleman talk about personal responsibility and I believe that. I've never paid a cent in credit card debt. I've been a lucky one and I just don't believe in living in debt, but it's just not the reality for everyone and I do believe that people get caught in this cycle. I can guarantee you that when that data comes back, just as my friend Adam said, you're going to see people who are in the system every month, they just come back and come back and come back. And you know, we need to be doing something to help reach out to them and get them out of that cycle of being dependent on such a high interest loan, and whatever we can do to work together to try to find, you know, ways to help people to be more financially responsible. And if even the president was willing to say, you know, military personnel can't use this. I'm sure he wasn't calling them all irresponsible or thinking that, oh, they can't be responsible with their money, so we're not going to allow them to use these. I'm sure that wasn't his intent when he said that they couldn't use this industry anymore. You know, they were trying to protect a certain pocket of the population and I think that we have a responsibility to make sure that the industry is as consumer friendly to everyone else as well. Thank you. [LB1144]

SENATOR PAHLS: Questions? Senator Langemeier. [LB1144]

SENATOR LANGEMEIER: I started this data list. Now we go back to you. Mr. Radcliffe has offered to talk about that. Is that something you planned to follow up on? [LB1144]

SENATOR MCGILL: Oh, yeah and I was not able to make that meeting because I had just started a new job, and as we know this job doesn't pay enough to be here all the

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time and I was aware of that offer. With the session starting up, I wasn't able to reach out and ask for that data, but I am very interested in seeing what he is able to bring forward. The data isn't the only thing I'm looking for in my bill, to be honest. [LB1144]

SENATOR LANGEMEIER: But do you plan to create a list for them to work on?
[LB1144]

SENATOR MCGILL: Yeah, that was something that had intended to do. Like I said, session gets a hold of you and some of those things slip away, slip through the cracks.
[LB1144]

SENATOR LANGEMEIER: Thank you very much. [LB1144]

SENATOR PAHLS: Thank you. [LB1144]

SENATOR MCGILL: All right. Thank you. [LB1144]

SENATOR PAHLS: That closes the hearing on (LB)1144. Thank you, Senator McGill. Good afternoon, Senator Nelson. I know this has been back and forth. [LB1144]

SENATOR NELSON: Musical chairs, back and forth. [LB953]

SENATOR PAHLS: Yeah, I know. We are ready for you. We are ready for... [LB953]

SENATOR NELSON: Three different committees. You're ready. [LB953]

SENATOR PAHLS: We're ready, Senator Nelson, when you're ready. We'll give you a second. [LB953]

SENATOR NELSON: Thank you very much. [LB953]

SENATOR LANGEMEIER: He knows how to clear a room, doesn't he. [LB953]

SENATOR PAHLS: Yeah, I know, Senator. He cleaned out our room. [LB953]

SENATOR NELSON: Too many files to shuffle here. [LB953]

SENATOR PAHLS: I hear you. Good afternoon, Senator. [LB953]

SENATOR NELSON: Good afternoon, Mr. Chairman and members of the banking committee. For the record, my name is John Nelson, J-o-h-n N-e-l-s-o-n. I am the state senator representing District 6 in Omaha and I'm here today to introduce LB953. Under current law, ownership of a manufactured or mobile home is evidenced by a certificate

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of title. A lender may perfect its lien on this personal property by notation of its lien on the certificate of title. Nebraska law provides a method by which the certificate of title to a manufactured or mobile home may be surrendered for cancellation, and upon the filing of an affidavit of a fixture against the real estate on which this personal property is located, the manufactured or mobile home then is deemed to be affixed to real property. Taking these actions effectively converts the manufactured mobile home from a motor vehicle for which a lien may only be perfected by notation on the certificate of title. It converts it to real property, which may be transferred by deed and for which a lien may be perfected by the filing of a mortgage or a deed of trust. Subsequent to the passage of the manufactured mobile home certificate of title law in 2006 that is subsequent thereto, the Department of Motor Vehicles has indicated that it will not issue a motor vehicle certificate of title to a manufactured or mobile home, if it has been affixed to real property prior to the owner making application for the issuance of the certificate of title. The refusal to issue a certificate of title under such circumstances has brought into question the existing procedure for converting a manufactured mobile home from personal property to real property. LB953, (a) clarifies the rights of a purchase money security interest holder in a motor vehicle against the rights of judicial lien creditors and execution creditors; (b) requires the issuance of the certificate of title for a manufactured home or a mobile home which his affixed to real estate and for which a certificate of title has not previously been issued and surrendered for cancellation, and provides that for purposes of a bankruptcy plan under chapter 13, a manufactured home or a mobile home shall be deemed real property. There will be proponents to follow who will discuss LB953 in greater detail and offer amendments which satisfy the concern of some interested parties. It's a fairly technical bill. I've tried to put it simply as to what the problem is. The problem is that if someone moves a mobile home or a premanufactured home onto real estate and doesn't get a certificate of title or hasn't got one and no notation made, that it's going to cause all sorts of complications. And I think those that follow me will just perhaps give you some examples and some details of what needs to be done to correct that situation. Thank you for your time and I look forward to questions that you may have. [LB953]

SENATOR PAHLS: Senator Pirsch. [LB953]

SENATOR PIRSCH: John, I appreciate you coming forward today with the bill. Did this come about as a result of a personal experience that you have in representing the client? [LB953]

SENATOR NELSON: No. There is a case called the Green Tree case, don't remember the exact title, but that was an instance where someone moved a mobile home onto real estate and there was a lender then. They needed to borrow money for that purpose I guess, and the lender at that time did...they searched the records for any liens as far as real estate were concerned, but they did not go and see if there was a notation on the certificate of title that there was a lien, and that's what brought that case about.

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Supreme Court held in favor of Green Tree who had the lien or loaned the money on the mobile home initially. And so that brought about statute 60-169 two years ago. But there's still a problem because of the fact that the Department of Motor Vehicles has maintained under their reading that they are not going to issue a certificate of title so a notation could be made if the request comes in after the mobile home is already affixed to the real property. And so any other questions? [LB953]

SENATOR PAHLS: Seeing none. Proponents? [LB953]

ROBERT HALLSTROM: (Exhibits 1 and 2) Senator Pahls, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB953. Senator Nelson has done a nice job of telling you a little bit about what the bill is intended to do and also a little bit of background on why the bill is needed, at this point. Just for a frame of reference, I'll go back a little bit in history and try to briefly bring you up to speed from where we started and why we're here today with the need for these changes. A number of years ago, Senator Nelson referenced the Green Tree case. A number of years ago the Supreme Court handed down a case that effectively said the only way that you could perfect a lien against a manufactured home or a mobile home was by noting the lien on the certificate of title. The case of Green Tree involved a situation where that manufactured home had subsequently been placed on real estate. For appearances sake, no one could tell that it was a motor vehicle. The owner apparently forgot both that it was a motor vehicle subject to a certificate of title and that he had a loan against it that was notated with the lien on the certificate of title. Sold the home as real estate. Transferred it by deed. Lender came in, took title with the deed of trust, title insurance policy was issued. Everybody saw what they observed which was a home on real estate, and low and behold the original lender who had noted their lien on the certificate of title comes in waving the certificate of title saying, I'm in first position, and the sum and total of Green Tree was that that lender won. And notwithstanding the appearance of that manufactured home as a fixture upon real estate that in the absence of having come in, and surrendered, and cancelled the certificate of title that that was the only way that could have and should have been utilized to note that lien properly for purposes of perfection. So in 2006, we brought the legislation forward that Senator Nelson referenced which established a formal procedure for issuing the certificate of title, and following it up with surrender and cancellation involves the filing of an affidavit of a fixture only after which any lienholders that have noted their lien on the certificate of title that's been issued have released their interests. So you have a free and clear title to that manufactured home, you file the affidavit of a fixture, and it becomes a part of the real estate and thereafter can be transferred by deed, can be taken a lien position by a mortgage or a deed of trust, and is foreclosed as real property. So we have that system. We also have a back end provision that says if you get release of the deed of trust lienholder, you can convert it back to personal property and get a certificate of title issued if in fact you are going to lift it up off the property and take it on down the road.

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That process and procedure was put into play. The NBA got a call from one of its members last summer indicating that the Department of Motor Vehicles had staked out a position I think based on a technical reading of the definition of motor vehicle that, as Senator Nelson indicated, in cases where the manufactured home was not issued a certificate of title prior to being affixed to real estate that they would not issue the title. Where that put us was a situation where the manufactured home maybe wasn't fish or fowl. It wasn't personal property, it maybe wasn't real property, and so it kind of mucks up the works in terms of the procedure and the process the we had set up under that 2006 legislation. We've worked closely with the Department of Motor Vehicles. They are not here because they've not gotten approval to come in and testify, but they did indicate this morning that the amendments that I've passed around, particularly are those that are reflected in the changes in lines 1, lines 5 to 7, 8 to 13, and 14, are acceptable to them and effect issues that they had an interest in. They basically provide, as you can see in lines 5 through 13, two aspects. One is that every owner of a manufactured home or mobile home must obtain a certificate of title prior to affixing it to real estate. And to address the scenario where we may have preexisting manufactured homes or mobile homes that have been affixed to real estate for which a title has yet to be issued, also provide an option for people to go in and get a certificate of title under those conditions even if they've already affixed it to real estate. That's at the core issue of taking care of the problem that Senator Nelson and I have identified due to the Department of Motor Vehicles activities. The other two issues that we have addressed, one has to do with a purchase money security interest to provide greater protection for those lienholders who are actually advancing the funding for the purchase of a motor vehicle, whether it's an automobile, manufactured home, or other motor vehicle. And the other issue has to do with simply the issue of the time of perfection and lien priority with regard to chapter 13 and lien modifications. Under federal bankruptcy law, the law says that if a state law deems a manufactured home to be real property that in the context of that chapter 13 bankruptcy proceeding for purposes of bankruptcy law, that particular loan may not be modified, whether it be crammed down, change in interest rate, or any other aspect of the bankruptcy proceeding under chapter 13. And for those reasons, we'd ask that the bill be advanced to General File. Be happy to address any question. [LB953]

SENATOR PAHLS: Senator Pirsch. [LB953]

SENATOR PIRSCH: So this bill has a very limited reach. It deals only with situations where you have one of these manufactured homes that weren't issued a title, and then the problem or confusion has been you had a manufactured home, weren't issued the certificate of title, became attached to the property, real estate. And now they want to kind of free up the manufactured home away from the real estate, as it were. And the Department of Motor Vehicles does not feel comfortable then issuing for the first time a certificate then indicating that it's back to being personal property. Was that correct? [LB953]

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ROBERT HALLSTROM: It's at the front end, Senator. They are not issuing the title if it has been affixed to real estate. Under the procedure that we set forth two years ago, the normal thing would be issue the title, step one; surrender it for cancellation, step two; then affix it to the real estate so that it can be treated as real property and transferred and liens taken thereon according to real property laws. The step that we're missing here is that if someone gets the manufactured home delivered straight to the property, three days later goes in to get the certificate of title issued, because of technicalities and definitions, the department says that's no longer a motor vehicle, we cannot issue a certificate of title therefore. And that's the main component of the bill. We do have the issues I talked about with the chapter 13 bankruptcy and the priority of purchase money security interest as well, which are two other aspects of the bill that are covered. [LB953]

SENATOR PIRSCH: Very good. Thank you. [LB953]

ROBERT HALLSTROM: Thank you. [LB953]

SENATOR PAHLS: Thank you. No more questions. Anymore proponents? Opponents? In neutral? Senator? [LB953]

SENATOR NELSON: I will waive closing. [LB953]

SENATOR PAHLS: Senator waives closing. That closes the hearing on LB953. [LB953]

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Disposition of Bills:

LB953 - Advanced to General File, as amended.

LB1002 - Held in committee.

LB1144 - Held in committee.

Chairperson

Committee Clerk