

those that are insured out there and the other half are free to do as they wish. When we ask one to do something but not the other, you end up with an unequal playing field and it has been a very difficult circumstance for us in the Legislature and for the private sector health insurers who have wanted to cooperate on issues, but have not found it advisable because of the problem of adverse selection. If we require, for instance, preexisting conditions not to be considered, portability to be included, other types of protections for those who wish to have health insurance, then you turn around and 40 percent of those that have health insurance aren't covered by those. You can take those that are high risk and dump them off into the insured plans and end up with a very adverse selection problem. So if we're ever to move further forward beyond what LB 837 does, if we are to try and provide protections of small group reform that we have already adopted for those between 3 and 25 employees, now hopefully 3 and 50 employees, if we want to go beyond that to 100 or any number beyond that, I think it is virtually impossible because of the ERISA preemption. For all of us who care about the issues of the Conference of the States, Senator Kristensen has talked about and others have talked about how we have to reexamine the role of the federal government, the role of the state government on different issues, it is clear in my view that this is one of the critical issues. Congress has passed a law that says, states, you can't touch these ERISA exempt plans. We are going to exempt them. You cannot touch them. You can't tax them, you've got to leave them alone. The states that are out there wishing to do something are being told by the federal government although in the past the states have had preeminent authority in terms of regulating insurance in this particular area, we haven't an ability to do anything. It is my hope that we move forward with the issue and what the amendment before you would have called on is the Governor to go back to the Congress, work with our delegation back there and try to secure some sort of an exemption from the Congress so that we can have a level playing field and provide for health insurance reform for all of those that have health insurance in our state, not just for those currently under commercial carriers that are covered by state law. The objection is from those who are obviously benefitting from the self-insured status. They don't have to pay taxes, they don't have to follow any state law, that's something that is very agreeable to them. It's great for them, it's not so great for everybody else however. The one concession I would make is for those that are multistate employers it is reasonable to expect that they don't