

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

[LB262 LB350 LB425]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, February 20, 2007, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB262, LB350 and LB425. Senators present: Rich Pahls, Chairperson; Chris Langemeier, Vice Chairperson; Tom Carlson; Mark Christensen; Tom Hansen; Dave Pankonin; and Pete Pirsch. Senators absent: Tim Gay.

SENATOR PAHLS: If you do not want to hear me sing. All right. I knew we would get people...wake everybody up then. Thank you. I want to welcome you to the Banking, Commerce and Insurance Committee hearing. My name is Rich Pahls. I am from Omaha and I represent District 31 and I serve as the chair of this committee. The committee will take up the bills in the order posted and I will review those with you. LB262, LB425, LB350, and I see we have Senator Kruse ready to go here in just a second. We are asking you to take a look at our chart over here and honor some of our requests to turn off your phones and pagers, if you do have one. We have an on-deck chair, and you complete a testifier sheet and put them in the box right up here up front. Today we have all the senators will be introducing the bills, then we will follow by proponents, opponents and neutral testifiers. And, we will try to strive to give equal time to both sides of the issue, and the closing statements will be reserved to senators such as Senator Kruse. We are asking you to begin your testimony by spelling your first and last name for the record, and if you have materials to distribute we need ten copies. Now I am going to ask you right now for those of you, do you have ten copies? If not, we will have one of the pages go run them off even before the testimony begins. That is one thing I like about this group that I am looking at. Most of the time you are well prepared and you are ready to go. So I am assuming you do have your ten copies. I appreciate that. Again, one of the very last bullets over there, we are going to ask you to be concise. If somebody has already stated the information we are asking you to not be too repetitive. And just to introduce one of our...to my immediate right is Committee Counsel Bill Marienau and to my immediate left is Committee Clerk Jan Foster. Those are the people who actually run the business. And the committee members with us today, we will start over here and they will introduce themselves, please.

SENATOR CARLSON: Tom Carlson, District 38, Holdrege, the eye of the December ice storm.

SENATOR PAHLS: All right!

SENATOR PIRSCH: Pete Pirsch, District 4 and I am just embarrassed I still haven't come up with anything yet from when I had a warning last week about the district...

SENATOR PAHLS: We are going to continue to have these meetings until we do, you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

realize that, Senator Pirsch.

SENATOR PIRSCH: Okay. I know. It is going to be good when it comes up though.

SENATOR LANGEMEIER: Senator Chris Langemeier from Schuyler.

SENATOR PANKONIN: Dave Pankonin, District 2, Louisville.

SENATOR CHRISTENSEN: Mark Christensen, District 44, Imperial.

SENATOR HANSEN: Tom Hansen, District 42, Lincoln County, home of Ft. McPherson National Cemetery.

SENATOR PAHLS: I can always count on Senator to come up with something. I appreciate that. One of our pages today is Kristine Kubik from Prague, Nebraska. And Cora Micek from Hastings, Nebraska. And Cora, looking out at the crowd we do have at least one person from Hastings so when he comes up to testify I am going to have you help me with some of the questions. I think we are ready to begin with LB262. Senator Kruse.

SENATOR KRUSE: (Exhibit 1) Thank you, Senator. Mr. Chairman and colleagues, I am Lowen Kruse, L-o-w-e-n is the hard part and from the favorite part of Douglas County which is the northern edge of it and here to present LB262. This is a fairly straightforward bill and so I don't really expect to take a lot of time to introduce it. At present the lower limits of liability on auto insurance is \$25,000/\$50,000/\$25,000; \$25,000 for a single injury, \$50,000 for two or more injuries, and \$25,000 for property. And, the bill proposes to double those items. They were last changed 24 years ago and that is the only basis on which this is doing. There is nothing sinister or sneaky about it. Twenty years has gone by and it is time to change the figures. I tried to do this a couple of years ago and there was hesitancy and I thought well, maybe the figure's too high so talked about, you know, doubling seems kind of bold, maybe we can do less and quickly got feedback from insurance people and committee members that said, no, no, no, no, that is not the problem, the question was how would this effect insurance rates? My own insurance person was shocked that we didn't go forward with it. He said I write very few policies at the minimum, this just wouldn't effect anything in my business and he said those who are at the minimum need to be contributing a little bit more to society because they are the persons that are costing the rest of us. At any rate, insurance is going to pay the bill one way or another and I think that we all should be participating in that at a much higher level than what the minimums are. We recognize that these figures are small indeed with an injury. My son was injured, as many of you know, and \$25,000 would not have paid bills for the first night in the hospital. So at that particular rate it doesn't even come close to dealing with the realities of medical expense and I don't have to underline that. Everyone of us knows that from many aspects of our life. I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

am especially interested in this because of fairness. Our son was injured and the person who hit him had \$25,000 insurance which, like I say, did nothing, not that \$50,000 would do a lot more, but at least it would come closer and it would just be more in reality of the times. The main thing I feel to remember is that we require every individual who drives a car on Nebraska roads to be insured. Those who do not have insurance are breaking the law. There is always some question about well, what about the people who don't have insurance? Well, this isn't going to effect that very much. What about people that decided not to buy insurance or something because it is expensive? This isn't going to effect it that much for most drivers. The figures that we have gotten on is about \$5 a month and yet, as I say, most of them are way above it. So for most persons it is not a factor. This bill provides coverage for those individuals who need it most and peace of mind for everyone. If you have a clean driving record the costs are small. If you have already proven yourself to be a negligent driver the costs will be somewhat of an increase and if you have proven yourself to be a danger on the road the cost of insurance will reflect that, and it seems to me that is part of the way the system works. This bill allows for the increased protection of the public at large whenever an accident occurs, and takes into account the increased costs for medical injuries and property damage. And Mr. Chairman, with that, I would close. I do have a handout for those that enjoy history, and resources, and if you don't have enough paper on your desk. [LB262]

SENATOR PAHLS: Any questions from the committee? Senator Pirsch. [LB262]

SENATOR PIRSCH: To your knowledge, Lowen, has there been any formal study within the industry or without through a university or that type of organization that took a look at the mean costs, the median cost of an accident that would...something that would suggest quantitatively, being a law and economics kind of guy, that we don't have it set at the right balance at this point in time? [LB262]

SENATOR KRUSE: I don't know of any study, Senator. [LB262]

SENATOR PIRSCH: Thank you. [LB262]

SENATOR PAHLS: Senator Hansen. [LB262]

SENATOR HANSEN: Thank you, Senator Pahls. Senator Kruse, would you expect this, have you checked out would this double the price of the insurance if we double this from \$25,000-\$50,000 and the upper end from \$75,000-\$150,000? [LB262]

SENATOR KRUSE: No. On the average policy it would increase like \$5 a month as they indicate. I personally carry just as high as I can go because of the accident we have had and that allows the underinsured part of my policy to come up. As I recall we tripled it for it would be \$20 over the six month period with two cars. [LB262]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

SENATOR HANSEN: There are some people, and you alluded to it in your opening there, that don't have this insurance at all and they are breaking the law. Do you think that there is going to be an increase in those type of drivers? [LB262]

SENATOR KRUSE: I wouldn't think so because the amount...they are not getting insurance it is for other reasons than this. Some might use that as an excuse, but I would see it as an excuse. [LB262]

SENATOR HANSEN: Thank you. [LB262]

SENATOR PAHLS: Seeing no more questions, thank you, Senator. [LB262]

SENATOR KRUSE: Thank you. [LB262]

SENATOR PAHLS: Proponents. [LB262]

JOE ELLIOTT: My name is Joe Elliott, E-I-I-i-o-t-t. I represent the Nebraska Association of Professional Insurance Agents. We have agents spread throughout the state and we find that in talking to our agency contingency that most agents offer as much as \$100,000/\$300,000 as the base limits. Some of them won't even write it. I just talked to a girl in the hall from Gretna and I said what do you think of that, and she said I am all in favor of it. I said what do you write? She said we start at \$100,000/\$300,000. And I know the agency that I am affiliated with, INSPRO, one of the largest in the state, 6 cities, close to 28 producers, I think, their minimum is \$100,000/\$300,000 and has been as far as I know for 5-6 years. And if you don't agree to go to the higher limits in many cases you have to sign a form because the agent wants to be protected against an E&O claim by saying we offered you more than that and all you wanted was the lower limits because we are also talking about UIM, uninsured (underinsured) motorists and UM, the uninsured motorist, and with this bill that goes from \$25,000/\$50,000 to \$50,000/\$100,000. We still have a big gap of exposure because if we write \$100,000/\$300,000 that uninsured motorist limit doesn't automatically go to that \$300,000 and so we have to protect ourselves again by saying well, we are going to have to tell you that we recommend this increased amount. I did ask one of the underwriters in the office what kind of increases they were talking about and it varies so much by cars, credit scores, there are so many factors that really is hard to pinpoint and say, but her first reaction was about 5 percent increase. I think that would be for a one car driver at the low end and the uninsured and underinsured would probably be something less than that because the rates for those peak drivers are much, much lower. We had a girl call in the office a while back, just moved here from Virginia and the underwriter asked her what limits you have and well, in Virginia we are only required to carry \$25,000/\$50,000. She said well, we don't run anything less than \$100,000/\$300,000 and she quoted the premium for them. And our rates are lower in Nebraska than 42 of the states, so we are ranked eighth or somewhere in there lowest,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

and she immediately just readily agreed to the increased amount. And a year ago I wrote a doctor in Omaha that had \$25,000/\$50,000 limits and no collision or comprehensive, he didn't believe in that. Obviously he didn't believe in higher limits either and no umbrella and he was making, I know, \$300,000-\$400,000 a year. We rated that out and we saved him about \$10 or something like that because we put an umbrella on it, too, but the big reason was the credit scoring. We have got a credit scoring that some of these companies are putting some big numbers up on that credit scoring and so he had an 800 plus credit score so he came out feeling wonderful and I am sure we will keep that insured for a long, long time. We write a lot of umbrellas. We recommend the umbrella, which is \$1 million on top of your base liability limits. Not only for your automobile but for you home owner, your boat, your ATVs, all your liability exposure and that requirement is \$500,000 minimum. So you actually got \$500,000 base limits on all of those things I talked about plus the \$1 million umbrella, you have got a \$1.5 million. But I think the only thing we do is worry about not only the base limits, but also the uninsured motorist limits because that should follow right along with your base limits. In about 50 percent of the states, I think, it does follow so if you increase your base limits you automatically increase your uninsured and underinsured motorist with it. Otherwise we hang out there because we let them write the lower limits and we can't do anything about it. Any questions at all? [LB262]

SENATOR PAHLS: Any questions for Joe? Senator Hansen. [LB262]

SENATOR HANSEN: Thank you, Senator Pahls. Joe, how come I have to pay for uninsured motorist? Why don't we just take their license away and then we don't have to worry about him? [LB262]

JOE ELLIOTT: Well that goes back a long time, I am sure, when they first put it in because you are paying for, obviously, those people that don't get insurance and I remember Senator Hudkins a few years ago testifying before this group. She was paying \$400 or \$500 a year for her small farm operations for UIM and UM, and there has been no change as far as I know around the country. I think this is still pretty universally accepted that it has to be that way, at least that is what the legislative bodies have felt and there is not justifiable reason. But certainly I don't know how many people you are going to have go uninsured because you increase the \$25,000 to \$50,000. My personal opinion is it is not going to be that much of a change. But there is going to be people to testify that there is. [LB262]

SENATOR HANSEN: It reminds me of the quote from John Wayne, just why the heck do I have to push one for English. And why I have to pay for uninsured motorist just doesn't make any sense, it doesn't ring very good out in the country either. [LB262]

JOE ELLIOTT: No, it doesn't, it hasn't for a long time. [LB262]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

SENATOR HANSEN: I know it is a problem so we will keep doing it. [LB262]

SENATOR PAHLS: Senator Christensen. [LB262]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Might be a small effect to the number of uninsured, but won't it actually lessen the number of claims on the underinsured by moving that level up here or it could be a potential offset? [LB262]

JOE ELLIOTT: Sure it will. No question about it. There could be an offset. I never did think about that but certainly it is because that is different and bear in mind, too, that when we talk about and underinsured uninsured that has nothing to do with property damage. This is involved in bodily injury and liability, and we tried to get a company in here one time that was going to promote the property part of it as well because there is a lot of uninsureds. Then you company ends up paying if you have got a collision. But if you don't have collision coverage you don't collect from anybody. [LB262]

SENATOR PAHLS: Okay. [LB262]

SENATOR CARLSON: Senator Pahls. Joe, in looking at the material that Senator Kruse handed out here we are tied for fifth right now in our limits and so we go to this and then we are tied for number one and usually it is kind of nice to be number one, but is it really in this and how come so many states lag so far behind? [LB262]

JOE ELLIOTT: Well I know when South Dakota tried to change it a year ago and Oklahoma did, and both of them were defeated. I haven't seen any statistics recently. I think you would have to do it...New Jersey, if you look on that list, is something like 5 or 10, or 10 to 20. It is one of the lowest on there because they have the highest rates, just about, in the country. So you can say that the higher the rate the lower the mandatory would probably tie together a little bit, but we used to be third or fourth lowest in the country in this. But somehow we have crept up to eighth, I think, in the last figures I saw for the year 2004 or '05, somewhere in there. [LB262]

SENATOR CARLSON: Eighth from the bottom. Yes. [LB262]

JOE ELLIOTT: The eighth best, I should say it that way. [LB262]

SENATOR PAHLS: Senator Pirsch. [LB262]

SENATOR PIRSCH: I appreciate your testimony. I am going to have to go check and see where my policy limits are set at. I don't know that. I did want to just see if you had anymore sunshine you could shed on the matter as far as quantifying the number of...the same question I asked before, essentially, and I think you kind of commented on the tail end of it which would be you thought, you estimated maybe a 5 percent increase

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

in the amount rates on the tail end. [LB262]

JOE ELLIOTT: On one car probably. [LB262]

SENATOR PIRSCH: On the front end can you share any light on quantitatively how many accidents occur in Nebraska, the average cost of the damage per incident, the mean, the medium or what the outlines are? [LB262]

JOE ELLIOTT: Well the only break down that you would be able to get is from liability, and then you go onto bodily injury part of it or med pay, I should say, and then you go into collision comprehensive and it is broken down to about five or six categories when you file with the state. And really the only realistic figure, I think, maybe you are looking for is liability. [LB262]

SENATOR PIRSCH: And based upon then you're looking at that are there a lot of cases where this just isn't covering it by any means or coming close to covering it? What is the percentage of the cases where the current amount isn't covering it? [LB262]

JOE ELLIOTT: Right. That is hard to say but one thing I would point out there is the reason we sell higher limit because if you have got \$25,000/\$50,000 you get into an automobile accident and a serious accident the first thing that insurance company is going to do is going to write you a letter telling you to get an attorney and defend yourself above the \$25,000 or for several people, the \$50,000 limit. And that is why we sell umbrellas because per hour, the first hour with the attorney is going to cost you \$100 right there and that is what you pay for an umbrella. [LB262]

SENATOR PIRSCH: And we think that happens quite a bit, do we, that people have a lot... [LB262]

JOE ELLIOTT: I really haven't asked a claim man on that, but it used to happen a lot I know, because a lot of lower limits then but, I think, a lot of people that readily could afford it certainly have increased their limits. But the uninsured motorist premium started out at a real low number. I will bet it wasn't \$2-4 a year and now we are up in the \$30 and \$40s and three, four cars, or youthful drivers, then we really go up. [LB262]

SENATOR PIRSCH: Right. Well thank you. [LB262]

SENATOR PAHLS: Let me speak to that, my premiums are \$400 a month because I have two young teenage drivers and their records are good so I believe that direction. Any other questions? Thank you, Joe. Just a show of hands, how many proponents do we have? One, two, three, four. How many opponents? One opponent. Anybody in the neutral. Okay we have four. Thank you. [LB262]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

JIM CAVANAUGH: Senator Pahls, members of the Banking, Commerce and Insurance Committee, my name is James Cavanaugh. I am an attorney and registered lobbyist for the Independent Insurance Agents of Nebraska and I would echo many of the sentiments that Senator Kruse expressed to you and particularly draw your attention in his handout to the kind of historical analysis that he has got in there from the institution and the Motor Vehicle Safety Responsibility Act in 1949. There was an increase in '59, 10 years. There was an increase in '73, more like 15 years. There was an increase in '83, 10 years, and then you have a 24 year gap. The big impact of this is that if you go back to the 1980s what we have got now in terms of the property damage component of \$25,000 would have covered a pretty nice car in 1984 and would cover pretty much your average cars now. But when you are talking about personal injury, bodily damage, and you are talking about 1984 health costs versus 2007 health costs you are talking a couple of hundred percent increase, probably in that ballpark. Those of you who keep track of healthcare costs or serve on Health and Human Services Committee know that you are looking at pretty much double digit increases for most of that period in healthcare costs. So if you are looking at this in terms of the squeakiest wheel part of this, the bodily injury part of this is the one that would have the biggest impact. Granted that it would be nice to have the \$50,000 coverage you could recover most of your totalled out Lexus, preowned for that amount. But it is the bodily injury part that really cries out for an adjustment after 20-some years and we would urge you to look at that very seriously because this should have been done 10 years ago and we commend Senator Kruse for bringing it last year and again. But it is one of those things that it is almost tied to the cost of living increase and when healthcare goes up 10 percent and this thing doesn't go up a percent in 24 years something is seriously out of whack. Be happy to answer any questions you might have. [LB262]

SENATOR PAHLS: Any questions for James? Senator Langemeier. [LB262]

SENATOR LANGEMEIER: Thank you, Chairman Pahls. Thank you for your testimony. As I have been reading through this Insurance Information Institute stuff, a lot of these states require at a registration of your vehicle. But I am just looking at the penalty side for not having it and the majority of these states have some jail time, and Nebraska is this license and suspension of the registration of the vehicle. Might that area need to be addressed as well? [LB262]

JIM CAVANAUGH: Yes, Senator, and I have to tell you that in recent years we have made some steps. This goes pretty much to the uninsured market which the best guessed estimates that we have is that we are not in bad shape nationally. We are probably in single digits in terms of uninsured percentages of overall drivers. But in recent years we have worked with the state patrol and the Department of Motor Vehicle to institute more of a real-time database of whether or not you do have insurance. A lot of people were coming in, buying a policy, getting the card going out, never making a premium payment but keeping the card in their glove compartment so when they got

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

pulled over or when they were in an accident they could show the card. Now the Department of Motor Vehicle, working with the state patrol, is instituting a policy that says the trooper there or the police officer can bring up in about a month lag, it is not quite real-time yet, whether or not your premium has been paid and your policy is in place. Every month property casualty insurers give to the insurance department a list of their insureds for that month and so that this can be checked. And we modeled this off of a system that was used in Colorado where they have like 25 percent uninsureds and it had a dramatic effect in increasing their insured rate there. It has been online here not very long. Your committee counsel could probably tell you, but we are hoping that it has some effect to bring that number down. But we are not in bad shape in terms of overall uninsureds relative to the rest of the country. A penalty might be something that you look at in terms of beefing that up a little bit, but we have been working on that and we would certainly support anything in that area. [LB262]

SENATOR LANGEMEIER: Thank you. [LB262]

SENATOR PAHLS: Senator Pankonin. [LB262]

SENATOR PANKONIN: Thank you, Senator Pahls. Jim, along those lines which obviously we are getting a little bit away from this bill but I think it is important to note, because the topics come up from Senator Hansen and Senator Langemeier, that there was an article either yesterday or Sunday in the Omaha World-Herald about the new Douglas County Treasurer, you may have seen it, who...when people are nodding, when they bring in it is obviously that cards been hand changed and it is obvious they just call the police right there and have them come, which is a change in policy. Also I am aware from constituent correspondence that the state of Iowa impounds the vehicle when they pick someone up and they know they don't have insurance. So I do think that is something we need to be looking at down the road and your industry's input would be helpful. It is good to know, I guess maybe, that our numbers aren't totally out of line. But whenever it does happen it is expensive to the rest of us and I think it is an area that we have a lot of constituents complain about it, and I think it is an area that we need your help, as well, from your industry to see if we can curtail because it costs us all. [LB262]

JIM CAVANAUGH: And, Senator, we would be happy to do that. We were intimately involved in setting up the motor vehicle database and any further efforts to bring that number down. I mean not only do we sell the insurance and so we want everybody to buy it, but if an uninsured person runs into one of our clients we ended up, as Senator Hansen said, we are on the hook for that uninsured irresponsible social behavior. [LB262]

SENATOR PANKONIN: Well insurance is a shared expense so we are all on the hook. Yeah. Eventually, I mean... [LB262]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

JIM CAVANAUGH: Exactly and it drives everybody's rates up. It is a bad deal. [LB262]

SENATOR PANKONIN: So I think that is important to note. Getting off maybe the direct topic here but I think that is something that we are all interested in doing a better job. As I understand from that article in the (Omaha) World-Herald the database though is still not complete, or there is two different ones, or that part of it I didn't read as closely, I guess, to understand. [LB262]

JIM CAVANAUGH: From what I know it is one of those right hand-left hand things. The database is up and in place. It is accessing the officer in his cruiser at roadside being able to use their hardware/software, whatever, to access it and there are a lot of different law enforcement computer systems. And so it is kind of the state troopers are going to be the first ones and I am not sure if they are online yet but they are very close to accessing it so that they could have as close to real time as we can get access at roadside. [LB262]

SENATOR PANKONIN: Thank you. [LB262]

SENATOR PAHLS: Seeing no more questions, thank you Mr. Cavanaugh. Next proponent. [LB262]

LARRY JOHNSON: Good afternoon Chairman Pahls, Senators. My name is Larry Johnson, that is L-a-r-r-y J-o-h-n-s-o-n and I am the president of the Nebraska Trucking Association representing our 860 member companies in the state. As many of you know trucking is a high mileage industry. We see first hand the adverse economic impact of current auto liability limits. According to the National Highway Traffic Safety Administration large trucks are involved in only 4 percent of accidents involving injury and property damage. Large trucks are involved in less than 12 percent of all fatal crashes. Passenger cars are involved in three times more fatal crashes that are attributed to speeding or driving too fast for conditions than trucks are. In multivehicle crashes the passenger car driver is at fault at least 75 percent of the time. In spite of these facts we as truckers are required by law to carry a minimum of \$750,000 in liability insurance, sometimes much more depending on whether we are hauling hazardous materials or those high value goods. And our insurance carriers notify the Department of Transportation immediately if our insurance is canceled. We lose our authority to operate immediately if you don't have that liability insurance. Current auto liability limits don't reflect today's cost to treat injuries and repair property damage. Those who are not compensated adequately by the responsible party's insurance don't just go away. They go to court. We as a state and as a country pay a high price for all that litigation. Litigation in turn drives up the cost of insurance for everyone. Financial responsibility limits must realistically reflect potential loss exposure or we are doomed to continue that cycle. I understand that there are some concerns that raising the limits would put the cost of auto liability insurance out of reach for some motorists. Since

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

Nebraska law requires proof of insurance at the time of vehicle registration we believe motorists will continue to purchase auto liability policies in the same numbers that they do now. Any questions? [LB262]

SENATOR PAHLS: Senator Pirsch. [LB262]

SENATOR PIRSCH: I would just ask do we have any quantitative type of numbers or has there been any to you knowledge kind of studies that are looking at this problem? [LB262]

LARRY JOHNSON: You know, Senator Pirsch, that is a great question and I apologize that I didn't research that but I don't have it with me. I am certain that there are some numbers out there on the national level though. [LB262]

SENATOR PIRSCH: Okay. Thanks. [LB262]

SENATOR PAHLS: Mr. Johnson, what is the record of the trucking industry in the state of Nebraska as compared to other states? Are we in the middle of the road on accidents and things such as that? [LB262]

LARRY JOHNSON: That is a good question and I didn't prepare that in my testimony and... [LB262]

SENATOR PAHLS: I am just giving you a bad time, Larry. [LB262]

LARRY JOHNSON: But we do as an average, I am certain just from memory, rate very high in low fatality and accident rates. [LB262]

SENATOR PAHLS: Yeah. You know I couldn't let you get away without giving you a bad time. Okay. [LB262]

SENATOR LANGEMEIER: Okay. Since you asked that question, a big national truck carrier down south in Nebraska, would those accidents go against that trucking firm in Nebraska or against the licenses in which the states are the drivers reside in? Because just because you are driving for Crete Carriers 50 percent of their drivers could be from across the country and not even be in Nebraska, so would their accidents be recorded back to that trucking firm or would they be recorded to their license which would show up in other states anyway? [LB262]

LARRY JOHNSON: Actually both. We have an oversight, Federal Highway Administration keeps track of those accidents and driver records on the federal level, but also so that it reports back to just the commercial drivers license. [LB262]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

SENATOR LANGEMEIER: Okay. Thank you. Just curious. [LB262]

SENATOR PAHLS: Seeing no more questions, thank you, Larry. [LB262]

LARRY JOHNSON: Thank you. [LB262]

MATTHEW LATHROP: Good afternoon Chairman Pahls, members of the Banking, Commerce and Insurance Committee. My name is Matthew Lathrop, L-a-t-h-r-o-p. I am a practicing injury and auto accident attorney in Omaha, Nebraska and I am here testifying on behalf of the Nebraska Association of Trial Attorneys in support of this bill. There are several reasons that we support this and I will try and tick them off, and there were some great questions here and if any questions come to you for someone who practices in this area, specifically and exclusively, I would be happy to answer those also. The first reason that the trial lawyers are in support of this is that the bill now adjusts limits and it begins to adequately protect the public. And by that I mean number one, keep in mind that these insurance coverages for liability are used to pay not just for property damage but also for the physical injuries that someone experiences, the medical bills that they experience, the property damage, the lost wages, any scarring that occurs as a result of such an accident. Far more goes into reimbursing someone who has been injured by someone else's negligence than paying their medical bills. Secondly and importantly, these new limits will protect the insureds as well. Someone mentioned earlier that a letter goes out to these insureds who have the minimum limits that says get a lawyer and protect yourself, and that is exactly right. If you have minimum limits and cause even a moderate automobile accident your personal assets are at risk and that means your home, any savings or any other accounts that can be attached by the legal process by lawyers like myself who are trying to help our clients recover for their injuries. I will also say that raising these limits will put the burden of these kinds of injuries where it belongs and that is on the tort-feasor or the person who causes the injury rather than shift that to the states. One of the questions here was how is it that we have kind of excelled beyond what other states have. I didn't have the insurance information available to me that you have, but I would be interested to compare the numbers of states where their limits are low and also look at what their Medicaid payouts are. And I don't mean to suggest that the two are causally related, but I would say that there is at least going to be some suggestion there of some relationship because if we have low limits, for instance, in Nebraska at \$15,000 I can tell you from my experience and my practice that people are going to shift the burden from the tort-feasor, who then may not have any other way of paying for my injury, to the state of Nebraska and the Medicaid system if I don't have the personal assets to pay for my own injuries after the tort-feasor's insurance is exhausted, and we start tapping a resource that was not designed to take care of people who are the victims of negligent drivers. Driving in Nebraska is a privilege. I will also indicate that with the current limits, I think, our driving public is deceived and by that I mean in my own home my father-in-law knows I am trial lawyer, he knows that I handle these cases all the time, and it wasn't

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

until he had a wreck a few years ago that he found out he had minimum limits coverage. Back when he got that coverage back probably in 1983 when the limits went up he thought he had a lot of insurance, and he thought he was adequately covered, and he was in a fairly significant accident where he broke his nose, had some scarring, had to go to the hospital, had surgery. He was shocked to find out that his limits were only \$25,000 and the other driver's were \$25,000 and in a case such as that the injuries well exceeded the amount of limits that was available through my father-in-law's policy and the other driver's policy. So there is a certain comfort that I think general consumers feel that well I have got what my insurance agent said the minimum amounts that has got to be enough, and they don't have any appreciation for what happens when they cause a significant accident. And I don't think necessarily those people walking around or driving around with minimum limits want to cause someone else financial hardship or problems. I think they want to be responsible for their actions. Most people in Nebraska have that personal independent feeling of being responsible for their actions and that is how they do it. They go out and buy insurance. There was a question about well, geez, and it seems like this came up the last time this bill was introduced, won't this hurt the lower income people more than everyone else and there was some suggestion that it visits a hardship on them rather than upon everybody or upon no one. In my experience as a trial lawyer helping people with these kinds of accidents, I represent people from all levels of the economic strata in Nebraska. I will tell you that my clients from fixed incomes on Social Security, all the way to self-employed, well-to-do people those people or insurance coverage is not determined by their economic situation. People who are responsible have insurance. People who are irresponsible don't have insurance and that does not discriminate along economic levels. There are irresponsible people who are making \$150,000 in this state and there are very responsible people on fixed income and so I simply suggest that I don't think there is an economic relationship between insured or uninsured and what their earning or what their income is. I did have some other notes but I didn't want to monopolize the committee's time and I would be happy to answer any questions if I could. [LB262]

SENATOR PAHLS: Senator Pirsch. [LB262]

SENATOR PIRSCH: I think you strike upon a very good point. The government's interest in this is, of course, when tort-feasors who lack coverage or adequate coverage results in people going on other sorts of government assistance then. The questions I have really, is in my mind, is one of quantification, again. How do we know that this is adequate coverage? Perhaps the level of it shouldn't be raised to \$100,000 but maybe \$300,000. I mean we are sending the level of what we feel then would be an appropriate level, a level not so high that it by everyone's estimate would result in a wastage or coverage that isn't needed. And I guess in kind of formulating that line is there just though your personal experiences anecdotally can you give me an idea because it has been my understanding that we don't have the formal studies or any sort of objective. But can you give me an idea at least anecdotally how many clients that you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

are seeing exceed this coverage and the role that is plays in their life and the magnitude of the amounts that are not covered? [LB262]

MATTHEW LATHROP: Right. I will be happy to and I will do it in two ways. First of all, just the clients that I represent, and then secondly I would like to talk about jury verdicts and jury verdict's results because that is what clients pay me to counsel them on. When it comes to my own case load, I have been practicing in this area for 14 years. It has been probably 70 percent automobile accident victims and of those clients that I represent fully a third have claims that go beyond minimum limits claims. In other words, we get into if there is \$25,000 in coverage we get into underinsured coverage or we run out of coverage if there is not underinsured available. So I would say I am confident with a number of one third of my clients exceed the \$25,000 limit. I will also say that if we want to kind of look at what happens in my practice with people generally, and I don't cherry pick cases. I don't say well, you have a big case, I will help you. You don't have a big case, I can't help you. I generally help anybody who comes to my door that I can help. So there isn't necessarily me...the numbers are not stilted is what I am trying to suggest. There is also importantly what I will call almost a glass ceiling that clients break through. Everything I do I counsel my clients, here is the value of your case because we are about to take it to trial and here is what I think a jury will do with your case. To get up to a \$50,000 claim is difficult when you argue to a jury that this case is worth more than \$50,000. It is difficult because if a jury can't see that injury they are not prone to give my client the \$50,000 that may be appropriate for them. But I will tell you once a claim moves past that where a jury can see an injury, they can see how it impacts a person and they can see how it effects them on a daily basis, you immediately move well beyond that \$50,000 mark and you move into the \$100,000 mark. So I mentioned I was going to talk a little bit about jury verdict information, I also am paid by my clients to counsel them on here is what happens if we go to trial. Generally speaking, injuries that juries can understand but don't see neck strains, permanent problems with muscles and ligaments in the neck or low back, those cases generally if your medical bills are reasonable get into the low \$20,000s to high \$20,000s. So you are always flirting with that \$25,000 range. Once you have an injury that someone can see, if there is a broken arm, if there is surgery that is required, \$25,000 doesn't begin to touch compensating someone. Again, not just for the injury but for the treatment they have received, the physical pain, the mental suffering, the scarring, the things that they go through. So to kind of summarize everything, fully a third of my clients \$25,000 isn't adequate, and generally speaking juries in what would be considered a typical car case are always flirting with that \$25,000 number and as soon as the injury is more significant than that it moves well beyond and there isn't enough insurance if it is \$25,000/\$50,000. [LB262]

SENATOR PIRSCH: Is that typically in terms of demand or in terms of actual settlement? [LB262]

MATTHEW LATHROP: No, that is actual settlement and obviously when I tell my clients

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

when you are negotiating a case there is a give and take there on sharing the risk and the reward on both sides, so those are numbers that cases resolved for. My general average case value is about \$25,000 and that is taking the low, and the high, and the very high. [LB262]

SENATOR PIRSCH: Thank you. [LB262]

SENATOR PAHLS: Anymore questions? Seeing none, thank you, Matt, appreciate it. [LB262]

MATTHEW LATHROP: Thank you. [LB262]

SENATOR PAHLS: Anymore proponents? Okay. [LB262]

BRUCE RIEKER: (Exhibit 2) Chairman Pahls, members of the committee, my name is Bruce Rieker, that is R-i-e-k-e-r. I am vice president of advocacy for the Nebraska Hospital Association and I am here on behalf of our 85 member hospitals and the 39,000 people employed by them to support LB262. A lot of the discussion has been about healthcare costs. The greater demand for hospital care and more complex treatments are major factors behind the growth in that healthcare spending. Twenty years ago, or as I should more accurately say, 24 years ago since this law was changed or put into place hospital trauma care was limited compared to what it is today. For example, 20-25 years ago helicopter ambulance service was just coming into being. Now it is available across the state. The average cost for that helicopter ambulance is \$9,000 which eats up more than a third of this \$25,000 that we are talking about just with that. Technology saves lives but it is expensive and we have a balancing act which is why you are all here to look at the cost and the benefit analysis. The average charge for an inpatient trauma case of this type in Nebraska for those people admitted into a hospital is \$70,000. The numbers that we base that off of were 2005 numbers and they were just right under \$70,000 then and so it is probably well over \$70,000 now. But in light of that the costs to purchase these higher limits seems relatively small compared to the risk of facing these large medical bills. On a public policy perspective driving an automobile is a privilege and with that privilege comes a high responsibility of being responsible for the costs, or the damage, or harm that privilege might cause. We believe it is time to increase the limits required for Nebraskans to retain that privilege and it is time for Nebraskans to assume that personal responsibility for the cost and harm that this driving may cause. The current limits are too low and we would urge you to support and advance this bill and raise those and if I may, and appreciated Senator Pankonin's comment about being on the shared hook. Let me put one more component on the shared hook for you. In the, I want to say unlikelihood but in the case, and this happens often, where this liability insurance policy is used up and then one's own insurance is used up, and if they both are uninsured or have these minimal amounts all of us are paying that one, too, because those people become Medicaid patients. So I just want to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

make sure that this committee is aware of that part of the shared hook as well. And with that, I will end my testimony. [LB262]

SENATOR PAHLS: Any questions? Seeing none, Bruce, thank you for your testimony, appreciate that. [LB262]

BRUCE RIEKER: Your welcome. [LB262]

SENATOR PAHLS: Anymore proponents? Okay. Opponents? [LB262]

JIM DOBLER: (Exhibit 3) Senator Pahls, members of the committee, my name is Jim Dobler, that is D-o-b-l-e-r. I am executive vice president and general counsel with Farmers Mutual Insurance Company of Nebraska. I am also a registered lobbyist and I appear today on behalf of our state insurance trade association, Nebraska Insurance Information Service and it is an organization of property and liability companies and as a group our member companies write well in excess of 50 percent of the private passenger automobile insurance in the state of Nebraska. Initially I want to emphasize that the industry encourages everyone to be socially responsible and carry adequate auto liability insurance and I know we would all agree that a serious automobile accident, it is traumatic, it is emotional, it is a lot of heartache and all of those things are exacerbated when you run into someone who doesn't have adequate liability insurance. However, the economic realities dictate that not everyone has the money or can afford adequate liability insurance, or at least they can't afford to buy the maximum including an umbrella. Economics does play a part in all of this, we believe. The bill itself and the testimony you have heard centers to a large extent around adequate liability insurance for accidents. But the part of the bill I want to focus on and what I think the real impact of the bill is to focus on the insurance buying marketplace. It is looking at that marketplace and it is narrowing the scope of the marketplace. Instead of a marketplace that starts at \$25,000/\$50,000 up to \$500,000 for liability coverage it is narrowing that to \$50,000/\$100,000 up to \$500,000. Our point would be from a general perspective that the insurance buying public is better off with a broader marketplace, more options, more types of coverages that are available and that they can buy. Let's turn to the exhibits that I handed out. The one on the top should be a report from PCI, it is a national trade association of property and casualty insurance companies. I have highlighted there in the fourth column over minimum policy coverage limits. It is a compilation of the minimum auto liability limits of all 50 states and then within that report I highlighted the states that have a requirement right now higher than Nebraska. There are four and you will see from the four that if Nebraska went to \$50,000/\$100,000/\$50,000 overall we would become the highest in the nation and we can look at this and there are a number of states that are less than Nebraska. Why is that? I submit to you that the economics of this whole thing are important. Price is important. Cost is important. Not everybody has the money to pay a lot for insurance. It is unfortunate. But I do think that is a very legitimate concern when the Legislature looks at this issue. I thought it might be useful

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

for the committee to provide some examples, just some rating examples to show what would happen in a few instances if the minimum limits went from \$25,000/\$50,000 to \$50,000/\$100,000 and I have 2 examples. The first example is a family of four, mom and dad around 50, 2 children—a boy 18, a daughter 16. Now I want to point out the examples that I have used. I didn't pick worse case scenarios. I tried to go with a fairly typical case in both examples and in the first one it is just a family of four and you have got four vehicles. Clean records, no accidents, they get all the things that you would get when you apply for your insurance and I have included a quote from three different companies. The process of putting this together is through using a software program that essentially any insurance company can buy. Insurance rates are public record. They are all on file at the department and they are entities out there that will compile this information and make it available really to anybody that wants it. And so you can see in this example, the very first one I used is my company, Farmers Mutual and in this illustration with 4 vehicles moving that family from \$25,000/\$50,000 to \$50,000/\$100,000 the overall premiums increase for 12 months is \$90. Now in the second example we have a quote from Allied Insurance Company and I highlighted Allied on that page, and you can see the total premium increase for Allied is \$298 for 12 months. Again, a family of four. Third example with IMT it is a \$206 increase for 12 months. So the rate increases will vary depending on a lot of things. One thing that is interesting about this example is that...and when you look at these and you are starting at the very lowest rate you need to be careful where all of these companies are starting from. Farmers Mutual, if you look at the highlighted bodily injury numbers I have the rate at the minimum level for all four vehicles is \$774. If you go to Allied the rate at \$25,000/\$50,000 for the 4 vehicles is \$1,140. IMT the \$25,000/\$50,000 rate for 4 vehicles is \$671. So what is happening here is at the minimum level rate IMT is offering the best rate. But when you move it up to \$50,000/\$100,000 there is a bigger gap there on the IMT quote so you are going to have a much bigger increase. Allied, their minimum rate initially is very high and their next rate is also very high. Farmers Mutual, the initial rate is quite high but moving to \$50,000/\$100,000 the dollar amount between those two is not very high. So our company started at a higher level which makes our rate moving to \$50,000/\$100,000 much less. So you have got to be very careful when you look at from going from one to the other. It is going to depend a lot on where the company just happens to start out at the beginning. Next I have another example and on the front of it written up here it should say this is a single male driver and I have listed the items that were taken into consideration. This is a single male, 21 years old, 1 at fault accident, 1 not at fault accident, 1 speeding ticket. Here you have got some more activity and, of course, this individual will probably be paying more. It is not at the extreme. We are not talking a DWI or anything like that. But nevertheless this is someone who has a little more going on. The initial quote with Farmers Mutual shows a \$50 per year increase. The rate increase at IMT is \$99 and Allied, \$159. None of this involves substandard. Substandard is where you are going to get a lot more of the people that buy \$25,000/\$50,000 coverage. So there isn't any Progressive in here, I don't have anything from Dairyland. Those are specialty lines that they write. These are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

more average kinds of risks. Finally, at the very end of the material that I handed out, within my company, what I did is I put together some bodily injury loss figures to give you an idea of what my company sees and what our experience is in terms of bodily injury payments, what has been going on with regard to those kinds of claims and I have listed figures for 2004, 2005, and 2006 and in the first column I have incurred losses. For 2004 you can see it is \$12,100,000. The number of claims included. This would be our BI claim total for auto, 622. The average incurred claim payment \$19,454, the median would be \$3,851. Now these are compiled on an accident year basis. So it is taking the claims that occurred in '04 and it is running them out to right now to see what is being paid. That claim total will also include claims that are incurred but not yet settled. So there will be some claims in there that have a reserve attached to them for what we think might be paid but it has not yet been paid. Those are the components of those figures. The case reserves for year 2004, I think, are probably pretty credible at this point. We have looked at that file, even if it is not closed, and I think we are probably I would guess generally we always are pretty close in terms of the reserve for an open auto claim that has been around that long. Again, that is for your information. I do think these are credible numbers. We compile our own auto rates. These are the figures we use when we set our rate and that is what is it showing in terms of claim payments. With that, I have no other comments and would be glad to answer any questions. [LB262]

SENATOR PAHLS: Senator Pankonin. [LB262]

SENATOR PANKONIN: Thanks, Chairman Pahls. I sure appreciate your testimony and perspective. If this bill would pass what effects do you think it would have on the local insurance industry and obviously purchasers thereof? [LB262]

JIM DOBLER: Well I think that the primary impact would be you will have more people that won't buy it. I think it will impact the uninsured motorist population. As I said, it narrows the range of the marketplace for the product, and when that happens, and they have less choices then you have people, low income people or whatever that can't afford it, I would assume they are not going to buy it. I don't have anything scientific about it but that is just... [LB262]

SENATOR PANKONIN: I understand. Let me follow up with that another question, in your view if we could toughen the state stance on uninsured that we would have better percentage of participation and you have this law. Wouldn't it be a better public policy situation if we have and higher participation, wouldn't that be the sweet spot? [LB262]

JIM DOBLER: You are suggesting somehow tightening the uninsured motorist law, making it more... [LB262]

SENATOR PANKONIN: Yes. So the consequences are, whether it is impounding

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

vehicles or you are doing jail time as Senator Langemeier suggested some states are doing. In kind of a perfect world but better situation wouldn't it be better to have those two things as a combination, higher limits and that? [LB262]

JIM DOBLER: If you raise the limits and you have more people that don't buy it doing anything further to tighten the rules or the ability to capture uninsured motorists won't solve the uninsured motorist problem. It will still be there and no matter what we do there will still be people that drive without insurance. Would it make it somewhat better to the extent we tighten it? Theoretically I would assume it would make it somewhat better. [LB262]

SENATOR PANKONIN: Okay, the question was if we could tighten it and have higher limits would that be better public policy? That is my question. [LB262]

JIM DOBLER: Well I guess my reaction would be no. My thinking on it is directed more towards the uninsured motorist issue than the minimum limits issue. I guess I will approach it this way, you can go to the state of Colorado and they have a much more extensive process of trying to capture uninsured motorists. It is very expensive and I don't remember the exact figures but I know in prior years there has been testimony before this committee about that and my recollection is \$3 million to run a full blown program to capture or reduce the uninsured motorist population. Yet it is expensive. Let's move to another part of that issue. Farmers Mutual, we have 55,000 auto policies in Nebraska. Requests to change auto policies in a one year period, 65,000 requests in a year. That is 1,200 per week. This is adding cars, transferring cars, removing cars. All this is going on every day and we are going to figure out a way, I mean no matter what kind of computer processing system you have you have these things going on constantly and you turn in the database or you turn in the information and say it is this way today, they are not insured, maybe they get it tomorrow but if it is this way today and they are not insured you are going to send someone out and impound the car. Even if you send people out, how many does it take to do all of that? It is an enormous task. I can even give you right now with the database we have right now which is current only once a month. We submitted our data the end of December. It showed a policyholder's policy period ending the end of December but they have got 13 days to pay the premium. Once you reach the end of the policy period. They paid early January we send our data into the state on January 10. It went in on the tenth showed she had no coverage. She is pulled over towards the end of January and she is given a ticket for no insurance. She paid the premium but during the grace period. So on February 1 or February 10 we send in another data load that shows she is covered again but in the meantime she has no insurance. She calls us and complains to us. Why did you tell them I didn't have insurance? So the big issue with cracking down on the uninsured motorist, doing things with the database is it is expensive, it still won't work, ultimately you have got to go out and get the car or do something which is another huge expense and the data going back and forth won't mirror what is going on out in the marketplace.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

Agents buying coverage everyday. Some of them will send it in electronically. Many will mail it in. People buy new cars off the lot. They go in on Monday when they bought it on Saturday, tell their agent, well they have got automatic coverage for newly acquired vehicles, 30 days. How are you going to handle all of that? They buy the car, two days later they are pulled over. They are not on anybody's insurance list. That is the difficulty of going that route. It is hard. [LB262]

SENATOR PAHLS: Senator Pirsch. [LB262]

SENATOR PIRSCH: Just trying to get a handle on this statistic. I appreciate your providing this information. In looking at it, kind of two scenarios, one kind of the more...one with the family of four, clean records, kind of giving you a common scenario and then one maybe a higher risk type of scenario, correct? So let's just take the Farmers Mutual then, how much would the policy have cost as it is now and then under assuming the new coverages? [LB262]

JIM DOBLER: Oh, well. [LB262]

SENATOR PIRSCH: Would it be \$90 total increase? [LB262]

JIM DOBLER Extra. Yes. That is right. [LB262]

SENATOR PIRSCH: Okay, and how much is this reflecting the absolute cost, the total package right now under the current law, under the \$25,000/\$50,000? [LB262]

JIM DOBLER: It would be \$774. [LB262]

SENATOR PIRSCH: For the family of four. [LB262]

JIM DOBLER: Yes. It should be over on the... [LB262]

SENATOR PIRSCH: Yeah. There you go. I appreciate. So about a little shy of another \$100 then on \$774. I guess my question is these are assumptions predicated on today's existing structure, correct? [LB262]

JIM DOBLER: That is right. [LB262]

SENATOR PIRSCH: And so it is predicated upon statistics that would not take into account higher amounts of coverage by other cars that were involved in the accident. Would these possibly tend to drop? If you increase the coverage here, would not then the people that you get into...the overall other individuals would have higher coverages as well. Would that have an effect in decreasing that \$90 rate to some degree or is that just speculation? [LB262]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

JIM DOBLER: If everybody went to \$50,000/\$100,000 I think it would have an impact, I think it was mentioned earlier, on underinsured motorist coverage. If the minimum limit is higher I think you would see fewer underinsured motorist claims in that \$25,000/\$50,000 range. So that coverage I would think it would reduce the costs of that coverage. Yeah. [LB262]

SENATOR PIRSCH: Okay. Thanks. [LB262]

SENATOR PAHLS: Senator Carlson. [LB262]

SENATOR CARLSON: Senator Pahls. Jim, in listening to your testimony you are in opposition and so what has been presented doesn't look very good. Where we are doesn't look the best that it could be. So what is the answer? [LB262]

JIM DOBLER: Well in my opinion the auto insurance marketplace ought to be as broad and as open as possible. And number two, I think it is important for the state to have competitive rates and that the cost of auto insurance be affordable and be low, and on those points I think right now the state of Nebraska does very well. Our average auto insurance premium in this state is one of the lowest in the nation and if you look at that and then you look at where Nebraska stands in terms of an uninsured motorist population we are also very low. We are at the low end of the uninsured motorist population and I think the two are very much related. Finally, with regard to the uninsured motorists this Legislature has already done a lot. It is a crime not to have it. To require proof of insurance, to make it a crime not to have it, to lose your license for not having it, those are good penalties. It is not perfect and there is no ultimate solution that can get rid of the uninsured motorists and make sure everyone has adequate coverage. There simply isn't. Whether you raise the minimum limits it is a judgment call, it is a tough call and whether you do more to try to deal with uninsured motorists is a very tough call. It involves expense, it won't solve the problem. So I am sorry. I can't offer any ultimate solution but I do think competitive rates and open market, affordable rates goes a long ways. [LB262]

SENATOR CARLSON: One other and maybe I heard you wrong, but I believe you referred to Colorado as really trying to crack down on things. [LB262]

JIM DOBLER: Yes. [LB262]

SENATOR CARLSON: But their penalty is a \$500 fine and ours is \$500 plus not more than 10 days in jail so...oh, excuse me \$500 plus license and registration suspension. So it looks to me like our penalty is tougher than Colorado's. [LB262]

JIM DOBLER: I have no doubt that is true there and my reference to Colorado is to their

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

system of trying to keep track of people's insurance coverage and what Colorado has done is they have an electronic database of insured drivers and insured cars that is downloaded, I believe, daily and so in that sense from a database standpoint and trying to keep track of who has what Colorado has gone a lot further than Nebraska has. Now I will point out, too, in the case of Colorado, my recollection is that their uninsured motorist population before they moved to this new system was in the area of 30 percent and that is a big part of why they did what they did, and the implementation of that system had a positive effect and it is down around 15 percent now. But Nebraska's uninsured population is down around 8 percent. So we are already exceeding what the state of Colorado is at and we don't have near the expense, near the process that is going on in that state. So, again, it is a difficult call. To institute more tools to keep track of what the insurance buying public is doing, I think, is useful if you have got a very big uninsured population. But the law of diminishing returns starts to kick in, I believe, when that pool of uninsured people gets smaller. It just gets harder and harder to get it any smaller. But that is a balancing thing that I am sure the committee will have to consider. [LB262]

SENATOR PAHLS: Senator Pirsch. [LB262]

SENATOR PIRSCH: Just to frame the issue a little bit more, appreciate the figures, I guess it helps speak to, I guess, your point with these is that it will cause significant cost increase to your average customer, and that your belief is that the demand curve is elastic and that the number of people that comply with the law will go down. I would like to speak though to a different part of that which the proponents were commenting upon, and that is that there currently are a significant amount of individuals who are exceeding the current coverage. Do you have any anecdotal or some sort of objective type of observations about that level, whether or not it is commonplace that those limits as they exist right now are being exceeded? [LB262]

JIM DOBLER: Are you looking at whatever their liability limit might be that the value of a claim is over that amount? [LB262]

SENATOR PIRSCH: Yeah. You are right. I better refine that to say the minimums, the \$25,000/\$50,000 that we are looking at now. I guess there had been previous testimony here today that it is...I think it was suggested by one testifier who testified here today that in a third of the cases that were brought before him that that policy amount was exceeded, and so I just wanted to know if you had any comments with respect to the percentage or how frequent, whether it would be objective or anecdotal. [LB262]

JIM DOBLER: Well, first of all I heard Mr. Lathrop mention that and I don't doubt that. I guess that probably doesn't surprise me and in part I would say a trial attorney, a person handling auto litigation will probably see more of the serious auto accident cases than that individual will of the minor fender benders. If you have a serious accident it

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

only stands to reason that the folks involved will want legal representation for those kinds of cases. So from a trial lawyers perspective to have a third that exceeds \$25,000, that seems reasonable to me. [LB262]

SENATOR PIRSCH: Do you have any idea in your mind about not taking, as you say, a nonrepresentative sample of those who show up in a personal injury attorney's office, but rather the overall pool. Do you have any idea or estimation of approximation in your mind of where that figure would lie? [LB262]

JIM DOBLER: I really don't, Senator. I don't know. [LB262]

SENATOR PAHLS: Any other questions? Thank you for your testimony. [LB262]

JIM DOBLER: Thank you. [LB262]

SENATOR PAHLS: Any other opponents? Anybody in the neutral? That will close...oh, Senator, I am sorry. [LB262]

SENATOR KRUSE: Thank you, Mr. Chairman. I really appreciate all those who have testified and I appreciate the patience of this committee. My goodness, I commend you. You have stayed steady for a lot of tedious work here on a bill. I would make these quick comments. The last testifier really was testifying against insurance in my hearing. Why don't we reduce it to \$10,000 and then we will sell more policies and they will all be useless. I have some feeling about insurance. I strongly support insurance. To take our own personal case with my son, our family has had to kick in about \$700,000-\$800,000 which isn't easy to do. The insurance company, the auto insurance company has paid over \$2 million. Obviously my son isn't from Nebraska. Where would we be if he had stayed? He was an aid in the Legislature here. Where would we be if he had stayed working as an aid in the Legislature and we had to come up with the \$2 million because our insurance companies don't provide it? So I have some thoughts about these figures and especially when we start dinking around with some of the low ones. It is simply not adequate. I would chide Mr. Cavanaugh and will carry this to him, that he looked over this committee and decided that everybody on this committee has a vehicle under \$25,000. I look at this committee and I see that every one of you has a vehicle that is worth over \$25,000, no question about that. But I underlined that \$25,000 would have bought just about as nice a vehicle as could go 20 years ago and it doesn't do that anymore. The question about the amount that the state pays, serving on appropriations I am quite aware of that, person from the Hospital Association pointed out but let me just be very direct about it. If it is a \$25,000 minimum and that person sent to the hospital the bill is going to go to the county, past \$25,000 and there aren't any \$25,000 bills from hospitals in the middle of the night anymore. So the state pays. I am quite intrigued with the question of the penalty and I was almost asked a question of one of your members, Mr. Chairman, but I will let you ask the question of Senator Pirsch. Who

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

is your resident expert on this? Is there any place that we could work in an increased penalty on this within this platform or someday. I would strongly support that. If you wish to amend this in any way to try to do that. I am always getting that we take a license away from somebody and that is just not fair. We are dealing with a public perception here folks and they say well how is this guy going to get to work? My response is how is the guy he killed going to get to work? So persons without insurance have a far higher chance of causing an accident of liability and so on. I am not interested in subsidizing them even though I appreciate these figures, you know, \$2 per person a month. Doesn't seem very high to me. But if that family doesn't pay for it then we do. Somebody else is paying for the amount of that insurance because the bills are still there. We still have to pay for it. And finally Mr. Chairman, you I am sure are guessing that this is not my priority bill. I would welcome any ideas about places to amend it, tack on if you have got something under your purview where this would fit in. It seems to me it is the nature of a bill that would serve as an amendment to something else and I would certainly be open to working with you on that. Thank you. [LB262]

SENATOR PAHLS: Thank you Senator. Any questions? Thank you. [LB262]

SENATOR KRUSE: Thank you. Thanks to all. [LB262]

SENATOR PAHLS: That will conclude our session on LB262. [LB262]

SENATOR PAHLS: We will now be ready for LB424. (Sic: LB425). [LB425]

SENATOR PANKONIN: Four two five. [LB425]

SENATOR PAHLS: You are right. Just making sure you are awake there, Senator. When you are ready, Senator. [LB425]

SENATOR PANKONIN: Okay. Good afternoon, Chairman Pahls and members of the committee. I am Dave Pankonin, P-a-n-k-o-n-i-n, and I represent the 2nd Legislative District. We are going to change the topic a little bit today and talk about something that is not insurance and not banking, so hopefully you will enjoy that change of pace. I am here to introduce LB425. This bill adopts the Nebraska Operational Assistance Act. LB425 does not create a new program. It renames and retains the provisions of the Nebraska Venture Capital Forum Act that began in 2001 with the passage of LB225 and was renewed by LB498 in 2005. LB425 continues the appropriation of funds to the Nebraska Department of Economic Development. The department then awards the funds to a private nonprofit organization to implement the terms of the act. The department may also accept funds from other public and private sources, and add them to the state appropriation. The nonprofit organization must provide cash or in kind matching funds of at least one third of all other funds appropriated for the act. The Nebraska Operational Assistance Act requires the nonprofit organization to provide

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

technical assistance to individuals and companies that lack the foundational components to achieve their growth potential. The individuals and companies are then matched with people who are willing and able to make investments now in order to potentially realize sizable profits in the future. The provisions of the Nebraska Operational Assistance Act and the state funds that help to support it would sustain the existing groundwork from which new ideas can be launched to create high paying jobs, import dollars to our state, and expand our tax base. Twenty years ago, CFED, a national nonprofit organization that expands economic opportunity created a development report card for the states. The report card provides a state-by-state assessment in three main areas: performance, which looks at the economic climate for wage earners; business vitality, which reports on the economic climate for business; and development capacity, which predicts how a state positions itself for the future. In the 2007, the most current CFED report, Nebraska earned a grade of B in performance and business vitality, and a grade of C in development capacity. Nebraska needs to raise its grade for development capacity from a C to at least a B and perhaps even to an A. Improving our state's environment for start-up businesses will certainly support this goal. Passage of LB425 would maintain the groundwork for development capacity that we already have in place. I would be happy to answer questions, if I can. However, the proponents who will testify in support of this bill have far more knowledge than I do about the history and potential for the Nebraska Operational Assistance Act as it is proposed in LB425. They can provide clarification on all aspects of the bill. Thank you. [LB425]

SENATOR PAHLS: Any questions? I see none. Thank you, Senator. Could I have a hand of the proponents? We have one, two, three, four. Opponents? Seeing none, neutral? Okay, it seems like we have four proponents. We may begin. [LB425]

BRYAN FAIRFIELD: (Exhibits 1-6) Thank you, Chairman Pahls, members of the committee. My name is Bryan Fairfield, B-r-y-a-n F-a-i-r-f-i-e-l-d. I am executive director of Invest Nebraska Corporation. We are the 501(c)3 nonprofit selected by the Department of Economic Development in 2002 to fulfill LB225, the Nebraska Venture Capital Forum Act. We have been doing that now for four years, and I am here to testify in support of its successor LB425. We have a very broad mandate with LB225, the Nebraska Venture Capital Forum Act. But primarily Invest Nebraska targets high growth businesses in the private equity market. Now high growth businesses are entrepreneurial start-up companies in the state that have grown here and headquartered here. High growth is kind of an esoteric term, so I will define it as we define at Invest Nebraska. It means a business or an entrepreneur that is going to export goods and services from our state, and therefore import new dollars. It also means a business that is going to grow rapidly enough to create wealth for more than just the owner, but also employees, partners, investors in that business. There are a number of economic development organizations in the state, but we are the only organization fulfilling this mandate that targets entrepreneurial high growth businesses

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

and the private equity market here in the state. We concentrate and have concentrated over the last four years on three primary areas: working with businesses, with communities, and providing education and awareness. We have provided education to entrepreneurs, helping them build better businesses and identify investors. We have provided education sessions for investors, helping them make better investments here in the state. And our awareness and education programs have been delivered directly and via the Internet throughout Nebraska. We spend a lot of time in communities throughout Nebraska. We introduce best practices to communities that help them identify support and grow high growth businesses in those communities. We have worked with a number of communities, presented a number of best practices, and have been successful in several of those and seen best practices implemented in some of those communities. Those include investment clubs and entrepreneurial forums. I have a letter here, if I could ask the Page to pass these around, from one of those communities. This is the most recent one we have worked with, Wahoo, helping them start an investment club in that community. Most of our activity at Invest Nebraska over the past four years has been working directly with high growth businesses. Again, the entrepreneurs, the ideas come from existing businesses, they come from the university, they come from budding entrepreneurs in the state, and they come knocking on our door looking for capital. We help those businesses in a couple of different ways. We help them become venture ready. That is, we help them become competent enough to stand in front of angel investors, high net worth individuals, or venture capital groups in order to get some of those investment dollars. We also help introduce them to those investors. Now, we have operated on a relatively small budget, and this has been one element of what we have done over the past few years. So we haven't always had the opportunity to dig deeply with these businesses. But when we have had, when we have had the right volunteers available and the right time available for the right business, we have had tremendous success. One of the better successes we have is a company called Advanced Imaging Solutions, which came to us with two individuals, one was a full-time employee for the company and one didn't have an opportunity...the company didn't make enough money to support him in the group at that time, and they came to us looking for capital. We saw that they needed a number of other things in place before they could go out and raise capital. They needed to focus on one core area of the business. We helped them do that. They needed to develop a sales and marketing plan. We helped them do that. They needed to restructure their business. We helped with that, and they also needed an executive team. They needed a couple of individuals in there with some significant business experience. They had a lot of technical know how, but didn't have the business experience. We helped connect them with those folks as well. We were lucky to be able to find the right volunteers for the right business at the right time with that particular time group. It grew from those two employees to over 30 combined into...it is now split into two businesses, that are growing and still prospering here in Nebraska. We helped them by kicking that off initially. Although they did all the heavy lifting. I don't want it to make it sound like we did all the work there. These two guys and subsequent employees did a lot of the hard work. We helped them out. We

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

were also able to help connect them to venture capital and angel capital as they needed those dollars. I have a letter here from one of the two companies that this business, AIS, has split into. The other one has a testifier here today that will take a couple of minutes to give his perspective. LB425 will help us replicate these sorts of successes here in Nebraska. It will give Invest Nebraska the focus and the resources to do this on a much more regular basis in a much more systematic way. See businesses that we work with often face a Catch-22. They come to us looking for capital. They need capital in order to grow their business here in the state. These are young entrepreneurial businesses that don't have the opportunity to have credit extended to them. So they need high net worth individuals or venture capital to help them grow. But often they have several elements of their business missing. This could be intellectual property protection, it could be a strategic sales plan, it could be an executive management team. The Catch-22 is that they can't fill those gaps without capital, and yet they can't go out into the capital market place and get the capital they need without those gaps filled. LB425 helps us fill those gaps, and overcomes this Catch-22 situation. It gives our organization, Invest Nebraska Corporation, assuming the Department of Economic Development chooses us as the nonprofit to fill this again, the resources and the staff we need to directly consult with these businesses and help them fill gaps. But more importantly, it helps us put domain experts, experts in specific areas of business together with these Nebraska businesses to help them grow and be headquartered in the state. That is, we put professionals in particular areas from Nebraska together with Nebraska businesses to fill gaps to make them venture ready. This can have significant benefits. The benefits to the businesses we work with are probably readily apparent. They have a greater opportunity for success, better sustainability options. They have the opportunity to work with experts in their fields. They have an increased opportunity to access capital they might need to grow. There are significant benefits to investors as well, and fortunately for us, benefiting investors is a benefit to Nebraska because importing capital into our state and retaining capital within our state is an important thing and certainly a good thing to be able to do. Investors tell us they need good deal flow to invest in our state. They don't have that right now. They don't see a lot of that good deal flow. It isn't because the raw material is not here. We have seen at Invest Nebraska for the last four years, that the raw material is here. But the businesses that we see need help becoming venture ready in order to get in front of those investors, be they high net worth individuals or venture capital groups. One of the programs after which LB425 was modeled is located in Appalachian, Ohio. A venture group in that particular area has attribute 80 percent of the businesses in which they have invested to the operational assistance program in the area. Only 20 percent of the businesses they have seen would have been possible investments without that particular operational assistance program in place. The benefits to Nebraska can be significant as well. Pages, if I could ask you to pass out one more thing for me here. This is a sheet that shows Nebraska's ranking compared to some of our neighbors. We don't expect to compare well with the coast. We all know that places in Massachusetts and California have a lot of venture capital. So I have only compared us to some of our neighboring states. As Senator Pankonin referenced, the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

2007 CFED development report card for the state ranks Nebraska last in venture capital alongside Alabama and North Dakota. That is, we rank last in helping these entrepreneurial high growth businesses that create jobs, create wealth, and increase our tax base. In fact, the National Governors Association attributes as much as 70 percent of economic growth to entrepreneurial activity. So in closing I want to say that without such legislation here in the state Nebraska would be the only state without a program. Not necessarily an operational assistance program, but a program in general targeting the private equity market or the high growth business market. Without this legislation we would lose the last four years of momentum where we have had considerable successes with businesses and communities. With this legislation, however, we have the opportunity to attract capital of the state, retain investment capital in the state instead of exporting it as we do today. We have an opportunity to help grow Nebraska businesses using Nebraska professionals so that they can grow here, be headquartered here, create jobs here, and create wealth here. I have a couple of more letters to hand out from the State Chamber, University of Nebraska Technology Park, and the Nebraska Bankers Association, letters of support from those organizations, and we have three other testifiers who will give brief statements as well. But I encourage you to pass LB425 to General File and would be happy to answer any questions you may have. [LB425]

SENATOR PAHLS: Senator Langemeier. [LB425]

SENATOR LANGEMEIER: Chairman Pahls. Thank you for your testimony. This was renewed in 2005 and I remember it very well. How long was that extended for? [LB425]

BRYAN FAIRFIELD: I am sorry. LB498 was unsuccessful. We were not renewed in 2005. Our initial bill was enacted in 2001. Our organization actually began in 2002. Our state funds ran out, oh, about nine months ago or so, and we are essentially living on fumes right now. We have whittled down so I am the only employee of the organization. My board, which consists of 15 members, I, our sponsors believe that this is an important economic development effort in the state and are committed to attempting to get this legislation through. Without this legislation, we won't survive on private sector dollars alone. [LB425]

SENATOR LANGEMEIER: Okay. Then my second question...well I have a number of them here, but that second question is why the name change? Why not try and renew the Nebraska Venture Capital Forum Act again? Why change it to the Nebraska Operational Assistance? [LB425]

BRYAN FAIRFIELD: The primary reasons is we wanted to stress that we are continuing all aspects of our activities over the past four years, communities, awareness in education, working with businesses. However, one of the things we have learned is where we can be most impactful, where we can have the most bang for our buck, if you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

will, and that is helping these businesses in Nebraska become venture ready, and creating deal flow for venture capitalists and for local high net worth individuals to invest in those businesses. This bill will provide us more resources than we have in previous years. Those additional resources will primarily be targeted to working with entrepreneurs, working with start-up companies and helping them become venture ready. So it is a focus on one particular area of what we are doing is the reason for the name change. [LB425]

SENATOR LANGEMEIER: Okay. And then on page 5, you put in this legislation, it says the intent of the Legislature is to appropriate \$600,000. Do you know where else in state statute we would bind or put in an attempt to spend money into the future? [LB425]

BRYAN FAIRFIELD: Are you asking me if... [LB425]

SENATOR LANGEMEIER: We don't typically put in state statute an intent to spend money into the future. However, we are in this. [LB425]

BRYAN FAIRFIELD: Senator Langemeier, I am not the best person to ask about the way bills are written. However, I did do a lot of the drafting for that. If there is a word in there or a statement that is not well done, in all likelihood that can be attributed to my ignorance of how we put together these bills. [LB425]

SENATOR LANGEMEIER: Yeah. I am not worried about that. Okay. I am done. Thank you. [LB425]

SENATOR PAHLS: Senator Pirsch. [LB425]

SENATOR PIRSCH: So the original passage then went into effect in 2001 then, correct? [LB425]

BRYAN FAIRFIELD: Yes. [LB425]

SENATOR PIRSCH: Okay. And 2005 then it wasn't renewed at that time. Obviously economic development has got to be a primary focus of the entire Legislature... [LB425]

BRYAN FAIRFIELD: Absolutely. [LB425]

SENATOR PIRSCH: ...and entrepreneurial type in particular. Was the need of renewing (LB)225, and I wasn't a member of this Legislature in 2005, was at the time that it was not renewed, was there any comment that the need was obviated by the upcoming package LB312 in how they get more comprehensive approach to or is there a need even in light of measures that were taken last year as far as economic development, some of the equities you have mentioned? [LB425]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

BRYAN FAIRFIELD: One of the challenges we had last year, Senator, was differentiating ourselves from the many economic development activities that are out there, and certainly (LB)312 and many of the things that were tacked onto (LB)312 were a distraction for the message that we were trying to get across, which is we are the only organization that focuses on this particular niche in the economic development realm, that is dealing directly with these entrepreneurial high growth businesses. There are many other economic development efforts that handle the other aspects and they are all important business attraction, business retention, tours and those sorts of things. Certainly the economic development efforts last year took a great deal of attention, took a great deal of mind share on the part of the Legislature last year, and I think that was one of the challenges we faced. The second challenge I think we faced last year, and I heard this from a number of senators, was that what we were looking for last year, which was a smaller number more like \$175,000 a year as opposed to what we have in there this year was we were too small to make an impact. We were too small to work with enough businesses, deeply enough to impact enough businesses to really start seeing it on the radar screen. And I think that was a valid criticism in a lot of ways because we have been operating on a relatively thin budget and have been unable to work as deeply with businesses as we would like. Still we have had several successes, so we have been happy with what we have been doing. This bill gives us an opportunity to do it in more depth, in more detail, and more broadly in Nebraska. [LB425]

SENATOR PIRSCH: And in light of the fact that this was 2001, what was the appropriation in that first fiscal year then that you were operating? [LB425]

BRYAN FAIRFIELD: I don't remember the exact timing. The total appropriation was \$500,000. The total appropriation. We matched that, in fact we have more than matched that. We found more than \$600,000 over the past couple of years from the private sector to supplement that. But our actual operation started in August of 2002, so things didn't get underway right away. The board hired me in August of 2002 to set up the business and start things rolling. So we started from ground zero in August of 2002. Between that date and today we have used \$500,000 of state funds and more than that in private sector support. [LB425]

SENATOR PIRSCH: An in a cost benefit analysis, have you already exceeded the amount, that you would say, of growth and revenues, or jobs, or what have you, has that exceeded the amount of appropriation at this point in time, or is that you haven't got to the part in the curve yet that you are still too early in the curve when the revenue showed up? [LB425]

BRYAN FAIRFIELD: Certainly these sorts of efforts take many years to really bear fruit. These are round numbers and aren't exact, Senator, but we have in just working with businesses, not counting education awareness or working with communities, we have

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

connected directly over \$1.5 million of capital to businesses we have worked with, and those businesses have seen more than \$5 million invested in them. So sometimes we will find a potential investor for a business who will be the first investor in the door, and the fact that that gets the business rolling and builds credibility allows other investors to come in. So we can't claim effectiveness for all \$5 million. We can only claim \$1.5 million, but have seen other follow on investments. There have been more than 40 jobs created from the businesses we have worked with. Again, the people that are running those businesses are doing the hard work. They are the ones that are going out there and selling and doing their operations and logistics, and so I am not going to for a minute tell you that they wouldn't have created jobs without us. But they will tell you that we have been a big part of that. [LB425]

SENATOR PIRSCH: Thank you. [LB425]

SENATOR PAHLS: Senator Carlson. [LB425]

SENATOR CARLSON: Senator Pahls. Bryan, you indicate in here that LB225 was renewed in LB498 in 2005, but renewed without money, right? [LB425]

BRYAN FAIRFIELD: Let me clarify, that must be a misprint there. LB498 was passed out of the banking committee, this committee, in the last session into General File. It died in General File at the end of last year, so it did not pass. [LB425]

SENATOR CARLSON: That is why on this sheet then we have got zero committed. [LB425]

BRYAN FAIRFIELD: That is why we have zero committed. You are exactly right. [LB425]

SENATOR CARLSON: Okay. You look at Oklahoma and Colorado, Iowa, significant amounts. [LB425]

BRYAN FAIRFIELD: Yes. [LB425]

SENATOR CARLSON: Give me an idea where that money comes from? [LB425]

BRYAN FAIRFIELD: Well, it comes from a lot of place. I will give you an Oklahoma example because we have spent a lot of time studying some of the models in Oklahoma. A big chunk of the money in Oklahoma comes through a fund to funds model. It was one of the first of its kind and it is designed to encourage the private sector to do what it does best. It realizes that the state can't get involved in all aspects of this, but the state can be a catalyst for encouraging the private sector to take action. They had environment where they had two venture capital professionals in the state

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

who represented presence of other venture capital groups who wanted to grow that. So they created a fund to funds, in which the state created contingent tax credits that allowed a public trust to form. That public trust used those contingent tax credits to borrow money from banks. That money, borrowed from banks, was invested in private professionally managed venture groups who agreed to look at deals and make best efforts to invest in businesses within the state in a variety of different areas. So some of the Oklahoma money, through that program, didn't come directly but it came through a fund to funds program. They have grown from having 2 venture capital groups with the presence in the state to almost 20, and from 2 to 24 venture capital professionals. They also have a statewide program that I wouldn't call completely a venture capital program because it serves a lot of masters. It invests in high growth businesses, but it also invests in other types of businesses and that was launched as a state sponsored effort, and partnered with a number of banks and now is gaining a lot of new markets, tax credits, as one of its funding vehicles. They have support systems in states similar to Invest Nebraska. They have a complete package there in the state that cover a number of different aspects of the private equity market. I think there may come a time in the future as we begin to build up deal flow with this operational assistance program, if this Legislature chooses to pass it, where we have better business opportunities in the state, more investment coming from high net worth individuals within the state, and venture capital groups outside the state to start to take a look at some of those other steps in future legislative sessions to see if we can build on this momentum here in Nebraska. [LB425]

SENATOR CARLSON: Thank you. [LB425]

SENATOR PAHLS: Seeing no more questions...Senator Hansen. [LB425]

SENATOR HANSEN: Excuse me, I will ask one real quick one. Thank you, Chairman Pahls. On page 2 on number 2 you say Nebraska's net exporter of venture capital, where does that go? [LB425]

BRYAN FAIRFIELD: Well, it goes to a lot of different places. The state investment council, for example, invests in venture capital groups through their investment council, which I believe is located in Denver, and those venture capital groups they invest in are primarily on the coasts. We don't have any venture capital groups here in Nebraska right now. We had one for a few years, but they are just in harvest mode right now and aren't making any new investments. So it is tough for groups like that to invest here in Nebraska. High net worth individuals have a difficult time investing in Nebraska, because they don't always see the mature deal flow that they need to see in order to keep their money in this state. So we try to build relationships with a lot of those high net worth individuals. If they don't see the deal flow here in Nebraska, they will send their money, you know it will be a small portion of their overall portfolio, but they will send some of that small portion of their overall portfolio to venture capital groups in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

other parts of the country. [LB425]

SENATOR HANSEN: Okay. Another quick question I have. In your Wahoo example, you state that recently the local development group, the Greater Wahoo Development Foundation, is that working as a foundation where they invest the principal and just work off the interest then? Did you help set up that foundation? [LB425]

BRYAN FAIRFIELD: The group that they launched is not the Wahoo Development Foundation. The group they launched is a new group. Their first meeting, I believe, is the first week of March, it is next week. This is just launching, and it is an investment club made up of local individuals who put an initial amount of money into a fund, add money to that fund every single month in order to invest in local community businesses. Now what is interesting is when we set out on this path four years ago, we expected in communities like this to create angel investment groups, groups of just high net worth individuals only focusing on high growth businesses. What we found in several communities that we have worked with is these investment clubs work a little bit better because it allows the folks that are involved in that investment club to invest in high growth businesses, but also in main street retail or real estate in the community. So they may use this particular investment club in a variety of ways, but it is something that suits Wahoo better than Lincoln, for example, and we have a representative here from the Nebraska Angels, which is an angel investment here in Lincoln, that is a slightly a different focus. They focus only on high growth businesses. [LB425]

SENATOR HANSEN: Okay. Thank you. [LB425]

SENATOR PAHLS: Senator Christensen. [LB425]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Bryan, how fast do you see this typically turn back or payback to a state? Do you have any statistics, anything that way, I would think, create new jobs and tax roles and things would be... [LB425]

BRYAN FAIRFIELD: I would say this is not a complete guess because I have read figures that have suggested that. I don't have those figures to hand right now, but I want to say that it is between five and ten years before the fruit really starts to ripen there and you see some of that payback. So I would imagine that you are looking at 7 or 8 years for that payback. And I am sorry I don't have those numbers precise, but that is kind of a rough guess. [LB425]

SENATOR CHRISTENSEN: That is fine. Thank you, Bryan. [LB425]

SENATOR PAHLS: Senator. [LB425]

SENATOR LANGEMEIER: Thank you, Chairman Pahls. One more question. If this

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

passes and the Appropriation Committee decides fit to put any money to this, let's say they put the \$600,000 to it, what percent do you see of that becoming operational funds versus... [LB425]

BRYAN FAIRFIELD: By operational funds you mean... [LB425]

SENATOR LANGEMEIER: ...wages, office space, phones. [LB425]

BRYAN FAIRFIELD: If we look at the matching money coming from the private sector, we look at an overall budget of \$800,000. Of that, I see a maximum of \$300,000 being used for internal purposes. Now, the wage element of that and even the support infrastructure elements of that, are going to be used to support people who are going to spend their time delivering on the bill, working directly with businesses as well. But a maximum total of that \$800,000 would be \$300,000 in that category. [LB425]

SENATOR LANGEMEIER: That's what I was curious, and one more follow up, sorry. How do you determine how many people you are going to need to implement this program? Maybe I think you only need one. You may think you need six. I mean, how do you determine that number? Now I am just curious. [LB425]

BRYAN FAIRFIELD: We determine it...we have done a lot of thinking about that and have worked with a lot of my board members on trying to find out exactly what the right budget would be and it is based on the number of businesses we see per year, which is varied from, in our 4 years, from a low of 80 to a high of 160 walking through our door. It goes up and down. It is cyclical. I haven't figured out a cycle for it yet, so I don't know how the rhythm works. But we see a lot of businesses come through our door. We have to review those. Of those there are going to be certain number that are going to be of interest to potential investors. Those we have to analyze further, and we have to figure out which ones are serious, which ones you can work with, and then you have to begin on the path of operational assistance, which is a couple of steps and then finding investors. We have the staff count full-time at three and working with a number of interns and folks from the university entrepreneurial programs in augmenting that in that head count, and it is based on the needs of moving that process along from making sure you continue to build the network. We have built the broad network, but you need to continue to maintain that, attracting deal flow, reviewing businesses, stage one operational systems, stage two, and then moving them onto investors. [LB425]

SENATOR LANGEMEIER: Okay. Thank you. [LB425]

BRYAN FAIRFIELD: You are welcome. [LB425]

SENATOR PAHLS: Anymore questions? Seeing none, thank you, Bryan. [LB425]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

BRYAN FAIRFIELD: Thank you. [LB425]

SENATOR PAHLS: Next proponent. [LB425]

FRANK HILSABECK: Thank you, Mr. Chairman, members of the committee. My name is Frank Hilsabeck, H-i-l-s-a-b-e-c-k. I am retired from Alltel Communications, and for many years I have also been the chair of the Lincoln Chamber Economic Development Corporation, Chairman of the Nebraska Technology Park, and most recently a founding member of the Nebraska Angels. I am testifying today in support of LB425. For many years I have been involved in economic growth and expansion primarily in Lancaster County, but also throughout the state. In addition to the economic impact generated by existing Nebraska businesses, there is a significant opportunity for entrepreneurial start-ups within the state. Everyday I see people wishing to commercialize their business ideas. Some of these ideas are well thought out, while others are in very formative stages. The one common thread in most of them is that they have been developed and are being pursued by people generally educated in Nebraska and who want to base their business operations in Nebraska. They want to employ Nebraskans and they want to pay taxes here. I believe that the long-term sustainable way to deal with the revenue, spending and tax issues in Nebraska is to grow more taxpayers. And in order to do that we have to retain our young people, we have to retain their ideas, we have to retain the knowledge base that we spend \$1 billion a year nurturing in educating in this state through K-12 and postsecondary programs. The Nebraska Angels is an organization with a genuine interest in improving our state's economic base. We have come together to provide the seed capital for many of these exciting new technologies and companies. In just a few months that we have been operating, we have enrolled over 30 members and our roster is growing daily. These are people willing to invest annually, significant capital funds, in ideas and companies that make sound business sense, and they are analyze rub, as Bryan mentioned. Many of these ideas need work. These companies, these individuals need legal assistance, accounting know how, personnel issues, tax planning, marketing strategies. In a word, most of them lack strategic, sustainable business plans. That is where an organization like Invest Nebraska can make a significant contribution providing the necessary business assistance to those fledgling companies which will give angels and others a sound financial opportunity to jump start their commercialization and ultimately assist them in attracting the venture capital necessary to fully deploy their businesses operationally in Nebraska. There is no lack of intellectual brilliance in this state. We just need to encourage it in order to keep it within the state of Nebraska. That is the opportunity you have with this bill, and I would strongly encourage your support of LB425. Thank you and I will be pleased to answer any questions. [LB425]

SENATOR PAHLS: Any questions for Frank? Senator Hansen. [LB425]

SENATOR HANSEN: Thank you, Senator Pahls. What is the failure rate of new

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

businesses? [LB425]

FRANK HILSABECK: I couldn't give you an exact number, but anecdotally I would say it is probably 80 percent failures, maybe 90. It is very high. [LB425]

SENATOR HANSEN: I was hoping 50. [LB425]

FRANK HILSABECK: No, it is higher than that. It is higher than that. [LB425]

SENATOR HANSEN: Okay. [LB425]

SENATOR PAHLS: Senator Christensen. [LB425]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Isn't it true that the business failure rate is much lower if they have had a business plan set out like this is structured? [LB425]

FRANK HILSABECK: Exactly, and the more thought that goes into something up front, the better chance there is that it will make it. Likewise, a lot of ideas fail for lack of funding. It is not unusual to see an idea fail one year and come back another year with somebody else doing it who is better capitalized, and that is what we are trying to do, and that is why we rely on organizations like Bryan is to give these people all the tools necessary to give them a chance to succeed. [LB425]

SENATOR CHRISTENSEN: Also isn't a little further on what you mentioned there as one business fails, another one will step in, take it over, make it run. Isn't it much higher success rate the second time when they are taking that business over and going because people have seen the mistakes, and learned, and capitalized it, and things that way? [LB425]

FRANK HILSABECK: That is very true, although I do think a lot of that could be avoided if there were places where these entrepreneurs could get assistance before they ever started. A lot of them start with all kinds of good intentions, and then somewhere along the line a problem comes up that they never thought about and there is a need for capital, there is a need for something that they don't have, and all of a sudden their idea stalls, the idea fails, and they go out of business. It is terribly unfortunate. I think one of the things that not only organizations like Bryan can provide, but even the angel groups have suggested that in addition to investing funds in these businesses, some of the individuals would like to serve as advisors, serve on the boards of some of these companies and try to help them with the business experience that they have gained over many, many years as these young people get started in order to give them a better chance to succeed. [LB425]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

SENATOR CHRISTENSEN: Thank you. [LB425]

SENATOR PAHLS: Senator Carlson. [LB425]

SENATOR CARLSON: Senator Pahls. Frank, you made such a good statement about how key it is to multiply the number of taxpayers, and a statement that good I have to think we must have both graduated from the same high school. [LB425]

FRANK HILSABECK: I think we did a long time ago. [LB425]

SENATOR CARLSON: Kind of help out a little bit, two parts of a question, of course in this bill asking for the Legislature to designate money, and that is one thing, what else could the Legislature provide? And secondly, somebody like you that gets involved in a group like the angels, you are not just charitable, you want a good investment. So expand a little bit on that, how the angels will help make something? You want to guarantee a good investment and start-up businesses are risky. [LB425]

FRANK HILSABECK: They are very risky, and candidly when I started there were about five of us that had this idea and we went out and talked to people about joining. And in some cases as we joked about it, there is almost a feeling of philanthropy here because I don't know that any of us think that we are going to invest in a company that is going to become the next Microsoft, or Google, or anybody like that. What we want to do is give people in Nebraska who want to start companies the opportunity to stay here. Some of these ideas are, you know, the technology is incredible. What worries me is that some other capital fund, venture capital fund, angel fund and so forth is going to get a hold of these people and these ideas, and want to invest in them. But when they do, they typically want those people to be housed in their state, and if there is one thing that I think I have noticed over the last 20 or 30 years of being in business is that more and more new companies and new technologies don't geographically have to be anywhere. They could be in Nebraska, they could be in Alaska, they could be in Florida, they could be wherever they want to be. And I would say that probably 90 percent of the deals that we have seen as Nebraska Angels, that I have seen as an individual, the companies could be anywhere doing business. They don't have to be in Nebraska, and so it is important, I think, that we establish a structure that allows the investments to be made in Nebraska and keep people in Nebraska. As to what more the state could do, I suppose really the big thing we need are our funds in order to help support and invest in these companies. I don't suppose the taxpayers would feel comfortable with you investing directly in the companies because, as I say, they are very high risk. But providing funds for organizations like Invest Nebraska is probably the best vehicle the state can use to ensure that these young people, typically young people, and their ideas stay in the state of Nebraska. Because, again, if we don't grow more taxpayers, the budget problems are just going to continue year after year after year. We need more taxpayers. [LB425]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

SENATOR PAHLS: Senator Pirsch. [LB425]

SENATOR PIRSCH: Thank you. Could you just comment, I am sorry if I missed this, what the chair of the Nebraska Angels, is that right? Or executive director of the Nebraska Angels? [LB425]

FRANK HILSABECK: I am a founding member, actually I am the membership person. [LB425]

SENATOR PIRSCH: Founding member, okay. Could you comment what exactly the nature of Nebraska Angels, what is the mission of that, as well? [LB425]

FRANK HILSABECK: I don't have the mission statement with me, but the Nebraska Angels is a group of high net worth individuals who are accredited investors, as defined by the Internal Revenue Service and by the SEC, I think, who have come together because we want to invest in the high growth technologies that are available. We want to do it in Nebraska. As Bryan mentioned, one of the problems we have is seeing enough deals come across our desk to be able to make judgments as to where we should make our investments. Deal flow is a major issue because quite frankly we are not particularly interested in funding somebody's technology idea in Indiana, or somebody's technology idea in Utah. We want to fund technology in people within the state of Nebraska. So many of the deals that we do see lack enough business substance to give us a sense that these are sustainable activities. As Tom said, or Senator Carlson, Tom to me, we don't want to make foolish investments, but we are not in this to, as I say, try to triple or quadruple our money. I think Bryan made the comment that these deals take anywhere from seven to ten years to bear fruit. We understand that. We plan on that, but we just want to make sure that we give as many people as many opportunities and we can to stay right here within the state of Nebraska. [LB425]

SENATOR PIRSCH: Okay, but for profit entity then. [LB425]

FRANK HILSABECK: Yes. [LB425]

SENATOR PIRSCH: And you said there is a group, approximately how many? Is there like 5 investors or like 5,000 investors? [LB425]

FRANK HILSABECK: Angels? [LB425]

SENATOR PIRSCH: Yeah, the angels. [LB425]

FRANK HILSABECK: There is 30 of us right now. [LB425]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

SENATOR PIRSCH: Thirty of us, okay, and located throughout the state then? [LB425]

FRANK HILSABECK: And we started about three months ago. Most of them are in Lincoln. We are starting to work the Omaha area. We have had several members join recently from Omaha. We have several individuals from outstate Nebraska. It is all individuals. There are no organizations. [LB425]

SENATOR PIRSCH: Very good. Thanks. [LB425]

SENATOR PAHLS: Senator Carlson. [LB425]

SENATOR CARLSON: Thanks, Senator Pahls. In listening to this, Frank, it would seem like that is it a little bit easier for me to grasp if I am thinking we are contemplating here, asking for money to cover the overhead, or cover the organization expenses of Bryan and his group, and you are providing the dollars that help the businesses. If that sounds right, we appropriate so much per year, and you don't have to be accurate with this, but give me an idea then, of just a ballpark idea of the kind of money that is either now available through the angels to invest or could be available in years. Because if the state puts so much money up per year to cover overhead, and you are putting money to help businesses grow, I would guess there is a big difference, and if we are helping encourage a big investment, it is nice to have some kind of idea of what that is. [LB425]

FRANK HILSABECK: Yeah. Bryan's Invest Nebraska's request in this, I think, is \$600,000, and I think that is over a 2-year time frame. I may be wrong. The operating agreement that we have all signed as we have joined the angel organization is that we will make investments on an annual basis in Nebraska companies. I think it is reasonable to assume that a number of the angels will make six figure investments every year. Some will make \$50,000 investments ; some maybe only \$25,000. The organization does not invest in these companies. We screen the deals, we review the deals, we due diligence, but ultimately every person makes his own decision about investing in these companies. So five of us may invest in one company, four more people may invest in another company, eight people may invest in a third company, but it is all done individually. The Nebraska Angel Organization does not in and of itself invest in any of these organizations. But we hope to get to a point where maybe on an annual basis we are investing \$1-2 million a year in amounts that probably range from \$50,000-250,000. We are really just trying to jump start some of these companies. Angel investing is the investing that takes place as businesses are just getting started, they are testing the commercial viability of their idea, their product, whatever their process and so forth. At that point, if that is proven and if that works they generally go to venture capitalist, and at the venture capital level, then you are looking at requesting funds maybe from \$3-10 million in order to fully develop and fully commercialize the idea or the product that you have. We are not going to build any buildings, we are not going to help people produce product and so forth, we are getting them started. We are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

getting them to the stage where they have got enough practical business experience and knowledge to be able to go to the venture capitalists and ask for the big bucks. We are just getting them jump started. But it is an important activity because if it doesn't take place in Nebraska, it will take place someplace else. [LB425]

SENATOR PAHLS: Thank you, Frank, for your testimony. Appreciate it. [LB425]

FRANK HILSABECK: Thank you. [LB425]

MIKE BUCK: Senator Pahls and committee members, my name is Mike Buck, spelling of the last name is B-u-c-k. I am a financial professional and have spent the last seven years of my professional career working in early stage in venture funded companies, and have currently hold the position of chief financial officer for Game Plan Technologies, Inc. And so what I would like to do is provide you with essentially a case study of entrepreneurial effort in Nebraska and what some anecdotal benefits that can come from that venture investment. Let me provide you just a brief background for Game Plan Technologies, Inc. It was founded by two Nebraska software engineers. One of them was Greg Wilson, who was the lead team in general dynamics for developing the guidance system for the cruise missile in Gulf (War) One. Okay. Both of these software entrepreneurs developed a software technology that combines video and data, and wanted to commercialize their product. At that point in time they had no management team, they had no direct capital investment, and so as they started to seek direct capital investments, let's go to venture funds in Nebraska, for example, and see if we can find a venture investment. Well, there is no organized venture fund in Nebraska. As you heard from Frank Hilsabeck, the Nebraska Angels is a relatively new investment organization, you know, two years ago that did not exist. So in Nebraska there is not an organized venture presence. there is not an organized capital structure for young companies to go to. The two software engineers got in contact with Bryan Fairfield. He helped match those up with the companies initial CEO. The CEO and I had worked together on a prior venture back deal, and I got involved with the company at that point and time. So Invest Nebraska essentially has been involved, and essentially in three critical factors for Advanced Imaging Solutions, as he called it. The company is now two technology companies. They provided assistance in identifying management operational talent. Invest Nebraska paired the companies CEO with the two founders of the business to provide management operational talent to grow the business. Second, they provided assistance with capital formation, and Invest Nebraska provided assistance in linking the early stage investors interested in technology companies with Game Plan's business plan and management team. Game Plan is able to obtain...at this point in time they helped us obtain \$4 million worth of venture capital. Those venture investments didn't come from Nebraska. The lead investor is Adena Ventures in Ohio, PrairieGold Venture Partners out of South Dakota, Mountaineer Capital out of West Virginia, and there is one high net worth individual in Omaha that has invested in that venture round. Invest Nebraska has also provided, been available for advice, assistance

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

on business plan, growing the company, marketing, strategic plans as well. Advanced Imaging Solutions was when it went through its initial venture round, Adena Ventures, who is the lead venture partner, made sports technology-related investments and Game Plan Technologies is essentially a sports technology company. The two technologies, there was the security and surveillance was the other technology, they wanted to invest specifically in the sports-related technology, and they have invested \$4 million in 2006 in the company. I believe that Bryan provided you with a letter from Hawkeye Vision, and let me give you a little idea, anecdotally, of what some of the business economic factors would have from that kind of investment. AIS is now two companies. There are 33 full-time employees, annual payrolls of over \$1.3 million. Both companies spend more than \$2 million on Nebraska purchases of goods and services. Also, Game Plan Technologies invests in Nebraska. Coach Cook, for example, is one of our customers, and we have helped them in analyzing their sports video and technology, and help them to win a national championship. The other spinoff company, Hawkeye Vision, provides advanced security and surveillance solutions for the majority of Omaha Public Schools. So it is not only direct economic investments in creating tax basin dollars, but you have a safer place for your students in the Omaha Public Schools. And so what I would like to do is suggest that it is a return on investment. Senator Langemeier talked about here is the dollar amounts that is invested, what is going to come from that investment, and so you can see anecdotally from Advanced Imaging Solutions, now Game Plan Technologies, Inc. and Hawkeye Vision Technology, what kind of investment would come from operational assistance money. For example, Adena Ventures provided the company with \$500,000 of operational assistance money as part of the venture package, and that came through Ohio. And so I will just open it up to questions, whatever you have related to this specific company or any questions in general. [LB425]

SENATOR PAHLS: Senator Pirsch. [LB425]

SENATOR PIRSCH: I guess just a question, this particular bill would just as it relates to Nebraska Operational Assistance Act, that would just create a referral type of service and reference, correct? It is an investment type of activity? This would just be a resource. [LB425]

MIKE BUCK: Yeah, my understanding of the bill, and I am not here to testify on the actual operations of the bill, but my understanding of the bill is that how Bryan's organization works, essentially it links entrepreneurs and investors. Through those links, basically they are going to provide...Bryan talked about getting the companies venture ready. To be able to get venture ready, I mean if the success rates on ventures that actually have venture backing are a lot better than 80 percent failure rate, that has been bantered around here. Okay. So by the time they get to that point that they are venture ready. That would include assistance with the business plan, some marketing assistance, helping find some early stage management talent as far as employees. So I am assuming the operational assistance money is going to be not just overhead dollars

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

of paying the operating cost, but involved in helping that company accomplish its business goals. [LB425]

SENATOR PIRSCH: Reviewing business plans, etcetera, helping to refine those, are those type of...and if you don't know the specific type of activities which are being proposed, that is fine as well. But are there already existing type of state and federal agencies through the SCORE program, or the SBA, or Nebraska Business Development Center that would provide these type of services to take small entrepreneurial type of activities, and get them honed and refined to the point where they are ready to introduce to the venture capitals of say like in Odin Capital in Omaha, or McCarthy Group, or something along reGENCY? [LB425]

MIKE BUCK: Yeah, Odin Capital doesn't make any investments anymore. They were originally a \$50 million venture fund, but at this point they are fully invested and they are not going to reinvest the fund. McCarthy Group, for example, they only invest in later stage deals, buyouts, M&A activity and so forth, they don't operate in the early stage investment area. So there really isn't any organized investment area related, for example, I have helped clients work through 7 ASBA financing. SBA financing essentially, they don't provide any operational assistance. You provide your business plan. They will review your business plan, look at it, but they don't provide what Bryan's group is trying to provide with the operational assistance and the advice to get from point A to point B. For example, Game Plan did accept some Lancaster County development money. They provided some initial office space here in Lancaster County, but the dollar amount, \$50,000 is it. Okay. You look at a technology-related company, and to get its product to market, those entities that you are referring to aren't going to provide the investment base to be able to get the company to the level that this company has been to. [LB425]

SENATOR PIRSCH: And when you say these companies, you are talking about the Nebraska Business Development Center and the SBA don't the have the comprehensive series of programs that this encompasses, correct? [LB425]

MIKE BUCK: Uh huh. [LB425]

SENATOR PIRSCH: Okay. Thank you. [LB425]

SENATOR PAHLS: Anymore questions? Thank you, Mike, for your testimony. Yes. [LB425]

CLARE FAIRFIELD: Senator Pahls, committee members, thank you for this opportunity to speak. I think I represent a little bit of a unique and almost sense that...oh, I am sorry. My name is Clare Fairfield, and that is C-l-a-r-e last name, F-a-i-r-f-i-e-l-d. I think much to Bryan's relief, not a family member of Bryan Fairfield's. I want to make sure you know

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

I am not here trying to get a brother off the family dole or anything like that. My background is I am a venture capitalist, but in addition to that, living in Iowa. I am not from Nebraska, but I am very interested in venture opportunities that we see in Nebraska. And in addition to being an venture capitalist, I chair the Venture Capital Institute, which has trained about half of the venture capitalist in the United States to date. I am also leading an effort with the National Science Foundation to transform the way we develop and deploy technology in the United States, and I am a chairman of a MIT Committee on entrepreneurial ecosystem development, and also am leading an effort with STRATCOM through with General Cartwright and General Cayler to establish a new way of developing technology and deploying that within the U.S. military. And so these topics are near and dear to my heart. I grew up not too far up the road in Sioux City, Iowa. I have contributed a sister to the state of Nebraska who lives out in Valentine, Nebraska, and this part of the world has been very important to me because I believe we can develop a venture system out here, but there are many, many challenges. I want to commend Bryan for his efforts, and Frank for his efforts in establishing an angel group because their tasks are not easy and they will find many discouragements along the way. And I am glad Bryan is keeping with it because as Bryan pointed out, it takes five to ten years for a lot of these investments, a lot of these efforts to bear fruit, and that includes efforts like Bryan's. Because one the biggest challenges we face in this part of the country is the fact that very few people truly grasp what it takes to develop entrepreneurial venture backed companies, because it simply has not happened out here historically. Venture capital is a very concentrated resource in the United States and that is a very real problem. And what I would encourage you to be aware of is that efforts like Bryan's are critical because he educates not just entrepreneurs, but investors, legislators, such as yourselves, and the general citizenry, because that is very important. Because what we do as venture capitalists, what we do as young company builders is a very unique skill set. I am not saying we are so special, we are so wonderful, but we are a rounding era in the financial world. It is not a huge industry. And one of the real challenges we face is the fact that, institutionally, venture capital is heading over seas before it is going to head into the middle part of the country, and it is through efforts like Bryan's that we can have a fighting chance to attempt to try and attract the resources we need here, and to build the type of resources we need. Because right now the good and the bad news is that people are paying more attention to what we are all trying to do here. The bad news is the world has gotten much more competitive in just the last 10 or 15 years, and the challenges that Nebraska faces are no different than the challenges faced by 40 other states in the United States. Because if you look at a map of where investments are made, they are made all over the country but not particularly in the middle part of the country, the great middle part of the country. Ninety-two percent of the venture capital in the United States is concentrated in ten states with most of that being California, Texas, Boston, and greater New England. And the challenge there is recognizing one, you are not going to attract all that much investment coming in here. We have to go back to our pioneer days and kind of be part of a self-help effort, and I believe that Bryan's efforts and the efforts of Invest Nebraska

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

represent a very important part of doing that, because they oftentimes are lone voices in the wilderness trying to explain how this works, because there are real structural impediments to developing these types of companies, and I am encouraged. I actually talk about Bryan and Invest Nebraska at meetings with the National Science Foundation. I also am a national spokesperson for the National Venture Capital Association, and sit on the board of an organization called the National Association of Small Business and Investment Companies, NASBIC. And I hold this up as an example of an outstanding activity that is very supportive of new business creation because it starts the dialog. What we try to do is very, very simple on the surface, but very, very complex in the execution, and one of the keys is trying to bring the experience of folks to bear. To give you my perspective, the angel effort that we are seeing emerging out of Lincoln of which I have no stake in, you know, I have no axe to grind one way or the other, is very encouraging because angels really represent what venture capitalists used to be in the old days, and the old days are not that long ago because the venture industry was born institutionally in 1980. And so it is not that established of an industry, and unfortunately it has been a very, very successful and lucrative industry for many of the participants. And the early venture capitalists were people that looked much like Frank. They were business people who were interested in helping young companies grow. They were there, so to speak, for love of the game, not just to make money. Now the amount of money those first and second generations venture capitalists made attracted not necessarily the wrong type of people to the industry, but people who belong more in the investment banking areas in the sense that they are there purely to make money. And so angel groups like Frank's, supported by groups like Bryan's, are very, very important to developing our ecosystem out here, because they really do represent what we of when we hear the term often times out here of venture capitalists from Silicon Valley, because we are actually thinking back to a time that no longer exists out there in the sense that they are entrepreneurs and operators who are investing money to help small companies grow and become successful. Now you just have financial people who manage things as portfolio managers. And so from my background, for what it is worth as a relatively neutral party, but very much a proponent of the legislative bill in front of you, I would just urge you to put your support behind Bryan and his efforts. Thank you. [LB425]

SENATOR PAHLS: Clare, I just have a question. What is your involvement in the state of Nebraska? [LB425]

CLARE FAIRFIELD: My involvement in the state of Nebraska...be careful what you ask for, Senator. I started out as a fairly...this will not sound as long as an answer as it is going to initially sound like, I was a strange kid who when I was 18 years old and there were 40 venture firms in the entire nation, I decided I wanted to be a venture capitalist and I wanted to make it happen in this part of the country. I have been working towards that goal for over 20 years now. About four years ago, I decided it was time to really look at these challenges that we face here, and one of the key challenges is some of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

the commentary I have heard here is echoed in other state chambers throughout the region, and that is we want to make sure we keep investments and companies in Nebraska. I could not agree with that more. The challenge is how do you actually put the resources in place to do that, and I have come to the conclusion is that the only way you do that is by adopting a truly regional approach where you have to look at the region as the area you are investing in as a venture fund, and you can't be limited to one geography because you have heard people talk about deal flow. No one state in this part of the country can produce the deal flow to support a large enough venture fund that can be available, so when it is time to provide the key support for these new companies and keep them here you have a group of firms large enough to make sure that can happen. And unfortunately I could go into very exhaustive and boring detail about some of the elements behind that. But my interest is I looked around and, forgive me, I know this is sometimes an issue, but for those of us outside of Nebraska, Omaha/Lincoln is one metro region, and it is a very attractive metro region to look at for establishing a hub of innovation in the middle part of the country. And a matter of fact, just last week I had the National Science Foundation and MIT out here, and there were meetings at STRATCOM and meetings with some local business leaders talking about how we might make this region a regional hub for technology innovation centered in Omaha and Lincoln, but spread out across the middle part of the country. And so my interest is in building a broader system and the key to that system are the smaller units that feed into that system, such as angel groups, such as efforts like Bryan's because they are absolutely essential in building up what we call the entrepreneurial ecosystem throughout the region. And so my connection to Nebraska was looking at the middle part of the country, what would be a good place to hub this, and came to the conclusion for various reasons, and I don't know how much detail you want on that, as to why this area makes a very attractive hub for what we see as sort of a core 10-state region, but then expanding out into about a 20-state region. [LB425]

SENATOR PAHLS: I agree with you. Senator Pirsch. [LB425]

SENATOR PIRSCH: Thanks for coming in here today. Are you currently employed in a position where economic development here and established? I had stepped out of the room here. [LB425]

CLARE FAIRFIELD: Oh, no. I am a venture capitalist and I also chair several national organizations, and I am here just in support of Bryan's legislation that he is going to hopefully benefit from here today, not today but eventually. [LB425]

SENATOR PIRSCH: Okay. Very good. The bill itself doesn't directly create any venture funds in Nebraska, correct? The idea is just to make entrepreneurs, to start up ventures, more attractive for existing venture funds that exist wherever in the state or out of the state, is that correct? [LB425]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

CLARE FAIRFIELD: Correct. In this case, out of the state unfortunately. [LB425]

SENATOR PIRSCH: Okay. [LB425]

SENATOR PAHLS: I see no more questions, thank you, Clare. [LB425]

CLARE FAIRFIELD: Thank you very much. [LB425]

SENATOR PAHLS: Appreciate your testimony. Anymore proponents? Any opponents? People in neutral? Senator? [LB425]

SENATOR PANKONIN: This will be a very quick closing. I know we have had a long day. We looked and saw three bills and thought maybe that wasn't so, but as usual, good questions, good attentiveness on the committee's part, and appreciated all the testimony. This is one of those policy decisions where the direct benefit is maybe hard to see for the money, but we know other states. You have seen from the letters that were passed out, the business communities for this, other states are investing in this. Between STRATCOM and our wonderful university and colleges systems, there are ideas that are going to flow that need the kind of support and help that this bill can provide. So I hope this committee gives it consideration. The advantages or the payoff could be big. It is just one of those leaps sometimes we have to take in public policy to get this done. So thank you. [LB425]

SENATOR PAHLS: Questions for the Senator? Thank you. That concludes LB425. [LB425]

SENATOR PAHLS: We are now ready for LB350. Senator, it is good to see you. You may begin. [LB350]

SENATOR STUTHMAN: Thank you, Senator Pahls and members of the Banking, Commerce and Insurance Committee. For the record I am Senator Arnie Stuthman, S-t-u-t-h-m-a-n and I represent the 22nd Legislative District. I am here to introduce LB350. LB350 gives authority to cities and villages to adopt ordinances to guarantee that an owner of a building destroyed by fire or a natural disaster will remove the debris and make the premise safe and secure. Failure to clean up a building destroyed by fire or a natural disaster creates a hazard and ends up costing taxpayers money just to clean up the site. LB350 is based on a law that is already enacted in Kansas. Under LB350 the city will receive up to 15 percent of the insurance proceeds of a building that is more than 75 percent destroyed by a natural disaster or a fire and it is required to hold these proceeds in an interest bearing account. The city has to release these funds within 30 days unless it is instituted legal proceedings to have the unsafe structure removed. If the property owner does not clean up the property the proceeds would be used to make the premise safe and secure. The Department of Insurance will maintain

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

a list of cities and village with these ordinance and will have authority to promulgate rules and regulations to carry out this act. Initially the basis of this and the reason that I am bringing this forward is because of communities that have properties probably in the lower income areas, the poorer parts of communities. A home burns and is almost totally destroyed. The property owner walks off with the money and leaves the unsightly building there that has been virtually destroyed by fire and does not come back to clean up the premises and then it becomes a real eyesore. Plus it is also a fact of being safe for neighbors and kids around that area. So this is the main reason that I am putting this bill forward for your consideration. [LB350]

SENATOR PAHLS: Okay, Senator. Any questions? Senator Christensen. [LB350]

SENATOR CHRISTENSEN: Chairman Pahls, thank you. Senator, isn't there already provisions that insurance companies, if you are insured, have to clean this up? [LB350]

SENATOR STUTHMAN: When I introduced this bill I was not aware of that, but in some of the conversation I have had in the last several days there are some regulations, I guess, there are portions of the insurance proceeds that are allocated for the clean up of that. But, you know, realistically are they utilized for the clean up of that and does the insurance companies make sure that the clean up is taken care of? The thing that I am looking at is we have got the jurisdiction in the communities that should be looking at this, making sure that it is cleaned up and also making it safe for the community around and by doing this, keeping a certain percentage of the funds, would make the owner aware that he needs to do something. [LB350]

SENATOR CHRISTENSEN: Okay. Does the city already have an obligation to make sure that is cleaned up? I am not very up on this. [LB350]

SENATOR STUTHMAN: I am not sure, but I have testifiers behind me that can give you that information. [LB350]

SENATOR CHRISTENSEN: Okay. Thank you. [LB350]

SENATOR PAHLS: Seeing no more questions, thank you Senator. [LB350]

SENATOR STUTHMAN: Thank you. [LB350]

SENATOR PAHLS: Can I just have a show of hands of the proponents? I see one, two, three. Opponents? One. Neutral? Okay. I would like to have all the proponents move to the front so we can keep it going here. Okay. [LB350]

JOE MANGIAMELLI: Senator Pahls, members of the committee, my name is Joe Mangiamelli. I am the city administrator for the city of Columbus. I would like to thank

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

Senator Stuthman for introducing this bill on behalf of all cities and villages, all cities in Nebraska. My name is spelled M-a-n-g-i-a-m-e-l-l-i. As Senator Stuthman indicated, this is a bill that has been introduced that models after an existing bill that has been in place for many years in Kansas and has proven very effective. So we are not creating a new paradigm here. We are just doing what other states have done to guarantee, Senator, that properties are cleaned up. As Senator Stuthman indicated, a portion of the proceeds of an insurance claim under this bill would go directly to the city to hold until we are certifying or being able to certify that either clean up or a new project is going to be built on the property. So this does one thing that is very important for the city and for a neighborhood in which a fire might have occurred and that is to provide a timely resolution to a problem. In Columbus, for example, we have had several fires over the past couple of years whereby we have had to track down a property owner who has left town and in one case it took us almost 18 months to find that property owner to try to get a property secured and a resolution to the issue, whether it was going to be rebuilt or just a hole in the ground filled up by somebody. In that case in that 18 months the city had that obligation of securing the property. If there was an insurance claim that was paid for that portion of the damage the city never saw it. This legislation would afford us that opportunity to get a timely resolution to that problem of getting the property secured, number one, and then a resolution as to whether the owner is going to rebuild on the property or whether we are going to fill in the hole and remove the demolition debris. The arguments against would be well this is going to be one more obligation than the insurance companies have. I think the insurance companies probably have an obligation whether that has been acknowledged or not to make sure that the property is secured. The one case that I mentioned that it took us 18 months to track down the owner, when we went into that building that had on and off, we had to make efforts to secure the property. When we went into the basement the fire was so intense that the mortar holding the block together had powderized and so interested kids, transients, whomever would have gotten into that building there could have been a very serious problem, injury or even worse that we would want to avoid. Again, this legislation would provide us an opportunity as a city, community to work with that owner and provide for a timely resolution. The process that is in the statutes now is that if the owner has not fulfilled his obligation whether they are going to rebuild on the property or demolish is to go through a process of condemnation, which is a very lengthy process in the statutes. Not only is it lengthy, but if the property owner is going to walk away from the property he is going to walk away from that process. Part of that 18 months that it took in locating was going through that condemnation procedure in Columbus. So, again, this provides us the best opportunity to get these resolved in a timely manner. Not only is it an eyesore in the neighborhood, but it is a very serious safety issue. Jack Cheloha is here and hopefully will testify on behalf of Omaha, but before I went to Columbus I spent 29 years in Omaha city government and the majority of those years was in budgeting for the city and if we set aside \$250,000, \$300,000, \$400,000 a year for demolition of properties such as these it was never enough. So if it is a problem in Omaha you can see even a smaller community such as Columbus where we don't have the funds and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

the financial resources to do that, that it is a bigger problem for us and for all communities across the state. So we would encourage support for Senator Stuthman's bill, (LB)350. Thank you. [LB350]

SENATOR PAHLS: Yes. Senator Hansen. [LB350]

SENATOR HANSEN: Thank you, Senator Pahls. First name Joe? [LB350]

JOE MANGIAMELLI: Joe. [LB350]

SENATOR HANSEN: Okay. Joe, I have got a few questions for you. Are you more worried about homes or businesses or does it matter? [LB350]

JOE MANGIAMELLI: This would apply for both but our primary interest is in residential neighborhoods. But you look, Senator, at what happened in York, a whole block is gone. So I mean this hopefully would apply to that as well. [LB350]

SENATOR HANSEN: Okay. So you have a new project come in. If the person leaves an area, you have a new project come in, who cleans it up? Is it the person who is doing the new project? Is he responsible for the clean up? [LB350]

JOE MANGIAMELLI: Under this bill the city would hold that 15 percent until we had a resolution with that property owner who got the insurance money which is presumably the owner at the time the fire occurred. If there was some arrangement with a new purchaser of the property I think that we would honor that agreement, whatever would be brought forward, and allow that seller then to take the money that would have been put in that interest bearing account as the law provides and whatever deal he was making with the new owner we would honor that. [LB350]

SENATOR HANSEN: If you have to go through condemnation though doesn't the city end up with owning the lot again? [LB350]

JOE MANGIAMELLI: The city might in a condemnation. Interestingly enough there is a bill in Iowa that allows the city to accept immediate transfer of the property where you could accept the property. You could demolish it and then the city could sell the lot. But in a condemnation process you have got back taxes, you have got the cost of the condemnation and does the taxpayer have to bear all that burden? [LB350]

SENATOR HANSEN: But the new entity who comes in to do a new project would be responsible for doing the clean up then, right? [LB350]

JOE MANGIAMELLI: Well we would hope so but again that is a long time in process, Senator. [LB350]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

SENATOR HANSEN: Would the city give a tax break to a new owner to get that problem area cleaned up if it was a residential area? [LB350]

JOE MANGIAMELLI: That is something we hadn't addressed, sir. I couldn't answer that. [LB350]

SENATOR HANSEN: Okay. Thank you. [LB350]

SENATOR PAHLS: Seeing no more questions, thank you, Joe, for your testimony. [LB350]

JOE MANGIAMELLI: Thank you, Senator. [LB350]

GARY KRUMLAND: Senator Pahls, members of the committee, my name is Gary Krumland, G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities appearing in support of LB350. The bill does provide that the city basically has 30 days after receiving the proceeds to make a decision. If they don't do anything they release the proceeds after 30 days. So they do have to file some action. There is two basic courses of action in the bill. One is they can receive a certificate from the owner with some assurance that the lot will be cleaned up. They can even do that before they receive the proceeds. There is a provision in the statutes that they could rely on and they do rely on right now and they would have to file an action within 30 days on this action. In section 18-1722 of the statutes the city does have authority to remove an unsafe structure if the owner refuses to do so, and the city would go in and take care of it, remove the hazardous area, remove the debris, make it a safe place and then the cost of that could either be levied as a special assessment against the property or the city could file a civil suit against the property owner to try and collect. Very often neither of those is very effective because if somebody has left the area and just abandoned the lot it is hard to collect anything in a civil suit and filing a lien on the property sometimes it just stays there and actually makes the property difficult to sell. So we think that this would give the cities another tool. It is a new concept to Nebraska. It is based on the Kansas law. If some changes need to be made to adjust we would be happy to work with any of the parties. I have already heard some questions about section 6 but if anybody has any specifics we would be happy to work with them. [LB350]

SENATOR PAHLS: Any questions? Senator Carlson. [LB350]

SENATOR CARLSON: Senator Pahls. Gary, you mentioned Kansas has similar. What about the other surrounding states? [LB350]

GARY KRUMLAND: I haven't checked. We knew of the Kansas model so we modeled after that and I guess I just haven't done a check of what others have. I do know Iowa

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

has something, and I think Joe mentioned this, it is a little different in that they have specific authority to go in and become owners of the land if it has been abandoned. In Nebraska I think there is some constitutional provisions that it takes quite a few years for a city to do that procedure. To change that would probably take a constitutional amendment. [LB350]

SENATOR PAHLS: Seeing no more questions, thank you, Gary, appreciate your... [LB350]

JACK CHELOHA: Good afternoon Senator Pahls and members of the committee. My name is Jack Cheloha, the last name is spelled C-h-e-l-o-h-a. I am the registered lobbyist for the city of Omaha. We have had a problem in the city of Omaha for a number of years with structures that are either damaged through natural causes or fires etcetera where, if you will then, the owner of them have been derelict in terms of taking care of the removal of what is left, or just cleaning up the structure, or at the very least even fencing it off so it is not an attractive deuce for neighborhood children or things like that and this has happened in residential areas but has also happened in multifamily jurisdictional areas, if you will. A lot of times we might run into the problems with absentee landlords. For instance, the landlord resides in another state and they own this rental property and somehow it was destroyed by fire or something and because of the contractual relationship if they had insurance they will be paid for their damages and off they go and they just leave it up to the taxpayers to deal with the problem that is left behind, if you will. And so we thought about it for a number of years. Well could we try to put in our budget, as Mr. Mangiamelli alluded to, as much as we can afford to pay for demolition costs, but it is woefully underfunded but we try to do as much as we can. Sometimes we run on a calendar year and if we set aside \$300,000-\$400,000 that money could be done and run out by the middle of this summer already or even before that if we have had a large number of fires or if we had natural disasters and sometimes these are backlogged to the point where we can't even take care of it in the year that the damage happened. So we think that this bill is a good idea. Senator Stuthman has written a good bill. It has a number of safeguards in it, if you will. Fifteen percent doesn't seem to be an exorbitant amount to set aside. Hopefully that will be enough to cover that and whatever is left would be refunded and then the interest that it earned while it was being held would be awarded back. I can imagine the insurance company probably have concerns relative to the contractual relationships. But government can make rules out of necessity and we feel that this is a necessity to help us alleviate a problem and a burden that we don't want the taxpayers to have to deal with. So with that, we are in support of LB350 and I will try and answer any questions. [LB350]

SENATOR PAHLS: Any questions? Senator Pirsch. [LB350]

SENATOR PIRSCH: Just briefly, how would that work? Step me through it, if you would, about from the time...well, just step me through it from beginning to end if you would.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

[LB350]

JACK CHELOHA: Right. Well basically I think, Senator Pirsch, it tracks within the bill itself where, first of all, if this committee advances the bill and then the Legislature adopts the bill, after it becomes law then you still would have to pass an ordinance locally allowing the city to withhold, if you will, a certain amount of proceeds and the key on this of course is going to be communication. We are going to have to get it out to the Department of Insurance which keeps a list, if you will, of all the insurance companies operating and doing business within the state, and then as damage occurs and claims are made then this local ordinance would be discovered, if you will, by the Department of Insurance and the company and prior to paying out they would have to set this money aside and send it to the governing city, if you will, where the property is located. And then if the city within that 30 day time frame has to make a decision whether or not we are going to pursue an action to take care of the property in terms of demolition or what needs to be done. At that time the money is set aside, and it will bear interest, and if we don't decide to pursue action under (section) 18-1722 then the money will be sent back to the rightful claimant, if you will, and that is my understanding of it. Like I said, I wanted to just do a me too on this but as I have read through it it seems like there are some safeguards in it, and it looks like it is well written and well thought out. [LB350]

SENATOR PAHLS: Seeing no more questions, thank you, Jack, appreciate it. [LB350]

JACK CHELOHA: Thank you. [LB350]

SENATOR PAHLS: Anymore proponents? Opponents? [LB350]

JIM DOBLER: (Exhibits 1-3) Senator Pahls, members of the committee, my name is Jim Dobler, that is D-o-b-l-e-r. I am executive vice president and general counsel for Farmers Mutual Insurance Company of Nebraska. I am also a registered lobbyist and today I appear on behalf of Nebraska Insurance Information Service, which is an organization of property and casualty companies licensed to do business in the state of Nebraska. As a group we write in excess of 50 percent of the homeowners coverage in the state. I was unaware of this problem but I do appreciate the issue that the municipalities face here. I was also unaware of the Kansas law. This is actually something very new to me. I guess I will start by stating the obvious and that is that when a policyholder's house burns down, as you can well imagine, it is extremely serious, they are very worried about what is going to happen and how their policy will apply. Frankly they don't settle down until they have their money in their pocket. They are just nervous. Well when you sit down with that family at that initial meeting and their house is gone, everything is roughly gone, to then explain to them that oh, by the way you thought you had \$100,000 in coverage for your house but actually you only get \$85,000 because we are going to give 15 percent or \$15,000 to the city. Now you will get it back. There is a whole system set up here to take care of that, but just so you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

know you really don't have \$100,000. You have got \$85,000 right now but don't worry. Most people are not going to be aware of this, I don't think, and I think it would be pretty tough. I would not want to hear the reaction of folks when they are told that is the process that is going to happen, and I know in a sense I suppose it is a rather selfish point of view, but it would be a difficult thing. It is something I just have to say adjusters would hate to have to do. Now aside from that I wanted to provide the committee with some information about the process for a homeowner's claim and what goes on. Well in the case of a total loss or a claim where we might be paying in excess of 75 percent of the face value of the policy. We do provide debris removal coverage. It is standard in a homeowner's policy. Exhibit 1, if you will go to page 5 there and I just copied a portion of our homeowners policy. On page 5 you have additional coverages and under number 1 you will see debris removal and if you go down below (b) to the little paragraph. Essentially it says we will pay up to an additional 5 percent of the limit of coverage applying to the house for debris removal. That is basically how that coverage will work. If you go back now to the declarations page on the very front, I have blown in here the information for a homeowners policy except for whose it is and up in section 1 where the various coverages are listed I have shown the amount of debris removal coverage under each part of the policy. You can see under A for dwelling, that would be coverage A for the dwelling, the amount of coverage on that home is \$243,500. Five percent would be your debris removal coverage, \$12,175. Then I have listed it for other structures and for personal property. Now below that I hand wrote in there my own little example. I am a little mathematically challenged so it is easier for me to look at is this way. But if you take a home worth \$100,000 you have \$5,000 in debris removal. Coverage B, other structures, maybe an unattached garage, you would have \$3,500 and then coverage C... [LB350]

SENATOR CARLSON: You have got those turned around. [LB350]

JIM DOBLER: Those two are turned around. Yeah. The coverage B would be \$500 and the coverage C would be \$3,500. Now usually if the home burns down you are really looking at two items. Your are looking at the debris removal for the home and the debris removal for the contents if you need it because usually it is all gone. So the amount will usually be a combination of the \$3,500 for coverage C and the \$5,000 for coverage A. An example, a couple of years ago you probably remember the tornado that went through Hallam, Nebraska. It was a very big tornado. A lot of the homes in that community were leveled, they were gone. We made a lot of total loss payments on those homes and what we did in Hallam is we talked to it was either the village clerk or it was somebody within the municipal government, and they had told us that there were so many to be cleaned out that they had hired a contractor to remove the debris. And so we arranged with the village to just submit the bill. So as the contractor went around from basement to basement and cleaned it up the bills were just submitted direct to us, attached to the policy that applied to the house and we paid the contractor for the cost of debris removal. It worked great. I would have to say overall when these have come

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

up around the state it is always very easy to work with municipal officials and there as anxious as anyone to try to help the people in the community. So we have managed to coordinate it pretty well. We don't always do it that way. In this case there were so many that we did. That is the process. The coverage is there. Attached is exhibit 2. I just included a business owner's policy, one page. This would be for commercial property and I just noted there that there is a provision for debris removal coverage in that circumstance, too. And then finally, exhibit 3 is a copy of the valued policy law for the state of Nebraska essentially. It provides that if the home is totally destroyed based upon certain perils the amount of insurance written in the policy shall be taken conclusively to be the true value of the property and the true amount of loss. Well I am unsure about this but I throw it out for your consideration. If by law we are saying \$100,000 is the true amount of loss, but then we are going to give \$15,000 to the city and eventually that policy holder might not get \$100,000, is that coordinated with the valued policy law? Is that consistent or not, or is it in conflict with it? I just think there is an issue there. It is something that was of concern to us. The mechanics of all of this, just real briefly, there are a lot of homes where we will pay more than 75 percent of the face value, but it is not a total loss and there is not debris to remove. But this doesn't single out any of that. It is very broad and applies to all kinds of potential losses. For example, we will get some fire losses where the fire is more of a smoldering fire and it doesn't destroy the home, but the smoldering and the smoke is so horrible that you can make a significant payment without ever having to declare the house a total loss. Repair of the home may be \$30,000. Because of the smoke the contents loss could be as much as \$50,000. Homeowners policy also provides additional living expense coverage, which is so if you can't live in your home it will pay while you are in a hotel. That might be \$10,000. So you may pay \$90,000 on this file, but the house is fine. Again, we would have to give the money to the municipality the way it is written. We also have issues that I would put in the category of escalating repair bill. Have a fire at the house or tornado and it looks as if it can be repaired. You get started on the project you are repairing and you uncover other problems as you go along. Ultimately the repair bill does get above \$75,000 but you have already started down the road of fixing it so you have got to continue. Well when you get up to, on the \$100,000 home, \$85,000 in repairs and there is still some stuff to do, do we have to stop and give the 15 percent or do we finish and then pay 15 percent which might be in excess of the policy limit? I don't know and I didn't know this was in Kansas. There must be ways to work these things out but these are issues that were of concern to us. Two final things very quickly, it seemed odd to me, and I am no constitutional law expert, but it seemed a little odd to me that you could pass a law that says as between the two parties to a contract we are going to jump in and take 15 percent and then done on a basis where there is no claim to be had. It isn't until everything is all over with that the city will know or not know that there is something left to be paid. So it just struck me as unusual. But, again, if it is in Kansas, I don't know. Finally, the notice part of the bill the municipality passes the ordinance, they tell the insurance department every quarter of the department lists the municipalities that have the ordinance. Well if it is passed and it is not until the next

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

quarter that we find out in the interim, is there an issue there if we have a total loss and we don't withhold the 15 percent? With that, I would be happy to answer any questions. [LB350]

SENATOR PAHLS: Senator Christensen. [LB350]

SENATOR CHRISTENSEN: Chairman Pahls, thank you. How did it work in Hallam? Did the cost exceed the 5 percent of clean up that the policy paid? [LB350]

JIM DOBLER: No. That is a good question. I talked to our claims people and they gave me the information on that and they said no it didn't on any of those and, in fact, they said their experience is that it never does. [LB350]

SENATOR CHRISTENSEN: Because I would think on a poorer structure the insurance value would be quite a little less. It may not where on elaborate houses 5 percent would probably easily cover. I guess that was my question. And who do you pay for the clean up? [LB350]

JIM DOBLER: In the case of Hallam we paid the contractor and I think that would generally be what we would do although sometimes we pay the policyholder. Sometimes we might put both of their names on the check. Sometimes the debris removal is included in the estimate to repair a home. So it varies in terms of who we might pay. [LB350]

SENATOR CHRISTENSEN: So there is no statute of who gets paid then. [LB350]

JIM DOBLER: No, and related to your earlier question I would say, to me, on the commercial side I think that might be more of an issue as to whether the percentage of debris removal coverage would be sufficient if you are looking say at York and a very large building downtown, might be pretty expensive debris removal process. I think I read in the paper that it was and so a debris removal in that situation it certainly could be different. I can only tell you homeowners policies we issue it has not been a problem. [LB350]

SENATOR CHRISTENSEN: Thank you. [LB350]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony. [LB350]

JIM DOBLER: Thank you. [LB350]

SENATOR PAHLS: Any other opponents? People in the neutral? Senator? [LB350]

SENATOR STUTHMAN: Thank you, Senator Pahls and members of the committee. In

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

closing I think in listening to the discussion, and the debate, and the testimony here, in the opposition of it, in my opinion, I felt that he wasn't clear on what my bill realistically is trying to do. You know the funds are only to be held for 30 days and that is to initiate and try to institute with the owner, you know, the process to get it cleaned up and it is in the facilities, in a home that is at least 75 percent destroyed. There was discussion in the testimony if there is smoke damage or something like that. This wouldn't apply to that part of it because it is still a structure, there is smoke damage and I am sure they are going to be taking care of that. This, in my opinion, deals with one that is realistically almost burnt to the ground and it needs to be cleaned up. Yes, the structure may be there, the windows are all out and it is burned almost to a crisp. What we are trying to do is so that we can initiate the process to more or less get it initiated so that something happens. That is why we have the 30 days in there and the 15 percent, that is not the city's money. It is part of the insurance policy which the insurance holder, the owner of the property will get if he initiates and works with the city of a plan to get it cleaned up. I think that is the main emphasis on what my bill is trying to do. Also a concern of mine is that if there is something in the insurance policy for debris removal of \$100,000 and 5 percent of debris removal would be \$105,000, I think we need to ask the question do they pay that out before the debris is moved or do they withhold that until that debris is cleaned up? Does the person walk off and leave town with \$105,000 and still leave the city or village with the problem? That is a concern of mine also. So with that, I would hope that we could advance this, move it out of committee. I think it is something that would be a tool, especially for communities that have some of these problems. [LB350]

SENATOR PAHLS: Seeing no questions. [LB350]

SENATOR STUTHMAN: Thank you. [LB350]

SENATOR PAHLS: Thank you, Senator. That will conclude the hearing on LB350. [LB350]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
February 20, 2007

Disposition of Bills:

LB262 - Held in committee.

LB350 - Indefinitely postponed.

LB425 - Advanced to General File with amendment.

Chairperson

Committee Clerk