

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 11, 2025  
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**JACOBSON:** OK. Welcome to the Banking, Commerce and Insurance Committee. I am Senator Mike Jacobson from North Platte, representing the 42nd Legislative District, and I serve as chair of the committee. The committee will take up the bills in the order posted. This public hearing is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are testify-- planning to testify today, please fill out one of the green testifier sheets that are on the, on the table at the back of the room. Be sure to print clearly and fill it out completely. When it is you're trying to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on the bill, there are also yellow sign-in sheets back at-- on the back table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the Introducer's opening statement, followed by proponents of the bill, then opponents of the bill, and finally, anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer of the bill, if they wish to give one. We will be using a 3-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you will have 1 minute remaining. And the red light indicates you need to wrap up your final thought and stop. Questions from the committee you may follow. Let me clarify on that. When the light turns red and if I ask you to finish up your comments, that doesn't mean, mean read the last 2 paragraphs. That means finish up your comments. So keep that in mind. Also, committee members may come and go during the hearing. This has nothing to do with the importance of the bills being heard. It is just part of the process, as senators may have bills to introduce in other committees. A few final items to facilitate today's hearing. If you have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. Please silence or turn off your cell phones. Let me repeat, please silence or turn off your cell phones. That would be for committee members, as well. Verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on a bill be included in the record must be submitted by 8:00 a.m. the day of the hearing. The only acceptable method of, of submission is via the Legislature's

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website, at nebraskalegislature.gov. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included in the committee statement. I will now have the committee members with us today to introduce themselves, starting on my left. Senator Riepe.

**RIEPE:** Thank you, Chairman. I'm Merv Riepe. I represent Omaha, along with the town of Ralston, which is District 12.

**von GILLERN:** Brad von Gillern, Legislative District 4, west Omaha and Elkhorn.

**HALLSTROM:** Bob Hallstrom, Legislative District 1, southeast Nebraska, Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

**WORDEKEMPER:** Dave Wordekemper, District 15, Dodge County, western Douglas County.

**JACOBSON:** Also assisting the committee today, to my far right or to my right is legal counsel, Joshua Christolear. And to my far left is our committee clerk, Natalie Schunk. Our pages for to-- for the committee today will introduce themselves and tell us a little bit about themselves.

**DEMET GEDIK:** Hi. My name's Demet Gadik, and I'm a third-year political science student at UNL.

**AYDEN TOPPING:** Hi, I'm Ayden Topping, and I'm a second-year psych student at UNL.

**JACOBSON:** With that said, we'll start with the first hearing, LB482. Senator Ballard, you're welcome to do your opening.

**BALLARD:** Thank you, Senator Jacobson and members. It is always good to be back in front of the Banking, Commerce and Insurance Committee. My name is Beau Ballard. For the record, that is B-e-a-u B-a-l-l-a-r-d, and I represent District 21 in northwest Lincoln, northern Lancaster County. As I went door-to-door in my campaign, as many of you did, I heard from constituents the concern of increase of premiums in their, in their homeowner's insurance. And like many Nebraskans, they pay their homeowner insurance premium in escrow payments on their mortgage, together with property taxes. And so, the increases on both lead to a steep increase in Nebraska's monthly budget. And I'm sure, like many of you, my, my homeowner's premium went up about 57% in this last year. So I reached out, as one does, to the insurance industry,

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and I asked the question, what is driving up these insurance costs? And of course, they gave me a lot of factors such as inflation, home valuation, storms, et cetera, which leads to expensive claims. But I wanted a little bit more, so I explored some legislation on resilient building material tax credits and some other changes that help strengthen the equipment you use for-- to building homes. But as many of you know, also sitting on the Revenue Committee our, our budget shortfall, the timing didn't seem right with tax credits for these, for these building materials. So the other, the other issue that the industry raised was litigation costs on homeowner's insurance, specifically, the practice of some home repair contractors to collect a number of postloss assignments of claims and then sue the insurer to recover a higher claim amount. A post, postloss assignment is a claim-- of claims is the assignment from the homeowner to the contractor all the rights and benefits associated with the claim, including the right to collect the claim and the right to sue the insurer. LB482 amends the Nebraska Revised Statute 44-359, whose proposed the award is automatic attorney fee costs and costs to the consumer when they sue an insurance company and win. This is an important consumer protection for Nebraska consumers who must sue an insurer to recover a claim, to recover a claim. LB482 amends the statute to remove the automatic award of attorney fees in situations involving a business who collects these assignments of claims on a property insurance situation. Instead, instead, a majority of these decisions of attorney fee will rest with the court. This is-- would be consistent application for the rules relating to the awarding of attorney fees in a business to business litigation setting, and hopefully reduce the amount of litiga-- liti-- litigation and help mend the curb of homeowner premium increases in the future. I will be happy to answer any questions, but there are members of the insurance industry that will follow me.

**JACOBSON:** Thank you. Questions from the committee? Senator Riepe.

**RIEPE:** Thank you, Chairman. I think I heard you say and correct me if I'm wrong here, there's now an automatic legal award? Is that--

**BALLARD:** Correct. If, if you, if you win this, if you win this claim, yes. Automatic attorney fees.

**RIEPE:** So is that then a percentage or is that an absolute--

**BALLARD:** Whatever your attorney fees are for the, for the contractor.

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**RIEPE:** OK. OK. Thanks for the clarification.

**BALLARD:** Yes.

**RIEPE:** Thank you, Chairman.

**JACOBSON:** Senator von Gillern or-- yes.

**von GILLERN:** That's right. Thank you.

**JACOBSON:** I, I still gotta keep trying to make sure I got the right name. But Bostar's not here, so.

**von GILLERN:** New here. Thank you, Senator Ballard. If I heard you correctly, I think you said that, that, that your bill would decrease litigation. Did I hear that correctly?

**BALLARD:** It-- would it de-- that's-- it's hard-- I believe it will, because if you're-- if the contractors are risking not-- would not-- gaining attorney fees. There's a, there's a limited risk under this current statute.

**von GILLERN:** OK. So maybe I'm reading something properly-- improperly, because if I'm-- I'm reading the statement of intent. It says, provides for attorney's fees and costs to plaintiff in litigation against an insurance company. So I rarely see a case where you can collect attorney's fees that results in less litigation.

**BALLARD:** There must be a typo in the statement of intent, because the purpose of it is to, to--

**von GILLERN:** It said, if the plaintiff wins the action. So.

**BALLARD:** If the plaintiff-- yes. If the plaintiff wins the action. I'll, I'll look at the-- there-- it was probably a typo. That's not the intent of this legislation is to reduce insurance-- attorney fees.

**von GILLERN:** OK.

**BALLARD:** And not, not make them automatic when, when you win the case.

**von GILLERN:** Before your close, just--

**BALLARD:** Yes, of course. I'll look, I'll look into that.

**von GILLERN:** And I'm probably not reading it correctly.

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**BALLARD:** I'll look into that.

**von GILLERN:** Like I said, if-- what I'm, what I'm-- in my, in my short study, what I heard was we're going to allow for attorney's fees, and that will result in less, less litigation. And I rarely see those two correlate.

**BALLARD:** Opposite is what we're trying to-- yes.

**von GILLERN:** Thank you. OK.

**BALLARD:** Yes. Yes.

**von GILLERN:** Thanks for the clarity.

**BALLARD:** Yes.

**JACOBSON:** Other questions? I would have one more, too, just in line with the last two. I want to make sure I understand that today, if there's a loss and there's a dispute with the insurance company, my understanding is there's common practice where the-- they assign their claim to the builder or some third party, who then collects a whole bunch of these, files suit against the insurance company, slow walks it. Ultimately, if, if they win the suit, you get \$5,000 and they get \$100,000 in, in, in attorney fees.

**BALLARD:** I couldn't--

**JACOBSON:** Is this bill going to prevent that or help that?

**BALLARD:** That is the goal, yes.

**JACOBSON:** To stop that?

**BALLARD:** To stop that, yes.

**JACOBSON:** OK. I'm anxious to hear the testifiers who are going to come up behind you and see what they're, they're going to have to say about that. But--

**BALLARD:** Thank you.

**JACOBSON:** I-- those that are coming up, I would just tell them I'm going to be interested in that answer, so.

**BALLARD:** OK. Thank you.

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**JACOBSON:** All right. Thank you. Any-- yes, Senator von Gillern.

**von GILLERN:** Now that I read the rest of the paragraph, it makes sense. Thank you.

**BALLARD:** OK. You made me nervous. I thought we made an error. I was like--

**von GILLERN:** All right. The existing statute that you're amending.

**BALLARD:** Yes. Yes.

**von GILLERN:** OK. Thank you. My apologies. Thanks for adding the clarity.

**JACOBSON:** All right. Nice work.

**BALLARD:** Thank you.

**von GILLERN:** Good recovery, huh.

**JACOBSON:** OK, first proponent.

**ROBERT M. BELL:** Good afternoon, Chairperson Jacobson and members of the Banking, Commerce and Insurance Committee. My name is Robert M. Bell, last name is spelled B-e-l-l. I'm the executive director and registered lobbyist for the Nebraska Insurance Federation, the state trade association of Nebraska insurance companies. I appear before you today in support of LB482 and definitely would like to thank Senator Ballard for introducing LB482 on the Federation's behalf. Among the federation's and member insurance companies, include the top 7 writers of homeowner's insurance in Nebraska and 8 of the top 10. Rising homeowner insurance costs is an issue that all insurers and all Nebraskans who own a home have dealt with in the past few years. And why are these premiums increasing? There's any number of factors, including inflation, rising home valuations, and weather. And I think everybody could agree that we have extreme weather in Nebraska. Really, none of these factors are within the Legislature's control. But there is one factor, and that, that is needless litigation, and I believe that could be helped with the passage of LB482. Nebraska Revised Statutes Section 44-359 is a provision of law that provides the awarding of automatic attorney fees and costs to a Nebraska consumer who sues an insurer as a beneficiary or a claimant, and, and if they win, they get automatic attorney fees. This statute is intended to help remedy the unequal relationship between insurers and

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the insurers, and encourage insurers to deal reasonably with their policyholders. While I think it is quite, quite clear that the rights provided by 44-359 to a consumer do not transfer to an assignee, some contractors have utilized postloss assignments to sue insurers and seek the utilization of the statute to get the awarding of automatic attorney fees. I think Senator Jacobson provided a good example where, in these situations and they oftentimes involve roofers, they will get a number of these postloss assignments for those represent-- collect them. And then, they'll get 10 or 15 of them and then they'll sue a particular insurer, seeking relatively meager proceeds, but really looking for that attorney fee award. LB482 seeks to clarify that in a postloss assignment situation involving a property loss, the statute does not apply. Instead, the decision would be left to the court on the award of attorney fees. The passage of LB482 would clarify the law to provide that awarding of attorney fees is not automatic in these types of situations, and would encourage roofing companies and other contractors to settle their disputes with insurance companies outside of a court of law. Of all the bills that I think you're going to see this year in front of this committee, this is likely the best opportunity for the Legislature to talk-- tackle the costs of ever-increasing homeowner's insurance premiums. For these reasons, the Nebraska Insurance Federation respectfully supports the passage of LB482, and I appreciate the opportunity to testify.

**JACOBSON:** Questions? Yes, Senator von Gillern.

**von GILLERN:** Thank you. Thanks, Mr. Bell. Are-- if they're bundling these together-- they're not a class action suit, but they're bundling them, they're--

**ROBERT M. BELL:** They are bundling them. Yes.

**von GILLERN:** So are these attorneys taking these on a contingency basis?

**ROBERT M. BELL:** I don't believe they are, no. Because I think the-- from, from what I'm hearing from the insurance companies is that in the end, the amount of the damages, if they win, is actually quite small. So let's say in, in a situation you get maybe \$10,000 of damages. And, you know, if you took a third of that, that would only be \$3,000 or 30-- \$3,333. But what we're finding is that there's this massive amount of attorney fees that go along with it. And, and keep in mind, that's only half, right, because the insurance company is defending those lawsuits as well. So they have their own litigation

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costs to boot, but then they're having to, you know-- in situations, the lawsuit is almost upside down, where the damages are a really small part of it and the attorney fees and costs are, are the major driver of it. We think that encourages litigation in this area. And I think a lot of times, the insured, so some-- somebody that signed over that postloss assignment said, you know what, take care of my roof. You deal with the insurance company. Here's this document. They don't even know that the contractor has sued in their name. Right? So-- and it's-- we haven't-- I haven't seen this necessarily. Maybe other people have in other, other types of contracting work. It's typically seen in the, in the roofing industry. And obviously, there's a lot of roofs getting put on houses in, in Nebraska right now. So.

**von GILLERN:** So any idea on the rate of, of win/loss on those? I mean, do they--

**ROBERT M. BELL:** I, I, I don't know. There-- there's some people behind me. I know we got an individual from Farmers Mutual of Nebraska, which is the second biggest writer of homeowner's insurance in, in Nebraska.

**von GILLERN:** OK.

**ROBERT M. BELL:** He might have a better feel for how they have actually done in this litigation. I will say some of the examples I heard, that this litigation is like long-term litigation. We're not talking about file a lawsuit, we're getting it resolved within a year. And, and in fact, there's not a lot of reasons to settle if you're the plaintiff in this type of situation. These, these cases go on for years. And certainly, it's not just Farmers Mutual of Nebraska that's experiencing that. It's all of the major homeowner writers in the state of Nebraska. So.

**von GILLERN:** So if, if they-- if the plaintiff only have, let's say, a 3 thou-- the story you were telling, if they had a \$3,000--

**ROBERT M. BELL:** Yeah, yeah, \$3,000 worth of damages. Yeah.

**von GILLERN:** You, you-- certainly, you can't afford to sue for that.

**ROBERT M. BELL:** Right. Right. Yeah. It's very unlikely that you would get an, an award of attorney fees for a lawsuit like that, unless it's automatically awarded by statute, so--

**von GILLERN:** OK. But in the--

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**ROBERT M. BELL:** --unless the insurer acted in bad faith or something along--

**von GILLERN:** OK.

**ROBERT M. BELL:** --those lines. So.

**von GILLERN:** And, and the bill still leaves open the provision that the decision-- it can be the decision of the court to award attorney's fees.

**ROBERT M. BELL:** Right. If there is some other provision that the court could award attorney's fees--

**von GILLERN:** OK.

**ROBERT M. BELL:** --then, then they would have it. And also, we, we wanted to make it very clear, too, that the, the statute, for you, as an individual insured, if you want to bring that lawsuit and you win, you still get your automatic attorney fees, because that's a good consumer protection. We just don't think businesses could leverage that for needless litigation.

**von GILLERN:** All right. Thank you.

**JACOBSON:** Other questions? Senator Hallstrom.

**HALLSTROM:** Are there any-- would this apply in the situation-- I've heard, and maybe this is anecdotal that roofers come around. They say, boy, it looks like you've got some damage to your roof from hail, and, and we're going to provide the, the repairs. And is that something that the insurance company would, would have approved? If they give an estimate, you typically would approve up to a certain amount that you're going to pay for? Are there circumstances in this scenario where the roofer provides work, they get the assignment, and then they're coming back for the first time--

**ROBERT M. BELL:** Yes.

**HALLSTROM:** --to say we had \$15,000 worth of repairs, when you might have only approved \$6,000?

**ROBERT M. BELL:** Absolutely. That's, that's, that's what's happening. So-- and there's been bills before this committee 6-7 years ago, trying to address the issue of postloss assignment of claim, in

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general. But in that situation, you know-- so there, there are warnings and everything else that-- and pieces of paper that have to go between the contractor and the insured in these types of situations-- and notices. And I, I think you'll see a, a bulletin from-- or a consumer alert from the Department of Insurance with the next testifier on this particular issue. But what's happening is, yeah, so the consumer, let's say there's a \$15,000 estimate by the insurance company. They hire a roofer. They say, hey, you know, sign this postloss assignment of claim. And they're like, should I? And they're like, yeah, you should. And so they do it. You know, they don't want to, they don't want to get involved in the claim process. Right. And then, you know, the roof is repaired and they really-- the consumer knows nothing about what's going on. I, I can think of a very personal example in my own family from some pretty highly sophisticated people. And they didn't know that in their case, their, their name had been used to sue their-- State Farm, in their case, with a number of other people in their neighborhood related to that. So they had no clue that it was-- the roof was replaced. Everything went fine from their standpoint. They didn't even know there was a dispute between their insurance company and the contractor that was taken to court until-- and did they find out, you know, watching the news or something like that? Eventually, they found out. So.

**HALLSTROM:** Thank you.

**ROBERT M. BELL:** Yep.

**JACOBSON:** Other questions? Just maybe to confirm, I know I get this question a lot, on why are my homeowner's insurance premiums so high.

**ROBERT M. BELL:** Sure.

**JACOBSON:** And it seems to me-- correct me if I'm wrong-- this kind of started with the pandemic, when everything was short-- in short supply.

**ROBERT M. BELL:** Right.

**JACOBSON:** You had insurance, you know, wind, hail, fire, whatever loss.

**ROBERT M. BELL:** Right.

**JACOBSON:** And the cost to rebuild because of the shortage of labor, shortage of lumber, shortage of all the building materials, these

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replacement costs probably doubled from what they were. And so suddenly, you've got insurers and more importantly, stop loss reinsurers that really took it in the chin.

**ROBERT M. BELL:** Correct.

**JACOBSON:** Then ongoing, in Nebraska in particular, we're dealing with-- wind would be probably the number one loss.

**ROBERT M. BELL:** Yes. Wind is an issue.

**JACOBSON:** Hail is pretty close behind.

**ROBERT M. BELL:** Wind is-- yeah, hail is right there.

**JACOBSON:** And then you just bring in everything else from there. Add all that together, and you've got high insurance premiums, and, and then add inflation.

**ROBERT M. BELL:** And inflation, and inflation are certainly part of the materials, right? And part of that was pandemic-related. Also, if you think about it from the standpoint of increasing home values, which I know those of you that serve on Revenue Committee probably hear about quite a bit. We're not even talking about what's assessed by the county, right? We're talking about what your home is actually worth on the marketplace. That also increases the cost of, of insurance, because oftentimes, you're-- you have a replacement clause-- policy. Right. And so as the cost to replace your house and your-- all the things in your house goes up, the policy-- the premium needs to track with that to, to collect it. And again, I mean, that's just, you know, it's-- some would view it as a good thing when your valuation goes up because you have more assets. I mean, depends. For some of us, we have to pay more in taxes and we don't necessarily like that, but your policy actually gains value. But because of that, you have to pay more premium, right? So that-- those houses, like in the situation with the tornadoes and whatnot, the insurance company can go in and replace those, those homes, presuming you have a replacement cost policy as opposed to actual cash value. So.

**JACOBSON:** OK. Thank you. Further proponents? Thank you for your testimony.

**ROBERT M. BELL:** You're welcome.

**JACOBSON:** Additional proponents. Go ahead.

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**MIKE HANNON:** Good afternoon, Mr. Chairman, members of the committee. My name is Mike Hannon, M-i-c-e H-a-n-n-o-n. I am a partner here at a local Lincoln law firm, and I'm here testifying as a member of and on behalf of the Nebraska Defense Counsel Association. I am not a paid lobbyist. My practice is almost exclusively in the insurance defense area, including both personal injury and property claims. I am, I am a trial lawyer on the defense side primarily, and I am here in support of LB482, which seeks to amend Nebraska Revised statute 44-359. LB482 provides a straightforward and simple fix to a growing problem, where a certain number of companies or litigants have construed 44-359 to initiate and prosecute burdensome litigation for the purpose of accruing and seeking attorney's fees. First, I note that the fee recovery on postloss assignments was not contemplated by this century old statute, and we do not believe that it provides an attorney fee recovery to postloss assignments. It was designed to protect the policyholder who paid the premiums for the policy and LB482 does not change that protection. Yet, this statute has recently been twisted and used by certain parties to claim fee recovery on postloss assignments. This creates 2 distinct problems. It frustrates judicial economy and leads to litigation, increased costs, and therefore, higher premiums for your constituents. As to my first point, I am in courtrooms every single week, and I can speak to the fact that our courtroom-- courts are incredibly busy. Courts must prioritize their criminal docket and the constitutional protections required of defendants, and getting a civil case through trial is increasingly time-consuming. At present, postloss assignment claims are being brought in large quantities that are often seeking very, very minor damages on the underlying claim, generally only a few thousand dollars, but then seeking fees, many multitudes over those damages. The result is numerous claims, overly complex trials, and the result-- the continued clogging, clogging of our courts. I'm aware of a recent example where an 8-day jury trial occurred that was held over \$3,000 or \$4,000. The fee request at the end of that trial was 20 times greater than that. Our courts have consistently championed efforts for parties to seek resolution of disputes outside of the judicial system. As currently drafted, Section 44-359 essentially incentivizes the opp-- opposite. That is, companies get homeowners who likely are not fully aware of the consequences to assign their claim after a loss, and then incentivizes that company to not seek an agreeable solution with the insurer, knowing that they can initiate litigation, prolong it, and then seek the fee recovery, no matter how small the dispute is. The situation I just described unsurprisingly leads to insurers being left to defend claims where, where the, where the only real

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beneficial outcome is the payment of attorney's fees to a small number of parties. This leads to higher costs in an already volatile insurance market that inevitably leads to higher premiums. LB482 presents a commonsense approach to addressing the current use of 44-359 and maintains the initial intent of the, of the statute. As such, I urge you to support it, and I would be happy to address any questions of the committee.

**JACOBSON:** Questions? All right. Seeing none, thank you for your testimony. Next proponent. Welcome to the committee.

**MARK GOKIE:** Good afternoon, committee members and Chairman Jacobson. And thank you for the opportunity to testify in support of LB482. My name is Mark Gokie. It's M-a-r-k G-o-k-i-e. I'm appearing on behalf of Farmers Mutual Insurance Company. We're the leading Nebraska-based insurer of homes, farms, and automobiles in this state. I am vice president and assistant general counsel. I've been with Farmers Mutual for nearly 27 years. Over the last decade in Nebraska, we've seen hundreds of lawsuits filed by contractors against dozens of different insurance companies. The basis of these lawsuits are property damage claims incurred by resident-- residential homeowners. These lawsuits are filed by contractors who obtain postloss assignments of benefits, or AOBs, from the individual homeowners. This litigation can be complex and expensive and can last for years. And one of the key reasons that contractors engage in this kind of a business model is because of the language of 4-- 44-359 being used to request that insurance companies pay for the attorneys' fees that contractors incurred during the litigation. It's critical to note that 44-359 was implemented by the Legislature over a century ago, at a time when AOBs were extremely rare and certainly were not being used in the manner that we've seen over the last decade. LB482 would make it clear that 44-359 does not apply to contractors who obtain AOBs. Requiring one party to a lawsuit to pay the attorneys fees incurred by an opposing party is very rare in Nebraska. It can only happen when provided for by statute or when there's a recognized and accepted uniform course of procedure. 44-359 is one of the very few statutes in the entire Nebraska Code that allows one party to recover attorney's fees from the other party. It's part of the insurance code and it was never meant to extend to contractors who obtain the rights to an insurance claim through an AOB. 44-359, as part of the insurance code, was implemented to level the playing field between insurance companies and their individual insureds. And while nobody would argue against that, it's an entirely different thing when a contractor makes it a business model to file dozens of lawsuits against dozens of insurance companies

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in litigation where the insureds are not a party, get no benefit from the litigation, and in nearly every lawsuit filed, the insured person is not even aware that the lawsuit has been filed involving their property. The Nebraska Legislature and the Department of Insurance in Nebraska have found the practice of contractors obtaining AOBs from homeowners concerning enough that both have taken action to protect homeowners from this practice. I've had handouts going around. That's a consumer alert issued by the Department of Insurance in 2018, and it explains in more detail AOBs and the concerns with those. And it also includes a section on what the Legislature did in 2012, in passing the Homeowners Protection Act. In conclusion, LB482 would do nothing to actually stop contractors from obtaining AOBs from insureds, and it has no negative impact on the insureds themselves. But it would be a significant step towards ending the practice of contractors filing dozens of lawsuits and requesting attorney's fees under 44-359.

**JACOBSON:** Thank you. Questions? Senator Hardin.

**HARDIN:** How common is this here in Nebraska?

**MARK GOKIE:** Well, over the last decade, there have been hundreds of lawsuits filed, involving thousands of claims.

**HARDIN:** Thank you.

**JACOBSON:** Other questions from the committee? Seeing none, thank you for your testimony. Other proponents. Ms. Gilbertson, welcome to the committee.

**KORBY GILBERTSON:** Good afternoon. Good afternoon, Chairman Jacobson, 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 on behalf of the American Property Casualty Insurers Association in support of LB482. And in interest of brevity, I'm not going to repeat what was already told to you, but I thought it might be helpful to give the committee some history on this, because I think most of you weren't here when we've dealt with the assignment of benefits issue before. When this first kind of came to a head and before the Department of Insurance set out-- sent out the notice, we were dealing with issues-- at that time, particularly with roofers that would come in through towns and not only tell people, sign this document, we'll take care of everything for you, but they were also offering to pay the deductible for insurance, even though that was not legal at the

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time. So part of what we got fixed in the statute was to say yes, and we mean that's not legal for you to pay the, the deductible, and then also to ramp up the notice provisions so that when-- hopefully, when homeowners were faced with signing an assignment of benefits, they would understand what they were doing. I wanted to address one other question that I think Senator Hardin asked: How big of a deal is this? APCIA obviously is a national trade association. And to give you an example, when you look at water claims in Florida-- is a good place to look because we-- there's been so many more of those recently. The lawsuits, the number of lawsuits under assignment of benefits has skyrocketed over 5,000% in the last 10 years. So it, it has become a big deal. Be happy to take any questions.

**JACOBSON:** OK. Questions? Senator Hardin.

**HARDIN:** Just curious, did we have anything that popped up as a result of, say, 42 tornadoes touching down in 2024 in eastern Nebraska?

**KORBY GILBERTSON:** Yes. And, and I think that, that has been part of the issue. And I-- and I'll get for you a study that APCIA actually did about the weather impacts, the number, obviously, the severity, and the cost of doing the repairs has-- have both gone up. And so they have done a big study. And I'll get a copy of that for all of you that shows the increased costs and how that affects premiums.

**HARDIN:** Thank you.

**JACOBSON:** Other questions? If not, thank you for your testimony.

**KORBY GILBERTSON:** OK. Thank you.

**JACOBSON:** Further proponents? Anyone else like to speak in favor of the bill? If not, we'll move to opponents. Anyone wishing to speak as an opponent? Welcome to the committee.

**JAMES EGGERS:** Thank you. Good afternoon, Chairman and committee members. My name is Jim Eggers, James, J-a-m-e-s, last name Eggers, E-g-g-e-r-s. I am the vice president and general manager of Millard Roofing. We serve Nebraska, and have done so for over 25 years. I've heard a lot of testimony today, and I don't want to get into a back and forth with the insurance industry over this issue. But what, what I can tell you is we've done thousands of claims here in Nebraska, and we do take assignment of claims for the benefit of both parties, meaning the homeowner and the contractor. When insurance companies come out and they assess your, your property, they're not sending

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somebody out that actually knows how to restore the property. So what they do is they have a system that allows them to go through the process of discovering what the actual restoration needs to be. Well, with that, what we have found is that the lack of knowledge causes conflict for not only the homeowner, but the contractor. The contractor has to follow a set of rules, the written manufacturer's instructions, as well as the local code juris-- jurisdictional requirements and standards. So when I was presented with this, this LB, I believe it was 7-- let me look it up-- oh, sorry, LB220, about 7 years ago, I found it troubling that the-- they've titled it the Insured Homeowners Protection Act. The first sentence said the Insured Homeowners Protection Act, the insured homeowner is no longer allowed to have a contractor represent them in an insurance claim. So that set off a pretty big dispute between the insurance company and the contractors of Nebraska. I was fortunate enough to be involved with then-- the chairman then in the Banking, Commerce and Insurance Committee, and I was fortunate enough to help establish some fairer guidelines for how assignments of benefits should be handled. And the current regulations were a compromise, but an effective one. This is really a second attempt at a bite at the apple. This issue with attorneys fees was addressed and resolved back then. And now, now that we have actually spent time with insureds and have taken a claim all the way to trial, we have found that the insurance industry now is trying again to circumvent the, the ruling in this last case. It was a \$4,500 case for a 77-year-old lady. And we took assignment and we took Farmers Mutual to task, and they were found to have acted in bad faith. So the only time that attorneys fees are awarded, remember this, is if we take them to court and they're proven to have acted in bad faith. That's the only time. The other thing I want to point out is there are mechanisms in the current law that allow for settlement of the fair and reasonable charges. If there's a dispute between the assignee and the insurance company, they have the right to, to provide an offer to confess. And in that offer to confess, the clock stops. I cannot-- as a contractor assigning, I cannot collect attorney's fees. I can't collect them. That's the arm of, of the, the legal system that says, hey, we don't want frivolous lawsuits. So this whole idea that there's a lot of lawsuits, there's thousands, the reality is there's only been 2 in the last 20 years, and there's been over 250,000 property claims in that time-- 2 where there's attorney fees that have been awarded. And we were the ones. Why? Because they take ad-- they-- in those situations, they took advantage of a little old lady, a little old man, and we didn't, we didn't think it was OK. That's why-- I welcome any questions at this time.

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**JACOBSON:** Questions?

**HALLSTROM:** I, I guess I don't see it in--

**JACOBSON:** Senator Hallstrom.

**HALLSTROM:** --statute that bad faith has anything to do with it. It's whether or not you get a judgment and potentially, as you suggest, for an amount over any amount that may have been offered if there were settlement. I, I don't see anything that relates to bad faith on the face of the statute in any respect.

**JAMES EGGERS:** You're, you're correct. That's at the discretion of the judge. So when we talk about the discretion of the judge, wanting to give it back to the court, they already have the discretion. This last claim I just had, for \$4,527.77, they could have offered us up to the day of the trial an offer to confess for that amount. If I'm not awarded that amount or more, or more than that amount, I don't get attorney's fees if they were to offer to, offer to confess and I chose to take it to trial.

**HALLSTROM:** It's about, it's about the amount of the judgment, not bad faith or otherwise.

**JAMES EGGERS:** Well, if they're found to, to have not paid the fair and reasonable charges, then that's when that kicks in. That's when that law is allowed to, to seek attorney's fees. Now, the judge-- we have to file an application for that, so it's not, not just automatically awarded. This whole narrative, this-- it's not entirely true. And if you look up Anzalone [PHONETIC] versus-- or not Anzalone. That's the homeowner's name. If you look at Farmers Mutual v. Millard Roofing-- or Millard Gutter Company, you'll see. And I can provide you with any information the committee wants. It's black and white.

**HALLSTROM:** Thank you.

**JAMES EGGERS:** You bet.

**JACOBSON:** Further questions? Yes, Senator von Gillern.

**von GILLERN:** Thanks for your testimony. And maybe you answered it [INAUDIBLE]. An initial question I wrote down was what percent of claims are contested?

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**JAMES EGGERS:** Every claim that I've ever seen is, is contested initially. The insurance company comes out with their own protocol that typically does not follow what's required. So you have to remember, insurance companies are coming out to your home to make a settlement. They're not looking at it like, OK, we're going to own what we put on our estimate and then that's what you're going to use to go and, and try to repair your property. They're trying to get you to settle the claim, because you're-- you know, their, their fiduciary duty to you is to indemnify you from this loss. Well, if you say yes, then--

**von GILLERN:** So, so maybe contested isn't the right-- isn't-- wasn't the right terminology. So 100% of them you renegotiate with the insurance company to, to correct the adjustment to match the amount of work that needs to be done on the account, the-- and, and the cost of that?

**JAMES EGGERS:** That's correct.

**von GILLERN:** So what percentage of claims is that process not successful in, and then you have to pursue legal action?

**JAMES EGGERS:** Well, we've had to take-- to, to trial, we've had to take 2 .

**von GILLERN:** OK. So the 2 in 20 years is, is Millard Roofing's statistic.

**JAMES EGGERS:** We've, we've searched. We've searched Westlaw. We cannot find anything. You'll hear from attorneys that they're not aware of anything other than these 2, in 20 years.

**von GILLERN:** OK. Do you know, roughly, what were the attorney's fees for-- what, what were you awarded in attorney's fees on the 2 that--

**JAMES EGGERS:** The, the first one-- you have to remember, the first one was the Howard Hunter claim. It was Millard Roofing-- or Millard Gutter v. State-- Farm Bureau. And that started in 2010. The insurance industry appealed the county court ruling over a \$3,800 claim. The judge awarded like \$5,000. Now, you have to remember, contractors don't receive \$5,000. They have-- that's what they pay their attorney. So there's no benefit for us to have to file a claim. But as that went through appeal after appeal after appeal-- that took 7 years of appeals by the insurance ind- - by Farmers Mutual-- or farmers-- excuse me, Farm Bureau. So we had to go then to the district court.

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District court upheld the lower court's ruling. They then appealed that. That went to the Court of Appeals. They then appealed that to the Supreme Court. And then the Supreme Court looked at them and said, this is ridiculous. You have to pay this. It is valid to assign a claim. Then the insurance industry came in and proposed LB220 because we had a ruling at the Supreme Court level saying, hey, assignability is legal. And then that whole tidal wave of things happened. So it's not in anyone's best interest to go to court. It's time consuming and it, and it costs us. I had to risk \$78,000 in this last trial for a \$4,527.77 claim, \$4,527.77 to try to prove a point with Farmers Mutual that, listen, you can't take advantage of people this way. We're tired of this. So the judge, he-- we filed application for the \$78,000. He gave us \$68,000. So I lost \$10,000 as a penalty because he had discretion to choose that. Now, they could have, before the trial, said, hey, FYI, we want to go ahead and offer to confess, because we, we know that we owe this amount. But guess what? They didn't do that. They would have had-- I wouldn't have gotten \$1-- I wouldn't have gotten \$1 in attorney's fees. And that's the beauty behind the way the law is set up.

**von GILLERN:** Thank you.

**JAMES EGGERS:** You bet.

**JACOBSON:** Other questions? All right. Seeing none, thank you for your testimony.

**JAMES EGGERS:** Thank you.

**JACOBSON:** Next opponent.

**JACQUELINE BOUC:** Hello.

**JACOBSON:** Hello.

**JACQUELINE BOUC:** Thank you for listening. My name is Jacqueline Bouc, J-a-c-q-u-e-l-i-n-e, last name B-o-u-c, and I am coming in-- opposing this because as a homeowner, I just paid 23 years into good coverage for my home and I never claimed on it. I wouldn't know the procedure, how to get the-- everything-- the estimates, or go through the legal process of recovering what they won't pay. We've gotten-- I've gotten-- when I first claimed it, they came out and gave me a estimate. Yes, I have the damages, but then they weren't-- they didn't include everything. And then, there's been months and months of disputing. They finally sent out another person from the insurance to

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go over the damages, and they found that the contractor was correct. So they're still not covering everything for the contractor because of what-- all the extra time that they have to pay these people to do this. And so I'm finding that if they're only getting paid attorney fee-- they're only paying attorney fees if they're not doing the right thing, why isn't there a change? Because I wouldn't be able to cover the cost if I had to, I had to sew-- sue the attorneys-- I mean, the insurance. I'm retired because of health. I don't have good income coming in. And I've been paying this premium for all this time. And it-- 2 years ago, it's almost doubled. And that was before I ever had a claim. So this, this, this is wrong. It's not putting the cust-- it's not putting the consumers first. We don't have the knowledge to say, well, that part is broken, you need to cover it. We don't have the knowledge who we need to hire to press for the suing, but we do need to be protected. Because obviously, they don't do a good job in the beginning of telling you what needs to be fixed. I, I just don't have a trust that they're going to cover it. I am looking for another insurance, but I have to wait till this is completed.

**JACOBSON:** Thank you. Questions? All right. Seeing none, thank you for your testimony.

**JACQUELINE BOUC:** Thank you.

**JACOBSON:** Next opponent.

**MARCIA MERCHEN:** Hi. Good afternoon, members of the Nebraska Banking, Commerce and Insurance Committee. My name is Marcia Merchen, M-a-r-c-i-a, last name Merchen, M-e-r-c-h-e-n, and I'm a proud homeowner and policyholder here in Nebraska, and I strongly oppose this legislation. This doesn't make sense for hardworking Nebraskans like me. Currently, the law protects homeowners by allowing us to assign our full rights when navigating claims with our insurance providers. This protection was crucial for me in resolving a recent claim. Without it, I wouldn't have been able to fully address the challenges I faced with my insurance company. The insurance industry already holds significant control in these matters and taking away this vital choice for me or any other homeowner would make it easier for insurance companies to not-- to deny fair and reasonable claims. Amending the law tilts the scales further in favor of large corporations, leaving homeowners like me without the tools we need to properly safeguard our property and rights. I urge you to consider the real-life impact LB482 would have on Nebraskan families. Preserve the

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protections that we as property owners need now more than ever. Thank you.

**JACOBSON:** Thank you. Questions from the committee? I see none. Thank you for your testimony.

**MARCIA MERCHEN:** Thank you.

**JACOBSON:** Next opponent. Any other opponents? Go ahead.

**PATRICK MUHS:** Thank you, Senator Jacobson and the Banking, Commerce and Insurance Committee members. My name is Patrick Muhs. I'm the owner of Muhs Roofing in Omaha. P-a-t-r-i-c-k M-u-h-s. I'm the owner of Muhs Roofing. Today I'm here to express my opposition to LB482, because I believe it unfairly strips Nebraska homeowners of an important tool, namely the question at hand about the attorneys fees assigned-- or that can be awarded on assignment of benefits claims. I've seen firsthand the frustration and uphill battles that homeowners face with insurance companies. There are times when insurers refuse to provide coverage for items that are required by law, whether it's code-mandated repairs or adherence to a manufacturer's instruction. Faced with the technical complexity and the resource, and the resource limitations, many homeowners simply give up trying to fight the insurance denial. And that's where the assignment of claims come in. Currently, the law allows homeowners to pass along their rights to contractors, like myself, to stand in their shoes and hold the insurance companies accountable. The process ensures that the insured homeowner doesn't have to worry about engaging in time-consuming legal battles or deciphering the fine print of their policy. With the assignment of claim, my team can make sure that the homeowner property is restored properly, taking on the responsibility of dealing with the insurer. If the contractors are unable to collect the reasonable costs and fees required to recover payments for the required work performed, there's a chilling effect on everyone trying to pursue justice. It removes the teeth from the current system where, if an insurance company wrongfully denies a claim, it can be held accountable in a court, including being required to pay the attorney fees and court costs. Knowing they can be penalized for unfair denials causes insurance companies to be incentivized to treat homeowners fairly. Removing this accountability mechanism encourages bad practices. Insurance company denials become a tool to delay and exhaust homeowners, not unlike the game of attrition. I'd like to share an example from my own personal experience. On more than one occasion, I've worked with homeowners who had legitimate, necessary repairs

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rejected by their insurance company. For instance, we've dealt with claims involving roofing repairs that are required by building codes and the manufacturer's installation instructions. They're not optional. They're not upgrades. They're the basic minimum requirement that it takes to do the job the right way, to restore the homeowner's property. When a customer chooses us, we're able to step up on the homeowner's behalf, handle the claim, and pursue what's fair and reasonable. The current law not only ensures that the cost of repairs are covered, but also holds insurers accountable if the denial is found to be wrongful. LB482 would re-- would erode this framework by restricting the assignment of claim in the pursuit of reasonable charges. Contractors like me would lose the ability to fight for homeowners. More importantly, homeowners would lose a powerful advocate to ensure their properties are restored to their fullest and fairest potential. I urge this committee to reflect on who this legislation truly impacts. My concern is that LB482 benefits insurance companies at the expense of Nebraska homeowners.

**JACOBSON:** Thank you. Questions from the committee? Yes, Senator Hallstrom.

**HALLSTROM:** Something you said, would-- wouldn't the repairs typically be completed and the homeowner would have been made whole before you get to the dispute stage?

**PATRICK MUHS:** I'm sorry.

**HALLSTROM:** Would you have completed the repairs-- you get the assignment, then you have the potential dispute.

**PATRICK MUHS:** The assignment happens before the repairs are done.

**HALLSTROM:** OK.

**PATRICK MUHS:** This, this, this is--

**HALLSTROM:** In every case?

**PATRICK MUHS:** In every case. This is a situation where-- you know, you've heard testimony about the seemingly small amounts of money that these disputes are-- the reason why they occur. The insurance industry is leveraging the economy of scale. You think about thousands and thousands of claims that the insurance companies handle. And oftentimes they are over \$2,500, \$3,300. You heard testimony, some sensational testimony about water losses in Florida. That's not what's

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going on here. These insurance companies are utilizing this-- utilizing as a tool, their ability to write smaller amounts on claims, citing this new catch phrase that's called best estimating practices. And many times in every situation, we are always eager-- we would be more than willing to just-- to resolve these disputes without having to go to court over them. But because of the economy of scale, they want to fight. They want to fight over meager amounts of money in some cases, and the litigation does cost a lot of money.

**HALLSTROM:** I guess maybe I didn't-- you'll get the assignment up front, but you'll complete the repairs, and then you're going to court over whether or not that was fair and reasonable?

**PATRICK MUHS:** If it would be necessary, yes, sir.

**HALLSTROM:** Thank you.

**PATRICK MUHS:** Yes. Sorry if I--

**HALLSTROM:** No, I, I may not have asked [INAUDIBLE].

**PATRICK MUHS:** Understood.

**JACOBSON:** Senator von Gillern.

**von GILLERN:** Thank you. One of the previous-- the first opponent testimony said that he only knew of 2 cases in the past 20 years. Have you been involved with cases that went to court?

**PATRICK MUHS:** I have not personally been involved in any litigation. No.

**von GILLERN:** OK. So you have been able to work everything out with the insurance companies through the normal process of contesting a claim. And it may be a hassle. Do you have to get attorn-- attorneys involved in, in those processes?

**PATRICK MUHS:** I have had to have an attorney involved in cases.

**von GILLERN:** OK.

**PATRICK MUHS:** Yes, that is true. And indeed, Senator, is the threat of there being litigation and costs associated with it that encouraged the insurance company to settle. That is indeed an element that's necessary.

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**von GILLERN:** OK. All right. In, in-- same question I asked earlier. About what percent-- and again, the, the previous testifier said, and I, and I can understand that, that they end up renegotiating with the insurance company on probably 100% of the cases. What percent do you have to take further action and involve an attorney?

**PATRICK MUHS:** I don't have that statistic, but we do have the--

**von GILLERN:** 50%? 10, 20?

**PATRICK MUHS:** I would say more than half of the cases.

**von GILLERN:** You have to involve an attorney to resolve?

**PATRICK MUHS:** No, no, no. I mean just have to take further action than, than having a discussion with an insurance adjuster--

**von GILLERN:** OK.

**PATRICK MUHS:** --or a manager or that sort of thing. There, there's various levels of escalation that do indeed need to occur. It is in nearly all cases where we have to, where we have to dispute with the insurance-- where we have a dispute with the insurance company about what fair and reasonable charges are for a particular--

**von GILLERN:** So that's kind of become a normal course of business.

**PATRICK MUHS:** That has indeed. Yes, sir.

**von GILLERN:** OK. All right.

**PATRICK MUHS:** And we're, we're fighting that over and over again. There's, you know, again, the economy of scale question. And there is the-- you know, I've been doing this for over 40 years. I also have the advantage of having worked for an insurance company, both as an insurance adjuster and then spent 6 years as an insurance auditor. And I've seen firsthand the, the pattern of behavior with the insurance carriers. It used to be a bunch of retired contractors who were people who did a, a, a good number of the insurance claims handling. Now you've got people who have never scooped a sidewalk or mowed a lawn, much less done any construction work, who are out writing up these estimates, and they just don't know what they're doing. And the industry has recognized this behavior, this pattern. And homeowners don't know any better, so when they get a settlement offer from their insurance company, there's this notion of a presumed authority. If the

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insurance company is the one who wrote it, then the homeowner just assumes that that's the-- that must be true, because they are like a good neighbor. They are-- I'm in good hands, right. And so we have to, oftentimes, as the contractor who is responsible to make sure that the roof gets done the right way-- or the repair, siding, window, so on and so forth-- we have to make sure that we do it according to the manufacturer's instructions.

**von GILLERN:** Good. I got it. Thank you.

**PATRICK MUHS:** Yes.

**von GILLERN:** Appreciate it.

**JACOBSON:** Other questions? I don't have any others, as well. So thank you for your testimony. Other opponents.

**PATRICK MUHS:** Thank you, Senator Jacobson.

**JACOBSON:** Welcome.

**TED BOECKER:** Good afternoon, Chairman Jacobson and members of the committee. My name is Ted Boecker, B-o-e-c-k-e-r. I'm here testifying both as an attorney for contractors who have filed suit against insurance companies and also in my capacity as a concerned citizen from District 31. I'm actually the attorney that has prosecuted the 2 referenced cases that have resulted in attorney fees. One was at the Supreme Court, where, in a case called Millard Gutter v. Farm Bureau, the Nebraska Supreme Court ruled as follows: In Millard Gutter's brief, they request for an award of further attorney fees for services on appeal. Because we have found in Millard Gutter's favor, it will be awarded attorney fees in connection with this appeal upon a timely and proper application. We then submitted application. The Supreme Court thereafter issued an award for the attorney fees in the amount of \$10,000. That followed extensive litigation over roughly a \$5,000 claim. The insurance company would only approve 2 sides of a roof where all the roofing experts said, you can't just replace 2 sides. You've got to replace the entire roof. Again, situation with an older gentleman who was denied, Millard Gutter took on the responsibility, prosecuting the claim. The insurance company hired an expert, the insurance company did depositions, did all sorts of things to inflate the costs that Millard Gutter had to expend. And it only recovered attorney fees when it got a judgment. The same thing in this Anzalone [PHONETIC] case that was referenced, the 8-day trial. We didn't want

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to have an 8-day jury trial. I asked to try it to the bench, just as we did the Howard Hunter case. The insurance company said no. They hired an out-of-state expert from Minneapolis, not a local contractor, but a contractor who was a hired gun out of Minnesota to be their expert. They then did 5 different depositions, including Ms. Anzalone, a 77-year-old widow who was in an assisted care facility that they tried to depose and kind of intimidate to win their case. We didn't want to expend \$70,000-plus to get a \$4,500 judgment, but we were forced to by the insurance company. And ultimately, I think that case was a message by the insurance industry-- you either settle with us or we're going to drag you through the wringer and we're going to make this cost prohibitive. In that case, we offered, before the 2-week trial, to settle for [INAUDIBLE]. It's in the file, an offer to confess judgment. Ultimately, the jury found in our favor, ordered a penny more, and because we obtained a judgment-- only a judgment gives us this right to attorney fees-- did we ultimately get the award of attorney fees. The court, looking at the conduct of the insurance company, determined it was a reasonable amount. I've done hundreds of other claims. There is not an industry over attorney fees or to try to generate attorney fees, because in the vast majority of claims, the cases settle without any award of attorney fees. It's only where you get a judgment that the attorney fees becomes an issue, and the insurance industry can even defeat that because they can make an offer to confess. They can say, we rightfully owe this amount. And if we don't beat it, then we can't get any attorney fees and we may be exposed to their costs. And there have been insurance companies that have done that, that have said, here's our offer to confess, take it or leave it. The majority of these claims are tiny, tiny dollar amounts, \$3,500-5,000.

**JACOBSON:** Red light is on, so I'll ask you to stop there, if you could. Questions from the committee? I guess I have one going back to the-- OK, my understanding is there has been 2 cases that have gone--

**TED BOECKER:** That I can find. And, and, and Judge Dougherty, who awarded us attorney fees, referenced the Farm Bureau Supreme Court case that Millard Gutter has. There was another case where the concept is referenced, but that other party was a separate party. It was called Insured Financial Services. Didn't recover, they just were pursuing the right. They never got the-- they settled or the case was resolved before there was a judgment. So in terms of cases where there's been a judgment and someone's got an award under 45-359, there's the Supreme Court decision in Millard Gutter v. Farm Bureau in 2016. And there's, what I think triggered this, Judge Dougherty's

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order awarding us attorney fees in Millard Gutter v. Farmers Mutual [SIC], after this 8-day trial-- where, by the way, there is no doubt that they spent over \$100,000 fighting this \$4,500 claim. And I think they chose this one on purpose because we, we had a little old lady that, you know--

**JACOBSON:** All right. That's, that's beyond the question I asked. I, I guess what I'm really back to is we've had 2 cases in 20 years?

**TED BOECKER:** Where there's an award. Now, there are other cases where peo-- where people have these claims, but they're resolved without any attorney fees.

**JACOBSON:** OK. That-- that's my, that's my--

**TED BOECKER:** That, that happens every day of the week. I literally have--

**JACOBSON:** I, I understand. You have answered my question. You're, you're, you're going over-attorney on me right now. OK. All I want is asked and answered on questions. That, that would be great.

**TED BOECKER:** Sure.

**JACOBSON:** So-- and I think you've answered my question. So unless there's any other committee questions, I thank you for your testimony.

**TED BOECKER:** Thank you.

**JACOBSON:** Other propon-- or opponents. Opponents? If not, anyone wishing to speak in a neutral capacity? All right. If not, Senator Ballard, you're welcome to come up and do your close. And before you do, we did receive 3 proponent letters, 1 opponent letter, zero neutral, and the committee did not receive any written ADA testimony regarding this bill. Welcome to close.

**BALLARD:** Thank you. And I'm going to sincerely apologize to the committee. I-- staff said I forgot an amendment. Can I give this amendment to the committee? It's just some clarifying language for the counsel. I apologize.

**JACOBSON:** Can you talk to us a little bit about what the, what the amendment does?

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**BALLARD:** Yeah, so it is-- so it's just briefly-- it's at the very end. It, it just gets to the heart of the rights or benefits on the, on the, the last half of page 2, just to clarify this is-- we're trying to, to limit the attorney fees. So. I'll, I'll be brief. I-- so I think it's important to remember that this does not-- this-- LB482 does not ban postloss assignments. It is-- we're just going-- we're trying to limit the attorney fees. Every, every-- all the, all the opposition they articulated that we're trying to go after homeowners. That's not the case. It is just trying to limit the amount of, of lawsuits that are presented, and to-- I think the, the DOI or [INAUDIBLE] consumer protection. And I think Senator Hallstrom hit it right on the head that anything over \$1-- every-- anything over the amount of judgment would automatically trigger attorney fees. So I'm, I'm trying to wrap my head around the opposition. I, I want to have more conversations with them in the coming days. But I think this is just a consumer protection, trying to-- this isn't the silver bullet. This isn't going to reduce homeowners' premiums. I think it's just going to slow the rise of those homeowner premiums for all Nebraskans. So with that, I'd be happy to answer any additional questions, but I appreciate your, your time.

**JACOBSON:** I guess my question would be that what you're doing is you're eliminating automatic attorney fees, but still leaving it to the discretion of the judge.

**BALLARD:** Correct. And I think it's important that homeowners can still seek attorney fees.

**JACOBSON:** Right.

**BALLARD:** Yes.

**JACOBSON:** So-- but the judge, it's, it's at his discretion as to--

**BALLARD:** Correct.

**JACOBSON:** --whether or not [INAUDIBLE].

**BALLARD:** This is-- I, I will admit-- I will agree with the opposition, this is narrowing it. But yes, it is for their discretion.

**JACOBSON:** So it sounds like with the cases we've heard, the judge was upset and made it clear. I'm coming after you. And it could be-- and so he's likely would have [INAUDIBLE], would have awarded attorney fees with or without this bill.

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**BALLARD:** Correct.

**JACOBSON:** Other committee questions?

**HALLSTROM:** I was just going to comment. One thing that was interesting to me from the testimony was the one individual suggested, in my words, that the ability to recover attorney fees can be used as leverage in the course of the settlement. And in most cases, we do not have the entitlement to attorney fees so that neither party is using that as leverage against the other.

**BALLARD:** Correct.

**HALLSTROM:** Thank you.

**JACOBSON:** Anyone else? Senator von Gillern.

**von GILLERN:** Yeah, I'm sorry. I don't want to be too thick on this. What, what you just stated in, in your close, or at least what I heard was that the judge could still award attorney's fees in the case of a judgment, but that only applies if it's a homeowner.

**BALLARD:** That-- that's one of the narrowing of-- yes.

**von GILLERN:** OK. but if it, if it wasn't assigned-- if-- well, if it was a postloss assignment, there is no opportunity to collect attorney's fees.

**BALLARD:** That's the goal.

**von GILLERN:** Even, even-- there's no opportunity-- is there an opportunity-- I'll phrase it in the form of a question. Is there an opportunity for a judge to award attorney's fees in the case of a postloss assignment if the judge--

**BALLARD:** There's just not that automatic a trigger on the judgment.

**von GILLERN:** OK. Thank you.

**JACOBSON:** Senator Dungan.

**DUNGAN:** Thank you, Chair Jacobson. Thank you, Senator Ballard. I apologize. I was introducing a bill in Education, so I just got here for your closing. I'm not going to pepper you with questions, but I'm trying to get up to speed on this. Are there other areas of our law

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where we completely cut out the ability to recover attorney's fees, or would this be the only one where we do that?

**BALLARD:** That's a good question. I know there's some with like, landlord-tenant that award attorney fees. I'll have to get back to you on the exact-- on what we cut out.

**DUNGAN:** And that's not a pointed question.

**BALLARD:** Yeah. Yeah. Yeah.

**DUNGAN:** I genuinely don't know the answer to that. I just-- I-- I'm not familiar with any other areas where we specifically prohibit the recovery of attorney fees in like a very specific distilled action. And so I'm just curious if there's other areas and we can talk more about that after.

**BALLARD:** Yeah.

**DUNGAN:** But I missed the proponents and opponents, so I apologize if I'm being obtuse.

**BALLARD:** Yes. No, I, I, I, I think that the, the point of this bill is it's that automatic attorney fees--

**DUNGAN:** OK.

**BALLARD:** --that we're trying to flip that.

**DUNGAN:** OK. Thank you.

**JACOBSON:** Yeah, I want to clarify that, as well. There's no prohibition on collecting attorney's fees.

**BALLARD:** No. Correct.

**JACOBSON:** OK. It's only the automatic collection of attorney's fees.

**BALLARD:** Correct.

**DUNGAN:** OK. Thank you.

**JACOBSON:** All right. Any other questions? If not, I'm sure Senator Ballard would love to sit down and just give you all the [INAUDIBLE], so.

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**BALLARD:** I would love nothing more.

**JACOBSON:** All right. Thank you.

**BALLARD:** Thank you.

**JACOBSON:** That includes our hearing on LB482. And next up, we'll open the hearing for LB338. Senator Wordekemper, you're welcome to open on LB338.

**WORDEKEMPER:** Good afternoon, Chairman Jacobson, members of the Banking, Commerce and Insurance Committee. I'm Senator Dave Wordekemper, D-a-v-e W-o-r-d-e-k-e-m-p-e-r. I proudly represent Legislative District 15, which includes Dodge County and a portion of western Douglas County. Today I'm here to introduce LB338, which protects the privacy of genetic screening information for purposes of life insurance, disability insurance, and long-term care insurance. I'll do one more spelling thing. When I reference genes, it's g-e-n-e-s, not the other genes. I wouldn't suggest giving those to insurance companies, either. Genetic testing has emerged as a powerful tool for detecting potential health risks by identifying specific inherited changes in a person's genes that may increase the risk of diseases, such as cardiovascular disorders, neurological conditions, and cancer. For example, about 5-10% of all cancers are thought to be associated with genetic mutations that are inherited from a parent. A genetic mutation does not mean that, that a disease is inevitable, but it denotes a higher probability or risk. The primary advantage of a genetic testing lies in its ability to enable prevention and early detection of a disease. Early detection often translates to better treatment outcomes, reduced healthcare costs, and improved quality of life. For instance, a person who finds out they carry a BRCA1 or BRCA2 gene mutation, which is associated with an increased risk of breast cancer or ovarian cancer, can opt for more invasive screening, lifestyle modifications, or preventive surgeries to reduce their chances of developing these cancers. Cardiovascular disease, which are leading causes of death globally, can also be mitigated through genetic screening information. For instance, individuals with a genetic condition characterized by high cholesterol levels can benefit from early interventions with statins, dietary changes, or lifestyle modifications. By identifying at-risk individuals early on, healthcare providers can implement targeted strategies to prevent heart attacks and strokes, ultimately saving lives and reducing the burden on healthcare systems. Before un-- before undergoing genetic screening, patients are warned that insurers may use their genetic information to

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determine eligibility for coverage, set premium rates, or deny claims altogether. In this way, even the potential of insurance discrimination discourages people from undergoing potentially life-saving genetic testing. The intent of LB338 is to remove barriers to genetic screening by protecting the privacy of a patient's genetic information from use for insurance purposes. Federal law, the Genetic Information Nondiscrimination Act, passed in 2008, already protects genetic information for most health insurance and employment purposes. There is no such federal protection for life insurance, disability insurance, and long-term care insurance. This is the gap that LB338 seeks to fill. The bill language in LB338 is modeled after a law passed in Florida, in 2020, that prohibits life insurers, disability insurers, and long-term care insurers from using genetic screening information for insurance purposes unless there is clinical diagnosis of a disease. I'll repeat that. They can use the genetic information if there is clinical diagnosis of a disease. I want to make a few things, very important points about LB338 does not do LB338 does not impact health insurance. Federal law already protects genetic information for most health insurance purposes. This bill is extending that federal protection to other types of insurance. LB338 does not prevent insurers from reviewing an individual's medical record. Insurers will still be able to access the medical record, just as they do now. LB338 does not prohibit insurers from using family history for insurance purposes. They are still able to ask questions and use family history information to make coverage decisions or establish premium rates, just as they do now. This is important because opponents may express concerns that their ability to appropriately-- appropriately assess risk will be harmed by LB338. But family history will show similar information about hereditary disease risk that genetic information will reveal. And finally, LB338 does not prohibit the use of any clinical diagnosis for insurance purposes. If a genetic marker leads to a clinical diagnosis, that information may be utilized for insurance purposes under this legislation. The use of genetic information in healthcare holds immense potential for preventing and detecting disease early, leading to better health outcomes, ultimately, ultimately reducing insurance claims. However, to fully realize these benefits, it is imperative to protect individuals from insurance discrimination based on their genetic information. In closing, LB338 will empower patients with their own genetic information, allowing them to take control of their health future, rather than remain victims to their genetics. I appreciate this committee's thoughtful consideration of the issue. There will be other

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people to testify behind me to get into the weeds on genetic testing, but I'll answer anything I can now.

**JACOBSON:** Questions? Senator Hallstrom.

**HALLSTROM:** Real quick question. Do, do you know if there's been any efforts on the federal level to fill the gaps as to those other types of insurance? And if there hasn't been, maybe, why not?

**WORDEKEMPER:** To my knowledge, I, I didn't research into that but I can look that up to see if they-- looking forward.

**HALLSTROM:** Thank you, Senator.

**JACOBSON:** Other questions from the committee? I would just have one. I-- you know, I've, I've obviously been contacted by lobbyists on this on both sides. And, and I'm a little conflicted on this. Certainly from the standpoint that I, I, I see the benefit of people getting tested and knowing that when this information is disclosed to them that it doesn't dissuade them from getting tested. At the same time, I look at the fact that insurance companies are underwriting risk. They're asking, are you a smoker? Are you a drinker? You know, a whole list of things, look at all this other information, and then they've got to underwrite policies accordingly. And ultimately, if they can't get all the information that you have available, I compare it to playing poker. And one person knows what the hold card is and the other person does not, they tend to have a little bit of an advantage in terms of the odds of winning. And, and really, life insurance is all about predictability and odds and life expectancy, and so on. And, and so I, I understand why there's a push back on insurance companies. I also understand why these markers are so important for people to deal with this early instead of holding off and waiting. So I'm, I'm going to be anxious to hear the testimony and, and actually, ultimately, the committee's view on how they want to proceed here, so. I don't know whether you got any other thoughts and reactions to that [INAUDIBLE] comments or not?

**WORDEKEMPER:** Not at this time. I mean, ultimately, as you pointed out, we're looking at a person's health and, and whether you have a genetic test done should not be held against you. It's certainly not a foregone conclusion that you're going to die because of that gene. You could certainly-- you know, if this insurance company rules you out because you have a gene for, you know, breast cancer and so they don't give you life insurance, you could get killed in a car accident in 2

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months. It, it-- and it had nothing to do with the gene. So that's what we're trying to prevent. I believe people should have the right to, to do that. And if you have a genetic marker and you do your followup treatments and at some point, you end up having breast cancer or whatever it is, they can certainly use that then, because you were diagnosed, to rate your policy.

**JACOBSON:** Well, thank you. Other questions? If not, I know you'll be sticking around for close, so we'll move on to proponents of LB338. And thank you for move-- for moving towards the front without even being told to do so. You just did it.

**BRANDI MUHLE:** Thank you guys for having us. My name is Brandi Muhle, B-r-a-n-d-i M-u-h-l-e. I am the founder and the board president of the Hereditary Cancer Foundation. I'm representing myself, our board of directors, and more than 700 high-risk men and women that our organization actively serves. I carry a BRCA1 mutation that has completely transformed and has largely guided the direction of my life. I was 9 years old when cancer changed my life forever. My 35-year-old mother was diagnosed with breast cancer and lost her life at the age of 40. Among her final wishes, she made me promise that I would have genetic testing to be proactive with my health. At that time, medical insurance could deny coverage for having a mutation. So if my family members were to have genetic testing, they were advised to do so in a research setting so that it didn't appear in their medical record so they would, would not lose their medical coverage. Fortunately, advocates who came before me succeeded in getting federal laws changed in 2008, in order to protect us, gene mutation carriers, in terms of medical insurance. I guess it's our turn to carry the torch. I testify before you today with a simple but a deeply personal plea. Please advance this bill to protect people like me and more importantly, my family, from genetic discrimination for life, disability, and long-term care insurance. On my 19th birthday, I met with a, a genetic counselor to learn if I inherited the mutation that my mother had. During the visit, my healthcare provider advised, you may want to consider getting life insurance before moving forward with this test. Life insurance, I thought. I'm 19 years old. I'm a full-time college student. The only person depending on me right now is myself and my dog. At that point, I wasn't afraid of who would be left behind when I died. I was afraid of dying before I had anyone to leave behind. Eventually, another life would-- sorry-- would depend on me, my sweet, almost 12-year-old son, Peyton. When Peyton was 10 months old, I had a preventative mastectomy, reducing my risk of breast cancer from 87% to less than 2. The morning of my surgery, I

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was overcome with emotion, and my breast surgeon said to me, this is the best insurance policy money could ever buy. Those words were so incredibly comforting in the moment, but I've grown more and more profound as the years have gone by. I now don't fear losing my life to cancer. In fact, my risk of cancer today is probably less than most of the people in this room. But I do fear my family's financial security should something happen to me suddenly, unexpectedly, or tragically. My decision to have genetic testing and to know my cancer risk now penalizes me and more so, my family, from the same security that other families are granted. I have done everything I can do to this point to prevent a cancer diagnosis. But if I die in a car accident on my way home today, my son will not have the same financial security as someone who does not know their genetic status. Unfortunately, the advice to obtain life insurance prior to genetic testing is another barrier that prevents people from learning the risk and taking proactive action. I understand this bill will not prohibit discrimination based on family history, so my mom's cancer diagnosis will always impact my rates. However, with the preventative measures that I have taken, I'm hopeful that when my son fills out his insurance application some day, he won't have to indicate that his mom had cancer. When we know our risk, we can act upon it. We can change the course of our families for generations to come. Please don't penalize us for obtaining the knowledge that gives us the tools to be proactive with our health. Thank you for your time, consideration, and supporting the rights of individuals to live without the burden of genetic discrimination. Thank you.

**JACOBSON:** Thank you very much. Hey, can you hang on just a second in case there are questions. But thank you for your very--

**BRANDI MUHLE:** This isn't my first time. I should know this.

**JACOBSON:** --compelling testimony. Questions from the committee. All right Senator Riepe. Thank you. I didn't want to bring her back for no reason at all.

**RIEPE:** She was quick to get up.

**JACOBSON:** She was very quick.

**RIEPE:** She was quick to get out.

**von GILLERN:** Yeah.

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**RIEPE:** The question that I have-- because I always have a concern about false positives. Is there, between those that are doing genetic testing, the labs, are there any ratings that some are A-plus and others are D-minus, that a person might opt for a, a, a lesser quality testing because it's on television and-- as opposed to a real, bona fide lab?

**BRANDI MUHLE:** Yeah. So Bronson Riley is behind me. He is a genetic counselor. He might be a little bit better to answer that question. I will say, like, for 23 and Me, that's like an over-the-counter genetic--

**RIEPE:** That's what I'm thinking about.

**BRANDI MUHLE:** --test that you can order on Amazon, right? That's looking at like the Ashkenazi Jewish mutation. So when I've done that test, I'm actually negative, but I'm not Jewish. I'm Norwegian. So my mutation was identified in a clinical setting. So that's a really great question. But there are-- for the clinical labs, there are standards that are held to. If they're not super confident in a result, they'll give a variant of uncertain significance. But Bronson's a genetic counselor and can dive into that a lot deeper than I can.

**RIEPE:** I just want to make sure it's not buyer beware. And then you get a false reading, and then that really can screw you up.

**BRANDI MUHLE:** Yeah, yeah.

**RIEPE:** OK. Thank you, sir.

**JACOBSON:** Senator von Gillern.

**von GILLERN:** You testified a couple of years ago with the expanded mammography.

**BRANDI MUHLE:** I did. And the insurance lobby is not holding up to their end of the deal on that one, so that's a whole nother conversation.

**von GILLERN:** It'll be, it'll be a different conversation. Thanks, thanks again for sharing your story. I don't know if you remember, but I've got a similar family story, so thanks--

**BRANDI MUHLE:** Yeah.

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**von GILLERN:** --thanks for your bravery. Thanks for being here.

**BRANDI MUHLE:** Yes, thank you.

**JACOBSON:** Other questions? If not, thank you again, for being here.

**BRANDI MUHLE:** Thank you guys for having us.

**JACOBSON:** Next proponent.

**BRONSON RILEY:** Chairperson Jacobson, members of the committee, thank you for your time. My name is Bronson Riley, spelled B-r-o-n-s-o-n R-i-l-e-y, and I'm here in strong support of LB338. I've been a cancer genetic counselor in Nebraska since 2006, helping families navigate genetic testing. I currently work in Lincoln and Cancer Partners of Nebraska and have outreach clinics across the state. Genetic screening, as you've already heard, is a critical tool that helps Nebraskans take control of their health. It allows individuals to detect risks early, take preventive action, and in many cases avoid disease altogether. However, fear of genetic discrimination discourages people from getting tested. LB338 removes that fear and ensures Nebraskans are not penalized for simply seeking knowledge about their own health. When I meet with a patient, I begin by asking why they want genetic testing. The most common responses are they watched a loved one suffer and want to prevent the same fate, or more importantly, they want to be there for their children to see them grow up. Yet when I explain that federal law protects genetic discrimination in health insurance but not in life, disability, or long-term care insurance, their enthusiasm shifts to fear. Many pause, reconsider, or decide to delay testing until after purchasing, purchasing insurance, delaying or even forfeiting lifesaving information. LB338 addresses this problem by removing a major barrier to genetic screening and preventive care, empowering Nebraskans to make informed health decisions without financial fear, and improving health outcomes through early detection and prevention. Critically, LB338 does not prevent insurers from using family history, reviewing medical records, or considering clinical diagnoses, just as they do now. And believe me, it doesn't take a geneticist to recognize a strong family history of cancer. When I have people coming in the door you start to visit with, like, I understand why you're here. This bill simply ensures that genetic test results alone cannot be used against Nebraskans. Similar laws already exist in Florida, where insurers continue to thrive, premiums remain stable, and access to insurance products has not declined. The reality is that protecting genetic

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privacy and maintaining a strong insurance market can coexist. Most importantly, LB338 will encourage more Nebraskans to undergo genetic screening, leading to more early detection, more preventive care, and lower healthcare costs for individuals and the state. By removing that fear of an insurance discrimination, we can empower more people to take proactive steps to protect their health. I urge the committee to support LB338 and ensure Nebraskans are not penalized for seeking critical health information. Thank you for your time, and I'll take any questions.

**JACOBSON:** Questions? Senator Hardin.

**HARDIN:** Do we know how long the genetic indicators have been around that we would consider reliable to measure this?

**BRONSON RILEY:** Yeah. So I would say-- I started my clinical practice in 2006, and it became-- usually if something comes to market and is clinically available and is being used in a-- the healthcare setting, that, that provides that clinical utility is what you're asking about. So right before then, I'm going to say, around 2003.

**HARDIN:** I'm curious, how long have we had actuarial science?

**BRONSON RILEY:** Much longer than that.

**HARDIN:** I see. Thank you.

**JACOBSON:** Senator Dungan.

**DUNGAN:** Thank you, Chair Jacobson. Thank you for being here. What is the current interplay between people getting this genetic information and the availability of that information to insurance? So like, let's say somebody comes to you and says, I want to get tested to see if I have the whatever gene. You do that testing.

**BRONSON RILEY:** Correct.

**DUNGAN:** Where does-- can insurance currently get their hands on that or is that protected in a file that you have? I'm trying to understand how insurance would find out if that's already been done.

**BRONSON RILEY:** It's, it's-- having gone through the process myself, my wife and I added a new-- a larger life insurance policy after we had our second kid and we wanted to cover, you know, major expenses. And it came up not on the application, but during an interview. I had a

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30-minute interview. I had to do the physical exam, right, fill out an application. And then there was a 30-minute interview where they asked the question, have I had any genetic testing for any condition?

**DUNGAN:** And obviously, you have to be honest in that interview--

**BRONSON RILEY:** Right.

**DUNGAN:** --with them. And then if you would have had, had-- I don't want to get into your personal life, but if you were to say yes, do they then ask for the results of that to be turned over?

**BRONSON RILEY:** Well, they-- and they-- I signed a form that they could access all of my medical records. So it would have been in that medical record had I done that genetic testing.

**DUNGAN:** OK. OK. I'm just trying to make sure I understand how they would have access to that, but they do, it sounds like, ask for that upfront in applying these policies.

**BRONSON RILEY:** Correct.

**DUNGAN:** OK. Thank you.

**JACOBSON:** Other questions. All right. Seeing none-- but one--

**BRONSON RILEY:** Thank you for.

**JACOBSON:** --other question I guess I would ask is, so how many states have adopted bills or laws like this?

**BRONSON RILEY:** One, Florida.

**JACOBSON:** So we'd be number 2.

**BRONSON RILEY:** Yep.

**JACOBSON:** All right. Thank you.

**BRONSON RILEY:** Thanks [INAUDIBLE].

**JACOBSON:** How are you?

**ALICIA DIETRICH:** Oh, good afternoon, Senator Jacobson and committee members. My name is Alicia Dietrich. A-l-i-c-i-a, last name D-i-e-t-r-i-c-h. Good afternoon. I live in Lincoln, Nebraska, so I'm a

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content-- constituent, but also a patient with a BRCA1 mutation, breast cancer survivor, and research advocate with FORCE, or Facing Our Risk of Cancer Empowered. So FORCE and I strongly support LB338 because Nebraskans should not be discriminated against based on genetic information to determine their eligibility and premiums for life, disability, and long-term care insurance. FORCE is a national nonprofit serving Nebraskans like myself, who have or are at risk of hereditary cancers. Hundreds of genetic mutations that increase a person's risk of developing cancer and other diseases have been discovered. Genetic testing can help Nebraskans make decisions about disease screening to identify those conditions earlier when they're most treatable or avoid disease completely. I have 2 points that I'd like to share with you today. First, is that not all genetic mutations are the same. Just because an individual has an alteration that increases their risk for this disease or a condition does not mean that they will definitively get that disease. An individual who knows she has an inherit-- inherited genetic mutation that increases her risk for cancer can take proactive measures, such as having risk-reducing surgeries, to significantly reduce her risk of developing those diseases later. Other patients, however, also choose to screen at younger ages and more frequently to identify cancer earlier when it's more treatable. Not all people with genetic mutations are at the same risk of developing diseases, but-- because knowing you are at greater risk for a disease allows you to make decisions that can help prevent that condition. Nebraskans should not fear using-- that their genetic information may exclude them from obtaining life, disability, or long-term care insurance. So this brings me to my second point: that fear of discrimination prevents some people from being tested for an inherited risk of disease, as you heard Bronson testify just before me. Some people refuse genetic testing for fear that if a harmful mutation is discovered, they will be unable to get life, disability, or long-term care insurance without that knowledge that they have a greater risk for a disease or condition, they cannot be proactive with the necessary screenings or surgery that can prevent or identify that condition earlier. So genetic testing enables people to lead healthier lives and to contribute to the greater good by participating in, in research, also, so it should not be used against them. So I urge you to support LB338, and stop the discrimination against people with an inherited genetic mutation. Thank you.

**JACOBSON:** Thank you. Questions from the committee? All right. Seeing none, thank you for your testimony.

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**ALICIA DIETRICH:** Sure. Yes.

**JACOBSON:** Next, proponent. How are you? Go ahead.

**ALAN THORSON:** Awesome. Senator Jacobson, members of the committee, thank you for the opportunity to discuss the LB338. My name is Alan Thorson. It's A-l-a-n T-h-o-r-s-o-n. I'm here and testify as a proponent of LB338 on behalf of the Nebraska Cancer Coalition and as the past president and current ex-officio member of the Board of Directors of NC2. NC2 is a neutral voice of oncology in Nebraska. The coalition includes a statewide engagement in all 93 counties with multiple healthcare systems and clinics, industry and corporate partners, rural and urban associations, and nonprofits, together with cancer patients, survivors, and caregivers to better prepare Nebraskans with an understanding of cancer prevention, treatment, and survivorship. The coalition is focused on working to meet the needs of Nebraskans experiencing cancer and their affected families, along with those at risk, which includes all of us. We often hear of issues impacting cancer patients, and insurance companies are often a common area of conversation. The need for early detection and prevention is critical for Nebraskans, especially those with a family history of cancer. Genetic screening can identify individuals at risk for certain hereditary conditions. Early stage diagnosis and at-risk identification can lead to better outcomes and significant cost savings. This bill is critical to support the changes that are currently occurring in medicine. Genetic testing helps to bridge-- helps us as physicians to bridge the gap between "medicine 2.0" and "medicine 2.3"-- between simply treating disease symptoms or intervening-- or alternatively intervening to modify or even prevent disease, enhancing health span and longevity. Genetic testing identifies risk, disease-- risk of disease rather than disease, allowing for preventative lifestyle changes, preventive medical, and preventative surgical management. Not all individuals with genetic alterations will develop disease, and those that otherwise would may avoid disease with proper intervention. Genetic testing should not be used by the insurance industry to determine premiums and eligibility for life, long-term care, and disability insurance. Such use unfairly discriminates against people with a genetic predisposition to, predisposition to cancer or other diseases, where a timely identification of such a predisposition can actually prevent the disease. Cancer risk is a prime example. Individuals with proactive steps to reduce their risk and improve outcomes. The current system, however, can act as a disincentive to patients and families to undergo genetic testing. Many fear that their ability to get life, long-term,

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or disability insurance would be impacted. As a retired colon and rectal surgeon, I can tell the committee that individuals with Lynch Syndrome, a genetic mutation, have a lifetime risk of about 80% for colorectal cancer. However, they can avoid this disease simply by undergoing colonoscopy in a timely fashion, with the removal of polyps and perhaps resection of the colon, therefore preventing them from developing colon cancer. Genetic testing has grown in the use over the past 2 decades. Precision medicine has transformed during this time to support disease, diagnosis, and screening, predict disease risk, and inform patient drug responsiveness, and understand individual ancestry by accounting for individual variability in genes and other lifestyles.

**JACOBSON:** [INAUDIBLE] wrap it up if you can.

**ALAN THORSON:** I urge the committee to support LB338, as this does provide for a strong, sustainable, and comprehensive approach to protecting genetic information, I'd be happy to answer any questions. Thank you for listening.

**JACOBSON:** Thank you. Questions? Senator Hardin.

**HARDIN:** I noticed it's the 21st century, so we have better technology available and there is some real upside with the genetics, isn't there? And at the same time, we don't want to use it as a cudgel to be discriminatory with it. How, how do we wrestle with that moving forward, I guess? There's some upside in terms of, as you pointed out, you might be 80% likely to develop a particular kind of colorectal cancer. And given your family history as well as other genetic indicators, it'd be good for someone to know that. My own family, none of us get cancer. We all drop over from heart attacks. And so if you know that about yourself, and particularly it's not just a matter of what a grandma and grandpa do, but you have some data that suggests you should do it. I guess I'm asking you the "how" question. How do we wrestle with this wonderful new technology and how can we benefit from it, from your perspective, without harming people in that predictive process? How do we wrestle with that?

**ALAN THORSON:** So I think those is-- actually a number of questions. I noticed you used the word--

**HARDIN:** I try to grab the bottom of the gunny bag.

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**ALAN THORSON:** Yes. So I noticed you did use the word discriminatory. And I would point out that when I look at the genetic basis for what we'd be able-- are able to do nowadays, that includes not just cancer, but heart disease, cardiovascular disease, things that we know that we can change by lifestyle changes and medical therapy. They have an impact on significantly improving health span, life, quality of life, longevity. As far as discriminatory practices, I think it's critical to understand that genes are something special. We don't get to choose our genes. We are our genes. Genes are life. The insurance industry can talk about risk factors. Some of the risk factors they talk about make sense as per-- to perhaps consider in qualifying for different policies. But I think about smoking. We have a choice about smoking, or overly drinking. We have a choice to either drink too much. We have a choice of whether we get 10, 20, 15 driver citations. We don't have a choice about our genes. And to take this group of people, which is all of us, some of us have some genes, others others, but to take this group of people and discriminate against them simply because of life, I think is wrong. And this bill will help to alleviate the issues we have, particularly as we've heard before, people being afraid to get genetic testing because of the fear of, of insurance policies-- insurance issues coming down the road. I'd be happy to expand on that further, if, if there's any questions.

**JACOBSON:** Any other questions? If not, thank you for your-- oh, go ahead, Senator Riepe.

**RIEPE:** Thank you, Chairman. That is, sir, why I always tell young people to be careful about picking your parents. But it also seems that we really need to encourage people to do that. Some people, I think, and it-- you can, I think, support this, that they will avoid testing because they really don't want to know if they have some bad situation. And this-- so this all plays back to education.

**ALAN THORSON:** So, you're absolutely right. I hear that, also. People sometimes say, you know, what's going to be is going to be. And they don't want to know or they don't want to get tested-- what if I have cancer? Well, at least we got to get it faster than, than later. OK.

**RIEPE:** Or there will be no later.

**ALAN THORSON:** Yeah. Yeah. So, again, this is such an important component of our ability to move away from what I mentioned was medicine 2.0, where we used to wait for a disease to occur. We waited until somebody had diabetes before we started to treat it. Now we know

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that we can do a number of steps, and I'm not an internist, so don't get me wrong. I'm not trying to overstep my bounds. But I do know that my endocrinology friends, my primary care physicians, if they know someone's at risk for developing diabetes, there are a number of steps that they can take to prevent that from occurring down the road, or minimize the impact that it will have as the patient gets older. And the same with cancer. As a colon and rectal surgeon, I can say quite confidently that I have prevented a number of colon cancers through this process or genetic testing. I had an opportunity to work with Henry Lynch, who is the father of genetic testing, as many of you know. But I'll stop there. I'm getting off track.

**JACOBSON:** [INAUDIBLE].

**ALAN THORSON:** So I appreciate you. I appreciate your time.

**JACOBSON:** So thank you. Thank you for your testimony.

**ALAN THORSON:** Thank you very much.

**JACOBSON:** I'd ask for any other proponent testimony. How are you?

**DENISE IBSEN COLE:** Good afternoon. Good, now. Good afternoon, Senator Jacobson and members of the Banking, Commerce and Insurance Committee. My name is Denise Ibsen Cole. That is D-e-n-i-s-e I-b-s-e-n C-o-l-e, and I'm here to testify in support of LB338, as a high-risk individual who would be directly impacted positively by this bill. First, I'd like to thank Senator Wordekemper for bringing-- for introducing LB338, to protect the genetic information of individuals applying for life insurance, disability insurance, and long-term care insurance. I am a BRCA1 positive individual. I have had a proactive preventative reduction surgery at Nebraska Medicine-- a board member of the Hereditary Cancer Foundation, a policy advocate volunteer for the national nonprofit Facing Hereditary Cancer Empowered, also known as FORCE, a former education ambassador for Bright Pink, a tenured Boys Town employee, and the founder of the 26.2 Step Mini Marathon, which focuses on removing barriers for healthcare and genetic testing and raising awareness of the importance of genetic testing for Nebraska citizens. Over my decade of advocacy in this field, I have shared with people that making the decision to go through with genetic testing is a huge step. Often, people are healthy but have to make major healthcare decisions that could impact their health over their lifetime. To find out you have a high-risk genetic mutation for cancer can give you the ability to find the right healthcare providers to

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help you be proactive, and can lower your risk of some cancers, due to proactive preventive statuses. Because of the decision I made with my healthcare providers at Nebraska Medicine, my own risks due to BRCA1 for breast and ovarian cancers went from 86 and 64% to less than 2%, which is lower than the general population. I witnessed my mother fight 2 difficult fights when it came to cancer. My own children were only 7 and 9 when I found out about my BRCA1 status, and I knew I would take whatever means not to leave them orphans. Individuals who are often thinking of genetic testing are often younger, in their 20s and 30s, In addition to-- just like myself, when facing these decisions, the person they would have turned to for guidance might have already passed away from cancer, and purchasing life insurance, disability insurance, or long-term care insurance is often not on their radar. We know that proactive health measures are the most cost-effective than waiting for late stage cancer. LB338 gives people breathing room to make current healthcare decisions that can help them remain healthier longer, and to not-- and not to avoid getting genetic testing for fear of discrimination. I often share with others who might qualify for genetic testing that I cannot change the fact that they have a genetic mutation, but I am hoping we can change the fact they might end up with late stage cancer, consequently, which would be much more costly. This bill helps remove one more barrier for people to take that initial step to get the needed genetic testing without adding fear of having the genetic information used against them when applying for the life insurance. I urge you to support LB338 and I thank you for the opportunity to testify here today. I can answer any questions you might have at this time.

**JACOBSON:** Questions? All right. Seeing none, thank you for your testimony. Other proponents.

**SHAWN McCARVILLE:** Thank you. Good afternoon.

**JACOBSON:** How are you?

**SHAWN McCARVILLE:** Good. Thank you. My name is Shawn McCarville, S-h-a-w-n M-c-C-a-r-v-i-l-l-e, and thank you for having me. Along with the other board members, I'm also a board member of the Hereditary Cancer Foundation. And this is a huge issue, as to I am also a BRCA1 mutation carrier. This was brought to me. Just like Brandi, my mom died of metastatic breast cancer at a young age. She was diagnosed at 29 and died at 33. So breast cancer has been around my family for a long time and we didn't really know why. We just knew that my mom was diagnosed at a very young age. Genetic testing was brought to my

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knowledge when I was headed to college and my family PC said, there's a test that will generate if you have a high risk for breast cancer. It was really expensive then, so he said you can wait until after college. So I graduated, went ahead and did the genetic counseling. I was also told to look at a life insurance policy before getting tested because how young my mom was. Granted, my dad liked it so it could cover my student loans if I were to be in an accident, but I was able to luckily get in life insurance policy before I was tested. I also have the opportunity to work with breast cancer survivors every single day. And yes, they're getting younger and younger due to the awareness, but it's also a huge thing for the survivors that walk in through the doors to-- and they talk about, well, I don't have a mutation or I do have a mutation, but my children don't want to have the risk of knowing. And us being up here able to educate all, all of the survivors or pre-vivors in the state of Nebraska to take charge and take advantage of your healthcare risk is huge. I was able to have a preventative double mastectomy, taking my risk of breast cancer from 87% down to below 10. And having a daughter, she is now-- has that risk of having to tell her providers and insurance agencies that her mom has this mutation and she may also, too. So taking away that right for her to have a policy-- and if something were to happen to me in-- or her someday, I just think it's really important for us all to think about the people that are taking charge and trying to have preventative healthcare, rather than waiting and seeing if, if someone's going to be diagnosed with breast cancer or cancer in general.

**JACOBSON:** Thank you. Questions? I, I would just offer this. I know the previous testifier talked about discrimination and you talked about the right to a life insurance policy. I'm, I'm not sure there's a right to a life insurance policy. And I think insurance companies underwrite based upon risks. And so if that's discriminatory, it's, it's part of their business practice. But I am curious and I'll be asking a question from-- I'm sensing the insurance companies will be testifying, and we'll be asking them to kind of further explain why we're looking at such a disparity in premiums when, if you're being treated and know this, that, that, perhaps we're getting enough information that the risk of premature death is not at the level that maybe it would have been otherwise. So I'm anxious to get that answer. But for what it's worth, I would, I would offer that, as well.

**SHAWN McCARVILLE:** OK.

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**JACOBSON:** No other questions? Thank you very much for your testimony. Further proponents?

**BILL MUSICK:** Good afternoon. My name is Bill Musick and I want to thank you for taking part and, and considering this legislation. I was formerly the vice president of human resources for Baldwin Filters in Kearney, Nebraska, where we added over 500 jobs and brought them to the Nebraska area. And we're so proud of that decision we made today. And I also have 2 kids in Kearney, and I'll talk about one of those in just a moment-- and 2 grandkids. And my story begins 40 years ago, when my father was diagnosed with Lou Gehrig's disease, ALS. And, and if you know anything about it, you know, it's one of the worst ways to die. And he-- and we were concerned as kids, because his father had also died of ALS. So we were concerned, obviously. But we went to the doctors and said, well, no, that was just a freak of nature. There is no genetic component there. So for 35 years we lived our life, thinking-- there were 8 of us-- and thinking that there was no genetic connection. And that all changed about 5 years ago when my older brother called me up, and after a business conversation he said, I have something else to tell you. I have ALS. And in fact, it's the C9ors72 variant. And so at that point, my life had been shattered. I know there was a risk that I didn't know I had, so I did the responsible things. I went and got tested myself. I wanted to know because I knew my kids would want to know. And the second thing I did was I went to apply for a long-term care policy. And so I fill out the application for a long-term care policy and completed the first application. Then after that, I was given a second application that was about a 30-page application. And after completing that 30-page application, they wanted to have an interview with me. So we scheduled that interview 3 days before I did that interview, I found out I was also positive for that ALS variant. And, and, and so in that interview, I'm asked, do you have any genetic conditions? So I didn't lie. I said, I'm positive for C9ors72 variant. And, and the agent said, oh, well, we'll submit this to underwriting, but I don't think it's going to go anywhere. It didn't go anywhere. And I, I look back on this particular situation and certainly that was wrong. Genetics is nothing I can change and I can do nothing about, but I was discriminated against in the application to that process. And I'm going to correct a couple things that I've heard already. North Carolina passed the first anti-discrimination bill and what they said 20 years ago, they said North Carolina insurers cannot discriminate against people who carry the, the sickle cell anemia gene. So that's-- point worth, worth noting there. Also, there are about 5 other states

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in the United States right now, looking at this legislation. Some have already introduced, others are preparing to introduce it, so this is a matter that's going to be happening further. My 26-year-old son in, in Kearney, I've talked to him and he's getting married later this year and he's going to be talking about raising a family, starting a family. He has a 50% chance of inheriting this gene. He tells me, Dad, I don't know if I want to get tested because I know that I won't be able to get insurance afterwards. And that's a travesty.

**JACOBSON:** Thank you for your testimony. Questions from the committee? I, I think you answered my question about you must be from North Carolina.

**BILL MUSICK:** Originally, from South Carolina.

**JACOBSON:** OK. You, you-- it, it, it showed. Bill, thank you.

**BILL MUSICK:** All right. Thank you. All right.

**von GILLERN:** Thank you.

**JACOBSON:** Good afternoon.

**TIFFANY JOEKEL:** Good afternoon. Chair Jacobson, members of the Banking, Commerce and Insurance Committee, my name is Tiffany Joekel, T-i-f-f-a-n-y J-o-e-k-e-l. Today I'm testifying in support of LB338 on behalf of Nebraska Medicine and the Nebraska Hospital Association. I am passing out written testimony from Dr. Kelsey Klute, who is a GI oncologist that specializes in pancreatic cancer. You may be familiar with Dr. Klute. She's been before the Legislature many a time. Today, unfortunately, she was unable to join, due to unfortunate-- or unexpected circumstances, so I am a poor substitute. I'm not sure there's anything that I can say that hasn't already been expressed very poignantly, by folks who are living this. Understand, this committee is tasked with threading a needle of what sort of information does insurance need to make appropriate risk decisions on-- and, and maintain their business. But the, the piece here that we are really focused on is the chilling effect that this potential or actual discrimination creates. As Bronson Riley testified, when patients speak to a genetic counselor, we counsel them. We provide them informed consent that this information could potentially follow them, it will be present in their medical record, and that creates concern immediately. And we believe strongly in the power of this information for people to take control of their health. While this has

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not yet swept the nation and been passed in several states, we at Nebraska Medicine want to be a leader in cancer screening and cancer prevention. Dr. Klute is certainly a leader in the pancreatic cancer space at the Fred and Pamela Buffet Cancer Center. We are a leader, and we think this bill will help us continue to be a leader in, in fighting and preventing disease. So we would ask your thoughtful consideration and advancement of this bill.

**JACOBSON:** Well, first, let me say, you're a great testifier, so you're not a--

**TIFFANY JOEKEL:** Because I'm quick?

**JACOBSON:** -- not a bad substitute.

**TIFFANY JOEKEL:** Thank you.

**JACOBSON:** And also, I appreciate all the work that you and Nebraska Medicine do--

**TIFFANY JOEKEL:** Sure.

**JACOBSON:** --in the state. It's, it's a great asset for our state--

**TIFFANY JOEKEL:** Thank you.

**JACOBSON:** --and the region. Questions from the committee? Yes, Senator Hardin.

**HARDIN:** Do you have a sense in terms of how many carriers out there from a percentage basis are asking the genetics question? Half of them, a third of them, how, how common is it?

**TIFFANY JOEKEL:** I don't have a sense. I really don't. What from our perspective is we are telling everyone that gets screened that it's a risk. So from our pers-- from our perspective, we're telling 100% of patients that this is a risk. What that-- as I said, I'm not sure what the actual reality is. On the other side of that, maybe Mr. Bell can share with us, but it, it is certainly the chilling effect that exists.

**HARDIN:** Thanks.

**TIFFANY JOEKEL:** Sure.

**JACOBSON:** Yes, Senator von Gillern.

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**VON GILLERN:** Thank you for your testimony. I'm reading through this quickly. One of the comments says, what you may not know is that 10% of the time pancreatic cancer is hereditary. My understanding is that pancreatic cancer does not show up through genetic testing. Is that correct?

**TIFFANY JOEKEL:** It's associated with the BRCA mutation.

**VON GILLERN:** It is associated with BR-- OK. All right. Thank you.

**TIFFANY JOEKEL:** Mm-hmm, it can be associated.

**VON GILLERN:** And isn't-- is that relatively new information? OK.

**TIFFANY JOEKEL:** Yes.

**VON GILLERN:** I mean, this is all relatively new, I guess--

**TIFFANY JOEKEL:** Right. Right. And Dr. Klute's--

**VON GILLERN:** --when you're as old as I am, but.

**TIFFANY JOEKEL:** --testimony indicates that she recommends genetic testing and cascade testing for family members of anyone sort of touched by pancreatic cancer for this reason exactly, to determine what is now associated, but also to support research in the future, so we can better identify what is associated with pancr-- pancre-- pancreatic cancer.

**VON GILLERN:** Thank you.

**JACOBSON:** Senator Riepe.

**RIEPE:** Thank you, Chairman. I'm following up a little bit on pancreatic cancer. It's my understanding that there it's usually a late diagnosis--

**TIFFANY JOEKEL:** Yes.

**RIEPE:** --and that there are not good treatment modalities, and so my question gets to be then is if you don't have a treatment option, do you really want to know or do you really need to know, or is there any value to know?

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**TIFFANY JOEKEL:** Well, I think that is a question that's up for each of us to determine individually, with our provider, with our families, with, you know, [INAUDIBLE] whatever it is that determines--

**RIEPE:** In the, in the testing though, is pancreatic-- is that a target test or is it just part of a, a litany of tests?

**TIFFANY JOEKEL:** I think it's part of a panel, is my understanding.

**RIEPE:** A panel, [INAUDIBLE].

**TIFFANY JOEKEL:** I mean, that's the risk of having me up here instead of Dr. Klute. But it's my understanding that she runs a panel, is-- and is doing research based upon what mutations show up in that panel, and what then are associated with cases. I think what ha-- what occurs in her practice is that she's recommending more regular screening for folks who either test positive for a BRCA mutation or some other mutation that may be identified in the future.

**RIEPE:** So in the process of that, she might run across a pancreatic issue, as well.

**TIFFANY JOEKEL:** Right. That's the hope, right, is we can find information to discover these illnesses sooner.

**RIEPE:** As long as it's not just for the records, for statistics, [INAUDIBLE] can do something good for the patient.

**TIFFANY JOEKEL:** That's the whole goal. Yeah. That's entirely the goal.

**RIEPE:** OK. Thank you. Thank you for being here. Thank you, Chairman.

**TIFFANY JOEKEL:** Sure. Thank you.

**JACOBSON:** Any other questions? If not, thank you for your testimony. Other proponents. Anyone else want to speak as a proponent? If not, let's turn it over to the opponents. Mr. Bell.

**ROBERT M. BELL:** Good afternoon, again, Chairman Jacobson.

**Speaker 2:** Jim.

**Speaker 1:** Any problem?

**ROBERT M. BELL:** I don't think I'll need them. I hope not-- and members of the Banking, Commerce and Insurance Committee. My name is Robert M.

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Bell, last name is spelled B-e-l-l. I'm an executive director and registered lobbyist for the Nebraska Insurance Federation, a state trade association of Nebraska insurance companies, including the life insurance industry in Nebraska. I'm appearing today in opposition to-- respectful opposition to LB338. And, you know, one thing I want to say is first, kind of thank you to all the testifiers on sharing their stories and their want and desire to buy these insurance products. We have found that our market penetration perhaps is not as good as we would like it to see in life insurance products and disability products and other types of products-- long-term care. And I would say it's difficult for any of us to get long-term care insurance right now. There's not a lot of carriers that are riding that because of some miscalculations that happened a couple of decades ago related to underwriting, and a lot of insolvencies related to that, as well, which is, I think, a telling tale on what happens when you don't underwrite appropriately. I'm going to talk a little bit about adverse selection, because that-- this is what this bill does. This bill-- adverse selection is this idea in insurance that one party knows something that the other party doesn't. Right. And so in this case, if, if you would happen to have genetic information and you talk to your doctor about that genetic information because you have one of these genetic predispositions to a certain disease or a certain type of cancer and we don't know that, we cannot properly assess premium and the risk. And, you know, the-- for the rest of the population that's in that risk pool that is, that is buying those like products, they have to pick up, pick up that premium then. So if, you know, you, you have one of these, these situations where you learn about this and we don't know about it, you could go buy more insurance perhaps, than, than you would normally. Right? And that's our greatest concern, is this idea of adverse selection. I, I would point out the, the GINA Law on, on the federal level, passed in '08, on health insurance. Of course, the Affordable Care Act, passed in 20,000-- or 2010, which eliminated all underwriting for health insurance. I would point out also, in this legislation, it talks about the cancellation of life insurance. That is not how life insurance works. Typically, you buy the life insurance upfront for a price or agreed upon premium. If something happens in your life after that date, we can't go back and change the premium or cancel your policy because suddenly, you develop cancer or something along those lines. So I think those, those folks that are doing these genetic tests and telling people to go buy insurance or explore that and talk to their insurance producer are, are providing the, the correct advice to those folks. So in

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conclusion, we are opposed to LB338. If there's questions, I'm happy to answer them.

**JACOBSON:** Well, as promised, I said I would ask this question. And I'm trying to figure out, with the underwriting and some of the testimony we've heard, with regard to you get genetically tested, you take steps to pres-- prevent the disease from moving forward. Say you get the BRCA test, you do a mastectomy, and you're now on the path to likely having a normal life expectancy.

**ROBERT M. BELL:** Right.

**JACOBSON:** Is the insurance industry looking at that, in terms of underwriting? Are they looking at that research to be able to keep those premiums more in line?

**ROBERT M. BELL:** So I hate to say definitively, but my, my, my-- I believe the answer is yes, because we underwrite risk. Right? So if you take proactive steps to mitigate that risk and can prove it to the insurance company, that changes the underwriting on it. When I first bought insurance-- life insurance when I was in my younger 20s, I was a smoker. I quit smoking. And 5, 10 years later, I went back and I got re-underwritten, and my premiums went down significantly. Those things do happen. I, I would say, too, in reading this legislation, it looks like a ban on an insurance company knowing that genetic information. So keep in mind, too, that genetic information can work both ways. So, so I have a family history of whatever disease and there's a genetic predisposition for that disease. I think the gentleman talked about ALS as an example. And if the insurance company knows that and they say, OK, well, you know, we can see that there's a family history in your, in your medical records that you have to share with us if you want that particular policy. Now, on some other policies over here, you don't need to share that information. Go buy one of those. I mean, there, there are other products available. But the insurance company could look back at you and say, well, if-- we know that's a genetic-- there's a genetic clue to that. And if you can prove to us that you don't have that genetic clue, then your premiums would go down. I would say, as well, I mean, some of this, there may be a strict like we, we will not sell you insurance. It could be also that you're going to pay more in premium than other people that don't have those genetic markers. And to the individual from North Carolina also, I think, I think it's well known that sickle cell anemia is related to a, a protected class of, of individuals, so-- I, I don't know a lot about that North Carolina law. I'll, I'll look it up. So.

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**JACOBSON:** Thank you. Senator Dungan.

**DUNGAN:** Thank you, Chair Jacobson. Thank you, Mr. Bell, for being here. To the best of your knowledge, do any insurance companies that you represent or work with require genetic testing?

**ROBERT M. BELL:** Not that I'm aware of. So--

**DUNGAN:** OK.

**ROBERT M. BELL:** They don't, they don't come in and say you have to-- they'll say you have to have a blood test. I want to see what your cholesterol is.

**DUNGAN:** Right.

**ROBERT M. BELL:** They want to know your blood pressure. They want to know your family history, which in-- on its own, kind of waives the genetic test. But I'm not aware that specifically looking at your DNA and, and seeing if you have those markers, I'm, I'm not aware of a company that, that asks that, except maybe in a case where you do have a family history of something that they know there might be markers out there, and they may ask for that to see if perhaps you don't have that.

**DUNGAN:** No, and I think what I'm getting at-- Senator Jacobson-- or Chair Jacobson, sorry-- has already alluded to this, I think, a little bit. But I guess the, the paradox that I feel like we're running into here is you're currently underwriting people who have these genes.

**ROBERT M. BELL:** Sure.

**DUNGAN:** You just don't know it, and they just don't know it. Is that right?

**ROBERT M. BELL:** Right.

**DUNGAN:** And so when they take steps to understand that they have that gene, that then, it seems like could have the potential of a negative impact on them being accepted into life insurance. Is that fair to say?

**ROBERT M. BELL:** Right. And it's going to change, change their financial behavior as well. Right. We believe-- I mean, it, it should. If, if I knew I had a whatever percentage of, of having some awful

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cancer or other disease by the time I'm 50, that's certainly going to change my approach to my financial protection for my family.

**DUNGAN:** Yeah. And I think it just-- the part that I think is, is-- that I'm getting hung up on is the knowledge of the gene leads generally, it sounds like, to behavior that reduces risk, either to mitigate what they were at originally or even potentially going lower, as was indicated by one of the testifiers, than maybe what we have currently, for that same cancer.

**ROBERT M. BELL:** Right.

**DUNGAN:** So it, it seems to me that simply having knowledge of somebody's genetic makeup doesn't lead to any higher risk than they had before. And so you're making-- it sounds like an adverse decision is being made based on literally nothing changing, except for knowledge. Now certainly, like smoking, to your point, I mean, that's a decision one can make. Eating red meat too much, that-- drinking too much, those are all decisions somebody can make. The only decision being made in this circumstance is to learn more about their genetic makeup, which doesn't in any way, shape or form change what's actually going to happen to them. If you have an 80% chance-- risk of cancer, that means you have a 20% chance to not get cancer. We don't know. And so it seems to me that-- do, do you agree? I'm trying to ask this in question form. Do you agree that people are being penalized simply for gaining information rather than-- because if they came in and they have--

**ROBERT M. BELL:** I'm, I'm-- I think I'm looking at the other side of the coin, right? So in that situation, there's a whole population that we're all sharing risk together. I think we talked about some yesterday, about sharing risk as a, as a pool, as a group. We're basically moving that risk off to, to other people. And if that individual goes and buys more insurance or different types of insurance than they otherwise would, based off if they didn't know they had that genetic diff-- you know, issue going on, other people in that pool are going to pay more in premium. And our always concern is the people at the margins, you know, the people that are like, I don't know if I can afford life insurance today, right, or-- for, for whatever reason, because they have auto insurance to pay or health insurance to pay or rent to pay or whatever the situations. And we know that the more expensive insurance costs, the rate of people buying insurance goes down, even in mandated coverage like, say, auto insurance. The more expensive it is, the less people buy. So.

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**DUNGAN:** Do you know when insurance started asking about genetic testing? It sounds like, from one of the testifiers, this came around back in like 2003-ish, 2006-ish. Do you know when insurance started making them?

**ROBERT M. BELL:** I don't, I don't know that answer. Maybe-- we'll look for that and, and try to share that with you.

**DUNGAN:** Because part of my curiosity regarding that is that for time immemorial, as long as you've had life insurance, this was never a question that was asked. And that risk was assumed by the entire population of people buying life insurance. So the flip side of the coin that you just said is simply by virtue of technological advancement and knowledge being available, insurance is looking to reduce their risk by virtue of people trying to seek this information. So it seems like an interplay of those 2 things that I just am hung up on that paradox. The question-- the last question I'll ask for you, generally speaking, when you're denied a life insurance policy or one of these long-term care policies, are you provided a reason?

**ROBERT M. BELL:** Yeah. I, I believe so.

**DUNGAN:** OK. Is it-- I just don't know--

**ROBERT M. BELL:** I-- if people behind me who might be able to answer that better than I did. Usually-- I don't know if the-- how many are denials that are out there. Maybe in long-term care insurance. There are not a lot of long-term care writers left. Mutual of Omaha happens to be one of them, but there's not a lot of them left any-- anymore, at least actively selling new products.

**DUNGAN:** OK.

**ROBERT M. BELL:** But in life insurance, I, I don't know that the answer is going to be no, we're not going to write you, it's just here's the premium rate.

**DUNGAN:** OK.

**ROBERT M. BELL:** And last time I bought insurance-- you know, you, you go, you do the test, you do all of, all of the things that you're required to do. And then you get a quote for 20 different companies.

**DUNGAN:** Mm-hmm.

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**ROBERT M. BELL:** Right? So, you know, and you usually choose the one that works best for you.

**DUNGAN:** That sounds correct. All right. Thank you, sir. Appreciate it.

**ROBERT M. BELL:** You're welcome.

**JACOBSON:** Other questions? Senator Hardin.

**HARDIN:** This is a polemic on the old ways are best. Sorry. Actuarial science is what happened, right? That's actuaries looking back and seeing across all of the data we have, this is what happens in these conditions, right.

**ROBERT M. BELL:** Sure.

**HARDIN:** And they're measuring reactively, this is what happened. The genetic model is predictive in nature, so it does have an inherent attraction. And there's an attractiveness to saying, OK, well then let's change our lives so that we have different outcomes. And so I can certainly see benefits with both. I want to pair that with life ain't fair. And I had a great grandfather who was a short, chubby Russian chap who spoke German. And he smoked his entire life and lived to be 103. Dad was 6 foot 4, didn't smoke, didn't drink, was the epitome of what we would call good health, and died at 39 of natural causes. Life ain't fair. The genetic models probably would have gotten it wrong in both of those cases. And so that's where I say the old ways are best. But that said, I'm curious and asked the question earlier, how many carriers are currently asking the genetics question? Because I write life insurance, including 2 this morning. I've never seen it.

**ROBERT M. BELL:** I think it's part of, of the medical record, if it-- I, I think every company is a little bit different.

**HARDIN:** Yeah.

**ROBERT M. BELL:** I will certainly ask to see who is asking for genetic information. My suspicion is that if it shows up in your medical record for some reason, then we may ask further questions about it, or in a long-term care situation. And that's a little bit different, right? I, I don't know how many people are op-- looking for long-term care in the open market right now. I think much of that--

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**HARDIN:** Do you-- have you heard, is, is the MIB gobbling this up and including it? Because the MIB, Medical Information Bureau, usually-- not Men in Black-- the MIB normally--

**ROBERT M. BELL:** I don't know. So.

**HARDIN:** --just, just looks kind of for the things that hit a threshold of cost, if you will.

**ROBERT M. BELL:** Yeah.

**HARDIN:** And so anyway, I was just curious if the MIB is, is screening for genetic testing.

**ROBERT M. BELL:** That I don't know.

**HARDIN:** OK.

**ROBERT M. BELL:** So.

**HARDIN:** All right. Thank you.

**ROBERT M. BELL:** You're welcome.

**JACOBSON:** Other questions? Yes, Senator Bostar. Gosh, you've been quiet today.

**BOSTAR:** Thank you, Chair. Well, I'll try to change that.

**JACOBSON:** I, I was afraid of that.

**ROBERT M. BELL:** You have a very nice jacket on, Senator Buster.

**BOSTAR:** Why don't life insurance policy providers require genetic testing?

**ROBERT M. BELL:** You know, I don't know the answer to that question.

**BOSTAR:** Are they allowed to?

**ROBERT M. BELL:** I don't-- I'm not aware that there's a prohibition. You may-- very, very well, there may be products out there by some insurance companies that do. So.

**BOSTAR:** Because it's interesting that they don't, I mean, in general. I mean, perhaps, right, there is some out there.

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**ROBERT M. BELL:** There could be some out there. So.

**BOSTAR:** But, you know, we've sort of talked about these issues quite a bit. And, and, and I've worked around them with some of the other bills that I've brought.

**ROBERT M. BELL:** Mm-hmm.

**BOSTAR:** And, and so I, I'm deeply interested in understanding why, why they wouldn't, considering the weight that they're placing on them. Right. If someone had-- if someone on their own goes and gets a genetic panel done--

**ROBERT M. BELL:** Mm-hmm.

**BOSTAR:** --right, that can be the difference between low-premium life insurance policy and being denied for everything. But at the same time, it certainly doesn't seem like these, these payers are, are, are requiring it. So it's, it's, it's difficult for me to understand why. So that's one, if you could try to find out.

**ROBERT M. BELL:** We will, we will try to find out.

**BOSTAR:** How is Florida doing?

**ROBERT M. BELL:** Great question. I will-- the short answer is-- I say this a lot today. I don't know. I know that pre-Florida-- so the-- Florida went through its process of legislation quite-- for quite some time. Right. And I'm going to leave jokes aside, related to most of the people in Florida already probably have life insurance by the time they move to Florida, because they're, they're elderly and whatnot. But I know the NEIC, so the National Association of Insurance Commissioners had, had done some, some work on, on this, related to the solvency risk. If genetic information wasn't going to be-- life insurers are going to be prohibited from finding that information out, if the consumer knew it. And real briefly, they believe that, that there would be some solvency risk into the future. So.

**BOSTAR:** Because, I mean, I don't know how long this is--

**ROBERT M. BELL:** But that was so-- that was in-- that report I read was in 2019. And the law passed in 2020, became effective in 2021.

**BOSTAR:** Have you seen any go out of business or--

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**ROBERT M. BELL:** Probably, probably not. I mean, life insurance is a long-term play. But I will, I will seek more information on that. So.

**BOSTAR:** So let me ask you this. So if someone--

**ROBERT M. BELL:** By the way, there may be a business opportunity in offering life insurance that specifically does genetic testing if there is--

**BOSTAR:** It seems interesting.

**ROBERT M. BELL:** Yeah.

**BOSTAR:** If, if one of the individuals here who has, you know, gone through genetic testing and identified a, a, a risk factor, if they were to move to Florida, could they go out and get a life insurance policy for a, a premium rate that would be unimpeded by their genetic testing?

**ROBERT M. BELL:** Perhaps.

**BOSTAR:** And then could they immediately move back--

**ROBERT M. BELL:** Sure.

**BOSTAR:** --with that policy in place?

**ROBERT M. BELL:** You can move in the United States, yes. You can buy a policy in Florida and-- if, if it, it was a contract signed in the state of Florida.

**BOSTAR:** So they just have to be in Florida to sign the contract.

**ROBERT M. BELL:** Yeah, [INAUDIBLE].

**BOSTAR:** [INAUDIBLE].

**ROBERT M. BELL:** I don't know, I don't know about the residency requirements related to that.

**BOSTAR:** Well, actually, I used to live in Florida, so I know what it takes to be classified as a resident.

**ROBERT M. BELL:** Well, and-- what I don't know is on like, can you just go to Florida, go buy the insurance, and fly back.

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**BOSTAR:** Yeah.

**ROBERT M. BELL:** That's probably another business opportunity. I think that--

**BOSTAR:** This is a better business opportunity.

**ROBERT M. BELL:** All the worst ideas come from Florida, sometimes.

**BOSTAR:** So I'm just trying to, you know, if, if we could look into that, too, what it would take to-- what it, what it takes to be eligible to execute a contract policy in a given state.

**ROBERT M. BELL:** Right. And I think you might actually have to be a resident before you enter into a contract down there.

**BOSTAR:** You don't have to own property in Florida to be a resident, and you don't actually have to have a place to live in Florida to be a resident. Again, I've lived in Florida.

**ROBERT M. BELL:** Sure.

**BOSTAR:** So I-- I'm just interested in this.

**ROBERT M. BELL:** Yeah. That is, that is a good point. And I'm not as familiar with the Florida law as, perhaps--

**BOSTAR:** Clearly, and, and normally, but--

**ROBERT M. BELL:** Sure.

**BOSTAR:** I, I-- so that would be fascinating to look in.

**ROBERT M. BELL:** Right.

**BOSTAR:** I think just to, to go off a little bit of Senator Dungan's questions, do you imagine that if, if everyone got genetic screening, do you think average life expectancy would go up or down?

**ROBERT M. BELL:** Oh. I don't know.

**BOSTAR:** I don't think it's hard to guess.

**ROBERT M. BELL:** You tell me.

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**BOSTAR:** Well, I mean, here we have an example of a bunch of people who went out and got screened and took that information to effectively lower their risks of death, for, for one cause. But overall, that gets weighted into all cause. And so if everyone did that, right, if everyone identified outstanding genetic risks to their life, that would empower them to make decisions or not, but some certainly would, to lower that risk and then therefore, extend their probabilistic life.

**ROBERT M. BELL:** I see the logic in that. I, I do. And, and, and I see the fact, particularly if you can take proactive steps to do something about that genetic predisposition.

**BOSTAR:** Which in some cases, you can.

**ROBERT M. BELL:** You can. And I believe, to answer another question I had-- I don't remember who asked it, but I think you could-- maybe it was Chairman Jacobson. If you do that, that should affect the underwriting process.

**BOSTAR:** Just stay with me for a second. I understand what you're saying.

**ROBERT M. BELL:** What I don't know is if-- like the gentleman that had the did the, the gene marker for ALS.

**BOSTAR:** Sure.

**ROBERT M. BELL:** Right. He's a very strong individual, all of that. I, I, I do wonder if-- how it would affect some people if they learned they had a devastating medical diagnosis that hasn't hit yet.

**BOSTAR:** Let, let's just imagine then-- well, let's make incremental progress. If everyone got screened and the panel only included things that you could-- there was something you could do, whether that's lifestyle changes or surgical interventions or more screening or whatever it is--

**ROBERT M. BELL:** Sure.

**BOSTAR:** --right, do you think average life expectancy would go up or down?

**ROBERT M. BELL:** I, I would expect it to go up.

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**BOSTAR:** I would, too. So if by creating-- by having an incentive structure that disincentivizes people to access this information, one we're holding, we're holding lifespan down, maybe in a small way, but admittedly-- but, but down.

**ROBERT M. BELL:** Sure.

**BOSTAR:** And inherently bringing more-- so if, if life insurance pays out-- if you issue life insurance, you do better as the creator of that policy, the longer people live. You do worse, the shorter people live. So by-- you see where I'm going?

**ROBERT M. BELL:** Yeah. Yeah. You're saying we can make more money if people live longer.

**BOSTAR:** We're, we're, we're, we're industry-wide, create-- we're suppressing returns for life insurance policies in a roundabout way, by creating an incentive structure that keeps people from getting this information.

**ROBERT M. BELL:** I mean, presuming that people again, actively--

**BOSTAR:** So we-- so should we, in the interest of the life insurers, pursue this?

**ROBERT M. BELL:** Well, I think the answer is no--

**BOSTAR:** I'm surprised.

**ROBERT M. BELL:** --on, on that, just in brief.

**BOSTAR:** Yeah.

**ROBERT M. BELL:** However-- yeah. So in those cases, so if, if you have a genetic predisposition to colon cancer as an example, that was an interesting one I was thinking through in my head, because that's something that you have to proactively do throughout the rest of your life, like--

**BOSTAR:** Yeah.

**ROBERT M. BELL:** And there's probably not a contract out there in life insurance that says, by the way, you have to get a colonoscopy every year for the rest of your life or this policy doesn't, you know, doesn't pay if, if you would die for, for these circumstances. So

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there-- there's some, there's some interesting-- there's some interesting tidbits in there. Right. For individuals that can have surgery that can lower their risk of cancer, certainly there-- we, we would hope they would do that. Also-- the alternative, also, of course, is that you buy the insurance before you get the genetic test. Right. And I, I think that may be the best way to go. I mean, really, what we're after is to have the knowledge that, that you do. So if you could think of-- OK, so there's some people that don't know their family history, right? Because perhaps they're an orphan, or something along those lines, or they were adopted. Orphan is probably not the term I should use. They were adopted. They don't know who their biological parents are. Right. There are, there are a variety of, of situations. I think what we're, what we're looking to avoid is that situation where somebody has, you know, has knowledge of something that could-- they would then make different-- very, very different financial decisions that would adversely affect the whole risk pool.

**BOSTAR:** I mean, obviously, that, that is true for health insurance, as well.

**ROBERT M. BELL:** Oh, yeah. Health insurance I mean, that's gone, man. I mean, that's-- I mean, we, we can only underwrite on age. We don't even underwrite it. You just rate on age and smoking.

**BOSTAR:** Right.

**ROBERT M. BELL:** Right. You know, if you have-- one you know and it's, it's-- it is what it is. So.

**BOSTAR:** One, one last question.

**JACOBSON:** [INAUDIBLE]--oh, you got a question left?

**BOSTAR:** I do have a question [INAUDIBLE].

**ROBERT M. BELL:** It's because I complimented him on his blazer today. So.

**BOSTAR:** You, you were concerned I was being too quiet. You talked about sickle cell, North Carolina, and that, related less about genetics and more about protected class issues.

**ROBERT M. BELL:** Right.

**BOSTAR:** And--

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**ROBERT M. BELL:** My belief.

**BOSTAR:** Sure. Isn't sex a protected class?

**ROBERT M. BELL:** Sure.

**BOSTAR:** So if you're talking about sort of breast cancer, things that are-- things that more likely than not--

**ROBERT M. BELL:** To be clear, we can discriminate in insurance based on sex. So.

**BOSTAR:** Sure.

**ROBERT M. BELL:** And we do.

**BOSTAR:** But-- you're right. But they talked about one action taken in a state.

**ROBERT M. BELL:** Yes.

**BOSTAR:** And I'm saying if the, if the argument there is it's an effort to recognize protected class status-- I'm not, not talking about whether or not you're allowed to discriminate. I know you're allowed to discriminate.

**ROBERT M. BELL:** Sure.

**BOSTAR:** But it seems like in North Carolina, the decision was maybe we shouldn't discriminate in a way that has a, a, a racial impact. Why would it be inappropriate for us to say, maybe we shouldn't discriminate in a way that has an impact on sex?

**ROBERT M. BELL:** Well, I will tell you, if, if you allow discrimination related to sex, this committee's going to pay a heck of a lot more insurance premiums, whether or not it's auto or life, because men live shorter lives. They're worse drivers. You know, we don't-- I'm sorry. It's true. We, we can't any longer in health insurance, right. So you get into those old Affordable Care Act arguments of men having to have pregnancy coverage. Right. You know, we all-- we just all share in that risk, at that point. So interesting philo-- philosophical discussion, Senator.

**BOSTAR:** Thank you very much.

**ROBERT M. BELL:** You're welcome.

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**JACOBSON:** Anything else? In the spirit of bill introduction, would that be 1 question or 5?

**ROBERT M. BELL:** It's clearly 21.

**JACOBSON:** Oh, we got Senator Hallstrom.

**HALLSTROM:** Since Senator Bostar opened this can of worms and I, I don't want to prolong the hearing or have you answer it, but when I read the bill, it says that we're going to maximi-- and the access to this information, Senator Bostar questioned whether or not that truly extends their lifespan. And thus, if they live longer, does it have a positive impact potentially on life insurance issues? But the bill says maximize an individual's health and lifespan and reducing healthcare costs. And I think we can argue till the cows come home as to whether or not in the long-term, expanding or maximizing our life span truly does reduce healthcare cost. But, that's not a question.

**JACOBSON:** Oh, no.

**ROBERT M. BELL:** There are, there are phrases I don't want to say publicly.

**JACOBSON:** Any, any other, any other questions from the committee? Senator Bostar.

**BOSTAR:** Thank you. Thank you, Chairman. Mr. Bell, obviously-- well, is there a difference between life insurance and health insurance?

**ROBERT M. BELL:** Yes.

**BOSTAR:** Thank you.

**ROBERT M. BELL:** You're welcome.

**JACOBSON:** Any other questions? If not, thank you so much for your testimony.

**ROBERT M. BELL:** I appreciate not having to answer any more questions.

**JACOBSON:** I would ask if there are any other-- to speak in opposition to the bill. Good evening.

**ALEX YOUNG:** Hey. Good evening. Chairman Jacobson, members of the Committee on Banking and Commerce, my name is Alex Young. That's spell-- spelled A-l-e-x Y-o-u-n-g. And I'm the legislative director of

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the American Council of Life Insurers. And today I'm here to testify in opposition to LB338. The American Council of Life Insurers is comprised of 205 member companies representing 93% of industry assets across the United States. Our members are dedicated to protecting consumers' financial well-being through the various products they offer, including life insurance, long-term care insurance, and disability income insurance. Now, with that introduction out of the way, I'd like to outline our reasonable concerns associated with LB338, which would specify, in the absence of a clinical diagnosis of a condition, that life insurers, disability insurers, and long-term care insurers shall not deny coverage or establish differentials in premium rates based on genetic information. While medical tests do on occasion realize a diagnosis which is important to assessing risk, the vast majority of medical tests are ordered by an applicant's doctor and are pre-- pre-- predictive, not diagnostic, in that it assesses an individual's likelihood of developing a condition. Life insurers do not require or request that applicants take their genetic tests as part of the application process. I also would like to highlight that life insurers do not underwrite using medical information provided by an applicant unless it is provided-- unless the applicant's written consent is included. It is important to note that life insurance will not cancel an insured's coverage based on genetic information or the results of a genetic test. To that last point, unlike health insurance, life insurers only get one chance to evaluate and assess an applicant's life expectancy. Once a life insurance policy is issued, a life insurer cannot adjust rates if an individual policyholder's health declines. It's for that reason that life insurers need to price the policy based on the most accurate assessment of an applicant's life expectancy. It is this exchange of information that broadly has kept life insurance products affordable and available to policyholders for over 150 years. This bill, however, would change that, negatively impacting the underwriting process for insurers. So ClearView Research conducted a national survey in August 2023 to explore Americans' attitudes and beliefs about genetic tests ordered by medical doctors. The survey aimed, the survey aimed to identify barriers to participation in clinical research and understand the levels and types of resistance Americans might have to participating in physician-ordered genetic research. As that study highlights, 90% reported no concerns about taking doctor-recommended tests, 82% stated they would take a genetic test if family history suggested the need, but interestingly, less than 1% cited unprompted reluctance to take doctor-recommend-- recommended tests due to life insurance concerns. Although introduced with the best intentions, the outcome of enacting

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LB338 could affect the affordability and availability of life insurance to Nebraska residents. I want to thank you, again, Chairman and members of the committee for letting me come and speak before you today. Thank you.

**JACOBSON:** Thank you for your testimony. Questions from the committee? All right. Seeing none, thank you.

**ALEX YOUNG:** Thank you.

**JACOBSON:** Further opponents? How are you?

**MATT HOLMAN:** Good. How are you? Good afternoon, Chairman Jacobson and members of the Banking Committee. My name is Matt Holman. That's M-a-t-t H-o-l-m-a-n. I'm assistant general counsel for Ameritas Life Insurance Corp., here in Lincoln, Nebraska, here to testify in opposition of LB338. I won't try to reiterate what Robert said and what the ACLI said about adverse selection. We agree with all of those points. I will skip ahead a little bit, though, and I'll take just a few minutes to discuss how Ameritas uses genetic information in underwriting today. Hopefully, this will address maybe some of the questions from before. But Ameritas does not require any applicant to undergo genetic testing, and we do not ask about prior genetic testing on our insurance applications. If the consumer participates in a genetic study or buys a direct-to-consumer genetic test, Ameritas will not know about it and therefore, cannot underwrite this potentially relevant medical information unless or until the consumer takes that information to their doctor and it's documented in the applicant's medical records. So in this way, there's already a potential for adverse selection that we cannot eliminate. As we've discussed, it's an imbalance of knowledge of the medical risk between the consumer and the insurer, which prevents accurate underwriting and product pricing. This is a problem we should not make worse. Once the genetic information is brought into the consumer's medical records, it's vital that life insurers be able to use that information to accurately underwrite. So how does Ameritas use genetic information? It finds it in the medical record. Genetic information, this is-- I think this is important. Genetic information is just one piece of the much larger complex medical puzzle of the consumer applying for insurance. It can have positive impacts by reassuring someone they are low or minimal risk for a future medical condition. On the other hand, genetic testing results can uncover future risk for specific disease conditions. Genetic test results can provide guidance, as you've heard, to the consumer's medical provider to mitigate future risk

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through screening tests or medical treatments. All of that information, including the genetic, genetic results and predispositions, but also the additional screening or preventative actions that are taken in response, are considered in the underwriting process. The ability to amer-- the ability for Ameritas to have and utilize this shared knowledge of a consumer's genetic test results found in those records allow us to assess and-- excuse me-- assess the future mortality and morbidity risk through sound underwriting and actuarial principles. And if, if the issue of adverse selection is expanded by further prohibiting our use of genetic information, the cost of insurance coverage will rise for everyone. I won't hit these points again because they've already been covered, but I'll just close and say again, Ameritas urges you to not advance LB338 out of committee. And so, respectfully, thankful-- thank you, and I'll try to answer any questions.

**JACOBSON:** Thank you. Questions from the committee? Senator Dungan.

**DUNGAN:** Thank you for being here today. I think Ameritas is headquartered in my district, in LD 26, so welcome.

**MATT HOLMAN:** I also live in your district.

**DUNGAN:** Well, this is-- I hope I haven't upset you too much. No-- question for you, generally. So is there-- we've talked a little bit about denial of life insurance versus just increased premiums. In the event there is a denial of an application for life insurance, is a reason given?

**MATT HOLMAN:** So as you asked that question before, I thought, I should really know the answer. I've been at Ameritas 5 years and I actually don't know. I don't believe we are required to give a response to that. In practice, how that operates, I-- I'm not sure.

**DUNGAN:** OK. You obviously heard the exchange between a couple of us, Senator Bostar and Mr. Bell. Do you have any-- I'm not trying to prolong this hearing, but do you have any thoughts with regards to the comment that I think is true with-- pertaining to the fact that if everybody were to get these tests and then mitigate, as we've heard most people do, do you agree that that would generally benefit Ameritas in the long run from a, from a profit margin, from a company standpoint?

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**MATT HOLMAN:** So I think that's a really hard question, first of all. The, the key about insurance, remember, is we're looking at large numbers, right? It's the law of large numbers and we're looking at the overall risk pool. So if we assume, you know, X so many people were going to buy life insurance anyway, and a portion of those may be predisposed to have a particular condition, that's, you know, attempted, at least, to be priced for appropriately. Now, if everybody has access to this information and they take preventative measures to hopefully increase their life expectancy, that will increase, but the question is how much. Right. And will that offset the percentage of those people that then decide to go get life insurance that would not have otherwise, which is a little bit what Robert was trying to talk about earlier. So.

**DUNGAN:** OK. And that's-- I think that's fair and I totally understand that. I guess the last question I have is one of the things we've heard here today from some of the experts in the field is that simply being positive for a particular gene does not necessarily indicate that it will ultimately lead to a diagnosis that would be potentially life-threatening or, or lowering somebody's lifespan. Is that different than some of the other factors that you account for, such as smoking or, or things like that?

**MATT HOLMAN:** So to that point, I think there's been sort of an, an-- almost an assumption in some of the discussion today that if you have a genetic marker for something, we're not going to give you life insurance. I think that's one piece that goes into the overall risk assessment of everything that we look at when we underwrite and price.

**DUNGAN:** OK. And what's the-- can you give me like a general ballpark of what the, the premiums would be for life insurance from Ameritas?

**MATT HOLMAN:** Unfortunately, that's-- we offer a number of different products at a number of different rate levels. I'm not sure I could give you a ballpark on what that might be. I can, I can get it and come back to you.

**DUNGAN:** Low, low end to high end, are we talking like 50 bucks compared to \$900 or what are we, are we-- what's the, what's the range we're talking about?

**MATT HOLMAN:** I, I really--

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**DUNGAN:** Is it too, too broad of a question, I guess, to narrow that down?

**MATT HOLMAN:** It's, it's-- Yeah, that's too-- and remember, the face amount varies. I mean it would be as a factor of, of face amount of the death benefit. I just-- I wouldn't feel comfortable giving you an answer here, but I can certainly follow up.

**DUNGAN:** No, that's totally-- I don't want to, I don't want to box you in. So I, I appreciate that. Thank you for being here.

**HALLSTROM:** Any further questions of the committee? Seeing none, thank you.

**MATT HOLMAN:** Thank you.

**HALLSTROM:** Any other opponents? Any neutral testimony? Seeing none, for the record, there were 16 proponent letters, 2 letters, none neutral, and none in ADA testimony regarding the bill. With that, Senator Wordekemper to close, please.

**WORDEKEMPER:** Well, thank you, Vice Chair Hallstrom. I appreciate the, the questions and, and listening to the, to the testimony. As you heard today, LB338 fills an important gap in genetic privacy protection by extending safeguards to life, disability, and long-term care insurance, while federal law, GINA, already covers the health insurance and employment aspect of it. So what we want to do is fill that gap. And, Senator Hallstrom, on your question, I did not find anything at the federal level at this time, but we're going to keep looking and I'll, I'll get that, that information. I, I don't want to assume anything, but as we talked, this is a lot of new technology. And I don't know, I think the healthcare thing was the most important part. And I don't know if anybody's looking at this yet other than a few states--

**HALLSTROM:** Thank you.

**WORDEKEMPER:** --but I'll follow up on that. And ultimately, I guess, parents of teenagers and young adults who would otherwise be unlikely to consider purchasing life or long-term care insurance products, should not have to include those decisions and the associated expenditures when they are making medical decisions regarding genetic testing. You're thinking of, of your kids as kids. And, and you think, well, you want them to live a healthy life and be proactive with their healthcare. You, you certainly don't want to discourage them by

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potentially having to go out and get a life insurance policy. So a, a couple other comments. I guess if you think of the insurance agency and their business model, whether they're in life insurance, long-term care, or disability, the endgame is they're going to pay. So if you look at this-- and Senator Bostar, you, you elaborated on this and I had it in my notes that, you know, if we can have people be proactive in their healthcare and they live longer, that, that should be a, a benefit. So I guess I'll leave it at that. So with that thought, I'm surprised they opposed it.

**HALLSTROM:** Any questions of the committee?

**WORDEKEMPER:** Sorry. I have one other thing. There is a report for Florida. 2022, they did the NAIC report when they passed this in 2020, and they didn't see any negative impacts of it. I have some information on that. I will send it out to the committee. I have a report.

**HALLSTROM:** I paused for questions because I didn't think you were done yet. Any other questions? Seeing none, thank you, Senator.

**WORDEKEMPER:** Sometimes my mind's a little slow.

**HALLSTROM:** I was hoping to realign the order of bills, but Senator Jacobson is back, so we'll move next to LB326, Senator Jacobson.

**JACOBSON:** Hey, I'm going to pick up the pace here.

**BOSTAR:** You're really dragging this out, you know.

**JACOBSON:** Yeah. Yeah, listen to that. Good evening, Vice Chairman Hallstrom, members of the committee. My name is Mike Jacobson, M-i-k-e J-a-c-o-b-s-o-n. I represent District 42. LB326 amends and outright repeals a number of insurance-related statutes. First, it updates the Unfair Trade-- Insurance Trade Practices Act to include jurisdiction over lead generators who promulgate advertisements, emails, phone calls, or other forms of communication to obtain information to use in the sale of insurance. The bill also amends the prop, the prop-- Nebraska Property and Casualty Insurance Guaranty Association Act to conform to changes made to the National Association of Insurance Commissioners, NAIC model. The changes amend the definition of covered claim to insure guaranty fund coverage when a policy is transferred from one insurer to another, and clarifies that cybersecurity is covered under the fraud and- under the fund and determ-- and defines the coverage. LB326 also updates the Mutual Insurance Holding Company

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Act to clarify that companies may either-- may use either Generally Accepted Accounting Principles or Statutory Accounting Principles. Finally, the bill repeals the Health Insurance Access Act and the Health Care Purchasing Pool Act, which are no longer applicable or necessary. With that very brief overview, I'm directing your questions to proponents of the bill, who includes Director Dunning, who is here to testify, as well.

**HALLSTROM:** Thank you, Senator Jacobson. Any questions by the committee? Seeing none, I assume you'll stay to close?

**JACOBSON:** I, I believe I will, yes.

**HALLSTROM:** Next-- first proponent, LB326. Welcome, Director Dunning.

**ERIC DUNNING:** Good afternoon. Mr. Chairman and members of the Banking, Commerce and Insurance Committee. My name is Eric Dunning. For the record, that's spelled E-r-i-c D-u-n-n-i-n-g. I'm the Director of Insurance, and I'm here to testify in support of LB326, which was so kindly introduced by Senator Jacobson. The Department of Insurance enforces the laws that regulate the insurance industry in the state of Nebraska. Your Legislature has given the department a number of areas of focus, including licensure of insurance agents and brokers, market regulation of both insurance producers and insurers for their customers and policyholders in Nebraska, and the financial regulation of insurers domiciled in the state of Nebraska for their customers in Nebraska and around the world. Again, I'd like to thank Chairman Jacobson for introducing this bill on our behalf. The bill includes a number of changes requested by the Department in alignment with our goal of maintaining Nebraska's status as a desirable place to be domiciled and to do business. LB326 includes changes to the Nebraska UnFair Insured-- Insurance Trade Practices Act, as well as the Nebraska Property and Casualty Liability Insurance Guaranty Association Act. Those, those changes are based on changes to the corresponding National Association of Insurance Commissioners model laws. The NAIC is an organization of insurance directors, commissioners, and superintendents. It's been in existence since 1871. And the primary purpose of that group is to have states and territories create model laws and regulations to create a uniform regulatory environment for the business of insurance, since insurance is primarily and uniquely regulated by the states. That uniformity hopefully leads to reduced compliance costs across the industry and allows for a reduction in the costs of that, that's ultimately paid by the policyholders. Wow. OK. As part of that process, the NAIC meets

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not only with the regulators, but, but the members of the insurance industry and consumers. And those policyholders come-- and those folks come together to discuss and debate the formation of those models. The Guaranty Fund Act is a product of that collaborative NAIC process, and those updates were made in March of 2024. Moving on to another subject, in March of 2024, the NAIC adopted the Model Unfair Trade Practices Act to take jurisdiction over so-called lead generators. Lead generator is a person or entity who prom-- promulgates ads, emails, et cetera, to obtain names and other information to facilitate the sale of insurance, typically health insurance. The-- there's a nation-- nationwide issue with the lead generators misleading potential policyholders or enrolling them into plans without their knowledges. These updates are just going to provide the department the ability to regulate those folks if they're misrepresenting insurance offerings, often through phone calls or Internet solicitations. And it-- with that, Mr. Chairman, I would be delighted to take any questions.

**HALLSTROM:** Thank you.

**ERIC DUNNING:** Boy, that time has gone fast.

**HALLSTROM:** Senator Bostar.

**BOSTAR:** Director Dunning, is there anything you'd like to add?

**ERIC DUNNING:** You know, Senator Bostar, as I was preparing for today's testimony, I thought, I might get that question from Senator Bostar, so I'd better be prepared. Thank you. Mr.-- thank you, sir. Now to be, to be clear, those lead generators are a very useful part of the process of bringing buyers and sellers together. But some of the lead generators have engaged in conduct that is annoying and troubling for, for the policyholders, and those are the ones that we want to be able to rein in if we find it necessary. Again, moving to the P&C Guaranty Association, it's made up of all of the P&C carriers in the state, and it covers claims in the event that one of the insurers goes under. And that act was amended to preserve guaranty fund coverage for policyholders subject to insurance business transfers, corporate divisions, where the policyholder had guaranty fund coverage under the original transaction. And it resolves some questions regarding guaranty fund coverage of cyber insurance-- cybersecurity insurance. LB326 keeps us tight with the national model. And the, the bill will also add language that clarifies that the association is not a Medicare secondary payer and does not reimburse Medicare for claims

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paid by an insolvent primary carrier. That is one thing that we are asking for that is not in the model. The change addresses some concerns raised by a court case in California and avoids unnecessary litigation that could arise in Nebraska. We're cleaning up a, a series of provisions. I think Chairman Jacobson mentioned this idea of Generally Accepted Accounting Principles or Statutory Accounting Principles for companies that are moving from being a pure mutual insurance company to being a stock company owned by what's called a mutual holding company. Those, those carriers generally feel more comfortable in operating in a GAAP environment. That's how they grew up and how they move forward. But under, under current law, it is not clear that-- on, on the face of the law that they should be able to continue to use GAAP. The provision in front of you would allow us to exercise the flexibility that we think is already in the statute. But if, if the flexibility is already in the statute, a crystal clear statute is always better. And so that will benefit-- will, will benefit us in terms of better accounting, a little more cost effective work. In addition, there are 2 parts of the act that I would like-- yes, I know. We have been very busy. We have 2, sort of moribund provisions in the insurance code related to health insurance policies. They may or may not have been great ideas in the early '90s. That probably doesn't continue to be the case anymore in a post-Affordable Care Act environment, and we would like to get rid of them. That is in line with my desire to clean out the junk drawers. We've gotten rid of about 2/3 of the guidance documents promulgated by the department over the course of the last 40 years. We have found that we haven't missed them. This would be in line with that. So, yeah, those were some things that I just really wanted to add. But Mr. Chairman, I would say one further thing. This is the first time that I've gotten to appear in front of the committee this year. I do want to extend an invitation to you to either pick up the phone and call me or to come across the street and visit me at the Department of Insurance. I know that insurance regulatory issues are generally not the sorts of things that are first on the minds around this room, but I'll talk your ear off on them. So come on over. We'll, we'll talk.

**BOSTAR:** Thank you for that answer, Mr. Director. And just for the record, insurance regulatory issues are at the top of my mind every day.

**ERIC DUNNING:** That's wonderful to know. Come on over. I'll buy you a cup of coffee.

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**HALLSTROM:** And perhaps you didn't expect this question from me, but is there possibly anything else you could add for the record? Just joking.

**ERIC DUNNING:** I hope so, sir.

**HALLSTROM:** Anything else, anything else from the committee? Senator Hardin.

**HARDIN:** The leads that you were talking about earlier, is that still a, a big challenge or was it more of a challenge-- is it seasonal? Can you just kind of talk about that a little bit more? We've got open enrollment that always takes place around December, and so on and so forth. Do those tend to pick up seasonally and then sort of disappear, or can you talk about those?

**ERIC DUNNING:** It's interesting to me that I, I don't think we necessarily see a, see a, a, a level of seasonality there. You may have gotten these calls, just-- or texts or emails just randomly. The thing that's particularly troubling to me is that in many instances they're saying, well, we have carriers like, and then they'll name brand names that you're familiar with. Turns out that-- that's not who they intend to connect you with at all. And there's a fair degree of consumer harm that, that can be associated with it, not to mention, frankly, annoyance.

**HARDIN:** Thank you.

**ERIC DUNNING:** Thank you.

**HALLSTROM:** Anything further? If not, Director Dunning, thank you. Additional proponents?

**WORDEKEMPER:** Where, where were you at on the last bill?

**ROBERT M. BELL:** Good afternoon, Vice Chairman Hallstrom, Senator Wordekemper, and other members of the Banking, Commerce and Insurance Committee. My name is Robert M. Bell, last name is spelled B-e-l-l. I'm an executive director and registered lobbyist for the Nebraska Insurance Federation, the state trade association of insurance companies. I appear today in support of LB326. The 49 member companies of the Nebraska Insurance Federation welcome the opportunity to testify in support of the annual Nebraska Department of Insurance cleanup bill. As I have mentioned on other occasions, the federation represents all lines of insurance, from health plans to life insurers,

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to property and casualty insurers, et cetera. And luckily, LB326 has a little bit of infor-- for all the companies. I'm not going to restate the extensive testimony of Director Dunning, but I do want the committee to know that the members of the Federation have reviewed LB326, and it has our support from the regulation of lead generators, which, I got a text yesterday, telling me that Blue Cross Blue Shield and Etna are both after me for my business. To updates to the NPLIGAA Act, or the Nebraska Property and Liability Insurance Guaranty Association Act to the repeal of old, unneeded and used health insurance laws, all these changes are sound. Of a special interest to the federation members who are mutual insurance holding companies, the change in 44-6135, preventing the use of Statutory Accounting Principles for mutual insurance holding companies in their annual statements filed with the department is of particular interest. The federation respectfully supports the passage of LB326, and I appreciate the opportunity to testify.

**HALLSTROM:** Thank you, Mr. Bell. Any questions from the committee? Seeing none, thank you.

**ROBERT M. BELL:** You're welcome.

**HALLSTROM:** Any other proponents for LB326? Opponents? Anyone in the neutral capacity? Senator Jacobson, you'd like to waive closing? Or, if you'd like to close.

**JACOBSON:** I'm ready for the next bill, Senator [INAUDIBLE]. I, I just want to mention that I appreciate Director Dunning and all of his staff. Their-- they do an incredible job at the Department of Insurance. We're fortunate to have them here. You'd be amazed at the number of insurance companies have moved to Nebraska to be domiciled here. Enormous number of employees in the insurance industry that live in Nebraska, and that's largely because we have an amazing group of people at the Department of Insurance, so I, I appreciate all the work that they've done; was happy to bring this bill on their behalf to bring that cleanup language. With that, I'll stand for any questions from the committee.

**HALLSTROM:** Any questions? If not, before we close, for the record, LB326, no letters in support, no letters in opposition, no letters in the neutral capacity, and no ADA testimony regarding the bill.

**JACOBSON:** So there's one thing more boring than banking, and that's insurance.

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**HARDIN:** Here. Here.

**HALLSTROM:** And to add to that misery, LB325. is next. Senator Jacobson.

**JACOBSON:** Thank you very much, Vice Chair Hallstrom and members of the committee. Again, my name is Mike Jacobson , M-i-k-e J-a-c-o-b-s-o-n, and I represent District 42. LB325 amends Section 44-211, creating an exception to the general requirement that at least one director on the board of directors of an in-- insurance co-- corporation be a resident of the state of Nebraska. To qualify for the exemption, the insurance corporation must file a written affidavit with the Nebraska Department of Insurance stating the following: The insurance corporation's principal corporate executive officers are located within the state of Nebraska; that a insurance corporation is a publicly traded corporation on a federal gov-- federally governed stock exchange or is wholly-owned affiliate of such a, a publicly traded corporation; the insurance corporation has been domiciled in the state of Nebraska for at least 25 years; the insurance corporation employs more than 500 employees who are employed in Nebraska and subject to the Nebraska income tax on compensation received from the insurance corporation; and the ultimate controlling entity of the corporation-- of the insurance corporation, as defined by the department, has not changed in 10 years. Insurance corporations would be required to file the affidavit every 5 years to maintain the exemption. The bill also includes example language to use in the affidavit, states that insurance corporations must do if, at any time, they don't meet these requirements, and make it some nonsubstantive cleanup language changes to the statute. This is a-- as opposed to eliminating the requirement altogether, this was an attempt to narrowly define who would be exempt, to make certain that that insurance company has a long history with Nebraska, publicly traded, has the assets to, to be, be reasonably sound so that seemingly, the requirement for a Nebraska-based director would not be necessary. And again, these points all need to be met in order to make that happen. I'm aware of at least one insurance company that qualifies. There could be others, but this is a very narrow exemption that's being brought forward. And with that, I would stand for any questions.

**HALLSTROM:** Thank you, Senator Jacobson. Any questions? I was just going to ask if there, if there are currently more than one insurance corporation that would qualify under this.

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**JACOBSON:** Not that I'm aware of today, but there are some that could be getting closer. But, but again, as you've noticed, there's a lot of points that you have to meet to hit that requirement. And I know, historically, there had been some concern if it was a smaller, nonpublicly traded corp-- company, should we have someone that's on that board? I'm, I'm not convinced it helps, but that was the concern. In this case, we tried to narrowly define it so that it's very clear that this is a strong, stable insurance company in good stead with the Department of Insurance-- with that-- so that there's no need to have a Nebraska-based director involved. The, the reason for the request for that, by the way, would be SEC filings. If you've got multiple subsidiaries, it becomes a real nightmare in SEC filings. My goal has been to make Nebraska a state where insurance companies want to domicile and bring their employees here. And this is another step to just remove one possible impediment to having insurance companies domicile here or stay here.

**HALLSTROM:** And it should be an open class because over time, other insurance corporations could.

**JACOBSON:** Could reach that status.

**HALLSTROM:** That [INAUDIBLE].

**JACOBSON:** It's not any different than saying cities of the metropolitan class. There's one in Nebraska today, but Lincoln could grow to that.

**HALLSTROM:** Then just one technical question. I understand that if you fall out of compliance, you need to let us know--

**JACOBSON:** Bring a director on.

**HALLSTROM:** --and you'll, and you'll have to go back to a Nebraska resident director. What's the rationale behind requiring an affidavit every 5 years if nothing has changed?

**JACOBSON:** Well, I think it's just to recertify. We're, we're doing, we're doing belt and suspenders with the bill to make this a nonobjectionable bill and one that everybody should be comfortable with.

**HALLSTROM:** OK. Thank you. Any other questions? If not, thank you. I assume you will still stay for closing?

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**JACOBSON:** I'm still going to stay for the close.

**HALLSTROM:** Any proponents, supporters of LB325?

**TYLER TIGGES:** Good afternoon, Vice Chairman Hallstrom, Chairman Jacobson, members of the committee. My name is Tyler Tigges, T-y-l-e-r T-i-g-g-e-s, and I'm appearing on behalf of Great West Casualty Company, of which I am the general counsel. We are a Nebraska domesticated property casualty insurance company, ultimately owned by the publicly traded Old Republic International Corporation, our holding company. Great West was formed under Nebraska law in 1956 and has maintained its principal place of business in Nebraska since that day. We have been and remain very committed to Nebraska with headquarters in South Sioux City. And in 2016, we invested over \$10 million in a 25,000 square foot expansion to our facility there. It now totals 150,000 square feet. We employ 700 people at that location, which makes us surely the largest white collar employer in the Sioux City area and is also-- that has grown by 200 employees since that expansion in 2016. We write \$1.9 billion in direct written premium, including \$70 million in Nebraska alone. We ex-- insure exclusively the long-haul trucking industry. We're very proud to be part of the Nebraska insurance industry and the trucking industry here in Nebraska and nationally. Great West and its parent, Old Republic, support LB325. There are 2 ways that typically-- that an insurer can qualify to do business in a state. One is through obtaining authority, which typically means simply that it applies to do so because it is not a domesticated insurer, and the other is through domestication. Domestication, in our opinion, in Nebraska, should require a greater commitment, a meaningful presence in the state, such as material physical presence, economic presence, premiums, jobs in the state, and things like that. However, we do not see that a director residency should be a critical "repliant"-- a critical requirement in this day and age due the evolution of the regulatory environment and certainly not carbons known as a perpetual qualification. The NAIC, National Association of Insurance Commissioners would agree, as their model law provisions do not include director residency requirements and most states do not require it. Having said that, as further evidence of the impact of regulatory evolution, insurers must qualify their board of directors with the state Department of Insurance, directors must submit biographical affidavits with significant personal details, and frequently, they also are required to submit fingerprints. We believe this close review of individual directors adds more value to qualification and assessment than merely residency, adds an-- meaningful oversight terms for the state regulator. We know and

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appreciate the fact that Nebraska is a great place to live and do business. And as such, the requirement as it is may not impact all possible applicants for domestication or redomestication, but we believe the cri-- criteria required for the waiver are reasonable for LB325. Thank you for the opportunity to express our position in favor of this proposed legislation. We're happy to respond to any comments or questions and we're proud to be an insurer and involved with the trucking industry here in Nebraska.

**HALLSTROM:** Thank you, sir. Any questions of the committee? Seeing none, thank-- oh, excuse me, Senator Hardin.

**HARDIN:** Do you know how long this requirement has been on the books? It was long before the age of the Internet, I'm guessing.

**TYLER TIGGES:** It, it has been in, in place for quite a long time, Senator, but I'm not sure how long. Yes.

**HARDIN:** So this is simply an update, welcome to the 21st century?

**TYLER TIGGES:** That would be our position. Yes, sir.

**HARDIN:** Thank you.

**HALLSTROM:** Any other questions? Seeing none, thank you, sir.

**TYLER TIGGES:** Thank you.

**HALLSTROM:** Next supporter. Good evening.

**SCOTT RAGER:** Good evening, did you say? Good afternoon. Good afternoon, Senator Hallstrom and members of the committee. My name is Scott Rager, S-c-o-t-t R-e-g-e-r. I'm appearing on behalf of Old Republic International Cooperation and in support of LB325. I consider myself a Nebraskan, although my residence at present-- current residence is in Illinois. I was born, raised, and educated in the state here. I practiced law in Lincoln for a number of years and later moved to South Sioux City and was employed by Great West Casualty. I spent over 30 years there, advancing to the role of CEO and chairman of the board. Old Republic International acquired Great West Casualty during my tenure there in 1985. In 2007, I was asked to take a senior management position with Old Republic. I did so, and remained so employed until 2019, when I retired my position then as president and COO. I appear at their request to present their reasoning for support of this legislation. The development of corporate governance

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regulations for Security Exchange Commission-regulated organizations in the more recent past has resulted in increased accountabilities for affected organizations and their directors, the qualifications as to individual board members' experience, and expertise has been more, essentially. The legislation is important to Great-- to Old Republic, as the company has long believed that directors in the parent holding company system, it should be likewise, directors of the principal chartered affiliates within the organization. And by doing that, you thus reinforce the director accountabilities as to major affiliates within the overall corporate structure. We believe a common board in that structure serves overall accountability and governance issues best for not only the organization, but for the regulatory bodies that oversee those operations. That obviously is made more difficult by state-specific residency requirements. As Tyler alluded to in his earlier comments, the residency requirement may impact certain ent-- entities while having no impact on others, depending on their business and their affiliate structure. To me, it seems that we should have something that is workable for all. Companies who utilize internal boards for their affiliate operations may not be as impacted as others. At the ends of the extreme, if you look at it, you could have a licensed company that can write tons of business within the state of Nebraska, and not being domesticated here, could do so without any resident qualification, obviously. As a second example, you could have a company domesticated in Nebraska with no executive offices here or no material employment in the state, just a director on the payroll. It's hard to see the comparable value to Nebraska in those such situations.

**HALLSTROM:** If you would wrap up, please?

**SCOTT RAGER:** Yep. In closing, the commitment that Old Republic and Great West have made to the state has been sizable. There can be no doubt we are a good corporate citizen, very familiar with the Nebraska way. LB325 proposes ensured qualifications with-- which, if met, could waive the residency requirement for a term of 5 years, to be reassessed and extended for a like term. The qualifications for the waiver are very steep, and they were proposed so to demonstrate and assure continuity, pedigree, responsibility to the state and it's citizenry. They are evidence of a responsible and long-term commitment. I thank you for your time and I'd be happy to answer any questions.

**HALLSTROM:** Thank you. Mr. Rager. Any questions of the committee? Yes, Senator Hardin.

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**HARDIN:** Will this provide some flexibility? Because as you or someone else was saying earlier, the NAIC and most states have this flexibility already in place. And it might even open the door for influencers of some kind to get involved in that direction of a company.

**SCOTT RAGER:** It could.

**HARDIN:** For, for example, there might be somebody from a Forbes, or someone who's known online or on cable television, or something else that actually could help a section of the industry or a particular company to grow, because of their influence. And maybe they don't live there, but everyone else does. Is that something that might be a flexibility involved with that?

**SCOTT RAGER:** Well, I, I, I think that insurance companies-- it, it goes back to the how you're structured, again. A lot of holding company insurers, the larger ones, they, they-- if they have like 5 different or 20, 20 different companies under them for rate-making differences or whatever, they generally put-- what I, what I call those pup [PHONETIC] affiliates. They generally put those with internal boards, meaning, you know, officers in there or whatever the case may be, and they create their boards. And we don't believe in that, as I said in my comments. We think that you ought to be responsible for the major affiliates that we have, and we like to keep a common board in that respect. But I think the more restrictions that you put on insurance companies to obviously enter the environment, the more you'll have. So you could see a lot of those-- creation of those insurance companies on a pup basis as we say, with internal boards, where residency isn't always the issue as it would be otherwise, but.

**HARDIN:** Thank you.

**SCOTT RAGER:** You bet.

**HALLSTROM:** Any other questions? Seeing none, thank you, sir.

**SCOTT RAGER:** Thank you.

**HALLSTROM:** Any other supporters for LB325? Any opponents? Anyone in a neutral capacity? Senator Jacobson, to close.

**JACOBSON:** I'm going to waive my close.

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**HALLSTROM:** That will terminate the hearing after I indicate that once again, there are no proponent letters, no opponent letters, no neutral letters, and no ADA testimony regarding this bill. And I'll hand the chairmanship back to Senator Jacobson.

**JACOBSON:** Let the record reflect that I've made up a lot of time. Yeah. No pressure, Senator Hallstrom, but I'm hoping you will do the same.

**von GILLERN:** [INAUDIBLE] before it snows.

**JACOBSON:** Please proceed. And we will open the hearing on LB232.

**HALLSTROM:** Chairman Jacobson, members of the Banking, Commerce and Insurance Committee, my name is Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m, and I am State Senator for Legislative District 1. Today, I'm introducing LB232. The bill would prohibit a policy of life insurance subject to an assignment from being terminated or lapsed by reason of default in payment of any premium, unless a notice of pending lapse or termination of the policy has been provided by the insurer to any known assignee at least 30 days prior to the effective date of the lapse and termination. The bill would also allow the notice of lapse or termination to be provided electronically by the insurer to any assignee who has requested notice. When a bank makes a loan to a borrower, the borrower signs a promissory note and the bank typically takes a lien in some type of collateral as security for repayment. While many loans are secured by real estate and/or personal property, the borrower may also pledge his or her interest in the cash value or the death benefit under a life insurance policy pursuant to a collateral assignment. A collateral assignment is executed by the bank and its borrower with a copy of the collateral assignment provided to and accepted by the insurance company that has issued the policy. In the event of default in payment of the promissory note during the borrower's lifetime, the Bank may, pursuant to the assignment, be able to realize on the existing cash value under the policy, or if the borrower should pass away with an outstanding loan balance, the death proceeds may be used to the extent necessary to pay off the loan. In 2022, the Nebraska Bankers Association was approached by a member bank concerned that a term life insurance policy would-- for which the lender had taken a collateral assignment had been terminated for nonpayment of premium without any prior notice having been given to the lender. The Nebraska Bankers Association has asked me to introduce this legislation on their behalf. In this case, the bank had made a large commercial loan. When the borrower started to experience

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financial difficulties, the borrower offered to assign a \$2 million term life insurance policy to the bank as additional security. The borrower filled out an assignment form which was provided by the insurer, and the insurer acknowledged receipt of the assignment form to the borrower and bank, in writing on 2 separate occasions. Subsequently, the borrower passed away. He had failed to maintain premiums on the life insurance policy, and the policy was terminated for nonpayment of premium. There was no advance notice of the pending termination by the insurance company to the assignee bank. The bank filed a complaint with the Department of Insurance, but was informed that the insurer had no legal obligation to provide notice to the assignee. And that's in gen-- in essence, what LB232 would do. And typically, collateral assignment forms are provided by the insurer. As you may imagine, these forms do not provide any indication that notice would not be given to the assignee of pending lapse or termination of the policy. As such, there was no duty under existing law to provide that notice. We've-- I've noted in my testimony a number of states that have notice of termination or lapse, and we have drafted this purposefully, very narrowly. There's only notice that's required to be given for nonpayment of the policy premium, allows the notice to be given by electronic means, and a-- and the notice requirement importantly, is only triggered if the lender assignee has made a specific request. So the uniform-- or the universe is very narrow to begin with, those that have taken a life insurance policy as collateral for a loan, and even further narrowed by requiring the lender to affirmatively make a request for such notice. This bill has been introduced on at least 3 occasions, most recently by Chairman Jacobson. And from the start to where we are as of last year, we also had determined that there's a number of states that provide the right of senior citizens to designate a third party to receive notice of pending lapse or termination for nonpayment of premiums. It's protection for the elderly to make sure that their policies don't lapse inadvertently by not getting notice after you've designated a third party to, to help with that process. So we believe that there would be minimal burdens upon insurers in cases in which the assignment of a life insurance policy has occurred, and would ask you to advance LB232 to General File for further consideration.

**JACOBSON:** Questions for Senator Hallstrom? All right. Seeing none, thank you..

**HALLSTROM:** Thank you.

**JACOBSON:** I'd ask for proponents for LB232.

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**KEVIN POSTIER:** Good afternoon. Kevin Postier is my name, K-e-v-i-n P-o-s-t-i-e-r. I'd like to thank Senator Jacobson and members of the Banking, Commerce and Insurance Committee for, for hearing my testimony. I'm president and chairman and CEO of Henderson State Bank, located in Henderson, Nebraska, and I'm here to testify in support of LB232. We are the bank that had been in the situation that Senator Hallstrom had referenced. That happened-- I was the loan officer that was involved in that. And we had spent a considerable amount of time setting up this, this structure and, and making a loan against this, this life insurance policy. And unfortunately, our borrower began to see some significant health deterioration and, and, and financial hardship. And so we, we double checked and, and made sure that the assignment was still in place a period of 2 or 3 years after it was set up. And it was acknowledged by the insurance company, both initially and at that subsequent event. Our, our customer passed away shortly after this time-- 2 or, 2 or 3 years after this time. And you know, we had made the loan with that as collateral. And when we went to file the, the claim against the policy, we're, we're notified that we no longer had collateral. And if you use other forms of collateral, real estate or livestock or machinery, and your collateral disappears, generally there's a very serious felony or something serious that has happened. And to my dismay, the, the laws did not protect us as, as the lender, and we would not have made that loan had we known that that risk was out there. And so I'm asking that the, the committee consider passing LB232 out of, out of the, the, the committee and presenting it for-- to the, to the general Legislature. I think that's the right thing to do. I think it's certainly something that needs to happen to protect the banking industry when collateral is, is pledged and acknowledged by the, the company that has issued the policy. With that, I would conclude my comments. Senator-- previously covered a lot of the things that I had and I pre-- did a great job covering that and I won't, I won't go through that again. So I would be happy to entertain any questions or comments that are out there.

**JACOBSON:** Questions from the committee? I know last year when this-- when I brought this bill, there was a lot of discussion with the lobby in terms of, of what's the right path forward. There are-- there is companies like Woodman that only, only do basically burial insurance. And so they're, they're doing very low dollar amounts that probably-- this bill would probably not be one appropriate for-- to require them to do assignments. I guess is there a-- do you see a minimum threshold where this should apply? I know you said this was a \$2 million policy.

**KEVIN POSTIER:** Yes, sir.

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**JACOBSON:** So where do you think that-- maybe that threshold should be? Because I'm guessing we're going to hear that this is going to be a burden on the insurance companies to track. It-- is there a dollar amount that might be higher that we would set as a threshold to make that more palatable?

**KEVIN POSTIER:** I certainly wouldn't expect a burial policy to be subject to this. That's not something that you would generally loan against as collateral. That's a very minimal, minimal thing. I would say maybe \$100,000 and above or something. That would be an acceptable threshold from, from my perspective.

**JACOBSON:** All right. Thank you. Any other questions from the committee? If not, thank you for your testimony. Any other proponents? Welcome.

**RYAN McINTOSH:** Chair Jacobson, members of the committee, my name is Ryan McIntosh, M-c-I-n-t-o-s-h, appearing before you today as a registered lobbyist from the Nebraska Bankers Association in support of LB232. I'm handing out 7 pages of testimony, should you read the-- choose to read through it. Much of it has already been covered, so I'll try and summarize as much as I can. This bill is substantially similar to what you saw 2 years ago with LB69. The notable difference is with regard to Section 2 for senior citizens. This only applies prospectively rather than to existing policies, which is a question-- issue raised by the insurance industry with LB69. I want to just be clear here that this isn't a transaction between, between the customer and the banker. This is a transaction that also involves the insurance company providing the bank and the, and the insured their form for assignment of the life insurance policy. They take that, they file it, they acknowledge receipt and, and assignment of that policy. As Senator Hallstrom mentioned, there are a number of other states that do require this. And this is very standard, not just in life insurance, which, there is another-- number of states that offer it for life insurance, but it's very standard for long-term care insurance across the country. And we anticipate you'll hear a few arguments from the insurance industry in opposition to LB232. Maybe suggest that LB232 would allow an insurance policy to stay in effect immediately. This is not the case. Even if the insurance company would miss the-- sorry, getting some weird feedback-- would miss the 30-day window, they could provide notice and trigger a new 30-day period at any time. Second, this should not be seen as a mandate on the insurance industry because when an insurers elects to allow collateral assignment of policies, they are choosing to allow this. Notice should

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be given to an assignee prior to lapse. In nearly any other instance where collateral is pledged to secure a loan, the, the bank or lienholder is protected by notice requirements. For instance, as Mr. Postier here noted, foreclosure of real estate, disposition of a vehicle, or even selling grain, they're all required to check for liens and to provide notice to the creditors. Last, you may hear a suggestion that the lender should not be entitled to notice because it is not a party to the original contract between the insured and insurer. This is not a matter of a lender infringing on a contract between an insurance company and its customer. Through these assignments, insurance companies provide certain rights to and restrictions upon the assignee, if you were to look at these forms. And I can provide any of these to the committee, including the one that was in this case. There are several restrictions that are put upon the assignee of the policy. We believe LB232 would impose a minimal burden. And, and last, I [INAUDIBLE]-- and I thank Ms. Ragland for being here on behalf of the AARP to support this bill and protecting our senior citizens in Nebraska. So with that, I'll conclude my testimony and would welcome any questions. Thank you.

**JACOBSON:** Questions for Mr. McIntosh? All right, seeing none, thank you.

**RYAN McINTOSH:** Thank you.

**JACOBSON:** Next proponent. Ms. Ragland, how are you?

**JINA RAGLAND:** Good evening, Chair. Chair Jacobson and members of the Banking, Commerce and Insurance Committee. My name is Jina Ragland, J-i-n-a R-a-g-l-a-n-d, here today testifying in support of LV232 on behalf of AARP Nebraska. Ensuring consumer protections is essential in an economy so reliant on consumer spending, spending, of course, that's driven to a large degree by old-- older adults. Consumers, including older adults, need access to safe foods and services offered with fair and understandable terms and conditions, and a recognition that as people age, they may need third-party assistance to ensure their personal and financial interests are protected. Having a life insurance policy for many people is a critical part of their financial planning for themselves and their family and can represent decades of financial investment. That life insurance policy may be in place for numerous reasons, including paying funeral expenses, covering personal debt, protecting children, providing an inheritance, or providing peace of mind to a remaining spouse. Basically, once I'm gone, that's what that-- will be used. While none of us like to think about it, the

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truth is, as we age, the likelihood increases that we will experience physical and mental declines, which unfortunately can affect our ability to manage personal and financial affairs. This includes making sure premium payments are current. People in these situations may not receive, due to hospitalization or other reasons, or may not realize they received a notification that their policy will lapse or be canceled because of nonpayment of premiums. It is also possible there could be a mistake in cancellation based on a significant mental decline. In that situation, it is possible that no one else may be aware that the person has a life insurance policy, that those premiums have not been paid, or that cancellation of the policy is imminent. This could lead to an unintentional cancellation of a policy. Specifically, Section 2 under LB232 is where AARP fully supports. People aged 65 plus could designate that third party representative to be notified before a policy is canceled and help ensure the policy is not canceled due to mistake or oversight by an older adult. We do not believe the designation of one third party-- third-party representation of the notification process of the significant change to a policy outlined in LB232 represents an overly burdensome requirement, especially when weighed against the potentially devastating financial loss that could occur in these situations. For these reasons, we support LB232 as a commons-- commonsense consumer protection that will directly benefit older Nebraskans. Thank you to Senator Hallstrom, and Chair Jacobson for your carrying this in the past, and I thank the committee for the opportunity to comment and I'd ask for your support to advance the bill. And I'd be happy to answer any questions.

**JACOBSON:** Thank you for your testimony. Questions from the committee? Thought you were going to ask one there for a minute, "Woody."

**WORDEKEMPER:** I was.

**JACOBSON:** All right. It looked like it. All right. If not, thank you for your testimony. Further proponents. Welcome, Mr.--

**DEXTER SCHRODT:** Good afternoon--

**JACOBSON:** It's evening.

**DEXTER SCHRODT:** --Chairman Jacobson, members of the Banking, Commerce and Insurance Committee. My name is Dexter Schrod, D-e-x-t-e-r S-c-h-r-o-d-t, presidency of the Nebraska Independent Community Bankers Association. I'm here to testify in support of LB232. Thanks to Senator Hallstrom for once again bringing this issue forward. See,

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as we heard, 2 important components of this bill, notice of a pending lapse on policies that have been assigned as collateral for life insurance and to permit senior citizens to have a third party to receive limited notices-- I'll point out, in the bill-- sent to a third party. And it's funny, because as I was bringing this bill up to our legislative committee, one of the bankers on my committee has seen that issue happen. So Section 2 of this bill is very important. Insurers, insurers do not have to allow assignments of their policies. When they do, they are allowing legal ob-- legal obligations to be made between an insured and a lender. Thus, legal rights are established, and someone with a legal right should receive notice of the right potentially being extinguished, regardless of how often it actually occurs in practice. We see mortgages, car loans, the lien holder is notified of insurance lapse, so property and casualty is able to get it done. In fact, the Interstate Insurance Compact, of which Nebraska is a member, requires some products to have these notice provisions in them, showing it is not only best practice and showing also that the procedures are already in place for insurers on life products. Insurers will say that their archaic systems can't handle multiple notices or knowing birthdays of who turns 65. Yet yesterday, in this very committee, health insurers talked about using AI. So health is in 2025, but for some reason, life insurance, still 1995? I'm not too sure. Finally, insureds will say the annual notice under Section 2 to be sent out will be an extravagant expense. There's nothing in this bill that prevents the notice sent out to those aged 65 and older from being included in any other annual notices. So some cost savings can be saved there. So I would encourage the committee to advance LB232.

**JACOBSON:** Any questions?" Woody"-- Senator Wordekemper.

**WORDEKEMPER:** Thank you. Appreciate you being here. So are some loans or things, is that common that they're secured by a life insurance policy at some point?

**DEXTER SCHRODT:** You know, it's going to be a specific case-by-case scenario between the community banker and their relationship with the consumer. Are these very common? I wouldn't say so. But do they happen? Yes.

**WORDEKEMPER:** OK.

**DEXTER SCHRODT:** But they're not going to be as common as secured on other items, like a home or a car.

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**WORDEKEMPER:** OK. So it would probably be important that somebody was able to get life insurance and not be kicked out because of genetic testing. Correct?

**DEXTER SCHRODT:** Senator, you know, I don't know that I would have an opinion on that. I apologize.

**WORDEKEMPER:** Thank you.

**JACOBSON:** All right. Other questions? All right. Seeing none, thank you--

**DEXTER SCHRODT:** Thank you.

**JACOBSON:** --for your testimony. Any other proponents? There might be an opponent [INAUDIBLE]. All right. We'll go to opponents. Mr. Bell.

**ROBERT M. BELL:** Good evening. I think.

**JACOBSON:** It's officially evening.

**ROBERT M. BELL:** OK. Good. Chairman Jacobson and members of the Banking, Commerce and Insurance Committee, my name is Robert M. Bell, last name is spelled B-e-l-l. I'm an executive director and registered lobbyist for the Nebraska Insurance Federation, the Nebraska Insurance Federation and the State Trade Association for the Insurance Industry in Nebraska. I am here today to testify in opposition-- respectful opposition to LB232. As already been mentioned, this is an issue that has been present for the last few sessions, and we do certainly appreciate the bank's desire to be notified if a policy is terminated or lapsed. But we must oppose the reach of this legislation that would provide that a policy would not lapse or terminate if a proper notification to the third party is not completed, even if the lapse or termination is outlined within the contract between the policy owner and the insurance company. Within the federation, the life insurance companies have had significant, significant discussions about this legislation over the past few years, and those discussions do continue. As you know, Nebraska has a strong domestic life insurance industry, particularly with such companies as Mutual of Omaha, Ameritas, Assurity, Pacific Life, Woodmen Life, Physicians Mutual, and newly domesticated Protective Life, among others that called Nebraska their domestic home. As they have analyzed and discussed this legis-- legislation, the life insurers do have a number of concerns about the legislation as currently drafted. And first, on the assignment issue, insurers believe that market-based solutions already exist. In fact,

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last summer, we surveyed-- last summer or 2 summers ago, we surveyed our membership and found that numerous companies already provide this notice. And nearly all the banks will work with-- or excuse me, all the insurers will work with banks on the notification, for their products such as credit life, newly issued insurance policies, nonrevokable beneficiaries, and policy transfers could easily be used to satisfy collateral requirements. Mr. Schrodt after-- already talked about how there are products that, within the insurance compact, that do require this type of notice and have already been in. So basically, we, we believe that market solutions already exist. On the senior citizen third-party notification issue, there is been some legislation in other states that we're taking a look at right now, in particular Iowa. But we do have concerns with this as currently drafted on the, on the senior side. There are things within the policies that policy owners who are senior citizens and are concerned can utilize that exist within the policy, including powers of attorney and other types of, of things that exist within the law. Yeah, for these reasons we oppose, respectful. We're open to further discussions. So I appreciate the opportunity to testify.

**JACOBSON:** To your last point on seniors powers of attorney that-- don't we really look from a realistic standpoint that we've got people that age, maybe begin with having some dementia, don't feel they need a power of attorney, and then things escalate and suddenly, you've got a premium due. You don't pay the premium because you're, you're, you're, you're really needing help. And next thing you know, policy lapses and, you know, family finds out later when they're going through papers. I mean, I'm just, I'm just trying to figure out in turn, so--

**ROBERT M. BELL:** Yeah, and I think, I think you see that at, at a bank. You, you probably have as much experience as anybody in the community related to senior exploitation. Right. So-- or seniors not knowing or, or losing their mental capacity and then making poor decisions. A lot of these policies, you know-- we're, we're thinking a lot. And, and I think on-- even on the last bill on genetic discrimination, we, we talked-- we were thinking in terms of term life insurance. But there are, there are many other types of insurance products out there that-- where premium has been paid up. And there's, there's situations where the, the premium starts to, to be eaten away, right, as time goes on and the, the value of the policy becomes less. So I, I, I do think, I do think actually, on both of these issues we would be-- certainly be open to further discussions with the banks, with AARP, with national

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experts to see, you know, what is the best solution for Nebraska consumers.

**JACOBSON:** OK. Other questions from the committee? All right. Seeing none, thank you for your testimony.

**ROBERT M. BELL:** You're welcome.

**JACOBSON:** Further opponents?

**MATT HOLMAN:** Good evening. Chairman Jacobson and members of the Insurance, Banking and Commerce Committee. I think I got that in the wrong order. My name is Matt Holman. That's M-a-t-t H-o-l-m-a-n. Again, I'm assistant general counsel with Ameritas Life Insurance Corp. here in Lincoln. And for the record, we were the insurer involved in that \$2 million term issue that was mentioned earlier. I'm here today on behalf of Ameritas to oppose LB232. As we discussed, there's 2 parts to this bill. I'm going to focus on Section 1 because that's primarily what we're opposed to, but Ameritas is happy to continue discussions on appropriate protections for senior citizens. I won't go into every detail, every concern that Ameritas has, but I'm going to focus on our 3 primary objections. First and most importantly, the bill would open insurers to unending liability on a given policy. Second, the new substantive requirement to provide such notices to banks will be an administrative burden and manual process for many insurers. And finally, there are several market solutions already available to banks to take, take advantage of. It should not be up to the insurer to monitor that collateral for them. The-- primarily, the most unacceptable and harmful aspect of this bill is the potential unending, unending liability that it puts on insurers. As written, if an insurer fails to provide the required notice of pending lapse to a collateral assignee, the policy cannot lapse or terminate, terminate. If an insurer mistakenly fails to provide the required notice, whether or not that notice has any impact on the bank or the loan, the policy remains in force even if no premium is paid and no cash value is left on the policy. This would leave the insurer liable for the death benefit, but potentially forever, without receiving necessary premium to support the policy. So you may be thinking, you know, so long as we send the notice, that's not an issue. And that gets me to my second point, about the administrative burden. Unlike health policies, as mentioned earlier, Ameritas, like many insurers, have policies dating back to the 1930s that remain active today. These policies originated or were placed on multiple legacy systems, sometimes inherited from other companies through

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mergers and acquisitions. The automatic notification requirements of those systems were designed around the contractual policy requirements. Instituting new requirements outside of the policy language would impact these systems and require such notices to be sent via a manual process. As I'm sure you know, at the scale we're talking about, manual processes are expensive, time consuming, and prone to error. Compliance would be difficult and expensive, and errors, as I mentioned before, would leave the insurer open to potentially unending liability. We also have issues with the electronic notice requirement, as most of those systems are set up to send notice via U.S. mail. I will skip discussion on market solutions. And I will just close and say that while we are vehemently opposed to this bill in its current form, Ameritas remains committed to working on the issue and would consider supporting a bill that requires notice to collateral assignee but also minimizes the administrative burden on insurers, and most importantly, eliminates the possibility of unending liability. With that, I will happily try to answer any questions.

**JACOBSON:** A couple of quick questions to your, your last 2 points on-- we mentioned that there are marketplace solutions out there too, because there are insurers who do provide for that in their policies today, some that have been around for a long time and also have legacy policies. So there-- they are out there with the potential unending liability. But to the extent that you're concerned about old policies and underwriting for this new, I don't want to call it risk because as I understand it, you underwrite with the idea that some of these policies are going to lapse--

**MATT HOLMAN:** Right.

**JACOBSON:** --for this very reason. And so that goes into the underwriting on the existing policies.

**MATT HOLMAN:** Yeah, the, the pricing. But yeah, the lapse assumptions.

**JACOBSON:** So-- yeah. So how about all the new policies? So you're not worrying about legacy now it's new policies, but there would be a requirement all new policies over a certain dollar amount would be subject to [INAUDIBLE].

**MATT HOLMAN:** Yeah. I mean, obviously when we write new policies, we would be able to update assumptions for that from a pricing standpoint. The administrative burden standpoint may still exist, even though we-- you know, even some new policy forms that we issue, they

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are issued on these older systems still, because they're working and they continue to work and our policy forms still exist, so.

**JACOBSON:** But you do have assignments, I assume? You're--

**MATT HOLMAN:** Yes.

**JACOBSON:** So if you have an assignment and someone passes away, then you need to make sure that you send the death benefit to the right beneficiary, correct?

**MATT HOLMAN:** Right. Yes.

**JACOBSON:** OK. So I'm having trouble understanding why it would be so difficult to be able to include this notice if there's a, if there's a lapse. You would just note that there's a, there's a death benefit-- or there's an assignment out there and they get notified.

**MATT HOLMAN:** I think the difficulty with it comes from it's a, it's a manual process. So every time something happens, we have to run a report and somebody has to manually go in and see, is there an assignment on this policy and then send it. Which again, is something that can be done. It, it is done. There-- like was mentioned, there are some states that require similar type things, and, and we do it there. But it, it has a high potential for mistake. And if that mistake happens, that unending liability, which is-- I-- fairly unique in this bill, as compared to the other states that are out there.

**JACOBSON:** And I would probably argue that Henderson State Bank feels like that was a \$2 million mistake.

**MATT HOLMAN:** I mean, that's, that's fair. I mean, I, I see where the banks are coming from on this. I just--this is a question of-- a policy question on where you want to put that burden.

**JACOBSON:** And, and again, it, it comes back to-- without picking [INAUDIBLE] I think you're going to have some customers come to you, doctors, for example, taking on a big debt load. You've got to be able to insure them. And the-- in the case of their death, their, their, their income goes away. So it's pretty important to have that policy in place, and banks place a lot of insurance with insurance companies for that reason or a [INAUDIBLE] of any kind.

**MATT HOLMAN:** Mm-hmm.

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**JACOBSON:** So I think the question really gets back to how can they rely upon that this is going to be there for them in the event that there's a problem that occurs. You know, it's so-- again, we can go back and forth, should the bank be responsible for constantly monitoring or make sure that it's somebody out there that already has this in place? But you're also going to have-- insureds are going to come-- or customers are going to come to you with a policy, say, with Ameritas, who doesn't offer this notice. And it would be difficult for us to say, well, cancel that policy and buy a new one that, that fits the requirements that we need.

**MATT HOLMAN:** I understand what you're saying. And for the record, we do provide notice on some policies. Some of our policy forms require it, and they are on numerous systems. They're not on the-- our legacy-- more legacy systems. You know, I think ultimately, the question is who is response-- to your point, whose responsibility is it? I mean, we are happy to work with any-- any bank that can call us and ask on the status of the policy. We're happy to share that information to a collateral assignee. And I will emphasize again, if we want to get to a point where notice is required, Ameritas is willing to, to go down that road and negotiate. We just-- we can't stomach that potential leaving that liability open, potentially for years and years with no premium to support it. That doesn't seem like a, a fair burden to place on the insurer.

**JACOBSON:** Well, one last thing and I'll stop. I, I-- I'm, I'm going to have to tell you guys the same thing I tell-- I've told other testifiers on various bills, who tell us, we understand the bill. We understand the need for what you want to do, but we-- just some things we need to fix. We don't have the specifics and we haven't worked with the introducer to bring those changes, so too bad. Bring it back next year. And, and so that does get frustrating, that if there's a legitimate interest in fixing it, let's, let's do that. You know, let's do that. And by the way, I don't see us execing on this bill today. But if there are changes that can be negotiated, we would kind of like to see that brought forward. Because the bill could come out like it is and when it gets on the floor, you don't know where it's going. So I would encourage the industry to maybe negotiate with or get with the introducer to see if we can't find a compromise here.

**MATT HOLMAN:** Absolutely. I appreciate that. I will just say, you know, and I'm speaking for Ameritas only here, I can't speak for the rest of the industry on that, but.

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**JACOBSON:** [INAUDIBLE] do that.

**MATT HOLMAN:** Yeah.

**JACOBSON:** Thank you.

**MATT HOLMAN:** Thank you.

**JACOBSON:** Other questions? Yes, Senator Bostar.

**BOSTAR:** Thank you, Chair.

**JACOBSON:** Is this a single question or do you have--

**BOSTAR:** It's a multi-part, long question. Are you permitted currently to-- do you have control over whether or not a, a policy gets assigned to a third party?

**MATT HOLMAN:** Most of our policies-- I can't speak for 100% of them. Most of our policies in the contract specifically allow assignment.

**BOSTAR:** So you could theoretically change that provision in your contracts for policies?

**MATT HOLMAN:** Yes, in theory we could.

**BOSTAR:** So if like we passed this, and it was--

**MATT HOLMAN:** I will-- I'm sorry. I don't mean to talk over you. I will say I'm not 100% certain on Nebraska's requirements. There was some talk about the compact standard. If, if we want to file with the compact, there are some requirements that assignments are allowed. I'm not 100% sure if that is mirrored in Nebraska law specifically.

**BOSTAR:** I mean, I have found that with compacts. Ultimately, there's a great deal of interest in maintaining membership of compacts, and that results in flexibility. So, you know, if we were to pass this, theoretically, you could just not allow assignment-- like if, if it was a big deal, right, if, if, if holding that liability out there was, was a problem-- and I understand exactly what that is. Am I understanding correctly that you could just stop allowing assignments in your contracts?

**MATT HOLMAN:** Again, the, the policies that we have filed with the compact for approval, we cannot do that, because it's a compact requirement. And that's how we at Ameritas are filing our policies

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now. If we were to file with Nebraska Department of Insurance for approval specifically, I actually don't know for sure if there's a requirement that we have that assignment clause in our contracts or not. But the, the Department of Insurance says-- I mean, there are statutes and regulations applicable to say what clauses and protections we have to have in our policies. If it's not in there, then yes, we could file them.

**BOSTAR:** So would you choose to-- I mean, so then, if-- what stops you from just filing the policies with the Department of Insurance, then?

**MATT HOLMAN:** Nothing stops us, and some companies do.

**BOSTAR:** So, I mean, we could also go and look, I'm sure, and just make sure-- hypothetically, I mean, it's not, it's not complicated also just to include something that ensures you do have the authority to not allow assignments within policies filed by the Department of Insurance. I'm just, I'm just trying to think through, you know-- there's a couple of ways of going at this. And I'm, I'm just trying to make sure that-- you know, so if we did that and you decided to file with the Department of Insurance, then you could protect yourself by not allowing assignment. And then you wouldn't have any exposure.

**MATT HOLMAN:** Yeah. I mean, that, that, in theory, would work for new policies going forward.

**BOSTAR:** My assumption is-- my understanding, sorry. Assumption was the wrong word. My understanding is the bill only applies to new policies going forward, and it has no retroactivity.

**MATT HOLMAN:** Yeeh.

**BOSTAR:** Is that your understanding as well?

**MATT HOLMAN:** That's my understanding as well. Yeah.

**BOSTAR:** So then you would be fully covered--

**MATT HOLMAN:** If--

**BOSTAR:** If, if we did that, if we made sure that you, you know, you had the flexibility to choose on your own to, to not allow assignment going forward, this doesn't apply to any policies retroactively, then we could sort of-- it's one way to potentially mitigate some of that outstanding liability then, that, that I think is some of the concern.

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**MATT HOLMAN:** Yeah. I mean, I think that would take away some-- I mean, that would probably be a market, you know, a competitive disadvantage if your policies don't allow assignments at all, which would be a trade-off. Right? That would be a balancing act. You have to make that decision. Anyway.

**BOSTAR:** I'm, I'm just trying to think it through. Anyway, thank you very much.

**MATT HOLMAN:** Yeah. Thank you.

**JACOBSON:** Senator von Gillern.

**von GILLERN:** Tagging on to Senator Bostar's comments and, and the-- thank you for clarifying this is only going forward, because that was a point that I think is pretty important. Because it's only going forward, and instead of maybe not allowing an assignment, an assignment of a policy, there's nothing in the bill that I saw that has to do with pricing. If, if a policy wants to be assigned, why don't you just surcharge that policy--

**MATT HOLMAN:** Well--

**von GILLERN:** --to, to account for the additional notifications and the additional risk?

**MATT HOLMAN:** And I think that is addressed in the bill somewhere. It allows a, a fee to do that.

**von GILLERN:** Is that true? OK.

**MATT HOLMAN:** In-- and we-- I mean, that is a possibility. We would have to refile the policy and get approval because there--

**von GILLERN:** It's a new policy.

**MATT HOLMAN:** But that form would have to be filed and approved by the department, because we can't charge fees that aren't in our contract form already.

**von GILLERN:** Wouldn't it be part of un --wouldn't it just be part of underwriting?

**MATT HOLMAN:** Well, the contract lists what fees we can charge to the consumer. So we would have-- I mean, not-- we could get there, but we

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would have to make a new product filing with the department that shows that that fee, so that- the consumer is part of the contract.

**VON GILLERN:** I've owned life insurance before. I get a lot of notifications. I don't believe it's that hard. That-- and there's, there's a whole lot that's set up for automated systems for different notifications. And I know it does not involve a human being on the other end typing me a letter every time, so it does not seem that hard to set these systems up.

**MATT HOLMAN:** I, I mean-- I will tell you, you know, I work-- I used to work at the Department of Insurance. I was there for about 10 years. And when I came to the industry, the number one biggest surprise I had was how much expense and resources it takes to upgrade systems, to do the types of things that we're talking about doing. So I can't give you a quote on what it would cost us, but it would be very burdensome and expensive to get their system working that way.

**VON GILLERN:** So from a competitive standpoint, it would not only-- it would apply evenly to all policies issued in the state of Nebraska. So it would not be a competitive disadvantage for your company. Correct?

**MATT HOLMAN:** I'm not sure I follow. Can you ask that again?

**VON GILLERN:** If the bill is advanced, and there are additional notification requirements and that causes you additional expenses, any other life insurance issuer in the state of Nebraska would be subject to the same requirements and potentially the same cost to-- incurred?

**MATT HOLMAN:** Yeah, I mean, I think that's fair to say.

**VON GILLERN:** OK.

**MATT HOLMAN:** I mean, some may be further ahead already than others, right? So--

**VON GILLERN:** OK.

**MATT HOLMAN:** --some may not have to adjust--

**VON GILLERN:** All right. OK.

**MATT HOLMAN:** --for this bill. But yeah.

**VON GILLERN:** All right. Thank you.

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**JACOBSON:** Other questions? All right. Seeing none, thank you.

**MATT HOLMAN:** All right. Thank you very much.

**JACOBSON:** Further opponents? Looks like we're running out of industry people maybe. Welcome back.

**ALEX YOUNG:** Yes. Thanks for having me. Chairman Jacobson and members of the committee, my name is Alex Young, again. That's spelled Y-o-u-n-g. I'm the legislative director of the American Council of Life Insurers, and today I'm here to testify in opposition to LB232. Now right at this moment, I'm still gathering feedback from our members at this time, so I'm not-- I'm going to keep my remarks short on the bill. But let me reiterate what was already said by the prior testifiers, in that our member companies provide multiple written notices to a policyholder when the premium due date has passed and when a policy lapse is imminent. Our insurers are motivated to keep policyholders on their books and prevent lapsed-- lapses due to the costs and resources devoted to securing new customers. However, the requirement in LB232 that would require a 30-day notice of pending lapse to any known assignee would not guarantee policyholders will be aware of a possible lapse and would be costly for insurers to implement. Again, thank you for letting me come speak today on LB232.

**JACOBSON:** Thank you. Thank you for keeping it brief.

**ALEX YOUNG:** Yeah, absolutely.

**JACOBSON:** Questions? I'm seeing none over here. All right. Seeing no questions, thank you. Are there any other opponents? Anyone wishing to speak in the neutral capacity? If not, Senator Hallstrom, as you make it to the seat, there was 1 proponent letter, 1 opponent letter, and no neutral testifiers. The committee did not receive any written ADA testimony regarding this bill. You're welcome to close.

**HALLSTROM:** The, the hour is late, but my patience is short. We've been gathering feedback from our members. This bill has been introduced before this body in 2022, '23, '24, and '25. I'm surprised at the problems with legacy contracts. We were asked by the insurance industry to make changes so that it only applied prospectively. I would think and hope that that should remove the problem with legacy contracts. It only applies with new issued contracts. We had the same issue raised last year, with regard to the designation of a third party for the senior citizens, and the bill now only applies

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prospectively for that part of the bill, as well. I think there's many companies that do provide the notice. That's more of the industry standard than running, running ahead of the malingerers and allowing them not to provide the notice. I would notice-- I would mention for the record that we have had conversations with Woodmen and their representative. And I think there are some issues with regard to notices and perhaps the, the exemption for small-dollar life insurance policies that will go a long ways towards addressing their, their concerns. And I appreciate the problem-- or the prospect that they've reached out to us. It's one of these things where we keep having the goal post moved on us. We're, we're trying to find out what exactly the problem is if you have a 30-day notice requirement. If you provide the notice, there's no open-ended, long-standing type of situation where the liability is going to be there. If any of you are those that prefer watching the commercials at the Super Bowl game to the game itself, there was a commercial involving sloths, if you remember that one. That's what this discussion and debate reminds me of. It's a slow walk off a long pier, and I just hope the folks will come, come to the table and get this addressed if they've got some specifics. Otherwise, I'd like to move this bill out. I'm, I'm looking for a bill that I can get out on the floor that's not going to have extended debate, and perhaps this one will be the one that we can, we can work on.

**JACOBSON:** Well, I would say so far, your track record is not very good.

**HALLSTROM:** I'll keep trying. But thank you for your patience.

**JACOBSON:** With that. Thank you for your close. This concludes our hearing on LB232. I would just ask--- can you turn recorders off? Thank you. I guess I'd just ask the committee, I would like to exec on the 2 bills that had no--