

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 19, 2019

**WILLIAMS:** Welcome, everyone, and welcome to the Banking, Commerce and Insurance Committee hearing. My name is Matt Williams. I'm from Gothenburg and represent Legislative District 36, and I am pleased to serve as Chair of the committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on a proposed-- on the proposed legislation before us today. The committee members will come and go during the hearing. We have to introduce bills in other committees and are sometimes called away. It is not an indication we are not interested in the bill being heard in the committee; it's just part of the process. To better facilitate today's proceedings, I ask that you abide by the following procedures: please silence or turn off your cell phone; move to the front row when you are ready to testify. The order of testimony will be the introducer, followed by proponents, opponents, neutral testimony, and then the presenting senator will be asked to close. Testifiers, please sign in, hand your pink sign-in sheet to the committee clerk when you come up to testify. And also, when you testify, please say and spell your name. Be concise. It is requested that you limit your testimony to five minutes, and we do use a clock in the Banking, Commerce and Insurance Committee. The clock will be on green for four minutes, yellow for one minute, and then it will turn red. And we would ask you to conclude your testimony at that time. 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 the staff when you come up to testify, and we will need ten copies. If you do not have ten copies, if you would raise your hand now, one of our pages can make those copies for you. To my immediate right is committee counsel, Bill Marienau. To my left at the end of the table is committee clerk, Natalie Schunk. And the committee members that are with us today will introduce themselves beginning with Senator McCollister.

**McCOLLISTER:** Thank you, Senator Williams. My name is John McCollister. I represent District 20, central Omaha

**KOLTERMAN:** My name is Mark Kolterman. I-- I represent District 24: Seward, York, and Polk Counties.

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

**La GRONE:** Andrew La Grone, District 49, Gretna and northwest Sarpy County.

**HOWARD:** Sara Howard, District 9, midtown Omaha.

**GRAGERT:** Tim Gragert, District 40, Ce-- Cedar, Dixon, Knox, and then Holt, Boyd, and Rock.

**WILLIAMS:** And our pages that are with us today are Kylie and Nedhal. If you would stand and be recognized, thank you for your service to the Nebraska Legislature. And we will begin our first hearing, and we'll open the hearing on LB274 to change provisions relating to stacking of coverage under the Uninsured and Underinsured Motorist Insurance Coverage Act. And we would ask Senator Matt Hansen to open.

**M. HANSEN:** Thank you. Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Matt Hansen, M-a-t-t- H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB274 which 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 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 in Nebraska. Insurance companies take risks in exchange for premiums paid by consumers. The consumer pays a policy premium to the insurance company and agrees upon to pay up to the limit of the policy recovered if an accident occurs. I introduced a similar bill in 2015, and after feedback from the committee concerning the ability to unfairly stack coverages for policies of those related and living in the same household, I introduced LB66 and LB2-- in 2017. LB274 is a reiteration of my 2017 bill which allows for stacking on policies held by different policyholders to determine the amount of insurance coverage available, but does not-- does not allow stacking under the same policy or separate policies held by the same person or related persons living in the same house. I believe LB274 is a fair approach to recovering damages in these specific situations. With that, I would ask the committee to advance LB274 to General File. Be happy to take any questions.

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**WILLIAMS:** Thank you, Senator Hansen. Questions for the senator?  
Senator Kolterman.

**KOLTERMAN:** Yeah. Thank you, Senator Hansen. I was just curious who--  
who are you bringing the bill for?

**M. HANSEN:** The Nebraska Association of Trial Attorneys asked me to  
bring it.

**KOLTERMAN:** OK. Great. Thank you.

**M. HANSEN:** Of course.

**WILLIAMS:** And-- and one question that I would have, not necessarily  
for you, Senator Hansen, but for somebody coming behind you, for those  
of us that aren't directly in the insurance business, having an  
understanding of who's covered when and all that stuff with uninsured  
and underinsured motorist coverage would be helpful. So I'm assuming  
somebody behind you is listening to me and will come up and explain  
that to us.

**M. HANSEN:** I'm sure there's somebody nodding behind me, yes.

**WILLIAMS:** Seeing no other questions, thank you. Will you--

**M. HANSEN:** Thank you.

**WILLIAMS:** --will you be staying to close?

**M. HANSEN:** I plan to, yes.

**WILLIAMS:** Thank you. We'd invite the first proponent.

**MARK RICHARDSON:** Good afternoon, Senators.

**WILLIAMS:** Good afternoon.

**MARK RICHARDSON:** My name is Mark Richardson, M-a-r-k  
R-i-c-h-a-r-d-s-o-n. I am here today on behalf of the Nebraska  
Association of Trial Attorneys. I'd be happy to explain a little bit  
further underinsured and uninsured motorist coverage. The concept is  
just simply that you're protecting yourself under your own policy  
against the potential that you're going to be involved in an accident  
that is somebody else's fault and they don't have coverage or they  
don't have sufficient coverage. So this is coverage under your own  
policy. You pay a premium for it. If you get hit by somebody that has

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minimum limits of \$25,000 and you have medical bills of \$100,000, if you have \$100,000 UIM, underinsured motorist policy, then you get the 25 from the liability carrier and you get the-- you have up to another \$100,000 from your own policy. The way stacking works is if there are multiple UM or UIM policies at play, only the highest limit applies. And so you end up with one or more policy that actually either doesn't have to pay at all or pays a reduced amount of the total limit. So, Senator Williams, if I'm driving in your car and-- or if you're driving and I'm a passenger in your car, you have underinsured motorist policy coverage on your car and all-- for all the occupants in your car. I have underinsured motorist coverage for myself, and so there are two UIM policies at play here. Let's say we get hit by a person that only has \$25,000 and I'm entitled to that money because my medical bills are way more than that. If you have \$100,000 UIM limit and I have \$100,000 UIM limit, because it's your car, your UIM policy pays the \$100,000. Under the anti-stacking statute that currently exists, I have paid a premium for \$100,000 that I get no benefit of. Only your policy applies. If I have \$250,000 in coverage higher than your limit, than you pay-- your policy pays the hundred. My policy pays 150. So in that case, I'm not getting the full benefit of the insurance limits that I have-- that I've paid my premiums for. Four years ago and six years ago before that, we brought a bill that tried to do away with the-- with stack-- or-- with this anti-stacking in total. We heard the complaints from the insurance company that came in and said, you know, you might have a situation where I own four vehicles and I have four different policies covering four different vehicles. I shouldn't be able to stack each one of those-- those policies on top of each other to pay a claim so it acts as a multiplier effect, you know, particularly if you have, you know, kids that you might have multiple cars for. So we-- we went through and drafted a new bill to introduce, one that only applies in the situation that I just described. It only applies in a situation where there are different policy owners. So really, you could think of it as a passenger bill. If I am a passenger in somebody else's vehicle and that driver has his own UIM coverage and I have my own UIM coverage, that driver paid for premiums for that UIM and I paid for premiums, I should get the benefit of both of those separate policies that were-- that separate pe-- premiums paid for them. I shouldn't lose the benefit of what I paid for from-- from my insurance company. Now I'll be as-- I want as honest of a discussion of this as we can have here. I am a plaintiff's personal injury attorney. It is in my financial best interest to have more coverage out there, so we are in favor of this bill. Insurance representatives are going to get up here after me

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and come up-- come up with, I assume, the same arguments that they've had for the last few years about why this is a bad thing because it's going to raise insurance premiums and so on. I would challenge them to show us what the actuarial tables tell us about what it's going to-- to actually do in insurance-- to insurance premiums. We certainly don't have access to that kind of information. My guess is they do, and if they wanted to produce it, they could. But the reality is the insurance companies don't want this bill because it makes them have to potentially pay out more benefits on the back end. So I'm biased because it benefits my practice to-- to allow stacking in this limited situation. I think it's fair to say the insurance companies are biased because it-- it allows-- the anti-stacking allows them to not have to pay benefits in certain situations. But the question here should be what is fair to the people of Nebraska, to the individual constituent that went out and said, I want to make sure that whatever else happens out there I'm going to have an additional \$250,000 of underinsured motorist coverage on top of whatever anybody else has out there. I'm going to make sure that I have my additional 250, and I'm going to pay premiums for that, and I'm willing to do that. And then I get in-- into a car with somebody and I get hit-- that car gets hit by a negligent driver that isn't insured or doesn't have enough insurance coverage, and I find out there's 25 there. There's 100 here that's covering the-- the vehicle that I'm in. And then I was like OK, well, there's a \$150,000, that's great, my 250 on top of it. You know, with the way medical bills are, I can guarantee you I've had cases in the last year that have half a million dollars of medical bills or more. And all of a sudden I'm being told I don't get my 250. I get 150 because I-- because my insurance company gets to take off the first 100 that the guy whose car I was in paid premiums for. My insurance company gets the benefit of that and I don't. And we're-- it's really frustrating to sit here two years ago and make this case. And just-- it feels like we're almost, you know, hitting our heads against a brick wall on this because the fairness seems so obvious on the surface. I've had three cases since then where I've had to go explain to clients why they're not getting the benefit of their own policy. And two years from now, if this bill doesn't pass, I'm going to be right here testifying again because this is a matter of fairness for the-- for the constituents of the state of Nebraska. And until it-- that fairness gets resolved in the favor that it should, we're going to keep pounding the table and keep asking for this because it's important. So I thank you for listening to my testimony today.

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**WILLIAMS:** Thank you, Mr. Richardson. Are there questions? Senator Kolterman.

**KOLTERMAN:** Thank you, Senator Williams. Question about does-- does the insurance typically follow the car?

**MARK RICHARDSON:** Underinsured motorist and uninsured motorist typically follows the person not the vehicle. Although, it does also follow the car.

**KOLTERMAN:** So how do you-- so how do you underwrite for somebody that's in your car that you have no-- you have no control over?

**MARK RICHARDSON:** That is--

**KOLTERMAN:** They-- they might be carried-- are you-- the-- the next thing you're going to say is well, you got a million dollar umbrella and you got 250 underinsured or uninsured motorist. How does-- how does Company A who you're writing with, underwrite for the person that's a passenger that's got these high limits?

**MARK RICHARDSON:** They don't. Their-- their-- that-- the person that's in their car, their limits have no bearing whatsoever on that analysis.

**KOLTERMAN:** They would if you're stacking them, wouldn't they?

**MARK RICHARDSON:** No, because the driver's policy is always primary.

**KOLTERMAN:** I understand that, but--

**MARK RICHARDSON:** So-- so--

**KOLTERMAN:** --you're talking about excess and stacking.

**MARK RICHARDSON:** Yeah, so I-- I guess you're asking me from the reverse situation--

**KOLTERMAN:** Yeah.

**MARK RICHARDSON:** --where-- where the passenger account for the fact that they may or may not have to pay based on who else-- who else has coverage?

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**KOLTERMAN:** Well, the passenger's not underwritten if there's an automobile accident, right?

**MARK RICHARDSON:** Well, their-- they certainly have access to their own underinsured motorist coverage.

**KOLTERMAN:** But-- but they're not underwritten on the primary-- the ve-- the driver of the vehicle,--

**MARK RICHARDSON:** Correct.

**KOLTERMAN:** --they're underwritten for the car that he's driving.

**MARK RICHARDSON:** Correct.

**KOLTERMAN:** So how do you-- how does the-- how do you account for the exposure for the underinsured and the-- the uninsured if you're stacking it? You're creating a higher exposure for an insurance company that they don't-- I mean, I know you're stacking it on top of, but.

**MARK RICHARDSON:** But-- but in that situation, for-- from the-- from the coverage that is covering the vehicle, it's not any higher exposure.

**KOLTERMAN:** No, but-- but you're-- but then you're bringing Company B in, A and B,--

**MARK RICHARDSON:** Correct.

**KOLTERMAN:** --and you're going to stack it on top of-- it seems to me, like you're-- you're just creating more money, a bigger pot, that hasn't completely been underwritten by Company A.

**MARK RICHARDSON:** Well, I mean, you can cert-- you can certainly ask the insurance representatives that are going to get up here after me about how they-- how they account for that type of a risk. But the fact of the matter is, the person that is sitting in the passenger seat has absolutely paid every prem-- premium required of them to obtain their \$250,000 of coverage. And that-- that risk is no different whether it's a \$100,000 UIM policy that's there for the driver or whether it was \$100,000 policy that was there for the liable driver.

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**KOLTERMAN:** But they're paying the-- they're paying the \$250,000 for their own vehicle not the vehicle they're riding in.

**MARK RICHARDSON:** Again, are you talking about the coverage that-- that goes with the vehicle?

**KOLTERMAN:** Well,--

**MARK RICHARDSON:** With the driver?

**KOLTERMAN:** --what I'm saying is Company--

**MARK RICHARDSON:** I might not be understanding, I'm sorry.

**KOLTERMAN:** --Company B had nothing to do with-- with what the driver of this vehicle or underwriting this vehicle so--

**MARK RICHARDSON:** Correct.

**KOLTERMAN:** --so what you're saying is Company A has their liability protection and company B has theirs. And you're saying we're going to stack that on top of Company A so we can get higher limits.

**MARK RICHARDSON:** Well, I don't think we're asking the insurance company to stack anything on top of anybody for higher limits. I mean, it's the same situation as-- I mean, I-- I fail to see how that is different than, you know, I'm riding my bicycle and my underinsured motorist coverage covers me. And I get hit by a driver who has \$25,000 worth of coverage versus I get hit by a driver with a \$100,000 worth of coverage. I mean, that-- that's going to have a different-- differentiating effect of when my UIM kicks in. It's the same thing when I'm in a vehicle with somebody. Maybe the person I'm driving with only has \$25,000 of coverage. Maybe the person I'm driving with has \$100,000 of coverage. That's going to be primary. And it's only in the event, I think this is another good point is, it's only in the event that my damages actually warrant payment of my policy limits or-- or-- or payment of my policy benefits. So I mean, if it's a case that's only worth \$50,000 and there's \$50,000 of UIM or-- or under-- uninsured motorist coverage for the driver's policy, then I get that and I don't get anything from my insurance. It's only if I have-- have damages that exceed into my policy limits, I should, since I've paid the premiums for those, I should be able to get the benefit of those benefits that I've paid for. And in this-- and with stacking, you simply don't get it. You get what the other guy paid for. You get the

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benefit of the premiums for the driver of the car you were in, but not your own.

**KOLTERMAN:** But the present time, you don't get it.

**MARK RICHARDSON:** You always get the driver's.

**KOLTERMAN:** I know, but you don't get the stack at the present time.

**MARK RICHARDSON:** You don't get your own benefits. You don't get the benefits that-- under the stacking rules as they currently exist, that is true. You do not get the benefits that you paid for under your insurance policy contract.

**KOLTERMAN:** That-- that's the point I was trying to make here.

**MARK RICHARDSON:** Yeah. I-- I would agree with that.

**WILLIAMS:** Additional questions? With-- with that, I-- Mr. Richardson, I-- I want to just be sure that I understand that example then again, with you and I riding in the car with the 250. And they, you know, you're-- you're saying I'm not getting-- or you're not getting 250 under your own policy, but you're getting a total of 250, correct?

**MARK RICHARDSON:** You're getting the total of whatever's highest.

**WILLIAMS:** I-- that's what I-- I wanted to get that--

**MARK RICHARDSON:** So--

**WILLIAMS:** --square in my mind.

**MARK RICHARDSON:** --yeah, so--

**WILLIAMS:** It's just is not coming from your own.

**MARK RICHARDSON:** Exactly. So if it was the reverse situation where the driver had 250 and I had 100, then the driver's pays 250 and I don't get anything from my own policy.

**WILLIAMS:** Right. Right.

**MARK RICHARDSON:** Yeah. You got it.

**WILLIAMS:** Additional questions? Senator Kolterman

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**KOLTERMAN:** Just got to make sure. So what you're-- you're just saying is, if-- in your recent example, the driver had 250 and you had 100, you can't stack that on top. If it's the reverse, you can-- you only get the 250.

**MARK RICHARDSON:** Correct. It-- whichever limit's highest is the one you get, and it always starts with the driver.

**KOLTERMAN:** OK.

**WILLIAMS:** Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Senator Williams. Just so I understand, so the driver has 250. You have \$100,000 on your automotive policy, correct?

**MARK RICHARDSON:** Correct.

**McCOLLISTER:** It's not an umbrella.

**MARK RICHARDSON:** Correct.

**McCOLLISTER:** It's on-- on your-- but to the extent that you exceed \$250,000 per occupant? Per person?

**MARK RICHARDSON:** It depends how it's written. A lot of times it can be per-- per person, per incident.

**McCOLLISTER:** OK.

**MARK RICHARDSON:** So if-- if it's-- like you can have a UIM policy that's like a 250/500--

**McCOLLISTER:** OK.

**MARK RICHARDSON:** --where the individual policy limit is \$250,000 per person, but the total for an incident is 500. So if there's two people injured, both of those individuals would get the benefit of \$250,000.

**McCOLLISTER:** And so under your bill, if you have \$100,000 policy under your own, you could-- you could access that money if your claim exceeds 250.

**MARK RICHARDSON:** No. Under my bill?

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**McCOLLISTER:** Yeah.

**MARK RICHARDSON:** Under this bill?

**McCOLLISTER:** Yeah.

**MARK RICHARDSON:** Yes, absolutely. Under this bill-- bill, yes, you get to access your own policy in that situation.

**McCOLLISTER:** I see.

**WILLIAMS:** Seeing no other-- other-- thank you for your testimony.

**MARK RICHARDSON:** Thank you, Senators.

**WILLIAMS:** Invite the next proponent. Seeing none, I would invite the first proponent-- or o-- opponent, excuse me. We'll get that right, Senator Howard. Welcome, Miss Parr.

**ANN PARR:** Thank you. Good afternoon, my name is Ann Parr, that's A-n-n P-a-r-r. I am appearing today on behalf of the Nebraska Insurance Information Service which is a state trade organization comprised of approximately 20 member companies. Together we write most of the auto insurance in this state, and we are here today in opposition to LB274 which, as you heard, will offer stacking in certain situations. I'm going to scrap some of my testimony because I-- I think I'm-- I'm hearing some questions and I'm-- I'm going to try to kind of target some of the issues that have come up in some of the questioning. I think most of what Mr. Richardson said was true. There are some clarifications that I'd like to make, as we go along, on how that would work exactly. As others have mentioned, this is not the first time that we've seen this bill. There have been variations of stacking bills every session that I've been employed doing this kind of work. And those of you lucky enough to serve on this committee before have seen this exact bill just last session. None of those bills have advanced from this committee because I think overall the committee has determined that the way it works now, which has been in place for decades, is fair to Nebraskans and offers them sufficient coverage for what they purchased. So we do concede and appreciate that this particular bill is very limited in scope. It's not a broad stacking bill. It only applies in certain situations. The same principles for and against stacking apply. But this particular bill has some-- some quirks to it that make it a little bit different, and I'd like to address those specifically. This bill allows coverage to stack when

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you have unrelated occupants in the same car or related but not living together. So you're defining a very specific group of individuals who will get this special treatment. Frankly, it seems, while I appreciate what they're trying to do, it seems strange, frankly, that a passenger who is injured while riding with his friend would be entitled to this enhanced stacking coverage under this bill, but a passenger who is riding with his sister would not, for instance. Or actually, a passenger who is 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 has moved out would get the increased stacking. So that seems to be, frankly, a distinction that doesn't make much sense. It's arbitrary, and because it's arbitrary, it would make it very difficult for an insurer to adequately assess the risk and set the rate and so forth. I've got more testimony on this, but I sense that there are questions about how this applies. So I guess I would like to offer to answer some of those. In general, I would make the comment that it's true that if I have \$100,000 in underinsured motorist coverage and I'm a passenger in a vehicle that just has \$25,000 in UIM coverage, I'm only going to get at most \$75,000 from my own policy. It'll be first, the \$25,000 on that car, and then the difference is made up under my own policy. And while it seems, on its surface, that I have paid for \$100,000 in UIM coverage which does apply in certain circumstances, the rates overall, the premium that's charged for that, take into account the fact that sometimes we don't pay out the full \$100,000. All I can offer you-- I can't give you the actuarial statistics on any of that, but I-- I can just point out that the rates overall take into account the fact that sometimes we are not called upon to pay out the entire amount of that coverage, sometimes because there's underlying coverage that applies first, sometimes because the claim isn't worth that much. That's all taken into account when we charge for that. So it's not as if the policyholder is getting cheated out of any coverage that he bought. The coverage he bought takes that into account. So I would close with that, and-- and just say that we believe that the system in place works fairly. Most of the time it is sufficient, more than sufficient, to cover what that policyholder needs and has-- and has contracted for. And we would ask that you leave the system in place as it is. Thank you.

**WILLIAMS:** Questions from the committee for Miss Parr? Senator Kolterman.

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**KOLTERMAN:** Thank you. Do you know, do most umbrella policies have added protection for UM and UIM?

**ANN PARR:** That varies by company. I know our company does not offer that under the umbrella. Some companies do.

**KOLTERMAN:** But there are those that do?

**ANN PARR:** There are, yeah, quite a few, in fact.

**KOLTERMAN:** Yeah.

**ANN PARR:** Yeah. You can-- you can add UM/UIM coverage--well, you get it automatically under your auto policy. You can increase the amounts under your auto policy, and some companies will allow you to add it under your umbrella as well which would give you an add-- additional layer

**WILLIAMS:** Additional questions? Senator Gragert.

**GRAGERT:** Thank you, Senator Williams. Thank you. I just have one question. So you-- the scenario you just built, the individual had \$25,000, so I'm only going to get \$75,000 a month. What if I was in a car, and they didn't have any insurance, do I get the \$100,000?

**ANN PARR:** Yours would-- yours would drop down and apply first. Yes. Um-hum. Yeah. If there-- to the extent there is coverage on the vehicle, that's always primary, but if there's not--

**GRAGERT:** But you're only going to give \$75,000 because the other individual had 25? They weren't paying-- they weren't maybe even paying you.

**ANN PARR:** If they've got zero, then you've got the full benefit of your policy which would be \$100,000.

**GRAGERT:** Right, but I mean, even at the \$25,000, why wouldn't they get their \$100-- \$100,000 they were paying for, I guess?

**ANN PARR:** Well, and that's-- that's what I was trying to explain is that what you pay for is--

**GRAGERT:** \$100,000.

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**ANN PARR:** --yeah. And if you're in your own car, you are going to get \$100,000. If you're in someone else's, you're going to get 100,000 minus whatever that vehicle has on it already.

**GRAGERT:** Yeah.

**ANN PARR:** And that's all part of the rate calculations.

**GRAGERT:** OK. Thank you.

**ANN PARR:** Yeah.

**WILLIAMS:** Seeing no other questions, thank--

**ANN PARR:** OK. Thank you.

**WILLIAMS:** --you, Miss Parr. Invite the next opponent. Welcome, Mr. Dobler.

**JIM DOBLER:** Good afternoon. Senator Williams, members of the committee, my name is Jim Dobler, that's J-i-m D-o-b-l-e-r. I'm a registered lobbyist appearing today on behalf of the Professional Insurance Agents of Nebraska. This is an organization of independent agents, and it consists of about 1,000 agents located throughout the state of Nebraska. And I appear today in opposition to LB274. Begin with the issue of cost. Yes, you can change how various insurance coverages work, you can expand how they work, offer-- offer more benefits, but there's a cost to that. Part of the concern of the agents, and-- and I think the industry, is if you provide for a broader form of stacking, there's a cost to that. And it will impact those that can least afford insurance. Ultimately, we think it will lead to more uninsured motorists. That's part of why I don't think this is a good idea. Related, another cost issue, when you change how stacking works and how this coverage applies, once that change starts, what does the insurance company do with their rate? Well, nothing, initially. From an actuarial standpoint, it takes generally five years of loss data to determine what the correct rate ought to be for whatever the change is made. So it takes some time. If you suddenly have all forms of stacking, so be it. But the company, to get an actuarially sound figure as to what should be charged in addition to the current rate, they need years of loss experience to do that. So until that happens, those loss costs will just be lumped in with what's already there, and one-- and essentially it'll-- it'll raise rates over time. But for a certain extent, you incur that cost, and--

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and it's just there. Want to move to a different issue here, and that's how stacking works. There are two forms of stacking. There's horizontal stacking and vertical stacking. Horizontal stacking is a situation where you stack the coverages that you have with your policies and your cars. So it's horizontal within, say, your paneling, and you can stack the various layers of uninsured and underinsured motorist coverage you might have on your cars. The other form of-- of stacking is vertical stacking, and vertical stacking is when you-- you-- you have a different category of insured that's involved in the coverage situation. The best example is, if I am riding in Senator McCollister's car, I have my own policy, he has his policy. I am not in the same category of insured as he is. He has his own stuff with his car. I'm in a separate category with my own stuff and my car. That situation, vertical stack-- stacking already takes place in Nebraska. So that type of stacking is here right now. The horizontal stacking, stacking your own things in your own household, your own cars, that's what's prohibited in-- in this, in our current law. So that's the basic way stacking works. Finally, the-- there's a document called the Guiding Principles. This was developed by the insurance industry many years ago, 1950's, 1960's. And they devised a way to figure out how policies, multiple policies, apply. The Guiding Principles say the policy insuring a specific item goes first. The policy insuring on a general basis is excess. That's why you have underinsured motorist coverage on the car primary and underinsured motorist coverage with the passenger secondary. It's been done that way for a long time. The industry figured that out. It's all under the Guiding Principles. With that, I think I'll stop, and try to answer any questions you might have.

**WILLIAMS:** Are there questions? Senator Gragert.

**GRAGERT:** Thank you, Senator Williams. I might have a quick one because I don't know if I'm really getting this. This horizontal, so if I have four cars and I got different amounts of insured-- uninsured insurance on each one of them, it depends on what car I'm in? Is that how much I'm going to get? Like say I-- if I got \$100,000 on one car and only \$25,000 on another. Does it depend on what car I'm in, is what I'm going to get?

**JIM DOBLER:** No. No. Horizontal stacking would say that how-- whatever-- however many-- you have four cars, and you can stack all the uninsured or underinsured coverage on those four cars.

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**GRAGERT:** OK. Thank you.

**JIM DOBLER:** Yeah. That would be horizontal and that's-- that's prohibited under Nebraska law.

**WILLIAMS:** Would you go forward with that, with the dollar limits, so that I clearly understand what Senator Gragert was asking--

**JIM DOBLER:** In terms of--

**WILLIAMS:** --so that if you-- if-- if you-- let's make it simpler, just two cars--

**JIM DOBLER:** OK.

**WILLIAMS:** --and one with 25 and one with 100. And how-- how does that work stacking horizontally?

**JIM DOBLER:** Well, it-- it-- they-- they would-- both amounts of coverage would be stacked, period.

**GRAGERT:** So 100-- oh, I'm sorry.

**JIM DOBLER:** 125.

**WILLIAMS:** Go ahead, Senator Gragert.

**GRAGERT:** So 125's--

**JIM DOBLER:** Yeah.

**GRAGERT:** --the maximum we're going to get be--because I've got two cars with--

**JIM DOBLER:** Yeah.

**GRAGERT:** --that total up to 125?

**JIM DOBLER:** Yes. Now-- now let me add, I-- I'm not sure, on your cars, about having different amounts on each car. In other words, typically, if you're-- if you're-- if you have two cars and you're buying uninsured and underinsured motorist coverage, you'll-- you'll purchase the same amount on both cars, so.

**WILLIAMS:** What if you were purchasing your-- what if you were insuring your two cars with two different insurance companies? You have car A

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with Farmers Mutual and car B with State Farm, and you have \$25,000 on one and \$100,000 on the other.

**JIM DOBLER:** Well, first of all, I'm not sure-- I-- I don't know that I've ever seen it done like that. I don't know if the-- the auto insurer would-- would be willing to underwrite your risk if you-- if the insurer only insured one of your cars and not the other. But putting that aside, again, the-- the stacking would be there for whatever policies you have. And horizontal stacking would allow you to stack the coverage of the two policies.

**WILLIAMS:** OK. Additional questions? Senator La Grone.

**La GRONE:** Thank you, Chairman Williams. Two really quick just clarifying ones, then one actual substantive question. Am I-- on-- off of Senator Gragert's question, am I correct-- am I reading this bill correctly? I don't see it as allowing horizontal stacking. Am I right or am I just misreading that?

**JIM DOBLER:** No, you're not. It-- it-- there-- there's still horizontal stacking that would be prohibited.

**La GRONE:** OK. So this is a vertical stacking though for what we're--

**JIM DOBLER:** Well, no-- no, it's horizontal, but, as Ann Parr said, it's only in certain situations the way we read it. You-- you have horizontal stacking if you're in your car, and the person with you is not your relative or if you're in your car, and you're not living with the person that's with you.

**La GRONE:** --so maybe I'm misunderstanding a distinction between horizontal and vertical stacking then, but that's fine.

**JIM DOBLER:** Well.

**La GRONE:** I think I understand what the bill does. But this-- and that gets more into my second, what I think is a quick question which is a jargon question. So I don't know if you have the bill in front of you.

**JIM DOBLER:** Yes.

**La GRONE:** OK. So page 2, line 20-- line 16, "may be added together, combined, or stacked." Is there a reason that we have a list of all three of those or is there-- is that language superfluous? Those--

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because to me those mean the same thing and therefore that might be superfluous language.

**JIM DOBLER:** I think you-- you have a good point.

**La GRONE:** OK.

**JIM DOBLER:** I-- I-- that-- that language is standard language that--

**La GRONE:** OK.

**JIM DOBLER:** --you will find in most states. And--

**La GRONE:** I don't practice in the insurance area, so.

**JIM DOBLER:** --yeah. It-- that-- that's-- it's just-- so.

**La GRONE:** OK. And then this is my more substantive questions; I understand how the likelihood that you may have to pay the higher amount would drive the premiums up over time. My question is meant-- it deals with what you said initially, is that it increases the likelihood that someone would be uninsured. But my question there-- because, you know, you know, as premiums rise, you would have more uninsured motorists, but-- and this also might stem from the fact that it's not a background in the insurance industry. Is this the type of insurance coverage that someone who is going to struggle purchasing insurance to begin with would get because I could be misunderstanding this, but I was under the impression this was like an additional coverage option?

**JIM DOBLER:** Uninsured and underinsured motorists?

**La GRONE:** Yes.

**JIM DOBLER:** It-- it's required by law.

**La GRONE:** Well, I should--

**JIM DOBLER:** So you have-- you have to have it.

**La GRONE:** --I should rephrase that. So that this is something that, let's say, they have their individual policy that they-- this isn't something-- like their-- would likely have another policy. I mean, obviously, you have to be insured to drive a car, like that's a requirement. We know individuals aren't, hence, why we have uninsured motorist coverage. When we say uninsured motorist coverage, is that

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the primary auto insurance that we're thinking of? Is that your normal policy?

**JIM DOBLER:** I--

**La GRONE:** So like if I say I have car insurance--

**JIM DOBLER:** Yes.

**La GRONE:** --am I referring to a UIM policy?

**JIM DOBLER:** Oh, I'd say, no. I'd say you're probably referring to a liability insurance policy or a physical damage insurance policy. Most people figure you-- you've got it to fix your car if it gets damaged and you've got it in case you run into somebody and-- and you're responsible. I-- I would guess a lot of people wouldn't-- would not think of uninsured motorist coverage and underinsured motorist coverage if you just said to them, I've got an auto policy.

**La GRONE:** OK. So I guess, I-- I'm--

**JIM DOBLER:** Maybe I'm not understanding your question.

**La GRONE:** --No, I think that-- I think that answered it. I'm just then confused on the-- the-- how that would impact-- I'm sure it is purely just a misunderstanding I'm having--

**JIM DOBLER:** Oh, no, no, no.

**La GRONE:** --of how-- of how that would impact the likelihood that another motorist is uninsured if this isn't the normal policy.

**JIM DOBLER:** Oh, well, let me try it again. My-- my point was that if-- if you legislate changes to the underinsured and uninsured motorist coverage that has the effect of broadening the scope of benefits, that will result in a-- a higher price for the coverage. And then it-- it's no different than if you want to buy 500/500 uninsured/underinsured motorist coverage. That's going to cost more than-- than if you buy 25/50. And so here, again, to the extent stacking is broadened and more of that is allowed, that-- that's a lost cost that will ultimately affect the cost of that coverage.

**La GRONE:** Thank you.

**WILLIAMS:** Senator McCollister.

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**McCOLLISTER:** Yeah. Thank you, Senator Williams. The trial attorneys would claim that there are-- are instances now where the current arrangement's simply not giving the claimants enough money. Do you make-- you know, you talk about what happens to rates. Do you have any experience to know how many claims you haven't-- go over that-- the limits that you've established?

**JIM DOBLER:** No. I have something though here that-- and it's from a while ago, and these are essentially lost costs developed with Farmers Mutual of Nebraska. I brought that along. It kind of gets to your point here. In terms of the size of the claims that are out there, the-- the type of BI claims, what are the damages? I've got the loss costs for bodily-- bodily injury, uninsured motorists and underinsured motorists. These-- these are total losses for the years 2006 to 2011. The average cost of a claim, \$22,965. So right now, the minimum required liability limits and UM/UIM limits of 25/50 already exceed the average BI, UM, and UIM client.

**McCOLLISTER:** Well, we'll get into that with the next bill.

**JIM DOBLER:** I know you will, but-- but you know it--

**McCOLLISTER:** Thank you.

**JIM DOBLER:** Yeah.

**WILLIAMS:** Any additional questions? Thank you for your testimony, Mr. Dobler.

**JIM DOBLER:** Thank you.

**WILLIAMS:** Invite the next opponent. Welcome, Miss Nielsen.

**COLEEN NIELSEN:** Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Coleen Nielsen, spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for State Farm Insurance Companies testifying in opposition to LB274. The purpose of our anti-stacking statute is to ensure that policies cannot be added together to cover one accident. The National Association of Mutual Insurance Companies gives this illustration. Stacking, in a nutshell, is when an insured can claim multiple insurance policy benefits when there is more than one vehicle insured either by a single policy or by several policies in a household. So if the insured is in an accident with the family's Ford, the insured can also acc-- acc-- access the policy for the family's Buick even though it was not

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involved in the accident. Now some would say that UM/UIM coverages for the Ford is already paid for by the Buick's policy, but that's not the case. What was underwritten by actuaries is based on what the risk would be for a policy that would not be stacked. A policy that could be stacked would be more expensive because there would be more coverage available. Now, so this has been a controversial issue for years, and the main reason for our anti-- anti-stacking law is to help prevent the increasing cost of insurance for drivers that would occur if stacking would be allowed. This bill seems to-- seems to support the anti-stacking provisions in part, but it continues to prohibit the-- the example I just described. So it goes on to state that in the event of an accident, one may add their uninsured and underinsured motorist coverage when the uninsured or underinsured motorist coverage of an unrelated person is living in-- with-- with that coverage from the unrelated person living in the household. So to-- to your-- Senator Kolterman's point, there is no relationship here. These people are unrelated. They have two separate policies. It would be difficult, in this situation, to underwrite it because it would be unknown to the insurance company whether or not there was even an-- another person in the household. So when you go in and buy insurance, the-- your agent would have to ask whether there's going to be somebody in your household or anything like that, just to underwrite whether there's additional risk that they would have to cover. So it's difficult to understand how this risk could be calculated in this situation. In any event, anytime that you expand any coverage in situations, it's going to add cost to the premiums for the person. And-- and so we ask that this committee not advance this bill, and I'd be happy to try to answer any questions.

**WILLIAMS:** Questions for Miss Nielsen? Senator Kolterman.

**KOLTERMAN:** Thank you. Miss Nielsen, can you tell me, does-- and I don't want to confuse this, but does med pay get-- come into play with any of this?

**COLEEN NIELSEN:** No. Well--

**KOLTERMAN:** That pays in addition to, doesn't it?

**COLEEN NIELSEN:** Right, in addition and on top of, right.

**KOLTERMAN:** So if you got-- if you got \$5,000 in medical, you can stack that on to the UM and UIM of your--

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**COLEEN NIELSEN:** Correct.

**KOLTERMAN:** --policy and someone else's.

**COLEEN NIELSEN:** Correct. That's a-- that's a separate.

**KOLTERMAN:** Do you know how many states provide coverage for 25/50 UIM? Do they all?

**COLEEN NIELSEN:** For minimum limits 25/50?

**KOLTERMAN:** For UIM.

**COLEEN NIELSEN:** The major-- for-- the-- the majority I think provide for that. Well, oh, on UIM, I'm not sure, just liability limits is what I've seen lately in terms of looking at that--

**KOLTERMAN:** OK.

**COLEEN NIELSEN:** --but so I don't know how many-- like Nebraska which mandates the 25/50 limit.

**KOLTERMAN:** So when we-- so when we talk about stacking--

**COLEEN NIELSEN:** Right.

**KOLTERMAN:** --really we're already stacking in the state. We're stacking vertically for somebody else in the vehicle, for the additional coverage they pick up from that person's UIM if they have higher limits. So if they've got--

**COLEEN NIELSEN:** It's-- it's a sort--

**KOLTERMAN:** --\$100,000, and you've got 25,--

**COLEEN NIELSEN:** --it's a sort, yes.

**KOLTERMAN:** --you've-- you pick up another 75 on top of--

**COLEEN NIELSEN:** Right.

**KOLTERMAN:** --that 25. That's stacking already.

**COLEEN NIELSEN:** Yes, of sorts. Yes, it is. Um-hum. And so as-- as Mr. Dobler described, I mean, we can-- we can expand that. Some states

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have done that either through case law or whatever, but in the end what it's going to do is it's going to cost more.

**KOLTERMAN:** OK. Thank you.

**WILLIAMS:** Senator Gragert.

**GRAGERT:** I'm going to try one more time. Thank you, Senator Williams. So I got 2 vehicles, and I got \$2,500-- or I got \$25,000 on each one.

**COLEEN NIELSEN:** Right.

**GRAGERT:** And it-- somebody's in an accident with me. So I got up to \$50,000 to pay--

**COLEEN NIELSEN:** Per accident.

**GRAGERT:** --per accident. So I-- so my-- we're in this one vehicle, and it exceeds \$25,000. Can I grab that other \$25,000 off the other vehicle?

**COLEEN NIELSEN:** No.

**GRAGERT:** I can't?

**COLEEN NIELSEN:** No.

**GRAGERT:** So it's-- it's a-- just a max of \$25,000. So if-- if it was like-- if I had to-- I had-- he wanted to sue me for \$35,000, I-- I-- the max he's going to get is \$25,000, and I got to pick up the other \$10,000 on my own.

**COLEEN NIELSEN:** Right. OK. So-- so could you describe that to me again then?

**GRAGERT:** OK. So I got 2 vehicles, \$25,000 each--

**COLEEN NIELSEN:** Right.

**GRAGERT:** --but I-- and I get in an accident with one.

**COLEEN NIELSEN:** Right.

**GRAGERT:** But that exceeds \$25,000. I can't-- I can't-- I don't-- I'm not working with \$50,000 then, right?

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**COLEEN NIELSEN:** No. OK, so-- so when you buy insurance, you're buying a-- we have liability limits you're-- if you hit somebody else at 25/50--

**GRAGERT:** Um-hum.

**COLEEN NIELSEN:** --and that means \$25,000 per person, \$50,000 per accident, and the underinsured-- under-- the uninsured/underinsured motorist coverage that you have matches that 25/50, so if-- so if you-- so if you were injured by that other person, they'd pay their \$25,000 and then you could access-- if you have \$50,000 worth of damages to yourself, then you could access your underinsured motorist coverage to the tune-- tune of 50. Now you're talking about a situation where maybe you had damages that were even more than that, and yet you paid the premiums on another car in your household, is that correct?

**GRAGERT:** No, I'm just still at uninsured at \$25,000 each--

**COLEEN NIELSEN:** Twenty-five thousand per person--

**GRAGERT:** --for each car.

**COLEEN NIELSEN:** --\$50,000 per accident

**GRAGERT:** OK, but-- OK, I think-- I think you answered it for me.

**COLEEN NIELSEN:** OK.

**GRAGERT:** I'm only-- I'm only limited to \$25,000 in that vehicle--

**COLEEN NIELSEN:** In that vehicle for the uninsured motorist.

**GRAGERT:** --for that person.

**COLEEN NIELSEN:** Um-hum. Yes.

**GRAGERT:** And if it ends up being \$35,000, then I got to pay that out of my pocket. I can't go over to the other car and get another \$25,000.

**COLEEN NIELSEN:** Correct. That is correct.

**GRAGERT:** OK. Thank you. Thank you.

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**COLEEN NIELSEN:** Um-hum.

**WILLIAMS:** Seeing no other questions, thank you.

**COLEEN NIELSEN:** Thank you.

**WILLIAMS:** Next opponent? Welcome, Mr. Bell.

**ROBERT BELL:** Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Robert Bell, last name is spelled B-e-l-l. I am the executive director and registered lobbyist for the Nebraska Insurance Federation. I'm here today to testify in opposition to LB274. I'm not going to reiterate what has already been said, but basically, fundamentally stacking changes how that risk gets underwritten which would increase premiums. Increased premiums lead to higher uninsured rates. And that, simply stated, is why the Federation opposes this particular piece of legislation. Thank you for the opportunity to testify.

**WILLIAMS:** Thank you. Any questions for Mr. Bell? Mr. La Grone, Senator La Grone, excuse me.

**La GRONE:** Thank you, Chairman-- Mr. Chairman. So you just touched on the thing that I was trying to nail down. So I'll just ask it--

**ROBERT BELL:** Sure.

**La GRONE:** --and hopefully I'm more clear this time because I don't think I was previously. So would the increased uninsured rates themselves also contribute to increased premiums because they would thereby increase the likelihood that the policy is going to have to pay out the full amount?

**ROBERT BELL:** Oh, that's a vicious hypothetical there.

**La GRONE:** OK, maybe that's why I wasn't asking it properly.

**ROBERT BELL:** Perhaps. I don't know. I'm-- I'm an attorney not an accountant or an actuary of the three A's of insurance.

**La GRONE:** Same, that's why--

**ROBERT BELL:** Perhaps. Maybe. That-- that could be a vicious spiral that you would get into with higher uninsured rates. Then everybody

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else is paying a little bit more to cover the risk that isn't otherwise covered by insurance. But honestly, I don't know.

**La GRONE:** Thank you.

**WILLIAMS:** Since you are an attorney--

**ROBERT BELL:** Yes.

**WILLIAMS:** --the questions about the living in the same house and a relative, is there any degrees of relationship that matter there, or is it any?

**ROBERT BELL:** Well, I don't believe there's a limitation in the legislation as proposed--

**WILLIAMS:** So it would be any degree of relationship.

**ROBERT BELL:** --or by related persons. I mean there's no-- there's no limitation that I see written into this.

**WILLIAMS:** Thank you. Any additional questions? Thank you for your testimony.

**ROBERT BELL:** No problem.

**WILLIAMS:** Invite the next opponent. Welcome, Miss Gilbertson.

**KORBY GILBERTSON:** Good afternoon, Chairman Williams, members of the committee. For the record, my name is Korby Gilbertson, it's K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as registered lobbyist on behalf of the American Property Casualty Insurance Association. I think you've all gone through several different discussions about what the bill does. I was going to try to give you a few statistics that I looked up while I was sitting back there based on some questions that were raised. This was from a couple years ago, but there are around 17 states that allowed-- that allow stacking, 22 states don't allow any stacking at all, and then 12 allow some form of very limited stacking. It most-- one of the most interesting statistics that I found was when you look at the claim severity and claim frequency among states that allow any stacking, claims are generally two times higher in the-- then the costs that do not permit-- permit stacking at all, and the premiums also reflect that. So there is a clear correlation between an increase in premiums and doing any-- offering any stacking of this type. But I'd also like to add parenthetically I'm glad to hear that

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the new-- that the new standard we're going to address is if I've been pounding the table for 10 years, I get to get my bill passed because we have-- the insurance industry has a few sitting up in Business and Labor that I'll look forward to getting out this year so-- that we've been fighting for 20 years.

**WILLIAMS:** Any questions for Miss Gilbertson? Thank you--

**KORBY GILBERTSON:** Thank you.

**WILLIAMS:** --for your testimony. Next opponent? Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Hansen.

**M. HANSEN:** Thank you, Chairman Williams and members of the Banking Committee. I'm kind of addressing a series of points today. First, I want to be clear, vertical stacking is prohibited in Nebraska right now. The statute I'm amending is the statute that prohibits all stacking both vertical and horizontal. We got into kind of some of the weeds on the related persons. That was our attempt to-- to allow vertical stacking but prohibit horizontal stacking which is the thing we'd heard in past hearings where-- especially the scenario, you know, we do worst-case scenario: you're-- you're a family, you're parents, have two cars; you have two teenagers, two more cars; four policies in the same house. You couldn't necessarily combine all four policy premiums. And so that's where we wanted to-- to limit it to related persons in the same house as our way of kind of controlling horizontal stacking. I'm not attached to that language in any other way, and maybe there's a cleaner, more efficient way to say we want vertical stacking but not horizontal stacking. And I'm open to language on that, but as it is, vertical stacking is not allowed. And that's kind of the point. This bill is attempting to allow vertical stacking. Senator La Grone, your-- your question about the language of combining stacking, I forget exactly what it was, combined, stacked, or added together. That's already existing language in the statute, so we just duplicated it. I do think it's superfluous, but we already use it so we wanted to be clear we're applying the same standard to both instances. And then fundamentally we're getting into-- I want to remind everybody that in order to actually recover these damages from these policies, you have to show the damages. You actually have to be injured. So if there's \$150,000, you know, \$100,000 policy and a \$250,000 policy, if we stack-- allow stacking which I would propose in this bill, to get from both policies, you would still have to show \$350,000 worth of medical bills. This is the extreme case.

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This is the extended hospital stays. This is the worst-case scenario, the worst of the worst car accidents. You know, for most car accidents, you know, as we said, you know, that was set up here, the damages are low. It's-- it's in the tens of thousands of dollars. So this fundamentally wouldn't apply in any of those instances. But the issue I'm getting at is, occasionally we have people in the state of Nebraska who pay for an insurance policy and then get catastrophically injured. And then when they go to cash in on the insurance policy that they have paid for, they're saying, hey, you're capped. You actually don't get to use all of it. And that's fundamentally the issue I-- I'm getting at. And kind of going in terms of-- in terms of the premiums, if premiums go up, that's kind of acknowledging that there's damages that aren't being paid by insurance companies that would be paid by this. So we're acknowledging, by saying premiums are going up, we're acknowledging that there's some Nebraskans who are injured who currently can't recover because they would recover under this statute. And finally, it's kind of a policy question for us as the Legislature debate is kind of, you know, we're-- we're going to have to weigh in, on one hand, lower premiums. But what good are lower premiums is when you actually do get injured, you can't recover all of your damages? Did you really save money in the end? And it might help one or two, but that's probably some people we should look out for. And with that, I'd be happy to take any questions.

**WILLIAMS:** Questions for Senator Hansen? Seeing none, thank you for your testimony. Natalie, do we have any letters? We do not have any letters. That will close the public hearing on LB274, and we will move on now to open the public hearing on LB370, Senator McCollister's bill to change motor vehicle liability insurance and fiscal responsibility requirements. Senator McCollister, welcome.

**McCOLLISTER:** Good afternoon, Chairman Williams, and members of the committee. I am John, J-o-h-n, McCollister, M-c-C-o-1-l-i-s-t-e-r, and I represent the 20th Legislative District in Omaha. Today, I'm introducing LB370, another one of the bills that appears every two years. This bill would increase the current financial responsibility limits for auto insurance. Current limits are \$25,000 per person, \$50,000 per occurrence for bodily injury, and \$25,000 for property damage. LB370 would increase these limits to \$50,000, \$100,000, and \$50,000 respectively. These financial responsibility limits have not been raised in our state since 1988, and there would be little argument that the rate of inflation requires us to consider increasing these limits. Inflation and health insurance costs over the last 30

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years make the old limits inadequate to cover modern automobile values and health insurance costs. In terms of what-- of the actual value of this bill, I believe the effect is somewhere between \$25 and \$50 on an insurance policy. But there are others testifying after me who can give a more detailed analysis. I encourage you to move LB370 to General File. I will take questions that you can-- that you have if I can answer them.

**WILLIAMS:** Thank you, Senator McCollister. Questions for the senator? Seeing none, I'm sure you'll be staying to close. Thank you.

**McCOLLISTER:** I will, indeed.

**WILLIAMS:** We would invite the first proponent. Welcome back, Mr. Richardson.

**MARK RICHARDSON:** It's good to be back. It feels like it's been too long. 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 again to testify in support of this bill on behalf of the Nebraska Association of Trial Attorneys. I'm not sure how far back this effort goes to get these increased. I can guarantee in 1990 we weren't talking about this because they'd just increased them in 1988. I can guarantee you other things: that since 1988 the cost of medical care has gone up enormously; the cost of living has gone up enormously; our required financial obligation, financial responsibility for our drivers on the roadway has stayed exactly the same. Over the course of the last 31 years, that's probably the only thing that has stayed the same in terms of financial responsibility and obligations. I'm half tempted to sit here with just a confused look on my face for the next 4 minutes as to why this hasn't gone up in at least the last 10 years. I mean if we can do this once every 20 years or so, I would think that would be somewhat par for the course in terms of keeping up with inflation, cost of living, and the dramatic increase in medical costs. I understand that there are going to be opponents that get up here and say, well, this is the average. If you look across the states, across the country, this is pretty average; 25/50 minimum limits is average. I guess my response to that would be, is that a good reason to have the same limits in place for 30 years? Do we consider our Nebraska to be driven by the law of what average states do, or should we make decisions based on, you know, our common sense and practical experience that costs have gone up considerably? And when I hear the-- the insurance companies' own information says that a decade ago, from 2006 to 2011, that would put you right square in the middle of a decade ago, the average claim

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value was \$22,900. That means there were a whole lot of claims out there that were in excess of \$25,000. And if that's a decade ago, I would imagine that when we get the re-- results back from 2016 through 2021, we're going to be well above the \$25,000 threshold. And that's just for the average. Yes, I acknowledge there are claims that get settled for \$1,000 and \$2,000, but there are a lot of claims out there that exceed this \$25,000 threshold. My law partner and I, we both do this personal injury work, took it upon ourselves to call our insurance agent up this morning and say, OK, if I want a \$25,000/5-- \$25,000/\$50,000 policy, how much is that going to cost me, versus if I want a \$50,000/\$100,000 policy, which is what the new proposal is? And he said, well, that's going to depend on your credit rating, but it's going to be somewhere between \$3 and \$8 per month. This is not a massive financial obligation and I don't-- also don't want to give short shrift to people that \$8 a month is a big deal because I know that that happens. But when you're talking about the financial responsibility of people on the roadway to be able to, you know, compensate others for their negligent driving, for their inattention on the roadway, what we should be asking ourselves here is, what is necessary to protect the other drivers on our roadways? And the limits that were established 30 years ago, from our perspective, are not sufficient to do that. And therefore, we would ask that those limits, that it's-- that it's overdue in terms of time, to move those limits forward and be a leader in the nation when it comes to that. I'm happy to answer questions.

**WILLIAMS:** Thank you, Mr. Richardson. Questions? Senator Gragert.

**GRAGERT:** Thank you, Senator Williams. Twenty-five/fifty is minimum.

**MARK RICHARDSON:** Yes, sir.

**GRAGERT:** That doesn't mean you have to buy at minimum. I mean, the \$50,000/\$100,000 is out there.

**MARK RICHARDSON:** Certainly.

**GRAGERT:** Or more.

**MARK RICHARDSON:** Twenty-- 250/500, you can get an umbrella policy for \$1 million. There's no question about it. But I can tell you without hesitation that the number of people that we run across on the roadway that have just the minimums-- that whatever the lim-- whatever the minimum is that they want, is what they're going to get. And remember

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this is not to protect-- I mean, it is in a way to protect that person and their personal assets, but this is-- the-- the-- the-- the statute at issue here is financial responsibility meaning you're going to be financially responsible to somebody else for your actions. And it's protecting that other person in the event that they have a \$30,000 hospital bill, but you said, well, you know, I'm going to-- I'm going to get as cheap a policy as I can. I'm going to do the minimum limits. And we run across those on a monthly basis, I can assure you. And then we end up with clients who we go to and say, well, there's not enough here to cover your claim. We can recover what's there, but it's not going to be sufficient for your injuries.

**GRAGERT:** And you were saying that to go from 25 up to 50 or the \$50,000 to \$100,000 is only \$3 a month?

**MARK RICHARDSON:** The quote that we got this morning was somewhere between \$3 and \$8 a month depending on the credit rating. I mean, there's obviously other factors that go into that, but it's in that range, that \$5 range per month.

**GRAGERT:** But so those people that are going to have-- just get minimum insurance, \$3, OK, I got it, not much money to a lot of people, maybe some money to others. You don't see that people will not get insurance at all, if we've got to raise-- if we've got to regulate how much insurance, not take fiscal responsibility on themselves?

**MARK RICHARDSON:** I have to imagine that the people that are already doing that, which we run into plenty of people that are uninsured motorists that are, you know, breaking the law when it comes to not having insurance coverage and still going out and driving, that that number is not going to be statistically significantly altered by \$3 a month. The person who wasn't willing to pay-- the person that isn't willing to pay \$18 a month for their coverage is not going to all of a sudden say-- is not going to be the person that was paying \$15. That's not-- I have a hard time believing in the vast, vast majority of cases, and I-- I know I'm going to hear from the people that are going to come testify behind me that if you raise this and then it broadens that and you end up with fewer insureds. But the overwhelming number of people that this is going to benefit, again, I think we're talking about a statistically insignificant number of people that this is-- this is the straw that breaks the camel's back in terms of, well, I'm just not going to go out and get insured.

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**GRAGERT:** Why did we stop at \$50,000? Why not \$100,000 and \$150,000?  
Where-- where are you coming-- why just double?

**MARK RICHARDSON:** I mean, there's certainly the-- the thought process of, yes, we understand that this is a more significant financial burden on the person and, you know, going from having to pay five extra dollars a month is one thing. Having to pay, you know--

**GRAGERT:** 10.

**MARK RICHARDSON:** --if you go-- if you go-- if you go from-- I mean, 25 to 50, you're doubling it. If you're going from 25 to 100, you're taking it times 4. And there's got to be-- we're not asking for a step up to the-- to a number that is going to be a jarring figure and truly may impact whether or not people, you know, are just going to skirt the law and not get insured at all.

**GRAGERT:** Thanks a lot.

**WILLIAMS:** Additional questions? Seeing none, thank you for your testimony.

**MARK RICHARDSON:** Thank you, Senators.

**WILLIAMS:** Invite the next proponent. Welcome, Mr. Cavanaugh.

**JAMES CAVANAUGH:** Thank you, Senator Williams, members of the Banking, Commerce and Insurance Committee. My name is James Cavanaugh, J-a-m-e-s C-a-v-a-n-a-u-g-h. I'm an attorney and registered lobbyist for the Independent Insurance Agents of Nebraska, the oldest and largest agents' association in the state. I appear today in favor of LB370. I'd like to commend Senators McCollister and Kolterman for bringing this worthy mea-- measure before you. This is easily the sixth, seventh, eighth time I've testified on this bill over the last 20 years, and each time the testimony falls into pretty predictable categories. Twenty years ago, cars cost less than they do today. Forty years ago, when this was last adjusted, cars cost a lot less than they do today. Twenty years ago, healthcare cost a lot less, and 40 years ago, even less than it does today. This is a simple measure. We are trying to give adequate minimum coverage to consumers for predictable losses. I was involved in an automobile accident five years ago. My brand new car, which wasn't a fancy vehicle, had cost me about \$40,000, and it was totaled. And because of minimum policy limits, my own insurance had to make up the difference on that accident. That's

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not right. And it's predictable, and it happens every single day. And we can prevent it easily. The minimum impact on insureds for a premium increase, which will occur, is not going to discourage them from having insurance. You're going to hear a bill in a minute that will have massive impact on insurance liability-- or insurance premium costs, and that would impact on their ability to maintain insurance. We're real sensitive to everybody having insurance for everything that they need all the time. And this isn't going to deter that. What this is going to do is give adequate minimum coverage for consumers on predictable losses that are happening every day. This is long overdue. It's a modest change, and if we're going to have an adult conversation on this, we would recognize this is the right thing to do. I'd be happy to answer any questions you might have.

**WILLIAMS:** Questions for Mr. Cavanaugh? Senator McCollister.

**KOLTERMAN:** I'm Senator Kolterman.

**WILLIAMS:** I did that on purpose for you.

**KOLTERMAN:** Wow. So Mr. Cavanaugh, I understand what we're trying to do here. I've always been a proponent of higher limits of liability. When I had my own business, we sold higher limits. But why-- why do you think it is 34 states are equal to what we have today? Only 6 are higher and 10 are lower. So I mean, the reality is not many states have-- only 6 states have increased it above--

**JAMES CAVANAUGH:** Right.

**KOLTERMAN:** --the 25/50/25.

**JAMES CAVANAUGH:** And that's a real good question. My father, who was in government for most of his adult life, taught me there are two rules of government, iron rules that you violate at your peril. First rule is, we've always done it this way. Second rule is, we've never done it that way. The inertia in this area of the law is overwhelming and that's the only good reason. There's not a good economic reason. There's not a good social reason. There's not a good consumer reason. It's just, we've always done it this way. And if you look around, there's a real reluctance to be the first one to take a step forward. Some states have, and you're probably going to hear testimony about, this state actually did this and then realized a couple of years later they didn't like it, and so they ratcheted it back down. Yeah, that happened. It doesn't make it right. I mean, this is pretty clear from

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an actuarial point of view that you're just giving adequate minimum coverage to foreseeable losses, just doing the right thing.

**KOLTERMAN:** OK, thank you.

**JAMES CAVANAUGH:** Thank you.

**WILLIAMS:** Additional questions. Mr. Cavanaugh, you've-- we've had two statements made. One was that the increase in premium would be somewhere between \$25 and \$50 a year and then Mr. Richardson's was \$3 or \$8 per month or \$36, \$96. What would be your experience on the increased cost?

**JAMES CAVANAUGH:** Right. And that's a good question that professionals are trained to answer. I actually brought an insurance agent with me. And at the risk of calling him up during this testimony, I would say I'll find out--

**WILLIAMS:** OK.

**JAMES CAVANAUGH:** --and I can give you an absolute--

**WILLIAMS:** If you could pass that on, I would appreciate it.

**JAMES CAVANAUGH:** --number. He does that every single day. We all have insurance agents if you called them up tomorrow and said, hey, I wanted my policy to go from here to here, they'll give you a number. This gentleman right over here could give you that number in a minute, I'm sure.

**WILLIAMS:** Thank you.

**JAMES CAVANAUGH:** Thank you.

**WILLIAMS:** Any additional questions? Seeing none, thank you for your testimony.

**JAMES CAVANAUGH:** Thanks very much.

**WILLIAMS:** Any additional proponents? Seeing none, would invite those in opposition. First opponent. Welcome, Miss Parr.

**ANN PARR:** Thank you. Hello again, my name is Ann Parr, that's A-n-n P-a-r-r. I am employed by and a registered lobbyist for Farmers Mutual of Nebraska which is the leading Nebraska-based insurer of homes, farms, and autos in this state. And I am appearing here today on their

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behalf in opposition to LB370. This bill, as you've heard, would double the minimum required limits of liability coverage. Something that hasn't been mentioned, but I think I'm reading it right, is that it would also double the required amount of uninsured and underinsured motorist coverage on auto policies as well which is significant. At the risk of boring everyone, I want to start with just the basics so I'm sure that we're all on the same page about how this works because I think that's important. Liability coverage is the part of your auto insurance that pays for injuries or damage that you cause to other people. So if you run a red light and you hit Mr. Jones and he is injured, Mr. Jones's injuries will be paid by your liability coverage. Under the current Nebraska law, you'll have a minimum of \$25,000 in liability coverage to pay towards his bodily injuries. In addition to that, in Nebraska, everyone is currently required to have at least \$25,000 per person, \$50,000 per occurrence in underinsured or UIM coverage. That coverage applies on top of the liability coverage as an additional source of recovery for that injured person. So in addition to the liability coverage of \$25,000 that Mr. Jones is going to get from your policy, he will also have at least another \$25,000 under his own UIM coverage for a total of \$50,000 available to pay for his injuries if necessary. And that's if each driver-- or, yeah, if each driver only carries the bare minimum. So he'll have that minimum pot available to him. I bring that out early because it's a very generous coverage structure. That's not the way it works in every state, for sure. And because of the way it works and sits on top of the BI coverage, that means that we already have a greater-- a greater pot to draw from than we do in a lot of other states. By way of illustration, I've seen some different figures kicked around, our state's current required minimum for liability coverage is 25/50, which means 25 per person, 50 per occurrence. I counted, I think, 44 states that have required BI liability limits of 25/50 or less including all of our neighboring states. Many of those 44 states, however, do not mandate any UIM coverage at all. And even if they do, very few of them have UIM coverage that operates the same way ours does, where you add on that, the liability coverage. So it really does put Nebraska up there as a state in which you already have more access to coverage than you do in most other states. There's only 2 states I could find, Alaska and Maine, that have the \$50,000 per person, \$100,000 per occurrence liability limits that are requested in this bill. And in Alaska, unlike Nebraska, the UIM coverage is completely optional. And in Maine, unlike Nebraska, the UIM coverage applies differently. It's a difference in limits meaning it does not get added on top as it does in Nebraska. You can only collect the highest limit. So if this bill

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were to pass, the total amount of insurance money available to an injured person would be a minimum of \$50,000 in liability coverage plus a minimum of \$50,000 in UIM coverage for a total pot of \$100,000. That would put us at the very top of all the other states. Of course, in addition to the injury portion of this bill, there is also a minimum amount of required property damage that would double from \$25,000 to \$50,000. Just by way of comparison, all 50 states currently have minimum property damage coverage limits of \$25,000 or less. Not one state has \$50,000-- or more than \$25,000, I should say. I think the more important point to make is that the current limits really are sufficient to cover the majority of claims. We've heard a lot about how limits haven't been raised since I was a small child. They didn't say that, but it was implied, and that medical costs have risen dramatically since then. It is true, of course, we've all seen that medical costs have risen considerably in the last 30 years. But interestingly, the overall claim value really hasn't risen at the same pace, and the reason is that cars are much safer making really serious injuries and high-value claims less common than they used to be. Just to share an example from Farmers Mutual, Mr. Dobler referred to this a little bit in the previous hearing but I've got updated figures, our average bodily injury claim over the past 10 years is just a little over \$22,000, and the median claim is only a little over \$5,000. Now, obviously, there are some that are much bigger than that and a lot that are much smaller, but that's on average. And that really has not changed significantly in the last 10 years. In fact, I will put in a little plug for Farmers Mutual here, our bodily injury rates have actually decreased since 2015. The cost of that coverage, that line, has gone down which is a reflection of the claim experience that we've had for that line of business. Also from Farmers Mutual, the average property damage claim over the past 9 years is \$3,000. The median is only \$1,826. Again, the current required limit is \$25,000 for property damage claims, and that would provide enough coverage to pay for 99.5 percent of all property damage claims we have. So I would argue that the current minimum limits really are adequate to protect the insured in most cases. There will be others that will explain to you what the cost of raising these limits would do to the number of insureds and so forth. But in short, our position is that we want to be able to continue to offer a product to our customers that provides them with adequate protection for most claims at an affordable price. If the consumer can't afford more, because to double these limits really would cost more, then there is a good chance that that will make the difference between them saying I'm going to continue to carry coverage and I'm going to take my chances and drop it. And we don't want that

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to happen. I would say that the current required limits in Nebraska are affordable. They are sufficient. And we ask that you not advance this bill out of committee. Thank you.

**WILLIAMS:** Thank you, Miss Parr. Questions?

**ANN PARR:** Yes.

**WILLIAMS:** Senator Kolterman.

**ANN PARR:** Yes.

**KOLTERMAN:** Would you-- would you have any interest-- would it-- would-- would you still be in opposition if this were just to say we're going to increase the property damage limits to \$50,000, 25/50/50?

**ANN PARR:** You know, obviously that would come at less cost than raising the injury. But I think you can see, by what I just testified to, that really--

**KOLTERMAN:** \$3,000.

**ANN PARR:** --the \$25,000 is-- is more than sufficient.

**KOLTERMAN:** Three thousand, that really surprises me. And you said what, 96 percent, what, what--

**ANN PARR:** Ninety-nine and a half percent of the claims are less than \$25,000. Yeah.

**KOLTERMAN:** Wow.

**WILLIAMS:** Additional questions? I want to be sure I understood one thing correctly.

**ANN PARR:** Um-hum.

**WILLIAMS:** When we've been talking these potential increases in cost, we've just been talking about the cost of increasing the liability portion, and you've brought up that it would also increase the cost of the uninsured--

**ANN PARR:** Yes.

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**WILLIAMS:** --underinsured motorists.

**ANN PARR:** Yeah.

**WILLIAMS:** Do you have any numbers on what those costs--

**ANN PARR:** I--

**WILLIAMS:** --would be?

**ANN PARR:** --I do. You know, of course, I always have to start with the caveat that that's going to vary widely from company to company, you know, just really depending on that customer base and so forth, so I can only tell you what our company has experienced. I did look it up. To increase the BI liability limits, to double those, would-- would be close to a 10 percent increase in the premium. I've seen estimates from other companies that are much higher than that, up to 25 percent higher. To raise our uninsured limits from 25/50 to 50/100 is a 19.5 percent increase in premium, and to raise the UIM, which is the underinsured limits, to double those would be another 22.4 percent increase. Again, that is specific to Farmers Mutual, but gives you an idea it would be noticeable.

**WILLIAMS:** That's helpful.

**ANN PARR:** Yeah.

**WILLIAMS:** Thank you. Senator Kolterman.

**KOLTERMAN:** Are-- are those-- I just have a clarification. Are those annual limits-- or annual increases 19--

**ANN PARR:** Yes.

**KOLTERMAN:** OK.

**ANN PARR:** Yes.

**WILLIAMS:** Seeing no other questions--

**ANN PARR:** Thank you very much.

**WILLIAMS:** --thank you for your testimony. Invite the next opponent. Welcome back, Miss Nielsen.

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**COLEEN NIELSEN:** Good afternoon, Senator Williams, and members of the Banking, Commerce and Insurance Committee. My name is Coleen Nielsen, that's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for State Farm Insurance Companies and the Nebraska Insurance Information Service. I am testifying in opposition to LB370. Raising limits adversely affects those that can least afford it. Persons that can afford more insurance are encouraged by their agents to purchase more coverage to protect their assets. But for those that struggle with the cost of insurance, even the slightest increase may be enough for them to make the decision not to purchase it. To double the minimum required limits of coverage will increase the cost of auto insurance who carry minimum limits. It's often low-income households or high-risk drivers who are most likely to buy minimum amounts of auto insurance. These drivers may not be able to afford higher limits and also they may not have significant assets that need to be protected by the higher limits of coverage. The higher price of higher coverage limits could mean the difference for some people between having coverage and dropping it. It's better public policy to have greater participation in auto liability insurance marketplaces at lower-- at a lower price than to have less participate-- participation in this market with a higher cost for insurance. Nebraska currently has one of the lowest percentages of uninsured drivers in the nation, 6.8 percent, making it the fifth lowest rate of uninsured drivers in the country, and we want to keep it that way. I want to talk about the fact, too, that about-- about the price of coverage. You know, I think that in terms of compulsory auto insurance, the-- there is a social cost of it, too, because for those that can't afford insurance and choose not to have insurance, there's an additional cost of trying to enforce those people to-- to have insurance. And if they don't have insurance, there's-- there's costs in suspensions. Some of these people never gain insurance again, but I've often heard it said-- it said that you can't control other people in what they do. And-- and I think that's true in purchasing insurance. And so that the best protection for yourself, because insurance is really a personal management risk program, is to buy your own insurance to cover for those catastrophic losses, and you can do that by buying higher amounts of uninsured/underinsured motorist coverage. So with that, I'd be happy to answer questions.

**WILLIAMS:** Thank you, Miss Nielsen. Questions? Senator Kolterman.

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**KOLTERMAN:** Thank you, Senator Williams. Can you tell me, do you have any statistics on how many people are un-- uninsured in our state?

**COLEEN NIELSEN:** They say-- they say 6.8 percent, 6--

**KOLTERMAN:** They have no-- no coverage whatsoever.

**COLEEN NIELSEN:** Uninsured, 6.8, which is pretty low.

**KOLTERMAN:** Yeah, it is.

**COLEEN NIELSEN:** Fifth lowest.

**KOLTERMAN:** Um-hum. OK.

**WILLIAMS:** Seeing no other questions, thank you for your testimony. Invite the next opponent. Welcome back, Miss Gilbertson.

**KORBY GILBERTSON:** Thank you, Chairman Williams, members of the committee. For the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the American Property Casualty Insurance Association. You've heard a lot about what goes on in the other states, so I have a table that shows you what's currently, as of January, what happens in all the other states. One of the comments made by the proponents is that we've had all this inflation, and costs have gone up. We really need to do something. I think if there was a hue and cry to move up limits, we would see more than two states have what this bill proposes. We have-- there are 4 states that have slightly higher rates and then 11 actually have lower. Miss Nielsen talked about the impact that this bill could have on lower-income purchasers of insurance, and that is one of the greatest fears is that, when you look at, you know, the proponents talked about \$5 a month. That might be true for someone that has a long-term policy with that insurance company. I say-- I get-- I've had insurance with the company for 20 years. I have four vehicles, and I insure my home and other things. And I've never had an accident. My rates are pretty low. But someone who has one vehicle, has had a couple accidents, and doesn't have anything else with that company, they probably aren't going to be getting as low of rates as I enjoy. And the impact to that person might be much more substantial and impact their ability to purchase insurance. And that's what we're concerned that this bill would do. With that, I'd be happy to answer any questions.

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**WILLIAMS:** Thank you, Miss Gilbertson. Questions? Seeing none, thank you for your testimony.

**KORBY GILBERTSON:** Thank you.

**WILLIAMS:** Invite the next opponent. Seeing no one coming forward, is there anyone here to testify in a neutral capacity? Seeing none, Senator McCollister waives closing. That will-- we have no letters? That will close the public hearing on LB370. We'll move forward and open the public hearing on LB672 to change provisions of the Motor Vehicle Registration Act relating to a named driver insurance policy. Welcome, Senator Clements.

**CLEMENTS:** Thank you, Chairman Williams, members of the Banking, Insurance and Commerce Committee. I am Senator Rob Clements, R-o-b C-l-e-m-e-n-t-s. I represent Legislative District 2, and I'm here to introduce LB672. LB672 amends Section 60-387 by adding 2 new subsections to address a lack of pertinent information regarding two types of vehicle insurance policies: named driver and named driver exclusion insurance policies. Both changes came from uninsured driver accidents in my district where law enforcement could not tell that the at-fault driver was not insured. First, the named driver policy. Currently, named driver insurance policies cannot be used to register a motor vehicle in Nebraska because they do not cover the vehicle but only cover an individual. LB672 would require notice upon issuance of such a policy that the policy is not valid for motor vehicle registration purposes and also require the covered individual being named on any evidence of insurance. This would provide government officials and law enforcement the necessary information regarding these policies to more easily determine compliance with our proof of insurance-- proof of financial responsibility laws for motor vehicles. The second change is regarding excluded drivers. LB672 would require a named driver exclusion insurance policies to name any-- any individuals excluded from coverage of a motor vehicle to be listed on the evidence of insurance. This will allow law enforcement to more accurately determine whether the operator of a motor vehicle is insured as required by our laws. This bill was developed from two different incidents in which constituents were victims in vehicle accidents where the at-fault driver was not ticketed but was driving without insurance. The primary reason was that the proof of insurance document given to law enforcement at the scene appeared valid but did not provide the nece-- necessary information needed to judge whether or not the vehicle was actually insured. LB672 seeks to reduce the

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chance that a named driver policy is inadvertently accepted by the Department of Motor Vehicles to register a vehicle. Law enforcement will be able to see by the evidence of insurance document that it is not valid for registration purposes. In the case of a named driver exclusion policy, this bill would require that any individual who has been expressly excluded in the auto policy covering the vehicle be listed on the evidence of insurance carried in the vehicle. This would alert law enforcement to this restriction in the policy and enable them to cite the operator of the vehicle if they are the excluded driver. Without this additional information, it can be difficult to enforce the law accurately. I've had constituents injured and damaged by noninsured drivers who appeared at the scene to be insured. When their insurance claims were denied, they could not understand why no ticket was issued. I'd like to also hand out a handout. Excuse me, I forgot to hand that out at the first. What I'm handing out is a-- some suggestions of potential amendment that came from Department of Motor Vehicles. They had a couple of suggestions to make sure it clearly states that it's not valid for registration purposes, page 2, line 27, after the word "covered" and on page 3, they asked that we put an effective date of July 1, 2020, to delay the effective date so that especially insurance companies, who have to do some reprogramming, would have a longer period of time to implement this. And then other changes that I have since enter-- since the introduction, I wanted to in-- insert the word "conspicuous" notice so the notice on it isn't tiny, fine print, at the bottom nobody can see and the word "clearly" again, so it clearly lists individuals who are insured. And with that, I think there may be other changes as we work with the insurance industry. And thank you for your consideration of LB672, and I will try to answer any questions at this time.

**WILLIAMS:** Thank you, Senator Clements. Any questions for the senator? Seeing none, will you be staying to close?

**CLEMENTS:** Yes.

**WILLIAMS:** Thank you. We would invite anyone testifying as a proponent to come forward. Seeing none, is there anyone here that would like to testify in opposition? Welcome.

**WES BOTTORF:** Good afternoon, Chairman Williams, and the Banking, Insurance, Commerce Committee. My name is Wes Bottorf, that is W-e-s B-o-t-t-o-r-f. I'm associate general counsel at Farmers Mutual of Nebraska, and I appear today on behalf of the Nebraska Insurance Information Services in opposition to LB672, but more specifically to

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paragraph 3 of the proposed legislation. Paragraph 3 relates to the named driver exclusions that can be added to an insurance policy as an endorsement. When an individual or individuals are listed as excluded drivers, this appears on the insurance policy declaration page, not on the proof of insurance. The effect of the exclusion is essentially a promise by the policyholder that those named individual-- excluded individuals will not operate the vehicle insured by the policy. If an individual listed as excluded driver does oper-- does operate a vehicle which they are excluded, the insurance policy on the vehicle will not apply. For example, named driver exclusions may be needed for a person that's had too many accidents or traffic infractions because the insurance company will not write the policy with that household member listed on that same insurance policy. In circumstances such as this, an individual applying for insurance can list certain individuals as excluded drivers to obtain or continue insurance coverage with the caveat that the vehicle will not be covered if an excluded driver operates it. Excluded drivers should never operate a vehicle in which they are excluded from. As Senator Clements mentioned, it is the same as driving without insurance. These individuals need to obtain their own separate coverage for themselves. The proof of liability insurance certificate is simply an indicator that on the date the certificate was generated, the policy provided coverage for the named policyholder on the vehicle displayed. It is by no means nor should it ever be considered a guarantee of coverage or that coverage is in effect or will apply to a claim on a specific date. Coverage can only be determined by a review of the policy contract which includes policy declarations and any added endorsements. Policies cancel, lapse for nonpayment of premiums, or nonrenew all the time. There is also a number of accident or claim situations that are precluded and excluded that can only be evaluated based on each individual situation, not on the scene. An example would be a nonpermissive user driving a vehicle which the policy may not cover which that would come up much more often times than an excluded driver. Listing some excluded drivers on proof of insurance certificates is not going to reduce or eliminate the possibility that coverage may not apply based on what appears on the certificate or provide consistent information to law enforcement for uninsured driver determinations. Proof of insurance certificates are only sent out as-- at policy inception and renewal. It can be 3 to 6 to 12 months between receiving new proof of insurance certificates. A lot of changes can happen in each of those time periods, and the proof of insurance certificate may not display accurate information regarding what is intended to be elicited by this bill. Again, that's because the

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purpose of the proof of insurance certificate is to show that the vehicle was originally registered with insurance for the named policyholder or has been renewed, again, nothing more. As a practical matter, there is simply not room on the proof of insurance certificates to identify excluded drivers or any other information that currently appears especially not for this nonpertinent information. At Farmers Mutual where I work, for example, approximately 1 to 2 percent of policies contain the named driver exclusion. But it's not always the same one two-- one to two percent because they can constantly change. What's being asked is to make accommodations to include information that may not be accurate, up-to-date, or as comprehensive as this bill intends for law enforcement purposes because the proof of insurance certificates apply to the vehicle being insured not the driver or potential drivers. With all the circumstances that can arise and affect coverage, there is concern over listing any other information on the proof of insurance as creating an appearance of liability coverage for anyone not intended-- identified as an excluded driver if this bill were to pass with paragraph 3-- 3 included. Again, the Nebraska Insurance Information Services opposes paragraph 3 of LB672 as it would not change the result of being able to get accurate information each time or identify these vehicles as excluded drivers what their operating. We ask that paragraph 3 be stricken from the bill or that LB672 not move forward from committee. And I thank you very much for your time, and I can answer any questions you may have.

**WILLIAMS:** Thank you, Mr. Bottorf. Questions? Seeing none, thank you for your testimony.

**WES BOTTORF:** Thank you.

**WILLIAMS:** Invite the next opponent. Welcome.

**RITCH NELSON:** Thank you. Senator Williams, members of B, C and I Committee, I'm Ritch Nelson, R-i-t-c-h N-e-l-s-o-n. I represent the Independent Insurance Agents of Nebraska. The paragraph 2 is what I want to talk about a little bit is-- I assume this is against the broad form named driver endorss-- policy that Dairyland currently writes. They are the only company I know right now that writes this particular type of policy, and I'll read a little bit of their verbiage. You are covered for liability while driving all cars you own without having to list them on your policy and without having to pay additional premium for, excuse me, for each one. You are also covered for liability while driving own cars by someone else's permission.

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Basically how this policy works, they will insure two drivers on all the cars you own or don't own if you're permissive use on someone else's car. It allows-- what it boils down to-- it allows someone that maybe have two or three cars that are not the greatest in working conditions and say one breaks down, they can jump in their other one and drive it. They don't have to come and change cars every time. Give you an example, one of my clients that I've had insured off and on for a long time, currently, he has this policy. He owns four cars. They don't always run right. So he drives one, one breaks down, he drives another. Currently, for this type of policy, the broad form, he's paying \$358 every 6 months for liability. If he had to insure all of his cars, he'd have to pay almost \$1,200 every 6 months to insure all his cars. What this has done for him, he has kept an insurance for almost a year. Where in the past, he'd have it for a couple of months, it'd cancel, then he would come and get another policy. I have an office in south Omaha. We write a lot of this policy, and I believe that more people have kept their insurance in force because the premiums are cheaper by insuring more cars. It-- this policy does not cover comp and collision, it's just liability. If you have any questions, I'd be glad to--

**WILLIAMS:** Questions for Mr. Nelson? Seeing none, thank you for your testimony. Invite the next opponent. Welcome back, Miss Gilbertson.

**KORBY GILBERTSON:** Good afternoon, Chairman Williams, members of the committee. 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 Insurance Association of America in opposition to LB672. I got to talk to Senator Clements a little bit about this legislation this morning and completely understand where he's trying to get at. Our concern is this bill does not fix the problem that he's trying to fix. As Wes spoke about earlier, when you get a proof of insurance card, you'll get that card. It doesn't guarantee that you're going to keep that insurance for the six months that that card is supposedly valid. And I believe that's what happened in this instance. Someone had an insurance card that made it look as though they had insurance, but they did not. The fact that the county attorney chose not to charge this person with not driving with insurance is, I-- I don't understand, but this legislation would not fix that. I also wanted to go just a little bit deeper into the-- the issues with Section 2 and the broad form endorsement. When PCIA looked at this legislation, they looked at companies that typically write this type of insurance, and about 90 percent of the people that buy

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broad form insurance, broad form endorsement insurance, were uninsured prior to purchasing that. So if it's not going to be allowed, you're going to, obviously, adversely impact one specific group of people. If they would be then required, as the agent talked about, to require-- to insure each individual vehicle, the cost would greatly increase and the likelihood of them not having insurance again would go up. And that's our concern with deleting that part of the bill. The reason why companies offer broad form endorse-- insurance is because the theory is you can't drive more than one vehicle at a time, so the risk is not going to be that high if you have several vehicles. With that, I'd be happy to answer any questions.

**WILLIAMS:** Thank you. Any questions for the witness? Thank you, Miss Gilbertson.

**KORBY GILBERTSON:** Thank you.

**WILLIAMS:** Invite the next opponent. Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Clements, you're invited to close.

**CLEMENTS:** Thank you, Mr. Chairman. Let's see, one-- the first opponent talked about it doesn't do anything about nonpermissive use. I'm not addressing nonpermissive use; I know it happens. I'm just trying to help law enforcement know who is an excluded driver in certain situations. The second person talked about, let's see, this broad form policy. The statute already does require a vehicle to be covered. I'm not sure-- these people were driving four vehicles, I don't know that they're registered vehicles or if they are, they're being registered at the oversight of the registration person because the information that the person-- registrar's not getting information that says it's-- it's not really valid for registration because the statute requires the vehicle to be covered, not just the driver. And just wanted to ask whether law enforcement will be more or less informed at the scene of an accident because of LB672. I think they'll be more informed. And I've certainly have had constituents injured and damaged who found out there was no coverage and no ticket was issued. Nothing happened to that person. I think some consequences are in order for uninsured drivers. And finally, I believe that the broad form-- they said the broad form policy might be done away with if we bring this to light. I think it is already not proper to register vehicles with a broad form policy. But I'm not trying to really address that, just trying to have

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conspicuous notices on proofs of insurance for law enforcement and registration purposes.

**WILLIAMS:** Any questions for Senator Clements? Seeing none, and we have no letters. We will close the public hearing on LB672. Thank you,--

**CLEMENTS:** Thank you.

**WILLIAMS:** --Senator Clements. We will be going into Exec--