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Banking, Commerce and Insurance Committee  
February 24, 2015

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[LB51 LB234 LB451]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, February 24, 2015, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB234, LB451, and LB51. Senators present: Jim Scheer, Chairperson; Matt Williams, Vice Chairperson; Kathy Campbell; Joni Craighead; Mike Gloor; Sara Howard; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR SCHEER: Good afternoon. Welcome to the Banking, Commerce and Insurance Committee. My name is Jim Scheer, I'm from Norfolk and represent the 19th Legislative District. I serve as Chair for the committee. The committee will take up the bills in the order that they are posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on any of the proposed legislation before us today. Committee members may come and go during the hearings, but we have to introduce bills in other committees and sometimes we're called away. It's not an indication that we don't believe your interest is important, but we have to do what we do for our legislative process. To better facilitate today's proceedings, I would ask you to abide by a couple of following procedures. If you would turn your phones to either silent or off. If when you are ready to testify, if you could move toward the front chairs so that we don't waste as much time going up and back and waiting for people to come testify. The order of testimony today will be the senator will introduce the bill, it will be proponents, opponents, those in a neutral capacity, and then the closing by the senator. Testifiers will need to sign in on a pink sheet that are back by both doors and please fill it out completely. When you come up to testify, if you could first please state your name and spell both your first and last name for the transcribers so that they can get that correctly in the record. If you are wanting to show your opposition or support of a bill, there are white pages in the back by those pink sheets that you can sign your name and put the bill number and if you are support or opposition to that bill. When you testify, if you could be concise and direct that will save us all time and it will be a better testimony on your part. If you're having written materials that you would like to be distributed to the committee members, we ask that you have ten copies. If you do not have ten copies, the page will be glad to make those. I would do that earlier rather than later. It would be nice to have your information in front of us while you're testifying. We will be using the light system. There is a green light that will come on when you testify. You have four minutes on green. The yellow light will come on, you have one minute left. When the red light comes on that is your indication you should stop and if you don't, I will help you. Our page is not here so we'll introduce him later. I think that's it other than our committee counsel is Bill Marienau, our committee clerk is Jan Foster, and I will let the rest of the committee introduce themselves. We'll start with Senator Schumacher.

SENATOR SCHUMACHER: My name is Paul Schumacher, representing District 22 in the Legislature. That's Platte and parts of Colfax and Stanton County.

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SENATOR HOWARD: Sara Howard, I represent District 9 in midtown Omaha.

SENATOR LINDSTROM: Brett Lindstrom, District 18, northwest Omaha.

SENATOR WILLIAMS: Matt Williams, District 36, Dawson County, Custer County, and the north part of Buffalo County.

SENATOR CRAIGHEAD: Joni Craighead, District 6, Omaha.

SENATOR CAMPBELL: Kathy Campbell, District 25, Lincoln.

SENATOR GLOOR: Mike Gloor, District 35, Grand Island.

SENATOR SCHEER: And our page just did return and that's Jake Kawamoto. And he will be of service if you need any copies or anything else to help facilitate with your testimony. And with that, I believe we have all the ground rules down so we will start with the first bill, which is LB234. Senator Krist. [LB234]

SENATOR KRIST: (Exhibit 1) Good afternoon, Senator Scheer and members of the Banking, Commerce and Insurance Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha along with north-central portion of Douglas County which includes the city of Bennington. I appear before you today in introduction and support of LB234. For those of you who were on this committee a couple of years ago, you will recognize it. LB234 deals with a section of Nebraska statutes that governs insurance companies. Specifically, (LB)234 amends a section of the insurance statutes that has been in law for nearly 100 years. The law when enacted required that insurance companies report their salaries for their executive officers. The goal of the law was to give the insurance commissioner the ability to see how companies were being run, where profits went, in essence, to protect purchasers of the insurance products. Several decades later, Nebraska passed what was referred to as the sunshine laws. These laws made all records held by the state public. Unless there was a specific exemption, Nebraska's public records law, section 84-712.01, made the officers and the executive salaries of insurance companies that were being collected by the department of regulatory purposes public. There is no public policy to make public the salaries of private company executives. Let me say that again: There are no public policies to make public the salaries of private company executives. Rather than repealing the requirement to submit the information to the director, the bill states that the salary information provided to the director will be used only by the department and otherwise will remain confidential unless ordered by the court or agreed to by the company. In this way, the department can continue to

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regulate and use the information as it desires. When I was considering introducing this bill and having gone through the extended debate a couple of years ago, I thought about the fact that this is the only place in the statutes where Nebraska makes private companies' salaries public. We don't make executive salaries of other regulated businesses public, not banks which we regulate through the Department of Banking; not telephone companies which we regulate through the Public Service Commission; certainly not hospitals which we grant for nonprofit status; not businesses that we give tax incentives to under the Nebraska Advantage Act. It is this lone section of statute that treats private businesses' information as if it were public information. Because this is the only place we make private salaries public, I'm asking that we utilize the information for regulatory purposes only to make it consistent across the board. Let me point out that this bill only impacts private companies. Public companies are subject to the Securities Exchange Commission, as you all know. Under the SEC, public companies are required to file certain information that is valuable to investors to determine the risk involved in investing in those companies. Public companies will still be required to make public the salaries and benefits of the top six executives. That is no change. Following me to give testimony and answers to your questions, you'll have a couple of witnesses, including Mr. Bill McCartney. Bill is a native Nebraskan who moved to Texas, for the weather I would imagine. He is...actually, it's colder there than it is here I think this week. He is a former director of the Nebraska Department of Insurance under both Kay Orr and Ben Nelson...Governors Kay Orr and Ben Nelson. Bill has also served as the chair of the National Association of Insurance Commissioners during that time. I appreciate him being here today. I would ask you to advance the bill from committee and get it to the floor so we can have a healthy and extended debate. I would also say this, I'm privileged that the insurance company that has actually brought this issue forward--although there are others who, as a conglomerate, will testify to their support today--is a company that I do business with, USAA. I'm very proud to be there, they've given me great service for many years. Those of you who were here last year or the year before understand that that was a passion of mine to make sure that this company, above all that I can think of, does it the right way and they do it for its members. So I would speak highly of them as well. With that, I'd stand for any questions. [LB234]

SENATOR SCHEER: Thank you, Senator Krist. Any questions? Maybe there's not going to be extended debate ,too, I don't know. [LB234]

SENATOR KRIST: Thank you. [LB234]

SENATOR SCHEER: Are you going to stick around? [LB234]

SENATOR KRIST: You bet. [LB234]

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SENATOR SCHEER: Okay. I will now open it for proponents of LB234. [LB234]

WILLIAM McCARTNEY: Good afternoon, Mr. Chairman, members of the Banking, Commerce and Insurance Committee. My name is William H. McCartney, William, W-i-l-l-i-a-m, M-c-C-a-r-t-n-e-y. As Senator Krist was very gracious to mention, from 1987 to 1994 I was honored to serve as Director of Insurance in the state of Nebraska. I'm a native Nebraskan and I grew up in Omaha, went to the University of Nebraska, Creighton University Law School. And I thought that I would spend my entire life in Nebraska until a company in San Antonio, USAA, made me an offer that I couldn't refuse. So in 1998 I went to San Antonio, worked in the law department at USAA as a senior vice president in a number of different positions, including general counsel of the property and casualty insurance group. And not too long before I retired, I had all of the lawyers involved in providing operational legal advice, the securities lawyers, the life insurance lawyers, P&C lawyers, bank lawyers, all reported to me. I retired in July of last year. While I was a regulator in Nebraska, Director of Insurance, I was active in the National Association of Insurance Commissioners. In 1992 I was president of the NAIC. One of my passions when I was a regulator was the financial condition of insurance companies. And for probably four or five years I chaired the principal financial regulatory committee at the NAIC, the Financial Condition subcommittee. Interestingly, in 1993, just before I left regulation, the NAIC took up the issue of compensation disclosure. This is something, as Senator Krist alluded to, has been a statutory requirement in Nebraska probably since before 1913. It was recodified in 1913, but it probably existed in the statutes before that. And if you think back about how insurance was regulated at the turn of the century--not the turn of the last century, but the turn of the century before then--there was not a lot of information available to regulators about what was going on at insurance companies. And so the statutes required companies to provide as much information to regulators as possible. That's not the case today. You know, my little iPad here probably has more computing capability than all the computers that sent the men to the moon in the 1960s. And so what's available to insurance regulators today is completely different. The Nebraska statute, if you look at it, and here on page 2 of the bill, the subparagraph (iii), that first sentence, "The salaries and compensation of the officers and any other information required by the director shall be filed with the director." That's what that subsection of the statute says today. The department's interpretation has been that that information should be made public. There's nothing in the statute anyplace that says that, but that has been the department's position since long before I was Director of Insurance, for a long, long time. And the department has been reluctant to change that interpretation without some direction from the Legislature or something else, perhaps an Attorney General's Opinion that said, tell the department it's okay not to make that public. The NAIC requires insurance companies to file their compensation disclosure in every state in which they do business if the director requires it, if the commissioner requires it. They are required to file it in their home state, the state where they have their certificate of incorporation. So companies that are domiciled in Nebraska have to file it in Nebraska. Companies that are domiciled in Texas have to file it in Texas. There are six states, including Nebraska, that require

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states doing business in the state--even if they're not domiciled here--to also file it. There is not another state, another jurisdiction that doesn't keep it confidential. Nebraska is the only state that allows this information to be viewed by anybody who asks to see it. And it's been our experience that the people who really look at it are not consumers, but for the most part competitors who come in and look at it for competitive salary information. They want to find out...Allstate wants to know how much the State Farm executives. And also by management consulting companies who go in and try to compare...put together salary comparison reports for their clients. We cannot figure any public policy interest in doing this. As Senator Krist mentioned, insurance companies are the only ones that are required to do this. Banks aren't required, hospitals, any other regulated...savings and loans, any other regulated company are not required to do this. I'm convinced it's an anomaly that goes back probably 125 years and it really should have been corrected a long time ago. And I commend USAA for coming forward and trying to get this fixed. So if you would like some more information, I'd be delighted to answer questions. [LB234]

SENATOR SCHEER: Thank you. Any questions? Senator Schumacher. [LB234]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you, Mr. McCartney, for appearing before us today. [LB234]

WILLIAM McCARTNEY: Nice to see you again, Senator. [LB234]

SENATOR SCHUMACHER: Who owns USAA? [LB234]

WILLIAM McCARTNEY: Well, interestingly, we had this discussion before. USAA is a reciprocal. It's an interesting form of governance, but it's a little bit akin to a mutual insurance company. And so you could say that the policyholders...and it's often said that the policyholders own the company, but they're not investors. What they do is they buy a policy and in return for that policy they get two rights. They get the right to vote for directors and they get the right to whatever proceeds are left at the end if the company goes out of business. They don't have a stock certificate that they can pass on to their heirs. They don't have a stock certificate that they can sell in the open market or in a private market. They have two incidents of ownership and they're not in a position to lose some kind of investment. The only thing that they could lose is their premium and the premium is, in effect, to purchase a policy of insurance. And so I guess you could say they're owners in the sense that they vote for directors, but they don't have any of the other incidents of an ownership that owners of other companies would have. [LB234]

SENATOR SCHUMACHER: Basically, other companies have: vote for directors; entitlement to dividends or distributions in proportion to their shares; and a cut of the action in the event of

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dissolution. So there's a lot of commonality between that. The people, these policyholders, are general members of the public, are they not? [LB234]

WILLIAM McCARTNEY: Well, not in our case--well, not...I'm retired now so I shouldn't say our case--but not in USAA's case. You have to meet certain eligibility requirements, be a member of the military or a descendant. [LB234]

SENATOR SCHUMACHER: So if your great-great-great-grandfather was in the Civil War you qualify? [LB234]

WILLIAM McCARTNEY: Well, that doesn't...no, no, it doesn't...no, it doesn't go that far. [LB234]

SENATOR SCHUMACHER: How far back does it go? [LB234]

WILLIAM McCARTNEY: Well, the company was organized in the 1920s. So at this point I don't know of anybody who goes beyond grandchildren. [LB234]

SENATOR SCHUMACHER: So a large part of it, if you have in your lineage somebody who was in the service, you qualify. [LB234]

WILLIAM McCARTNEY: And if that person was a member. Okay? So... [LB234]

SENATOR SCHUMACHER: You take on no new members? [LB234]

WILLIAM McCARTNEY: Oh, yes, we do. But, you know, I don't want this to get too complicated, but if your father was a veteran of the Vietnam War and he joined before he died, then you have eligibility. But if he was a veteran, was in Vietnam, never joined USAA, that doesn't give you the right to membership. [LB234]

SENATOR SCHUMACHER: Okay. So you're talking about a large pool of the public who may be eligible to buy a policy? [LB234]

WILLIAM McCARTNEY: Yes, but far from everybody. Yes. [LB234]

SENATOR SCHUMACHER: Okay. Now, one of your ads has something or your former company's ads had something about somebody who landed on the moon having...their children

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having rights to it. Any rate, so you have these people who own the right to elect directors; directors appoint or set the payroll of the officers of the company; and they have a right on dissolution to the money. [LB234]

WILLIAM McCARTNEY: Yes. [LB234]

SENATOR SCHUMACHER: To the extent the directors or the officers consume the money in salaries or other form of compensation, they're right in the end to that distribution would be reduced by the amount of the consumption. [LB234]

WILLIAM McCARTNEY: Yes. [LB234]

SENATOR SCHUMACHER: Okay. So they do have an active interest. When these people vote for directors, is the salary of what the directors are paying themselves and paying the officers disclosed? [LB234]

WILLIAM McCARTNEY: No. [LB234]

SENATOR SCHUMACHER: Not disclosed. [LB234]

WILLIAM McCARTNEY: No. [LB234]

SENATOR SCHUMACHER: Does the voters in these elections have any way to get that information from the company? [LB234]

WILLIAM McCARTNEY: No. [LB234]

SENATOR SCHUMACHER: And I assume that this company, like so many insurance companies right now, is sitting on a big pile of cash? [LB234]

WILLIAM McCARTNEY: Well, I think that depends on your definition of a big pile of cash. You know, USAA is the fifth largest writer of homeowners insurance in the country and the seventh largest writer of automobile insurance. And the size of money that's needed to back reserves for that is substantial. [LB234]

SENATOR SCHUMACHER: We're not talking about reserves, we're talking about nonreserved cash. [LB234]

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WILLIAM McCARTNEY: Nonreserved investments? Yes. [LB234]

SENATOR SCHUMACHER: A substantial amount. And so there's no way that...and I assume when the statute talks about officers, it also means the directors. [LB234]

WILLIAM McCARTNEY: Yes. Let me clarify one other thing if I may briefly, Senator. Nebraska requires the disclosure of the compensation for the CEO plus the next nine highest compensated employees. The NAIC disclosure is for the CEO plus the next four and officers. So it's the top five officers under the NAIC forum, which is then kept confidential. It's the top ten in Nebraska. And you can see for a smaller company, you may be getting down past the officer class into employees. [LB234]

SENATOR SCHUMACHER: Now, but the question I thought we had crossed the bridge on was the directors. Are the salaries and compensation of the directors, are they in what is disclosed to the state of Nebraska? [LB234]

WILLIAM McCARTNEY: It's my recollection that they are, but I'll have to clarify that. I don't...I'm not sure of that. [LB234]

SENATOR SCHUMACHER: Okay. So basically what you're...who would be the regulatory authority in Texas or in Nebraska, wherever, that would be able to say, wait a minute, these officers and directors are raiding the kitty? [LB234]

WILLIAM McCARTNEY: Well, Senator, that's an excellent point. And if you look at the bill, this is still required to be filed with the department. We will concede that there may be a regulatory interest in this. We're still going to have to file it with the department. The department can look at it, review it, do whatever it wants to do. It just isn't made public. [LB234]

SENATOR SCHUMACHER: How does a nomination take place for the people who are running for directors of this? Can any policyholder put their name in? [LB234]

WILLIAM McCARTNEY: Yes. [LB234]

SENATOR SCHUMACHER: And is that then...is there an endorsement or nonendorsement on the ballot that goes out? Is there a physical ballot that goes out? [LB234]

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WILLIAM McCARTNEY: Yes. And we solicit votes--it's important--or USAA solicits votes. [LB234]

SENATOR SCHUMACHER: Right, it's for their chart of directors. [LB234]

WILLIAM McCARTNEY: Well, not necessarily. For whomever is...it's important that as many people vote as possible. [LB234]

SENATOR SCHUMACHER: Right, but they solicit votes. Do they also recommend votes? [LB234]

WILLIAM McCARTNEY: I don't remember. I really don't. I really don't remember. [LB234]

SENATOR SCHUMACHER: Okay. And right now the only way the public can get this information about not only USAA, but the other insurance companies that are out there who may not...who are owned by members of the public through their policies except for the indicia of a right to distributions who, in every respect, are similar to those listed on the New York Stock Exchange or any of the other public exchanges. The only way that they can get that information now is through the little state of Nebraska making public the range of salaries for these publicly owned insurance companies. [LB234]

WILLIAM McCARTNEY: Well, and it also applies to a company that might be owned by one person and three of his family members or three of her family members. It's a completely, totally private company and even that company has to make these compensation disclosures and they become public. [LB234]

SENATOR SCHUMACHER: But that company isn't here today sponsoring this. [LB234]

WILLIAM McCARTNEY: It applies to every company that does business in the state of Nebraska. [LB234]

SENATOR SCHUMACHER: Thank you. [LB234]

SENATOR SCHEER: Any other questions? Senator Campbell. [LB234]

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SENATOR CAMPBELL: Thank you, Senator Scheer. Mr. McCartney, thank you for coming again. If I remember right last year, was USAA the only company that's not publicly traded that discloses? [LB234]

WILLIAM McCARTNEY: No, there's a number...no, everybody that holds a certificate of incorporation...a certificate of authority in Nebraska. And I don't know how many that is. I think it used to be 1,400 companies or whatever it is, has to make this filing. Every company has to make it. [LB234]

SENATOR CAMPBELL: Okay. So at this point, the only way that this information is known is if someone dials up the Director of Insurance and says, I want to know information about USAA. Is that correct? [LB234]

WILLIAM McCARTNEY: Yes. [LB234]

SENATOR CAMPBELL: I mean, it's not like it's printed or on a Website. I mean, you have to specifically ask the director for the information. [LB234]

WILLIAM McCARTNEY: Yes. [LB234]

SENATOR CAMPBELL: Thank you. [LB234]

SENATOR SCHEER: Any other questions? Senator Schumacher. [LB234]

SENATOR SCHUMACHER: One quick follow-up. You mentioned banks, hospitals, savings and loan associations. In all those cases, the public--assuming they're not listed on an exchange--the public does not own the equity interest or the right to elect directors, the right to distributions on dissolution. Is that not the case? [LB234]

WILLIAM McCARTNEY: They could with some thrifts. They certainly do with credit unions. [LB234]

SENATOR SCHUMACHER: But you had mentioned banks, hospitals, and savings and loans. [LB234]

WILLIAM McCARTNEY: Yes, credit unions. But the common thread is that they all have a license from the state of Nebraska to do business here and they're regulated by a state agency.

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Insurance companies are the only ones that are required to, in addition, make compensation paid to top ten employees public information. [LB234]

SENATOR SCHUMACHER: I grant you have a point on credit unions. But the rest of them, members of the public are not even close to being shareholders. Thank you. [LB234]

SENATOR SCHEER: Any other questions? If not, thank you very much for coming. [LB234]

WILLIAM McCARTNEY: Thank you, Mr. Chair. [LB234]

SENATOR SCHEER: The next proponent for LB234. Welcome. [LB234]

JAN McKENZIE: Thank you. Senator Scheer and members of the Banking, Commerce and Insurance Committee, for the record, my name is Jan McKenzie, J-a-n M-c-K-e-n-z-i-e. I'm executive director and registered lobbyist for the Nebraska Insurance Federation, which is the group that represents the Nebraska domestic industry. Among my 26 members, I have some who are publicly traded and some who are mutually owned and some who are private. And the group of 26, while they have varied interests, have voted to be on the record in support LB234 in order to create some uniformity in the way in which we are doing business in Nebraska as they do business in other states regarding their compensation disclosure. [LB234]

SENATOR SCHEER: Thank you. Any questions? Senator Williams. [LB234]

SENATOR WILLIAMS: Senator Scheer, thank you. Ms. McKenzie, I just want to be sure on something because you have members of your association that are doing business in other states. [LB234]

JAN McKENZIE: Many, yes. [LB234]

SENATOR WILLIAMS: Right. What reporting requirements do they have in the other states that they're in? [LB234]

JAN McKENZIE: I believe in states where the director requires that that compensation be reported, as to what Mr. McCartney said, it's their top six...five or six employees. And in those cases it's held confidentially and reviewed by the department. There are states that do not require it to be reported at all. [LB234]

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SENATOR WILLIAMS: So in none of those states is it made public information? [LB234]

JAN McKENZIE: No. [LB234]

SENATOR WILLIAMS: Thank you. [LB234]

SENATOR SCHEER: Any other questions? Senator Schumacher. [LB234]

SENATOR SCHUMACHER: From a regulatory point of view, why would we want to treat those that are listed on an exchange in selling their policies to the public differently from those who are not in selling their policies and, in fact, their ownership interest in the public. [LB234]

JAN McKENZIE: Well, Senator, I can just kind of give you my personal opinion about that. And I think it's basically a matter of being treated the same no matter where you're doing business and having your information made available, of a personal nature, to anyone who might want to come in and look at it. [LB234]

SENATOR SCHUMACHER: But doesn't your membership who are listed on the exchange already do that? [LB234]

JAN McKENZIE: In terms of the stock traded companies? [LB234]

SENATOR SCHUMACHER: Their salaries, the information that's on the SEC site. [LB234]

JAN McKENZIE: As I understand, I'm not an expert on that, so. [LB234]

SENATOR SCHUMACHER: Yes. So, I mean, we're not asking anything particularly onerous. There's no extra work for them for the state to make it public. And doesn't the person who owns the policy, and by virtue of owning the policy, have the right to elect directors, right to distribution on dissolution, rights that look an awful lot like shareholders? Don't they have the right to know what they are paying the directors and officers? [LB234]

JAN McKENZIE: I can't disagree with that, but I don't know that that's not the same case in any other private company, that those... [LB234]

SENATOR SCHUMACHER: But in every other private company, one way or the other, you can find out what you're paying the directors. In this case, the way the description was, the directors

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and the officers can sit down and without telling anybody what they did can jump in the cash wagon and take a good chunk out of it. [LB234]

JAN MCKENZIE: Well, to be honest, I do not know what my member companies do and how they conduct that part of their business. This was USAA's particular framework so I'm sorry, but I am...all my companies do things in varied and different ways in terms of how their organization is structured. So I'm not an expert, nor do I think I could speak for any one of the companies as their association director. [LB234]

SENATOR SCHUMACHER: But from an insurance serving the public point of view, there's no fundamental reason why a mutual company that sells its ownership by virtue of selling a policy should be treated any differently than a stock company. Is there? [LB234]

JAN MCKENZIE: Well, to some extent, it is treated the same in that it's required to report to a regulator? Who then reviews whether or not that compensation is appropriate? [LB234]

SENATOR SCHUMACHER: And in the case of the publicly traded company, it's made public. And so is there any fundamental public interest served by not having a similar requirement in existence here in Nebraska? What's a public interest for this bill? Why does the public care that we pass this? [LB234]

JAN MCKENZIE: Quite honestly, I don't believe probably the public does care. I don't think there's a lot of the public that goes to the Department of Insurance to look. [LB234]

SENATOR SCHUMACHER: So what change...what public interest does this change serve? Thank you. [LB234]

SENATOR SCHEER: Any other comments, questions? Thank you. [LB234]

JAN MCKENZIE: Yes. [LB234]

SENATOR SCHEER: Any other proponents to LB234? Seeing none, are there any opponents to LB234? Seeing none, are there any in a neutral capacity for LB234? Welcome, Director Ramge. [LB234]

BRUCE RAMGE: (Exhibit 2) Good afternoon, Chairman Scheer and members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge, spelled B-r-u-c-e R-a-m-g-e,

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and I'm the Director of Insurance. I'm here this afternoon in a neutral capacity on LB234. As you've already heard, LB234 would prohibit disclosure by the Nebraska Department of Insurance of salaries and compensation of insurance officers that is filed with the department by insurance companies. Last calendar year the department received 97 requests for information that would be prohibited from disclosure under the provisions of LB234. Of those requests, only 11 were made by confirmed Nebraskans, the other 19 from e-mails that we could not determine where the individual was located. The rest of the requests were confirmed from outside of Nebraska. About one half of the requests were from consumers, another half from competitors, with a few requests from law firms and the media. The scope of the requests ranged from requests on a single insurer to requests for all insurers conducting business in Nebraska. While honoring these requests is no burden on the department, I understand that Nebraska is an outlier as the last state to make this information available to the public. As I stated in my confirmation testimony, Nebraska is a leader in terms of the economic size of its domestic insurance industry, in part due to the environment that has been created by this Legislature. LB234 could serve to further enhance this favorable business environment. I provide this information to help the committee in its decision on LB234 and I would be happy to answer any questions. Thank you. [LB234]

SENATOR SCHEER: Thank you, Director. Any questions? Senator Schumacher. [LB234]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Welcome to the committee, Director. [LB234]

BRUCE RAMGE: Thank you. [LB234]

SENATOR SCHUMACHER: You kind of have a (inaudible) supervisory role of looking at the books and the resources and the reserves and the cash ability of the insurance companies. [LB234]

BRUCE RAMGE: Yes. [LB234]

SENATOR SCHUMACHER: Is that correct? [LB234]

BRUCE RAMGE: Correct. [LB234]

SENATOR SCHUMACHER: Okay. And since 2009, 2010, insurance companies done pretty well? [LB234]

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BRUCE RAMGE: Most of them, yes. [LB234]

SENATOR SCHUMACHER: Very well in some cases? [LB234]

BRUCE RAMGE: Yes. [LB234]

SENATOR SCHUMACHER: Very, very well in some cases? [LB234]

BRUCE RAMGE: Some have, yes. [LB234]

SENATOR SCHUMACHER: Okay. And so there's lots of money sitting there. [LB234]

SENATOR RAMGE: Well, again, that's not a bad thing, because having strong reserves helps to back the companies and makes them able to meet those obligations they have in their policies. [LB234]

SENATOR SCHUMACHER: Okay. And how is it that most insurance companies determine what they're going to pay their officers and their directors? [LB234]

BRUCE RAMGE: It's generally set by the board of directors. The board of directors of a insurance company has...that's one of their duties in terms of making sure that the company is managed effectively. Usually an audit committee reports to the board of directors. They make other important decisions and they task them, the executive officers, with following through on those decisions. [LB234]

SENATOR SCHUMACHER: And how is it that an insurance company protects itself, particularly those that are mutual types or really any type, from having just a bunch of their shareholders or policyholders run in and pack the board of directors and throw the insiders out? [LB234]

BRUCE RAMGE: You know, again, that again is a function of the audit committee and the board of directors. And there's an accountability to the members and to the regulators as well. [LB234]

SENATOR SCHUMACHER: I guess what I'm getting at there is, what's the general route that you've seen how someone gets to be in one of these director seats and gets eligible for directors' fees and company compensation? [LB234]

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BRUCE RAMGE: Oh, I see. You know, I don't think I could give you a really good answer on that. I know that there are some directors that are inside directors, people who have experience and actually have worked at the company. Other are outside directors who may have experience in even other industries and are invited in or are elected in to become directors, but usually those corporate governance matters, our department isn't that involved in. [LB234]

SENATOR SCHUMACHER: In a case where the owners of the company do not have access to the salaries of what they're paying the officers and directors, and the officers and directors can essentially write their own paycheck, what control is there over the officers and directors really treating themselves very, very well as long as they maintain adequate technical reserve? [LB234]

BRUCE RAMGE: Okay. There are other aspects of what they have to file with the department that is probably as good or even a better snapshot. The company's statutory annual statements would list basically their balance sheet and their income statement and then a detail or allocation to expense groups. So there is a page on their statutory annual statement that breaks down all of the company's expenses and included in that is directors' fees, employee relations welfare, salaries. And so it wouldn't be by person, it would be lumped altogether. But a person who is really interesting in determining how a company is run would probably want to look at their statutory financial statement as opposed to just the salaries of the top nine people and the director. [LB234]

SENATOR SCHUMACHER: So if you were the ten guys or whatever, gals, who are on the board of directors of this company and you're choosing your executive team, your president and vice president, etcetera, and you looked over at the balance in the checkbook and you said, jeez, there's a lot of money there. And you didn't have to tell your owners about how much you were going to do. And you said, let's just each dip into this for \$25 million apiece. And the paperwork came to your office and said, gee, there's been a real raid on this checkbook or real raid proposed. Would you have the power to blow the whistle and say, no? [LB234]

BRUCE RAMGE: What we would do is monitor. If we felt that continuation of that type of business activity could lead the company to a hazardous financial condition, then we would step in and ask the company to explain. But if it were a one-time thing such as a bonus or something that did not impact the company's ability to meet their obligations or to meet the minimum ratios that are required, the department would probably not have the ability to stop it. [LB234]

SENATOR SCHUMACHER: So if there was a big pile of money and after the bonus or years of bonuses, the big pile of money was still there, it was just a little bit smaller, you wouldn't be in a position to blow the whistle? [LB234]

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BRUCE RAMGE: We...well, blow the whistle is probably not the... [LB234]

SENATOR SCHUMACHER: Say, no, picnic is over. [LB234]

BRUCE RAMGE: Yeah, step in and take action. We would monitor when their financial solvency ratios met the criteria for us to step in and we would. They would be monitored until then. [LB234]

SENATOR SCHUMACHER: So you kind of apply the pigs get fat, hogs get slaughtered rule, if they took the whole pile? [LB234]

BRUCE RAMGE: If they took the whole...I have not seen that happen so it would be hard for me to say what we would do. [LB234]

SENATOR SCHUMACHER: And do the policyholders who are really the ultimate equity holder here, do they have any rights in this at all? [LB234]

BRUCE RAMGE: Again, that would be through their...each company, you know, would have its own bylaws and so they may differ by company. But I would assume it would be along the lines that Bill McCartney mentioned, that they would have a say-so by election of the board of directors. And that would be their only say-so. Or the other one is packing up and moving to a different company, because all...competition is the best dictator of making sure that people get the insurance they want. [LB234]

SENATOR SCHUMACHER: But how would they know that they're not moving away from a good or a bad company if they don't have all the information? [LB234]

BRUCE RAMGE: Yeah, that's right. [LB234]

SENATOR SCHUMACHER: Thank you, Director. [LB234]

BRUCE RAMGE: You're welcome. [LB234]

SENATOR SCHEER: Senator Howard and then Senator Williams. [LB234]

SENATOR HOWARD: Thank you, Senator Scheer. Nice to see you again, Director Ramge. [LB234]

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BRUCE RAMGE: Nice to see you, thank you. [LB234]

SENATOR HOWARD: I have a question that I'm just curious about. I know that often directors, base compensation is their salary, but there are a lot of other bonuses and benefits that go along with it. When you receive this information is it just their base salary or does it include all of their forms of compensation and benefits and their monetary value? [LB234]

BRUCE RAMGE: I believe it's all. But I would have to double-check because, again, I don't use that statement frequently. But I'd be happy to check and let you know. [LB234]

SENATOR HOWARD: That would be great. Thank you. [LB234]

BRUCE RAMGE: Okay. And you're asking about what is currently reported on the salary schedule, not the annual statement blank, or both? [LB234]

SENATOR HOWARD: Both. [LB234]

BRUCE RAMGE: Okay. [LB234]

SENATOR HOWARD: I think more I'm curious because I know there's a base salary, there's usually a bonus structure based on deliverables, and then there are also additional benefits like an automobile allowance, say. And would we be receiving the monetary information regarding the value of that benefit as well, included in all of their compensation or would it just be their base salary? [LB234]

BRUCE RAMGE: Okay. Okay. Okay. I will be happy to check with that and get back to you either directly or through Mr. Marienau. [LB234]

SENATOR HOWARD: Thank you. [LB234]

BRUCE RAMGE: You're welcome. [LB234]

SENATOR SCHEER: Senator Williams and then Senator Campbell. [LB234]

SENATOR WILLIAMS: Thank you, Senator Scheer. Director, thank you for being here. I want to go back to something we covered before with another witness just to be sure. [LB234]

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BRUCE RAMGE: Okay. [LB234]

SENATOR WILLIAMS: Any insurance company that is either domiciled or doing business in Nebraska, regardless of ownership--privately owned, publicly owned, mutually owned--is reporting currently this information. So they're all being treated the same regardless of form of ownership. [LB234]

BRUCE RAMGE: Yes. There may be some smaller types of companies that are not included, but for the most part I would believe, yes. [LB234]

SENATOR WILLIAMS: Okay. For those companies that by their ownership choice are publicly held, they are held to a standard by a different agency, the SEC. [LB234]

BRUCE RAMGE: Yes. [LB234]

SENATOR WILLIAMS: And so they, by choice of ownership, they are filing information like other publicly owned companies like publicly owned banks, publicly owned Walmart, that are filing with the SEC. So I just want to be sure on that difference. [LB234]

BRUCE RAMGE: Yes. Yes. Sure, because of the investment laws. Yes, that's correct. [LB234]

SENATOR WILLIAMS: Now the question, back to your testimony, you talked about having 97 requests last year. And from a public policy standpoint...and the questioning seems to be going along the line of how do we ensure that the public-private, the mutual kind of ownership, have some information. Do you have any sense that the people that are requesting this information from the department are doing it for the purpose of determining the financial solvency of the company? [LB234]

BRUCE RAMGE: We don't ask how or why they're using the business. For competitors, I would assume they're trying to make certain that their salaries are competitive, but... [LB234]

SENATOR WILLIAMS: Do you have any sense that they are using it to determine whether somebody is robbing the golden cookie jar? [LB234]

BRUCE RAMGE: No. We just...we get the requests and we process them. That's it. [LB234]

SENATOR WILLIAMS: Thank you. [LB234]

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BRUCE RAMGE: Yeah, you're welcome. [LB234]

SENATOR SCHEER: Senator Campbell. [LB234]

SENATOR CAMPBELL: Thank you, Chairman Scheer. Director, I always appreciate the information that you bring to us. Of the companies that you surveyed, are there many companies that would be the same type of description as USAA or are they sort of a one and an only? [LB234]

BRUCE RAMGE: Well, I think if you look at their structure broadly, there are many companies that are considered to be mutual companies where, basically, their ownership is around the ownership of an insurance policy. [LB234]

SENATOR CAMPBELL: Okay. So, in essence, this isn't a change that affects only really one company. [LB234]

BRUCE RAMGE: No. [LB234]

SENATOR CAMPBELL: It would affect a number of companies... [LB234]

BRUCE RAMGE: A large number of companies. [LB234]

SENATOR CAMPBELL: ...that are like USAA. [LB234]

BRUCE RAMGE: Yes. [LB234]

SENATOR CAMPBELL: Because last year or two years ago, whenever it was--time flies--I kept thinking that there was something singular about USAA in the discussion and I must have been mistaken because that's what you're saying. They aren't...there's nothing singular about them. [LB234]

BRUCE RAMGE: Not really in terms of ownership. They're a unique company in terms of how they serve their members and that they are aimed toward armed services. But there are other...many other mutual insurance companies such as, you know, very large ones even here in the state of Nebraska. [LB234]

SENATOR CAMPBELL: Thank you. [LB234]

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BRUCE RAMGE: You're welcome. [LB234]

SENATOR SCHEER: Senator Craighead. [LB234]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Hi, Director. [LB234]

BRUCE RAMGE: Hello. [LB234]

SENATOR CRAIGHEAD: Thanks for being here. [LB234]

BRUCE RAMGE: You bet. [LB234]

SENATOR CRAIGHEAD: How many insurance companies do we have in the state of Nebraska? [LB234]

BRUCE RAMGE: Roughly 100 to 104 of all various sizes. [LB234]

SENATOR CRAIGHEAD: Okay. And this looks like the calls that you got out of about 100, about 50 of those were from competitors. Correct? [LB234]

BRUCE RAMGE: Yes. [LB234]

SENATOR CRAIGHEAD: So that's about one a week. Other than that, what would you say the reasons are the insurance companies would prefer not to have their information published? [LB234]

BRUCE RAMGE: You know, that would be a good question for the individuals who introduced it. I would assume there are some reasons that really haven't been discussed today. And one of the things that comes to my mind might be just concern about privacy. We're all more concerned about privacy than we used to be. We know it's a growing issue, but I suppose trade secret, proprietary information. They want to have a competitive edge perhaps or they don't want someone else to say, oh, hey, we could afford that executive. Let's offer him \$100 more and get him to come to our company. I suppose there's a variety of reasons. [LB234]

SENATOR CRAIGHEAD: Yeah. I guess what I'm thinking, because I know in some arenas that people believe that insurance executives make way too much money anyway. And I'm just wondering if we take away the transparency on this, what effect we might have. [LB234]

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BRUCE RAMGE: Yeah, right. And I understand. It's really a tough policy decision. And you know the department really looks toward this body for guidance on that. And, again, I will mention that I am a strong believer that competition is the best way to keep the companies sound, but. [LB234]

SENATOR CRAIGHEAD: Thank you. [LB234]

BRUCE RAMGE: You're welcome. [LB234]

SENATOR SCHEER: Senator Schumacher. [LB234]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Just one follow-up question. Even though you only had a hundred or so requests for this information, there's no obligation on the part of the requester to keep it private once he gets it, is there? [LB234]

BRUCE RAMGE: No. [LB234]

SENATOR SCHUMACHER: So this is...there's a hundred requests that can be multiplied many, many times by the Internet, by trade publications, by just talking back and forth by e-mails. So if we shut off this, we may shut off a lot of information that's moving through society. [LB234]

BRUCE RAMGE: Yeah. There are no restrictions on how the information is used once they get it. [LB234]

SENATOR SCHUMACHER: Thank you. So this is a fishes and loaves thing. Once we start distributing it, there can be a lot of...a lot of people may be being fed off of this. [LB234]

BRUCE RAMGE: Yeah. [LB234]

SENATOR SCHUMACHER: Thank you. [LB234]

BRUCE RAMGE: You're welcome. [LB234]

SENATOR SCHEER: Director, a couple of questions. [LB234]

BRUCE RAMGE: You bet. [LB234]

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SENATOR SCHEER: In Nebraska we're trying to encourage additional growth in the insurance business. We're asking for something that no one else in the United States asks for. Would you say that would make us in a competitive position to try to encourage new and expanded growth? [LB234]

BRUCE RAMGE: You know, for a company who had an objection to that, I believe it could be one factor. There are many factors that they would look at, but...so it could enter into a decision. [LB234]

SENATOR SCHEER: And the last thing I want to talk about is this huge pot of money that we keep hearing about. [LB234]

BRUCE RAMGE: Okay. [LB234]

SENATOR SCHEER: Insurance companies work different than a lot of companies. Insurance companies are supposed to have a huge pot of money. [LB234]

BRUCE RAMGE: That's correct. [LB234]

SENATOR SCHEER: Insurance companies, in order to be able to grow by capacity, additional policies, need additional cash or they cannot write any more business. There's a limitation based on their reserves and their cash to the extent that they can obligate themselves to losses. Is that correct? [LB234]

BRUCE RAMGE: That's correct. [LB234]

SENATOR SCHEER: So if a officer of any type of insurance company that had these big piles of cash and they continue to grow that big pile of cash, one would assume they'd be compensated accordingly. Would that be fair? [LB234]

BRUCE RAMGE: Because they've been successful I would say, yes, that's fair. [LB234]

SENATOR SCHEER: Okay. Thank you. Thank you very much for your testimony. [LB234]

BRUCE RAMGE: You bet. [LB234]

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SENATOR SCHEER: Are there any other in a neutral capacity for LB234? Seeing none, Senator Krist. [LB234]

SENATOR KRIST: Thank you. There's obviously just around the table some philosophical differences about how to control business. And I think the Director was very clear about the competitive edge and attracting people into the state and doing business. The fact that former Senator Jan McKenzie was here talking about her 26, I think, folks that she represents--and that is from all categories, whether it's mutual or its privately or where it's public--is testimony that USAA is not the only one that's going to be affected. They're only the ones that stood up and said, this is an issue that needs to be solved. I refer you to a fact sheet that I gave out when I first started my testimony and emphasize just a few things. Nebraska is the only state to make private company information public. And more importantly, the only state that makes insurance private company information public. I wonder what would happen in the banking industry if we went over to former Senator Quandahl and said, we want you all to disclose. I wonder what would happen to the hospitals, we want you all to disclose. I think it is a business interest and I think that's one of our prime responsibilities in terms of making policies, is to facilitate the growth of business in Nebraska. And I don't mean that in a contradictory way, I mean it is a positive thing that we can do. Nebraska follows the National Association of Insurance Commissioners' recommendations that insurance companies' officers' salaries be reported to the state. That's not going to change. They're still going to be reported. You heard the commissioner talk about potentially that salary range on what we're actually talking about and reporting and making public is probably not the best guide to the financial health of the insurance company. There's the statement that I read as a member of USAA that tells me what portion of money is being spent where, so I'm able to look at my interests in that way. There's no exception to protect private company information from the public for the insurance companies. And I think that by itself is worthy of discussion and an extended debate if that's necessary. I want to thank Mr. McCartney for coming again. I want to thank former Senator Jan McKenzie for coming. And I also want to thank, and especially thank, Bruce for coming because I think it's the first time that the administration has allowed conversation to go on from the commissioner. And I think that's an important point. And the fact that he came in neutral is better than coming in in opposition. So I thank you for your time and I'll stand for any questions. [LB234]

SENATOR SCHEER: Are there any final questions for Senator Krist? Just one, Senator. You are a policyholder from the company, USAA? [LB234]

SENATOR KRIST: Yes. [LB234]

SENATOR SCHEER: Do you have a concern that this information would be withheld? [LB234]

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SENATOR KRIST: I don't have a concern that the information that they are asking not to make public is going to affect my company in any way. And I consider that an honor to be a member of that company because of my affiliation with the military. And I do think that the commissioner's notes about the financial and public health of a company is better served potentially in the statement, which I receive on a regular basis and I'm able to vote. So when we're talking about USAA in specific, I don't have a concern, but I think this is bigger than just USAA. They're just the company that was able to bring this to our attention. [LB234]

SENATOR SCHEER: But you're an example of a policyholder that would be affected by this policy change. [LB234]

SENATOR KRIST: Absolutely. Absolutely, yeah. [LB234]

SENATOR SCHEER: Okay. Thank you, Senator Krist. And that will end the hearing on LB234. The next hearing will be LB451. Senator Hansen, welcome. [LB234 LB451]

SENATOR HANSEN: Thank you. Good afternoon, Chairman Scheer and members of the Banking and Insurance Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I'm the senator from District 26, representing northeast Lincoln. Today I'm introducing LB451. This bill would change the state's current policy relating to stacking or combining of uninsured and underinsured of the motorist insurance coverages. Current law states that if a consumer has paid for or has available two or more policy coverages for either uninsured or underinsured coverages in a vehicle accident or if one policy provides two or more policy limits, the consumer may recover at most the highest coverage of these policies. Current law also sets forth the methods of determining which coverage is applicable. I believe this policy is unfair to consumers and that we have a statutory provision prohibiting a customer from collecting upon an insurance policy which they've already paid. Under the current condition of the statutory framework the consumer may pay a premium for each (of multiple policy covers, but only recover from one of those on a single policy. I'm asking with this bill to change that and allow consumers to recover under the policies available to them. I will acknowledge this is a technical area of insurance and I will note that there are others following behind me who will share their experience in the area as well. With that, I'll urge you to advance LB451 to the floor. [LB451]

SENATOR SCHEER: Okay. Thank you. Any questions for Senator Hansen? Seeing none, are you going to stick around? [LB451]

SENATOR HANSEN: Yes. Thank you. [LB451]

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SENATOR SCHEER: Okay. I will now open the testimony to proponents of LB451. Good afternoon. [LB451]

MARK RICHARDSON: Good afternoon, Senators. My name is Mark Richardson, M-a-r-k R-i-c-h-a-r-d-s-o-n, I'm a trial attorney here in Lincoln with Rembolt Ludtke and I'm speaking today on behalf of the Nebraska Association of Trial Attorneys. It's my understanding I will likely be the only proponent speaking here today. And I will then be followed by a who's who of insurance companies in opposition to this bill, which is completely unsurprising when we have legislation that's being introduced that's asking insurance companies to pay more money, but the real question here is, who is getting the raw deal? Is it the insurance company who's being asked to basically provide the coverage that the insurance companies' clients are paying premiums for? Or is the insurance company who is, as the result of no effort of their own, taking advantage of situations where there's additional UIM coverage available, thus negating them having to step up underneath their policies to pay those insurance proceeds? I've got a fairly considerable amount of experience in dealing with antistacking provisions. It's most common...one example is, when we have a client who is a passenger in a motor vehicle and they're struck by another car that was caused by the negligence of some other driver. Both the driver of our vehicle and our client both have UIM coverage. Both have paid their premiums. Both have been told that they have X number of limits that can go towards lost wages, medical bills, anything that needs to be compensated for as a result of the injuries that they sustained in that accident. Yet under the current provision, under the current antistacking law the way it works is, let's say they both have \$100,000 worth of coverage, only one has to pay. The maximum amount is \$100,000 under a singular policy so if the other policy gets excluded, that insurance company doesn't have to pay any amount of money. I know you're going to hear concerns from the insurance company about, well, what about the case where it's...I'm injured in my own car and I have multiple vehicles that I have UIM coverage under. Well, I just happen to be, in the last ten days, moving my insurance from one company to another specifically for the reason that I wanted to make sure that my family was protected with proper UIM/UM coverage. And what I was told and what I've been informed by the new insurance company who's willing to provide the coverage, they're willing to underwrite it is, that for every vehicle I have, I have to pay an additional premium to obtain coverage. So if I have one vehicle and I want X number of policy limits, it's whatever...that \$150 is per year for that vehicle. If I want the same coverage to apply for...if I want to have another vehicle under that same coverage, I have to pay an additional premium to obtain that coverage. If I have to pay the additional premium, logic would dictate that I am being afforded additional coverage. But under the current state of the law, that is not what is happening. The equation...another thing that we heard the last time we introduced this bill or the last time this bill was introduced was that you can't underwrite this and that if we do away with the antistacking, premiums are going to go through the roof. But I would ask the committee to sit and analyze what equations are being done here. We're talking about the chances of you being struck by a negligent driver who did not have adequate or any insurance coverage. You're talking

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about the amount of coverage I am requesting that the insurance company provide to me. And you're looking at the chance of me being injured in that accident. Those are the parameters they're looking at when they're trying to underwrite these policies. And that's regardless of whether the stacking is allowed or not allowed. The only thing that changes is that when you outlaw stacking you end up with a situation where now they have another variable to add in there. What are the chances that our client is also...there's going to be some other form of UIM coverage available to our client. To us, the insurance company is...this is found money for the insurance company. We were fortunate that there was additional UIM coverage available from another policy that reduced what we told our clients we were going to provide to them in terms of policy limits. We're asking nothing more here today than our clients, the citizens of the state of Nebraska, be allowed access to ensure it's policy proceeds that premiums are being paid for every single day, nothing more. Thank you. [LB451]

SENATOR SCHEER: Questions? Did I hear you correctly to the extent that your insurance that you just personally bought as far as if you have four cars, so if you have a uninsured motorist of \$100,000 for each one, if you're riding with me and we are in an accident and you are hurt, essentially you now have \$400,000 worth of coverage? [LB451]

MARK RICHARDSON: Under the current law, no. Under the anti-stacking, it says, look... [LB451]

SENATOR SCHEER: I understand. But based on what you're telling us, if this law were vacated you would have \$400,000 worth of coverage? [LB451]

MARK RICHARDSON: If I had the four different coverages, I paid the four different premiums for those coverages, and the insurance company allowed me to have those coverages--because UM and UIM coverage goes with the person, not necessarily with the vehicle--then, yes, I would have \$400,000 worth of coverage. The insurance company that wrote me that policy is certainly free to deny me and say, if you're going to have four vehicles, we're not going to allow you to have \$100,000 coverage on each vehicle or you're going to be paying the premiums for each one of those. [LB451]

SENATOR SCHEER: Well, that's not quite correct to the extent that the policy goes...the limits go with the person because by state law, each vehicle is required to have that coverage in place. So it's not as mobile as one would think. It is...you are paying per vehicle for each coverage. And I think--I am not an insurance underwriter--but my thought might be that if you have four cars you might have four drivers or you might have three drivers. And all those vehicles may be all operational at the same time so you, indeed, are paying the three premiums because those three

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vehicles are all independently operating at the same time. Would that not be a fair assessment from an insurance standpoint? [LB451]

MARK RICHARDSON: And insurance companies are free to consider that. With your scenario of this \$100,000 in each one, the minimum that has to be on each vehicle is \$25,000 for UIM coverage. So if you had the four vehicles, the insurance company would certainly be free to say, instead of doing \$100,000 on each one we're going to go down to \$25,000 on each one unless you're willing to pay the premium to have the \$400,000 worth of coverage per vehicle. [LB451]

SENATOR SCHEER: Well, as a consumer--and I'm not trying to nitpick--but you're purchasing the level of coverage that you request and it is priced accordingly, at least with most companies that I'm aware of. [LB451]

MARK RICHARDSON: And in your example, again, we're talking about the number of vehicles. You're also talking about the number of drivers. If there are...if you add a driver, there is certainly going to be an increased premium that comes along with the additional driver. You're still paying independently additional premium for additional coverage. And I think any citizen of the state of Nebraska would think if they're paying premium for additional coverage that they're going to be entitled to that coverage regardless. [LB451]

SENATOR SCHEER: Well, how is that additional? If both vehicles are going to be driven, you have two...you and your wife--I shouldn't assume, but it looks like you have a wedding ring--so you and your wife are driving a vehicle each to work. And your premium is based, I'm going to guess, in a large part based on your ability to drive well. And so whatever the premium is that is based on each one is assuming that each one of those is going to be driven separately. And so it's not a combined, each one of those has a separate limit as it's driving down the road. [LB451]

MARK RICHARDSON: Again, the UIM coverage does travel with the person. So, yes, you're correct there. They are having this coverage that you'd have \$100,000 for my vehicle, \$100,000 for my wife's vehicle. But, again, we're paying the separate premium for that regardless of whether...you know, for instance, if I'm in my...if I have my \$100,000 of coverage and I'm in somebody else's vehicle, I am still afforded my \$100,000 worth of coverage. [LB451]

SENATOR SCHEER: But how is an insurance company going to know how often you may be a passenger versus a driver and that coverage is explicit to you as a driver of that vehicle and your wife as a driver of that vehicle? [LB451]

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MARK RICHARDSON: When I signed up for my insurance coverage in the last week, they asked me those questions. They said, how many vehicles do you have? Which...okay, you have this Pathfinder. Who drives that one? We also have this vehicle. Who drives that one? We happen to have a third vehicle. It gets driven once a year, at most. And they asked us those questions and they told us here's our assessment of how that breaks down and they wrote their premiums accordingly. [LB451]

SENATOR SCHEER: Okay. Any other questions? Senator Schumacher. [LB451]

SENATOR SCHUMACHER: Thank you, Senator Scheer. As you probably guessed right, there will probably be a list of insurance companies that will appear after you. And probably the argument will be, look, under the proposal we would have to pay out more money. [LB451]

MARK RICHARDSON: Yes, right. [LB451]

SENATOR SCHUMACHER: And if we have to pay out more money, it shouldn't come out of our hide. We're going to have to raise the money from somewhere. So the only place we have to raise money is from premiums. So what you're asking for is greater premiums. [LB451]

MARK RICHARDSON: I'm not sitting here saying there's no situation in which premiums could possibly be impacted. But you pay premiums based on the coverage that you want. And in my situation, if I have \$.5 million in UIM coverage that I have bought and paid for and I get in a motor vehicle...and I'm driving with somebody else and I get involved in a collision and the driver didn't have any fault in the collision also has \$250,000 of coverage, now all of a sudden the premiums that I paid for my \$.5 million policy aren't worth \$.5 million. They're only worth a quarter of a million dollars because the other driver's policy is going to kick in \$250,000, reduce...the maximum I can recover is \$500,000 dollars, even though my premiums went to insure that I had coverage separately for myself. And I think that would be the expectation of anybody who has UIM coverage, who requests UIM coverage to ensure their own financial future for them and their family. You know, if you take this to life insurance policies, if I went out and I purchased two life insurance policies and I paid separate premiums for both of them, there's not a person in the world that would say, you shouldn't be entitled to one of the policy coverages simply because you took it upon yourself to make sure that you had additional coverage with another company. It's only in this arena where this applies. [LB451]

SENATOR SCHUMACHER: But in this particular case, when you bought the four policies, you bought them at a discounted rate because this was in effect because the insurance companies knew their exposure was less. And if we were to take this away, I would guess we will hear an argument that that discounted rate on those premiums will go back up, because they're not going

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to lose money. They're some institutions, most of which appear before this committee, that pretty much win all the time. [LB451]

MARK RICHARDSON: But, again, you're talking about something that's within the insurance company's ability to largely control. If they don't want to have \$400,000 worth of exposure because you own four vehicles and you want \$100,000 of coverage on each one, they can sit there and say, we are only going to provide you \$25,000 per vehicle for a total of \$100,000 of coverage or whatever, \$50,000 so that you end up with \$200,000. That is within the insurance company to control and mitigate exactly what you're talking about. [LB451]

SENATOR SCHUMACHER: So if we pass this, make this change, maybe they'll just do that. [LB451]

MARK RICHARDSON: And if they do that and they explain it to their insured, that is perfectly fine. But what shouldn't be happening is our...the insured, the individual who bought the insurance thinking they have this coverage, only to find out that it's undercut by somebody else's insurance coverage. Or the situation that I can promise you is common, not all that common, but in the personal injury world where you are a passenger in a vehicle...and it's not just your own policy. But there's a separate company providing separate UIM coverage that is supposed to apply to that situation, which in the end ends up not providing any coverage simply because there was another policy from another...and to me, that life insurance comparison is directly on point with that situation. And that's one of the more egregious situations that we run into. [LB451]

SENATOR SCHUMACHER: Thank you. [LB451]

SENATOR SCHEER: Senator Howard. [LB451]

SENATOR HOWARD: Thank you, Senator Scheer. Thank you for your testimony today. Just out of curiosity, do you ever work on a contingent fee basis as a young lawyer... [LB451]

MARK RICHARDSON: Often. [LB451]

SENATOR HOWARD: ...trying to get by? [LB451]

MARK RICHARDSON: Quite often. [LB451]

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SENATOR HOWARD: And then in regards to this anti-stacking provision, are there...how do consumers know that it exists? [LB451]

MARK RICHARDSON: You will typically see anti-stacking language within the insurance policy somewhere. I will tell you, this is a statutory mandate. I'm not sure that any...I guess I wouldn't be aware of any common, average, nonattorney that would be aware of how the statute actually works. But you will also typically--not in every case, but in most cases--you will see this in the insurance policy itself. But I will tell you as a layperson, unless you know the right questions to ask your insurance agent and how this will apply and to make sure that if you're saying I want \$.5 million of coverage, I'm going to get...I'm going to be guaranteed \$.5 million worth of coverage from my own company...if you don't know the right questions to ask, we routinely have clients whose jaws hit the floor when they discover that their insurance coverage is undercut by somebody else's insurance coverage. [LB451]

SENATOR HOWARD: Thank you. [LB451]

SENATOR SCHEER: Senator Craighead. [LB451]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Thank you, Mr. Richardson, for being here today. Question. I know we're talking auto insurance, but in the general realm of insurance let's say we've got someone who's got employer sponsored health care insurance and then maybe they also have like a military survivor insurance or something like that, so they've got duplicate insurance. It's the same way with the stacking. So as while we're talking about anti-stacking for auto insurance, do you think that this would be something that should be considered across the board for every kind of insurance? [LB451]

MARK RICHARDSON: I guess I'm not aware of the other kinds of insurance that would tell you that you don't have the limits available to you. You know, this is a situation where if you have two policies that each provide \$100,000, thus entitling you potentially to \$200,000, but you only have provable damages of \$25,000, then this is a nonissue because you're still only entitled to \$25,000. This isn't some sort of windfall. I'm not aware of any other that do this, that say...there might be a situation where a health insurance pays first and then somebody comes in to make up the difference. But what we're saying here is, one pays first, the other...and that takes away the responsibility of the other to pay--even if the damages are warranted in excess of the maximum singular policy. [LB451]

SENATOR CRAIGHEAD: Okay. Thank you. [LB451]

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MARK RICHARDSON: You're welcome. [LB451]

SENATOR SCHEER: One final question. If we change the statute to as you requested, what stops the insurance company from just changing the verbiage of their policy to do exactly the same thing because as you've noted, no one reads their policy anyhow? So if we change the statute and allow the stacking, the companies turn around and just simply change the verbiage in the policy which no one is going to read anyhow. You still end up with the same process that we have. [LB451]

MARK RICHARDSON: The way this bill is written to change the statute would prohibit them from including that language within their policies. [LB451]

SENATOR SCHEER: Okay. I guess that's it. Thank you very much. [LB451]

MARK RICHARDSON: Thank you, Senators. [LB451]

SENATOR SCHEER: Any other proponents to LB451? Seeing none, any opponents to LB451? Good afternoon. [LB451]

ANN PARR: Good afternoon. I'm going to try to do this without my glasses, but no guarantees. [LB451]

SENATOR SCHEER: Is that vanity or is that just...? [LB451]

ANN PARR: (Exhibits 1 and 2) Oh, it's pure vanity, yes. I'm on TV somewhere. Good afternoon. My name is Ann Parr, A-n-n P-a-r-r, I am the senior vice president, secretary, and general counsel at Farmers Mutual of Nebraska. I am also the president of the Nebraska Insurance Information Service and I am appearing on their behalf today in opposition of this bill. NIIS is a state trade organization comprised of approximately 20 insurance companies licensed to do business in this state, property casualty insurers. As a group, we write the vast majority of auto insurance in this state, so we have a great interest in this bill. This bill has been heard before. In 2012 there was a bill, in 2014, and again today. I was here testifying approximately one year ago today, so some of you may find my arguments vaguely familiar. For the rest of you, I will hit the highlights hopefully. You are getting a handout now that I have prepared showing not only my testimony, but some of the current law that applies right now and how we got where we are. Our current laws dealing with UM/UIM coverage reflect state case law against stacking that has existed since the mid-'80s. The current prohibition against stacking that exists in our statutes was adopted in part because that reflected the Nebraska court's opinions on the subject. In about

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1994, Senator Landis in collaboration with the insurance industry worked to put together the current statutory scheme with that case law in mind. The current law that governs UM and UIM coverages work...how they work reflects then what our judiciary and our Legislature felt was best for Nebraskans. It's been working well for the people of Nebraska for many years and we would ask that the current statutory scheme stay in place. I think there have been...gauging by the questions, there may be some misconceptions about how this works. I'd like to in the time I have quickly go through how it works and what would be prohibited by the current law. But then I would entertain any questions if we need to clarify what we think this bill does. What is prohibited by the current law and what this bill would seek to change is the prohibition against stacking or adding together of UM and UIM coverage limits that applies to multiple autos insured under one policy or the stacking of multiple policies that each insures a separate auto for one policyholder. The current cost of UM and UIM coverage reflects the fact that stacking does not presently apply in these situations. If stacking is allowed, the cost for all policyholders would necessarily increase. I think there will be other testifiers today that can give you a better idea of how much. The amount of coverage that would result if stacking were allowed as outlined in this bill is seldom necessary. The UIM coverage already applies as excess to any liability coverage that applies, as our statutes dictate. So it's already a very generous coverage provision that's more than what many states require. To allow stacking as described in LB451 could allow for very large amounts of UM/UIM coverage in many situations and I believe Mark testified about some of those. For instance, if you take a typical family that has two adults and two teen drivers, say this hypothetical family that happens to look exactly like mine has four autos listed on their policy. If the UM/UIM limits on that policy are \$250,000 per person, \$500,000 per occurrence, then that coverage would be transformed into \$2 million if stacking is allowed. And that's just an average family. I think if some of our larger farm accounts, for instance, that might have seven, eight, nine, or more vehicles insured on the same auto policy, that is a lot of coverage to add together and, again, not what our UM and UIM statutes were designed to work that way. The other thing that this bill attempts to do that we haven't talked too much about is to eliminate the current offset of limits. I see that my yellow light is on. It's a little bit complicated how that works. I'd be happy to answer questions. As the law stands now, if there's more than one policy that applies, the most you can recover cannot exceed the highest limit of any one policy that applies. It's not as complicated as it sounds. Again, I'd be happy to answer any questions on that. But in summary, I would just say that our current state law accurately reflects what our courts and our Legislature have felt is best for Nebraskans. It's sensible, it takes a reasonable and generous approach to coverage. And I would ask that you respectfully not advance LB451. [LB451]

SENATOR SCHEER: Thank you. Are there any questions? Senator Howard. [LB451]

SENATOR HOWARD: Thank you, Senator Scheer. In looking at your history of case law... [LB451]

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ANN PARR: Well, shoot, that's in the ten point font. All right. [LB451]

SENATOR HOWARD: ...I'm curious about what happened in the case of Polenz v. Farm Bureau because there was an allowable recovery there. Can you tell me more about that? [LB451]

ANN PARR: No, not really. Not beyond what is on here. I haven't looked at it lately. As I recall this case, it was a mixed result. It had certain elements of not allowing stacking in certain situations, but it did under the particular facts of this case. I do think that it created a lot of confusion because it seemed to follow earlier law, but it added some other elements into it. And I really do think that was one of the things that lead to the subsequent statutory change that you saw just a few years later because I think there was really a need for some clarification in the law as to exactly how this applied, so. You can see from basically 1995 on, we have had a clear prohibition against stacking. [LB451]

SENATOR HOWARD: Okay, thank you. [LB451]

ANN PARR: Yeah. [LB451]

SENATOR SCHEER: Senator Schumacher. [LB451]

SENATOR SCHUMACHER: Thank you, Senator Scheer. You had indicated the yellow light was on and you had the desire to educate us a little bit more on... [LB451]

ANN PARR: Only if you want it. [LB451]

SENATOR SCHUMACHER: Well, how much education do you have in that stack? [LB451]

ANN PARR: Well, I guess I would be open to any questions that you have about how this worked. I did have an example about how the offset of limits works because I think that's an area where people think it's very complicated and that there is a vague sense that people are getting not what they paid for. And in actuality, I don't think that's the way it works, so I'd be happy to go through that if you have any interest. [LB451]

SENATOR SCHUMACHER: I know I don't understand how it works. And on the odd chance that somebody else on the committee doesn't, maybe if you'd spend a couple minutes on it. [LB451]

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ANN PARR: Okay, well let me do my best. Yeah. The law reads that the most you can recover cannot exceed the highest limit of any one policy that applies to the situation. So for instance, I am a passenger in my friend's car. Let's say that my friend has coverage on that car--and that's going to be primary coverage because it follows the vehicle--if my friend has \$25,000 of UIM coverage on that car and I have my own auto policy with \$100,000 of UIM coverage and we get in an accident, a negligent person hits us, I am injured. I would have the \$25,000 UIM. By virtue of being a passenger in that car I would get that \$25,000 limit that applies to that car. And in addition, I would get \$75,000 from my own policy. It would make up the difference up to a total of \$100,000, which is the highest limit that applies. You know, I know there is some testimony that in this case it feels like you're not getting what you paid for. But, in fact, that offset of limits is contemplated in the rate for UIM. I can't tell you exactly how often that happens, but it is part of the rate setting that we know that sometimes we won't pay the full \$100,000. There may be other situations where we only pay \$75,000, for instance. So the point is, you are still getting your total available coverage that you bought of \$100,000. You're just getting \$25,000 of it from another company. Does that help? [LB451]

SENATOR SCHUMACHER: I think so. So basically, just following up a bit on your testimony just now, if the change in legislation caused you to have to pay out more, that's going to later be reflected in a policy adjustment or premium adjustment so that you can bring in more. [LB451]

ANN PARR: If this bill passes, the way my example worked you would get the \$25,000 UIM from your friend's policy and you would get a full \$100,000 from your own policy, so you'd have \$125,000. Because the insurance company is going to necessarily be paying out more, I would imagine the rates would go up. I would also point out that that UIM coverage that we're talking about, of course, applies over any liability coverage that applies. So you're looking at a large amount of coverage here. And, frankly, not one that most people need. I think the average bodily injury claim in Nebraska settles for less than \$25,000. So you'd be asking policyholders to accept a rate increase for coverage that they really aren't going to need most times. [LB451]

SENATOR SCHUMACHER: Thank you. [LB451]

SENATOR SCHEER: Other questions? Senator Williams. [LB451]

SENATOR WILLIAMS: Thank you, Senator Scheer. Thank you, Ms. Parr. You mentioned that you are the president of the Nebraska Insurance Information Service... [LB451]

ANN PARR: Yes. [LB451]

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SENATOR WILLIAMS: ...and you've got members that do business in a lot of states. How is stacking treated in other states? [LB451]

ANN PARR: My understanding is, it's all over the board. Farmers Mutual, that I work for, only writes in Nebraska and South Dakota. But many of our companies do write nationwide and I think there are some states where it's allowed. There are some states where it's not allowed at all. And there are some states that have some variety or some version of this. [LB451]

SENATOR WILLIAMS: For those of us that are not insurance people, regardless of what the law is in the state, the underlying premise though is that you're only able to claim damages up to what you truly have as damage, whether under the example that Senator Scheer mentioned of having four \$100,000 policies. [LB451]

ANN PARR: Yes, right. Right. [LB451]

SENATOR WILLIAMS: You would still have to have the injuries that... [LB451]

ANN PARR: Yes, absolutely. In all of these examples we're talking about available coverage to you. Again, you would only recover what your damages are. [LB451]

SENATOR WILLIAMS: Right. Yeah. Thank you. [LB451]

ANN PARR: Yeah. [LB451]

SENATOR SCHEER: Other questions? Real quickly, does not rates equate or based on risk? And I know I don't represent you so I'm not trying to imply that I know your business dealings, but for example, you were talking your farm clients. I know that rates usually on your larger straight trucks, for example, that are only used maybe a month a year, they're insured all year. The rate would be somewhat inexpensive, but it's probably based on the fact that you know they're going to be used for 30 to 45 days a year. As, for example, motorcycles a lot of times are somewhat less expensive than an auto only because you know they're only going to be able to ride them for perhaps six months out of the 12 months. So if we are changing all this, it would have to be fairly reasonable to assume that all the rates would go up to compensate for this change. [LB451]

ANN PARR: Yes. I think that is a reasonable assumption. [LB451]

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SENATOR SCHEER: Okay, thank you. Thank you very much. [LB451]

ANN PARR: All right, thank you. [LB451]

SENATOR SCHEER: The next opponent. Good afternoon. [LB451]

COLEEN NIELSEN: (Exhibit 3) Good afternoon. Chairman Scheer and members of the Banking, Commerce and Insurance Committee, my name is Coleen Nielsen, spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for State Farm Insurance Company testifying in opposition to LB451. Although originally conceived by the insurance industry as the low-cost alternative to compulsory auto liability insurance, uninsured/underinsured motorist vehicle coverages have proven to be serious loss generators. LB451 proposes to eliminate provisions relating to stacking of coverage for UM/UIM, thereby allowing the limits of liability for uninsured or underinsured motorist coverages for two or more vehicles insured under the same policy or separate policies to be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident. Members of the Banking, Commerce and Insurance Committee, along with the residents of Nebraska, should understand that stacking or the aggregation of uninsured/underinsured limits has the potential to increase UM/UIM costs as a whole by as much as 50 percent. Such an increase in premium could actually decrease affordability for the average Nebraska policyholder and could result in higher uninsured population. While the average premium would vary by individual customer, we estimate current semiannual premiums would potentially increase by as much as 20 percent for UM and about 60 percent to 80 percent for UIM. In addition, stacking is fundamentally unfair. The aggregate or stacking system unfairly burdens the individual owning one vehicle by subsidizing the insurance costs of those owning more than one vehicle. For example, an individual who owns three vehicles and elects to purchase coverage on only one vehicle following an accident, coverage would apply to any one of the individual's owned vehicles. Another scenario occurs when an individual has several insured vehicles. The limits that apply to each of those vehicles would be added together to produce a higher limit, but for an individual with only one vehicle, no additional limits would be available to stack. Adding, combining, or stacking also creates additional premium costs for all consumers. As it stands today, those customers who want to or require additional UM/UIM coverage have the right to purchase higher limits. To account for the potential exposure presented by stacking, additional premium costs would have to be allocated to all consumers. Finally, eliminating the provision relating to stacking would also create an uneven competitive environment for insurers. Those insurers who offer multi-car policies might be better equipped to handle stacking differently than those insurance companies that offer only single car policies. We believe that Nebraska has a very healthy insurance climate. Prohibiting UM/UIM limits from being added, combined, or stacked together is important for insurance companies to properly match the price of insurance to the risk we are presented and fundamentally fair to all citizens of Nebraska and insurance carriers doing business in the state. We do not feel

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eliminating the provision would be in the best interest of the population of the state and for the majority of people insured in Nebraska. Thank you for allowing me to testify and we urge the committee to not advance changes in LB451. [LB451]

SENATOR SCHEER: Thank you very much. Any questions? Senator Schumacher. [LB451]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you for your testimony. You said something that was kind of interesting, that at one point the insurance industry got behind the notion of uninsured or underinsured coverage as an alternative to raising the liability insurance that was required by people to have. Did I understand that right? [LB451]

COLEEN NIELSEN: I don't know. I don't think that that's what that meant. I think that when I...I didn't write this testimony. I will tell you that this was given to me, but I will tell you that I think that what happened was that individuals were mandated certain amounts of coverage and for those...yes, for those that did choose to do the \$25,000/\$50,000. And that didn't prove to be an adequate amount of coverage UM/UIM was an alternative. [LB451]

SENATOR SCHUMACHER: And underinsured and uninsured mean that somebody is out there driving that's in an accident with you doesn't have insurance or enough insurance. [LB451]

COLEEN NIELSEN: That's correct. [LB451]

SENATOR SCHUMACHER: So your insurance steps in. [LB451]

COLEEN NIELSEN: That's correct. [LB451]

SENATOR SCHUMACHER: And the argument that we heard earlier was, well, gee, if you're buying so many different cars coverage, you should be able to stack them. [LB451]

COLEEN NIELSEN: Right. [LB451]

SENATOR SCHUMACHER: And the counterargument was, well, this is more expensive than what we thought when we first came up with this way of doing it. Wouldn't that be mitigated somewhat if we just required people to carry more insurance on their cars so this type of insurance wouldn't come into play as much? [LB451]

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COLEEN NIELSEN: Actually, underinsured and uninsured motorist coverage actually is quite affordable and this would increase it. But I think that basically what you're saying is that you would like to increase liability limits. Is that what you're thinking, that that might be an alternative? [LB451]

SENATOR SCHUMACHER: If this came into being to compensate and is a cheap and efficient way to give coverage where somebody was driving without coverage, then...or with not enough. And if this is pretty efficient, but it's still payer loss, then in the whole equation of how you bring money into the insurance company to pay for losses, wouldn't a component of that be then to increase the amount of coverage that's required so not so much would be burdened on the uninsured and underinsured? [LB451]

COLEEN NIELSEN: Well, as you know and as we've testified before on compulsory auto liability insurance, I think that it's important that in terms of mandating...when you mandate coverage--and that wasn't an insurance company's idea--when you mandate coverage you hope that an individual will try to get the kind of insurance that will adequately protect them. And it's our understanding, at least within the book of business of State Farm Insurance, that most of the insureds carry higher limits, \$100,000, \$300,000 or whatever. If you mandate a higher amount of coverage, say \$100,000 or \$300,000, then it becomes unaffordable for individuals to purchase that insurance, and we'd at least like to have them insured. So as an alternative then, uninsured and underinsured motorist coverage comes into play. And even though a lot of people think, why should I have to pay for somebody that's not paying for their insurance, it ends up being more economical for everyone involved and, consequently, we think keeps more people insured. [LB451]

SENATOR SCHUMACHER: But you don't have to have underinsured/uninsured. [LB451]

COLEEN NIELSEN: Yes, you do. It's mandated. [LB451]

SENATOR SCHUMACHER: You have to? [LB451]

COLEEN NIELSEN: Yes. [LB451]

SENATOR SCHUMACHER: Okay, so in order to compensate for the guy who doesn't have enough insurance we're making the guy who has insurance carry more insurance. [LB451]

COLEEN NIELSEN: Yes, we are. [LB451]

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SENATOR SCHUMACHER: Thank you. [LB451]

SENATOR SCHEER: Senator Gloor. [LB451]

SENATOR GLOOR: Thank you, Senator Scheer. Ms. Nielsen, this will be the seventh year I've sat on the Banking, Commerce and Insurance Committee. I think this is the third time that I've heard this bill or a variation on this bill. Does that sound about right to you? [LB451]

COLEEN NIELSEN: I think that's right, Senator. [LB451]

SENATOR GLOOR: Okay. Thank you. [LB451]

COLEEN NIELSEN: Thank you. [LB451]

SENATOR SCHEER: Any others? Thank you very much. [LB451]

COLEEN NIELSEN: Thank you. [LB451]

SENATOR SCHEER: The next opponent to LB451. Good afternoon. [LB451]

KORBY GILBERTSON: (Exhibit 4) Good afternoon. Chairman Scheer, members of the committee, for the record, my name is Korby Gilbertson, spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Property Casualty Insurers Association of America or PCI. PCI members currently write about 54 percent of the personal auto market in the state of Nebraska and about 47 percent over all the entire United States. I brought to you some information pertaining to this legislation. I'm not going to read it to you, I will just point out a few things because I think that prior testimony covered a lot of points. But one might ask why this bill was brought, and for the third time, and generally supported by the trial attorneys each time. I'll have you look about three-fourths of the way down your sheet and you'll see that in states where stacking is allowed, these types of claims are filed 31 percent more often than in states where it's not. So I think that gets you straight to your bottom line of why these types of legislation is introduced in states and why the trial attorneys would want to support stacking of insurance policies. And the bottom line is that, you can do this, but if you look at the table it undoubtedly will cause an increase in premiums for policy owners. And I think that both of the prior testifiers went through that in quite a bit of detail so I won't go through it again, but I can try to answer any additional questions. [LB451]

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SENATOR SCHEER: Thank you. Are there any questions? Senator Schumacher. [LB451]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Korby, are you suggesting that if in exchange for allowing stacking we put a 15 percent contingency fee limit in regard to this that this might not be so popular? [LB451]

KORBY GILBERTSON: You know, I'm not at liberty to say that, but yeah. [LB451]

SENATOR SCHUMACHER: Thank you. [LB451]

SENATOR SCHEER: Any other questions? Seeing none, thank you very much. [LB451]

KORBY GILBERTSON: Thank you. [LB451]

SENATOR SCHEER: Are there any other opponents to LB451? Good afternoon. [LB451]

TAD FRAIZER: Good afternoon. Chairman Scheer, members of the committee, my name is Tad Fraizer, that's T-a-d F-r-a-i-z-e-r, representing the American Insurance Association, a national trade association of property and casualty insurers. I think the reasons for opposing this bill have been quite adequately expounded upon by the prior witnesses, so I won't belabor matters other than to say, we support it. The current situation of underinsured and uninsured motorist coverage is based upon the current law. If you change the law, then you change the basis for writing the insurance and the resulting premiums. And although it's hard to predict, obviously as premiums go up some people are either going to reduce or attempt to drop coverage and go bare. So you may think you're winning on one side of the equation, but you may end up losing on the other side of the equation. And we would therefore oppose the bill and I would try to answer any questions you might have. [LB451]

SENATOR SCHEER: Thank you. Any questions? Seeing none, thank you very much. [LB451]

TAD FRAIZER: Thank you. [LB451]

SENATOR SCHEER: Welcome back. [LB451]

JAN MCKENZIE: Senator Scheer, members of the Banking, Commerce and Insurance Committee, for the record, my name is Jan McKenzie, J-a-n M-c-K-e-n-z-i-e, I'm executive director and registered lobbyist for the Nebraska Insurance Federation. We wouldn't want to be

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left out of the list of those companies opposing LB451 and want to go on record in opposition. [LB451]

SENATOR SCHEER: Thank you very much. Any other comments? I think all the questions are done. [LB451]

JAN MCKENZIE: Thank you. [LB451]

SENATOR SCHEER: Thank you. Are there any other opponents to LB451? Seeing none, are there any in a neutral capacity for LB451? Seeing none, Senator Hansen. [LB451]

SENATOR HANSEN: Thank you, Chairman Scheer. And I would like to thank all of the testifiers today for coming and sharing their expertise. I know on an issue such as insurance I'm sure, as I'm sure the committee is well aware, all of the different moving parts to keep track of certainly get a lot of people interested. I saw on your sign that one of the rules of the committee is being concise. So I would just kind of summarize that I support this as a measure to protect consumers. I feel that premiums are being potentially increased by this bill. That would indicate that there are people who are injured in car accidents who aren't receiving full coverage, otherwise there wouldn't be added cost to the system. So with that, it's a difficult balancing test I am posing to the committee to find the balance between what we can do to protect consumers who are injured in car accidents while also protecting consumers from their own insurance premiums. So with that, I'll close. [LB451]

SENATOR SCHEER: Any final questions? I guess not. Thank you, Senator Hansen. [LB451]

SENATOR HANSEN: Thank you. [LB451]

SENATOR SCHEER: And that will close LB451. And per agenda, we will take a five-minute break. So we will reconvene about 3:20. [LB451]

BREAK

SENATOR WILLIAMS: All right, if we can have everybody gather up, please, we will begin our hearing on LB51 and turn the floor over to Senator Scheer. [LB51]

SENATOR SCHEER: Thank you, Senator Williams and the Banking, Commerce and Insurance Committee. My name is Jim Scheer, S-c-h-e-e-r, representing the 19th District in the

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Unicameral. LB51 would amend the Interlocal (sic: Intergovernmental) Risk Management Act. Currently, the act allows public agencies defined as political subdivisions--the state, the university, and corporations acting as instrumentalities of the state--to form, be members of, and to operate risk-management pools. Risk pools may provide risk management services and insurance coverages to protect their members from losses arising from general liability, property damage, errors and omissions, and workers' compensation liability. Risk pools may also provide risk management and insurance coverages for health, dental, accident, and life insurance to its members, employees, and officers, unless the public agency is a school district or an ESU. LB51 would make two principal changes in the area of the law. First, the bill would enact a new section in the (Intergovernmental) Risk Management Act to provide that before a public agency takes official action to become a member of a risk management pool, the pool shall provide each member of the governing body of the public agency with a written notice-of-disclosure form containing specific information and statements. The information required by the new section would include: any mandatory term of membership; the name and location of any third-party administrator providing services for the pool; a list of insurers providing excess or reinsurance coverage for the pool; deductible levels and the maximum level of a claim the pool will self-insure; and the requirements for voluntary termination of membership. The statement required by the new section would express that: the termination of membership in a pool does not release a member from the continued liability for contractual obligations already entered into; members may have joint and several liability financial obligations of the pool; a pool is not an insurance company and a...or a member of a guarantee association; and a pool is issued a certificate of authority by the Department of Insurance and examined every four years. Second, the bill would amend section 44-4309 of the (Intergovernmental) Risk Management Act to provide that a member of a pool may voluntarily terminate participation by giving notice to another of the members of the directors of insurance at least 30 days, rather than the 90 days prior to the desired termination date. The latter change is important because the current 90-day notice of voluntary termination by a member is too long a time frame for an agent or a broker who wishes to bid for the insurance of the public entity or agency to be able to provide an accurate estimate or premium expenses to the governing body of the public agency. That's what the bill would do. It means greater disclosure before public agencies join a pool, and it means fair competition for those wishing to provide insurance coverages for the local subdivisions. I would be happy to try to answer any questions. There will be others with more knowledge specifically to this that will be following me. And with that, I would close. [LB51]

SENATOR WILLIAMS: Questions for Senator Scheer? Senator Gloor. [LB51]

SENATOR GLOOR: Thank you, Senator Williams. Senator Scheer, I'm trying to get my mind around all the different things this does. But, I mean, the issue of, as an example, making sure people recognize they're not terminating their responsibilities that they may have obligated themselves to as a result of being part of the pool just because they are moving elsewhere, I

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mean, what else goes along with that? What are the problems we're trying to address that haven't been spoken to in the statute as it currently exists? [LB51]

SENATOR SCHEER: Well, I think twofold. I think there is a desire on the part of those that are trying to provide coverage other than the risk pools that those that are joining or belong...will be belonging to a risk management pool understand the exact items that they are committing to. When you are entering a risk pool, it is different than buying just a policy. You are liable...providing a liability to yourself that is above and beyond what a normal person would by simply buying an insurance policy. You share in the expenses and the excesses of that pool and, by virtue of that, there are some other extenuating things that you are obligating yourself to and this is twofold, wanting to make sure that people understand what you are getting yourself into and, as well, they're making sure that when people are choosing to leave that, that they are fully aware that they are not relieving themselves of some possible liability that may have occurred during that policy period that has not been paid. [LB51]

SENATOR GLOOR: So put in very general terms, we're not emphasizing or doing things that would further the independence of those who were part of the pool. We are, in fact, tightening down on the responsibilities of those who are in the pool, making sure they understand that you are a part of a pool and what comes with that is you are making decisions for the greater good, rather than for you as an independent entity that...within there? [LB51]

SENATOR SCHEER: I think the assumption is that they want to make sure that those that are joining a risk pool understand the full parameters of what they are obliging themselves to and I'm...I have not worked in this arena, so I'm not trying to imply that that hasn't happened on any occasion. I just believe that they want to make sure that those that are joining have explicit knowledge of what it is they are committing themselves to as a public entity. [LB51]

SENATOR GLOOR: Well, having asked, I'm sure some of the testifiers will speak to my question. [LB51]

SENATOR SCHEER: I believe that might be the case. [LB51]

SENATOR GLOOR: And one last question: You wouldn't mind if we attached my LB78 that also has to do with the risk pool, so... [LB51]

SENATOR SCHEER: (Laughter) You know, it probably could be amended in, but you'd have to talk to the Chair at some other point. (Laughter) [LB51]

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SENATOR GLOOR: I'll bet. Thank you. [LB51]

SENATOR WILLIAMS: Other questions of Chairman Scheer? [LB51]

SENATOR SCHEER: If not, I'll be sticking around. [LB51]

SENATOR WILLIAMS: Thank you. We would invite the first proponent to the witness stand. [LB51]

ERIN CLYMER: Greetings to Senator Scheer. Senator Scheer and the Banking, Commerce and Insurance Committee, my name is Erin Clymer, E-r-i-n C-l-y-m-e-r. I am the...I am an agent/owner of Ball Insurance Services. I am also the state director of Continental Western Group's municipal packages, called public entity PAK and fire PAK, and I work with local agents in agencies across Nebraska selling these products to municipalities. We've done that at Ball Insurance since 1988. I am not afraid of competition. I am okay with competition. In fact, a lot of the gentlemen behind me are my competitors and, in fact, on some municipalities, we work together. So depending on what product that we have at the time and what the needs are of the individual municipality or fire district, sometimes it determines that...what product that I have to offer is a better fit. Sometimes, they disagree with me and we compete, but we are able to do that, you know, and remain friends and work together through these issues. With the municipalities in question, there are...you know, there's a first-class city, there's a second-class city. The first-class cities will all have probably a public...a full-time public administrator, you know, full-time employees, people that are...you know, the administrator has probably gone to college for the purpose of, you know, being a public administrator. They understand the risks and exposures that a public municipality would have. The ones that we're talking about specifically, that I am talking about specifically, are the smaller ones. It's an all-volunteer council--you know, somebody got the short end of the stick and felt like it maybe is their duty to, you know, pull up their sleeves and go ahead and volunteer on the board this time. They're probably also volunteering on the rural fire district or on their, you know, local park beautification committee. I mean, there's plenty of jobs to do in a small-town community that everybody has to pitch in and it's their turn to be on the board. These people are professional folks. They're farmers. They're not professional public administrators. They're not...there's probably a part-time clerk who also has a full-time job elsewhere. And they, in most cases, are not professional insurance agents. They're just people volunteering to try to help their community. In this capacity, there is an understanding or an implication when they have requests for proposals that the people coming to bring them the proposals, especially when there's something called bid specs or something drawn out that says these are the coverages that they want, these are the limits that they want, etcetera, etcetera. They want...they are assuming that when we come as professionals to bring that to them, that that is what they're getting, the dollar amount that we have on the bottom of our quote

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is reflective of what is in the required bid specs. Now all of the policies that we have do not...cannot be compared apples to apples, right, because some coverages do this, some do that. But generally, insurance, standard insurance for municipalities insurance, do have the capability to do what is asked for in a bid-spec situation. What I am asking for and what I think LB51 asks for is the ability to show an informed choice to a board of volunteer city councilmen, you know, a town board, what it is that they are getting, what it is that they are writing a check for. I get phone conversation...calls to me from different agents that say they saved blank amount of money by going to a pool. There is a fiscal responsibility, and I do think being able to provide an economical quote for these municipalities is very important because of the tax base that they have to go off of. But just because your premium is less, doesn't necessarily mean you're getting the same coverage, and you wouldn't find that out for sure without knowing what the coverages are and what your commitment is. And so I'm asking for the ability for them to have an informed choice. You know, being of the Banking (Commerce and Insurance) Committee, you also know there's truth-in-lending statements. If you are a private citizen and you get a loan, you get to see how much is this money going to cost you for 15, how much for 30. If it's important for a private citizen to have that kind of knowledge about their obligation and debt, how much more is it important that a volunteer city councilmember have a...make an informed choice to protect the consumer in their choice. I'm not saying going to the pool is not a good choice; I'm saying they need to know what choice it is that they are making. I think that's all I have. [LB51]

SENATOR WILLIAMS: Questions for Ms. Clymer? Yes, Senator Craighead. [LB51]

SENATOR CRAIGHEAD: Thank you, Senator Williams. Hi. Thanks for being here today. [LB51]

ERIN CLYMER: Hello. Thank you. [LB51]

SENATOR CRAIGHEAD: Okay. This is the stack of letters of opponents, okay, that I got. [LB51]

ERIN CLARK: Okay. Okay. [LB51]

SENATOR CRAIGHEAD: And one thing that I think that kind of runs through the theme and I just would like to know your response,... [LB51]

ERIN CLYMER: Sure. [LB51]

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SENATOR CRAIGHEAD: ...it says that the issue--and this is pretty central--is the way that insurance companies represent themselves to public entities and then, in turn, to the citizens of Nebraska. Can you address that? [LB51]

ERIN CLYMER: I guess I don't know what the implication of what way...I mean I would need more specificity on... [LB51]

SENATOR CRAIGHEAD: I think it has to do with pools and the way that pools are represented and the way that, you know...I think a lot...and these are all from cities in Nebraska,... [LB51]

ERIN CLYMER: Okay. [LB51]

SENATOR CRAIGHEAD: ...from the actual cities, and they're all opposed. Okay. And I guess I'm just want...help me out here; help me understand this a little bit better. [LB51]

ERIN CLYMER: I don't understand your question. [LB51]

SENATOR CRAIGHEAD: Okay. All right. [LB51]

ERIN CLYMER: You're saying how they're represented by... [LB51]

SENATOR CRAIGHEAD: Let me... [LB51]

ERIN CLYMER: ...by how they conduct themselves... [LB51]

SENATOR CRAIGHEAD: Let me simplify. [LB51]

ERIN CLYMER: ...or how they have representation as lobbyists or what is it that you're... [LB51]

SENATOR CRAIGHEAD: Let me make it easier, okay? [LB51]

ERIN CLYMER: Okay. [LB51]

SENATOR CRAIGHEAD: Why do you think so many cities would be opposed to this? [LB51]

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ERIN CLYMER: Opposed to having information to make an informed choice? [LB51]

SENATOR CRAIGHEAD: The bill. The bill, uh-huh. [LB51]

ERIN CLYMER: I doubt that anyone is actually opposed to having an informed choice. I guess, if they've been asked to have a letter, they might have been under the understanding that something would be happening to damage the pool or that the pool is being asked to do anything different or they've probably been asked by the pool to issue a letter in support of the pool. And I think you can still have the pool. I'm not asking to disband the pool. I just think that more information to make an informed choice benefits the consumer, benefits the taxpayer, benefits everybody. Maybe more people would choose to go to the pool if they knew what it was. [LB51]

SENATOR CRAIGHEAD: Okay. Thank you. [LB51]

ERIN CLYMER: Sure. [LB51]

SENATOR WILLIAMS: Senator Schumacher. [LB51]

SENATOR SCHUMACHER: Thank you, Senator Williams. Thank you for your testimony. In your experiences in competing with the pool, has...have you experienced situations where you could not get competing underwriting information from the pool to present to the decision-making body? [LB51]

ERIN CLYMER: You mean you're wondering if I know what their coverages are? [LB51]

SENATOR SCHUMACHER: No, some of the factors that went into the pool's bid. I'm thinking specifically of a complaint that I had a few years ago that--from a private competitor of the pool--that complained that he had requested some underwriting information as to how it was coming up with the figures for its bid. [LB51]

ERIN CLYMER: Right. [LB51]

SENATOR SCHUMACHER: And the response was that that couldn't be produced without thousands of dollars of cost... [LB51]

ERIN CLYMER: Correct. [LB51]

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SENATOR SCHUMACHER: ...and basically that information was not available unless you would come up with that money. [LB51]

ERIN CLYMER: I work with a local agent in Shickley, Nebraska, who purchased his agency from a former agent that I worked with and he sold his agency. That agent is the incumbent agent on several of the policies that we had together. He was asked by the pool to sell for them and asked what we thought. And we told him what we thought. We didn't know what for sure the coverages were, because a lot of times the bid is, you know, like a fax cover sheet with just numbers on it and we had never been able to read a policy form. I can get EMC's policy form. They're a competitor. I can get policy forms from Berkshire Hathaway Homestate Companies. I can look at the policy and read it and know what it is, what the coverage is that they have, you know, that I don't have on my paper. So the local agent then did indeed decide to go ahead and work in concert to have that as part of his portfolio to offer the pool and, you know, the other EMC and CWG and whatnot. He called to have me help him not have something...a piece of his business move from his book to the pool. And I said, well, you know, compare the coverages, because that's how my dad taught me. He wouldn't tell me what something was. He just said, read the forms. And if you've read insurance forms, they're not super entertaining. But he was...he told me that he didn't have access to the policy and he wondered how he could get one. I was like, well, you're a sales agent for them, you should ask them. And he said he couldn't get one, so he had to ask around. Now I don't know if he's exceptionally unable to get a policy, but that's the experience that I know of. An insurance agent is on the hook if you take somebody from a covered-loss policy and move them to a noncovered-loss policy. So you need to...without informing them of their choice. That's an "E and O" claim. So why not know what coverages you're getting or at least to be able to say, this is a pool, it is different than this document that shows what coverages are offered and what the deductible is for it and etcetera. [LB51]

SENATOR SCHUMACHER: This particular bill, all you're requiring here is information to be disclosed. There's no new requirements, is there, in here? [LB51]

ERIN CLYMER: No, to let people know. [LB51]

SENATOR SCHUMACHER: So this is just, here's something that the city council or the board should know. Couldn't you accomplish the same ends by just mailing a copy of this information, that it probably be malpractice for a local village attorney not to say to his board, say, you should realize this? Couldn't you just mail this out to the village attorneys? [LB51]

ERIN CLYMER: I don't think we are allowed to do that. [LB51]

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SENATOR SCHUMACHER: You're not allowed to mail a village attorney a list of things that he ought to think about making sure his board is aware of? [LB51]

ERIN CLYMER: Well, personally, Ball Insurance has been threatened suit for doing such a thing. [LB51]

SENATOR SCHUMACHER: For...to send a letter to a city attorney saying, say, make... [LB51]

ERIN CLYMER: No, for in a board meeting saying that the pool is not an insurance contract. [LB51]

SENATOR SCHUMACHER: Who has threatened to sue you for that? [LB51]

ERIN CLYMER: The executive director, Mike Nolan, and then their attorney. [LB51]

SENATOR SCHUMACHER: Made a threat for saying at a... [LB51]

ERIN CLYMER: There is a letter. [LB51]

SENATOR SCHUMACHER: You've got a letter like that? [LB51]

ERIN CLYMER: I do. I have my G drive. I'd be happy to print it out for you. [LB51]

SENATOR SCHUMACHER: That would be a very interesting letter to see exactly what you were threatened with. [LB51]

ERIN CLYMER: There's...other local agents have received similar letters. [LB51]

SENATOR SCHUMACHER: For simply ask...putting this information before the town board? [LB51]

ERIN CLYMER: I will...you can read the documents on both of the threats for suit and you can determine what it is that has been said to see. I know that I submitted the letter to my BOP policy general liability carrier and I also submitted the letter to my "E and O" carrier. And both of them did not think there was any cause for suit and it never has been brought. However, it is kind of a

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technique I think that was very frightening to me and intimidating, and my guess is that was the intention. [LB51]

SENATOR SCHUMACHER: That would be an interesting letter to see. Thank you very much. [LB51]

SENATOR WILLIAMS: Other questions? Senator Campbell. [LB51]

SENATOR CAMPBELL: Thank you, Senator Williams. Ms. Clymer, how many cities across Nebraska does your company serve? [LB51]

ERIN CLYMER: I should...you know, I kick myself for not looking into that. I can get that number back to you. I...a significant number. [LB51]

SENATOR CAMPBELL: Just ballpark. [LB51]

ERIN CLYMER: I think we insure over 60 percent of the volunteer fire departments, and these are really small, rural fire districts. And then I...100? I don't...I guess I don't know for sure. I just... [LB51]

SENATOR CAMPBELL: And do you insure any of the counties? [LB51]

ERIN CLYMER: No, the county...I have never had a product that was able to write the counties due to the jails, but I do want to say for the record that I do now. So that's something that is interesting to me, but I do not have that. [LB51]

SENATOR CAMPBELL: Okay. Thank you. [LB51]

SENATOR WILLIAMS: Ms. Clymer, I've got a few questions that I would like to ask. [LB51]

ERIN CLYMER: Sure. [LB51]

SENATOR WILLIAMS: And I'm hoping those that will follow you in testimony will also address these questions as we go forward. In your statement, you seem to intimate that, at least it was sort of the underlying agenda of the statement, that those people that may be doing business with the pool are not being provided information at the same level they would be getting if they were doing business with a private insurance company. [LB51]

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ERIN CLYMER: Let me correct that statement then. I don't know if people who are doing business with LARM know the information after. I mean, if you're involved in a pool, right, you perhaps might be on the board and then be part of, you know, the inner workings and understanding. [LB51]

SENATOR WILLIAMS: But what you talked about... [LB51]

ERIN CLYMER: But I mean initially... [LB51]

SENATOR WILLIAMS: You talked about a...you were holding up your... [LB51]

ERIN CLYMER: In a request for proposal... [LB51]

SENATOR WILLIAMS: ...your sheet that there's this request for proposal. And am I misunderstanding you that the community, the fire department, the city is not getting something similar to that from the pool? [LB51]

ERIN CLYMER: Okay, so I was not clear, because I can tell that what I was communicating is not being understood. So if I go and have a presentation to a board and we have competitors and we are doing the presentation, these people aren't doing business. They have an incumbent agent. They have a carrier that they're currently with and they're considering a new option, right? So when we come as insurance professionals and the pool comes, we have a quote for what it would be, what it would cost the village or the fire district or whatnot in order to do business with us, for us to assume their risk. [LB51]

SENATOR WILLIAMS: Understood. [LB51]

ERIN CLYMER: So when I come with my proposal, what would it cost for us to assume our risk, it is clear what risk I am assuming. Sometimes, if they have a bid, bid specs, or RFPs, or request for proposal, in that document it gives specifications that they want this deductible, this limit, etcetera, etcetera, all the way through. Sometimes, my carrier can't do all the things that they're asking me to here and I'll have to say, we were unable to quote your commercial property without a wind and hail deductible or... [LB51]

SENATOR WILLIAMS: But let's get to the point of what the pool does. [LB51]

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ERIN CLYMER: The pool will just come with a number, but they don't mention what coverages they are unable to... [LB51]

SENATOR WILLIAMS: Okay, there...that's the point I wanted to get to, sure. [LB51]

ERIN CLYMER: But they aren't doing business at that time. It's in the initial, you know, "trying to attract you to do business with me" portion. [LB51]

SENATOR WILLIAMS: Okay. So as I read LB51, it does three things. First of all, it lists five things that are required information that the pool would have to disclose. None of that has to do with policy limits or coverages or anything like that. So we're still not getting at your issue. [LB51]

ERIN CLYMER: Correct. [LB51]

SENATOR WILLIAMS: The second thing it does is it's got these required statements, of which there are four of them, that talk about, you know, the termination and some of those things. Again, it doesn't get to your question... [LB51]

ERIN CLYMER: But it... [LB51]

SENATOR WILLIAMS: ...and your comment with your testimony. [LB51]

ERIN CLYMER: But it does, because when an insurance carrier is coming to quote a business, there are policy dates that we are talking about. We are talking about a determined period of time. In order to leave us, you have to nonrenew or not pay. There is no need to tell us prior. I mean, some of these things are just assumptions that a council would have because they've had municipal insurance prior to that time. And it's a significant difference in being in a pool than it is an insurance carrier. And so there's assumption of the board that what they're getting from different agents is all the same thing, and it is not in that case because you have to announce when you're going to terminate, not just that you want a bid but that you terminate coverage. You have to...sometimes you're in for three years. [LB51]

SENATOR WILLIAMS: But that's not listed as one of the items in here, is termination. [LB51]

ERIN CLYMER: That's the 30 or 90 day... [LB51]

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SENATOR WILLIAMS: That's a separate issue. We'll get to that one in a minute. [LB51]

ERIN CLYMER: Okay. [LB51]

SENATOR WILLIAMS: In the list of required statements,... [LB51]

ERIN CLYMER: Okay. [LB51]

SENATOR WILLIAMS: ...you know, with...its termination of membership does not release them from liability that may have occurred while it was going and that's clearly the... [LB51]

ERIN CLYMER: Okay, and that happens in standard insurance. [LB51]

SENATOR WILLIAMS: Right, right. [LB51]

ERIN CLYMER: And it doesn't happen with a pool, so that is a significant difference and it is something that people should consider. [LB51]

SENATOR WILLIAMS: Okay. Let's get to the last one then, the 30 day versus the 90 day. Can you give me an example, when you're trying to write insurance for one of these entities and they are already insured by the pool, how you are able or how that 90 day limits your ability to be able to be competitive? [LB51]

ERIN CLYMER: Rates are not available on municipal policies...sometimes they're available 60 days out, but that keeps on getting shorter and shorter. They're generally...I'm happy when they have been 30 days out. There's been significant losses that have been happening in the municipal risk in all lines of insurance, I'm sure you're aware. There's been quite a bit of, you know, weather-related risk. There has, you know, been a lot of general liability risk that is not...wasn't the norm with the inverse condemnation, with sewer backup, and the like. So the insurance carriers have been hesitant to release rates or decide rates or determine rates or to guarantee rates that far out. And hopefully we can get back to a place where they feel more comfortable with that, but they haven't been there. [LB51]

SENATOR WILLIAMS: So the current situation of 90 days... [LB51]

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ERIN CLYMER: I think most of the time it's...a lot of times, 180 days, just to let you know, because they can sign something for a promise of reduced premium if they stay in it for 180 days, and so that's an even more significant... [LB51]

SENATOR WILLIAMS: So it...right, that reduces competition. [LB51]

ERIN CLYMER: Significantly. [LB51]

SENATOR WILLIAMS: And competition is what we should, from a public policy standpoint, ask for so that communities could find competitive bids, find the opportunity to find the best insurance for their situation, be covered potentially by an agent in their community or in their area that can help them answer these other coverage questions. [LB51]

ERIN CLYMER: That's how I feel, yes. [LB51]

SENATOR WILLIAMS: Thank you. Any other questions for this witness? If not, thank you very much. [LB51]

ERIN CLYMER: Thank you. [LB51]

SENATOR WILLIAMS: Invite the next proponent. [LB51]

RILEY TONKIN: (Exhibit 1) Senator Williams, members of the committee, I'd like to thank you for your time here today. My name is Riley Tonkin, R-i-l-e-y T-o-n-k-i-n. I'm with EMC Insurance Company. EMC writes a large portion of the municipal business, such as cities, schools, both in the state of Nebraska and in the Midwest. With our involvement in municipal business, I often have the opportunity to help government entities with their bidding process, as well as take part in city council and school board meetings. Frequently, I'm asked how an entity should go about the bidding process. One of my frequent recommendations is that the entity secure the services of a consultant. The reason for this is that the consultant can give them a disinterested third-party opinion on various bidders and their programs for insurance, as well as guide them in what they should or shouldn't have in their insurance program. Since there are not many insurance markets in the state that offer a true program that tailors coverages to the exposures that a city or school may need to protect them, it is important that they choose the right one. Most times, we see communities that decide to forgo the services of a consultant and take on the bidding process themselves. As you can imagine, a consultant's fees can often range in the several thousands of dollars. Communities are also frequently located several hours from where a consultant may be based out of and will have to pay time and expense, as well as

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mileage, for the consultant to drive to their location, further adding to the expense. Consulting fees, while very valuable, may negate any potential savings that a community can realize by putting their insurance out for bid. Since there is not a disinterested third party to objectively evaluate all bidders, there may be several key items about a bid or bidder that will go undiscovered until an issue potentially arises. There are several items that are very important to local communities that they should be made aware of prior to placing their insurance. The first of these is assessability. When a policy is assessable it means that, if the company or organization insuring the entity doesn't have enough money in their surplus to cover claims for that period, they can go back against their policy holders to make up for the shortfall. As you can imagine, this can be very important to a community. If an entity has paid its annual premium and then has their insuring organization come back to them later on that year or even potentially many years down the road and ask for reimbursement because of their financial shortcomings, it can put a budgetary strain on the entity. As many of you may know, several local communities and schools have experienced narrow budgets over the last several years and an assessment would put a large strain on them and their tax base. Coupling with assessability is the importance of insurance carrier financial stability. The insurance industry standard in evaluating carrier financials is A.M. Best. A.M. Best is to the insurance industry what institutions like Moody's is to credit rating and Fitch is to financial institutions. A.M. Best independently evaluates insurance carriers and assigns them a grade based on their creditworthiness and debt obligation. According to A.M. Best, their ratings are based on a comprehensive, quantitative, and qualitative evaluation of a company's balance sheet strength, operating performance, business profile or, where appropriate, the specific nature and details of a debt security. Frequently, entities will require a carrier to be rated at a minimum A-minus to be allowed to submit a bid. This helps to relieve the potential credit risk with a carrier, knowing that an independent third party has evaluated their balance sheet and deemed their financial stability as acceptable. A third area that can be important to an entity in where they place their insurance is if the carrier is part of the guaranteed fund. If a carrier is part of the guaranteed fund, they contribute money to the fund to help cover potential unfunded losses should a carrier become insolvent and unable to pay their claims. This helps to give entities a little bit of a fallback should something happen to their carrier. All three of the aforementioned items--number one, if a policy is assessable; number two, a carrier being at least A-minus rated by A.M. Best; and number three, a company being part of the guaranteed fund--are items that are important to a governmental entity and their insurance carrier. Many of you may have sat on a city or school board prior to joining the Unicameral and likely can appreciate how important knowing about these items prior to accepting a bid could be. The issue that I and many agents frequently run into is they were unable to directly point these items out to a board. Many agents who are members of their community have serious concerns about the financial stability of the carrier that their community chooses, as this could have ramifications on either the city or the school and ultimately the community and taxpayer. Since many communities and schools frequently don't utilize the services of a consultant, there isn't a disinterested third party to point out the shortcomings in these areas of potential bidders. We feel that LB51 addresses

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these items and will help to protect the financial interests of our Nebraska communities in the long run. Thank you. [LB51]

SENATOR WILLIAMS: Thank you, Mr. Tonkin. Question for the witness? Senator Schumacher. [LB51]

SENATOR SCHUMACHER: Senator Williams, thank you. Thank you for your testimony. This is basically requiring that some information be given to the town board or city council, correct? [LB51]

RILEY TONKIN: Um-hum. [LB51]

SENATOR SCHUMACHER: Okay, so let's go through these and you can help me understand why it's important that the board has this. Go down...that the pool is not an insurance company and is not a member of the Nebraska Life Association or the Nebraska Property Association. What difference does that make to the world? [LB51]

RILEY TONKIN: I... [LB51]

SENATOR SCHUMACHER: Why, if I was on the town board, why would I care? [LB51]

RILEY TONKIN: I couldn't answer directly to that. [LB51]

SENATOR SCHUMACHER: Okay. And a pool is insured by a certificate of authority by the Department of Insurance and each year the department reports its affairs and operations and once every four years conducts an examination of the affairs, records, and assets of the pool. Why do I care if I know that if I'm on the town board? [LB51]

RILEY TONKIN: I think in a previous bill's testimony there was talk about how the Department of Insurance will examine a company, examine their financials, etcetera. Personally, I think, to me, that would be important that that had come under examination. [LB51]

SENATOR SCHUMACHER: In the event the governing body takes official action to become part of a pool, the public agency's minutes shall reflect that information described in subsection (1) of this section has been given to each member of the governing body of such public agency as required by this subsection. Why should...that wouldn't...if they were given this information, that would be in their minutes anyway. Why do we doubly require it? [LB51]

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RILEY TONKIN: Documenting that they were given that information and made aware of those parameters. [LB51]

SENATOR SCHUMACHER: Now in number (3), where a pool violates this section after notice and hearing and upon order of the director be subject to a monetary penalty of not more than \$1,000 for each violation, is that a new penalty or an existing penalty? [LB51]

RILEY TONKIN: I couldn't say for certain. And since it's a new bill, I would assume that's a new fine. [LB51]

SENATOR SCHUMACHER: Okay, thank you. [LB51]

SENATOR WILLIAMS: Other questions? Senator Campbell. [LB51]

SENATOR CAMPBELL: Thank you, Senator Williams. Mr. Tonkin, your company serves as a consultant to communities across the state of Nebraska? [LB51]

RILEY TONKIN: No. We insure communities across the state of Nebraska. I frequently recommend that they retain the services of a consultant who would be...I'd be an interested party to the bid to potentially have the...write the insurance. I recommend that they often get a disinterested third party to give them a disinterested third-party opinion on the various interested bidders. [LB51]

SENATOR CAMPBELL: Okay, as I asked Ms. Clymer before, how many cities do you write insurance for across the state? [LB51]

RILEY TONKIN: And I couldn't speak to the exact number, but I know...I can't say that I know, but I believe that it is greater than 30 percent, I believe approaching 40-45 percent potentially. [LB51]

SENATOR CAMPBELL: Okay. And... [LB51]

RILEY TONKIN: And it is also a large part of our writings both in our branch and company wide. So it is a major focus for our company. [LB51]

SENATOR CAMPBELL: And so you're supporting this because you don't feel that the local political subdivisions are following and doing these things. Is that the... [LB51]

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RILEY TONKIN: Or being made aware about them... [LB51]

SENATOR CAMPBELL: Okay. [LB51]

RILEY TONKIN: ...of some of the things, like assessability, guaranteed fund, some of the things that I mentioned. [LB51]

SENATOR CAMPBELL: Okay. And you don't obviously...you don't cover any counties either, or do you? [LB51]

RILEY TONKIN: We do write a limited number of counties, yes, um-hum. [LB51]

SENATOR CAMPBELL: Okay, and any other political subdivisions? [LB51]

RILEY TONKIN: NRDs,... [LB51]

SENATOR CAMPBELL: Okay. [LB51]

RILEY TONKIN: ...townships, fire departments. [LB51]

SENATOR CAMPBELL: Okay. So when you are working with these people across the state, do you find that they just don't have the knowledge to do the job? [LB51]

RILEY TONKIN: Many of them, I would say, some of their insurance knowledge and expertise may be limited only to purchasing their own home and auto coverages. And obviously, the exposures of a city go far beyond what would be...also, the fact that...go into insuring a city, as well as for insuring your home, there are multiple, multiple carriers in the state with...for cities, schools, those types of entities. I would say there's probably in the neighborhood of three, possibly five, in that neighborhood that would write a city, a school. So it's fairly limited as to the number of companies that actually tailor coverages specifically to the needs of cities. [LB51]

SENATOR CAMPBELL: Okay. Thank you. [LB51]

SENATOR WILLIAMS: Senator Gloor. [LB51]

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SENATOR GLOOR: Thank you, Senator Williams. And thank you for your coming to testify. I have a little experience with risk pools outside the Legislature. And I'm asking this question, or maybe it's more of a statement, so that somebody can talk me out of the simplistic view of this. But if it gets to the point in time where a public agency has gone this far, has done the research to take it to the point where it's looking at forming its own risk pool, I think they're going to be hard pressed to be talked out of it. And this looks to me to have an effort in two ways. One is spelling out all this information will bring to light ways that it will be talked out of doing this, number one; and number two, when it falls on its face, somebody can go to a record and say, we told you so, now come back to the flock with everybody else. I mean, it...I'm trying to make sense of why this is going to stem somebody who already has made the decision or is making the decision they want to jump to a risk pool and I can't...I read this like a scratch in the surface. I don't see this as a very deep bill that's going to change a decision that somebody has made to jump into a risk pool. I'm just sharing (inaudible)... [LB51]

RILEY TONKIN: And that may be so, that they may have decided this is the route that we want to go. We just feel that they should have full and transparent disclosure about what is involved with that. And then, if they know about that, at least they know about that ahead of time, as opposed to down the road when, say, to my point about assessability, they say, you know, I didn't know about that, I wish I'd have known about that, that was a material fact that would have changed my mind had I known about that prior to joining. So I think it's more about information and knowing about that information ahead of time, rather than maybe perhaps you buy auto insurance and you believe that auto insurance has no deductible, yet at claim time you come to find that it has a \$500 deductible--again, you know, material information that I think you probably would have liked to have known about ahead of time. And if you're okay with that ahead of time, that's fine; we've got no problem with that. [LB51]

SENATOR GLOOR: Are there dozens of risk pool things cropping up across the state of Nebraska with public agencies or are we dealing with a couple? Big difference, because if there is a lot of this going on, I understand that we may have people who are trying to put together risk pools who don't know what they're doing. And then we may have an issue of protecting the public from...or public agencies from themselves. If we're dealing with one or two or three large risk pools, then it's a whole different issue for me. They probably have had some...got some legs under them and I'm not as concerned about. [LB51]

RILEY TONKIN: As far as I know of, there is only one for, say, cities, schools, counties, so on and so forth. [LB51]

SENATOR GLOOR: Me too, but, I mean, that's... [LB51]

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RILEY TONKIN: Yeah, that's just to my knowledge. [LB51]

SENATOR GLOOR: That's my understanding. [LB51]

RILEY TONKIN: Yeah. [LB51]

SENATOR GLOOR: But okay. Thank you. [LB51]

RILEY TONKIN: Thank you. [LB51]

SENATOR WILLIAMS: Any additional questions? I would like to ask the same question I asked of Ms. Clymer about the switching from the termination date of 90 to 30 days. As an agent that's out trying to write this insurance, do you find that with the 90 days you struggle being competitive? [LB51]

RILEY TONKIN: And I had actually prepared a bit of a statement to follow up on my previous remarks. However, in the event of time, I had to omit that portion. I'd be happy to outline that for you, and I think it gives you a good example, perhaps. [LB51]

SENATOR WILLIAMS: Would you do that, please? [LB51]

RILEY TONKIN: Yeah, yeah. It says, an additional item that I can note from the carrier side and bidding is that going through the bidding process potentially six-plus months out creates problems for the carrier. An example of this would be if an expiration date is December 1 for a policy and 90 days' notice is required to exit that carrier. The city or school would have to notify that carrier by September 1 that they are leaving. Since most board meetings are on a set date and time, they would likely have to conduct their board...their bid meeting by, in that example, the August scheduled meeting. Frequently, an organization will not want to make a decision on their insurance the evening of a bid meeting and will form an insurance committee to go over the bids and take time to review and to choose the best one. Due to this time being needed to review the bids, the initial bid opening and review oftentimes takes place in the July meeting. Again, we're talking a December renewal. Since a city or school is often an arduous task to put out for bid, the entity will likely need to be putting together their specifications by April just to be able to get that out to the companies to potentially bid and then submit it for that bid meeting. The issue that insurance companies often run into is that we file our rates...a lot of the times, the earliest is probably about six months out. If we're having to look at quoting a risk in April or May, it is often difficult for us to put out our rates and to hold those rates until the December effective date. So essentially, with the way the bidding process goes, and it's not something like a

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homeowner's policy that you may be able to just go in, rate on-line in 45 minutes, and you can get that rate pretty quick, turn it around, okay, bind it, it's effective December 1, you know, you can be binding it, say, November 25. It's something that oftentimes that will take a period...especially with extending that out 90 days, you could be looking eight/nine months out at putting it out for bid. So the insurance company receiving those specs or the request for...the RFP, you know, you could be looking at that in April or May for a December policy. [LB51]

SENATOR WILLIAMS: Under the current law requiring 90 days' notice to terminate from a pool, can you with your company get a bid for a school/municipality under that? [LB51]

RILEY TONKIN: Under the 90 days or under the 30 days? [LB51]

SENATOR WILLIAMS: Under the 90 days. [LB51]

RILEY TONKIN: If we want to try to write new business, we are somewhat forced to do so, even though it makes it...I can tell you it does make it very difficult for us to try to...for unfiled rates, to put things out there and to try to hold rates and to try to get that out far enough ahead of time. [LB51]

SENATOR WILLIAMS: So your judgment would be, if that was shortened to a 30-day limit, that would improve the ability... [LB51]

RILEY TONKIN: It would make it easier for...yeah. [LB51]

SENATOR WILLIAMS: ...and thereby increase the opportunity for more competition for these products. Thank you. [LB51]

RILEY TONKIN: Yeah, yeah, opportunities, yes. Thank you. [LB51]

SENATOR WILLIAMS: No other questions, thank you. [LB51]

RILEY TONKIN: Thank you. [LB51]

SENATOR WILLIAMS: Next proponent. [LB51]

TOM FARRELL: Good afternoon. My name is Tom Farrell, F-a-r-r-e-l-l. I'm an insurance agent with Miller-Monroe-Farrell Insurance Agency in Nebraska City, Nebraska, and I'm also here

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today representing the Big I, the Independent Insurance Agents of Nebraska, and their support of LB51. Three tenets that I go by as an insurance agent: is it covered, that's the primary, most-important thing you need to ask yourself in buying insurance, second thing is the ability of the company to pay the claim; and the third thing is price. And there used to be a better way that it seemed like things worked out better when everybody agreed that we're going to follow bid specifications and, if there is a bid specification component that we can't meet or don't meet, explain it and have it be very open and fair. And I think that makes it better for everybody, the pool members themselves, anybody that we're quoting. It just makes it easier to do that very difficult job as a city council person or a school board member, etcetera. We're not getting that now, and I believe it's important for these city councils, the school districts, etcetera, to get that full disclosure, to understand risk transfer versus risk sharing, to understand that the ability to pay the claim is backed up by best rating, which is an industry standard; or, in the case of a pool, here is our financial data, this is what we have to pay our reserves and, of course, understand that our need to pay is mitigated by the fact that we as a pool buy insurance from reinsurers to offset some of our liabilities. That needs to be fully disclosed so everybody understands it. It doesn't need to be complicated; it just needs to be said and understood. So on a bid spec, for instance, when it says, are you assessable, with a pool the answer to the question is yes. Then please further explain how you mitigate that assessment. That's what bothers me. If you have a price-only decision and a city council says, well, they're \$2,000 less expensive, and this could be a pool, this could be one of my competitors, you have a...you're only buying three wheels on the Chevy, not four, do you understand that; and for \$2,000, is it worth putting the risk out to your taxpayers to pay maybe somewhere in the neighborhood of 5 percent less for insurance and have that potential exposure? Now if that city council fully understands that because it's fully disclosed, great, that's a fine decision and I respect the free market and I'm not about impeding on that. That's a very important thing to do. I've been on a school board for 19 years. I get the decisions that you have to make on a monthly basis. Sometimes, they're complicated and this, I hope, is a way to make it easier. And frankly, by the way, I want all of us as insurance carriers or as a pool member...disclose, disclose, disclose. Give them the information. Put it in writing. I have a personal mantra: If it's not in black and white, it doesn't exist. So show it to me. Show me the forms. Show me the coverage. Show your ability to pay a claim and be very up-front about it, and then make a buying decision. I think that probably ends my testimony other than I do have a letter that I'd be happy to share with you if you'd like to see. I got a cease-and-desist order, too. If you'd like to see that, I'd be happy to send it to you, Senator. That ends my testimony. [LB51]

SENATOR WILLIAMS: Thank you, Mr. Farrell. [LB51]

TOM FARRELL: Yes. [LB51]

SENATOR WILLIAMS: Questions for the witness? Senator Schumacher. [LB51]

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SENATOR SCHUMACHER: Thank you, Senator Williams. Cease-and-desist order issued by whom? [LB51]

TOM FARRELL: The...it was an attorney that represented the League of Municipality pool. [LB51]

SENATOR SCHUMACHER: So it was just a letter. It's... [LB51]

TOM FARRELL: A letter that said, please cease and desist and please go back to the particular community that you said these incorrect lies or misstatements and correct yourself and tell them that you were a bad boy and you were wrong. And I didn't appreciate that. I find myself to be a professional. And so I responded back to that letter and said, look, this is what I said and it wasn't a lie, it was the truth, etcetera, etcetera. Don't want to bore you, but it was irritating at the least. [LB51]

SENATOR SCHUMACHER: Is there an obligation of a small town or even a bigger town to actually bid their insurance? [LB51]

TOM FARRELL: You know, there is a bid law in the state of Nebraska. I think it's being gotten around through asking for requests for proposals, as opposed to actual bidding. [LB51]

SENATOR SCHUMACHER: Does it apply to insurance? [LB51]

TOM FARRELL: Yes, to my knowledge, it does. I thought...I...to my knowledge, and if I'm wrong, please, I'm always...you know, I'll be right and wrong a lot in my life. But I understood, if you are a public entity and you're bidding against...and you're bidding and purchasing something in the amount of \$10,000 or more, that there is a requirement to request bids. [LB51]

SENATOR SCHUMACHER: I guess we can ask legal counsel where it... [LB51]

TOM FARRELL: And we can find that out and if I'm wrong, hey, I'll be...happily stand corrected. [LB51]

SENATOR SCHUMACHER: Whether that applies to insurance now, it...you know, the philosophy of disclose, disclose, disclose is wonderful if somebody reads, reads, reads. And as a practical matter, we have little town boards and towns, not to pick on them, but under 1,000 population--half our towns are under 300 population--who probably don't read, read, read and

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who probably wouldn't know what they were reading if they read it and who probably don't want to pay for a city attorney to read, read, read and who probably have got a city clerk that they're working pretty hard who is doing minimum wage luckily to make the payoff...the payroll. So isn't part of the idea of a pool is to throw in with other similarly situated entities and have somebody else worry about all that? [LB51]

TOM FARRELL: I...no, I do not think that is true, at all. I think that each individual school board or city council has a very definite, important role in representing their constituents, and I don't want anybody to make that claim. I don't want anybody to say, well, EMC writes an awful lot of business in Nebraska, I'm going to go with them. I mean I don't...or Berkshire Hathaway, whoever it is. I mean, I think it should be based on factual information in front of you. I wish we could all agree, go back to that--yep, here are the bid specs. You know, it doesn't change. Do you have sexual molestation coverage? No. Great. Put it in your bid spec and let's not...let's stop arguing about it. Let's recognize we have these differences. Hey, let's understand that I'm a pool and I'm a risk-sharing entity, I'm not a risk-transfer entity, except for when I go out and buy that, you know, that reinsurance from those bad insurance carriers. Right? But...I'm being facetious there a little bit, but anyway, you know, those...it seems that would be pretty easy. Wouldn't you? And it would actually benefit the members of the pool and the council members. [LB51]

SENATOR SCHUMACHER: But by bringing a bunch of small organizations together, in an interlocal type of agreement you say, look it, the guy who runs the gas station in Chappell, Nebraska, who sits on the town board because nobody else was running for that slot on the town board and he says, look it, let's all of us little guys get together and pool our resources and in an interlocal agreement say we're going to delegate some of this responsibility to a sharing arrangement among ourselves in order to save some cost. [LB51]

TOM FARRELL: Great and fine if that's the best decision for their constituents; great and fine if that risk sharing is better because of multiple reasons than risk transfer is. Super. Please do that. But to just blanket say, hey, I'm okay because everybody else is doing it, I think our moms taught us all, just because somebody else is jumping off a cliff, don't you too. Now I don't mean that to disparage my competition. I was using that as just an idea--hey, make up your own mind. [LB51]

SENATOR SCHUMACHER: Thank you very much. [LB51]

TOM FARRELL: Yeah. Thank you. [LB51]

SENATOR WILLIAMS: Additional questions? [LB51]

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TOM FARRELL: I do have...there are...well, nevermind, you get to ask the questions. I'll shut up. [LB51]

SENATOR WILLIAMS: Thank you, Mr. Farrell. [LB51]

TOM FARRELL: Thank you very much. [LB51]

SENATOR WILLIAMS: Next proponent. [LB51]

JOE BOB ATKINS: Hello. Thank you for hearing me today. My name is Joe Bob Atkins. That is two first names, Joe and Bob. Atkins is A-t-k-i-n-s. I am the current president of the Professional Insurance Agents of Nebraska and Iowa. I want to go on record that the PIA of Nebraska and Iowa is in support of LB51. I also own three insurance agencies out in western Nebraska. Right now, we currently insure close to 40 different types of political subdivisions, whether it's a library board, an irrigation district, a school, a county, any sort of that. And I kind of want to talk some about what the bill and the PIA, their support of it is for. We see it as transparency. We just want what's out there and the difference between the two. Insurance and a pooling arrangement, neither one is superior as long as you both know what it is. There is a big difference between the two though, a big fundamental difference. And where we get into this conversation is 100 percent transfer of risk with insurance. You pay your premiums and your sharing that is a deductible, sometimes coinsurance. On the other end, a pooling arrangement has the same sort of deal on the outside, but there's also a sharing in the fundamentals of how it works, if there's assessability that comes, things that come later in the relationship, and how the money is transferred out with dividends. Some of that is great and some of it is not so great. And we're not here to change what the pool is. I mean, there are great pools out there, by all means. We just know that there's a big fundamental difference. Out where I live is--we talked some about it--is smaller communities. And in them smaller communities, we've already kind of discussed and I don't want to go over that too much, is who sits on boards. And on them boards we don't think about it that much when we get an insurance bid. And an insurance bid, we go send it out for bid and then we have a pool and then we have two insurance agents and you have three different to go by. And then when you go by those, you look at the premium and you think everything is the same. We're just saying, before you switch from a transfer, know what your terms and conditions are. An insurance company gives you terms and conditions. Inside the policy, the terms and conditions are inside there. Does everyone always know, ten years after they're with the pool, the terms and conditions? Do they know what the pooling arrangement is? That's what we're saying. That's why we want it in the minutes, so someone can go back to it and say, oh, assessability, so if that pool goes bankrupt, like the pool did...the school pool in Oklahoma did this last year, what's my obligation for that remaining portion? There is a fundamental difference. People need to know what they're in. They need to be...have that fiduciary responsibility for their

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constituents. So inside that, we say, this is good, so everyone is on the same playing field of that. There was some talk, you guys asked some questions about bids and 90 days out. From personal experience, we have some pools that are like a September 1 renewal. So that means as an insurance agent I've got to go out in February, March, get the information, submit it to bid, and propose that in April. When I propose that In April, from April to September 1 is a big difference, and look what happened this year between April and September 1. What can happen with a risk is huge in the amount of difference. And we're binding, giving them a contract with terms and conditions. We can have a school board, a superintendent leave, we can have molestation on the back side of that, that happens and comes out, and we as an insurance company or an insurance agency still have to honor that bid that we gave them when it came out. That's very challenging, so we need to be careful when we do that. Someone also brought up liability after the fact, being assessable or coming back after you cancel your policy, how are you still liable for that? And that is what we call an occurrence policy and claims made. The difference between the two: those are...occurrence policies are "D and O," and we just experienced one in my agency in a small town. We had a molestation case. Four years ago it happened. They just brought the suit now. They switched to another insurance company, but my agency and the insurance company I had four years ago is on that risk. So if that pool would be like the one in Oklahoma that just went financially belly up, then all the members of the pool four years later still are on that risk because it's an occurrence policy. So those are the things that we say, if you have financial means, your city and village changes from time to time and you might have a lot of reserves, then four years later after you switch to the pool you don't have reserves. Maybe that pooling arrangement isn't the best deal for your constituents. And that's what we're saying everyone needs to know, because boards roll over and move underneath there. Thank you. I'd be...any other questions or stuff you guys have on there? [LB51]

SENATOR WILLIAMS: Questions for Mr. Atkins? Thank you for coming from the northwest corner of District 36. (Laughter) [LB51]

JOE BOB ATKINS: Thanks, Matt. Thank you. [LB51]

SENATOR WILLIAMS: Next proponent. Seeing no other proponents, are there opponents? And if there are other opponents, would you please move to the front of the room? Thank you. [LB51]

DORIS KARLOFF: (Exhibit 2) Good afternoon. Senator Scheer, Senator Williams, members of the committee, my name is Doris Karloff, D-o-r-i-s K-a-r-l-o-f-f. I'm chair of the Saunders County Board of Supervisors, but I'm here testifying today in my capacity as chair of the Nebraska Intergovernmental Risk Management Association Board of Directors, NIRMA, and I'm here to express NIRMA's opposition to LB51. By way of background, NIRMA is an

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intergovernmental risk management pool which provides property, liability, workmen's comp, and other coverages and services to 80 Nebraska counties, including eight counties represented by members of this committee, along with several other county-related public agencies. NIRMA has been in operation since 1988 and was the first such pool in Nebraska. My county, Saunders County, was a charter member and has been a member since. Our concerns about and oppositions to LB51 are direct and straightforward. All of the information LB51 would require risk-management pools, like NIRMA, to disclose in a newly created, separate disclosure statement is something NIRMA already provides its members or is clearly laid out in existing statutes or regulations. In fact, NIRMA already provides much more information than LB51 would prescribe. Rather than go through LB51 line by line to demonstrate this, I have had distributed to you a separate letter, along with attachments, from NIRMA's executive director which includes the actual documentation and information that we provide our members, as outlined in LB51, so that they...so that way, you don't just hear it from me, but you can see it and read it for yourself. We trust other pools will do the same. Again, we are already doing this under existing law, regulations, and regular operating practice, so any further legislation in this regard is unnecessary and redundant. Our concern is that LB51 could convey the impression that either this information isn't currently being provided by pools or perhaps that elected public agency boards are making decisions to join a pool without being fully aware of the terms and conditions of that membership. This simply is not the case with NIRMA and our county membership. We believe in transparency and practice that in good faith, and we take seriously the obligations we have to our members. And our member counties are not just members of NIRMA, they are the owners of NIRMA, and we would not have it any other way. We were also concerned that LB51 is one-sided in its approach. My point here is that if this is the kind of information, the disclosures that need to be provided to a public agency governing board before it might choose to join a risk-management pool, isn't fair to ask, then shouldn't this also be the same kind of information an insurance agent and private insurance companies should also have to provide? If so, LB51 does not do that. LB51 applies to pools and pools alone. Finally, LB51 would reduce from 90 days to 30 days the notice a member would have to provide in order to withdraw from a pool, and NIRMA opposes that change. We don't have much experience with members leaving. NIRMA has never had a member seek to leave, though we did have to ask one member to leave, and this notice requirement protected them, too, as we knew that we had to give them at least 90 days' notice to withdraw. We actually did better than that. We gave them eight months. This gives them the opportunity and ample time to find alternate coverage. As for now, this notice provision works. We do currently have one member who has told us that they intend to put their insurance business out for bid. It is still early in that bidding process so that whether this particular county remains in our pool or not is entirely up to them. But we know already and they know already that we have talked about it. It would be effective June 30, 2015, when the current-year term of the NIRMA membership would otherwise conclude. Because of that, we have asked that the county go ahead and send us the possible withdrawal notice. The Department of Insurance's role in this is important to point out as something that has been in the pooling statute since their

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inception in 1987. The Legislature realized from the very beginning that the withdrawal of a member or members from a pool, particularly larger members or a larger group of members, could leave an impact on the underlying pool operation itself. That is why, within 30 days of receiving notice of a withdrawing member, a pool has to provide a report to the Department of Insurance describing the effect, if any, such a withdrawal will have on the pool itself. While that is perhaps not critical to a well-established and well-funded pool like NIRMA, it could be very problematic for a newer or smaller pool. This could leave the remaining pool members scrambling to find alternative coverage, and giving them less than 30 days to do that would be most difficult and challenging. For the reasons I have outlined... [LB51]

SENATOR WILLIAMS: Thank you, Ms. Karloff. Your red light is on. [LB51]

DORIS KARLOFF: Any questions? [LB51]

SENATOR WILLIAMS: Did you have a conclusion that you'd like to give? I'd invite you to do that. [LB51]

DORIS KARLOFF: Yes. Thank you. [LB51]

SENATOR WILLIAMS: I'd invite you to give your conclusion. [LB51]

DORIS KARLOFF: For the reasons I've outlined, I respectfully request the committee not advance LB51, and I would be happy to answer any questions. [LB51]

SENATOR WILLIAMS: Questions? Senator Gloor. [LB51]

SENATOR GLOOR: Thank you, Senator Williams. Let me answer...let me tell you how I answered one of your questions in that about...that's the, if this is good for risk pools, shouldn't it be good for me when I go out in the private market? The difference is, I think, that public agencies are dealing with taxpayer money, and I could see that there is a legislative responsibility. We hear it and are asked to provide it all the time when we're dealing with taxpayers' dollars, as opposed to what somebody chooses to do with their own money when they go out and buy insurance, cars, or anything else for that matter. [LB51]

DORIS KARLOFF: Sure. [LB51]

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SENATOR GLOOR: So that's how I look at this as being something that I understand why it found its way to us. But I've got to ask the question of NIRMA, given how well-established it is, is this really an impediment to your operation or is this just a hassle factor? I'm trying to get to why it is that you're opposed and... [LB51]

DORIS KARLOFF: Why would we oppose it? [LB51]

SENATOR GLOOR: Yeah. You ran through some reasons, I know, but... [LB51]

DORIS KARLOFF: Only that we all be on the same playing field. [LB51]

SENATOR GLOOR: Yeah, but is this going to cost NIRMA money? Is this going to drive it out of business inevitably? [LB51]

DORIS KARLOFF: In the long run, no. [LB51]

SENATOR GLOOR: But it is...is it government overreach and requiring reporting that you don't think will be to the betterment of the product that you offer? [LB51]

DORIS KARLOFF: It's what we're doing already. [LB51]

SENATOR GLOOR: Okay. [LB51]

DORIS KARLOFF: The packet of information I've given you is full of information that's...we're transparent. We're open. [LB51]

SENATOR GLOOR: Okay, that's what I was looking for. Thank you. [LB51]

SENATOR WILLIAMS: Senator Schumacher. [LB51]

SENATOR SCHUMACHER: Thank you, Senator Williams. Just briefly, a couple questions. Do counties have to bid their insurance now? Do they have to? [LB51]

DORIS KARLOFF: We don't have to. If we choose to go with staying in the pool, we don't have to go to bid, no. [LB51]

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SENATOR SCHUMACHER: Okay, so...and if they're not in the pool, do they have to...can they just go down the street and pick on the first insurance agent they see and buy it? Is there a bid requirement? [LB51]

DORIS KARLOFF: I can't answer that. [LB51]

SENATOR SCHUMACHER: Okay. But if they're members of the pool, that's one less thing they've got to worry about, the county government? [LB51]

DORIS KARLOFF: I'm sure that other counties that, you know, are in the pool or out of the pool are still looking as to whether they're getting the best coverage for what they're paying in the pool. [LB51]

SENATOR SCHUMACHER: Okay. But if they wanted to let it ride for a few years in front of the county board, if they're in the pool,... [LB51]

DORIS KARLOFF: They're there. [LB51]

SENATOR SCHUMACHER: They're there, okay, and then one other thing. You said, well, we're doing all this anyway. And I haven't looked through your complete packet. Maybe you can just point it out to me. Item (c), a list of insurers providing excess insurance coverage or reinsurance coverage for the pool, is that in here? [LB51]

DORIS KARLOFF: I believe so. I know there is information in regard to the county that we just gave bids for, our last county, which was Harlan County, and that information is there. [LB51]

SENATOR SCHUMACHER: Okay, so far as you know... [LB51]

DORIS KARLOFF: It's in there. [LB51]

SENATOR SCHUMACHER: ...that's here and if we look for it we'll find it. [LB51]

DORIS KARLOFF: And if not, we'll certainly find that answer for you. [LB51]

SENATOR SCHUMACHER: Okay, because that's one of the things that...I'm trying to see what's on here that's not in here, in your standard packet. Thank you. [LB51]

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DORIS KARLOFF: You bet. [LB51]

SENATOR WILLIAMS: Other questions? Senator Campbell. [LB51]

SENATOR CAMPBELL: Thank you, Senator Williams. Commissioner Karloff, I should know the answers to these questions, but I probably don't. Of the 13 counties that are not in NIRMA, three of them would be the large counties, would they not? Do they do their own? [LB51]

DORIS KARLOFF: Pardon? [LB51]

SENATOR CAMPBELL: The three largest counties probably aren't in NIRMA... [LB51]

DORIS KARLOFF: They are not, right. [LB51]

SENATOR CAMPBELL: ...because they do their own, right? [LB51]

DORIS KARLOFF: I would guess so. [LB51]

SENATOR CAMPBELL: So of the others, are they using a private agent, a company? [LB51]

DORIS KARLOFF: I would guess so, and they have not come to NIRMA and asked for a quote. [LB51]

SENATOR CAMPBELL: Okay. Do we have any idea on those whether that's, you know, all across the spectrum? Small, medium, large counties, is it all across there? Or is it mostly larger counties that aren't in NIRMA? I can't remember. [LB51]

DORIS KARLOFF: Well, they're mostly in the western part of the state that are not. [LB51]

SENATOR CAMPBELL: Okay. [LB51]

DORIS KARLOFF: You know, it's from the middle out that are not members. [LB51]

SENATOR CAMPBELL: Okay. Thank you, Commissioner. [LB51]

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SENATOR WILLIAMS: Thank you. Just one follow-up question from me: There's been testimony on the 90- and 30-day change, and would that be a difficult change for your group to use? [LB51]

DORIS KARLOFF: I can't answer that particularly being difficult. We're...we just try to provide our counties with adequate dates to give them that information and provide us with the information also. It's just working both ways with the counties. [LB51]

SENATOR WILLIAMS: It's not that you couldn't do it. [LB51]

DORIS KARLOFF: No. [LB51]

SENATOR WILLIAMS: Okay, because you mentioned a level playing field and having same things for insurance companies. Is that...I don't even think you have to let your insurance company know 30 days. I think you can just cancel it. [LB51]

DORIS KARLOFF: No, I...yeah, if you don't pay your premium, you don't have insurance. [LB51]

SENATOR WILLIAMS: Right. Any other questions? Thank you, Ms. Karloff. [LB51]

DORIS KARLOFF: Thank you. [LB51]

SENATOR WILLIAMS: Next opponent. Go ahead. [LB51]

BRETT BAKER: Senator Williams and committee, thank you very much for your time. My name is Brett R. Baker, B-r-e-t-t B-a-k-e-r. I am currently at 2614 East Seward Road, Seward, Nebraska. I'm here representing as past president of NCMA, Nebraska City/County Management Association, and representing this afternoon some testimony for League of Municipalities in opposition of LB51. Wanted to give you a little bit of a current experience dealing with a property and casualty insurance bid process that we've been through. I have public sector experience, a number of years in Kansas and Nebraska. Most recently, I want to relay a bid process that we conducted for a first-class city in the state of Nebraska, also worked for a second-class city and smaller. As I said, the public sector group that we represent also is ICMA, which is International City/County Management. And I also am a credentialed city manager with that group, which we do deal with different segments of insurance attainments and processes for bidding out insurances for public sector. I've heard some senators...Senator Schumacher, you've asked, and some other senators have asked about what's the bid process laws. I don't...what my

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belief is, in Nebraska I don't believe there is a process says we have to go out for insurance bids all the time. I will tell you that GFOA, the Government Finance Officers Association, and a current...a recent city that I did have a contract with for a number of years, their auditors requested that we, and noted in an audit, annual audit, that we had not went out for bids in this particular city, recent city. It was for decades that they had never went out for bid. So the auditors came back in their report and actually labeled in there that they suggested that the city go out on a service bid for the insurance and other service-related products at least three to five years. So it was an audit finding or mention of that. Once this audit that I speak of came through, my city council, eight-member city council, saw that audit report and said, we need to react and we need to cure these audit deficiencies. And including the bid process for the property/casualty, we had done with the help of a local agent our medical property...or our health insurance years before. In fact, we bid it out those two years in a row. The property and casualty is a completely different animal. It's got different components with it, with police liability, with building coverages. I mean it's just...it's a nightmare to get an apples-to-apples bid. The city that I was city administrator for, the council directed us to go out and get an insurance consultant. We had three choices. City administration came back and recommended a consultant. We went out for a full bid process on our property/casualty recently, just in 2014, the summer of. In fact, we were going to do it in 2013 and, for some reason, one of our elected officials stopped that bid process. And then we waited until after the audit came in, and then it got reinstigated. In 2014, the city went out, public noticed. We opened it wide open to everybody. We received a great amount of interest from carriers on the property/casualty side. We had interviews with carriers. The consultants that did this were involved all the way through. And at the end of the day and when we got done with this process, which we feel was fully disclosed--it was fully public, we circulated the information out to all the carriers, we had great response from, you know, in-state Nebraska and also outstate and from pools and stuff--but when we got done, it was well communicated. Our city council members got the final bid results--and it was...this was right about budget time, so we're in September--and our renewal premium that we currently had with this carrier at this point in time, in 2014, six weeks before that was...the bill was given to us for a renewal premium of \$353,000. That's a big number. I mean that's a big number to us. So we knew that was our benchmark. When we got our bids back and it was an apples-to-apples comparison with our consultant, he met with us at city administration, said he hadn't seen this for awhile. But he had the bids and our bids came back and they were \$119,000 less than what they...the renewal premium was. So they disclosed who the bidders were, and the bidders happened to be the same agent and the same carrier that we had that gave us the bill five weeks, almost six weeks before that. But between that bid process time, that renewal billing lowered itself down \$119,000, to \$234,000. Our city council took the bid information and made a well-informed decision and accepted that bid that was \$119,000 less, so. [LB51]

SENATOR WILLIAMS: Thank you, Mr. Baker. Your red light is on. [LB51]

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BRETT BAKER: Yeah, I saw that. Okay. [LB51]

SENATOR WILLIAMS: Are there questions for the witness? Thank you for your testimony. [LB51]

BRETT BAKER: Good. Thank you. Yep. [LB51]

SENATOR WILLIAMS: (Exhibit 3) As you're coming up, if you would just sit tight for a second, we did receive a letter that we missed reading that is in support of LB51 from the Association of Insurance and Financial Advisors. Jan, I think you have that letter, or Jake, if you're going to pass it around. Thank you. That's a proponent. Go ahead. Thank you. [LB51]

JOHN BONAIUTO: Thank you, Senator Williams. John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, representing the Nebraska Association of School Boards, here in opposition to LB51. And although we are here as an opponent, you know, sometimes you appreciate having a bill like this to have the discussion. And I appreciate Senator Scheer bringing this forward so we can share with you how a pool that has been in existence 25 years operates. We patterned ourselves after the NIRMA pool. They went into existence a year before the ALICAP pool. And ALICAP stands for the All Lines Interlocal Cooperative Aggregate Pool, and I will refer to it as the school board pool. And the school board pool insures 157 school districts across the state. And as we look at LB51, we see the information that is being asked for as redundant because we provide that information in the participation agreement for the school district and then we require a school district to pass and sign a resolution indicating that they understand that they are becoming a member of a pool. And before they get to do that, there are required education sessions so there's no question in the school district's mind of the difference between a pool and an insurance company selling them an insurance policy. And so it is very important to us. Assessability and all of the things that, you know, are talked about here, this is not a surprise to any of our pool members. We don't want it ever to be a surprise. Will there ever be an assessment? I can't say never. There hasn't been for 25 years. And the school boards' pool insured the Norris school district when the tornado went through, and it was one of the largest losses in the country. We also insure Wisner-Pilger, and they're working on rebuilding their schools. In those years, we still returned dividends to the members of the pool, and we have done that consistently. And we have returned over \$15 million to the members of the school board pool over the years that we've been part of this pool. Senator Schumacher asked a question about, well, what about all these insurance and the reinsurance and what have you, and I can provide a chart like this to every member of the committee, but this pretty chart shows the retention. It shows every company that we buy reinsurance from and the amount of reinsurance that's purchased. Everything that is in LB51 is disclosed to every member of the pool and we want it that way. As an interlocal, we follow the open meetings law, we post our meetings, post

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the agendas. The information is there. And we want to be as transparent as possible. And so, you know, we take this opportunity to talk about this bill to tell you we've got a pool that's a success. It has been successful. It continues to do exactly what we had planned to have it do: serve school boards that want to be part of the pool. So with that, I'm going to move to the 90-day issue, before Senator Williams asks. And so I'm just going to tackle this head on. Actually, the 90 days was something that the Legislature felt very strongly about. The Legislature said, hey, these pools are...have to operate in a different manner than insurance companies, so we're going to make sure that the pools and the Department of Insurance do due diligence. So if a member of a pool wants to terminate, they send a letter to the Department of Insurance. They send a letter to the School Boards Association or the ALICAP insurance pool. The Department of Insurance looks at how that district leaving will impact the pool and the remaining members of the pool. Now can they do that in 30 days? I think if one district were to leave our pool, they probably could. What if we had six districts that left or if we had ten districts that...we've never had that happen, but I think the 90 days was more of a due diligence for the Department of Insurance to be able to accept the termination request, examine how that would impact the pool, and then get that turned around. Once the Department of Insurance approves that termination, then the pool has to act on that, so the board of trustees would accept it. It's not...the 30 days for a...to just quote numbers, is different than having the pool and the requirements we have with the Department of Insurance. So with that, I see the light is moving toward red. We are audited every year by an independent auditor and then we are audited every fourth year by the Department of Insurance. All of those things are done. I can honestly say that, as we look at this bill, you know, there's really nothing in here that we haven't addressed. Thank you. [LB51]

SENATOR WILLIAMS: Thank you, Mr. Bonaiuto. Questions for the witness? Seeing no questions, thank you. [LB51]

JOHN BONAIUTO: Well, thank you. [LB51]

SENATOR WILLIAMS: Next opponent. [LB51]

ALGENE ANDREWS: I think he got off easy. (Laugh) [LB51]

SENATOR WILLIAMS: Well, we'll fix that. [LB51]

ALGENE ANDREWS: (Exhibit 4) That's right. Hi. My name is Algene Andrews. I am the marketing manager for the League Association of Risk Management, which is the municipal pool for the state of Nebraska. I'd like to provide some testimony and I would like to thank the Senator Scheer and the Banking, Commerce and Insurance Committee for allowing us to be here today. The only thing that I would probably add...both of the other pool providers spoke very

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eloquently about the pool. What I would tell you is that unequivocally we are proud that we are not a private insurance company. And that is the first thing that we disclose to all of our potential members and our existing members when we meet with them. I brought along our request for proposal, which is...one of the prior persons that gave testimony discussed what this was. And this is a current proposal. It was the very first one I did when I joined LARM back in 2012-2013. And in this book, starting from page 1, is our LARM brochure. And it specifically addresses every single issue that is before you in LB51. It talks about its not being a pool. It talks about how we were formed. It talks about the DOI. It talks about the four years that we are audited by the Department of Insurance. It talks about the annual reports that we give and the quarterly reports that we give to the Department of Insurance. It talks about assessability. It talks about every single issue that is before you in LB51. So from that perspective, I don't have any member or any quote for proposal, request for proposal, or any proposal that I have submitted that this brochure has not been given to all of our...all the people...I'm sorry, of all the municipalities and/or public agencies that we have quoted. In this proposal, I'm just going to run down. If you would like to have a copy of this provided to each of you, I would be more than happy to print it. I just felt that it was a lot of information and I wasn't sure you would look at it. But the number-one page in this book is the proposal itself. Number two is the property schedule, so it's the schedule that was provided to us by our member of all the property that they wanted to have insured. It's got the vehicle schedule. It tells every single vehicle with all their VIN numbers, all the information. Number four is the property coverage document, and it is the document that states exactly what our contract is. It is going to be between the pool and our new member if they choose to participate. This document is provided to every single member in their coverage documents on a CD drive that is delivered to every single member once they join. The second...I'm sorry, the fifth tab is the liability coverage document. That is included on the CD-ROM also. The workers' compensation coverage document, not only on a hard copy, but it's provided as a CD. All the endorsements that may...they may have requested, they might want dam coverage, they may...any endorsement that's beyond the coverage document that is included in our proposal is in here. The flood coverage, this particular member wanted some flood coverage, so the certificate of flood coverage is in here. All of the bonds that the city requested is in here. We provide some bond coverage, but we outsource some of it to another carrier, CNA Surety, A-plus rated company. Tab ten is the loss control overview. It's all of the loss control services that LARM provides and all of the training and all the safety plans and all the things that we do internally that make us different than a private company. We're a risk-management company and we just happen to provide insurance if those things don't, you know, work out well. The next one is our reinsurance information. It tells all of our retention levels, it tells who all of our reinsurance companies are, it tells what all of their ratings are, it tells where they're located, and any information with regard to that. The next tab is our interlocal agreement which is...obviously, you're aware of what that is. And the last two tabs are certificates of liability by our third-party administrator, and it discloses who our third-party administrator is. The final one is some additional coverages on some cyber liability that they wanted an additional quote on in

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the RFP. I think that, as everyone has stated prior to my...me, full disclosure is already made. When people join a pool, they know that it is different and they know that the services that LARM is providing them--outsourced with reinsurance--is what they want to do. And I think that LB51 only is a redundant...and it really, I hate to say this, but picks on the pool. And the truth of the matter is, is the League Association of Risk Management has had significant growth in the last three years. We...when I joined the pool in July of 19...I'm sorry, 19...I'm not that young...of 2012, we had 60 members. We've grown the pool up to 107 members. We've had significant growth and that has been an issue with some of the private sector. So a lot of the testimony you've received today really didn't address what LB51 is about, and I think we have very much addressed those issues to you. I'd entertain any questions. [LB51]

SENATOR WILLIAMS: Questions for Ms. Andrews? Senator Schumacher. [LB51]

SENATOR SCHUMACHER: Thank you, Senator Williams, very briefly. So if all this is being done already, why resist the bill? [LB51]

ALGENE ANDREWS: The one thing that I would resist is, for us, is the 30-day notice. The thing is, is there's so much to be made about that. The bottom line is, is the 90-day notice is just a situation where we get notice that they may be potentially going out for an RFP. That doesn't necessarily mean that they will leave the pool. It means that they've decided to go out for a request for proposal. The 90 days, for us, is with regard to our reinsurance. It impacts how we buy our reinsurance. It impacts how much our total insured values are. It impacts our members as a whole. So if we have three or four or five communities that would decide to go out for RFP, it's just a notice requirement. That doesn't mean that they can't get a bid from Continental Western or one of the other carriers. It's just a notice and what it does then is it puts us in a strong financial position to negotiate our reinsurance based on the total insured values that we know that we could potentially have. And what we do is we renegotiate our reinsurance treaties on July 1 of every year. We have a common effective date. Every single one of our repolicies renew on October 1, so there is no secret to that. And so, therefore, if they've given us the 90-day notice, they can go out for RFP. They can go out for RFP anytime. [LB51]

SENATOR SCHUMACHER: So with the exception of the 30/90-day business, you're okay with the rest of the bill? [LB51]

ALGENE ANDREWS: Well, I think that we're already doing that and I just think that it puts an extra circumstance on us that I just don't think is necessary. It's already being done, and I think what...I think it is government overreaching where we already are doing all of those things. And the 90-day notice allows our members the opportunity to make sure that they know who is going

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to be with them and that our reinsurance people know what we're going to be charged so that we can budget for those things and... [LB51]

SENATOR SCHUMACHER: A couple other quick things: Do you...does your package then offer "E and O" insurance? [LB51]

ALGENE ANDREWS: Absolutely, it does. [LB51]

SENATOR SCHUMACHER: So you insure them against making a mistake if making a mistake was... [LB51]

ALGENE ANDREWS: Absolutely. [LB51]

SENATOR SCHUMACHER: ...by joining you was a mistake. [LB51]

ALGENE ANDREWS: (Laugh) Well, who's...what's the mistake? I mean, you know, we've been around for 24 years, I believe, and we've never had an assessment. We buy reinsurance. The retention limits we carry are very low. You know, when they talked about the catastrophic claim that is discovered four years later, in our world, that's \$300,000. We reinsure for everything over \$300,000. So, you know, I mean, can there be claims like that down the road? Sure. And can you find reasons that maybe, potentially, cause assessments? You can make it...you know, but our retention levels are so low. Our reinsurers are very well-documented, strong companies. [LB51]

SENATOR SCHUMACHER: And finally, do you know anything about these "nastygrams" to private competitors? [LB51]

ALGENE ANDREWS: What I would tell you that...is I think that if you want to see full disclosure, we have the information, some of it is on tape, of what was stated in those meetings. I am not aware of anything that was sent to Erin Clymer. I am aware of somebody else in the agency that there is a tape that exists. And if you would like to hear that, that's...it's public record and I can give you that information. And I can also disclose the letters that were sent, absolutely. And I think they go far beyond what was stated here. [LB51]

SENATOR SCHUMACHER: Thank you. [LB51]

ALGENE ANDREWS: Anybody else? [LB51]

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SENATOR WILLIAMS: Other questions of Ms. Andrews? Seeing no questions, thank you for your testimony. [LB51]

ALGENE ANDREWS: Well, I thank you very much. [LB51]

SENATOR WILLIAMS: Next opponent. [LB51]

CLINTON SIMMONS: (Exhibit 5) Good afternoon, Mr. Williams and counsel, committee. My name is Clint Simmons. I'm an independent agent and I'm opposed to this. I own an insurance agency in Grand Island, Nebraska, Simmons Insurance Services. And my sole duty or my sole responsibility is to insure communities across the state of Nebraska with this product through the...through LARM. Right now, I think this is being brought forward for the simple fact that we're having a lot of success across the state. The communities that I just handed out to you, the ones in black are the ones that existed before I was brought on. And the ones in color, throughout those 2013, '14, and this year, are the ones that we put on since they introduced an agency program. I'm a licensed insurance agent. I do not work with the league as far as I just have a contract with them, no different than other agents would have contracts with the insurance companies. I'm here today just to open it up for questions. As far as disclosure, I represent 45 different communities across the state. I disclose everything to those communities, so I personally represent those communities as an insurance agent. Those communities are well aware that they are in a pooling system. They understand how that pool system works. We give them that information right up-front. And they understand the terms because we have them sign a resolution indicating whether or not they want to stay for one year or whether or not they want an additional discount and can stay for three years. I've had communities, many of my communities, sign up for only one year. And I always recommend to them, if they want to try our product, to go ahead and just sign up for one year. We don't push them into going with the three-year, 5-percent discount. I say, try it for a year, and most of my communities that I personally insure will then reup the three years upon their renewal date. We have some communities that just choose to go a one-year, 90-day notice, and that's absolutely fine with us. But there are opportunities out there for them to experience, especially the larger communities, to experience a larger discount by simply signing up for longer terms with us. And I would just say, the stability of our organization is important for the simple fact of the reinsurance. Like Genie had mentioned, the reinsurance and purchasing that reinsurance, it gives us the stability to go to our reinsurers and say that we have this much liability, this much property to be insured. So I don't have anything else, but I'm going to open it up for any questions. [LB51]

SENATOR WILLIAMS: Questions for Mr. Simmons? [LB51]

CLINTON SIMMONS: Yes. [LB51]

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SENATOR WILLIAMS: Senator Gloor. [LB51]

SENATOR GLOOR: Thank you. And thanks for coming all the way down here, Mr. Simmons. Clint, what's the name of your agency? [LB51]

CLINTON SIMMONS: Simmons Insurance Services. [LB51]

SENATOR GLOOR: Okay. And did I hear you right, is this the only product that you're now responsible? [LB51]

CLINTON SIMMONS: This is the only product I personally represent in my agency. [LB51]

SENATOR GLOOR: Did you have a more traditional agency before this? [LB51]

CLINTON SIMMONS: I did. [LB51]

SENATOR GLOOR: Okay, and...but you're not an employee of LARM? [LB51]

CLINTON SIMMONS: I'm not an employee, no. [LB51]

SENATOR GLOOR: Okay. [LB51]

CLINTON SIMMONS: I have my own organization. [LB51]

SENATOR GLOOR: Okay. Have...I mean are we talking about sizable savings for most of these communities when they make this jump? [LB51]

CLINTON SIMMONS: We are not only talking about sizable savings. But what I find, because I specialize in this industry, and I chose to do that...when I first began the program I was with another agency, and that's when this product was introduced to me. The one thing that I found, and I'm going to give you an example of a community and why I believe in this product beyond just the price, is the service behind it. We have a community that just joined LARM or...and I personally write. On January 15, 2015, we wrote their policy. We did an evaluation of their property and they were insured approximately \$700,000. When we were finished doing our evaluation, we went back to the city council and showed them that they were underinsured by an additional approximate \$2.7 million. And so we made changes to their policy. So beyond price, we go out and we do a complete evaluation of all their property. We review a lot of their risk

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transfer between interlocal agreements with other public entities. So there is more than just the price factor. It's the services that not only I bring to the table, but also what the league brings to the table. [LB51]

SENATOR GLOOR: But it would be safe to say that a good insurer is going to do a lot of those things also. [LB51]

CLINTON SIMMONS: I would hope so, but that is not the case. [LB51]

SENATOR GLOOR: Okay. [LB51]

CLINTON SIMMONS: And in many situations, I would say--and I'm going to say approximately--90 percent of communities, the values are well underinsured, and a lot of the times they're not for sure what they even have as far as coverages. [LB51]

SENATOR GLOOR: Coverages. [LB51]

CLINTON SIMMONS: Yeah. And I think, too, I think that by myself doing this and working with the league risk association, is that we understand and this is the only thing that we do. I mean this is 100 percent of my business. [LB51]

SENATOR GLOOR: Okay, thank you. [LB51]

CLINTON SIMMONS: Yep. [LB51]

SENATOR WILLIAMS: Other questions? Seeing no other questions, thank you. [LB51]

CLINTON SIMMONS: Okay. [LB51]

SENATOR WILLIAMS: Next opponent. [LB51]

LYNN REX: (Exhibit 6) Senator, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. I'd like to share with you today why we are opposing this measure. First of all, I'd like to start by telling you why we got into the business of providing an insurance pool for our members. I've been with the league for over 30 years. One of the first issues assigned to me was how to deal with the city-after-city issue when they were not being renewed, cities that had little or no losses, but yet, they were not getting

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renewed. And some other things were happening and it kind of got from bad to worse, and you also have an article here that was written by Mike Nolan, who then was city administrator of Norfolk. And I really am not into reading things to people because I think it's kind of irritating, but I am going to read this because I think it's kind of compelling. This is...was a repeat scenario of why the League of Nebraska Municipalities decided to create an insurance pool for its members, because our board has the philosophy that we do not compete with the private sector. The private sector has a job to do and, when they're doing it well, we have no business and, frankly, government has no business getting involved. So this is what was happening. This is after A.M. Best had downrated over 18 percent of the companies in 1985; 1984, there was a \$3.8 billion loss; in 1985, a \$5.5 billion dollar loss by companies. And so these companies, by A.M. Best, were being downrated. And Norfolk, Nebraska, in 1985-86--and I'm reading from the article which you have--the first fiscal year of the hard market, Norfolk found itself without police professional coverage and, for a time, without umbrella coverage. Skipping over to another, I'm just going to read this, another little couple sentences here: Despite an excellent risk-management record--and by the way, Norfolk received award after award for their outstanding risk-management services--Norfolk, in a two-year interval, had experienced an 851 percent increase in umbrella premium and was now paying 61 percent more for 62 percent less coverage than in 1984-85. That scenario was repeating across the state of Nebraska in city after city. And when you are part of a pool, you are part of the governance process. It...we have transparency. It is (Nebraska) Open Meetings Act. It is public records law. They're coming to the board meetings. We're not allowed to go to the board meetings of Employers Mutual or any of these other companies, and they're excellent companies. We're not allowed to go to their board meetings. These folks that...this is their pool. They are governing the pool. They have experts, contracts that we have with insurance experts, frankly, from across the country, and we also have them in house. But I would submit to you that, not just that, that we stick with our members when there is a problem. And I think the real issue that you have today...because I think Senator Schumacher I think asked a very compelling question: Well, so what's the problem if all of you are doing this? And frankly, we are. So what's the problem? I think the problem boils down to this. And it may seem like a petty thing, but I don't think so. Lines 7 and 8 on page 1 (sic: page 2) of LB51, "the pool shall provide each member of the governing body of the public agency with a separate written disclosure form containing the following information," with the following statements. That's just on page 2 of the bill, and it goes through the diatribe of what that's going to be. Let me give you an example on the assessment, something that might be comparable if the insurance companies were going to be on an equal playing field. If we're going to be providing information which they already get, they know what the assessment is, the discussions go on quite a long time for people to be fully informed because I can assure you, as a group that's running a pool, you want your members to be informed and you don't want somebody that doesn't want to be part of a pool. But what would be comparable is, if you're dealing with assessments and, boy, be aware, city council of "Jonesville," Nebraska, you might have an assessment that may be part of it, but if it's an insurance company, we can leave you in the dust

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and we will. Scottsbluff, Nebraska, you go out for bid, nobody comes. Why? Because they had hail storms several years. They couldn't get insurance. I would like to tell you they came to LARM because they thought I was a very compelling speaker. And I'm not, but that isn't why they came. They didn't have a choice. Howells, Nebraska, same thing. So what I'm suggesting to you is that this isn't an equal playing field. What this is...the information is always already provided. The folks that are presenting this are very bright people. They know it's already in the packets of information. They go on ad nauseam before city councils and village boards across the state. But what this does is it's a separate...here it is, Council Member Campbell, saying, oh, my gosh, well, wasn't this in the packet, because it makes it look like, gee, you didn't provide this, you're hiding this from us. That's what the implication is, as opposed to saying, again, as an insurance company, just so you know...and by the way, we know how to give you an assessment, but the next year we're going to come in and raise your rates and, let's see, 851 percent. I'd be happy to respond to any questions you might have. [LB51]

SENATOR WILLIAMS: Thank you, Ms. Rex. Questions for the witness? [LB51]

LYNN REX: Oh, please, ask me a question. (Laughter) Yes, Senator. [LB51]

SENATOR CAMPBELL: I'll ask. [LB51]

SENATOR WILLIAMS: Senator Campbell. [LB51]

SENATOR CAMPBELL: Thank you, Senator Williams. I'll ask a question. So in the time that LARM has been, how many communities or entities have left LARM? [LB51]

LYNN REX: I believe we've had maybe six at the most, maybe six at the most. [LB51]

SENATOR CAMPBELL: And some reason why? [LB51]

LYNN REX: Well, I think that part of the reason is that there's a lot of competition. And I think that that was underscored by the testimony of Brett Baker today, Senator Campbell, and I think you may have been out, Senator Gloor. It is...there's a lot of competition and LARM makes other folks sharpen their pencil, which is why six weeks out--I wrote down the numbers he had for you--six weeks out, a city of the first class had a \$350,000 renewal contract. And then, when the company found out they were going out for bid, six weeks later, they came down \$119,000. I believe LARM, and I may be even wrong on...well, I...LARM was significantly maybe over \$70,000--some less than the renewal. But they came down \$119,000. Those are taxpayer dollars.

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So I would just suggest to you that I think it's really important that, in fact, as members look at pools, that they be informed. We go out of our way to make sure that they are. [LB51]

SENATOR CAMPBELL: Thank you. [LB51]

LYNN REX: You're welcome. [LB51]

SENATOR WILLIAMS: Any further questions? Thank you for your testimony. [LB51]

LYNN REX: Thank you so much. And I'm very passionate about this because it's...I've lived it for 30 years. [LB51]

SENATOR WILLIAMS: We didn't notice that. (Laughter) [LB51]

LYNN REX: Thank you. [LB51]

SENATOR WILLIAMS: (Exhibits 7-14) Any other opponents? While we are finishing up with opponents, the committee has received a number of letters that have been provided to the committee members in opposition from: Village of Pilger; village (sic: City) of Pierce; the director of ALICAP; Columbus, Nebraska; Beaver Crossing, Nebraska; David City, Nebraska; Norfolk; and Ansley. So we have those read into the record and you have those in your packets now. No other opponents. Is there anyone here to testify neutral? Seeing none, Senator Scheer. [LB51]

SENATOR SCHEER: Well, first, I would hope that you were listening closely to Lynn Rex when she was talking about the scenario of Norfolk being a well-ran city, because those just happen to be the years that I happened to be mayor at that point in time, so. (Laughter) But having said that, just a couple things very quickly, because I know the hour is late. But as Senator Schumacher has pointed out, if we're doing that, there really shouldn't be a problem in producing that at the time of whenever you're buying or purchasing from the pool. And the second one that gets back to probably the biggest point I think that insurance agents have is that's the 90-day delay. And we heard several different answers: well, it really doesn't make any difference to one, but we just want to keep it there; one of the others had a specific reason, because it had to do with volumes and so forth; and I don't recall what the other one was. But the fact of the matter is, they'll write a municipality or a school district with a week's notice. Now if they give you a bid, they'll write it. That's not a problem. So it is sort of one-sided. They want the information that somebody is checking on their pricing 90 days in advance, if that's what they're really talking about is, we don't care if you leave or not, you just have to let us know 90 days in advance you're

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looking. Well, why is that important if it's not in order for them to make a better decision on their renewal prices? I think what independent agents are asking for is somewhat of a level playing field. They don't have in-house underwriters that will go out tomorrow because somebody tells them that's important to do. They work for a company. That's free enterprise. And companies don't like to extend themselves past a long period of time because they do set rates with the state of Nebraska. They are forced to honor those rates by the state of Nebraska. There is a difference when you start going out 90 days, versus 30 days. So if they are able to write a policy, a new entity, with 30 days' notice, they ought to be able to discontinue writing a policy with 30 days' notice. I think that's all independent agents are looking for. They're just looking for a fair shake. You know, I don't think you heard anyone say that anyone was doing anything wrong, that the pools in the state are underfunded or that they're bad from any vantage point. But the companies that are competing against them are competent companies, are sound financial companies. Was there a problem 30 years ago? Might have been. That was 30 years ago. Will it happen in...could be. But just like any of the risk-pool people said, will we ever have an assessment? I don't know, maybe. Will a hard market come back? I don't know, maybe. But you have two qualified, competent parties. You have pools and you have independent agents. They just want to be on a level playing field. Most of that has to do with the 90 day versus the 30 day. And if we can make some type of an adjustment in that, if the other documents are shown, it shouldn't be a problem just to use that as an adequate provider of declaration of showing that from a state basis. That's all they're looking for, just a fair shake. I'd answer any questions. [LB51]

SENATOR WILLIAMS: Thank you, Senator Scheer. Questions? Seeing none, thank you, Senator. That will close our hearing on LB51, and that's the last bill for today. Thank you. [LB51]