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Business and Labor Committee
February 05, 2018

[LB928 LB952 LB953 LB957 LB1024]

The Committee on Business and Labor met at 1:30 p.m. on Monday, February 5, 2018, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB928, LB952, LB953, LB957, and LB1024. Senators present: Joni Albrecht, Chairperson; Sue Crawford, Vice Chairperson; Steve Halloran; Matt Hansen; Sara Howard; and John Lowe. Senators absent: Ernie Chambers.

SENATOR ALBRECHT: Good afternoon, and welcome to the Business and Labor Committee. My name is Joni Albrecht. I'm District 17 Senator from northeast Nebraska, Wayne, Thurston, and Dakota Counties. Welcome. I'd like to introduce today, my staff. I have Amara Meyer to my right, she's our legal counsel; Beverly Neel, committee clerk, is to my left; along with Mandy Mizerski from Natural Resources. Thank you for being here. And we have our page, Cassy Ross, from Denver, Colorado, as the UNL...she's a junior, excuse me, at UNL studying global studies and political science. And I'd like to introduce Senator Crawford, who is our Vice Chair of the committee, and I'd like you to go ahead and introduce yourself and tell where you're from and...

SENATOR CRAWFORD: Great. Good afternoon. I'm Senator Sue Crawford, and from District 45, which is eastern Sarpy County, eastern Bellevue, and Offutt.

SENATOR ALBRECHT: Senator Lowe.

SENATOR LOWE: John Lowe, District 37, southeast portion of Buffalo County, Kearney, Gibbon, and Shelton.

SENATOR ALBRECHT: Senator Hansen.

SENATOR HANSEN: Matt Hansen, District 26, northeast Lincoln.

SENATOR HALLORAN: Steve Halloran, Senator representing District 33, Adams County and parts of Hall County.

SENATOR ALBRECHT: Okay. And a little bit of housekeeping, items to mention. Again, please turn off all electronic devices. Senators, note that the microphones are very sensitive and are able to pick up side conversations. Testifiers should have appropriate number of copies in handouts with you ready for distribution. Business and Labor Committee requires 12. Each witness appearing before the committee must sign in using the forms provided at the entrance of the hearing room. They're yellow forms. Sign in only if you're going to testify. Your form must be

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given to the page before you begin presenting your testimony. Each testifier will be allotted, depending on each one, I need to have a show of hands, but probably five minutes. And we'll use the light system. Good afternoon. Senator Howard is here. Want to introduce yourself real quick?

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

SENATOR ALBRECHT: Thank you. Each testifier will be allotted five minutes before the committee. We will use a light system. The green indicates that you may begin. Yellow indicates that you're nearing the end of your time and red indicates that the time is to end your testimony. Please begin your testimony by stating your name clearly into the microphone and then please spell your first and last name to ensure accuracy for the record. Note that committee members may need to leave in the middle of the hearing as they may have a bill to introduce in another committee, so don't be offended if the senator comes and goes. I'd like to, at the beginning of every hearing, let you know that we do now have a uniform policy for public hearings. If you are not testifying in person on the bill and would like to submit your written position in a letter to be included in the official record as an exhibit, the letter must be delivered to the office of the committee chair or e-mailed to the committee clerk of the committee conducting the hearing on the bill by 5:00 p.m. on the last work day prior to a public hearing. So with ours being on a Monday, you need to have it in by five o'clock on a Friday night. Additionally, the letter must state a position for or against or neutral on the bill in question and include a request for the letter to be included as part of the public record. Thank you. Okay. So today, agenda, we will have LB928, LB952, LB953, LB957, and LB1024. We will be hearing them in that order. Agendas are posted outside the hearing door. We will have introductions...we will have the introducers make the initial statements followed by proponent, opponent, and those providing neutral testimony. The closing remarks may be presented by the introducing senator. So the first item on the agenda today is LB928, Senator Mike McDonnell. Welcome. [LB928]

SENATOR McDONNELL: Good afternoon. Thank you, Chairwoman Albrecht and members of the Business and Labor Committee. LB928...we're going to talk about the people that go to work, say good-bye to their families in the morning, and don't come home because of what they were doing at the workplace. On the average, we have 48 of those people in the state of Nebraska on an average a year. We're going to talk about burying them. We're going to talk about what it cost to bury them. The idea that you're looking at right now, it's capped at \$10,000. We're going to look at trying to make that more fair, not cover all the costs, but equate it into the average salary and make it 14 times that, which this year would move that cost up to, or at least that benefit to \$11,438, which I was approached by a lady that does not live in my district. She's from the western part of the state and talked about burying her husband and what she had to go through to try to find that extra money. Also you're going to have here today, you're going to have Gene Cary. He's going to talk about his son, Neil, and what happened after that tragedy and the other expenses that occurred, because we're also want to add \$25,000 to a benefit based on

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the idea that these are parents that possibly their child is working, they're adults, and they don't have any dependent children. They could possibly have step-children that wouldn't be covered, but they could be covered in the future with the \$25,000. But Gene is here to tell the story about Neil. Tonya is here to tell a story about what happened in the last 48 hours of a tragedy, and what's going to happen with those expenses. We need to really take a look at the state of Nebraska, at the people that we're losing in the workplace and how we can prevent these in the future. We have to really start studying what's going on here and recognize that this is a small, small step we can do to help these families. But again, I believe we'd all agree that prevention, and trying to learn from these tragedies and make sure there's not another tragedy in the future, should be our goal. I'm here to try to answer any of your questions, but the people that are here to testify today are the people that have dealt with the tragedies and they're here to try to help the next family, hopefully help us understand what they've gone through and the expenses that aren't being covered right now, which I believe we should be. [LB928]

SENATOR ALBRECHT: Thank you. Do we have any questions for Senator McDonnell?
Senator Lowe. [LB928]

SENATOR LOWE: I...my ears must have not been listening very well, but you said it would be approximately \$11,400 and... [LB928]

SENATOR McDONNELL: Thirty-eight dollars that we equate to the bill, increase it at 14 times. Right now it's capped at \$10,000 for the burial expenses. It would increase it now if we went to the four times the average weekly wage, it would move it up to \$11,438, therefore increasing it \$1,438. [LB928]

SENATOR LOWE: Okay. And then also add the \$25,000. [LB928]

SENATOR McDONNELL: Then add the \$25,000 based on a death benefit that they are currently not covered, based on the idea that we don't put as much value on them because they're a single person. And some of them do have step-children, but they also because they're a single person, we're not giving them the kind of value the worker that died with the dependents. [LB928]

SENATOR LOWE: Thank you. [LB928]

SENATOR ALBRECHT: Other questions? Senator Crawford. [LB928]

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SENATOR CRAWFORD: Thank you, Chairwoman Albrecht, and thank you, Senator McDonnell. I appreciate your attention to this question. If I...I know we have people following you who are going to talk a bit more about the reason and what that \$25,000 might be used for, but...that's a new part of the bill, so I wonder if you could talk a little bit about...follow up with a little bit more about what you expect that money...you know, why that money is an important part of the bill, and who would be the person, who would be the person in charge of the estate and what that looks like and why you think that's important. [LB928]

SENATOR McDONNELL: And Gene and Tonya are going to speak about that a little bit, but it's expenses that we don't think it's some of the debt, it's the idea of possibly if they were living on their own, the closing of the house, the apartment, things that you, of course, you look at when you're grieving as a parent and you're taking time off and the loss of pay that they're experiencing, that some of that \$25,000, it's a small amount when we're looking at what's going on and what we're spending in the state and what's available. But some of those things that I wasn't really thinking about, and I don't think we do until you go through that kind of tragedy, and again, Gene and Tonya will talk more about that personally. [LB928]

SENATOR CRAWFORD: Thank you. [LB928]

SENATOR ALBRECHT: Any other questions? Seeing none, thank you. And you'll stick around? [LB928]

SENATOR McDONNELL: Yes, I'll be here to answer any questions at the end if you have any. [LB928]

SENATOR ALBRECHT: Thank you very much. Okay, and we'll start with proponents. Do we have any proponents wishing to speak to LB928? Hi, there. [LB928]

ROD REHM: (Exhibit 1) Good afternoon, Chairman. My name is Rod, R-o-d, Rehm, R-e-h-m. [LB928]

SENATOR ALBRECHT: Okay, I'm sorry, sir. Can you just start again. She needs your sheet before you start, so sorry. We're good. Please state your name and spell it for the record. [LB928]

ROD REHM: Yes. Rod, R-o-d, Rehm, R-e-h-m. I'm here on behalf of the Nebraska Association of Trial Attorneys, an organization that's devoted to representing victims of injuries and deaths in a variety of form, including the Workers' Comp law. I'm one of those guys who represents people who walk in after they've lost a son or a daughter or a husband or a wife. And Gene Cary was my

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client, his son...and I'm very familiar with what he went through and I'm not going to really address what the families go through. I just want to talk about the nature and scope of what we're asking in this bill to do, what Senator McDonnell is asking in this bill to do. The Workers' Comp system in Nebraska is about a hundred million-plus system of benefits that get paid out year in and year out. A hundred million dollar system with seventy-seven million dollars in medical bills were paid, for instance, in the last fiscal year where there's a report, 2016 fiscal report. Benefits to workers make up the balance of the rest of it. And death benefits are a small part of that but to the families that get effected, those 48 families, it's a big deal. And this bill is not going to affect the cost to Workers' Compensation across the system even a little bit. The increase...first year increase from \$10,000 to \$11,143 adds an extra \$69,000 of benefits to the system out of a hundred million dollar system. Benefit increases in the future are going to be...if the cost of wages and inflation keeps...throughout the same, is going to be about 2 percent a year. We arrive at explaining the 2 percent based on what happens every year to...Workers' Comp benefits are based on the state's annual average weekly wage. And it's a number that from the last time that we increased death benefits in 2012, the maximum benefit or the average weekly wage was \$710 a week in the state. The new average weekly wage for this...as of the first of the year, this year is \$830-some, a \$121 difference over that time period. And it amounts to about a 14 percent increase over the last six or seven years and it's been that way since day one. And I've given you some materials to look at. You don't have to take my word on this. They're a part of the annual reports from the Nebraska Workers' Compensation Court, and summarized it with what I just said about the numbers. The average number of deaths is based on reports from the Workers' Compensation Court. It's just math. And then the way that wages have increased and how it's been about 2 percent, and that's how this fact...inflation factor is dealt with in this bill. It's been about 2 percent all the way through in the numbers that you've been given to look at, so this is not a huge costly change, but it's a very important one for the 48 families that go through this every year. And particularly for the four, five or ten, however many don't have dependents, because they're devastated, generally speaking, and Gene Cary's story and Tonya's story are important. Tonya has an organization that she started as a result of her uncle dying and her living through this experience and she now has a national organization she's a part of and they put on a workers' memorial program every year on April 28 and you should all come to it. It's moving, it's impressive, and it will make you aware of how work injuries and deaths affect people. Thank you. [LB928]

SENATOR ALBRECHT: Thank you. Do we have any questions for Mr. Rehm? Thank you for being here today. Do we have another proponent that would like to speak? Okay, go ahead and start. State your name and spell your name for the record, please. [LB928]

TONYA FORD: Thank you for having me. My name is Tonya Ford, T-o-n-y-a F-o-r-d. Again, thank you very much for allowing us to speak on the importance of LB928. Again, my name is Tonya Ford and I am the executive director of a national not-for-profit organization, United

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Support and Memorial for Workplace Fatalities, and a resident of District 21. We all know and understand that going to work should not be a grave mistake. However, 12 to 14 workers are killed each day in the United States due to a work-related incident. And since 2009, approximately 443 resided here in Nebraska. Each worker left behind their families with heartache, grief, and financial concerns. After such an unexpected tragic work incident, family members are left with the unforeseen financial burden of funeral expenses, and many times costs that incurred during completing the affairs left by the fallen worker. I've held a mother's hand that lost her 19-year-old daughter, Raven, in a work incident in Norfolk when she was fatally injured due to a cement auger incident. Her mother's dream was to give her daughter her last gift and that gift was of a headstone. However, there was no remaining compensation enabling her to give her daughter her final gift. Personally, my family within days of my uncle Bobby's funeral, had to pack his belongings in boxes so that no additional cost, such as rent from his apartment in the storage unit would accumulate and become a burden on his adult children. See, Raven and uncle Bobby are just two of the workers that were killed in Nebraska that did not have dependents at the time of their death. The additional cost incurred fell on the family member victim's shoulders at a time they should be mourning their child, sibling, or parent, worried of the costs that were unexpected and all because their loved one went to work that day. A family member victim, like all families that endure the loss of a loved one, should have the right to remember, honor and mourn their loved ones at a time chosen by their grief and not worry about the financial burdens. The truth of the matter is that our loved ones went to work helping develop and build this great state to what it is today and what it will be in the future and lost their lives doing so. We're not asking for all the bells and the whistles. We're asking for anything more than what you or your family would want for your loved one. We're asking for an adult child who is working hard to put food on their table, clothes on their back and a roof over their head not to have incurred the financial responsibility of their parents' affairs after their loss. A parent should be able to give a child his or her last gift, or allow a parent to grieve and pack their childrens' belongings at their time. Today, we ask for the support in increasing the burial from \$10,000 to over \$11,000, and continue to increase with the cost of living. We also ask that you support \$25,000 to the personal representative of the estate of the fallen worker without dependents so that the families do not have to incur unexpected costs after an unforeseen tragic work-related incident. Unless you are directly affected by a work-related incident, meaning you do not have the understanding of what one goes through after such a loss. We have experienced firsthand and learn more about Workers' Compensation than anyone here and we want family member victims of Nebraska in our future to grieve and not to worry about the unforeseen expenses we had after our losses. Again, thank you very much for your time. Unfortunately, if I could use this time, we had another family member that wanted to come and unfortunately a friend of theirs passed away in a work incident yesterday. So if I could read their speech on behalf of them, I'd greatly appreciate it. [LB928]

SENATOR ALBRECHT: Fine. [LB928]

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TONYA FORD: (Exhibit 2) I would like to thank you for allowing me to speak this afternoon. I am here to support the changes of LB928. This is my story about my oldest son, Ryan Hitchler. While I was taking the week of May 11, 2009, off work to prepare for my youngest son's high school graduation, I received a call on Tuesday, May 12, that Ryan was injured while at work in Lincoln and has been taken to the hospital. Three days later, Ryan was removed from life support and he passed away. Ryan was never conscious while in the hospital. This is not the way life is meant to be, it was just a summer construction job to help pay for college. I went from focusing on graduation to planning a funeral, welcome to my life. In 2009, the funeral home expenses were just under \$9,400. This does not include the expense of the cemetery plot, opening and closing of the grave, monument stone, or other related expenses occurred due to this unexpected tragedy. In 2009, the Workers' Compensation death benefit was \$6,000. This number has changed since then, but has not kept up with the rising costs incurred when such a tragedy happens. Just when you think you have everything taken care of, another surprise. Ryan was not married, nor did he have any dependents, this left me with yet another unexpected expense. I had to hire an attorney to help take care of his estate. In many cases the Workmens' Compensation death benefit is the only benefit that these families will receive to help with final expenses. Unfortunately, workplace accidents do happen that result in a death and Nebraska is not exempt from them. In just the last two weeks there has been two deaths in central Nebraska, a 39-year-old man fell 80 feet at a construction site in Hastings, and my neighbor's step-brother that fell at work, he was removed from life support last night and passed away from his injuries. Sitting with my neighbor last night, listening to him talk, brought back memories of being with my son, Ryan, when he passed away. In closing, I would ask that you move forward with the changes of LB928 to help with the unexpected expenses incurred because of these tragedies. Again, thank you very much for your time in allowing me to speak on Rod Hitchler's behalf as well. [LB928]

SENATOR ALBRECHT: Would you mind putting that letter into record? [LB928]

TONYA FORD: Oh, yeah, definitely. [LB928]

SENATOR ALBRECHT: Thank you. If we could just get a copy, we can make a copy for you if you like. [LB928]

TONYA FORD: I have a couple, so. [LB928]

SENATOR ALBRECHT: Well, thank you very much for that testimony. Do we have any questions for Ms. Ford? Seeing none, thank you for being here. Any other proponents wishing to speak to LB928? [LB928]

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GENE CARY: (Inaudible). Thank you for letting me speak with you today. My name is Gene Cary, G-e-n-e C-a-r-y. I lost my son, Neil Cary, in what OSHA called a workplace accident, a fall from a mezzanine with no safety railing or personal safety equipment for fall protection. Neil was a new employee at the company, not yet on any of their insurance. On June 15, 2010, around 4:00 p.m. we received call that Neil had died on the floor from a fall inside the shop of Benes Heating and Air, Raymond, Nebraska. As the shock set in that my 30-year-old young son, never married, or having children, was gone, in the following days trying to grasp the reality of what happened and making funeral arrangements, OSHA letting us know they would take care of everything to do with the company in getting answers. We did not have a large, elaborate funeral. It was here in Lincoln, Nebraska and the cost was over \$18,000, to be paid right away. Having used the savings that we had and credit cards, we were able to have the burial. Finding out through the process of Social Security benefits, and state death benefits, in the weeks and months to come, we find out what little rights we have. We cannot sue for wrongful death. We cannot hold a company responsible for their actions or lack of. They are protected by federal law that is not the same in all states. In 2012, we spoke to you to increase the death benefits from \$6,000 to \$10,000. Today we are here to ask for an increase again for \$11,000-plus and also asking for the death benefit of \$25,000 for families like mine who have lost their son or daughter who have no families of their own. No family should have to go through a loss of a loved one because they went to work and they should not have the financial burden because of the workplace's gross negligence. The \$25,000 per person is not going to cover what's all needed to be done at the time. I lived in Columbus, Nebraska at the time of his death. You have travel expenses, loss of work. Many were very good to me at work. They allowed me to take as much time as I wanted. First thing you do is, you burn all your vacation time. You take your bereavement time and then you try to go back to work. Then again, travel expenses for cleaning out his apartment. Legal fees to take care of what estate he did have. Finding out how many lawyers in the state don't even know that the laws exist to protect the companies and not help the employee. And in my case, OSHA, I feel they work for the companies, not for the people, they work for the companies. Trying to get answers is almost impossible. Not all the lawyers know about the laws but most companies, the companies I work for...now I work here in Lincoln. I have since then, have moved to Lincoln, and the companies cannot believe that my son, our family had to go through this. So it's blind to a lot of people. Like Tonya said, a person doesn't even know about it until you have to go through it. Thank you for letting me speak in front of you. [LB928]

SENATOR ALBRECHT: Appreciate your story. [LB928]

GENE CARY: It's no easier today, than it was seven years ago. [LB928]

SENATOR ALBRECHT: Never easy. Appreciate your sharing. Sorry about your son. Do we have any questions? Seeing none, thank you for your testimony, sir. Any other proponents wishing to speak? [LB928]

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JOHN CORRIGAN: Good afternoon, Madam Chair, senators of the Business and Labor Committee. My name is John Corrigan C-o-r-r-i-g-a-n. I appear as a proponent on the bill, LB928, on behalf of the Nebraska AFL-CIO, and I'm an attorney in Omaha with the firm Dowd, Howard and Corrigan. Just to reiterate, obviously it makes sense, do whatever you want with the bill, but it makes sense to change the death benefit to the indexed average weekly wage benefit because then you're not going to have this bill coming up all the time. But the \$25,000 amount makes a lot of sense, too, and one of the things I think needs to be considered is, the work force in Nebraska is not entirely from Nebraska. We have people from all over the world who come to work in the agricultural businesses, in construction trades, and those are young people with families that live a long way away. Some of them have children in other countries, some of them don't. But when they die in Nebraska with no beneficiary, that becomes a tremendous financial burden not only on their families but on the communities where they die. There's nobody there to pay for that funeral. If it's a work-related accident, there's a benefit there. As the testifiers have previously identified, the benefit is lacking in terms of being able to pay for the cost of the funerals, but there are a lot of other costs and it only makes sense that in this rare occurrence, and these are small amounts of cases, our job as a labor movement is to reduce those risks in the employment so the people work safe and are able to come home. But in those rare cases where it doesn't happen, oftentimes those are people that don't have beneficiaries under the Nebraska Work Comp Act in terms of who is going to get that money, but they don't die without debts or other obligations, and it is not...you don't get to leave for free. So with that, I'd ask you to support LB928. Be happy to answer any questions. [LB928]

SENATOR ALBRECHT: Any questions for Mr. Corrigan? Seeing none, thank you for being here. Do we have any other proponents wishing to speak? Any other proponents? Seeing none, we'll move on to opponents. Do we have any opponents wishing to speak? [LB928]

ROBERT HALLSTROM: (Exhibit 3) Chairman Albrecht and members of the Business and Labor Committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, and I appear before you today as registered lobbyist for the Nebraskans for Workers Compensation Equity and Fairness, as well as the National Federation of Independent Business. I've also been authorized to sign in on behalf of the Nebraska Chamber of Commerce and Industry and the Lincoln Independent Business Association, all in opposition to LB928. Certainly for the record, I want to note that our opposition to this bill is in no manner intended to discount the significant losses that you've heard from some of the witnesses today. Our organizations, however, have consistently opposed tying Workers' Compensation benefits, for the most part, to the state's average weekly wage, or to any other type of cost of living adjustment to put things on automatic pilot in terms of increasing those benefits. My testimony includes some information from the National Funeral Home Directors from 2017 indicating that the median cost of a funeral was in the amount of \$8,755, and for a cremation was approximately \$2,500 less than that. I also want to note for the record, we were in and did support the change back in 2012 when the maximum burial benefit

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was increased from \$6,000 to \$10,000. With respect to the other component part of LB928, we're also opposed to providing for a \$25,000 lump sum payment to those other than spouses and dependents. With the exception of burial expenses, the benefits under the Workers' Compensation Act have been limited to those involving spouses and dependents and we would not want to have such an extension to that policy as provided under LB928. I'd be happy to address any questions of the committee. [LB928]

SENATOR ALBRECHT: Thank you, Mr. Hallstrom. Any questions? Seeing none, thank you for your testimony. Do we have any other opponents wishing to speak? [LB928]

KORBY GILBERTSON: (Exhibit 4) Good afternoon, madam chair and members of the committee. For the record, my name is Korby Gilbertson. That's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing as a registered lobbyist on behalf of Property Casualty Insurers Association of America and Tyson Foods, Inc., in opposition to LB928. What I'm having circulated to the committee is an analysis of the bill, LB928, and Senator Albrecht, you might have received this in your office when it was released. But I wanted to just call your attention to it, and as you see, NCCI does say that this would have a negligible increase on the overall system. Now to explain what that means, that means the overall system would have a negligible increase, obviously individual employers and self-insureds would have different impacts based on that, but I wanted to provide that to the committee for your information. I don't want to repeat a lot of what Mr. Hallstrom said. Primarily, we have continued to oppose different changes for first compensation in the form of cost of living increases or tying them to the weekly wage. Our second concern is the \$25,000 going to the personal representative. Those, unfortunately, people have experienced losses like this every day and pay for families that did not have proper life insurance or other things like this, we do not think that this is necessarily the place to make up for that difference. I'd be happy to try to answer any questions. [LB928]

SENATOR ALBRECHT: Any questions for Ms. Gilbertson? Seeing none, thank you for coming. [LB928]

KORBY GILBERTSON: Thank you. [LB928]

SENATOR ALBRECHT: (Exhibit 5) Do we have any other opponents wishing to speak? Any other opponents? Seeing none, we'll...we do have one other letter to read into the record, correct? And that is from...on LB928, we have Kathy Siefken, the executive director of Nebraska Grocery Industry Association, is in opposition. Do we have anyone wishing to speak in neutral position? Anyone wishing to speak in the neutral capacity? Seeing none, we'll close this particular hearing. Senator McDonnell, would you like to... [LB928]

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SENATOR McDONNELL: Unless there's questions, I'll waive closing. [LB928]

SENATOR ALBRECHT: Any other questions? Seeing none, Senator McDonnell waives closing. And we'll move on to LB952 and I'll ask Senator Crawford to take the chair. [LB928]

SENATOR CRAWFORD: So we will open the hearing for LB952. Senator Albrecht, welcome to open as soon as you're ready. [LB952]

SENATOR ALBRECHT: Thank you. Chairman Crawford and members of the Business and Labor Committee, I'll open with LB952 of multiple dismissals. LB952 limits the number of times a plaintiff in Workers' Compensation Court can file and dismiss the same action against the same defendant that is based on the same cause. Currently, an action in Workers' Compensation Court is dismissed without prejudice, number one, by the plaintiff if he or she is represented by legal counsel, and the dismissal comes before the final submission of the case to the court, or number two, the Compensation Court, if the parties stipulate that there's no longer a dispute between the parties. Under the first scenario, the represented plaintiff is free to file and dismiss as many times as they desire. LB952 would limit this so that the plaintiff can only dismiss the case once, without prejudice. In other words, a plaintiff can bring an action against a defendant and dismiss that action, and the plaintiff brings the same action against the same defendant again, the plaintiff can still dismiss, but if they do, they cannot refile the same against the defendant a third time. This is a model which is after a similar concept in the federal rules of several procedure, Rule 41, 1B. A plaintiff's dismissal is without prejudice unless the plaintiff has previously dismissed an action in federal or state court based on or including the same claim. Finally, I would like to point out that the Workers' Compensation Court can order that a second dismissal by a plaintiff is not with prejudice if it is in the interest of justice. This allows the Workers' Compensation Court the flexibility to address any unique or problematic circumstances. I'd be happy to answer any questions. [LB952]

SENATOR CRAWFORD: Thank you, Senator Albrecht. Questions? I'll ask a question if you don't mind. [LB952]

SENATOR ALBRECHT: Go right ahead. [LB952]

SENATOR CRAWFORD: Sure. So I wondered if there was any particular cases or pattern that we've seen in Nebraska that's reason for bringing this bill? [LB952]

SENATOR ALBRECHT: You know, I will leave that to those who will follow, if you don't mind. They can give you some direct information. [LB952]

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SENATOR CRAWFORD: Okay. Any other questions? All right. Thank you. I assume you're staying for closing? [LB952]

SENATOR ALBRECHT: Yes, I am. [LB952]

SENATOR CRAWFORD: So now we'll turn to proponents of LB952. Welcome. [LB952]

CURTIS RUWE: Good afternoon. My name is Curtis, C-u-r-t-i-s, Ruwe, R-u-w-e. I'm vice president and general counsel at Crete Carrier Corporation here in Lincoln, Nebraska. And maybe the best place for me to start is by answering Senator Crawford's question. I...let me start by saying, I realize following a bill that is talking about workplace fatalities is not the same as talking about what is largely a procedural bill, but we are addressing something that is a real problem to employers and also an issue for judicial economy. And do we have cases that constantly get dismissed without prejudice? Not necessarily. It certainly happens. You can...allowing plaintiffs and understand, either side can bring a case in Nebraska Workers' Comp Court, the employer or the plaintiff, and this would apply equally to both. Allows someone to take the case all the way up to trial, have another side, expend all the resources that it would take to get to that trial and if they don't like the evidence or a number of other issues that could come up, they can withdraw that case right up to the very time they submit it after all those...after the court's time, the defendant's time, everyone's time has been used preparing and teeing it up for resolution. That's one aspect of it. Another aspect is that in reality the way this plays out is a case that is before the Workers' Comp Court can be subject to multiple continuances where in another court it might not because the reality is, everyone knows that the attorney for...that brought the suit can choose to just simply dismiss it and rebring it. And so, therefore, you never get to a point where there's any pressure to say, okay, now's the time to resolve this case. That is the problem we're looking to solve here. There are other implications for, whether cases that aren't ready to be litigated get litigated and that is also an issue for judicial economy and for defendants. I would make the comment, and I'm making it now just because I want to make sure I get it in before we run out of time, what I would like to see in the context of this bill is really an opportunity for the court to have some gatekeeping function. Just really all we're looking for is an opportunity to end any abuse of process. The language of the bill perhaps needs some...some additional amending in that respect, and I have some ideas on that and I'm happy to share those with anyone should we get to a point where that needs to be the case. In my mind, the way it works it is similar to some other courts is, you know, obviously you can bring...a plaintiff can bring a suit, they can dismiss it once without prejudice. If they bring it again and wish to dismiss it voluntarily again, and wish that dismissal to be without prejudice, the way I would think a fair system would work, they would bring a motion to show cause to the court why it should be dismissed without prejudice. And what without prejudice means is, you can bring it again. And then the court could just...could exercise it's gatekeeping function under a for-cause standard, which is a legal term of art. The judges know what that means and they can make a determination as to whether it's in the

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interest of justice to allow that case to be dismissed and perhaps rebrought another day. That is something that is necessary. I can see that something is necessary for the Workers' Comp arena because situations can change with time. The...what we're looking to deal with are those situations where someone dismisses multiple times, or it is in some other way abusing the process that is before the court. I would note that other states, it's hard to even find this concept in their statutes because they don't give one free dismissal every time. A dismissal has to be granted and imbedded by the court before it happens. So I think this is a fair compromise. I think there is language that, hopefully, can alleviate some concerns that might be raised by others. I see I'm out of time. [LB952]

SENATOR CRAWFORD: Thank you, Mr. Ruwe. Are there any questions from the committee? So have you left a copy of that language with Senator Albrecht? [LB952]

CURTIS RUWE: I have not. It is in...I don't know that anyone besides me could read it right now. (Laughter) [LB952]

SENATOR CRAWFORD: No, no, I just wanted to make sure that it was provided to... [LB952]

CURTIS RUWE: But I'm happy to do so. I'll get it in legible form and provide it. [LB952]

SENATOR CRAWFORD: Right. And so again, I wondered if you...I think you talked about the concerns in terms of judicial economy. Just want to again come back to the question of whether this is...how often you see this happening with dismissals...repeated dismissals being issued for you in your company. [LB952]

CURTIS RUWE: You know, we have...we have a handful of instances where someone has done it to us repeatedly. And that is to say, somewhere around four or five times...and keep in mind, I've only been in the Workers' Comp world for five years. I come from a civil litigation background. It's only once I began working at Crete five years ago that I started getting any visibility to this and quite frankly, it was surprising to me coming from the background I did that this was the reality. As far as repeated dismissals, it isn't that many. Now, it is several times a month, probably, not several times a month, but it's very regular to be discussing where we're at with a case, having done expert discovery, have taken depositions, having done a number of things, and being told that we're being asked for a continuance which maybe in normal circumstances in another court might not be granted, but because of the court and our adjusters and everyone are aware that the plaintiff has the ability to simply dismiss the action, which is the threat, the continuance will be agreed to or granted and keeps cases going on for a very long time because of that. And so, it's as much that aspect of it as the reality of cases continuously being dismissed. I think if we weren't aware of that reality and we really started saying, no, we're never

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going to agree to it, even when you get in front of the judge, the judges know what the plaintiff is just going to dismiss this if they need to, to get their continuance. So that's part of the reality. [LB952]

SENATOR CRAWFORD: So the dismissal is a lever in terms of pressing for a continuance. [LB952]

CURTIS RUWE: Yes, it can be. [LB952]

SENATOR CRAWFORD: Thank you. Any other questions? Yes, Senator Lowe. [LB952]

SENATOR LOWE: So, I'm not an attorney, so... [LB952]

CURTIS RUWE: Good for you. (Laughter) [LB952]

SENATOR LOWE: Thank you. My father would have shot me if I would have become one. So we're basically talking about time and money. And this costs your company time and money and companies like yours, time and money with the way the law reads now. [LB952]

CURTIS RUWE: I think that's fair. Yeah. It's time and money. In my instance, we're self-insured motor carrier and the name of the game in our business is retaining drivers and getting them back to work. So, we're not looking for anything to drag out longer than it can. We want to treat the employees correctly and get them back to work. [LB952]

SENATOR LOWE: Thank you very much. [LB952]

SENATOR CRAWFORD: I guess one other question is, if continuances is the primary issue, have there been any conversations about addressing that step as opposed to a dismissal step? [LB952]

CURTIS RUWE: There's...not to my knowledge. I have not been involved with those conversations. I think there's a chicken and an egg issue there, but that's just my thought. [LB952]

SENATOR CRAWFORD: Thank you. Any other questions? Yes, Senator Halloran. [LB952]

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SENATOR HALLORAN: So, and I know every case is different so this is not a fair question, but it, to Senator Lowe's comment it doesn't, there are additional expenses. Do you have to repeat the deposition expenses, the extra testimony, or are those kind of sitting there to be done again. [LB952]

CURTIS RUWE: It can depend on the judge and it can depend on the context of the litigation. That's... [LB952]

SENATOR HALLORAN: No two are alike. [LB952]

CURTIS RUWE: Yeah, but you can't...you can't force the matter to resolution, so it continues to live on. [LB952]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you for your testimony today. [LB952]

CURTIS RUWE: Thank you. [LB952]

SENATOR CRAWFORD: Any other proponents of LB952? Welcome. [LB952]

ROBERT HALLSTROM: (Exhibit 1) Vice Chairman Crawford and members of Business and Labor 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 Nebraskans for Workers Compensation Equity and Fairness, as well as the National Federation of Independent Business. And I again, have been authorized on behalf of Nebraska Chamber of Commerce and Industry to express those organization's support for LB952. I'm not going to repeat a lot of what Mr. Ruwe has provided. I would note, however, in my testimony, I have what may be described as a particularly egregious case involving multiple dismissals on page 3 and 4 of my testimony. I note that there was a case that started in February of 2009, was ultimately resolved in 2017, and in the intervening time there were petitions filed and dismissed on two occasions, a third petition filed before the ultimate resolution, and as you can see on the top of page 4, multiple continuations which Mr. Ruwe suggested is the alternative with the leverage being, I'll just dismiss and refile. I think the bottom line is, you do look at time and money, Senator Lowe, in terms of, if those cases do involve a situation where discovery is required to commence all over again, that you will have some inefficiencies with regard to having to incur additional expenses for that purpose. There will, no doubt, be some examples on the other side that show that there could be some unfairness with the standard that's set up here, but I think Mr. Ruwe has suggested that perhaps that with cause, that type of standard might be more appropriate. We've tried to put in by the best interest of justice that type of standard to give

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the court the flexibility to not simply always be one bite of the apple and then you're done and dismissed without prejudice on the second occasion. So there may be an opportunity to talk to some of those who may follow on the other side of the ledger here today to discuss some alternatives in that regard. Be happy to address any questions of the committee. [LB952]

SENATOR CRAWFORD: Thank you, Mr. Hallstrom. Questions from committee members? Thank you. [LB952]

ROBERT HALLSTROM: Thank you. [LB952]

SENATOR CRAWFORD: Other proponents of LB952? Good afternoon. [LB952]

KORBY GILBERTSON: Good afternoon, Senator, 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 Property Casualty Insurers Association of America and don't want to be duplicative of the prior testifiers, but PCIA discussed this legislation and feels it would help prevent duplicate filings by plaintiffs that have been already dismissed, and that it would be a fair treatment to not allow continual dismissals and refilings. And they've also discussed the fact that the courtroom would still have the flexibility to determine that if in the interest of justice there would be the continuation of, with no prejudice, they felt that was a good addition to the language. So with that, I'd be happy to try to answer any questions. [LB952]

SENATOR CRAWFORD: Good. Questions by committee members? Thank you. [LB952]

KORBY GILBERTSON: Thank you. [LB952]

SENATOR CRAWFORD: Any other proponents of LB952? Is there anyone here wishing to speak in opposition to LB952? Welcome. [LB952]

ROD REHM: (Exhibit 2) Good afternoon. My name is Rod, R-o-d, Rehm, R-e-h-m, appearing on behalf of the Nebraska Association of Trial Attorneys. I want to start this with two minute, Workers' Comp, 101. Workers' Comp is a unique system because there are a lot of different issues in any given case, and depending upon what decision is made by the employer or their insurance company about whether they're going to pay benefits, the worker is exposed to no benefit payments, no medical care situations, lots of hard choices, lots of hard times where their benefits either are denied to begin with, or they're not paid on time. And the only way that someone like me and my brother that represent injured people, the only way we can fight that against these multibillion dollar corporations is through the equal justice that happens in the

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courtroom. That's the leveler. The leverage is, us trying to pry the money out of people for our clients. And we file lawsuits as soon as we realize that they're not going to be nice and they're not going to just voluntarily pay the benefits. So this doesn't happen an awful lot. In the greater scheme of things, there's like 20-some thousand workers...something of reported injuries every year. There's only about 1,300 lawsuits filed in any given year. So the decision make...I'm not saying that they're bad guys, that they're bad people that deny the claims, but it happens. And the leverage, the only leveling mechanism that workers have is the courtroom where the judges can look at the cases, look at the law and decide whether you're entitled to benefits or not. And frequently, when a lawsuit is filed, the insurance company or the employer will get real focused and get their mind on it and say, well, maybe we should pay this. And so the lawsuits, some people leave them pending because the courts will continue the case. Some lawyers leave them pending. Some lawyers dismiss them. I've done both over the years and I bring to this table of Workers' Comp practice experience that goes back to Jimmy Carter. I've been in that Workers' Comp Court thousands of times and I understand, you know, about what gets denied and it's part of the process. I'm not going to call it a game. It's part of the process. It's part of the adversarial system and this is a hugely important lever for the little guy. To limit it in any way, hurts the little guy. It hurts the guy that makes \$12 an hour and works 30 hours a week and is getting paid nothing because somebody in a claims office doesn't like the way a doctor's report is written. Those are the kinds of things that we deal with. And the courtroom straightens those out in a hurry. I don't think this is a big problem and the handout I turned over to you is statistics about petitions. Petitions are these papers that get dismissed with or without prejudice. We couldn't dismiss without prejudice until fiscal year 2007, until September 1, 2006. Before...in the ten years before that fiscal year, there were an average of 1,440 lawsuits filed in the Workers' Compensation Court. Those are facts, not feelings or anything. They're facts. In the ten years that follow that up until to date, the average is about 100 less...not 100 less, it's 70 less. It's gone down. So during this time period where lawyers had the right to use leverage by dismissing and leaving cases pending and refile if you chose that sort of thing, the number of lawsuits filed has gone down. This is a bill in search of a problem. There isn't a problem. I mean, if facts matter, this bill should be dismissed and held, you know. I have nothing further. [LB952]

SENATOR CRAWFORD: Thank you. Any questions by committee members? Yes, Senator Hansen. [LB952]

SENATOR HANSEN: You said this bill should be dismissed. Do I have to ask, with or without prejudice? (Laughter) [LB952]

ROD REHM: You know, I think, without prejudice. I mean, if somebody can come back in here and show it, you know that there's some abuse because of this, fine. You can introduce the bill year and year out. I have been involved in the other in that and know how it works, so. [LB952]

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SENATOR HANSEN: Thank you. I've gotten nothing else, I guess. [LB952]

SENATOR CRAWFORD: Any other questions? I wondered if you could just in your experience talk about a couple of examples of when a dismissal is critical? What are the conditions under which you would...? [LB952]

ROD REHM: Well, I happen to have a case that's been running from 2009 that we're just now getting around to settling in 2017. So I haven't read Bob's materials, but it might be my case he's talking about. And along the way on that file when I got it, of several years into it, there was about two years of back benefits that hadn't been paid and I discovered that by reading the file and I said, pay these benefits and they came up with an excuse and so we filed a lawsuit and boom, before we go to court, the benefits show up. That's an example. Another example that I've had with filing a lawsuit early is where their wages are to be paid on base of your average and the easiest way for insurance companies to figure them is to take 40 hours a week times whatever. And there's case law that says that the worker is supposed to be...and the statute says, it's a 26 week average, and there's case law that says you can throw out any abnormally low ones. Well, that's the first thing on a checklist which that we get and it's not a frequent thing but it's a reason for filing a lawsuit because you say, wait a minute. This guy really averaged 50 hours a week and he's being cheated out of being paid for the full work week. And when you have an adjuster or a claims representative that says, well, I have to check on this. Well, I file a lawsuit and that focuses their brain on it because it's just a matter of doing the math and figuring out how many weeks were less than 32 hours, it shows that it wasn't even a four-day week, you know, they get thrown out. And, you know, those are real live examples for how the individual wage earner has a need to get leverage. Same thing goes with medical care. You can get into a situation where someone has been denied an MRI for months and a lawsuit has a way of focusing the attention on whether or not that person really needs that care. And it usually works to the benefit of the person getting taken care of either by the judge or by the insurance company or the employer deciding, well, yeah, we should take care of this person. So, being able to go in and out of court is a tremendous leverage. It's a huge tool for people like me and like my brother that are going to speak to the same issue. [LB952]

SENATOR CRAWFORD: So if you get resolution on one part of the case, stills the case that you may need to bring that situation back because you've only gotten resolution on a portion of the case. [LB952]

ROD REHM: Oh, yeah. Absolutely. Yes, and Workers' Comp has a self-extending statute of limitations, so that Workers' Comp case is open until it's either settled or dismissed with prejudice by a court. But if it's a...if a case that benefits are being paid, if a benefit is paid today, the statute of limitations for refiling is extended automatically for two years with the idea that

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this is supposed to benefit the worker. This is a system that benefits the worker. And the civil code, where there is one statute of limitations, which governs the jury trials in state court, has no limitation on the number of times you can dismiss without prejudice. Absolutely, no limitation. Now federal court, I agree with that, but the state of Nebraska civil procedure grants that right to me when I'm working for somebody on a car wreck and now they want to take it away from me in Workers' Comp, where it's even more important because of that fixed ending thing and the different issues as they roll out. [LB952]

SENATOR CRAWFORD: Thank you. Any other persons? Yes, Senator Halloran. [LB952]

SENATOR HALLORAN: Co-chair Crawford, thank you. So the way the bill reads, proposal bill reads, in the case that you're discussing, could it be brought back under the cause unless otherwise ordered by the Compensation Court in interest of justice? [LB952]

ROD REHM: Yeah, I think you could probably in many cases show that to the judges, but all judges aren't the same, and I'll just leave it at that. The different judges would do that...what that mean...what that meant differently. [LB952]

SENATOR HALLORAN: That's why they're judges. [LB952]

ROD REHM: That's right. Yeah. Exactly. [LB952]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you. Thank you, Mr. Rehm. Anyone else speaking in opposition to LB952? And I'm going to read the letters in together at the end, so I apologize for that. [LB952]

JOHN CORRIGAN: Good afternoon, Madam Chairwoman, committee, my name is John Corrigan. Again, C-o-r-r-i-g-a-n, and I'm speaking in opposition to LB952 on behalf of Nebraska AFL-CIO. To reiterate what counsel said, Mr. Rehm is...he's absolutely right that this is a leveler and you have to respect the powers that are played in a Workers' Compensation case. The oldest case I have right now in my stack of files is from a firefighter who fell off a pole going down from one floor to get on the engine on a call and broke bones in both of his legs in 1986, and every few years a new adjuster gets assigned to that case. The one thing that's important to understand about Workers' Compensation benefits is when the medical benefits are to be paid for all reasonable and necessary medical care doesn't mean all reasonable and necessary medical care for the next two years. It means all. And it very well, and it's rare but it happens, that that's a lifetime benefit and for this gentleman he has to go in and get new orthopedic shoes about every two years and every time we get a new adjuster or the claims administrator changes, they like to

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fight that. And on several occasions since I took over the file from my partner who has moved on, thank goodness for him, but every time that fight comes up, there's nobody getting paid to do that. There's no benefits that flow to the lawyer. It's simply, we go in and they fight over this and usually the...you know, the doctor's opinion saves the day. Now in that case the doctor who initially gave that prescription died, so a new doctor had to write another report. Who is going to pay for that report? The insurance carrier is not going to pay and write that report. The retired firefighter who is on a disability pension has to pay for that report. Is it going to cost him \$500 to get the doctor to write a letter? But in that case, eventually it did get resolved in the sense that we got...we were tired of screwing with them, and so we forced to trial. We got a final order that said, you're going to pay this for the future until such time as it's not reasonable and necessary. That was an unnecessary fight. Every time if they would have paid it, there wouldn't have been a problem. And the reason that this statute is not necessary for all the other reasons identified, is those cases where the plaintiff's claim is spurious, where there's no evidence to support it, or they hadn't made any payments, the thing that stops the case isn't...you know, you can file and dismiss and file and dismiss only for so long because that statute of limitations eventually is going to run out. It takes about nine months from the date of filing to get a trial date right now in the Comp Court. You might get two or three shots at it if they haven't paid, but by the time that's over with, that statute is going to run. And that's really what is at issue because each time you force another payment, maybe dollars not a dispute, and you can dismiss because that statute is now going to be another two years because they made that payment. Those are the issues that we're faced with when you have somebody making \$12 an hour that's going against Zurich Insurance corporation who has the \$2,500 to pay for a doctor to do an evaluation and provide a report, and that \$12 an hour guy has to go out and find somebody to write a report to counteract that and he doesn't have the money to do it. So this is a leveler. It's not necessary to change the law to put the law more in favor of the employers, in my mind, than it would be for the workers given the evidence that the petitions are going down, not up. With that, I'd answer any questions if you have, and I thank you for your consideration. [LB952]

SENATOR CRAWFORD: Thank you. Questions? Thank you. Any other opponents? Welcome. [LB952]

GREG COFFEY: Thank you, Senator Crawford, and members of the committee. Greg Coffey, first name is spelled G-r-e-g, last name is spelled C-o-f-f-e-y. I'm here representing myself as an attorney employed with Friedman Law Offices here in town. I wasn't planning on testifying initially but I heard a question from Senator Halloran that I thought that I could answer and also provide a real world example of why and how this happens. Senator Halloran, I think asked about whether you have to repeat discovery and go back through and replot all the ground that you've already accomplished. I've dismissed and refiled the cases on a number of occasions in the past that had gone into litigation to some degree. I've never had an experience where we had to repeat discovery that had already been accomplished. I mean, we usually agree and stipulate

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that we'll just go with the same discovery questions and responses that were already provided so that nobody has to redo anything and so that it doesn't cost an extra amount to anybody. I mean, we don't want to spend extra amounts either. Sometimes it's necessary, though, and I'll give you an example. A client of mine, I'll call him Nick, was nearly electrocuted working on a job site in Kansas. He reported the injury the following morning. His employer felt that he hadn't reported it promptly enough. They terminated his employment and they had assigned a Kansas Worker's Compensation adjuster who was operating under Kansas law and directing my client to go to doctors that they chose because I guess their physician choice rules allow them to do that. He met with me. I concluded that his claim could be brought under Nebraska law where he would have the right to have his own family doctor be his treating physician for purposes of the case. A couple of months passed where he was off work completely, had been terminated but was unable to work. I mean, this electrical injury really messed with him in a lot of different ways that don't necessarily show up the day of the accident, that might not start to manifest themselves until later on. And we filed suit because no benefits were being paid. This guy wasn't getting any money for being off work. They ended up transferring his file to an adjuster who was familiar with Nebraska and started administering it pursuant to Nebraska law and kicked me out a check. Okay. Well, what did that do? That allowed me to say, I don't have a dispute now. There's nothing that needs to go to trial at this point. You're paying what we wanted you to pay. So I can dismiss that case. I can save the employer money because they don't have to keep that lawyer on the file working on it and I can just deal with the adjuster now and, you know, if another issue comes up. But, you know, I also note in my practice that I think the time for getting a case to trial is moving more quickly these days. Ever since the review panel of the Workers' Compensation Court was eliminated and now we have a direct appeal to the court of appeals instead of going through a review panel, it seems like the judges are able to get through their docket a little more quickly. The judges on the Compensation Court set the trial dates, not us, and so we might get a trial notice within a few months of when a lawsuit was filed and by the...you know, we're not anticipating it being that quick and might need a little more time. And rather than having to pester a judge for a continuance as Mr. Rehm said, the law changed in 2007 and I think the law changed because of a Supreme Court decision that said that the Compensation Court doesn't have any authority to do anything that a district court wouldn't have the authority to do. And under the rules in the district court, you can dismiss and refile anytime you want to, for any reason that you want to, as long as the case hasn't been submitted for final determination. And the Supreme Court says that, that gives us the right to dismiss and refile if we want to. I don't see it as something that's been abused. I think that it's something that, you know, sometimes just needs to happen because my client is still getting medical treatment. He's not at a point where we really can present to the judge what we think our case is all about. I need some additional time for him to continue through medical treatment, or for her to continue through medical treatment, and the case is just not right for adjudication at this point in time. And I don't want to have to depend on the...you know, arbitrariness or capriciousness, I guess, of which judge is going to go along with that or which judge might not. If I have the ability to just dismiss, I can wait for the

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client to get through with their medical treatment provided that I'm still within the statute of limitations and then refile it at an appropriate point in time. It doesn't really cost the employer anything that I've done that. It's saving them money because they're not paying an hourly-fee attorney to build the file while the case is dismissed and when I refile, we just pick...in fact the Compensation Court refiles it under the same file number and assigns it back to the same judge that it was originally filed under. So, whereas, in district court, I know that there are a lot of attorneys who will file a lawsuit, see that they don't really care for the judge that they were assigned, dismiss, refile, hoping they might get a different judge assigned to the case and that sometimes happens. Well, in Compensation Court it doesn't work that way. So that's not an incentive for us. We don't get it dismissed and see and hope that we might get a better selection of judges, we get the same judge under the same file number and so for the most part, I've never, ever, seen anybody even suggest that we might not use the same discovery that had already been furnished and answered. That's all I really needed to say, if anybody has any questions. [LB952]

SENATOR CRAWFORD: Thank you. That was helpful in answering those questions. Any other questions? Thank you very much. Anyone else speaking in opposition to LB952? [LB952]

NATE DOBBS: (Exhibit 3) Thank you, Senator Crawford and members of the committee. My name is Nate Dobbs. It's N-a-t-e D-o-b-b-s. I'm staff attorney for the Immigrants and Communities Program with Nebraska Appleseed. We're a nonpartisan, nonprofit organization dedicated to justice and opportunity for all Nebraskans, and I'm here today to express my opposition to the bill. I won't repeat so much of what we've learned in Workers' Comp 101 here just now. It's been very illuminating but what the particular problem that we see with the bill as drafted is the impact of the worker who sustains injuries that are based on the same cause which is repetitive motion injuries. For example, we speak to hundreds of workers in the meatpacking and poultry industries who do suffer injuries based on the same repetitive motion day in and day out. Because of that, different injuries could manifest over time, but be based on the same cause which is that repetitive motion, the strain, day to day. What this bill would do is make it so that someone could not bring a claim after that first time if it's voluntarily dismissed. If it includes or is based on the same cause and that language that includes or based on is a whole new type of standard, that would have to be worked out with courts. And during the time, many plaintiffs might not be able to access the Workers' Compensation Court if they have voluntarily dismissed a case. So in this situation, judicial expediency is not always in the sake of justice and I think that really the way the statute is currently written would be fine. We're not certain of the need to insert a language that not only creates disincentive for employers to, maybe not keep their workplaces as safe moving ahead through time, and to bar claims from seeking a redress within the court and in addition maybe opening up a door to how an injury is going to be determined if it includes the same cause as the previous one, that could open up the door to a lot of different interpretations. In a repetitive motion case or cause, a lot of injuries could include repetitive motion, could not, but if you only get only one or two bites of the apple, then that's going to be

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your cause right there. So we wanted to go on record and talk about that situation and urge you not to advance this bill out of committee and I'd be happy to answer any questions that you have. [LB952]

SENATOR CRAWFORD: Thank you, Mr. Dobbs. Any questions from the committee? Thank you. [LB952]

NATE DOBBS: Thank you very much. [LB952]

SENATOR CRAWFORD: (Exhibits 4-6) Anyone else wishing to speak in opposition to LB952? Anyone wishing to speak in a neutral capacity on LB952? So now we will read into the record letters. Let's start with letters. Proponent letters, we have Brandon Gunther, Gana Trucking and Excavating, Inc.; we have Kathy Siefken, executive director, Nebraska Grocery Industry Association, Inc.; and Brad Wegner, NUCA of Nebraska, President, National Utility Contractors Association of Nebraska. All letters, proponent letters. Any other letters? All right. So with that, Senator Albrecht, would you like to close? Senator Albrecht waives closing. So with that, we will close the hearing on LB952 and open the hearing on LB953. Welcome. [LB952 LB953]

SENATOR ALBRECHT: (Exhibit 1) Good afternoon. [LB953]

SENATOR CRAWFORD: Good afternoon. [LB953]

SENATOR ALBRECHT: Senator Albrecht here introducing LB953 on the lump-sum payments. I'm handing out...everybody has the amendment in their packet but the third page did not run off, so you have it with you, the newer version of the amendment. Excuse me. LB953 has three primary changes to the Nebraska workmen's...Nebraska Workers' Compensation law (sic--Act). The first one is to allow parties to move for a hearing on the application for workers' compensation lump-sum settlements. Currently the parties cannot require the Workers' Compensation Court to hold a hearing on the settlement or parts of the settlement, even if both parties agree on initiative. The intent of this change is to streamline the settlement process. The secondary amendment in LB953 allows parties some flexibility regarding settlements when medical bills are unpaid or the employee is a Medicare beneficiary. Nebraska law currently provides that lump-sum settlements in Workers' Compensation Court must be approved by the court in these circumstances: the employee is not represented by counsel; the employee is eligible for Medicare, is a Medicare beneficiary, or reasonably expects to become eligible for Medicare within 30 months after the settlement is executed; medical, surgical, or hospital expenses incurred for treatment of the injury have been paid by Medicaid and Medicaid will not be reimbursed under the settlement; medical, surgical, or hospital expenses incurred for treatment of the injury will not be fully paid as part of the settlement; or the settlement seeks to

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commute amounts of compensation due to dependents of the employee. If the court finds that the lump-sum settlement is in conformity with the compensation schedule and for the best interest of the employee or his or her dependents, under all circumstances the Compensation Court must approve the settlement. A current practice of the court is not to approve a settlement where the employee still has unpaid medical expenses or the employee is or expects to be a Medicare beneficiary. This is not a formal rule and is not in statute but merely a practice that the court has. LB953 is currently...as currently written, it would require settlements where an employee is or expects to be a Medicare beneficiary or where there is still unpaid medical bills to be approved by the Workers' Compensation Court if the employee's attorney affirms that such settlement is in the best interest of the employee and is in conformity with the compensation schedule. I have an amendment which narrows the portion of this settlement which the court is required to approve. Currently, if the employee's attorney makes those affirmations, as I described above, the entire settlement would need to be approved. This amendment revises that so only the portion of the settlement regarding the medical expenses and Medicare's interest must be approved by the court. Under the amendment, the Workers' Compensation Court would still need to review and would not have to approve the other portions of the lump-sum settlement if these affirmations are made. The amendment also makes a slight change to the language regarding the affirmation. "Elects to" has been added before the word "affirm" to make clear that the attorneys do not have to affirm this. It is a voluntary action. Going back to the bill, the third primary change is to address an issue regarding the enforcement of late-payment penalties in workers' compensation cases. Nebraska law currently permits a 50 percent penalty for payments that are made later than 30 days after a release is filed with the Workers' Compensation Court. The Workers' Compensation Court decided in Dragon v. The Cheesecake Factory that the penalty was not enforceable because the employee had waived all rights to enforcement. LB953 adds language to permit the employee to enforce this by stating that the defendant is not discharged from liability until an order of dismissal is entered by the court. With that, I'd be happy to try and answer any questions. I believe there are others behind me that may also have answers to your questions. [LB953]

SENATOR CRAWFORD: Thank you. Questions by committee members? So would the late payment penalty then...this sort of reinstates or reinforces the right to seek those penalties until the actual full payment of a lump-sum payment has been made. [LB953]

SENATOR ALBRECHT: Yeah, made later than 30 days after the release of the court's approval. [LB953]

SENATOR CRAWFORD: Okay. All right. Thank you. Any other questions, committee members? Thank you. [LB953]

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SENATOR ALBRECHT: Thank you. [LB953]

SENATOR CRAWFORD: We may have more questions with closing. So now we will hear from proponents of LB953. Welcome. Please state and spell your name for us. Thank you. [LB953]

MELISSA WOITALEWICZ: As long as my name doesn't count against my time. [LB953]

SENATOR CRAWFORD: All right. (Laugh) [LB953]

MELISSA WOITALEWICZ: My name is Melissa Woitalewicz, M-e-l-i-s-s-a W-o-i-t-a-l-e-w-i-c-z. [LB953]

SENATOR CRAWFORD: Thank you. Proceed. [LB953]

MELISSA WOITALEWICZ: (Exhibit 2) Senator Crawford, members of the Business and Labor Committee, I am here as the workers' compensation manager for Crete Carrier Corporation. Crete Carrier is a self-insured and a self-administered for their workers' compensation program, which means that we have a team right here in Lincoln that administers the workers' compensation claims for our coworkers. And I'm here to ask you to support LB953. In a case in which the injured worker is represented by an attorney, LB953 permits the parties to move forward more efficiently in obtaining a lump-sum settlement approval. One would naturally think that when there are two consenting parties in a settlement negotiation, the resolution would be documented, formalized, and then placed on the record with a rubber stamp. That is not the case in Nebraska workers' compensation law. This bill addresses two current requirements which result in substantial delay and sometimes inability to settle a claim: Medicare's approval of the designated future medical care amount; and payment of medical bills on denied claims or disputed conditions. These two items--and I will discuss them separately--while they seem to be independent, they're actually interdependent upon each other for the workers' compensation carrier. Things get a little muddy so stick with me and then I'll be happy to answer any questions that you have. First, to talk about Medicare's approval of the designated future medical care amount, workers' compensation carriers are required under federal law to protect Medicare's interests; however, Medicare does not detail a process for us to do so. Nebraska is the only state in the union that requires a Medicare letter of approval for a workers' compensation settlement. I want to repeat that one more time. Nebraska, under workers' compensation, is the only state in the union that requires a Medicare letter of approval for a Medicare beneficiary in order to obtain settlement approval. We, as carriers, have efficient options available, but we're precluded due to a court guideline that currently exists. The current guideline puts carriers in a position where they hit a significant time delay in awaiting for a Medicare contractor to provide a letter of approval. So that's issue one I want to talk about. Number two is the medical bills on denied claims or

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disputed conditions. Carriers have no problems paying the reasonable and related medical bills. We are talking about the times that a condition or a body part is in dispute. As the rule currently stands, we are required to show proof of payment on any alleged or even mentioned medical bill as part of a case; the medical bill does not have to be related to the compensable claim or body part. If it is mentioned, the court requires detailed documentation of each bill and proof of payment. Now, remember how I commented that the required Medicare approval letter and the disputed medical bills are interdependent? Herein lies the circle of liability. In Medicare's review of the medical payments and medical records on a file, in order to make their future medical recommendation of the dollar amount to give us that letter of approval, they evaluate each diagnosis code that we have paid for. Each medical bill paid and the associated medical diagnosis code is then interpreted by Medicare as an acceptance of liability by the carrier and Medicare asserts that the carrier is solely responsible for the medical treatment related to that diagnosis code. So in the end, I can't pay those denied/disputed bills on the premise that (a) they're just simply not related to the claim that we've accepted, and because will literally ends up costing me with Medicare and what they assign as my future medical liability amount. LB953 removes the wait time for the Medicare letter of approval, the risk of Medicare seeing a denied/disputed condition as compensable and inflating the future medical cost, the time delay of dispute over unrelated medical bills, and, most importantly, removes the length of time between when the injured worker agrees to a settlement and the time that I can actually put that dollar amount in their hands. So I ask you to support LB953 and I'm open to any questions about Medicare or anything. (Laugh) [LB953]

SENATOR CRAWFORD: Are there any other questions by committee members? Yes, Senator Halloran. [LB953]

SENATOR HALLORAN: Thank you, Cochair Crawford. Just for clarification then you have...this is of benefit to the injured party of getting their compensation quicker without having to wait for Medicare's letter of approval? [LB953]

MELISSA WOITALEWICZ: Yes, I agree to that. I think that this, the situation that we currently are in, when you go submit to Medicare for their letter of approval, you're subject to however long the contractor takes for the period of time to make recommendation. I've seen those go as long as eight months. Some other parties have seen them up as long as 12 months. You're also subject to reviewing these conditions' medical bills that are not related to the claim. So an example that I've heard of is that every...all the parties have come together, plaintiff attorney, defense attorney, injured worker came to an agreement, however, in the course of the claim period of time which was for the left shoulder, the injured worker, unrelated, on his own, had received treatment to the right shoulder. But because that was mentioned in some form in a medical record, the court caught it and required documentation to say, hey, what about the right shoulder, where is these bills, where is proof of payment, even though all parties agreed it wasn't

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related to the claim. And so it's creating a hard time. And I know, you know, just from my experiences, and hopefully some of the NATA members will also testify, that I can't imagine what it's like for them to try and, you know, when this is going on 8, 10, 12, months, to explain to an injured worker, yeah, I know you agreed to this a year ago, I'm sorry you still don't have your money. [LB953]

SENATOR HALLORAN: Thank you. [LB953]

SENATOR CRAWFORD: Other questions? Could you just...I want to just clarify for myself and the record the...you had mentioned the importance of the bill in terms of reducing future liability in terms of Medicare. And so I just want to clarify what that looks like, so why this bill, how this bill actually changes that component of the case. [LB953]

MELISSA WOITALEWICZ: Thank you for that question. I wanted to put it in my testimony but it's a little bit lengthy. So when...with Medicare, what the current process is, is they have a contractor who evaluates two years' worth of medical records and prescription records and they have a formula of the diagnosis codes based on the current treatment that's being received. The best example that I want to give is if you have an injured worker who potentially is...has a little bit of a flareup of pain related to...let's just say it was a shoulder injury, and they've had a flareup and they went to the doctor and said, I'm having a little bit of extra pain, can I get something for the pain, and the doctor prescribes maybe four weeks of some type of pain reliever. If you are in the process of obtaining a Medicare set-aside from their contractor, Medicare's contractor, they will look at that and they will put it in for the life expectancy, whatever that prescription is for. All of us sitting around the table know that for our life expectancies we're not going to be taking daily pain relievers. It's just simply not going to happen or our life expectancy is going to be shortened. And so what the...why...I understand why they have a formula to apply, because they're looking at a lot of different things. What we as carriers have is an option to have a much more medically logical future medical amount set-aside. So in that case, we would look at, okay, this is what he has going on, so we, instead of putting every day for the rest of his life, we would project out occasional flareups of pain needing pain medication. So what you're running into right now, and again I think some of the NATA representatives can speak to this, is that carriers are taking a step back and, instead of just throwing all the money at what the contractor is proposing, they'll do an intervention. So then you're going to see them saying, now wait a second, I can't pay this settlement, work with me, I've got to go in and work with this doctor, get the proper documentation. And usually if the doctor is not doing anything, fine, we just have to dot the i's and cross the t's so that the contractor will understand the full picture. And so there are some cases where we'll just throw the money at it. There are other cases where we elongate the period of time. But at the end of the day, we're going to save time for the injured worker, save time for the plaintiff attorney, and save expense and time for us for trying to get that information together. [LB953]

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SENATOR CRAWFORD: Thank you. Any other questions? We had a request from a member for a copy of the testimony, so if you don't mind, if you're willing to share that, have a page copy that... [LB953]

MELISSA WOITALEWICZ: Sure. [LB953]

SENATOR CRAWFORD: Thank you. [LB953]

MELISSA WOITALEWICZ: Thank you. [LB953]

SENATOR CRAWFORD: Thank you. Anyone else wishing to speak as a proponent of LB953? [LB953]

ROBERT HALLSTROM: (Exhibit 3) Vice Chairman Crawford, members of the Business and Labor Committee, my name is Bob Hallstrom, H-a-l-l-s-t-r-o-m, appearing before you as registered lobbyist for the Nebraskans for Workers' Compensation Equity and Fairness, also as registered lobbyist for the National Federation of Independent Business, and signing in with authority from the Nebraska Chamber of Commerce and Industry to testify in support of LB953. Ms. Woitalewicz has given you some background information with regard to the primary component part of the bill which has to do with changing the mechanism for lump-sum approvals by the court. The Workers' Compensation Court has, by rule or otherwise, put together situations in which either a Medicare set-aside is involved or medical payments remain unpaid that have interjected some level of delay into those lump-sum settlement agreements that obviously, by nature of the term, have been agreed upon by the plaintiff and the defense attorneys and their clients. So we would like to provide a manner in which they can be required to approve those lump-sum settlement agreements, provided that the plaintiff's attorney makes the affirmations set forth in LB953. As Senator Albrecht noted, one part of the amendment that she has brought forward was at the request of the trial lawyers association with regard to clarifying that it's the plaintiff lawyer electing to make those affirmations so that it's not mandated in any respect. Secondly the Workers' Compensation Court, with respect to that amendment, has provided some clarifications that if there happens to be some other defect in the lump-sum settlement agreement--for example, the benefit computations are in error, that the fact that they're required to approve the lump-sum settlement adds to the Medicare set-aside issue or the unpaid medical bill issue does not prevent them from disapproving it on those grounds. So we are in support of those amendments. I do understand that the Workers' Compensation Court may come up with some other technical issues, but I think they are satisfied with that clarifying amendment to the extent that addresses the issue. What I'd like to do primarily, Senator Crawford, you asked a question about the Medicare issue and the liability, and just to maybe ferret that out a little bit. The issue becomes, again, if the employer, because the court is

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currently requiring them to provide that those medical expenses are paid, if they accept liability by specifically paying for them, they run the risk that Medicare will come back later on and, for the life of any potential future Medicare expenses that are paid for, then come back and knock at the door of the employer or the insurer to say way back when you admitted that you were responsible for those particular expenses, now you've bought into them for the life of the claimant. And so that's where the double exposure to liability comes in. What I'd like to do in the remaining time, one thing that hasn't been talked about too much is the issue with regard to penalties for untimely payment of benefits following release. This is an issue a number of years ago where, somewhat surprisingly, NWCEF and the trial lawyers came together in trying to address an issue. The issue was that in the general workers' compensation case, if you do not pay benefits in a timely fashion--within 30 days--you are subject to potential 50 percent penalty plus attorney fees. We had imagined that that would most likely apply in a situation where a release is involved and, lo and behold, there was a court decision that came out and said, no, once you've entered that release, even without a discharge of liability or a dismissal, that release means that you've discharged from all liability the employer, including exposure for penalties. A number of lawyers, including myself, thought we put together language that would resolve that problem and the workers' compensation in the Dragon v. Cheesecake Factory case came out and said you didn't get it quite right. The judge was gracious enough to put in what he thought would be the legislative solution and we think the language in LB953 comports with what the Workers' Compensation Court judge suggested should be the proper cure for that issue. So we now have provided that complete and full discharge of the employer only happens upon the employer making payment as required in the release, and the entry of an order of dismissal with prejudice, so we can hopefully put that issue to rest properly this time. I'd be happy to address any questions that the committee might have. [LB953]

SENATOR CRAWFORD: Thank you. Any questions by members? Thank you. [LB953]

ROBERT HALLSTROM: Okay, thank you. [LB953]

SENATOR CRAWFORD: Any other proponents of LB953? [LB953]

ROLF SHASTEEN: Good afternoon. My name is Rolf Shasteen, R-o-l-f S-h-a-s-t-e-e-n. I've been practicing in the Workers' Compensation Court for I think it's...this is the 36th year, and I've been doing nothing but workers' compensation roughly for the last 25 years. And representing injured workers as I do, I wanted to come down here today and represent to you that you should remember this day because you're not going to see too many times when you have plaintiff's counsel, insurance defense counsel, self-insured defense counsel, all coming down to you, you know, holding hands and singing kumbaya. It doesn't happen. We're usually at each other's throats and I'm sure you who have been here awhile know that. We have a terrible problem in the

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Workers' Compensation Court, particularly legal department. That's why we're all here. I want to just give you a couple of anecdotes. I'm not going to waste a lot of your time with war stories. But the bill solves a fundamental fairness problem. It has to do with the right of an individual to due process of law and the Constitution of the United States and the State Constitution. The legal department at the Workers' Compensation Court will deny a lump-sum settlement because it's not in the best interests of the individual worker. Exactly why they deny that, we don't get to know and I can't tell my client. All I can tell him is that the settlement that was going save his house, his car, his boat, his credit, isn't going to happen because down inside there somewhere a guy said no. I'm a Democrat. You know, I...the nanny-state argument, the patronization of people, doesn't really resonate with me, but there's some of that going on here. Workers' compensation plaintiffs are not under any legal disability. Just because you filed a comp claim, doesn't make you an incompetent. You're allowed to decide, evaluate, while talking with your attorney, what's in your best interest. And it shouldn't be denied, and I've heard the word said here before, it's strong language, but arbitrarily and capriciously because I don't know what you're seeing. Okay, that can happen, right? So what do you do? Well, they say disapproved. You go to the judge and say, I want a hearing. No, no, I back up the legal department. They say it's not approved, it's not approved, never get a hearing. This isn't Russia. I've got a right to due process of law. I get a hearing. Okay, can I fix that? Well, there is a way to do it but it will take me about a year and a half at the appellate courts. My client doesn't have a year and a half. So we have to go back to the defendants. And I'm no big fan of defendants, I don't feel sorry for Crete Carrier and giant insurance corporations, but they ought to be treated fairly. You shouldn't have to pay a bill you don't owe; you shouldn't have to pay more than you reasonably owe. But to get these things done, that's what they're forced to do. They're forced to pay bills they don't owe. I'm looking that up. I'm the representative for the plaintiff. I know you don't know it. I know you don't. If it was up to me, we wouldn't pay it. This bill will allow us some flexibility to handle the sorts of situations. You can't imagine the frustration of trying to tell a truck driver that he's going to lose his house. Is it...he's ready to punch me. It's not my fault. And so that due process problem that is the heart of these nonapprovals of lump-sum settlements, that's something this bill will solve. And I think from my point of view, that's the most important thing that it will solve. That's a constitutional right that because of formalistic handling through the court, my clients are being deprived of. The other elements of a complex bill you have heard elucidated in much more depth with much more documentation than I could ever do for you. And I see I've talked my way almost out of time. Any questions that I can help you with? Anything I can do to...I'm going to... [LB953]

SENATOR CRAWFORD: (Inaudible). Thank you. Thank you, Mr. Shasteen. [LB953]

ROLF SHASTEEN: I'm going to say one more thing. I'm sorry. [LB953]

SENATOR CRAWFORD: Do you have another question or point you wanted to make? [LB953]

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ROLF SHASTEEN: Just one thing: I feel like you are stuck kind of seeing like the three people who saw the elephant. One got his leg, thought he was like a tree; one got his trunk, thought he was like a snake; one got his side, thought he was like a wall. This is a super-technical area of the law because of statutory scheme and we come in here and give you what each one of us thinks is important so it's...they're not in conflict, but it's very complex. And so it's difficult and I sympathize with you in trying to put (inaudible), well, what are these guys talking about, you know, because unless you do it, it's really tough and I don't envy you your jobs. [LB953]

SENATOR CRAWFORD: I appreciate that. Thank you. Any other questions? Thank you. Any other proponents of LB953? Welcome. [LB953]

PAUL BARTA: Thank you. [LB953]

SENATOR CRAWFORD: If you'd state and spell your name, appreciate that. [LB953]

PAUL BARTA: Paul Barta, P-a-u-l B-a-r-t-a. I'm also a member of NWCEF, but I'm actually just briefly going to testify from a defense counsel perspective. Mr. Shasteen just briefly alluded to the fact that this is kind of a miracle moment in the context that we agree--it is. I will be fairly brief. I think some of the concerns that may be voiced by people in opposition to this bill is that the court and the statutory scheme is set up to protect the best interest of the injured worker. What I would posit is this. The bill, as introduced and I believe as the proposed amendment, it still does that because plaintiff's counsel, as much as I may complain about them, they do have that worker's best interest in mind for a lot of reasons, for the simple fact that that worker, he or herself could always go back against that plaintiff's counsel and say, you didn't have my best interest in mind. So plaintiff's counsel does have that worker's best interest in mind. In situations where individuals are not represented, this bill doesn't apply. The court still has the ability for pro se litigants to review these things. So I don't want this committee or the Legislature to think that this is a situation where unrepresented, unsophisticated individuals are going to be left out to dry. That's just not the case here. A couple other points: What doesn't this bill do? It does not force the injured worker to waive any rights in terms of what they're being looked out for. It doesn't force the injured worker to disregard bills. There's nothing in the statute that's mandatory. So if an injured worker says, you know what, I get that those bills over there are disputed, I get that maybe my attorney thinks there's a good idea in how we creatively address that subsequent to settlement, but, you know what, I, the injured worker, I just want to make sure these are paid and I'm not going to settle my claim if I don't. So they have that ability. Everything that's going on now, that worker has that right. The reality, though, is it's a choice now, and in a limited scope when they are represented. What else? It does not cancel any kind of contractual relationship between the injured worker and the medical provider for those injured...or for those denied bills. What do I mean by that? Well, the Workers' Compensation Court can't say, well, injured worker,

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in addition to proving the settlement, I'm just going to let...I have...I, the court, have the ability to dismiss those bills entirely and your obligation down the road. There's still that relationship and plaintiff's counsel is going to be taking care of that during the context of that, or they're not going to affy that it's in the best interests. Finally, I'd just say the Medicare piece in terms of the CMS approval, we really are the last state that requires this. Employers, plaintiff's counsel, once again, because that's the only time this is going to take place is when there's plaintiff's counsel involved, they are taking...they're still taking care of Medicare's interest. They're still having Medicare set-asides run. They're still paying thousands of dollars to third-party vendors to look at all the records and say this is what needs to happen. No one is saying that they're going to not take care of Medicare's interest. It's simply that it's an expensive and a long, long process to have CMS review it. That's all I have to say, but if you have any questions I'm free to answer them. [LB953]

SENATOR CRAWFORD: Yes. Thank you. Senator Halloran. [LB953]

SENATOR HALLORAN: Thank you, Cochair Crawford. I'm having trouble. Are you for or against this bill? [LB953]

PAUL BARTA: I'm sorry. I'm a proponent. [LB953]

SENATOR HALLORAN: Are you...you're a proponent (inaudible). Okay. [LB953]

PAUL BARTA: Yeah. That doesn't bode well for my testimony. [LB953]

SENATOR HALLORAN: That must have been hard for you to...okay. This is kind of a kumbaya moment though. [LB953]

PAUL BARTA: Well, it is. The reality is this is a situation where I think this legislation would, it would speed the process for everybody involved and do it in a measured fashion, Senator, to where the individual's interests are still being looked out for in the limited context of when that individual is represented. [LB953]

SENATOR HALLORAN: Thank you. [LB953]

SENATOR CRAWFORD: (Exhibit 5) Thank you. Other questions? Thank you for being here. Any other proponents of LB953? So now do we have any letters of support for LB953? So one letter from Brad Wegner, NUCA of Nebraska, president, National Utility Contractors

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Association of America (sic: Nebraska), is a letter, proponent letter. We'll now turn to opponents of LB953. Welcome. [LB953]

MATT SCHAEFER: (Exhibit 4) Good afternoon, Senator Crawford, members of the committee. My name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, appearing today in opposition on behalf of the Nebraska Medical Association and the Nebraska Hospital Association. Specifically, our opposition is just to one of those three parts of the bill. As introduced, it was page 3, lines 17-27; on the amendment I believe it's the last paragraph of page 2. As you've heard, Nebraska's workers' compensation system medical providers do not have standing to bring claims to recoup payments for services they've already rendered to injured workers. The court, as you've heard, has interpreted the "best interest of the employee under all circumstances" standard to require that settlements ensure that injured workers are not going to be left with large unpaid medical bills or with bills that should have been paid by the employer. LB953 in those sections that I referenced would change that by eliminating the role of the court to approve the settlement and may leave unpaid some of those medical bills rendered to the injured worker. We have drafted language that I believe has come around now that would facilitate the settlement process like the proponents wanted to do while also protecting the interests of the healthcare providers who have already rendered services to the worker. The bill, or the amendment that I passed around, would say that the court has to approve the settlement if the medical bills will be paid and the employee's attorney affirms that. It also allows discretion or explicitly gives the discretion to the court to approve a settlement that does not provide for full payment of the medical bills but that would be in the court's discretion. What I heard from the proponents' testimony was that perhaps the problem is unrelated medical bills, for instance, pain in the left shoulder, when it's the right shoulder that was injured at...potentially injured on the job. If that is truly the case, if it's unrelated medical bills, this bill is way too broad then, and we would certainly work with the sponsor and proponents to narrow the scope of the provisions that we object to so that unrelated bills could be negotiated by the parties and approved by the court. I will stop there. Thank you. [LB953]

SENATOR CRAWFORD: Thank you. Question by committee members? So if I understand your amendment correctly, you are requiring the employee's attorney to basically attest or affirm, affirm that all medical bills will receive payment. Is that correct? [LB953]

MATT SCHAEFER: Yes. [LB953]

SENATOR CRAWFORD: So does that put the liability on the attorney, the employee? Does that shift liability in these cases in any way? [LB953]

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MATT SCHAEFER: I would say that if the settlement did not pay for the bills, then I think what we're contemplating this language that if there's private insurance that's going to pick up the medical bill or if they just want to pay it out of their savings, if that's written into the settlement, and then that would get the approval by the court. [LB953]

SENATOR CRAWFORD: All right. Thank you. Any other questions? Thank you. [LB953]

MATT SCHAEFER: Yep. [LB953]

SENATOR CRAWFORD: Any other opponents of LB953? Any letters of opposition? None. Anyone wishing to speak in a neutral capacity on LB953? Welcome. [LB953]

ROD REHM: Good afternoon again. [LB953]

SENATOR CRAWFORD: Good afternoon. [LB953]

ROD REHM: Do I have to spell my name again for the... [LB953]

SENATOR CRAWFORD: Yes, please. They're different tapes, different transcripts. [LB953]

ROD REHM: Rod, R-o-d, Rehm, R-e-h-m,... [LB953]

SENATOR CRAWFORD: Thank you, Mr. Rehm. [LB953]

ROD REHM: ...testifying on behalf of NATA. We support anything that will get our clients paid more efficiently and more effectively, but we're neutral on this particular bill, and kind of particularly because of the late amendments coming in and the concerns about trying to figure out something that would/could be resolved with the medical profession. This kind of situation arises when there's compromises and it's difficult to compromise sometimes with a bill for a physician. It's very difficult, places the plaintiff in a very difficult position where, like Mr. Shasteen was pointing out, they're worried about protecting their house, but the rules of the court and the policies of the court say, well, you have to pay this \$10,000 out of your part of the settlement so the doctor gets paid at his usual rate. It's a tough area, and the original clean bill, even without the language about election, would have been great. But as we get these amendments tacked in, it gets to be a concern for us and our clients. We love the fact that we can get a hearing for the first time. That's just like a little one-liner stuck in part of the statute that...to have a hearing that's an appealable hearing so that we can get a ruling from the Supreme Court at

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some point in time on what the heck does "in the best interest of the client" mean to...rather, are the best interests of the client some laundry list of little things that the court has set up over the years? And not to diminish their...but they just have policies and, you know, we had contemplated the way it was written to begin with that all it was taking care of was the Medicare issue and the medical bill thing that if there's some math error or something else that we have to deal with, that we'd have to deal with it. But the ones that have been holding up payments for months and years, I mean, I've had them held up over unpaid medical bills and Medicare for a year. It's...you know, and the clients really are just spinning out there. So we want to work with everybody that's involved, NATA does. We want to have some involvement in the amending process. But for now, you know, we're neutral. We like the idea of it, not the way it's standing right now. [LB953]

SENATOR CRAWFORD: Thank you. Any questions by committee members? Can you just speak to...so we've talked quite a bit about the Medicare issue. Can you just speak to in a general case what the other unpaid medical bill situation might be and how the bill, before it's amended, might address that situation? [LB953]

ROD REHM: I'm not sure I understand your question exactly, but the...kind of the difficult cases that last forever, that grind on, are related to what parts of the body are hurt and whether or not that's a compensable injury. The example that I think Mr. Schaefer used was about the right shoulder and the left shoulder. You know, that's a fairly common thing that if somebody has a really bad injury to one shoulder they start to favor the other and then very soon that one hurts. And then sometimes you'll have a doctor in the middle of it say, well, I really think the problem is there's a cervical disc injury because your body is kind of wired like the fuses in your house and the wire, the nerves, come out from certain points in your body and somebody is going to say, well, that's a neck problem. Well, the neck problem costs the insurance companies exponentially more money than if it's just a shoulder or just two shoulders. And you'll get a settlement that's a compromise based on the exponentially more money or exposure that they've got and there will be a bill out there on a shoulder or the other or the neck that they've never paid because of all the Medicaid...or Medicare issues that Ms. Woitalewicz talked about. And what happens is you negotiate and you get a bunch of money there, whatever the amount might be, and the question is, who has to pay the doctor's office, how do the doctors get paid off? That's the big sticking point on these, that, and the Medicare always takes forever if it isn't started promptly. And if it's started promptly, it doesn't take that long anymore, two or three months. But the thing that's really hard is trying to figure out how do we pay the doctors. Inserting certain language into the statute that guarantees them payment is a big issue for us, you know, and if there could be some language that says the doctors have to be willing to compromise their bills, you know, as a part of the settlement, that would be great, but I don't know how you...I don't even know how you'd write that, but like it's kind of implied in this is that there would be a deal. Before I'd sign off on a case and certify it is I'd have a deal where I know how much money has

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to go to the doctor, but that's hard to reach that point, very hard to reach that point in many cases where you have something. [LB953]

SENATOR CRAWFORD: Great. Thank you. And the current situation, without passing this bill, on those medical bills is what? [LB953]

ROD REHM: Current situation is you're negotiating,... [LB953]

SENATOR CRAWFORD: Okay. [LB953]

ROD REHM: ...you know, and the money comes from somewhere if the client wants to do it, either that, or you go to court and take your chances on winning or losing. And the thing that lawyers always talk about is, well, it's easy for the Comp Court to turn this case down, but if you go to court and get zero they're not going to pay that person. And so compromise is probably the dominant way that these, that the workers' comp disputes get settled; I mean it is the dominant way. There's about 300 cases that actually get decided a year and about 1,000 settlements, or thereabouts. I mean it's...and these are just...there's a certain number of these cases that are just very sticky and the way it's set up now, frequently, the little guy bears the cost. [LB953]

SENATOR CRAWFORD: Thank you. [LB953]

ROD REHM: Yeah. [LB953]

SENATOR CRAWFORD: Any other questions, committee members? Thank you very much for your testimony. Anyone else wishing to speak in the neutral capacity on LB953? Thank you. Welcome. Welcome. Please state and spell your name, please. Thank you. [LB953]

ERIN FOX: Good afternoon, Senators. My name is Erin Fox, E-r-i-n F-o-x, and I am general counsel at the Nebraska Workers' Compensation Court. And I want to continue the kumbaya moment and say that the court doesn't have any, you know, concerns about the provision allowing for hearings on settlements. I think it's a great idea. It was a little ambiguous without this amendment whether the court could have a hearing if the parties weren't interested in having one, so this kind of works both ways. I do want to speak to the conclusive presumption portion that's taken up most of the hearing testimony today. As you may know, in 2009, 48-139 was amended to eliminate judicial review for settlements of represented claimants. The cases with unresolved or unpaid medical bills and Medicare cases were reserved for continued judicial review. At least at that time, there appeared to be some consensus that it was valuable to have an independent assessment on these specific matters rather than deferring fully to the parties'

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agreement. As you've heard today, that consensus perhaps has changed. The current bill would be a departure from that idea as it would eliminate judicial review by creating a conclusive presumption on medical bill issues and Medicare issues, as you've already heard. An alternate option for the committee to consider is to provide direct guidance on these issues that does not reduce the complex system that Mr. Rehm described of workers' compensation interests at the time of settlement solely down to whatever two individuals are willing to agree with the advice of counsel. There's really no reason the Legislature could not provide guidance to the court or to the parties without any sort of form of judicial review that would substantively address the issues you've heard regarding medical bills and Medicare issues. I do think it's important to note that the value of independent review is not a matter of concern out of, you know, plaintiffs' attorneys not representing their clients well. I happen to have been in private practice and represented a few plaintiffs and a few defendants and now I'm at the court and so I've seen it from sort of the full array, all the interests and perspectives involved, and I think what we have here is a situation where reasonable minds can differ in interpreting what the current statutory language requires and what is a good policy and what isn't a good policy. Everybody is coming at those things from a different perspective, the courts, and as you could see, the perspectives aligned in different ways, you know, based on the discussion or, you know, sort of the interests of what people were expressing. The court's approaches on these specific issues are not necessarily out of touch with what other states do. There was some discussion that the court's the only state that requires CMS approval of settlements involving Medicare cases. It is my understanding, based on our direct contact with all of the jurisdictions, that 18 states have some formal or informal requirement that parties take into account Medicare's interest and consider them. Whether they require actual CMS review as that touchstone is not always the case. I think 11 states reported, to us at least, that they do, but whether they accept other exceptions was kind of confusing based on their responses to us. The court did recently approve an approach that's an alternate to CMS review. A stakeholder approached the court and said, what if we estimate our potential future medical cost in this case using a vendor estimate and set aside that money for the claimant to pay? It's called a Medicare set-aside. You've heard it referenced. But if we're wrong, and then if Medicare says you guys were wrong and you didn't do it right, the employer will jump in--well, actually, in this case it was the actual insurance carrier--will jump in and say, now we'll fund some more, so that the claimant, the employee, doesn't experience a problem with Medicare. The court, the presiding judge in this case viewed that as an equivalent protection to CMS approval, which has sort of been the touchstone. So these issues are, you know, certainly varied and complex, but I do want to just sort of point out that the court's not completely out of touch with what, you know, other states are doing. So as an alternative to simply abrogating judicial review and not providing any legislative directive in terms of the policy, what makes good policy in work comp settlements, the committee has an opportunity to address these issues substantively, which would put it more in line. Only about seven states completely abrogate any sort of legislative directive or judicial review in the work comp settlement context, so that's a minority of states. Other states take a bunch of different approaches and it gets very interesting when you start to look at those

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approaches. But the fact of the matter is they're maintaining some sort of level of independent either legislative directive or judicial review or some combination thereof. And there are lots of options if you want to go that route when you start to talk about the underlying policies. [LB953]

SENATOR CRAWFORD: Thank you. Thank you, Ms. Fox. Any questions from the committee? No questions? Do you have a review of some of those other typical approaches that you would share with the committee after? [LB953]

ERIN FOX: I can share a whole lot of them if you want to reach out, but one specific example is like North Carolina has a pretty intricate statute. They must have a strong medical lobby that talks about, boy, these bills had better get paid, and I do want to just, and this is if I may, just explain a little bit. The court requires payment of related unpaid bills or bills related to the injuries being settled in the case, but they don't require that the defendant pay more than they had already agreed to. So if bills are less than what the bargain for agreement is, then they just get paid out of the settlement proceeds. There's some disagreement. I understand that it should...maybe sometimes the plaintiff should be able to pay that as opposed to the defendant and I don't know that that's the main concern. But the main concern is just resolution of the bills where necessary. Another example of a state, Arizona specifically requires that the parties take, I think, reasonable steps to discover and resolve medical liens, meaning unpaid medical bills, but also probably health carrier liens as well, and then they also specifically in their statute have a provision that requires that the parties take reasonable steps to consider Medicare's interests. And in talking to that jurisdiction, what that means apart from CMS review, they don't know. They haven't had litigation on it and that sort of thing. But again, you know, CMS review is, and approval, is sort of seen as like, okay, that one's probably okay, but there can be other ways. And like I just said, the court has, you know, allowed other ways when they've been brought as options. [LB953]

SENATOR CRAWFORD: Thank you. [LB953]

ERIN FOX: So if you would like any other information on what other states do with respect to medical bills or Medicare issues, certainly, feel free to reach out to me directly. I have a whole bunch of charts, so. [LB953]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you for your testimony. [LB953]

ERIN FOX: Thank you. [LB953]

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SENATOR CRAWFORD: Anyone else wishing to testify in a neutral capacity? Are there any neutral letters? Okay. With that, we'll close the hearing on LB953 and...oh, excuse me. We will have your closing comments just...excuse me. Sorry about that. [LB953]

SENATOR ALBRECHT: Just...I'll just plead with the committee. [LB953]

SENATOR CRAWFORD: Please. [LB953]

SENATOR ALBRECHT: You know, I probably learned as much as you all did about the kumbaya part of it and the fact that we unfortunately let Matt's folks down, the medical and hospital. You know, this does sound like a bill that we could work on the amendments that would work for several if there, in fact, is an issue, which it was nice to hear from both sides. So with that, I'd be happy to work with all that have come forward and with our counsel to see what we can get done. [LB953]

SENATOR CRAWFORD: Thank you. [LB953]

SENATOR ALBRECHT: With that, we'll... [LB953]

SENATOR CRAWFORD: Any other questions for Senator Albrecht? Thank you, Senator Albrecht, for your closing comments, and with that we will close the hearing on LB953. [LB953]

SENATOR ALBRECHT: So up next we have LB957, Senator Lowe. Welcome. [LB957]

SENATOR LOWE: (Exhibit 1) Thank you, Chairwoman Albrecht and fellow members of the Business and Labor Committee. My name is John Lowe, that's J-o-h-n L-o-w-e. I represent the 37th District and I'm here this afternoon to introduce LB957. Currently, under Nebraska Workers' Compensation Act, if an employee is injured and the employee is entitled to be paid for the injury, the law says that the employee will get paid in the manner they are usually paid. So, if the employee is paid by check at work, workers' compensation will also be paid by check. But there may be instances where the individual would want to receive a compensation check in a manner different than they're usually paid. This bill is intended to give them that option in the statute by clarifying other methods of payment are allowed. The payment system in this country is changing. The state of Nebraska is requiring businesses to submit their taxes on-line encouraging all taxpayers to make electronic payments. Every on-line purchase is paid electronically. But when it comes to workers' compensation, Nebraska doesn't have a mechanism that allows...specifically allows an employee to be paid electronically or by a prepaid card. There

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are more worker's compensation insurances...insurers and self-insured plans that are moving to electronic payments. It is my understanding that in the past insurers have asked the Workers' Compensation Court if they could submit payments electronically, and they haven't always been able to because of our law doesn't give clear permission. LB957 is an effort to clarify that electronic or other payments are allowed in the workers' compensation arena. In our efforts to make sure that the language did what it was trying to do, it became clear that we could make the bill simpler and clearer. I've passed out an amendment that makes the bill a whole lot simpler. The amendment does three things. It removes the process for opting in or out of an electronic payment. If you want to set up an electronic payment method, the employer and the employee have to agree on the method. Period. Section 2(a). And the green copy is now the entire process. Second, some compensation insurers send compensation checks to the employee's lawyer today. That allows the attorney to be paid prior to the distribution of the workers' compensation proceeds. I'm not attempting to change this process, so we are adding language that will allow the insurer or the self-insured employer to send a payment to the attorney's trust account for the benefit of the employee. Again, this is an option. It is not mandatory. Finally, the bill, as written, there are a number of consumer protections. Any fees have to be disclosed. The employer or insurer can't force the employee to take an electronic payment or punish the employee in any way for not taking a payment electronically. And we make it clear that the insurers and the employers have to comply with federal law. The amendment adds another set of protections that specifically limit the amount and type of fees that may be used with a prepaid card. Since I told you what the bill does, let me also tell you what the bill doesn't do. It doesn't make any changes to workers' compensation except to allow a new form of payment. It doesn't require an employee to take a specific form of payment, nor does it require an employer or an insurer to pay electronically. The bill is entirely permissive and it doesn't prevent an attorney from receiving the compensation for the benefit of the employee. Ultimately, the goal of the bill is to keep the current system of payment, but just add the possibility of payment by electronic means or prepaid cards. There are testifiers who are following me that will explain the need for the bill in more detail, but I'm happy to try to answer any questions you have for me. [LB957]

SENATOR ALBRECHT: Thank you, Senator Lowe. Do we have any questions? Seeing none. Okay, do we have any proponents wishing to speak to LB957? Please come forward. Hello. Please state your name for the record and spell it, please. [LB957]

MEGAN HOWELL: (Exhibit 2) My name is Megan Howell, M-e-g-a-n, Howell, H-o-w-e-l-l. Good afternoon, Senator Albrecht and members of the committee. As I said, my name is Megan Howell. I am a director of government affairs for First Data and thank you for the opportunity to comment in support of LB957. By way of background, First Data is the technology services provider that allows businesses in government to accept electronic payments such as prepaid debit and credit cards. We process 88 billion electronic payment transactions annually, which equates roughly 2,800 transactions per second. Omaha represents our largest site globally. We

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employ nearly 5,000 individuals in the state who support many of our services that we provide to financial institutions such as the electronic banking, debit and credit card account management, as well as printing statements, and even the plastic cards. As both a Nebraska employer and an electronic payment facilitator, we support the bill and we believe the legislation will provide Nebraskans with more flexibility in how they receive their workers' compensation payments. At the time the statute was initially passed, the payments industry had not made many of the advancements that we enjoy today. At its core, the bill is a modernization effort to bring the Nebraska workers' compensation payment system into the 21st century following the lead of the federal government and many states that have moved to various payment...various disbursements from paper check to electronic payment method. The existing provisions governing payment by check are left unchanged. The statute would simply be expanded and updated so that employers may offer their employees alternatives to using checks such as other electronic payment methods. The bill does not mandate any specific payment method and like I said, you know, some of the other electronic methods could be ranging from direct deposit to prepaid cards. Other electronic transfers, you know, we've obviously seen an expansion and innovation in how payments are being utilized. You know, we have digital wallets, we have, you know, mobile apps where you can pay people, so, you know, we think that expanding the law to allow these different types of payments, sort of innovation continues, will be beneficial for the employee. Payment by check can be cumbersome for employers and employees and providing the compensation payment by check may mean that an employee who is suffering is needlessly waiting days to receive a check. Whereas, electronic payments on the other hand means that an employee can have immediate access to the funds that are owed them and doesn't require the employee to do something such as drive to deposit a check. And, you know, as I said, we're obviously having innovation in the payment industry, and society as a whole is starting to utilize checks less and less. We believe that the electronic payment method, such as prepaid debit cards, also greatly benefit employees who don't have a traditional relationship with financial institutions which allows them to receive the funds in a secure, convenient and quick manner. Because these types of funds are loaded directly on to a card, employees can use their workers' compensation payments immediately to do things like buy goods and services on line, or at a brick or mortar store, as well as being able to access the funds through ATMs and even do additional account transfers. And having access to funds in situations such as a natural disaster. Additionally, the prepaid debit cards are operated in a highly-regulated environment both at the federal and the state level. There's laws for that include protections for employees such as limited liability if a card is lost or stolen, as well as disclosures of terms and conditions and access to transaction history. The amendment filed actually adds in consumer protections that are greater than what is required in federal law right now. And so from our perspective, this legislation positively builds on the current workers' compensation system in Nebraska by allowing individuals in the state to take advantage of innovations in the payments industry in an efficient, safe and regulated way. So for these reasons, we encourage the committee to support LB957.

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Thank you very much for the opportunity to address the committee today and I'm happy to answer any questions you may have. [LB957]

SENATOR ALBRECHT: Great. Would you mind if we had a copy of the testimony? [LB957]

MEGAN HOWELL: I can give you one. Mine currently is chicken-scratched. (Laughter) But can I send you one? [LB957]

SENATOR ALBRECHT: That's fine. We would be happy to make a copy and give you back the original. Thank you for your testimony. Do we have any questions for Ms. Howell? Can I just ask a couple of quick questions? How many other states if you're on the federal level or on the national, how many other states actually utilize this type of service? [LB957]

MEGAN HOWELL: For just disbursement of payments generally, so it depends. So a lot of states not necessarily in the workers' comp states, but for example, in like SNAP benefits, right, almost all the states now offer an EBT card which would be similar to a prepaid card in that their, you know, monthly benefit is loaded on to a card which then they can use to access, you know, food, go to an ATM, those type of things. So it varies state by state on what benefits have moved to electronic methods, but there's a large use across the states with disbursing, you know, government payments to... [LB957]

SENATOR ALBRECHT: And you feel that putting the money into the attorney's trust for that particular individual, that they would pay out all of the different services, you know, that have been rendered to everyone, including their compensation and then the rest would be left to...how would that card then be moved over to just the individual? [LB957]

MEGAN HOWELL: So I think that typically the way that the prepaid cards operate is that it would be an agreement in like the bill states, an agreement between the employee and the employer or the insurers, so the card, I believe would go directly to the employee. But then in the amendment there's language in there that states that, you know, if desired to do so, the money can also be electronically transferred into the attorney's trust. So we're not trying to change, you know, how the attorneys are paid in any way. It's just opening up some additional options and choices for the employee. [LB957]

SENATOR ALBRECHT: Okay. Very Good. No other questions? Seeing none, thank you very much. [LB957]

MEGAN HOWELL: Thank you, and I'll get you a copy. [LB957]

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SENATOR ALBRECHT: Okay, do we have any other proponents wishing to speak to LB957?
[LB957]

ROBERT HALLSTROM: (Exhibit 3) Chairman Albrecht, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, and I appear before you today as registered lobbyist for Nebraskans for Workers' Compensation Equity and Fairness as well as National Federation Independent Business in support of LB957. I've also been authorized to testify in support of the Nebraska Chamber of Commerce and Industry. My comments will be brief. I think we support LB957 for the fact that it improves administrative efficiency and reduces the transaction cost of processing paper checks. It's somewhat of a win-win for both the employer and the employee in that respect, and with regard to making it contingent upon an agreement between the employer and the employee recognizes or realizes that the parties will do so with their eyes wide open and they've made an affirmative election to proceed with the particular methodology of payment. So we think it's in the best interest of both employers and employees and have somewhat a kumbaya moment in that respect perhaps. So with that, I would be happy to entertain any questions.
[LB957]

SENATOR ALBRECHT: Thank you, Mr. Hallstrom. Any questions? [LB957]

ROBERT HALLSTROM: Thank you. [LB957]

SENATOR ALBRECHT: Thank you. Any other proponents wishing to speak? [LB957]

TAD FRAIZER: Good afternoon, Senator Albrecht and members of the committee. My name is Tad Fraizer. That's T-a-d F-r-a-i-z-e-r, a local counsel and lobbyist for the American Insurance Association and national trade association of property and casualty firms, including worker comp carriers. We just wanted to say very briefly, we're in support of the concept of the bill as providing options for payment based on a voluntary agreement of both the claimant and the employer or the insurance company. I have not seen Senator Lowe's amendment but just from the brief discussion of it, it sounds like we'd be in general support of what's in that. So, I would just put that in and try to answer any questions you might have. [LB957]

SENATOR ALBRECHT: Thank you very much, Mr. Fraizer. Any questions? Thank you for coming. Any other proponents wishing to speak? Any other proponents? Do we have any opponents on our kumbaya day? [LB957]

JOHN CORRIGAN: Good afternoon. Madam Chairman and members of the committee, John Corrigan, C-o-r-r-i-g-a-n, in opposition to LB957 on behalf of the Nebraska AFL-CIO. It is my

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experience that given our relationship with some of the employers, the law does not prohibit payment by electronic transfer today and it happens quite regularly. I do have real concerns about this selection process. The way the bill reads currently, the employer may or the carrier may say, do you want a payment by prepaid card, direct deposit, or similar electronic payment. Unless the employer or other person is entitled to compensation-request payment by check, that ought to be altered...if you're going to have that in the bill and you think that's good policy, then all four items should be requested, not, you know, leaving it to the employee to make that request. The employee ought to know that is one of the things that you can select at the time that the election is made or requested. Another concern that we have is certainly these...we represent people, the AFL-CIO certainly and our law firm who have no relationship with a bank and getting a check and getting that check cashed and spending that money to provide for themselves, pay their rent, whatever other costs they have, they understand how to do that. Getting an electronic card may be another problem. You don't have to have a state ID to have a job, but using that card may require the use of an ID that people don't have and now they're not going to be able to get the benefits of the workers' compensation that they are desperately in need of to provide for themselves and their family. And another issue is just passing on the cost of that, the fees associated with the electronic card on to injured workers, thereby causing a bleeding of the benefits out into the financial stratosphere, we think is not consistent with the beneficial purposes of the act. Now, it's possible that electronic transfer into known bank accounts is acceptable, but having this out there and leaving it up to the employer to make these offers of election to injured workers, we think is going to compromise rights and certainly money is going to disappear. Now, does it create a problem for getting attorneys paid too? It does, but more importantly what I see this doing is the employee not knowing that they're entitled to get a benefit of having it paid by check. And people who don't have...they don't want to go get a lawyer because they don't...they think it's going to cost them money, and it may, trying to get that benefit of an electronic card that they're now getting stuck for transaction fees on the card and now they're not getting workers' compensation benefits in the same amount that they should have. So with that, I'd be happy to answer any questions and ask that you oppose LB957 in its form today. [LB957]

SENATOR ALBRECHT: Thank you for your testimony. Just ask, any questions? Mr. Corrigan, I have one. So, this settlement comes to you as the attorney and you put it in their trust account and you're going to make sure that all the different parties are paid... [LB957]

JOHN CORRIGAN: Well... [LB957]

SENATOR ALBRECHT: ...with this card, and then if there's a balance owed obviously to the employee who wants his cash so he can go get right on his payments and have some money in his pocket, how would you see that playing out... [LB957]

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JOHN CORRIGAN: Well, I don't know how... [LB957]

SENATOR ALBRECHT: ...in your office? [LB957]

JOHN CORRIGAN: Well, in our office, I just don't know how that would even work but with a card...somebody sends a card to me, I'm not sure I can go deposit that anywhere. But let's just say that the typical case is, a check comes in, now, we don't get paid unless we've earned the benefit on behalf of the injured worker, but the typical law firm is not going to just get paid because they're representing somebody. They've had to have done something to receive that benefit. But as a contested case they don't agree to pay benefits. We get involved in the case either by agreement or by an order of the court. Let's say the temporary disability benefits should...or have to be paid now and let's say it's \$300 a week. That \$300 is going to come to the attorney's office as long as the attorney has some power of attorney from the injured worker allowing that to happen, and the attorney is going to pay to...out of that trust account, pay an attorney fee to their firm and the benefits remaining, based on whatever fee agreement they have, to the injured worker. Now, like I said, you know, these are weekly benefits. That's a transaction that could happen for years while somebody is trying to recuperate from a work accident while they're receiving temporary benefits. The other, in a settlement situation, there's going to be one check and then you're going to have to pay fees and... [LB957]

SENATOR ALBRECHT: Right. A settlement would be a nice deal because it's all inclusive. [LB957]

JOHN CORRIGAN: It's the last check, most of the time. [LB957]

SENATOR ALBRECHT: (inaudible)...somebody who is going to have something every single week and they don't elect to take the card directly to themselves, and it would go through yourself as their attorney, that could be cumbersome. [LB957]

JOHN CORRIGAN: It's possible. Yeah. [LB957]

SENATOR ALBRECHT: Can see that. [LB957]

JOHN CORRIGAN: That happens all the time. I mean, in the sense that we obtain weekly benefits for people and they're paid out weekly and after a time, maybe those benefits transfer over to permanent partial disability or permanent total disability benefits, and in those cases permanent partial disability benefits can be paid up to 300 weeks, permanent total disability benefits are paid for life. Getting somebody a prepaid card every week for the rest of their life

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and then they're paid charges against that card means they're not getting the benefit of their...the total benefit of their Workers' Compensation benefits. Whereas, if it's a check and it comes into our office, they're going to...if there's a fee that applies to that payment, attorney fee, that's going to go out and they're going to get 100 percent of whatever amount they're entitled to based on their fee agreement. It's a process that works fairly well now, but the better part of that is also that there is a record. There's a record of what payments were made so that we know who got what and what the employer paid. So, you know, because, well, we may have a difference of opinion about whether benefits were paid for a particular period of time. [LB957]

SENATOR ALBRECHT: So one other question. If someone has a continuing case that they do have to have a legally payment, who keeps track of all of the payments? Is it the courts? Is it...? [LB957]

JOHN CORRIGAN: Well, if the court's not involved, and typically the court wouldn't be, the court will tell you what benefits you're supposed to make, but then they're done at that point. [LB957]

SENATOR ALBRECHT: Okay. [LB957]

JOHN CORRIGAN: The insurance carrier will make in almost every case I've ever been associated with, there's a payment log, or an audit that can show benefits paid and the employee or the employee's attorney's office will also have a check log that will be able to show all those benefits paid. Without a check, that can get difficult. We've had employers where we were not happy with the services where, you know, we had an agreement to do an electronic funds deposit or automatic deposit, they weren't making them consistently. It was causing real problems for the injured workers. We said, no, from now on, you guys, we need checks because we need to be able to prove when those payments were made, when the check was issued. But it's possible today to do that. I don't think that that it's unlawful to do that but to require...and I'm not saying that you are requiring it, but you know, this makes this as it reads now, it makes it an option for the employer to offer it. It doesn't require the employer to offer payment by check, which would be preferable. Then it also allows payment by electronic card and then passes on to the employee any fees associated with the payment by the electronic card. And so that's the reasons we oppose the bill. [LB957]

SENATOR ALBRECHT: Okay. Thank you. Appreciate your time. [LB957]

JOHN CORRIGAN: Thank you. [LB957]

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SENATOR ALBRECHT: Okay. Do we have any other opponents wishing to speak on LB957?
[LB957]

ROD REHM: Good afternoon. Rod Rehm, R-o-d R-e-h-m, on behalf of...testifying for NATA. I echo virtually every thing that Mr. Corrigan just said and would add, there's some other things that NATA is concerned about that led us to oppose to this bill. The lack of...there's just a lot of things that the statute does...leaves unsaid. Statute of limitation issues are something that sometimes matter on the date that a check was received, and/or issued. And something like that isn't addressed in here. There would have to be some clear statement of what the data payment, if it's electronic, although I guess it would be in theory the same day that somebody got it. But I mean the card is the date the person got the card in Lexington, Nebraska, the date of payment, or is it the day the card got mailed from Omaha the date of the payment. That can make a huge difference in whether somebody is trying to get more benefits at a later date. We're still...we were very concerned about the fact that any way you look at this, it appears costs are going to get put on our clients and that's just not right. The Workers' Comp benefits now, they get the weekly benefit they're entitled to without any expenses and there shouldn't be an expense to these workers. That's a pretty big deal. The...being able to change the benefits once consent has been made is concern to make sure that fair process that that's involved. You know the thing about the trust accounts, part of this, we just got it today so we've got a short time to react to it. In my office, we log in every check that comes into our office, date, check number, claim number, where it went, you know, that sort of thing. We divide them up generally in whole so we charge a part of what we get. We figure out the math about how many checks did the client get before we get a check, and so we send out a whole check and we've got a record and if somebody wonders what they've been paid, we can show them down to the...I don't know how we're going to do that electronically. There's just...it's like, it's kind of like mind-boggling in terms of running our business and interacting with our client. How do we do it? There's nothing in the statute that sets up some rule. I mean, how do we do the decision to go electronic versus pay the normal way? There should be a prescribed form for that like in Nebraska Workers' Comp if you want to choose your own doctor and if you have your own doctor, there's a process for taking that choice away. There's a form the court approved about what has to be in it, you know, and there should be something like that for this election to go electronic and then, you know, what electronic means you go. I mean, there's a lot of unanswered questions in here from our standpoint, and the trust account thing, we have to be careful that the right kind of payments...the only thing we can keep in a trust account are client funds. And if we have funds that are commingled, we have to separate them out quickly, some manner of doing that. And so I was trying...I can't figure out how we're going to deal with cards if we get sent cards. I haven't figured, I go, ah, how do you do that? It's too new, you know. But, I mean, if we had to get a deposit of X hundred dollars in there and X proportion goes to the client and Y proportion goes to us, you know, in order for us to do that electronically, all the way through, we have to have a client with a bank account which is a big problem for an awful lot of workers. A lot of them don't have them, especially the foreign

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born ones. It's just that's the reality we deal with. Yeah, we can wire it to people that have them, but then there's a cost. We wire money all the time. We have clients all over the United States in the trucking industry. A lot of us wire the money around so it gets there in a hurry. And we generally don't charge that, but I mean if you had to do hundreds of checks a year, you know it becomes a big deal that whatever we're getting charged by a bank to do the electronics, so we just need time to look at this thing. You know, we recognize as lawyers representing people, that, you know, the paperless world is upon us. It's coming, it's more and more, but this is really quick and there's a lot of more unanswered questions than answered questions and that's why we're opposing it. We want to work with them. I mean, it would be great. I'd loved nothing...I don't see anything in here, by the way, that would allow for settlements to be paid this way. You know, that's been one of my pet peeves for years because I settle a case, it takes three weeks or a month to get a big check in. You know, well, somebody is making money on the flow. Why not my client? Why can't that come out instantaneously, but this bill doesn't address that. It ought to. [LB957]

SENATOR ALBRECHT: Very good. Thank you very much. [LB957]

ROD REHM: You bet. [LB957]

SENATOR ALBRECHT: Do we have any questions? Seeing none, thank you for your testimony. Any other opponent wishing to speak? Hi, there. Good afternoon. Okay, go ahead and begin. Just state your name and spell it for the record, please. [LB957]

PAT HEYEN: My name is Pat Heyen, and that's P-a-t H-e-y-e-n, and I wanted to thank you for the opportunity to talk with you about LB957. Again, my name is Pat Heyen. I'm testifying on behalf of Friedman Law Offices, P.C., L.L.O., where I have been their in-house accountant for 24 years. I am currently the only employee at our firm with on-line access to our company's trust account. Once an attorney becomes involved in a case and if the end, direct deposits according to this bill would be chosen as an option to be automatically and electronically deposited and if the direct deposits income into our trust account on behalf of our clients, I see many issues facing our firm and our clients together. Number one, would be direct deposits can be made into the bank account at any time during the day. Thus, that requires the trust account to be monitored multiple times throughout the day checking to see if any money has been deposited on behalf of our clients. If deposits are not identified by us on the day of the deposit, this could delay our client's receiving their money. Currently, all checks received on the specific day by mail or hand delivered to us are turned around on that same day without any delay to any of our clients. They can pick their checks up or we can mail it out to them, however they want. Second, if direct deposits are allowed, our law office would need to give multiple employees access on line and authorization to our trust account. This would be necessary in the event of an illness, a vacation,

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or an absence of the authorized account representative. This change causes multiple financial security issues to our firm as it would give multiple persons access to accounts with hundreds of thousands of dollars of client's funds in it. In my experience, direct deposits do not give us the same information as checks do. For example, if I get a direct deposit, it does not always identify what client that it goes to. It doesn't tell me the time frame of the current payment. It doesn't explain what the payment is for. And it doesn't always give me the remitter's name. This would result in less information for our client and would take me longer to process these deposits. There could be the possibility of multiple clients' benefits being deposited in one lump sum by one insurance company. If this happens, again, this causes additional time for me to discern who to distribute this money to. It's going to make me take the time to figure out what that one deposit consisted of. We also provide copies of all the monies received on behalf of our clients to our clients so that they have a complete understanding of all benefits that they were owed. On any given day, our firm can receive Work Comp benefits checks in this situation for one to twenty persons. I cannot imagine opening my trust account on-line and seeing 20 direct deposits with absolutely no information attached to it other than the remitter and the dollar amount. This situation could definitely delay all processing of my client's funds. I don't think that anyone is looking at this from the administrative or the accounting side of the issue. Direct deposits of client's funds into the work...excuse me, of Work Comp's funds into the attorney's trust account could cause not only delays for the clients to receive their money, but cause multiple administrative issues, trust fund security issues, and multiple issues for our firm. If electronic deposits are made to the attorney's trust account, those funds still need to be distributed. I still have to take that money, process it and give it to the clients somehow, by check or by some other means. That electronic funds doesn't make things go quicker. I guess I don't have anything else. If you have any questions for me. [LB957]

SENATOR ALBRECHT: Thank you for your testimony. I see that you have several pages. Did you write that out? Sometimes it makes it easy if we can request it, but it's up to you if you'd like to put it on record. It just helps when we type up all the information. [LB957]

PAT HEYEN: I would have typed it, but it came up quick, pretty quick. [LB957]

SENATOR ALBRECHT: Things do come up quick around here, but yes, any other questions? Senator Crawford. [LB957]

SENATOR CRAWFORD: Thank you, and thank you for your testimony. It's very helpful to think about what it might look like day to day. Currently, when you get checks, you mentioned the issue of multiple clients from the same insurance company. [LB957]

PAT HEYEN: If it would be a direct deposit. [LB957]

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SENATOR CRAWFORD: Do they...if they're coming as a check, do those ever come as one check for multiple clients? [LB957]

PAT HEYEN: No. It usually...it could come from the same insurance company, but usually it's designated as separate check for every client, or if it has been and I have never in the time that I've been there seen them combined. [LB957]

SENATOR CRAWFORD: All right. Thank you. [LB957]

SENATOR ALBRECHT: Any other questions? So, if I can just kind of pick your brain a little bit more, too, when it comes to wondering who it goes to, surely is there a case number attached to...like a check that would come in to say that... [LB957]

PAT HEYEN: When I get the checks in, everything is explained on it. I have a client name, I have, you know, the remitter's. I have everything that I could need. It tells me this is for PPD, permanent partial disability benefits for this week's span. It's everything that I can then make a copy of the check and I can relay to the client exactly what's being paid. If I get an... [LB957]

SENATOR ALBRECHT: Can you see this happening that if you were to work with Senator Lowe to look into that, do you see this electronic could be beneficial for time or ease? I mean, you're spelling it out how you do it right now. [LB957]

PAT HEYEN: It still takes the same... [LB957]

SENATOR ALBRECHT: Do you see it being an option at all in working through? [LB957]

PAT HEYEN: It possibly could be if they got a lot of the kinks out, but right now, no matter what time that money still comes in to us, be it electronic deposit or a check, I still have to take the time then... [LB957]

SENATOR ALBRECHT: To check. [LB957]

PAT HEYEN: ...to reissue checks, money has to go back out. And if I have to send it back out to a client who has no bank account, I can't do it electronically. It costs them money to have me wire it to them. It's easier for them to either walk into our office and pick up their check or have it mailed to them so that they can then cash it at their ease. [LB957]

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SENATOR ALBRECHT: Very good. Appreciate your information. Thank you for your testimony. [LB957]

PAT HEYEN: Thank you. [LB957]

SENATOR ALBRECHT: Okay, do we have any other opponents wishing to speak? Any other opponents? Any other opponents? Seeing none, do we have anyone in neutral capacity? [LB957]

KORBY GILBERTSTON: Good afternoon, Madam Chairman and members of the committee. For the record, my name is longer than Mr. Rehm's and it's K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as registered lobbyist on behalf of the Property Casualty Insurers Association of America in the neutral capacity. I was asked before this legislation was introduced whether or not this is occurring across the country, if there are any problems with it, and if PCIA would oppose such legislation. And so, they did...went around this country and PCIA doesn't keep a chart specifically on Workers' Comp electronic payments, but many states do allow them. They have been around since around 2000. There have been no reported issues with them. Some of the states are slow to allow the card payments that have been talked about today, but the electronic payments have not been an issue. I think just to clarify a few things that were said, it was not mandatory and it's not here...it's not in other states, it's not here. It is my understanding that the court has stated that the statute does need to be clarified in order to allow the electronic payments, so to say that this could already be done, I think it was incorrect. And then, there...one of the assumptions was that multiple claims would be sent per one transfer. This, I have never heard of, and I...so, I'm guessing that is an assumption that is being made. It's my understanding that the deposits are handled just like they would be with a check, individual to each claim. So with that, I'd be happy to try to answer any questions. [LB957]

SENATOR ALBRECHT: Great. Thank you for your testimony. Any questions from the committee? Seeing none, thank you for coming. [LB957]

KORBY GILBERTSON: Thank you. [LB957]

SENATOR ALBRECHT: (Exhibit 4) Any other folks in neutral position on LB957? Any others in neutral? Seeing none, we do have one letter to read in as a proponent: Brad Wegner, the Nebraska president of the National Utility Contractors Association of Nebraska as a proponent. Senator Lowe, would you like to close on LB957? [LB957]

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SENATOR LOWE: Sure. Thank you, Chairwoman Albrecht, and fellow members of the Business and Labor Committee. LB957 is designed to modernize and clarify the payment options under Nebraska Workers' Compensation Act. The original bill was way more complicated than was really necessary. That is why I brought the amendment to address those concerns. The intent of LB957, and the amendment which becomes the bill, is to clarify what electronic payment options will be available to employees who need to receive workers' compensation. Our society is advancing in such a way that most people no longer receive payment in form of checks. This bill creates language in statute to recognize that reality. Now, after listening to Ms. Heyen's remarks, I think we could probably take out the language for direct deposit, and her concern. And that way, it would address that fact. And I know my son's...well, my father never used a credit card and just to show how fast we're moving, I use one probably way too much. I try to carry as much cash on me as I can but it disappears too quickly when you have sons and a wife. Not blaming them, part of that is mine. And then my sons, they carry on them absolutely no cash. They deal all with cards. And being in business, I've watched this develop from back in the late 1989 to two years ago, when I first started, most of our business was done with checks and cash. And we bounced a lot of checks that way and we were glad to see credit cards come along to help address that issue. And then with the debit cards, we felt even more safe because we knew at least they had the money. Our times are changing and they're changing quick. I'm glad Senator Chambers isn't here because he'd be singing to me now about times a-changing. (Laughter) But, you know, our society is changing and it's time for us to change along with it and I believe that we can make this bill work with some of these few changes we're going to make to it. [LB957]

SENATOR ALBRECHT: Great. Questions? Senator Crawford. [LB957]

SENATOR CRAWFORD: Thank you, Senator Albrecht. So, Senator Lowe, I was reading the amendment and the amendment stresses there be no charge for cards to the employee, if I'm reading it correctly. Is that inserted throughout to try to make sure that if there is a card used, there would be no charge to the employee. So that, I guess then raises the question, I assume you worked with, you know, the people who work with these cards, I assume they're not free, so I... [LB957]

SENATOR LOWE: No. [LB957]

SENATOR CRAWFORD: So, where would the funds for the cards go that we're trying to make sure we protect to make sure they don't go to the employee. [LB957]

SENATOR LOWE: Well, the funds when they use the debit card, it would be my guess that if they use it at an ATM or someplace else like that, that there probably would be a charge on that,

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but funds to develop the card would not be at a cost to the employee. And a lot of people don't have trust in banks anymore and so they don't like to have a check. They don't like to go to a bank with a check and do that too. So, I mean, there are some gives and takes with this, but I... [LB957]

SENATOR CRAWFORD: Yeah, I was curious as to how to make sure that's...how we protect them from fees. [LB957]

SENATOR LOWE: They're not protected from fees now with their own debit cards and credit cards. [LB957]

SENATOR CRAWFORD: And then the second is the amendment, I don't see in the amendment a way to change the way you get paid. You just thought... this just doesn't work for me. Like, oh, I might have thought, yeah, that debit card sounds like a great idea and then I try it and I realize, well, you know, I can't figure out how to pay my rent, or, you know, it's just not working, or I see, boy, the fees are more than I thought when I tried to go use this card. Is it your intention to take out of method of changing the method of payment or...because I think that was in the original bill and not in the amendment. [LB957]

SENATOR LOWE: I am not sure this bill was handed...the amendment was handed to me about the same time everybody else got it. [LB957]

SENATOR CRAWFORD: Okay. [LB957]

SENATOR LOWE: But I will take a look at that and we will see what we can do. [LB957]

SENATOR CRAWFORD: Great. Thank you. Appreciate that. Thank you. [LB957]

SENATOR ALBRECHT: Any other questions? Senator Halloran. [LB957]

SENATOR HALLORAN: Thank you, Chairwoman. I'm asking because I don't know, but I understand SNAP cards are essentially debit cards, right? [LB957]

SENATOR LOWE: I've not dealt with a SNAP card but I would assume some... [LB957]

SENATOR HALLORAN: Okay. I'm making the assumption, that's my understanding is that they're a debit card. But Senator Crawford raises some interesting...proposes some interesting

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questions, but they may be questions that we look at the SNAP card issue and see how those are addressed in regard to the charges, so. That was more of a statement than a question, I'm sorry. [LB957]

SENATOR ALBRECHT: Any other questions? Mine is just, are you willing to work with the attorneys to see if it is something that you want to go forward with, how it would work in their offices of the transition, maybe a ten-step program on how to make it work if it's viable, if it's not, then we'll know where we're at, but. [LB957]

SENATOR LOWE: You know we have been working and that's where the amendment came from. [LB957]

SENATOR ALBRECHT: Good. Good. [LB957]

SENATOR LOWE: And so I believe we're still willing to work to get this so that people have an easier way of receiving their funds. [LB957]

SENATOR ALBRECHT: Very good. Appreciate that. Okay. Anything else? That concludes LB957. Up next we have Senator Wayne, LB1024. Senator Wayne, welcome to the Business and Labor Committee. We'd love to hear about LB1024. [LB1024]

SENATOR WAYNE: (Exhibit 1) Thank you, Madam Chairwoman. This is a simple cleanup bill. My name is Justin Wayne, W-a-y-n-e. It's been a long day. I represent Legislative District 13, which is north Omaha and northeast Douglas County. This truly is a simple cleanup bill. All this does is remove Big 12 Conference and it starts the Big 10. It's really that simple of a bill. We are one of the few states in the country that says that when the NCAA in other states decide to pay their athletes a stipend, we will also do it. And so, Senator Chambers, I thought he was going to be here. He's the original one who passed this legislation back in 2003, signed in by Governor Orr, and I am just simply updating it. And what she also passed out...or what I passed out, is a letter of support from Bill Moo, Director of Athletics of the University of Nebraska. I do apologize, Scott Frost was on the recruiting trail, so I could not get that done. (Laughter) But I do think with his letter of support, we should be okay with this bill. So with that, I will answer any questions. [LB1024]

SENATOR ALBRECHT: So this...oh, I'm sorry. Any questions from the committee? Senator Lowe. [LB1024]

SENATOR LOWE: I still like the Big 12. That's all. [LB1024]

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SENATOR WAYNE: I can put a or, and/or, but I was just trying to update the language.
(Laughter) [LB1024]

SENATOR ALBRECHT: Any other questions? Did you want us to... [LB1024]

SENATOR WAYNE: I want to incorporate that as part of my testimony, so I'd like that to be in there as part of my testimony. [LB1024]

SENATOR ALBRECHT: (Exhibit 1) Okay. So we have a letter from Director of Athletics, University of Nebraska at Lincoln, Bill Moos. Okay. Seeing no other questions, we'll have you sit right down and it shouldn't take but a few minutes to get through this. You cleared the room. (Laughter) Thank you. We should have passed it sooner. Okay, we're going to take proponents for LB1024. Are there any proponents wishing to speak? Any proponents? All "righty" then, seeing no proponents. Do we have any opponents wishing to speak? Any opponents? No proponents, no opponents. Anyone in a neutral capacity? Seeing none, Senator Wayne, would you like to close? [LB1024]

SENATOR WAYNE: Yes. I would ask for you to vote this out of committee and help me move Nebraska back from good to great. [LB1024]

SENATOR ALBRECHT: Any questions? Seeing none, LB1024 is finalized. We'll move to adjourn. [LB1024]