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Banking, Commerce and Insurance Committee  
February 28, 2017

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[LB66 LB116 LB213 LB643]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, February 28, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB116, LB66, LB213, and LB243. Senators present: Brett Lindstrom, Chairperson; Matt Williams, Vice Chairperson; Roy Baker; Tom Brewer; Joni Craighead; Mark Kolterman; John McCollister; and Paul Schumacher. Senators absent: None.

SENATOR LINDSTROM: All right. Welcome to Banking, Commerce and Insurance hearing. My name is Brett Lindstrom. I'm from Omaha and represent District 18. I serve as Chair of this committee. The committee will take up the bills in the order posted. We did rearrange a few things for different senators' schedules, so it is posted on the outside. We exchanged Senator Krist's bill with Senator Hansen's two bills. So LB643 will be the second bill we hear today. The committee members will come and go during the hearing. We will have to introduce bills in other committees and are called away. It's not an indication we are not interested in the bill being heard in this committee, just part of the process. To better facilitate today's proceedings, I ask that you abide by the following procedures. The information is posted on the chart to your left. Please silence or turn off your cell phones. Move to the front row when you're ready to testify. The order of testimony will go introducer, proponents, opponents, neutral, and closing. Testifiers, please sign in, hand your pink sign-in sheet to the committee clerk when you come up to testify. Please spell your name for the record before you testify. We ask that you be concise. It is my request that you limit your testimony to five minutes. We will use the light system in this committee, which means at four minutes the green light will be on; at minute number four, the one minute warning will come on which is the yellow light; and at five minutes the red light will come on, which means the time is up. If you will not be testifying at the microphone but want to go on record as having a position on a bill being heard today, there are white tablets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff. When you come up to testify, we will need ten copies. If you have written testimony but do not have ten copies, please raise your hand now so the page can make copies for you. To my immediate right is committee counsel, Bill Marienau; to my far left is committee clerk, Jan Foster. And we will introduce the senators starting to my far right, Senator Schumacher.

SENATOR SCHUMACHER: Paul Schumacher, District 22. That's Platte and part of Colfax and Stanton Counties.

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SENATOR KOLTERMAN: Mark Kolterman, District 24. That's York, Seward and Polk Counties.

SENATOR BREWER: Tom Brewer, District 43, 13 counties of western Nebraska.

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

SENATOR CRAIGHEAD: Joni Craighead, District 6, Omaha.

SENATOR BAKER: Roy Baker, District 30, southern Lancaster County and Gage County.

SENATOR McCOLLISTER: John McCollister, District 20, a small part of Douglas County.

SENATOR LINDSTROM: And our page today is Phillip Levos from Columbus. We will now start the first bill and open the hearing on LB116 introduced by Senator Harr.

SENATOR HARR: Thank you, Chairman Lindstrom. Members of the Banking, Commerce and Insurance Committee, my name is Burke Harr, H-a-r-r, and I am the senator from Legislative District 8 which represents about one-eighth of Douglas County. I am here on LB116 which redefines the automobile liability policy and changes coverage provisions. LB116 will prohibit the, quote, step-down, unquote, automobile liability coverage if an accident occurs when insured's automobile is driven by an individual who is not the insured or of the insured's household. An example of this would be, of a step down would be if Senator Lindstrom has \$100,000 in coverage, he gets in an accident, the insurance pays him up to \$100,000. However, Senator Lindstrom lets Senator Williams, for unknown reasons, borrow his vehicle, Senator Williams gets in an accident, the insurance company pays up to \$2,500...or excuse me, \$25,000 because that is Nebraska's minimum liability coverage. From what I understand, this isn't being done currently by any Nebraska companies. However, it is being done by some out-of-state companies and that's the purpose of this. Others will follow me to explain this better, but I would entertain any questions you may have. [LB116]

SENATOR LINDSTROM: Thank you, Senator Harr. Any questions from the committee? Seeing none. [LB116]

SENATOR HARR: Thank you. [LB116]

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SENATOR LINDSTROM: We will now have proponents to LB116. [LB116]

MARK RICHARDSON: Good afternoon, Senators. My name is Mark Richardson, M-a-r-k R-i-c-h-a-r-d-s-o-n and I am here today testifying on behalf of the Nebraska Association of Trial Attorneys in support of LB116. As Senator Harr mentioned, what we're essentially...what this bill is essentially trying to do is close a gap that we have right now that allows these step-down provisions to still occur. When you go out and you buy your insurance policy and you say, I want my car, quote unquote, fully insured, and you and your agent come to the determination that I need \$300,000 of coverage to make sure that my personal assets are protected, that my well-being is protected in the event that there is a collision and that there is a suit made against me. As the law currently stands, and as we do see with respect to insurance companies, not necessarily the ones that are located here in Nebraska, but from some outside insurance companies and we see this on a regular basis. We see these provisions entered in there that say, if you gave your car to somebody...not gave your car to somebody, but you allowed somebody to drive your vehicle, I think most Nebraska citizens would assume that in that situation, if I went to my agent and then told them that I wanted \$300,000 in coverage, that even if I said, hey, my friend over here can drive my vehicle, I still have \$300,000 in the event that my friend gets in the accident, he's the cause of the accident, but there's still a lawsuit that's coming back that's being made against my policy, that's being made against potentially me. Lo and behold, these step-down provisions that we see here are basically are...the insureds are finding out, well, that was all well and good that I had \$300,000 or I was told I had \$300,000 of coverage, but when I find out that there's this step-down provision in there, it basically pulls the rug out from underneath of us. Like I said, we don't typically see this with the Nebraska-based companies or the companies that have offices here in Nebraska. I think of Farmers Mutual, Farm Bureau, State Farm, companies like that, we really haven't had this issue even come up in recent years, but we continually see this in other insurance companies' policies. A few years ago, they closed a loophole with regard to these step-down provisions that it used to say that if a named insured was the one that was making the claim. Lets say it's the unlikely or the somewhat uncommon event where somebody in my own household is the one that was injured in the accident and they're making a claim back against that same policy, against my policy. It used to be allowed that you could have step-down provisions in that situation, but the Legislature saw fit to amend the statute to say, no, if you're buying insurance coverage for yourself and for your family, you should have the benefit of that regardless of who it is that's making the claim. This is the other side of that, regardless of who it is that's driving your car as long as they're a permissive user, as long as they're somebody that you've said, yes, it's okay for this person to drive my car, you should not have the loss of recoverage. You should not have...I thought I had \$300,000 but it turns out, nope, I'm only being covered for \$25,000 because of this step-down provision. So for us, it's a question of fairness. If you tell the insured that they have a certain amount of coverage, that is what they should have. We have seen situations in the past where...or arguments that we've seen made in the past against step-down provisions have been along the lines of, this allows for potentially some more flexible pricing or

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something in that regard with insurance policies. But I would put it to any insurance representative to come before you and explain or actually give proof that a \$300,000 policy with a step-down provision is being priced any different than a \$300,000 policy without. That logic just doesn't fly based on what we've seen. Again, this is an issue of fairness for the insureds. If you tell them that they have a certain amount of coverage, that's the amount of coverage they should be able to rely upon in the event that a claim is brought against them. And with that, I'd be happy to answer any questions you have. [LB116]

SENATOR LINDSTROM: Thank you for your testimony. Senator Craighead. [LB116]

SENATOR CRAIGHEAD: Thank you, Chairman Lindstrom. Thank you, Mr. Richardson, for being here today. Do you have any idea how many insureds in Nebraska have policies that come from out of state? [LB116]

MARK RICHARDSON: How many insureds that...I have no idea. [LB116]

SENATOR CRAIGHEAD: What percentage or anything? [LB116]

MARK RICHARDSON: I have no idea what that number is. It would be...that would be an anecdotal testimony by me. I can tell you, you know, on all of the claims that we see I would say at least 50 percent of the claims that we see at some level of the claim, whether it's liability insurance or underinsured motorist policy, it's not uncommon. I would say half of the claims we see, you know, a Geico come up or a...you know, somebody else, you know, Progressive or something like that come up. So it is quite frequent that we run across them. [LB116]

SENATOR CRAIGHEAD: Thank you. [LB116]

SENATOR LINDSTROM: Thank you. Senator McCollister. [LB116]

SENATOR MCCOLLISTER: Thank you, Mr. Chairman. Is the situation you described a frequent occurrence? [LB116]

MARK RICHARDSON: Yes, absolutely. I mean, is it the norm? I would say it's not, it's certainly not the norm. Most of the time, you're the one that's driving your own vehicle. But think about the number of times that you have, you know, you're at home and you're having friends over and somebody has parked you in and somebody says, well, just take my car. You can go ahead and take my car to run to the grocery store to pick up more food for the party, or

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anytime that you've ever told somebody, hey, will you just take my vehicle and go run this task, you have my permission to do so. [LB116]

SENATOR McCOLLISTER: Yeah, the question is, assuming that it's a frequent occurrence that people loan out their cars to whoever, then you end up with some kind of accident, does this situation exist often where you have an insurance company wanting to pay less than what the policy face is? [LB116]

MARK RICHARDSON: Completely depends on the insurance company. We...there are certain insurance companies where every time we have the situation, they have a step-down provision. If the step-down provision is in the policy, you will...you can guarantee they're going to enforce it. [LB116]

SENATOR McCOLLISTER: But does it happen often? [LB116]

MARK RICHARDSON: Yes. Now, when I say often, you know from my practice where I'm handling maybe 20 cases per year, I might see one case per year where that comes up, but that's across the board. And I've talked to other attorneys that handle cases just like I handle, and they would tell you the same thing. They regularly see this come up, you know, once or twice a year, something to that effect. If you put that together in the aggregate, you're having a substantial number of claims that this is impacting. [LB116]

SENATOR McCOLLISTER: Thank you. [LB116]

SENATOR LINDSTROM: Thank you. Senator Brewer. [LB116]

SENATOR BREWER: Thank you, Mr. Chairman. All right, since I have some firsthand knowledge on this one, let me run it by you and see how you're going to explain this. I have insurance. My son is on the policy. He goes away to college. He lets a friend use his car, gets in an accident. This then covers...or makes sure that whoever the step-down or the other individual of this is covered. [LB116]

MARK RICHARDSON: It makes sure that the vehicle has coverage to the full amount. [LB116]

SENATOR BREWER: The vehicle is covered. [LB116]

MARK RICHARDSON: Yes, absolutely. [LB116]

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SENATOR BREWER: And the only catch is...and if you're the insurance company, how do you figure a rate when you don't know who is driving the car? I mean, doesn't that kind of throw them into a tailspin that you're having people drive vehicles that you have no idea what their background is? [LB116]

MARK RICHARDSON: That, I wouldn't disagree with that, but that's going to be the case regardless. I mean, regardless of whether you have the step-down provision in there or not, you're still going to have the situation where, you know, you're relying upon the person...I would assume people are...that these insurance companies are basing their decision based on how responsible the person is that owns the vehicle. And so I would assume that they're taking into an account for that that they're going to be responsible in who they are letting drive their vehicle. And so, one kind of dovetails into the other. It's still, is this a...is the person I'm insuring a responsible person. And, you know, I would think that would go hand in hand with the decision making on who it is that they're allowing to drive those vehicles. Now, what we find, and one of the things that...the distinctions here is in Nebraska and every other state, you don't buy insurance on the insured. You buy the insurance on the vehicle. So when you go to the DMV and you get your driver's license, you don't have to show proof of insurance of any kind, you can get your driver's license. When you go to register your vehicle, that's when you have to show the proof of insurance. And so, again, this just comes back to if I am showing this proof of insurance, I am being the responsible citizen and I am wanting to protect myself from liability, so I'm going to be sure that I have adequate coverage here, then I should be getting what I'm paying for in those situations. There shouldn't be this arbitrary rule that says, you know, the insurance policy allows for a permissive driver to drive the vehicle and be insured. So again, I think it goes back to the responsibility of the owner generally. [LB116]

SENATOR BREWER: Well, and dad making sure that his insurance didn't go higher just took the money out of junior's account. He learned a hard lesson, but maybe I did that wrong. (Laughter) Thank you. [LB116]

SENATOR LINDSTROM: Thank you. Senator Kolterman. [LB116]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. So, it takes it down to the 25-50 what the state law requires. Is that automatic or does it...so we've got another bill later that if we increase those limits, it will only take it down so far. [LB116]

MARK RICHARDSON: That's correct. [LB116]

SENATOR KOLTERMAN: But it automatically takes it to the minimum level? [LB116]

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MARK RICHARDSON: Everyone I've seen has taken it to the minimum level. I suppose you could write into the contract that it reduces it to something above the minimum level. I've never seen that. [LB116]

SENATOR KOLTERMAN: And that's in your contracts? [LB116]

MARK RICHARDSON: What's that? [LB116]

SENATOR KOLTERMAN: And that's in...is that general? It's not general practice in this state, though, is it? [LB116]

MARK RICHARDSON: It's not general practice for the insurance companies in this state, that are based in this state. [LB116]

SENATOR KOLTERMAN: Domiciled. [LB116]

MARK RICHARDSON: But...exactly. But for insurance companies and you know what I would...what might be more commonly referenced as a cut-rate insurance company, we do see this. I mean, this is something that comes up on a regular basis. This isn't something where, you know, once every five years we hear about a step-down provision. It's, you know, you go to any Nebraska Association of Trial Attorneys seminar and the talk will be, you know, who has had a step-down provision bite them, you know, bite their client, recently, and it inevitably comes up. [LB116]

SENATOR KOLTERMAN: So if they're doing this on a regular basis, do you think it's a marketing tool they can brag about their lower rates and then when they have a claim they can automatically say, well, we don't have to pay that claim this way? [LB116]

MARK RICHARDSON: I don't know that I can say that it's used as a marketing tool just because...I mean, I suppose I see what you're saying that they are using this to somehow drive down their rates and then ultimately not pay the claim on the back end. I mean, there's, to me there's almost an element of pulling the wool over the insured's eyes on this situation where you're telling them they have this coverage. I haven't seen exactly what you're talking about. Usually this issue of the step down, it's never...we have yet to have a situation where we talk to insureds and they were ever made aware that there was an actual step-down provision in their policy before it was sold. [LB116]

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SENATOR KOLTERMAN: And it's used strictly for liability. How about uninsured and underinsured? [LB116]

MARK RICHARDSON: I have not seen step-down provisions in uninsured or underinsured motorists. I'm trying to process that through. [LB116]

SENATOR KOLTERMAN: That's another whole can of worms. [LB116]

MARK RICHARDSON: It is. I don't...I've never seen that actually applied in UIM and UM situation. Again, liability policies tend to follow the vehicle, UM and UIM policies tend to follow the person. And so I think maybe that distinction is why we don't see it as much there. It's just off the top of my head. Again, I personally have never seen that. I've never had anybody bring it to my attention. I'm not saying it doesn't happen. I'm just saying I've never seen a step-down provision as it relates to UM or UIM coverage, but certainly this bill and this statute should apply to both. [LB116]

SENATOR KOLTERMAN: So is this bill being brought by Senator Harr for the trial attorneys? [LB116]

MARK RICHARDSON: I'm here testifying on four bills this afternoon. I think this one was one that was...was this...I don't know. (Laughter) [LB116]

SENATOR KOLTERMAN: Well, it's the next person then. [LB116]

MARK RICHARDSON: Yeah. Oh, no. Yeah, (LB)116, yes, it was brought...we were the driving force behind getting this bill in front of you. [LB116]

SENATOR KOLTERMAN: Just want the higher limits? [LB116]

MARK RICHARDSON: What's that? [LB116]

SENATOR KOLTERMAN: Just want the higher limits? [LB116]

MARK RICHARDSON: We want fairness for the insureds. We see this...we see this on a regular basis where it is a situation where every time it's happened, it's been the insured who has felt like it was the rug pulled out from underneath them. They thought they had a contract with an insurance company. They thought the contract said, hey...and they told them, I want my contract

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to say, I'm going to get this level of insurance. And then something happens and they find out that there's this clause in there that says, well, because of who it was that was driving your vehicle, we're not going to insure you to that amount. And keep in mind, even though it's the driver, the driver may be somebody else, the owner of the vehicle's policy is still the primary insurance on the car and there's also negligent entrustment claims that exist out there that they could potentially pull the rug directly out from underneath you. [LB116]

SENATOR KOLTERMAN: So how would it work with, if they have an umbrella policy? Would the umbrella pick up? [LB116]

MARK RICHARDSON: I would have to...it would depend on the terms of the umbrella policy. I would imagine that there are situations where an umbrella policy could put in a step-down provision. Again, I've never seen that. To be frank, I don't see a lot of umbrella policies with the Geicos and Progressives of the world. [LB116]

SENATOR KOLTERMAN: Okay. Thank you. [LB116]

SENATOR LINDSTROM: Thank you. Senator Schumacher. [LB116]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. Thank you, for your testimony today. I guess I'm a little unclear. You indicated that this isn't really a big issue with Nebraska policies, that the Nebraska companies do not have these step-down provisions. Is that correct? [LB116]

MARK RICHARDSON: Of late, that's true. More...you know, if you ask some of the attorneys that maybe had a little bit more experience going back further than I, I think these were more common to encounter. The practice lately that we have seen, we have not come across them as much with the types of companies that I referred to. [LB116]

SENATOR SCHUMACHER: Now step-down is code words for reducing the limits, is that what step-downs...? [LB116]

MARK RICHARDSON: Yes, stepping down the limits. [LB116]

SENATOR SCHUMACHER: Okay. And so basically we're here today not because of a practice going on with the Nebraska companies but what people driving through the state with a foreign coverage? I mean, who is comprising the 1 out of 20 that you're seeing where this is invoked? [LB116]

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MARK RICHARDSON: No, you, as a Nebraska citizen, you can go out and get coverage through anybody that's got a license to sell insurance here. And so, I mean, you can go out and get coverage from a Geico. You can go out and get coverage from an on-line, you know predominately on-line place that isn't, you know, centered here or doesn't have a home base here in Nebraska. Those are the companies that we more frequently see this with. [LB116]

SENATOR SCHUMACHER: Okay. So it's those companies that are operating in Nebraska that are insuring Nebraskans who've got one of these provisions in their policies to control their exposure. [LB116]

MARK RICHARDSON: In my experience, and the experience of the attorneys I've talked to, yes. [LB116]

SENATOR SCHUMACHER: Okay. Now when...let's say it steps down and they're saying, look, gee, there's a big claim here, there's only \$25,000 worth of insurance, but we're going to tender the \$25,000, are they still obligated to defend you in the lawsuit? [LB116]

MARK RICHARDSON: Generally, yes, as long as there's the provisions in your policy that they have to defend you in any lawsuit, I don't believe that will...I've never seen that right extinguished just because they're willing to tender. I assume you're asking if the plaintiff is unwilling to settle for that amount and is then going to be going after the personal assets. Yeah, they're going to continue the defense. [LB116]

SENATOR SCHUMACHER: Right. And they will continue the defense. Okay, so...continue the defense. If you have...you loaned your vehicle out and the policy...that person has no insurance of their own, let's just keep it easy, and that person gets in an accident and you've got basically the coverage you're offering them or that the person they hit, they're limited in what they can get. It's a \$25,000 from your insurance company and whatever they get out of the person driving your car, are you on the hook for anything? Are you liable for anything that then occurs for any shortfall because you loaned your car? [LB116]

MARK RICHARDSON: I would say that depends on the facts of the case largely. I mentioned it earlier and there is something called a negligent entrustment claim and I can tell you, we, on average, I bring a couple of those every year where it's somebody that you knew or should have known either didn't have insurance or had a history of poor driving and you allowed them to drive your vehicle, that does obligate you personally. [LB116]

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SENATOR SCHUMACHER: But you have to be kind of basically negligent in loaning your car out. If the person is a good driver and, you know, not a problem case in anyway, and you say, go to the grocery store, you're not going to...they're not going to come back on you. [LB116]

MARK RICHARDSON: If you weren't negligent, I don't see how you could be held personally liable for that. [LB116]

SENATOR SCHUMACHER: So what we're doing then is, you're basically buying...we're arguing here whether or not you're buying insurance for your innocent friends who might be using your car at the same limit as your policy or at the reduced limit. That's what we're talking about. [LB116]

MARK RICHARDSON: Again, I think the way you just framed it excludes the negligent entrustment situation which I think is very real. And then the only thing I'd refer back to is what we insure with liability. We insure vehicles with our liability policies. You buy a vehicle, you have to get insurance on it. If this is going to be my vehicle, I'm going to own it and I'm going to be responsible for it. I'm going to be a responsible Nebraska citizen and make sure that it has enough insurance to cover any potential claims that are out there. You're basically saying that, okay, but in certain circumstances this car is not what, you know, lay people would refer to as fully insured. [LB116]

SENATOR SCHUMACHER: So if a person, if I loan my car out to a kid who I know likes to do wheelies and in doing one of the wheelies he's...gets in an accident and I've got a half million in coverage and they come after him and come after me, will I still have a half a million for me, even though not for him? [LB116]

MARK RICHARDSON: Not according to the step-down provisions we've seen. If the driver is...I mean the way those provisions are written, the ones that I've reviewed, they are written very broadly to say, if the driver of the vehicle is...if the driver of the vehicle is not a named insured, then the limit of the coverage is step-down. [LB116]

SENATOR SCHUMACHER: So basically what you're saying is, people expect that they're covered up to the face of...their policy is good for the face amount and because of these things having the small print, they may be uninsured in some circumstances. So let's just make the small print, the step-down print impossible for a vehicle covered in Nebraska. [LB116]

MARK RICHARDSON: Yes. [LB116]

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SENATOR SCHUMACHER: Okay. Thank you. [LB116]

SENATOR LINDSTROM: Senator Kolterman. [LB116]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. So, underinsured motorist coverage. [LB116]

MARK RICHARDSON: Yes. [LB116]

SENATOR KOLTERMAN: Okay. So they step it down, I don't care who it is. Couldn't the person driving go to their own policy and pick up some underinsured coverage and stack those limits on top of what they stepped it down to? [LB116]

MARK RICHARDSON: Again, I've never seen the step-down provisions apply to underinsured and uninsured motorist policies. [LB116]

SENATOR KOLTERMAN: But underinsured deals with liability as well. [LB116]

MARK RICHARDSON: Liability of the other driver. [LB116]

SENATOR KOLTERMAN: Yeah, but this is the other driver. [LB116]

MARK RICHARDSON: Yeah, but again, I mean, UM and UIM policies also apply to a situation where you're a pedestrian. So if that...you know, if you get hit by a car, and get hit by somebody that's uninsured... [LB116]

SENATOR KOLTERMAN: I'm just trying to figure out a way to find money. (Laughter) [LB116]

MARK RICHARDSON: What's that? [LB116]

SENATOR KOLTERMAN: That's what you're trying to do, is trying to stack the limits here. (Laughter) [LB116]

MARK RICHARDSON: No, there's no stacking of limits that's going on here. You're talking about the actual liability limits within a single policy and that's all we're focused on. [LB116]

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SENATOR KOLTERMAN: But can't you go to the other, the driver of the vehicle and use him as the excess in trying to get where you want to get? [LB116]

MARK RICHARDSON: Are you talking... [LB116]

SENATOR KOLTERMAN: With his policy. [LB116]

MARK RICHARDSON: The driver of the other vehicle. [LB116]

SENATOR KOLTERMAN: Well, the driver of your vehicle. He's driving your vehicle, but he's got a policy over here because you used his...you took my car because his was blocked in. [LB116]

MARK RICHARDSON: Sure. [LB116]

SENATOR KOLTERMAN: But you go to his policy and say, hey, they're going to step me down here, but I want to invoke my privileges under my own policy. [LB116]

MARK RICHARDSON: In that situation, your policy as owner of the vehicle is primary, the other driver's is secondary, but you're right, you could access that policy. The problem that people run into is the person that's driving my car didn't do the responsible thing. They only have the minimum limits, they only have the \$25,000 and all of a sudden, I mean, they pitch that and they get out and you're left holding the bag. [LB116]

SENATOR KOLTERMAN: All the more reason to sell higher limits. [LB116]

MARK RICHARDSON: I would avidly agree with you. (Laughter) [LB116]

SENATOR LINDSTROM: Senator Baker. [LB116]

SENATOR BAKER: Thank you, Chairman Lindstrom. Mr. Richardson, clarify for me in the example you've been giving about I've loaned my car to somebody, not a family member, is it relevant whether that person has insurance? If my car is insured, is it relevant whether he has car insurance? [LB116]

MARK RICHARDSON: In the scope...in the entire scope of the claim, it can be relevant. You know, it's a potential other source of compensation for whoever it was that was hurt. So if they

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have lost wages or medical bills or whatever, they could certainly look for that, but overall...  
[LB116]

SENATOR BAKER: Okay. Forget about the personal injury, the liability of it. I've loaned my car out, there's an accident, is the fact that the other person damaged something, another car, whatever, is it relevant whether or not that person has insurance or is it strictly my insurance policy? [LB116]

MARK RICHARDSON: The focus of this is your insurance policy. [LB116]

SENATOR BAKER: That's what I thought. [LB116]

MARK RICHARDSON: What is your insurance policy doing for you? [LB116]

SENATOR BAKER: And it's irrelevant whether that person I loaned to, has car insurance or not.  
[LB116]

MARK RICHARDSON: In our opinion, correct. [LB116]

SENATOR BAKER: All right. Thank you. [LB116]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? Seeing none, thank you for your testimony. [LB116]

MARK RICHARDSON: Thank you very much. [LB116]

SENATOR LINDSTROM: Next proponent. Seeing none, we'll now move to opponents. Any opponents? Good afternoon. [LB116]

ANN PARR: Good afternoon. My name is Ann Parr, that's A-n-n P-a-r-r. I am employed by Farmers Mutual of Nebraska. I am the senior vice president and secretary and general counsel there. I also serve as president of the Nebraska Insurance Information Service, also known as NIIS. That is a state trade organization here in Nebraska comprised of 20 member companies all of whom are licensed to write property/casualty insurance in Nebraska. As a group we write the vast majority of auto insurance that is available in the state. And we are testifying today in opposition of LB116. I think Mr. Richardson did a pretty good job of explaining what the bill is about, what it's designed to target which is the step-down provisions of certain insurance

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policies. I just have a couple of points to offer in opposition of this bill. I think it's very hard to explain. It's kind of confusing what this bill does, so bear with me if I repeat some of the things that were just said. But by way of explanation, this bill provides that an auto liability insurance policy, so just the liability coverage that we're talking about here, shall not exclude, limit, reduce, or otherwise alter liability coverage solely because a person driving is not the named insured or a member of his household. So the intent of that language is to prohibit an insurer's use of a step-down provision in an auto policy. As he explained, there are a few companies out there who support the use of step-down clauses. To be honest, the majority don't offer that provision in their policies. Just like insurance companies make a choice about whether to offer this step-down provision, there are insurance consumers who would like a policy, who support these policies that have step-down provisions in them because it tends to lower the premium by reducing the exposure. You know, I think of my own parents who probably haven't loaned their one car out for 30 years. They just don't need that kind of coverage. So that's a chance for them to buy a lower amount of coverage. There are also probably, more often than not, insurance consumers who want no part of a policy like this because they want the broadest coverage possible out there. The point is, we feel that the Legislature should keep those options open for the consumer by allowing companies to offer these different coverage options at different products there, array of coverage choices that gives flexibility and keeps a competitive marketplace. My second point, and I understand Mr. Richardson's testimony again about what the bill is designed to do and I've visited with him prior to this hearing about the drafter's intent, so I get that. But what I would like to point out today is that even beyond the step-down clauses that it targets, I think there may be some unintended consequences from this bill that weren't anticipated and that are not desirable. Keep in mind that the bill talks about not only reducing coverage in the case of a step down, but it also prohibits an insurer from excluding coverage, reducing, altering, and so forth. Auto liability coverage typically applies...you know, a typical auto policy will apply to the named insured, the name insured's spouse, any relatives they have residing in that household, and then anybody that's driving the insured's vehicle with the insured's permission. So when my...an insured denied coverage based on the fact that the driver is not an insured or a member of the insured's household, well, one example that comes to mind is that insurers sometimes issue what is known as a named driver exclusion. A named driver exclusion is an endorsement that is added to an auto liability policy that states that a specifically named individual who has access to the insured vehicle will not be covered by the insurance policy on that car. The car's liability insurance wouldn't cover that individual when driving the car. When do you see these exclusions? They're very rare, but they are very useful when they are used. Say for instance that you have a married couple that's just a perfect insurance risk. The insurance company wants to write them because they have driving records, they're impeccable and the insureds want to be written with that company because they really like the company. But let's say that they have a grown, independent son who occasionally visits for the weekend, at which point he would have access to their car. The grown son has a lot of speeding tickets, a lot of infractions with driving that make it so that the insurance company wants no part of covering him when he's driving that

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car. But because he's someone who occasionally has access to this car with the insured's permission, he would be covered under their policy unless the insurance company does something about it. So one option they can do is they can offer to go ahead and write that insurance policy for the couple, but they would issue a named driver exclusion for that son, specifically stating that their risky son would not have coverage while driving their vehicle. It's a very effective underwriting tool for both insurance companies, but also for the insureds that want to either obtain or keep their coverage with that company. Without it, the insurance company might have to tell them to look elsewhere for the coverage. Would this bill eliminate the use of named driver exclusion by prohibiting the insurance company from denying coverage because he's not a named insured? It's at least a possibility and one that we think would be undesirable. I see I'm out of time. I'd be happy to answer any questions about step downs or anything else you might want to ask. [LB116]

SENATOR LINDSTROM: Thank you. Senator Baker. [LB116]

SENATOR BAKER: Thank you, Chairman Lindstrom. Ms. Parr, did you ever sell auto insurance yourself? [LB116]

ANN PARR: No, I'm not on the selling side of it. [LB116]

SENATOR BAKER: Okay. Do you think...and when people are...an insurance agent is sitting down with the person who wants to buy auto insurance, they go through and say, now, do you want...do you want this coverage that would not step down or do you want to step down, but do you think people ever go over that kind of thing? [LB116]

ANN PARR: I would certainly hope so. [LB116]

SENATOR BAKER: And it would show them the difference. If you don't take the step down, then your rates would be different? [LB116]

ANN PARR: Exactly. Right. Yeah, they should go up through each individual coverage with them ideally and explain, here are the options you have, here's the price for each vehicle, here's what you get. [LB116]

SENATOR BAKER: I've looked at a lot of different options, but never that one. Of course, as you say, the insurance companies I buy from are based in Nebraska. [LB116]

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ANN PARR: Right, I'm sure that's true, because as far as I know there's not anybody using that in Nebraska. [LB116]

SENATOR BAKER: All right. Secondly, you talk about the named driver exclusion. You know what if I'm at a big get-together and my car is blocking somebody and say, hey, I've got to leave. I say, okay, here's my keys, you can go move it. Backs up, rams somebody and does some substantial damage out on the street, that would not be a person not a named exclusion. [LB116]

ANN PARR: The named driver exclusion applies to a specifically named person. So unless there's an exclusion with your name on it that says, Senator Baker has no coverage when he's driving my car, that wouldn't apply. [LB116]

SENATOR BAKER: Okay. So your named exclusion is someone that's not covered. Okay. I misunderstood. [LB116]

ANN PARR: Right. It applies to potentially permissive drivers that we don't want to insure, yes. [LB116]

SENATOR BAKER: I misunderstood. Thank you. [LB116]

SENATOR LINDSTROM: Thank you. Senator McCollister. [LB116]

SENATOR McCOLLISTER: Thank you, Chairman Lindstrom, and thank you for your testimony. Wouldn't the banking department (sic: insurance department), State of Nebraska, have the authority to outlaw such policies or...and they haven't? [LB116]

ANN PARR: I believe that that's true. I think because there's no statute prohibiting it, they probably have decided that they're permissible. You can ask them how they feel about that. If I recall correctly, they have at least issued a bulletin with regard to the use of those, reminding agents that they should make insureds aware that that's in their policy. [LB116]

SENATOR McCOLLISTER: So they have that discretionary authority in your view? [LB116]

ANN PARR: As far as I know, yes. [LB116]

SENATOR McCOLLISTER: Thank you. [LB116]

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SENATOR LINDSTROM: Senator Schumacher. [LB116]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. One specific area that you raise that where this...the way we do it now is useful is in the person that's specifically excluded from the policy. Would we fix the problem with a bill if we just simply say that this new rule applies unless the person is specifically excluded in the policy? [LB116]

ANN PARR: Off the top of my head I think that would go a long ways towards helping that, yes. There may be other instances where the policy language is ambiguous and might create problems that I haven't thought through frankly, but that would help toward that specific example at least. [LB116]

SENATOR SCHUMACHER: Okay. Thank you. [LB116]

SENATOR LINDSTROM: Any other questions? Senator Williams. [LB116]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom, and thank you, Ms. Parr. I just want to be sure that your company would not be opposed to having some restriction on the step down itself? You don't...you don't include that in your contract now, so not having the ability to have a step down would not be something you would oppose. [LB116]

ANN PARR: Speaking now as a representative of Farmers Mutual, we don't have step-down clauses and we don't intend to ever use them, no. [LB116]

SENATOR WILLIAMS: Right. Okay. Thank you. [LB116]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? Seeing none, thank you. [LB116]

ANN PARR: Thank you very much. [LB116]

SENATOR LINDSTROM: Next opponent. [LB116]

KORBY GILBERTSON: Good afternoon, Chairman Lindstrom, members of the committee. For the record, my name is Korby Gilbertson, that's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Property Casualty Insurers Association of America. I don't want to repeat things that Ms. Parr talked about in her opposition testimony, but

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I wanted to touch on a few things that came up during the proponent testimony and talk about the overarching issue that PCIA sees with this bill is the right to contract and the right for people to be able to contract for different levels of coverage. And one issue where this comes into play is...I think Senator Schumacher kind of brought up, which would be the fact that the liability limits that you have if they are then used by a permissive driver would be extinguished and you would no longer have those liability limits then to rely on for your own accidents that would happen. So that's one reason for protecting the current right for a step down that can take place. Secondly, Senator Baker talked about whether or not it should matter whether or not the other driver has insurance and, obviously, it shouldn't because you could have someone that doesn't own a car so they would not have any reason to have insurance. And for those reasons, that's why you do have the different limits that are already established in statute. And we'll talk about that more in another bill today about the average cost of different accidents that happen in Nebraska and we can deal more with that at that point. And the second thing is...or the third thing, if you look at the language in here it does not limit it just to permissive drivers, it limits it to anyone who would have that car. So in Senator Brewer's example, you could have someone driving that vehicle that you in no way ever intended to drive that vehicle and all of a sudden they have used up all of your liability coverage for that automobile and you have nothing else to go after. So, for those reasons we would oppose this legislation and hope that it would not be advanced from committee. Be happy to try to answer any questions. [LB116]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Seeing none, thank you very much. [LB116]

KORBY GILBERTSON: Thank you. [LB116]

SENATOR LINDSTROM: Other opponents? [LB116]

MARK JOHNSTON: Good afternoon. My name is Mark Johnston, M-a-r-k J-o-h-n-s-t-o-n, and I work for the National Association of Mutual Insurance Companies. I have nothing to add that hasn't been said already, but I'm happy to take questions. [LB116]

SENATOR LINDSTROM: Thank you, Mr. Johnston. Any questions from the committee? Senator Baker. [LB116]

SENATOR BAKER: Mr. Johnston, did you ever sell car insurance yourself? [LB116]

MARK JOHNSTON: No, sir. [LB116]

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SENATOR BAKER: Thank you. [LB116]

SENATOR LINDSTROM: Thank you. Next opponent? [LB116]

TAD FRAIZER: Good afternoon, Senators. Tad Fraizer, T-a-d F-r-a-i-z-e-r, representing the American Insurance Association, a national trade association of some 300 property/casualty firms. We would just echo the testimony of the prior opponents. Although relatively few companies use these step downs, we think the flexibility should be preserved. Again, the question of who is going to be possibly driving the car. It's one thing to know who your named insured are, what their record is, what their household is, but as even the representative from the trial attorneys testified, sometimes cars get loaned to individuals who probably shouldn't be entrusted with the cars and that can produce a negligent entrustment lawsuit, which is outside the scope of the auto policy. But just the fact that those occur indicates that it is a concern for some companies who you may be loaning your vehicle to and therefore they may wish to have lower limits which, of course, would be disclosed to the insured as a part of the application process through their agent, or whoever. And I'd try to answer any questions you might have. [LB116]

SENATOR LINDSTROM: Thank you. Senator Schumacher. [LB116]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom, and thank you for your testimony. Can you give us a sense of how much a premium difference there is between a policy with this and a policy without this provision, the step-down business? [LB116]

TAD FRAIZER: I'm afraid I really can't. That would kind of depend from company to company and their various underwriting standards. [LB116]

SENATOR SCHUMACHER: I mean, are we talking about \$5 a year or \$500 a year? What's...I mean, certainly if these companies brought a nice bunch of lobbyists in to testify to us, they have a general idea of what we're fighting over. [LB116]

TAD FRAIZER: I'm afraid I don't have a dollar figure to offer you, Senator. [LB116]

SENATOR SCHUMACHER: Thank you. [LB116]

SENATOR LINDSTROM: Thank you. Senator Baker. [LB116]

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SENATOR BAKER: Thank you, Chairman Lindstrom. Mr. Fraizer, I agree. I think that's relevant information as to what kind of difference in the premium are you talking about here. I mean, that's important for me to know. And secondly, would you think it's more common for a person to know whether they do or do not have that step-down provision by someone going over it at the time of purchase, or someone pointing it out in the fine print after something has already happened? [LB116]

TAD FRAIZER: Well, I would think it had been discussed at the time of purchase with your agent or whoever, then you would be aware of it at that point. [LB116]

SENATOR BAKER: Thank you. [LB116]

SENATOR LINDSTROM: Senator Williams. [LB116]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom, and thank you, Mr. Fraizer. One quick question. Other than price, is there any reason that you can think of that a person would want to reduce their liability coverage? [LB116]

TAD FRAIZER: You mean the insured themselves? [LB116]

SENATOR WILLIAMS: Yeah. [LB116]

TAD FRAIZER: Well, as Ms. Parr suggested in the event of being able to stay with a given insurer because they would be unwilling to write you if certain individuals had access to the car, and if you had an insurer you were...had a good relationship with otherwise or had other advantages to being with, that you might want to stick with them for some reason, but price would obviously be one factor for a lot of consumers. [LB116]

SENATOR WILLIAMS: Thank you. [LB116]

SENATOR LINDSTROM: Any other questions? Seeing none, thank you very much. [LB116]

TAD FRAIZER: Thank you. [LB116]

SENATOR LINDSTROM: Next opponent. Seeing none, any neutral testifiers? Also seeing none, Senator Harr, you're welcome to close. [LB116]

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SENATOR HARR: Thank you. Thank you, members of the Banking, Commerce and Insurance Committee. I want to thank everyone who took the time to come here and testify, especially Ms. Parr. I've had my personal car insurance with her company and I see it's a good reason why I do because they don't do stepped-up basis, or step down. Excuse me. (Laughter) So, with that I want to thank you for your time and your wonderful questions today and would entertain any additional questions you may, or as I like to say, may not have. [LB116]

SENATOR LINDSTROM: Thank you, Senator Harr. Any final questions for the Senator? Seeing none, thank you very much. [LB116]

SENATOR HARR: Thank you. [LB116]

SENATOR LINDSTROM: And that will end the hearing on LB116. We'll now move to LB643 introduced by Senator Krist. You're welcome to open, Senator Krist. [LB116]

SENATOR KRIST: (Exhibits 1 and 2) Thank you, Chairman Lindstrom and members of Banking and Insurance and a special thanks on the record to Senator Hansen, who is going to allow me to go back and sign some paperwork this afternoon to sell one of our businesses. So the lawyers don't have to chase me down, for giving the courtesy to go next. I am here today...I'll give you a couple of handouts so you can follow a couple of selling points. I'm not an insurance person, I'm a pilot. Houses get bigger, houses get smaller, I go faster, I go slower, (laughter) or like this, you know, with a collective and the cycling, but I'm here today. My name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha and portions of Douglas County which includes the city of Bennington. I appear before you today in introduction and support of LB643. This bill would double the current financial responsibility limits for auto insurance. Current limits are \$25,000 per person; \$50,000 for occurrence for bodily injury; and \$25,000 for property damage. (LB)643 would increase it to \$50,000, \$100,000 and \$50,000. These financial responsibility limits have not been raised in our state since 1988 and I know Senator Schumacher doesn't go back to 1988. I think Bill actually does and you probably heard this bill, Bill, many times as legal counsel. The reason I'm handing these out to you is to set a point on this particular handout, just single page, it will show you an inflation calculator what \$25,000 was worth in 1988 and what it would cost today in...or what it would cost in 2016. The flip side of that is what \$50,000 would have been in 1988 and then what it is today. I think in terms of the proponents or opponents, there would be little argument that the rate of inflation has taken us to a much greater limit. On the other handout I will give you, and this is the information provided me by the Trusted Choice Independent Insurance Agents of Nebraska, January 25, 2017. Talking points, I would remind you that these have not been raised since 1988. Inflation and health costs over the last 29 years make the odd limits inadequate to...the old limits inadequate to cover modern automobile values and, of course, the healthcare

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costs. On the back side, I think just a general description of the insurance. Research Council reports that the percentage of uninsured drivers in the state generally rises along with the unemployment rate, not necessarily with an incremental increase in insurance. I think in terms of the actual value of this bill, I would...Senator Schumacher's favorite insurance company in the entire world is USAA. (Laughter) And what I'm advised with with USAA as an insurance company is that the limits in the state of Nebraska are inadequate. They advised me to step up at least two levels and financially, I think it's important for my family and I for that to happen. So I exercise that right to step up to the higher limits. I think the other interesting part of this is, and I'll let the insurance agents talk to it, but for that increase in insurance, I think we're talking about between \$25 and \$50 on an insurance policy and I think that will bear out. It's in the Independent Insurance analysis. I think if we talk to the insurance company, it's not onerous in order to increase. So with that, I'll leave the experts argue both ways. I have to get back to an Exec Session, can't leave them vote on their own. If you'll pardon me, I'll duck out. I waive closing. [LB643]

SENATOR LINDSTROM: Okay. Thank you, Senator Krist. Any questions for Senator Krist? [LB643]

SENATOR SCHUMACHER: I hope you have better luck with this bill than I did. (Laughter) [LB643]

SENATOR LINDSTROM: I'm not sure if that was a question. [LB643]

SENATOR KRIST: Well, look around the room. [LB643]

SENATOR LINDSTROM: Thank you, Senator Krist. [LB643]

SENATOR KRIST: Thank you, Chairman. [LB643]

SENATOR LINDSTROM: We will now have proponents. Good afternoon. [LB643]

STEVE MASON: (Exhibit 3) Good afternoon. Good afternoon, Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee. My name is Steve Mason. That's S-t-e-v-e M-a-s-o-n. I'm employed by Forsyth Insurance Agency here in Lincoln. I've been in the insurance industry since 1971. I've been a licensed insurance agent, a broker, and a consultant in Nebraska since 1976. I'm here to represent the Independent Insurance Agents Association of Nebraska in support of LB643. I'd also like to thank the Senator, who is no longer here, for sponsoring the bill. Now we've already talked about the current minimum financial responsibility

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limits. It's 25, 50 and 25. I'm not going to rehash what the Senator has already told you. But I would like to point out and again, as he did, that these limits haven't changed since 1988. Now if you're involved in an accident where you're at fault, your policy is going to pay for your damages up to a policy limit. If you're involved in an accident where you're not at fault, the other party's insurance will pay for the damages up to their policy limit. And you may have to invoke your uninsured motorist or underinsured motorist coverage to make yourself whole. But...I already got off track. In 2015, there were 2,382,800 registered vehicles in Nebraska and out of that number about 6.7 percent or 160,000 vehicles, give or take, they had...that were on the road had no insurance coverage whatsoever. And we can assume that you're going to have at least that many uninsured or underinsured motorists, rather, that have just statutory limits that are on the road. And I'm going to guess that...you know, that's probably a very small...it's probably a lot larger number than that. In our experience, the majority of the drivers in Nebraska carry limits that are higher than the statutory minimum, and they're not going to be as adversely affected by an uninsured motorist or a low-insured motorist, but there are a lot of agencies and that's been mentioned before out there that they make their money by quoting low limits. The Internet providers, the direct writers, some of those. I was kind of curious as to how our agencies stacked up with this. So this morning I asked if I could get a sampling of 2,500 of our clients. I was really surprised, 9.56 only had the statutory minimum limits. So I'm kind of embarrassed for ourselves. A \$50,000 is...would be a nice increase in the statutory minimum limits but even that's not always going to be enough. We had an insured that was involved in an accident on Highway 33 east of Grand Island. There was an eastbound car and the driver of the car had a diabetic seizure and drifted over into the left-hand lane, clipped one car, nailed our driver's car head-on. There were six people who were injured in the accident. The hospital bills for our driver amounted to six hundred and four...or excuse me, \$264,543.88. We were able to collect \$50,000 uninsured motorist because that's what his car had on it. The only thing that saved him is he was at work at the time so Workers' Comp picked it up, but had it not been for the Workers' Comp, he would have had a huge out-of-pocket expense. And there was a study that was referred to by the Insurance Research Council and it indicated that increasing the minimum liability limits does not result in an increase in the number of uninsured drivers. The number of uninsured drivers usually increases by the percentage of the unemployment rate. In 2007, the national average for uninsured drivers was 13.8 percent and that increased to 16.1 by 2010. And like I said, they found no correlation whatsoever with increasing the statutory minimum limits and an increased number of uninsured motorists. In 2005, we had 33,988 accidents in Nebraska roads; 246 were fatalities; 16,806 were individuals who were injured. Out of that 218 of the fatalities and 11,649 of the injuries were outside of Douglas County, Sarpy County, and Lancaster County. So most of that was in rural areas. Air Methods is one of the largest emergency ambulance services in the United States, and they have three locations in Nebraska with various air ambulances there. They say just to lift off, just to take...have a helicopter take off to go to an emergency, it costs between \$20,000 to \$30,000 depending upon the size of, the type of the helicopter. And then they charge, they said, between \$200 and \$400 per mile in addition. How quickly are you going to blow

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through \$25,000 if you have an air ambulance call? In 1988, the average cost of a car was \$13,933 which is \$27,900 in our dollars today. USA today said the average price of a new car in 2015 was \$33,560. In 1988, Mutual of Omaha paid an average of \$270 a day for all their hospital rooms which would adjust up to \$545 today, and that increased it to \$748 per day in 2015, which is equivalent to 992...no that's not right, but. In 2002, it increased to \$748. I'm sorry. Can't even read my own writing. You know, it's an uninsured motorist accident. What can I tell you. (Laughter) In 2015, U.S. healthcare, we already know it increased 5.8 percent. Physicians are up, clinics are up, everybody is up, so it's obvious if you want to buy or repair a car, if you want to visit a doctor, be hospitalized, transported by an emergency vehicle, that the costs are going to increase. They're more than doubled since 1988. Our state mandated coverages have not increased. The only other...other than the salary of a Nebraska state senator, which increased from \$400 to \$1,000 a month in 1988, I don't know of anything else that's stayed the same. There's no other cost of living that hasn't significantly increased or more than doubled in 29 years. With that, since my time is up, I would entertain any questions. [LB643]

SENATOR LINDSTROM: Thank you, Mr. Mason. Any questions from the committee? Senator Williams. [LB643]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom, and thank you, Mr. Mason. Do you have an estimate on what the increase in cost to the insured would be with this increase in liability coverage? [LB643]

STEVE MASON: Well, it's interesting you should ask that because I'd already cut it out because I thought it was negative, but I went...every company files their own rates. They have their own factors or what are called increased limit tables, so I can't speak for every insurance company which is in Nebraska, but what I did do, I looked at the Assigned Risk Pool rates and their rate charts. The Assigned Risk Pool is the last place to go and it will usually be one of the most expensive markets that you would find. They have several factors that they would use in creating a rate, so I just dealt with their base rate. So, to increase the policy limits including the uninsured and underinsured motorist, to 50-150 would increase the base annual premium by approximately 14.5 percent. And that would double their coverage. So that could range from an additional \$100 in Omaha to maybe \$67 in Scottsbluff. Now the standard markets, like I said, shouldn't be as much. And bear in mind, there are other factors that go into a price, go into the cost of the insurance, driving records, accident histories, and that sort of thing. [LB643]

SENATOR WILLIAMS: So it's not an insignificant amount of money then? [LB643]

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STEVE MASON: It's not an insignificant amount, but you're also doubling the amount of coverage that you have. There are parts of it that are not that expensive. The...a rate has multiple pieces to it. [LB643]

SENATOR WILLIAMS: My other question about that, you touched on this, but do you have any documentation as to if these were increased, how many more uninsured motorists would we have? [LB643]

STEVE MASON: Well, according to the one study, we wouldn't have any more uninsured motorists. [LB643]

SENATOR WILLIAMS: Are there any more than just one study on that, that you know of? [LB643]

STEVE MASON: That study was done in 2007 and again in 2010, and it had basically the same response in both studies. [LB643]

SENATOR WILLIAMS: Thank you. [LB643]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? Senator Baker. [LB643]

SENATOR BAKER: Let me expose my ignorance here a little bit, Mr. Mason, but right under 25/50/10, \$50,000 be the amount for all injured parties; \$25,000 for any one person and \$10,000 for property damage. My question is, property damage. Are we talking about property damage to the other vehicle, my vehicle, or something else? [LB643]

STEVE MASON: It's \$25,000 for property damage, but that's the damage that you caused to the other person's vehicle. So, if I have statutory minimum liability limits, I'm driving down the road, I blow a stop sign and T-bone a Mercedes full of nuns, then I have \$25,000 for each nun, \$50,000 for all the nuns in the car, and \$25,000 to pay for the Mercedes. [LB643]

SENATOR BAKER: So that doesn't cover...then what happens? [LB643]

STEVE MASON: Then the Catholic Church comes after me. I'm not sure. (Laughter) After that, if I'm negligent in causing the accident, then, you know, they could come after me personally. [LB643]

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SENATOR BAKER: Sure. [LB643]

SENATOR LINDSTROM: Any other questions? Senator McCollister. [LB643]

SENATOR McCOLLISTER: Thank you, Chairman Lindstrom, and thank you for your testimony. I looked at this bill as well and I think when we examine how often these limits are exceeded, we didn't find that it occurs very often. Is that assumption incorrect? [LB643]

STEVE MASON: I think it occurs more and more often as inflation incurs more often. If you're involved in an accident and you've got a new vehicle, you're not at fault, your vehicle is destroyed, and the other party only has \$25,000, is that going to be enough to pay for your car? If you have to be airlifted by a helicopter, is \$25,000 going to pay that? [LB643]

SENATOR McCOLLISTER: Yeah, I understand that. So the statistics that you cite in actuality and I can't remember if the statistics were from 13 or 14, but the limits were exceeded very rarely. So it's even... [LB643]

STEVE MASON: And that...I don't have a statistic on that. I don't have that answer. Some of the opponents that follow me may. [LB643]

SENATOR McCOLLISTER: Okay. Thank you for your testimony. [LB643]

SENATOR LINDSTROM: Senator Baker. [LB643]

SENATOR BAKER: Thank you, Senator Lindstrom. Mr. Mason, maybe its in the materials, but how many people percentagewise who buy car insurance take the minimum that's required by law? [LB643]

STEVE MASON: If our agency is an example, 9.56 percent, so. [LB643]

SENATOR BAKER: 9.5. [LB643]

STEVE MASON: That was just in our agency. [LB643]

SENATOR BAKER: Okay. I know my agency has been...advised me to raise that frequently, so. [LB643]

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STEVE MASON: We do as well. We try to promote higher limits. There are agencies that specialize in high-risk insurance and those are...their percentage of minimum limits would be significantly higher. [LB643]

SENATOR BAKER: Sure. Thank you. [LB643]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? Seeing none, thank you very much. Other proponents? [LB643]

MARK RICHARDSON: Good afternoon again, Senators. My name is Mark Richardson, M-a-r-k R-i-c-h-a-r-d-s-o-n. I am once again here testifying on behalf of Nebraska Association of Trial Attorneys in support of LB643 for an increase in the minimum limits to \$50,000 as a general basis. I would echo a lot of the things that you had just heard from the most recent proponent. I can tell you anecdotally again, I just took upon myself this morning to go get a quote from one of these on-line companies that we see most frequently in terms of minimum \$25,000...25-50 limits. I went on to, I believe it was Progressive.com. I pulled a policy that had 25-50 limits. I pulled a policy that had 50-100 limits. The difference for six months was \$10. It ended up \$1.66 per month difference from that particular company to increase the liability limits from 25 to 50. Now that's not a comprehensive study by any stretch of the imagination, but it goes to reiterate the point that the first dollar of insurance is always the most expensive dollar of insurance. Once you start increasing above the minimum limits, it's not a, hey, I'm getting double insurance, I'm getting double the coverage so I have to pay double the amount. It's no way near that. So I would, you know, encourage anybody to go and look at those policies. I think you're going to find a very similar pattern where the numbers particularly for the types of insurance companies that probably sell more of these minimum limits, again what I refer to as cut-rate insurance, it's really not a significant amount of money more to pay for that. You know, I heard the question earlier about how often are these limits exceeded in the state of Nebraska, and I don't have the statistics on that. I can tell you in the cases that we handle, in the last twelve months, I can think of one claim we've had that hasn't exceeded the \$25,000 limits...that has not exceeded the \$25,000 in limits. It might be the general nature of our practice. I don't think so. I think I hear the same thing from a lot of my peers at the trial bar that say the same thing. It's the worst news you can get outside of finding that the person is uninsured is finding out that they've got the minimum limits. It's just the nature of what we deal with. I would echo what was said about, especially like the air-ambulance bills. That is a particular problem in the state and probably across the country. I've seen some of the reporting that's been done on that and I will tell you, you know, a lot of people will sit there and say, well, your health insurance is going to cover it. Not the air ambulance ones, they will come back for you. Some of them are starting to become in network and even the ones that we see get submitted to the best healthcare insurance companies in Nebraska, we still see them routinely coming back after our clients for tens of thousands of dollars in recovery. So, you know, this is a real issue. What we would say is, when you have

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somebody that's driving down the road with minimum limits and they cause an accident, two people's financial stability immediately get put in jeopardy, the person who was negligent and caused the accident because they're going to be at risk of an excess claim, such as being forced into bankruptcy, and of course, the person that they actually hit who doesn't have the resources out there to recover. I would end my testimony there and entertain any questions. [LB643]

SENATOR LINDSTROM: Thank you, Mr. Richardson. Senator Schumacher. [LB643]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom, and thank you again for your testimony. I'm trying to reconcile some inconsistencies or some puzzles between your testimony and the gentleman before and you indicated that about \$1.66 per month would get you the doubling of the coverage, and his guesstimate out in the Sandhills is like \$67 a month. But yet in his company, he said 90-some percent of the people after being offered the higher thing, still stick with the lower coverage. Now \$1.66 is a beer at happy hour. Why would anybody value a beer at happy hour more than doubling their coverage? [LB643]

MARK RICHARDSON: I don't know why they would do that. Let me clarify. I think when he was saying \$67, I think that's per six months. [LB643]

SENATOR SCHUMACHER: It may have been a year even. But you're saying \$1.66, so any kind of a salesman at all should be able to say, look, for \$1.66 a month you can double your coverage. [LB643]

MARK RICHARDSON: I think there are people out there that go to the on-line...in particular that go on-line and say, I just want the bare minimum that will allow me to be able to drive my car. And they're not interested in talking a penny more than that. If we had everybody on board with understanding the true financial risk they're putting themselves and others at when they do that, then there wouldn't be the need for this legislation. But the fact of the matter is, we have a minimum limit right now and people say, just give me the minimum and I'll roll the dice. [LB643]

SENATOR SCHUMACHER: So basically they have no assets and really nothing to lose, then in prior years--I expect we'll hear it again today--they'll say, well, heck, I'll just not have any insurance at all and I'll save the whole premium. Is that what you would see happening? [LB643]

MARK RICHARDSON: No, I don't. I would refer back to the studies that were just testified to as far as the rate of insured...the insurance coverage rates don't necessarily track the minimum limits as much as they do. They just track the general economy. I still...you know, having

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insurance on your car I believe is an accepted cost of living by the majority of the population and I just don't see if you say, hey, you're going to have to pay two to ten dollars more every month for your insurance, I don't see people saying, well, that's just too much. That's absurd. I'm not going to do that. I have a hard time believing that would be the case. [LB643]

SENATOR SCHUMACHER: And one final question. To reconcile Senator McCollister's observation that most of these cases are under \$25,000 and your observation that what you see is over \$25,000, is that simply due to the fact that most of them with the lower damage don't bother seeking counsel wanting to pay a third of it to an attorney, whereas, if it gets up in the dollars, then it's worth the fight? [LB643]

MARK RICHARDSON: I think that's fair. [LB643]

SENATOR SCHUMACHER: Okay. Thank you. [LB643]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you very much for your testimony. [LB643]

MARK RICHARDSON: Thank you very much. [LB643]

SENATOR LINDSTROM: (Exhibit 4) Other proponents? Seeing none, we'll now move to opponents. Before I go on, I do have a letter of support from the city of Lincoln in support of LB643. Now we move on to opponents. [LB643]

JIM DOBLER: (Exhibits 5 and 6) Senator Lindstrom, members of the committee, my name is Jim Dobler. That's D-o-b-l-e-r. I am a registered lobbyist and I appear today on behalf of Nebraska Insurance Information Service in opposition to LB643. This is an important issue and it affects all Nebraskans every day. So, we welcome the opportunity to provide the committee with some information to help them in the decision-making process on this bill. To begin with, I'd kind of like to set the stage of what we're talking about in terms of money that applies in an auto accident. First of all, you have the liability coverage and the minimum limit is \$25,000 per person, \$50,000 per occurrence. But in addition to the \$25,000 in liability coverage, Nebraska mandates by law that everyone carry at least a minimum amount of underinsured motorist coverage and the amount is \$25,000 per person, \$50,000 per occurrence. This underinsured motorist coverage, it's mandated and it applies in excess to the liability coverage. So if you're in an accident and the person that hit you doesn't have enough liability coverage to cover your damages, you can go to your own policy and your own underinsured motorist coverage and collect under that coverage because the person that hit you was underinsured. So as we analyze

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this situation, it's our thought that the minimum pot of money in most accidents that will be in play is \$50,000. Let's look at Exhibit A and this is claims experience or lost cost incurred by Farmers Mutual of Nebraska over a nine-year period. So these are all the losses paid under the bodily injury liability coverage of an auto policy. That's what the first box relates to. If you go to the bottom of the box, we're looking at a nine-year period, all the incurred losses are listed in the second box claim count, third box, fourth box, is the average incurred amount paid per claim. And you can see on the nine year...over that nine years, the average on a liability claim is \$22,000. The median, half above, half below, is \$5,000. And finally, the last column shows that over the nine-year period, 87.9 percent of all claims, liability claims, bodily injury liability claims, were resolved for less than 87.9 percent. The second box relates to your property damage liability coverage and you can see down at the bottom the average payment for a property damage liability claim is \$2,790. The median, \$1,672, and as you can see at the end, essentially 99 percent of them are resolved for less than our minimum limit of \$25,000. In our view, there just isn't any need for change. Let's go to the next exhibit, Exhibit B. And this is a listing of what all the states do in terms of minimum liability coverage limits. Nebraska is in a group of 32. We require one of the higher limits in the nation for liability coverage. I'm going to move along to the next one, Exhibit C, since I'm about out of time. Just to point here and I highlighted, I put in boldface, there are four states that require underinsured motorist coverage as excess coverage. Nebraska is one of those states. The second box, you'll see there are 30 states that only require this coverage, UM and UIM coverage to be offered. They didn't even mandate it. So most of the states you don't even need any of that coverage, you know, hard to take it. Exhibit D is the state of Wisconsin. In 2009, they raised their minimum liability limits from 25-50 to 50-100. Two years later that Legislature reversed itself and put them back down to 25-50. The people of Wisconsin didn't like it. [LB643]

SENATOR LINDSTROM: Thank you, Mr. Dobler. Any questions from the committee? Senator Kolterman. [LB643]

SENATOR KOLTERMAN: Thank you, Mr. Dobler, for being here. If there's such a minimal amount of claims experienced, why is it companies push their agents to sell higher limits all the time? [LB643]

JIM DOBLER: I think it's the...to me, it's the prudent thing to do. The other thing about that that's very important and it's why historically we've always thought you never try to sell so much on price, what you focus on are the assets of your client. If you have a lot of assets, if you own your home, paid off, it's...then it's very important to have the higher coverage. You know, maybe it will cost a little more, maybe not. I don't know, but in any event the focus for sales, I've always thought as, what do you have? What are your assets? If you have assets, then you'd better buy all the coverage you can get. [LB643]

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SENATOR KOLTERMAN: Okay. Thank you. [LB643]

SENATOR LINDSTROM: Senator Schumacher. [LB643]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom, and thank you for your testimony. You mentioned that when Wisconsin doubled it, then they rolled it back, that the people didn't like it. How is that dislike expressed? I mean, was there a poll? Was they dropping their policy? Did they shoot their agents? (Laughter) [LB643]

JIM DOBLER: Yes, American Family, they have their home office up there and I know some of the attorneys up there, and I talked to them about it. So, that's...it's anecdotal in that sense. I mean they've told me, people didn't like it. And that's why they changed it. And, you know, I hate to say it, but the sad fact of the matter is, insurance is not a glamorous product. You know, people would much rather put their money towards a new car or clothes or whatever than spend their hard-earned dollars on an insurance policy which no one ever sees. So, it's just...it's difficult in that sense. It's just the way it is. [LB643]

SENATOR SCHUMACHER: Thank you. [LB643]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? Seeing none, thank you very much. [LB643]

JIM DOBLER: Thank you. [LB643]

SENATOR LINDSTROM: Next opponent. [LB643]

MARK JOHNSTON: (Exhibit 7) Good afternoon. My name is Mark Johnston, M-a-r-k J-o-h-n-s-t-o-n, and I represent the National Association of Mutual Insurance Companies and as a background, I cover nine states, Kansas, Missouri, Illinois and so I can give you an answer to your Wisconsin question. And that was, there was an election and the party that passed it was turned out and the other party came in and they repealed it. And it was...I mean there were many issues that went on in that election but that really, from what I'm told by people who live in Wisconsin, that was one of the issues because there were people...again it wouldn't affect necessarily wealthier people if a person has 100, 200 or 500,000 coverage. It didn't change the rate, but it changed as they like to say, it changed the amount of cheese that they had to buy, not the price of the cheese, if that makes sense. They had to buy more coverage and for a lot of people it was more than they could afford, or at least that's what I was told. [LB643]

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SENATOR LINDSTROM: Thank you. [LB643]

MARK JOHNSTON: Thank you. [LB643]

SENATOR LINDSTROM: Any other...just one second. Senator McCollister. [LB643]

SENATOR McCOLLISTER: Yeah, you cover how many states? [LB643]

MARK JOHNSTON: Nine. [LB643]

SENATOR McCOLLISTER: Nine states, including Illinois? [LB643]

MARK JOHNSTON: Yes, sir. [LB643]

SENATOR McCOLLISTER: Is the claim experience radically different in a state like Illinois than what you saw in Nebraska? [LB643]

MARK JOHNSTON: Well, I don't know. I think you might...if you carve out the city of Chicago, I imagine that Nebraska and Illinois would be very similar. But, you know, when you get into the corp cities, there's such a density and cars and so it's a little different. That's probably the biggest change, but I really don't get into that part of it. I'm more of the legislation side. [LB643]

SENATOR McCOLLISTER: You wouldn't consider Omaha a corp city? [LB643]

MARK JOHNSTON: Well, it would, but not to...I'm from St. Louis and we have to deal with Chicagoans all the time now that they've won the World Series, which we don't need to talk about. (Laughter) But seriously, no, and you probably would see the same with Omaha, but I don't feel...driving in Omaha is like driving in Kansas City or St. Louis. Driving down Lake Shore Drive at 5:00 in the afternoon is a humbling experience. [LB643]

SENATOR McCOLLISTER: Thank you, Mr. Johnston. [LB643]

MARK JOHNSTON: Thank you. [LB643]

SENATOR LINDSTROM: Thank you. One second. Any final questions? Seeing none, thank you. Next opponent. [LB643]

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KORBY GILBERTSON: (Exhibit 8) Good afternoon, again. For the record, my name is Korby Gilbertson. That's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Property Casualty Insurers Association of America. And I won't repeat what has been said already. I wanted to provide you with some more data regarding specifically the question about whether or not the coverage that we have as our need, substantial enough to cover the vast majority of claims that are had. And if you look at the information on the backside of your sheet, you'll see that the average severity of the claims is about \$11,000, and from 2012 there's...those are the last numbers that they had run over the database. But there's also some other information but it pretty much repeats other things that Mr. Doblner and others have said, so I won't take your time because I know you can all read. Be happy to answer any questions. [LB643]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Seeing none, thank you very much. [LB643]

KORBY GILBERTSON: Thank you. [LB643]

SENATOR LINDSTROM: Next opponent. [LB643]

TAD FRAIZER: Good afternoon again, Senators. My name is Tad Fraizer, T-a-d F-r-a-i-z-e-r, representing the American Insurance Association, a national trade association of property casualty firms. I will echo the comments of the prior opponents. I realize it's kind of counter-intuitive. You'd think the sales departments of insurance companies would be turning handsprings at the thought of the state of Nebraska requiring people to buy additional insurance, but the experience or the opinion of our members is that those who can afford additional insurance are going to buy it. Those who can't are going to go with the minimums and if you're going to push up the minimums, it's probably going to increase the risk of people going bare, which puts people in a worse shape than at the present levels which, as previous testifiers have indicated, cover the vast bulk of claims. There are always going to be outliers. If you put insurance limits of a million dollars, you'd still find people in catastrophic injury situations where that would not be enough to cover the situations. So, we think under the current facts that the present levels do cover the bulk of claims. And I would try to answer any questions you might have. [LB643]

SENATOR LINDSTROM: Thank you, Mr. Fraizer. Any questions from the committee? Seeing none, thank you very much. Next opponent. Seeing none, we'll now move to neutral testifiers. Seeing none, Senator Krist waived closing so that will end the hearing on LB643. We'll now move on and open the hearing on LB66. Senator Hansen, you're welcome to open on your bill. [LB643]

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SENATOR HANSEN: Thank you. Good afternoon, Senator Lindstrom and members of the Banking, Commerce and Insurance Committee. My name is State Senator Matt Hansen. For the record, M-a-t-t H-a-n-s-e-n, and I represent the 26th Legislative District in northeast Lincoln. I am appearing here today to introduce LB66. This bill would change the state's current policy prohibiting stacking or combining of uninsured or underinsured insurance coverages. Current law states that if a consumer has available two or more policies providing coverage in a vehicle accident, or if one policy covering multiple vehicles provides two or more policy limits, the consumer may recover at most the highest coverage of those policies. The current law also sets forth a method of determining which coverage is applicable. I believe this policy is unfair against the consumers of Nebraska. Fundamentally, an insurance company takes a risk in exchange for a premium paid by consumer. The consumer pays a policy premium to the insurance company and agrees to pay up to the limit of the policy recovered if an accident occurs. But under the current condition and statutory framework, the consumer here pays a premium for each of multiple policy coverages, but cannot recover under all of those policy coverages. The consumers pay the separate premium, but is not receiving separate coverage and it is my opinion it is not as fair to the consumer. When I introduced a similar bill in 2015, some of the concerns raised were that there was a fear that from stacking multiple coverage within a family, for example, family owning multiple vehicles, could then in turn stack those coverages unfairly. I've attempted to address that in this bill by eliminating the ability to stack the policies to...by persons related and living in the same household. I will note that there are...those planning to testify behind me that have their own professional experience in dealing with this law, and its implementation in the state of Nebraska. With that, I'm always happy to work with interested stakeholders and the committee in moving forward with possible legislation and would urge you to advance LB66. [LB66]

SENATOR LINDSTROM: Thank you, Senator Hansen. Any questions from the committee? Seeing none, thank you, Senator Hansen. [LB66]

SENATOR HANSEN: Thank you. [LB66]

SENATOR LINDSTROM: We will now move to proponents. [LB66]

MARK RICHARDSON: Good afternoon again, Senators. My name is Mark Richardson, R-i-c-h-a-r-d-s-o-n. I am here on behalf of the Nebraska Association of Trial Attorneys to support LB66. I testified on a couple of bills today. Here's a couple of things I heard on those other bills from the opponents to those bills. I heard when we were talking about the step-down provision of the need to maintain the right to contract for the insureds. That's what LB66 does. It maintains the right to contract and contract fairly for the insured. When we were talking about potentially raising the minimum limits, I believe the quote I heard was, you can go to your own policy and

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collect on it because the other driver is underinsured. But that's not the end of that sentence. You can go to your driver...under current law, you can go to your own policy and collect on it because the other driver is underinsured as long as there isn't another UIM policy in play. That waives your policy in its entirety. The situation we're dealing with here is one where...really one situation where you are in somebody else's vehicle. In that situation your UM or UIM coverage as the occupant of that other vehicle is secondary to whoever owns that vehicle. The owner of that vehicle paid their premiums, they contracted for insurance. They either got \$25,000 on the minimum UIM, UM limits, or maybe they paid for more than that and let's just use the scenario where they've got \$100,000. You are an occupant of that vehicle. You have a totally different insurance company. You negotiated a contract with that insurance company so that you would have \$100,000 in UIM coverage. You are in that vehicle when an accident occurs and let's say you're struck by somebody who is...doesn't have any insurance whatsoever. The primary uninsured motorist coverage on that is the driver...is the owner of the vehicles. So you're going to get his \$100,000 of UM coverage. The antistacking statute, the way they reference it, basically takes that scenario and says, because you collected his, what he paid for, he paid for those premiums to make sure any occupants of his vehicle were protected, but because you drained his limits, because you maxed out his limits, you have no coverage for uninsured motorist. You do not have access to any money from your own insurance account, from your own insurance policy. That is the consumer, the average Nebraskan not getting the bargain for deal that they thought they were entering into. That's patently unfair. So, this is an issue about the right to contract and the right to contract fairly. We understood...when we brought this in...or when we supported this back in 2015, we heard what the insurance companies were saying. We're concerned about a situation where I myself own four vehicles. I have all of my policies with State Farm and each one of them within the policy contains a provision for UIM coverage. And all of a sudden four vehicles gets times by four, so 25 becomes 50, 75 becomes 100, or 100 becomes 400. And that's not the spirit of what you're thinking you're getting when you're buying that under...all under the same umbrella of, hey, my coverage with State Farm. We've taken that out. There's no longer that concern. The way this bill is written, it eliminates that situation or a situation where I've got two kids in the house and, you know, one is 16 and one is 18, and they both have cars and so again I have multiple cars, but the family members residing in the same house, you cannot stack those policies. We've eliminated that concern. I suspect what I'm going to hear after me here is, well, you've got another situation where we're potentially going to have to raise insurance policy premiums. Let the consumer decide what kind of coverage they want. I have yet to encounter...we deal with this three or four times a year and I have yet to encounter one of my clients who bought and paid for their UIM insurance who finds out that they don't...they either don't have any because the other person's was as much or more of theirs, or they're going to have to take a reduction on it because you have to subtract off what the other policy is first. I have yet to have a situation where I've had a client come in and say, oh, yeah, I knew that was...that was explained to me beforehand and I knew that was the situation. No, they thought they were protecting themselves with an additional \$100,000 of coverage in the event

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there wasn't enough insurance coverage out there elsewhere. And now they're finding out, once they've racked up how many in medical bills that, nope, you're not getting what you thought you were getting simply because there's a statute in the state of Nebraska that arbitrarily says, no, you don't get that. We look at this as a matter of fairness and we would challenge everyone of you to find any other law in the state of Nebraska that permits a situation where the Nebraska consumer doesn't get the benefit of the contract that they negotiated. And with that, I'm happy to take any questions. [LB66]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Seeing none. [LB66]

MARK RICHARDSON: Thank you very much. [LB66]

SENATOR LINDSTROM: Next proponent. Seeing none, we'll now move to opponents. Good afternoon. [LB66]

ANN PARR: Good afternoon, again. I'm Ann Parr, A-n-n P-a-r-r, here once again...appearing on behalf of the Nebraska Insurance Information Service. Our member companies write most of the auto insurance sold in this state and we are here today in opposition to LB66 which would allow for the stacking of underinsured and uninsured motorist coverage in certain situations. By way of background, stacking of UM and UIM coverage, as it's commonly known, is currently prohibited by both court decisions and by statute in Nebraska. The case law against stacking in Nebraska has existed since the mid-1980s and the current prohibition against stacking that exists in our statutory scheme was adopted in part because that reflected the Nebraska courts opinions on the subject way back when Senator Landis and other senators collaborated with the insurance industry to put together the current statutory scheme. With that case law in mind, that was in 1994, is when they came up with that system and it's been in effect ever since. As Mr. Richardson alluded to, variations of this bill have been heard before, most recently in 2012, 2014, and 2015. None of these bills advanced beyond this committee because the committee members recognized that the current law governing UM and UIM coverages work. It reflects what our Legislature and our Judiciary both felt was best for Nebraskans. It's been working well for the people of Nebraska for many, many years. And we do concede and appreciate that this bill is more limited in scope than some of the previous stacking bills that we've seen. However, the same principles that have cost stacking bills in the past to fail apply here. This bill would result in increased UM, UIM coverage in some cases. We believe that this increased coverage is seldom necessary. As you just heard on the previous bill, usually because you've got the amount of liability coverage and UIM coverage together, there's quite a substantial pot to draw from there. If a passenger is injured in an accident, he will have access to the liability coverage of the person who caused the accident. If that's not enough, you will also have the full amount of his own...or of the UIM coverage that covers the vehicle in which he's riding. This is a very

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generous method of applying the coverages that is more than what many states require as you'll see in the exhibits from the previous bill. And if that is not enough, then he may also tap into his own UIM coverage that he has under his own auto policy to the extent that that coverage exceeds the UIM coverage available to him on the vehicle's policy. And that's where the question rises on this bill changing that last layer to apply in full on top of the vehicle's UIM coverage rather than as the difference in limits as it currently applies is an increase in the total coverage that is seldom necessary. With that said, of course, if an insured does feel that that's not sufficient, he's always got the right to buy more coverage on his own policy if he feels like he will need that extra protection. You know, I know that our company we offer that UIM coverage up to \$500,000 per person. I know there are companies that sell it as part of the umbrella so you could get even quite a bit more. So the insured does have the right to choose how much coverage is available to him. This a question of how much would be mandated and that's a big difference. Every time you increase the cost of a required insurance coverage, you run the risk of some people not being able to afford buying a policy at all and that's a risk we can't take here. Another issue that is worth addressing here is that the way this bill is written, you would allow coverage to stack when you have unrelated occupants of a car, or related but not living together. You're defining a very specific group of insureds who will get special treatment. It's troubling to me that a passenger injured while riding with a friend would be entitled to this enhanced coverage under this bill, but a passenger riding with his sister would not, for instance. Or even more odd, a passenger injured while riding with his sister with whom he lives in the same house, would not get the benefit of stacking, but a passenger injured while riding with his sister who moved out last year and got her own apartment, would get the increased stacking. That doesn't seem to be a distinction that makes much sense. It's somewhat arbitrary and because it's arbitrary, how does an insurer assess this risk? How do they set the rate? I am almost out of time so I will stop there and just again remind you that that's not how UM/UIM coverage is designed to work. The system that we have in place has worked for decades now and provided fair coverage to Nebraskans and I would request that you leave it the way it is. Thank you. [LB66]

SENATOR LINDSTROM: Thank you, Ms. Parr. Any questions from the committee? Senator Schumacher. [LB66]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom, and thank you for your testimony. But in both cases, I mean, though on the one case that is tapped, the insurance company there took a risk, accepted the premiums, agreed to pay out the...up to the uninsured policy limits. The second insurance company took a risk, accepted the payments, and agreed to pay out up to its limits. Why should the second company be able to take advantage of the first company's policy? [LB66]

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ANN PARR: Well, they...the overall rate takes into account that in some cases when it's the excess layer, it's not going to be paying the full amount. That's all encompassed in part of the rates and I can't (inaudible). [LB66]

SENATOR SCHUMACHER: But we all know that it's pretty much a rarity to get to that second layer. And in that case, the amount of premium difference should be minimal. If I wanted to buy a policy where that wasn't the case, could I? Where this kind of...that I could stack? [LB66]

ANN PARR: Currently, no, you could not do that. What you could do is increase your own coverage if you want to have a significant amount of excess of UIM coverage, that's how you would handle that. [LB66]

SENATOR SCHUMACHER: Isn't it the case that when the courts decided this back in the '80s, they weren't deciding on the basis of, gee, whiz, what's good for Nebraska, what works for Nebraska? They were deciding on the basis of contract language and interpreted those insurance contracts. [LB66]

ANN PARR: Yes, and holding that back. [LB66]

SENATOR SCHUMACHER: Right. And when you interpret a contract, you don't say, gee, whiz, what's good for the state, you look what they agreed to. So, I mean, so it wasn't this was good for the state. This is what the insurance company lawyers wrote in the thing and the Legislature subsequently apparently said, okay, we'll go along with letting the insurance companies continue to write it this way. So, this bill just simply says, well, we won't go along with that anymore and but it's not a matter of saying, gee, we'll honor what the courts said because the courts found it was good for the state. [LB66]

ANN PARR: Yes, and I can get you the case citations. There's a series of cases talking about that, but I think there is some indication that they felt that it did not violate public policy at all to it. [LB66]

SENATOR SCHUMACHER: Well, that's a far cry from being good for the state. They were interpreting a contract. Thank you. [LB66]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? Senator Williams. [LB66]

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SENATOR WILLIAMS: Thank you, Chairman Lindstrom, and thank you, Ms. Parr. Do you know what other states around Nebraska do as far as stacking laws that they may have? [LB66]

ANN PARR: I can't tell you specifically. I know it varies greatly from state to state. [LB66]

SENATOR WILLIAMS: So there are states that allow stacking? [LB66]

ANN PARR: Yeah, every state that has their own rules on how it applies, yes. [LB66]

SENATOR WILLIAMS: And your members survive in those states providing insurance? [LB66]

ANN PARR: Somehow, yes. I don't know what the rates are, but yes. [LB66]

SENATOR WILLIAMS: Thank you. [LB66]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? I see none. Oh, I'm sorry, excuse me. Senator McCollister. [LB66]

SENATOR McCOLLISTER: As you compare Nebraska's rates with other states, are we radically different because of some of the provisions in state law? [LB66]

ANN PARR: For myself I can only tell you, we write business in Nebraska and South Dakota, and no, there's hardly any difference at all, but I can't tell you about other states. I have a feeling it's not radically different, but I don't know. I can't tell you that. [LB66]

SENATOR McCOLLISTER: So Nebraska and South Dakota are very similar in terms of rating? [LB66]

ANN PARR: Yes. [LB66]

SENATOR McCOLLISTER: Thank you. [LB66]

SENATOR LINDSTROM: Thank you. I see no questions, thank you very much. Next opponent. [LB66]

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TAD FRAIZER: Good afternoon, Senator Lindstrom and members of the committee. Again, my name is Tad Fraizer, T-a-d- F-r-a-i-z-e-r, representing the American Insurance Association, a national trade association of property/casualty insurers. I just echo the comments of the previous opponents to save time and try to answer any questions you might have. [LB66]

SENATOR LINDSTROM: Thank you, Mr. Fraizer. Any questions from the committee? Seeing none, thank you very much. Next opponent. [LB66]

MARK JOHNSTON: (Exhibit 1) Again, good afternoon. My name is Mark Johnston, J-o-h-n-s-t-o-n, and I represent the National Association of Mutual Insurance Companies. I'd echo what we've already heard, but I do want to address two topics. And one is, I take issue with the idea that somehow or another premium is being collected for a benefit that's not provided. In reality, there are different types of...as has already been mentioned, different types of uninsured motorist coverage. And if it's stackable, it has a different attribute than if it's not stackable. And take an example, and again this isn't necessarily applicable to this situation because this bill is much less extensive than the previous legislation, but this morning I called my carrier, USAA and said, I have so much coverage and I'm from Missouri, we do not stack uninsured motorists but we do stack uninsured motorists. And I just said, basically stacking, and I have in my situation fairly generous coverage, and I have four automobiles. So if I were in a stackable state, I would have roughly four times the extent of coverage that I have now in Missouri. So I said, let's go and take my rate, or my coverage, and go from what it is and divide it by roughly four, actually the numbers aren't perfect and there's other probably complications. And the difference in the rate for six months was...the guy told me if I bought just the rate that I was looking to, it would be \$60 for six months, but if I had my current coverage, it was an additional \$46 and that's backing into it. So it tells me that if I had coverage here of 100...let's say 50-100-25, and I had four cars, that if stacking were to be allowed, and again, much broader than this bill allows, I will concede that, nonetheless there would be a higher price. So really people are getting what they paid for. They're just...and I take issue with the fact that they're not...it's kind of like if...and again I'm an attorney so I'll say this. If I'm retained by a client to do a project on a retainer, you know, they're going to pay me so much per month to do something, but it's limited to this. Does that then entitle the client to call me about his divorce or their taxes? Well, is that part of the agreement or not? If I was the full-fledged retainer for this client to cover everything, then, yeah, that's like stackable coverage. But if I was there strictly to work on, you know, creating some kind of corporation or representing them in litigation for a fixed amount, no, I would consider that...that might be something I'd do out of a courtesy or professional friendship, but it would not be part of the agreement. [LB66]

SENATOR LINDSTROM: Thank you. Any questions from the committee? [LB66]

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MARK JOHNSTON: Thank you. [LB66]

SENATOR LINDSTROM: Next opponent. Seeing none, we will now move to neutral testifiers. Neutral testifiers. Seeing none, Senator Hansen, you're welcome to close. [LB66]

SENATOR HANSEN: Yes. Thank you, Chairman Lindstrom and committee members. Let me start off by saying as I said in my intro, I'm always willing to work with interested stakeholders and the committee to advance the best piece of legislation possible. In terms of the exact scope or implementation of this bill, I would be more than happy to work on a committee amendment. A couple things, though, I wanted to address is really there is that inability to contract. One of the testifiers in opposition mentioned if you had stackable coverage. Well, under Nebraska state law you can never have stackable coverage. You can have coverage that applies in certain circumstances if the other priority of coverage is a lower value than yours, but if you are somebody who has a fear of this, maybe you have a relative that had gone through a situation, you're, I want no questions asked, I want this large policy for uninsured motorists coverage. You can never quite guarantee that you'll get that full policy that you pay for. That's just not something under our current law that's allowed. And in terms of the narrow scope of the bill, there was...that was an attempt from past years when I brought it to narrow it to limit it to the coverage that we're talking about of, you know, teenage children in vehicles and some complications in the numbers there. I'd be more than happy to leave that in the bill, take that out of the bill, make it...I think it varies. Points in times it was both praised and criticized, so I'd have to look back with everybody to see how that is seen. And then finally, just kind of a comment on the increasing premiums. If this is going to increase premiums, the only way I can think mathematically that the premiums would justifiably increase, is if there are people who are being injured by uninsured or underinsured motorists who are not recovering the full value of their damages. And those are damages that are actual and that they can prove in a court. If everybody currently under state law is covered in every situation and this isn't causing any loopholes, I see no reason premiums would increase. It would only be in situations where a greater cost to insurance companies would be as if we are having situations. And I believe we are where people cannot recover the full value of their injuries because there are policies that could be available to them, but are denied via the statute. With that, I'll close. [LB66]

SENATOR LINDSTROM: Thank you, Senator Hansen. Any final questions for Senator Hansen? Seeing none, that will end the hearing on LB66. We'll now move to the final bill of the day, LB213, also introduced by Senator Hansen. [LB66]

SENATOR HANSEN: Thank you. And thank you all for joining me here today for Matt Hansen's car insurance day. (Laughter) Good afternoon, Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee. My name is State Senator Matt Hansen. For

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the record, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB213. This bill would require the insurance companies provide access to their appraisal information gathered to determine the value of cars totaled or damaged in a collision. LB213 was drafted based on an issue that a constituent brought to my attention. This constituent had talked to me about the difficulties he faced after his car was totaled in an accident that was determined to not be his fault. The constituent felt that the market survey that was being used by his insurance company was undervaluing his car and asked for a copy of the information that his insurance company used to evaluate and price of the value of the car to him himself to evaluate how well his insurance company was representing him. That request for that information was denied. That was an issue I originally raised last year and a bill which was LB740. Testimony of that bill and discussion since have been (inaudible) to me a disagreement over whether or not this idea is already covered under current law and if so, to what extent there's compliance across the state. Over the past few months we've been trying to identify ways that we could work within the current law and will continue to work with various stakeholders to try and find a middle ground that all sides could support. One suggestion was to have a state commissioner of insurance do a bulletin...issue a bulletin clarifying the current state of Nebraska law. As always, I plan to continue to work with the stakeholders in this issue and have introduced this bill to ensure that a vehicle was available during the session if necessary. Quite simply it was my intent with LB213 to make sure that appraisal information gathered is provided to a customer for the settlement in claim in question. That way consumers can be confident that they're being represented in the best way possible. With that, I'd close and welcome any questions. [LB213]

SENATOR LINDSTROM: Thank you, Senator Hansen. Senator McCollister. [LB213]

SENATOR McCOLLISTER: Thank you, Chairman Lindstrom. Do consumers now, Senator Hansen, have any recourse if they disagree with the appraisal? [LB213]

SENATOR HANSEN: I am unsure of the full extent of their...of their options of recourse. [LB213]

SENATOR McCOLLISTER: Thank you. [LB213]

SENATOR HANSEN: Thank you. [LB213]

SENATOR LINDSTROM: Senator Schumacher. [LB213]

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SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. Thank you, Senator Hansen. If...I suppose it isn't worth the money, but if they wanted to they could sue their insurance company over...and litigate the issue of the value, couldn't they? [LB213]

SENATOR HANSEN: I presume they could. Yes, so that would always be one option that you'd have, obviously, the right to a civil suit. [LB213]

SENATOR SCHUMACHER: But there's no administrative vehicle to arbitrate that? [LB213]

SENATOR HANSEN: No, to my knowledge. I suppose I could be corrected. [LB213]

SENATOR SCHUMACHER: Thank you. [LB213]

SENATOR LINDSTROM: Any other questions from the committee? Seeing none, thank you, Senator Hansen. Now proponents. [LB213]

MARK RICHARDSON: Stop me if you've heard this before. I'm Mark Richardson, R-i-c-h-a-r-d-s-o-n, and I'm here testifying on behalf of the Nebraska Association of Trial Attorneys in support of LB213. I'm a car-crash attorney. I enjoy, for some weird reason, like doing the liability side of these things and it's fighting for the little guy and I appreciate that and truly do enjoy my job doing that. What I don't like doing is getting involved in the property side of the claim. It should be cut and dry. It should be black and white. The one time that we see this fight break out usually is when my client feels like the insurance company isn't being forthcoming with how they're valuing the claim. I can tell you I've had two claims in the last two weeks where my client came to me and was, I can't believe this outrageous amount that they're going to give me for this car. This car is worth so much more. In both of those cases we were successful in getting the insurance company to give us the comparables that they were using, the summary that they used to value the vehicle. And in both of those cases, my client said, oh, that seems reasonable and the guy settled and there was no problem at all. It's the cases where they withhold that information for whatever reason behind the scenes that my clients...I've had clients file complaints with the Department of Insurance before. I have yet to have a client that has actually brought civil litigation on this. Usually you're talking about a couple of thousands of dollars. The negotiating chip that we can use in these situations is if they're using comparables and we see them and we say, wait a second, you can't use that vehicle, you can't use it from that region. And we have some success in getting...in closing that gap and making it fairer for our client to get true value for their vehicle. We think this bill makes all the sense in the world. It will go a long ways to making this more black and white, making this more cut and dry, and resolving these claims before they ever become more significant issues than...that we've seen come up. And with that, I'd take any questions that you have. [LB213]

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SENATOR LINDSTROM: Thank you, Mr. Richardson. Senator McCollister. [LB213]

SENATOR McCOLLISTER: Thank you, Chairman Lindstrom. Is it an objective or a subjective process that the insurance companies use to value a totaled-out car? [LB213]

MARK RICHARDSON: I would say they would tell you that it's objective, but we see slight differences between different insurance companies in how they put together comparables in how they look at it. What we usually see is, they put together a list of four or five comparables. My client has gone on to NABA or Kelley's Blue Book and they're trying to compare and they don't square. And so when we get that file, we see a little bit of variation in there. It seems to have objective components to it in terms of they look at the vehicles and they compare them, but again there's certainly a subjective element. It's up to the insurance company to really put those together and figure out which ones they believe to be comparables. [LB213]

SENATOR McCOLLISTER: How do you value a totaled car with Kelley Blue Book? [LB213]

MARK RICHARDSON: You go in and input the value of the car at the moment before impact, 2013 Nissan Pathfinder with this many miles and these options. It tells you what it is. [LB213]

SENATOR McCOLLISTER: Okay. I see. Of course. Of course. [LB213]

SENATOR LINDSTROM: Very good. Senator Williams. [LB213]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom; and thank you, Mr. Richardson. This is a first for me, the first time trial attorneys have testified in favor of four bills in a row. (Laughter) [LB213]

MARK RICHARDSON: I'm not sure that's a record I wanted to set, but...you're very welcome. [LB213]

SENATOR LINDSTROM: Any other questions from the committee? Seeing none, thank you very much. [LB213]

MARK RICHARDSON: Thank you very much, Senators. [LB213]

SENATOR LINDSTROM: Next proponent. Seeing none, we'll move to opponents. [LB213]

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COLEEN NIELSEN: (Exhibit 1) Good afternoon, Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee. My name is Coleen Nielsen. That is spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for the Nebraska Insurance Information Service. NIIS is a state trade organization comprised of approximately 20-member property/casualty companies doing business in the state of Nebraska. I appear in opposition to (LB)213. One of the primary reasons for our opposition to this bill is that it seeks to amend the Unfair Claim Settlement Practices Act by creating a new violation of the act. This, in our opinion, is not the appropriate remedy based on the testimony that has been presented. The purpose of the Unfair Claim Settlement Practices Act is to assure prompt, fair, and equitable settlements. Insurers are required to follow this act and in failing to do so face penalties pursuant to the insurance code. In order to constitute a violation of the Unfair Claims Settlement Practices Act, the actions listed in the act must occur with such frequency as to indicate a general business practice, or committed flagrantly and in conscious disregard of the act. The act currently provides that it is a violation that in the case of the denial of a claim, or the offer of a compromise settlement, to fail to promptly provide a reasonable and accurate basis for such action. It's our position that this provision already covers the situation contemplated by this bill. The act is not intended to address anecdotal issues. Anecdotal issues can and should be handled by a complaint to the Department of Insurance. The bill provides an additional violation to the act that states failing to disclose to a claimant, prior to the settlement of a claim involving damage or the total loss of a motor vehicle, any appraisal information used by the insurer in determining the value of such motor vehicle. Information regarding damage to a vehicle is usually conveyed to the insured by an estimate from the body shop. But with regard to the valuation of a total loss, the phrase, any appraisal information used by the insurer is overly broad and vague, it's our contention. Most insurance companies use computer programs to help them value a total loss vehicle. Data may be from multiple sources with consideration of many details such as make and model, mileage, condition, and more. There are also databases that calculate the fair market value based on the actual sales for comparable vehicles in the geographic area. It would be important to clarify what is actually required by this language. Insurance companies do strive to assure prompt, fair, and equitable settlements. Claims people are trained to explain the valuation process. Insureds and claimants are encouraged to provide any information that they may have with regard to the vehicle that would help them in settling the claims. Most settlements happen quickly and efficiently. Finally, it's our contention that this bill simply is not needed and that the unfair claims handling of total loss of vehicles is already covered under the law. We, therefore, request that this bill not advance. I'd be happy to answer any questions. [LB213]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Seeing none, thank you very much. Next opponent. [LB213]

TAD FRAIZER: Good afternoon again, Senators, members of the committee. My name is Tad Fraizer, T-a-d F-r-a-i-z-e-r, again representing the American Insurance Association, a trade

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association of the national property/casualty firms. Again in the interest of time, I would echo the comments made by Ms. Nielsen. We think this is covered under the existing law and is not really necessary under the circumstances, and will try to answer any questions you might have. [LB213]

SENATOR LINDSTROM: Thank you, Mr. Fraizer. Any questions from the committee? Seeing none, thank you very much. Next opponent. Seeing none, we will now move to neutral testifiers. Good afternoon, Director. [LB213]

BRUCE RAMGE: (Exhibit 2) Good afternoon, Chairman Lindstrom 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, and I am the Director of Insurance for the state of Nebraska. I am here today to testify in a neutral capacity on LB213. As you know, LB213 would add a new unfair claims settlement practice to the Unfair Claims Settlement Practice Act for failure of an insurer to provide appraisal information to a claimant prior to the settlement of a claim involving damage or total loss to a motor vehicle. I would point the committee to subsection 13 of Nebraska Revised Statute, section 44-1540, which is on page 3, lines 13 through 16. It provides that it is an unfair claims settlement practice for failing, in the case of the denial of a claim or the offer of a compromise settlement, to promptly provide a reasonable and accurate explanation of the basis in such action. If a claimant filed a complaint with the Department of Insurance because an insurer would not provide the appraisal information on a motor vehicle when requested during a settlement negotiation, the department would send an inquiry to the insurer to explain why the refusal to provide such information is not in violation of section 13. That is a long-winded way of saying that the intent of LB213, for insurers to provide these appraisals, is already covered by current law. If the committee wishes to move this legislation forward, the department would have no objections. However, the language should be amended as to not impede the prompt settlement of claims when the parties are already in agreement. The appraisal should not be required to be provided unless requested by the claimant. This is also a good opportunity to tell the committee and Senator Hansen that if a constituent contacts you or your office with a complaint against an insurer or agent, please feel free to have that constituent contact the Department's Consumer Affairs Division. I am very proud of the assistance the division provides Nebraskans. In 2015, the division fielded roughly 8,000 phone calls and e-mails and completed 1,464 investigations. These investigators often lead insurers to reevaluate their own actions, and \$6.6 million was received by consumers after the division's involvement. Thank you for the opportunity to testify on LB213. [LB213]

SENATOR LINDSTROM: Thank you, Director. Any questions from the committee? Seeing none, thank you very much. [LB213]

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BRUCE RAMGE: Thank you. [LB213]

SENATOR LINDSTROM: Any other neutral testifiers? Seeing none, Senator Hansen, you're welcome to close. [LB213]

SENATOR HANSEN: Yes, thank you. As I said before...oh, I guess I could address some of the concerns of whether or not it's covered in law. This is something that obviously I've brought now a couple of times trying to get to the bottom of this. I do think there are some implementations of this and I realize he referenced, I believe section 13...subsection 13. I would have to go and get further clarification for some of the situations that I'm thinking of because this is in denial of a claim or offer of a compromise settlement. This is...was to make sure that would cover all circumstances such as in my case somebody accepted the claim, but then gave a much lower number than the constituent expected. If I...from the testimony from last year really was, it was we accept your claim, it wasn't your fault, we accept we're going to pay you out, we're going to pay the total value of your car, which is \$7,000. The constituent said, hey, it's \$10,000. And they went back and forth and eventually came up with an agreement where they both agreed to something in the middle. That being said, I don't necessarily think new legislation is always needed and always needed in this case if the circumstances that I'm envisioning are already covered. I will say, I do think we are rising at the point where I don't know where anecdotal evidence becomes data, but I do worry that there is not complete compliance with this in Nebraska and would keep working to make sure that this is aware so consumers are protected. [LB213]

SENATOR LINDSTROM: Thank you, Senator Hansen. Senator McCollister. [LB213]

SENATOR MCCOLLISTER: Thank you, Chairman Lindstrom. After listening to the opponents' testimony, is this a common practice where the insurance company refuses to give the copy of the appraisal or the basis for the appraisal? [LB213]

SENATOR HANSEN: It certainly happens. It's happened to my constituent. I'm disappointed that we had a couple of people who came last year when I presented a similar bill who would relate their stories as well, including some other people. As you said...as Mr. Richardson, the trial attorney testified, he obviously on behalf of his clients, it's difficult to getting this information sometimes as well. [LB213]

SENATOR MCCOLLISTER: Have they contacted the banking department (sic: insurance department) in the state of Nebraska when they have a dispute? [LB213]

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SENATOR HANSEN: I cannot speak for any and all instances. Certainly if that's the way both the banking department (sic: insurance department) and insurance companies want to go, that's certainly something we can do. Although if it is in violation of statute, we're requesting more reporting, will be interesting to see if that will curb the behavior. [LB213]

SENATOR McCOLLISTER: Thank you, Senator Hansen. [LB213]

SENATOR LINDSTROM: Thank you. Again clarifying, they mean insurance department. [LB213]

SENATOR HANSEN: Say again. [LB213]

SENATOR LINDSTROM: Insurance department. Any other questions for the Senator? Seeing none, thank you very much, Senator Hansen. [LB213]

SENATOR HANSEN: Thank you. [LB213]

SENATOR LINDSTROM: And that will end the hearing on LB213 and that ends the hearings for today. Thank you very much and we will see you next week. [LB213]