[LB176 LB484 LB551]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, February 10, 2009, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB176, LB484, and LB551. Senators present: Rich Pahls, Chairperson; Pete Pirsch, Vice Chairperson; Mark Christensen; Mike Gloor; Chris Langemeier; Beau McCoy; Dave Pankonin; and Dennis Utter. Senators absent: None. []

SENATOR PAHLS: Good afternoon. I want to welcome you to the Banking, Commerce and Insurance Committee hearing. My name is Rich Pahls. I'm from Omaha, and I represent District 31. I serve as the chair of this committee. The committee will take up the bills in the order posted: LB176 by Senator Lathrop; LB484 by Senator Stuthman; LB551 by Senator White. As many of you know, this is your opportunity to become part of the public process. We're going to ask you to help us out today to better facilitate the meeting by looking over the small chart. I'm asking you to turn off your cell phones. If you move to the reserved chairs, it gives us some idea of how many people are going to testify. We testify here as in other committees: the introducer, the proponents, opponents, neutral, and then closing if the senator so chooses. When you testify, we're asking you to sign in and place your form in the box there. I want you to spell your name for the record because there are other people who we do not see who are trying to transcribe our words. Again, we're asking you to be concise. If you have materials that need to be handed out, we need at least ten copies. If you do not have ten, just wave your hand, and we will have one of our pages who will run those off for us or see that we do have it. Over here we have the committee counsel, Bill Marienau. All the way over there is Jan Foster, and she has the power to turn this session on and off with simply the push of a button, right? So we're going to treat her very nicely. We'll start our session off with senator introducing. []

SENATOR UTTER: I'm Dennis Utter from District 33, Hastings. []

SENATOR LANGEMEIER: I'm Chris Langemeier, District 23, Schuyler. []

SENATOR PIRSCH: Pete Pirsch, Legislative District 4, west central Omaha, parts of Douglas County and Boys Town. []

SENATOR GLOOR: Senator Mike Gloor, District 35 which is Grand Island. []

SENATOR PAHLS: As you can see, we have several senators who are not here. A couple of them told me they were going to be late because of some commitments they have made. Our pages, if you look all the way over here, Jared Weikum from...he's disappeared, right? (Laughter) He was here. He is from Lincoln. And we have Rebecca Armstrong from Omaha, Nebraska. And I'm saying, it appears we are ready. Senator

Lathrop, if you're ready. []

SENATOR LATHROP: Thank you, Chairman Pahls and members of the Banking, Commerce and Insurance Committee. My name is Steve Lathrop. I'm the state senator from District 12. I'm here to introduce LB176. LB176 would prohibit an insurer from using credit information in connection with the issuance, underwriting, renewal, cancellation, or denial of insurance. The bill would also prohibit an insurer from using an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status, or nationality of the consumer as a factor. The use of individual's credit scores to predict the risk of future losses become common practice among insurers. This practice is a concern because there does not seem to be a link between the insurance rates you're charged and your credit score. Credit scores were developed by lenders to predict how likely it would be for a potential borrower to default on a loan, not to predict their driving habits. In addition, there's concern that low income consumers and certain minority populations are more likely to be charged a higher insurance rate as a result of this practice rather than be charged a higher rate due to their driving record. As the national economy takes a downturn, it is possible that this may lead to credit scores decreasing which can, in turn, lead to higher insurance rates. This could take place despite no change in driving habits of those being impacted by these increases. There are studies to be found supporting both sides of this issue including a January, 2005, study by the Texas Department of Insurance that found that for automobile insurance, there was very little or no statistical evidence that the credit score was related to the amount of any claim or claim severity. Either way, the question remains whether or not it's a fair way of determining insurance rates paid by citizens of Nebraska. LB176 would require that insurance companies use a different method to determine consumers' insurance rates. There are surely many other rating and underwriting factors that can be utilized for this rather than the credit score, factors that are more related to driving records than financial records. After I put LB176 in, I did get some telephone calls and some e-mails from people that are in full support. And their story is similar, you know. I had some reason to go to the hospital; I have some hospital bills, they went into collection. My credit got a nick, and now my insurance rate is going up. And it just seems to me that what we are doing and in some respects...well, one other story. Had somebody tell me that they got a letter from the insurance company that said, your premium is going up because of your credit score. And the problems with your credit score, and then they listed them. And they included insufficient credit information because there is a minor daughter in the household. So what happens is the credit score is taking...it's kind of giving people a double whammy. If you're an underage driver or an 18-year-old, you can get it for being an 18-year-old which is a more risky driver or a 17-year-old. But then you look at that person's credit score, and now they're getting a second hit because they don't have sufficient credit established or maybe they opened an account at Victoria's Secret or at Target and didn't pay it. And those have nothing to do with whether they're careful drivers or not, and I don't believe...and that really is the point of LB176. It shouldn't be a consideration in determining what your auto premium should be. So with that, I'd be happy to answer any questions. [LB176]

SENATOR PAHLS: Senator Pirsch. [LB176]

SENATOR PIRSCH: In looking at your introducer's statement of intent, it says in part, The purpose of LB176...would prohibit an insurer from using an insurance score calculated using, in part, a number of factors, income, gender, address, zip code, ethnic group, religion, marital status, nationality of consumer. When it comes to such factors as gender, ethnic group, religion, and nationality, can insurers currently consider that information right now in calculating whether...? [LB176]

SENATOR LATHROP: I don't know that there's any prohibition against it, Senator Pirsch, and we have it in the bill to make sure that it doesn't become a consideration. But if you use someone's address, their zip code, their marital status, or their credit score, you can effectively make things more expensive for somebody in northeast Omaha. And the very people that are least able to afford the insurance, you discourage them from buying it because it gets expensive, and all because of where they live, and not how they drive. [LB176]

SENATOR PIRSCH: But aren't these already suspect classifications that are outlawed by both federal and state law that you cannot use these classifications as a basis for really much of anything? I mean there's a...it falls into... [LB176]

SENATOR LATHROP: You cannot change the circumstances of someone's employment or deny them service at a public place. Based upon those things, I'll agree with you. If you're telling me there's a federal statute that prohibits this in the calculation of insurance rates, then I don't mean to be duplicative. But I don't think there is. [LB176]

SENATOR PIRSCH: So you can use such things as race, national origin in determining insurance rates? [LB176]

SENATOR LATHROP: I'm not aware of any prohibition against it. [LB176]

SENATOR PIRSCH: Okay. [LB176]

SENATOR PAHLS: Senator Langemeier. [LB176]

SENATOR LANGEMEIER: Senator Lathrop, thank you for your testimony. In this bill I see two chunks here: first, your credit score, and then this issue of insurance score that you've introduced here with a definition. But I want to focus on this address and zip code. Would it not be safe to say in figuring a risk for my insurance versus your insurance, the odds that you do most of your driving in Omaha, granted when you're not coming to Lincoln, and I'm driving rural Nebraska, I mean, take into a factor, deer collisions, rock chips, I would figure my address being outstate, I'm at a higher risk and I think there's some rating that happens county by county in that regard? So I can see the address to place you in a county. Maybe not an address to place you some particular place in Omaha if that makes sense but I can see... [LB176]

SENATOR LATHROP: I think it does, and I think I understand your question. [LB176]

SENATOR LANGEMEIER: ...I can see it placing you in a county for different risks. [LB176]

SENATOR LATHROP: I would say that somebody that lives in Los Angeles, California, there's a lot more cars you're driving in a more densely populated area, their rate ought to be different than somebody in Schuyler, Nebraska, I can agree with that. But somebody who is in northeast Omaha, their rate shouldn't be different than someone in Dundee which is an affluent neighborhood because the risks are the same for both of them. And so the county, sure. The city they live in, yeah, I'm okay with that. But to have as a consideration the zip code they live in or the neighborhood, I think penalizes people for where they live. And really it's...they don't say you live in west Omaha, so your premium is going to be higher. What they say is you live in northeast Omaha, so your premium is going to be higher, I believe, and that's why I think the address and the zip code should not be part of the process. [LB176]

SENATOR LANGEMEIER: So you'd allow...with this, you'd allow county or community? [LB176]

SENATOR LATHROP: I would...yeah, I think that's reasonable, because I think that has to do with the risk. If you're State Farm, and you're trying to decide what we ought to charge somebody. It probably should be cheaper for somebody in your...in Colfax County versus somebody that lives inside of Omaha. [LB176]

SENATOR LANGEMEIER: Okay, thank you. [LB176]

SENATOR PAHLS: Senator Utter. [LB176]

SENATOR UTTER: Thank you, Senator Pahls. Thank you, Senator Lathrop, for your testimony. Is it your intention that this law would apply only to automobile insurance or are we talking about... [LB176]

SENATOR LATHROP: Well, I think the way it's written,... [LB176]

SENATOR UTTER: ...homeowners insurance,... [LB176]

SENATOR LATHROP: ...the way it's written... [LB176]

SENATOR UTTER: ...and life insurance, and all kinds of insurance? [LB176]

SENATOR LATHROP: Okay, I talked to somebody from Mutual of Omaha who is probably going to come up and oppose the bill, and their concern with life and with an annuity is they have a genuine interest in whether somebody is going to be able to pay it. I appreciate that. That has to do with a long term commitment with New York Life or Mutual of Omaha. But as it relates to homeowners' coverage and to the auto coverage, I would limit it or accept an amendment that would limit it to auto and homeowners. [LB176]

SENATOR PAHLS: Senator Christensen. [LB176]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Thank you, Senator Lathrop. I guess I'm going back some. My parents have always told me on the marital status part, you know, when guys tend to get married, they settle down, they're less of a risk. You don't think that should be considered? [LB176]

SENATOR LATHROP: No, I don't. Should my premium be higher because I'm divorced? Was I a different driver before my divorce than I was afterwards? I don't think marital status has anything to do with it. We already take and...there is a reasonable relationship between the age of a driver and the risk. [LB176]

SENATOR CHRISTENSEN: Age. [LB176]

SENATOR LATHROP: Fair enough. [LB176]

SENATOR CHRISTENSEN: Yeah, age, I agree. [LB176]

SENATOR LATHROP: You know what? If you're 16, you don't have the years behind the wheel that certainly you would, and so I understand the age thing, but the marital status? [LB176]

SENATOR CHRISTENSEN: You know, it's probably more of an age thing than a marriage thing. [LB176]

SENATOR LATHROP: I would agree with that, Senator. [LB176]

SENATOR CHRISTENSEN: You know, but typically, your...well, I shouldn't say that either. [LB176]

SENATOR LATHROP: You got to be careful, don't you? (Laugh) [LB176]

SENATOR CHRISTENSEN: (Laugh) Thank you. [LB176]

SENATOR PAHLS: Senator Pirsch. [LB176]

SENATOR PIRSCH: Getting back to,...you would entertain a friendly amendment, you indicate as distinguishing life and annuity separate from homeowners and auto policy? [LB176]

SENATOR LATHROP: Yes. [LB176]

SENATOR PIRSCH: What is the distinguishing criteria in terms of the possible harm that could come to you? I mean, there's obviously a possible harm that's motivated this bill, and you're saying that's in particular to...specific to homeowners and auto yet would not venture into the areas of life and annuity. And you said it has something to do with... [LB176]

SENATOR LATHROP: I don't know that it wouldn't...that it wouldn't venture into there. But you'll hear in the...from some of the opponents what they believe is a distinction between property and casualty, and life and annuities. And I believe it has to do with their ability to make the premium. So if you're going to...if you buy an auto policy, as soon as you stop paying it, that's the end of the relationship. And I believe you will hear the life and annuity folks come up after me, and tell you that there is a difference, because it's more of a long-term relationship with the life and annuity people. When you make that commitment, they're on the line, and whether you can pay the premium...whether you can pay it is a different situation than it is with property and casualty where they can simply turn off the coverage like that. Well, it's a little more complicated than just like that but. [LB176]

SENATOR PIRSCH: Are...oh, I'm sorry. Go ahead. [LB176]

SENATOR PAHLS: Senator Christensen. [LB176]

SENATOR CHRISTENSEN: Thank you, Chairman. Senator, you don't see any correlation between a poor credit score and being able to pay for car insurance then if you see a correction on the...? [LB176]

SENATOR LATHROP: Well, there's a difference, though. If a person...first of all, it's not used to decide who they should and shouldn't insure. It's...it goes to how much they're going to charge you for it. So if you don't...if you have some problems with your credit, it's not that they're not going to give you the insurance which is what you'd expect them to do if you have poor credit; they're just going to charge you more for it. Okay? That's the first thing, and the second thing is with property and casualty, and let's just take your auto policy. If you have a State Farm policy, and they write most of the insurance in the state, so I'll use them as an example. If you agree to pay them quarterly, and you pay them for six years, and you miss a payment, they immediately send a note to you that says, you got 30 days to get that to us. If you don't, your coverage is cancelled. They have a way of an immediate...they have an immediate remedy if you're not paying your bills, and you're not paying your premium. [LB176]

SENATOR CHRISTENSEN: But on life insurance, if I missed my payment, they immediately cancel that, too. [LB176]

SENATOR LATHROP: Well, I'm okay with leaving life and annuity in here, and you can listen to the people that think there's a distinction, and I listened to some of that this morning; visited with a representative that you'll probably hear from this afternoon, and they'll make the case for excluding those folks from this bill. [LB176]

SENATOR CHRISTENSEN: Okay, thank you. [LB176]

SENATOR PAHLS: Senator Lathrop. I'll make myself younger. [LB176]

SENATOR LATHROP: Sure. [LB176]

SENATOR PAHLS: What you're telling me, that if you and I are the same age, your credit scores are 750 and mine happen to be 500, that my rates will automatically be higher or that's just one? [LB176]

SENATOR LATHROP: I can tell you that I don't know, Senator Pahls, whether every auto insurance company is doing this or not. I'm told...I know that American Family is, because that's who insures me. I believe State Farm is as well. I don't think it's limited to just me. If it's my family, they're going to go and look up my credit, and they're going to go look at my dependent daughter's credit scores. And it is a consideration in what they charge you for your auto insurance. [LB176]

SENATOR PAHLS: Senator Pirsch. [LB176]

SENATOR PIRSCH: Right. I guess a couple of arguments is what I hear. First of all, that there is empirically, the claim of the insurers that somehow the method that they're utilizing, at least in your case is empirically more accurate, the end result no matter, you know, in their argument or estimation. And that's why they're utilizing it, and you don't see that point. You say that there are studies, and you point out a January, 2005 study, I think you said Texas. You know, if there's other studies along the lines that would support, I guess your position, I'd be interested. I think the committee would be, you know, helped out by having those delivered to us. But your point is even further...and so I guess that's a formal request if you could help edify us by, you know, with those...any studies or evidence that kind of supports that. The second thing is you're saying, even beyond that, though, you know, even though you're not ceding that point, you're saying that that is incorrect. You're saying, even if it were accurate, it's still not a fair method or a sound method of doing it, correct? I mean, even if the end result means... [LB176]

SENATOR LATHROP: Exactly. [LB176]

SENATOR PIRSCH: ...it's more accurate, you're saying that it's not the right thing. It's a procedurally bad thing to do. [LB176]

SENATOR LATHROP: Let me maybe make my point this way. You just had two twins born, and let's fast forward 25 years, and one of them lives in west Omaha, and is married, and the other is in northeast Omaha, and had a couple of doctor bills go into collection. But otherwise, they have the very same driving habits; they have the very same...they paid their insurance premiums on time. They've done everything exactly the same except one of these twins has some credit issues related to some doctor bills. Should they be charged a different premium? That's what this bill is about. And my answer to that is no. Nor should they be charged a different premium because one is married and one isn't. There's no rational relationship between the premium going up and your credit score. There is, if it's based on your age perhaps or if it is based upon your driving record. [LB176]

SENATOR PIRSCH: So it's not just the overall results. There might be a complex formula with multiple variables that, in the whole, the insurance companies come forward and say, these are the variables, the inputs we put in, and that empirically, we can demonstrate that the end result is much closer or accurate type of forecasting about who's a problem...who's more likely to get into accidents. But you're saying, in addition to just the end or result, you should look at the component parts of what goes into the formula... [LB176]

SENATOR LATHROP: Exactly. That's a good way to put it, Senator. [LB176]

SENATOR PIRSCH: And you should say, each one has to individually meet the smell test of being rationally related. Is that the...? [LB176]

SENATOR LATHROP: Well, maybe what we're talking about is policy because ultimately, if we look at each one of the components, and we say, go ahead and ding the poor. Go ahead and ding the guy who has problems with a collection company. Now what we're going to do is put marginally, but there are going to be some people that decide at some point, the premium is too high. I'm running around with no insurance. Okay? So if we don't stop this practice, we are discouraging the very people, the marginal people from getting insurance, and we're going to have more uninsured as well in my opinion. [LB176]

SENATOR PAHLS: Senator, so it would appear to me, since we're requesting information from you to support yours, and the other side should also bring forth information to support theirs. [LB176]

SENATOR LATHROP: Sure. [LB176]

SENATOR PAHLS: Makes... [LB176]

SENATOR LATHROP: That makes sense, and we'll try to get you whatever studies there are, Senator, that support the proposition that there's no... [LB176]

SENATOR PAHLS: relationship... [LB176]

SENATOR LATHROP: ...relationship between one's income and...or their credit score and the...their risk. [LB176]

SENATOR PAHLS: Okay. Are you going to be here to close? [LB176]

SENATOR LATHROP: I might stick around for this one. [LB176]

SENATOR PAHLS: Okay, okay. Just by...so let ourself know, how many proponents? Okay. How many opponents? I see one, two, three, four, five, six. People in the neutral? Okay, so let's...okay, we have one in the neutral. So what I'm going to suggest that you do is as you come up, so we have some feel of the motion, is move into the reserved seats so we can keep the thing flowing. [LB176]

COLEEN NIELSEN: (Exhibit 1) I do have some handouts here. Thank you. Good afternoon, Chairman Pahls, 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 the Nebraska Insurance Information Service which is a local association of property casualty insurers doing business in Nebraska, and I'm testifying in opposition to LB176. I want to thank Senator Lathrop for bringing this bill because it really does give us an opportunity to clear the air about the use of credit information by insurance companies, and how that credit information is currently regulated. I appear before you today to give you a layman's overview of credit scoring, and I emphasize the term, layman. There will be experts following me who can describe to you more of the technical aspects of the insurance scoring methodologies. LB176 or bills like it, bans on credit have been before this committee a number of times over the past ten years. And I have to admit to you that when I first heard that credit information was used by insurance companies, I was skeptical because it really didn't sound very fair to me, but here's what I've learned over the years. First of all, the score that insurance companies use in their underwriting and rating is not the same one that you think of when you're applying for a loan or a line of credit. The insurance score is made up of certain characteristics drawn out of that formulation of the financial credit score. So companies have discovered that these characteristics can predict a person's propensity for loss better than any of the other risk factors used to calculate a person's premium or rate. So what are the other kinds of underwriting factors that are included? Well, it's where you live, the kind of car that you drive, driving record. There are numerous lists of factors considered other than the credit score in determining your rate. But credit scoring has proven to be a better predictor of loss than any of them, so what does that mean for your constituents? It means that a person's premium more accurately reflects their risk of loss. So lower risk drivers receive a more accurate lower rate. It also allows for the insuring of persons who may have previously been uninsurable or very high risk, based on the other risk factors such as their driving record, but determined to be a good risk based on their credit score, so it actually increases the availability of the insurance. If you pass this bill, it will simply mean that insurance consumers who have received the benefit of the insurance score will see an increase in their premiums. Some of the higher risk drivers' rates would go down, but the cost would be picked up by the lower risk drivers. Now, there's been an Arkansas study out there apparently, that has reviewed what the shift might be. And apparently, based on credit scoring in their state, and the information that they received, 30 percent of the drivers received a benefit or a lower premium as a result of credit scoring. I believe 60 percent remain the same, and maybe 9 percent of the higher risk drivers received a decrease. Now, in 2003 here in Nebraska, this body passed the model act regarding the use of credit information and personal insurance, and this act is patterned after the NCOIL model. Its primary purpose is to provide consumer protections with respect to the insurance use of credit. And there are five key provisions to this act, the first being that income, gender, address, zip code, ethnic group, religion, marital status, or nationality is prohibited in any insurance scoring methodology. Second, the act prohibits using credit information as the sole basis for denying, cancelling, nonrenewing, or determining nonrenewal rates. Third, taking an adverse action because a consumer does not have a credit card, or if the credit reporter insurance score is calculated over 90 days from the date of the policy is written or reviewed, is prohibited by this act. Four, insurance companies are prohibited from using several discrete factors such as credit inquiries not initiated by the consumer, inquiries relating to coverage, collection accounts from the home mortgage industry within 30 days of one another, and multiple lending inquiries from the auto lending industry within 30 days of one another. Finally, it does have a feature of dispute resolution. If it is determined through dispute resolution that credit information of a current insured was incorrect or incomplete and notices provided to the insurer, the insurer must re-underwrite and re-rate the consumer within 30 days. The insurer must also make any adjustments necessary to comply with its underwriting and rating guidelines and refund any overpayments to the insured. There must be notice to the insured that credit information may be obtained when they make application, and if an adverse action is taken, and an adverse action is defined as a denial, cancellation, increase in charge, or reduction, or adverse change to your coverage, the insurer shall provide notification and explain the reasons behind the adverse action including the four factors that were primary influences. Finally, the law requires that insurers file these insurance scoring methodologies with the department. So the bottom line, and what I want to say to you is that I think that Nebraska's current law presents a good balance, because it allows for the benefit of more accurate pricing, and at the same time, provides for the consumer protections. We ask that you vote against LB176, and I'd be happy to answer any questions. Yes. [LB176]

SENATOR PAHLS: I have a question. Basically, third from the bottom line, these...of course, the law requires you to file your scoring with the Department of Insurance. [LB176]

COLEEN NIELSEN: Um-hum. [LB176]

SENATOR PAHLS: Okay. Now then, I'm going to go back to like your fourth or fifth paragraph on the first page. [LB176]

COLEEN NIELSEN: Um-hum. [LB176]

SENATOR PAHLS: It says, "The insurance score is made up of certain characteristics drawn out of the formulation of the financial credit score." It's the one, two, three, four...fifth paragraph. [LB176]

COLEEN NIELSEN: Um-hum. [LB176]

SENATOR PAHLS: The sentence, "The insurance score is made up of certain characteristics,"... [LB176]

COLEEN NIELSEN: Um-hum. [LB176]

SENATOR PAHLS: Do you know the characteristics? [LB176]

COLEEN NIELSEN: No. I'm sort of aware of the different variables that are included in considering the credit score, but the people behind me will be able to speak to that more clearly than I. [LB176]

SENATOR PAHLS: Okay. And this is just for my own information. I mean, so, in other words, my insurance company, if I requested that, I could get that from that insurance company? [LB176]

COLEEN NIELSEN: Will they give you the credit scoring information? [LB176]

SENATOR PAHLS: Yes, how they... [LB176]

COLEEN NIELSEN: Again, I would think that their methodologies are trade secret, but they certainly do have to describe to you...they would describe to you, most likely, if you've had an adverse action, you know, like an increase in your premium or whatever, the first four variables that were primarily influencing that change. Um-hum. [LB176]

SENATOR PAHLS: Okay. And so you're saying, this will be explained to me a little bit more... [LB176]

COLEEN NIELSEN: Yes. [LB176]

SENATOR PAHLS: Because I'm assuming you have this insurance company and this insurance company. I mean, they have to have some of the same rating factors. [LB176]

COLEEN NIELSEN: Right. I think that while it's a very competitive market,... [LB176]

SENATOR PAHLS: That I understand, and you have... [LB176]

COLEEN NIELSEN: ...and so they each have their own methodologies of sorts, but it's similar, yes. [LB176]

SENATOR PAHLS: And the reason why I'm asking these questions, several years ago, when my insurance policy...and I do have good credit scores because I know that. And my agent says, don't worry about it, you know, because he says, you'll see something about your credit rating, he said, but don't worry about that, and which I didn't. But I have heard from people that they were concerned about it. That's...I'm getting a little bit of a mixed message here that it's not important; yet it is important. And the consumer out there is...they are asking the question, and I was just surprised because my agent said not to worry about it. [LB176]

COLEEN NIELSEN: Right. [LB176]

SENATOR PAHLS: See, so it has to be out there somewhere where this is...some people feel uneasy, I'm not saying right or wrong. But they must feel uneasy about this, and I'm just hoping some of the people following you will alleviate some of those questions. [LB176]

COLEEN NIELSEN: I understand. [LB176]

SENATOR LANGEMEIER: Thank you, Chairman Pahls. I got to ask. You put this in layman's terms. Is that for my benefit or yours? (Laughter) [LB176]

COLEEN NIELSEN: Probably mine more than yours. [LB176]

SENATOR LANGEMEIER: Okay. My next question was going to be based on that. Now the question I have is, is you talk about all these factors that are put together with the credit score to make a rating. Here's my concern. As you said in your testimony, these credit scores in your belief or your client's belief, they're becoming more accurate, and a better telltale sign of what's going to happen. My fear is, is it's part of...and I'm going to make up a number here because I don't know, and that's your trade secret you talked about, is this may be one factor within ten things. We look at your age; we look at your car, and so on and so forth. My concern is, is in your mind, as your client' believe this becomes more and more important, that it becomes not ten things; it becomes two things. We have your age, and now it's credit score. So I look at this more as a bill of...as we start to exclude this litany of things, calculating income, gender, address, and maybe we need to turn it around, and start making a list of the ten things you can use... [LB176]

COLEEN NIELSEN: Right. [LB176]

SENATOR LANGEMEIER: ...instead of the list of what you can't use. [LB176]

COLEEN NIELSEN: Right. I don't know if I have a good answer to that entirely, but we're talking about different things. When we're talking about prohibiting the income, gender, address, and zip code out of a score, that's different than the factors that you consider in underwriting. So in underwriting, you do consider...an insurance company will consider a person's age, where they live, gender, because they have data to support the fact that that...those groupings have more risk. But inside that score, you can't use that information. [LB176]

SENATOR LANGEMEIER: I understand... [LB176]

COLEEN NIELSEN: Okay. [LB176]

SENATOR LANGEMEIER: ...that they're using...that you use your age, your gender, and all those issues... [LB176]

COLEEN NIELSEN: Right, right. [LB176]

SENATOR LANGEMEIER: ...because you have data. [LB176]

COLEEN NIELSEN: Right. [LB176]

SENATOR LANGEMEIER: But my concern is as you believe the credit score data is more accurate, that it trumps out...yes, we have...I mean, we have data on a lot of things, and some things we just don't use them because we have new data that says they're better. So my fear is, is before long, the industry says, these credit scores are so good, that's all we're going to use. [LB176]

COLEEN NIELSEN: Right. That's why there's a prohibition in the act, though, that you can't solely use credit, but I hear what you're saying. [LB176]

SENATOR LANGEMEIER: Maybe we need to beef that up. [LB176]

SENATOR PAHLS: Senator Christensen. [LB176]

SENATOR CHRISTENSEN: Thank you, Chairman Pahls. Coleen, in the example Senator Lathrop gave us of a set of twins live in two different areas, one town having...made payments on time, everything is perfect, but one has had doctor bills and got a glitch on their credit score. Is that going to affect their cost of insurance if they've never been late? [LB176]

COLEEN NIELSEN: It is my understanding that collection accounts with a medical code are not included as one of the variables in an insurance score, and the people behind me can explain that better than me. [LB176]

SENATOR CHRISTENSEN: Let's change that then instead of medical to a Sears credit card. I'm not picking on Sears, just a downtown credit card. If it's one credit card they've been behind on, but they've always made their driving record...or their insurance on time. Is that going to affect them? [LB176]

COLEEN NIELSEN: So you're saying they're late on their credit... [LB176]

SENATOR CHRISTENSEN: They're late on one credit card, but they've chose, I'm going to stay up on my driving insurance because I know it's important. Are they going to get dinged? [LB176]

COLEEN NIELSEN: Could I...I would just prefer to defer to the people behind me... [LB176]

SENATOR CHRISTENSEN: That's fine. [LB176]

COLEEN NIELSEN: ...because I think they can better answer that question. [LB176]

SENATOR CHRISTENSEN: I'm sure somebody will answer it for me. [LB176]

COLEEN NIELSEN: Um-hum, they will. [LB176]

SENATOR CHRISTENSEN: Thank you. [LB176]

COLEEN NIELSEN: Um-hum. [LB176]

SENATOR PAHLS: If it's okay, then maybe I will...because we'll have somebody because there are a number of them following you. [LB176]

COLEEN NIELSEN: Right. [LB176]

SENATOR PAHLS: If that's okay. If we can just wait till the other...some of our questions that might be answered by the following people. Yes. [LB176]

SENATOR PANKONIN: I just have one that I'm...and I apologize, Senator Lathrop, because I had a bill introduction in the Education Committee. But I'm not going to ask you what it is, but do you know what your credit score is? [LB176]

COLEEN NIELSEN: I have a pretty good idea. [LB176]

SENATOR PANKONIN: I mean, do you check it on an annual basis? [LB176]

COLEEN NIELSEN: No. [LB176]

SENATOR PANKONIN: I do. It has become whether you like it or not, a very important number, and we've taught our kids that, you know, this is an essential number not only for...notwithstanding credit because it is used more and more, and that's one thing that people have got to check because if there is a glitch, you can find it. It's a lot better than insurance companies and financial institutions and whatever but... [LB176]

COLEEN NIELSEN: Right. [LB176]

SENATOR PANKONIN: I hope it's good. [LB176]

SENATOR PAHLS: Senator Pirsch. [LB176]

SENATOR PIRSCH: Well, the question is, when we're talking...I think we're clear in the use of the term, credit score or credit report. Your testimony earlier, they're not the same two things, that there's some formula, or calculation that we refer to when we commonly say, credit score, that is uniform to the industry. Correct? And that is what we're used to when we say we check our...Senator Pankonin said, I checked my credit score. It's widely used. When you're saying, for the purpose of insurance, they're not utilizing what we call credit score? [LB176]

COLEEN NIELSEN: They're not...no, that is a financial credit score, and that's not the number that the insurance companies are using. [LB176]

SENATOR PIRSCH: Is it just that the credit agencies hold a large amount of data on many things on many individuals? First of all, there's no uniformity or not necessarily uniformity as one insurer as to the next. It's all proprietary. [LB176]

COLEEN NIELSEN: Right. [LB176]

SENATOR PIRSCH: They all have their secret recipes, right? [LB176]

COLEEN NIELSEN: That's correct. [LB176]

SENATOR PIRSCH: And so you're saying, it's not like credit score where that term is normally used. Is...and there is no recipe, but that it...I assume a credit collecting agency has a multitude of types of information about people that they collect from various sources, from stores that they've shopped at and whatnot, credit cards they've filled out. And so, is there then...so by using the same term, credit score, this is really just a home-built formula by each insurance company then, you're saying, in which they believe encapsulates the important information. One may choose A and C and F whereas another might choose B, D, and...is that correct? [LB176]

COLEEN NIELSEN: Well, again, the person behind me can describe that... [LB176]

SENATOR PIRSCH: Okay. Well, I won't... [LB176]

COLEEN NIELSEN: ...but some companies develop their own formulas, and some companies buy them from...or rent them or whatever, have them developed by companies that are expert in that area. [LB176]

SENATOR PIRSCH: So there is some uniformity then, some companies that create standardized type of formulas with that. Okay. Thank you for that testimony. The other thing I just would like to say, and I'll say this with the, you know, for just all proponents (sic: opponents). If there are studies that can be provided that correlate, that there is high level of, you know, high level of accuracy with the formulas that you're using now as opposed to, you know, other types of formulas, I'd appreciate having those, you know, kind of studies as well. And just one final thing, with respect to your testimony here, and on page two, it says income, gender, address, zip code, ethnic group, religion, marital status, nationality, is prohibited in any insurance scoring methodology under our 2003 adoption of that? [LB176]

COLEEN NIELSEN: Yes. [LB176]

SENATOR PIRSCH: Okay. Okay. I just wanted to clarify that. So this really doesn't key on those, but it does key on other acceptable factors that are utilized by. Can you tell me how much...and you probably don't know this, so I'll save that as a question for further. [LB176]

SENATOR PAHLS: Thank you. And I just want to say, when Senator Lathrop was up here, I said if he had information to give that and the proponents (sic: opponents), if you have information, so we don't have to ask that of every person. If you have information that will make us a little bit smarter on this issue, it will help us out. I think everybody understands that. Thank you. [LB176]

COLEEN NIELSEN: Thank you. [LB176]

SENATOR PAHLS: Next proponent or opponent. Thank you. [LB176]

JON BURTON: (Exhibit 2) Mr. Chairman, members of the committee, my name is Jon Burton, spelled J-o-n B-u-r-t-o-n. And I come to you today from Atlanta, Georgia, on behalf of a company named Reed Elsevier. Reed Elsevier is the parent company of some companies that you may be more familiar with including LexisNexis who is the market leader in providing legal and business information services. Reed Elsevier is also now the parent company of ChoicePoint insurance services. ChoicePoint is a market and industry leader in providing information, credentialing, underwriting, and fire prevention tools for the property and casualty insurers in underwriting auto and homeowner policies. One of the products that ChoicePoint provides, obviously, is the insurance scoring model, and my remarks today will address our role in this process as it relates to the insurance score model. Much of the prepared remarks I had for you today have actually already been kind of covered, so in the interest of not being redundant, I'm just going to kind of set the table and give you an overview of how my company fits into the role of this process, and then really open it up to your questions, because I think I can probably best serve the committee by responding to these questions because I've heard all of them. And I feel like I can respond to you better by just responding to your questions. Now that you kind of know who ChoicePoint is, let me tell you who ChoicePoint isn't. ChoicePoint is not a credit bureau in the sense that we don't house or maintain or possess any credit information on any consumers. We're, in fact, what is known as a reseller under the Federal Fair Credit Reporting Act which is basically just a fancy term is we're a conduit. The credit information is passed through to us, through the model which generates a score for the insurer. ChoicePoint is also not a credit grantor. We don't do auto loans or home loans or credit lines or home equity lines or anything like that. And finally, ChoicePoint is not an insurance company. We don't underwrite or make underwriting decisions. We don't collect premiums or pay claims or anything like that. We are just a business service vendor to the property and casualty insurers. One of the questions that already came up earlier was talking about the difference between a credit or a financial score and an insurance score. And I think for the basis of the discussion on this issue, it's very important that you distinguish between the two because although they can be derived from some of the same data, they are predicting two completely different outcomes. Credit scores are used by credit granters, lenders, banks, auto loans, mortgages, to determine whether or not a consumer is a good risk to pay back a loan. Creditors, you know, look at that information to realize, are you a good risk to pay back your loan? The insurance score makes a completely set of different decisions. Insurance scores look at the propensity that an individual will file a claim against his insurance policy relative to the standing book of that particular insurer. The insurance scoring process, it's a very open process. It's not a secret or black box. The variables which I know there's been a couple of questions asked earlier are open and widely available to the general public. I can tell you that our company's proprietary models, the variables that are used are readily available on the Internet. You can go on there today and check it out. It's choicetrust.com. Those variables are readily available including what we call our expanded reason codes which explain to you how these particular variables can impact your score. As also has been discussed, equally important is what is in the insurance score model is what is not: age, gender, race, income, religion, occupation, nationality. These are not factors that are included in the insurance score model. Your insurance score model is basically made up of three components: the credit data which we've discussed. There are literally hundreds of potential variables on your credit report. I think once heard, there's over 300 potential variables. Our company has boiled down to what we believe are roughly 50 of the most predictive variables, and those are what make up our insurance score model so what is relative to your credit report may or may not be relative to your insurance score. It just depends on the particular model. It also depends on the market segment that perhaps the insurer is looking to become competitive in. Other factors in the insurance score model are public record data including bankruptcies, judgments, and liens. And the last factor is consumer behavior such as loan applications and other inquiries related to getting financial access such as credit cards and those kind of activities. At this point, I am going to suspend my comments because much has already been covered already, and really open it up to questions. I have a few notes that I wanted to respond to some questions initially. There's been some discussion about some studies that the committee could reference. A couple of your neighbors...neighboring states have done comprehensive studies. The Texas Department of Insurance study was brought up. I think that provides great insight to the process and the study that they made on the relativity of claims data as it relates to your insurance score. The state of Arkansas, which has also been discussed, evaluated the impact to consumers as far as their premiums and whether or not it was a detriment to their premiums or whether or not they received a benefit or it was neutral. But I think that perhaps the most recent and most definitive study that I will make sure that the committee gets is the recent FTC study which was completed in 2007 which did a comprehensive study of this issue, and basically came back with the exact same thing that Texas and other states have come, that the credit data that is used in the insurance score is a highly predictive component in claims, prediction over the next 12 months. It allows consumers to be more accurately priced on their premiums. In doing so, it allows insurance to become more widely available to perhaps areas that would not be serviced by insurance. It also is driving down costs because once you are able to accurately price individuals, you can lower their premiums and more accurately cover your potential risk exposure against the intake of premiums. So I will make sure that the committee gets that FTC study, and with that, I'd just like to open it up to questions because I know you've got a bunch and I'd love to respond to them. [LB176]

SENATOR PAHLS: I just...let me start with one question. First of all, thank you because you've cleared up a little bit of the mud. As a consumer, can I go out and check out a website and see how, let's say, Allstate and Farmers, how they would rate me? [LB176]

JON BURTON: I think that would probably be more appropriate the insurers answer that. I don't know the answer to that. If those particular insurers are using a ChoicePoint model, whether it's a proprietary model or one that we've developed for them. Again, those variables are available. You can go to our website and order your insurance score, but how each individual insurer utilized that, I can't respond to. That would be better responded to by the insurers. [LB176]

SENATOR PAHLS: Okay. But...okay. But by going to your website, I can see what...how you analyze the information or the data. [LB176]

JON BURTON: You won't get inside into the actual...actuarial analyzation of the data... [LB176]

SENATOR PAHLS: Yeah. [LB176]

JON BURTON: ...you will have access to the factors that go into the model. As mentioned earlier, our model is on file with the Nebraska Department of Insurance. You know, we're required to prove actuarial soundness and they wouldn't approve this if we hadn't made a compelling case. [LB176]

SENATOR PAHLS: Okay. Thank you. Senator Christensen. [LB176]

SENATOR CHRISTENSEN: Can you answer the question that I threw at Coleen that Senator Lathrop used a set of twins? They got behind on one credit card, but they've never been late on the... [LB176]

JON BURTON: Sure. [LB176]

SENATOR CHRISTENSEN: ...auto. Will that affect their premium? [LB176]

JON BURTON: It really depends. It depends on, is this an isolated incident? Is this just one card they're late on? It also depends on what is the value that the particular insurer that's underwriting that risk places on that. If a large percentage of the insureds in that book have a similar circumstance, it's probably not going to factor that greatly. If the insurer is looking for individuals with perhaps a cleaner credit ranking, then perhaps it would. It just depends upon the book of business that you're involved with, with the insurer and the priorities that the insurer is setting for the market that they want to attack. Just my speculation, if you're talking about one particular incident on one particular credit card, I don't think that's going to be enough to have a significant shift in your insurance score. [LB176]

SENATOR CHRISTENSEN: Okay. Thank you. [LB176]

SENATOR PAHLS: Senator Langemeier. [LB176]

SENATOR LANGEMEIER: Chairman Pahls, thank you. Just for point of reference, can you tell me on this number that you produce, we all know what our credit report is. You're hoping to get the 800. What's your number range mentally here so I can think about it? [LB176]

JON BURTON: We're actually in the process of reissuing our next generation of models. I can tell you that the model that's in place now ranges from a score of 200 to 997. [LB176]

SENATOR LANGEMEIER: Okay. So that's kind of your model range, okay. And the other question, you talk about credit reports and the issuance of credit and the frequency of that. I like to buy real estate. Warren Buffett says buy what you know. And I'm in the real estate business. At any given time, I may own nine, ten houses, and then turn around and remodel them or something that's brought that out of compliance with the market and put them back on the market, so we're buying and selling on a frequent basis. We're taking out loans, paying off loans, taking out loans. Is that dinging me on my credit report for your number? [LB176]

JON BURTON: It would depend on if you're taking this out in a personal capacity or a business capacity, because if you're taking this out as part of a business entity whether it's a limited liability corporation or even corporated, that doesn't come across in the personal lines. That's, I believe, a Dun and Bradstreet report, so that would have no bearing whatsoever. [LB176]

SENATOR LANGEMEIER: Mine happen to be personal. [LB176]

JON BURTON: If it is personal, again, it depends upon are you current on your payments? You know, what is the relationship between the burden that you're carrying on a mortgage in relationship to your total available line of credit? There is no hard and fast rule. It really is a process to see how you're managing your financial affairs. Are you meeting your obligations on time? [LB176]

SENATOR LANGEMEIER: Okay. Because in that scenario where we're buying houses, we buy $100,000 house we borrow $100,000. There's no extra credit out there like a credit card where you're charged $1,000 on a $10,000 credit line, so I'm curious if that's... [LB176]

JON BURTON: It would only impact it to the extent of how it was...if it was waived against your total available lines of credit, and how you were meeting those credit obligations. [LB176]

SENATOR LANGEMEIER: Okay, thanks. [LB176]

SENATOR PAHLS: Senator Pankonin. [LB176]

SENATOR PANKONIN: Thank you, Chairman Pahls. And so I understand this correctly, ChoicePoint produces a score, and you gave us the range that 200 to 975 or 977, whatever it was. Okay, someone has an 800 credit score, but let's say they have some driving problems or accident problems or whatever, so even though they have high financial credit, they've had some driving problems. So their score is based on what you guys come up with, but you're also telling me that individual insurance companies can take the components of your score, and depending on how their own belief and underwriting is, they can...can you explain how...what the financial...how the credit score, financial credit score, how that's weighted, or how people tell individual companies might use that? [LB176]

JON BURTON: Okay,... [LB176]

SENATOR PANKONIN: Does that make sense out of your score? [LB176]

JON BURTON: ...for my clarification, when you say credit score, do you mean the insurance score because...? [LB176]

SENATOR PANKONIN: Well, no, I'm talking about the...you know, financial score, the borrowing...the one that's 800 is good, but yours goes to 900. But I guess what I'm trying to determine is find out, okay, you produce a score for insurance, right? [LB176]

JON BURTON: Correct. [LB176]

SENATOR PANKONIN: But the companies that might buy that score, that they can see the components of it out of that...if someone gets a 900 in your system, out of that, how...can they see different components of it? [LB176]

JON BURTON: No, no. What generally happens is, is what you're at the point of underwriting, and you're sitting in your insurance agent office. He has dialed into our system through a secure electronic line, and he will input your information, and the system will kick back a score to him. So no, at the point of underwriting, he won't see the variables; he won't see the credit report. All he will get is the score that's generated. [LB176]

SENATOR PANKONIN: Just insurance score. [LB176]

JON BURTON: That's correct. [LB176]

SENATOR PANKONIN: So, I thought earlier you said some companies put more...well, some companies put more emphasis on that score. [LB176]

JON BURTON: Oh. [LB176]

SENATOR PANKONIN: Is that what you're meaning or? [LB176]

JON BURTON: I may have been confusing. Insurance companies will tailor what they believe...different variables will have different predictive value. And depending upon the insurance market that perhaps that insurer wants to target, he will put different values on a particular variable. One of the greatest protections out there for consumers today is the actual marketplace because you can't turn on a radio or a television set, and not get a cottony lizard or a smooth Hollywood actor pitching you insurance. So everybody is out there trying to build a better mousetrap, and, you know, one man's trash is another man's treasure. This insurance company may be going after this particular set of consumers. This insurer may be going after a different set of consumers, so they will set their model to target and rate the group of consumers they want to get. So what insurer X may give you if you've returned an 800 insurance score, insurance X may quote you an X rate, whereas insurance Y may say that you're more desirable, less desirable and quote you a lesser rate. So marketplace forces are really one of the most single driving factors on all the considerations that the insurers are making with your score. It depends on who they want to underwrite. [LB176]

SENATOR PANKONIN: Okay. [LB176]

SENATOR PAHLS: Senator Pirsch. [LB176]

SENATOR PIRSCH: Each insurer is free to design their own formulas if they choose, but in general, they defer to expertise, standardized expertise in companies such as your own who have the ability...you don't collect raw data, but you have the ability to access that, and the ability to do logarithms and whatnot, and come up with, you know, slice and dice the variables in your proprietary way that you feel fits best each insurers and market that to them. [LB176]

JON BURTON: Sure. [LB176]

SENATOR PIRSCH: My question is, with regards to...I mean is this...the industry in which your company exists, is that a fragmented industry or is it...does it tend towards oligopoly or? [LB176]

JON BURTON: I'd like to sit here today and tell you that we had a monopoly across the P&C industry. We don't. We have competitors both on the vendor side as well as many insurers, you know, have taken this process internally. [LB176]

SENATOR PIRSCH: Okay. So it's...there are a number of players in the field. [LB176]

JON BURTON: Sure. [LB176]

SENATOR PIRSCH: So, and let me get this straight. You're saying that the...you think the invisible free hand of the...or the invisible hand of the free market is a check or a safeguard to the process by which, if there are a number of people...if there's a system or a logarithm in place, that you're utilizing or others are utilizing, that inaccurately rates the danger of the risk posed by each consumer such that they're paying more than they should be, that the invisible...the competition will find that...or should be able to find that miscalculation and somebody could step in, rate that more accurately, and then you're saying make, you know, with the...lower the cost to those people who should have their cost lowered and thereby capture a greater share of the market from... Is that your argument? [LB176]

JON BURTON: I think that's...I think it's a fair statement. I mean... [LB176]

SENATOR PIRSCH: Is...if...okay...is...if if that is...then...well, let me...let me, let me just...I just wanted to make sure that I understood what your argument was. And so with regards to, though, the information, in number two that you put down, identifying information, credit history, public records, and inquiry. That's the sum total of the variables that you look at, and then you kind of give breakdowns? [LB176]

JON BURTON: That's correct. [LB176]

SENATOR PAHLS: Any more questions? Seeing none, thank you. [LB176]

JON BURTON: Thank you, Mr. Chairman. [LB176]

SENATOR PAHLS: Next proponent? Again, I'm asking you to come to the front. That way it gives me a feel...I'm just going to...a show of hands again. I have one, two, three, four, five, six, multiplying. The floor is yours. [LB176]

ALEX HAGELI: (Exhibit 3) Good afternoon, Mr. Chair, members of the committee, my name is Alex Hageli, H-a-g-e-l-i. I represent the Property Casualty Insurers Association of America. Our members write approximately 50 percent of the P&C insurance in Nebraska. I'm here in opposition of LB176. While not every insurance company uses insurance scoring, we support the ability of insurers or the right of insurers to use those rating tools that they feel are the best fit for their practice. Insurance scoring has been in use since at least the 1970s, initially authorized through the Fair Credit Reporting Act, previously mentioned. It increased in popularity in the 1990s as scoring models were developed and became much more efficient at predicting loss. Insurance companies use insurance scoring for only one reason and one reason only. Insurance scoring allows them to rate and price business with a greater degree of accuracy and certainty. That, in turn, allows them to better price their product and to sell more of their product. The study issued by the Federal Trade Commission back in 2007 previously mentioned includes the statement which I feel pretty much sums up my position. Credit-based insurance scores are effective predictors of risk with respect to automobile policies. They are predictive of the number of claims consumers file and the total cost of those claims. The use of scores is therefore likely to make the price of insurance better match the risk of loss posed by the consumer. Thus, on average, higher risk consumers will pay higher premiums and lower risk consumers will pay lower premiums. The fact that insurance scoring allows companies to write more insurance than they previously did is borne out by the fact that the involuntary markets, the residual markets in states, the market of last resort for both automobile drivers and homeowners have seen massive depopulation within the past five to seven years. While, you know, they don't study exactly why the population is decreasing, there's an obvious correlation between the fact that...between the increased use of insurance scoring and the depopulation of these plans. The Arkansas survey was previously mentioned. I would just point out that Arkansas is an NCOIL state just like Nebraska; it shares the same law. Recently, in New Jersey, they have a very regulated market, and when State Farm pulled the plug and wanted to get out, they made some changes and they now allow companies to use insurance scoring and their highest-in-the-nation rates are beginning to decline as a result. The Texas study has been mentioned a couple of times. If I may, I would like to quote from that report. The author, the Texas insurance commissioner, speaking to the prospect of a ban set...effectively, we would ban risk-based pricing and underwriting and revert to a pricing system where we homogenize the risk and essentially charge everyone the same price regardless of risk. That would be a setback to all Texans of all races, especially those of moderate to lower income, whose risk remains low. And I would be more than happy to provide you a copy of that report and pull that responsibility from Senator Lathrop if he doesn't mind. And with that, I'll be open to questions. [LB176]

SENATOR PAHLS: Senator Pirsch. [LB176]

SENATOR PIRSCH: I appreciate your testimony here today and the...I'm not sure...I guess, and tell me if I'm wrong. There's not...when we talk about the insurance score, we're talking about...we're not talking about a standardized way of doing it. Right? Isn't every...every insurance company has their own score. Some may subscribe to a service that tends to use a uniform, but there's no such thing as an insurance score then. Is that correct? [LB176]

ALEX HAGELI: It's a generic term used to describe specific processes used by individual insurance companies. [LB176]

SENATOR PIRSCH: Is that true with credit score or is that a standardized across companies type of product? [LB176]

ALEX HAGELI: I don't know, I don't know. [LB176]

SENATOR PIRSCH: Okay. So the alternative...well, strike that. I'll ask do...accurate though they may be as a result of...and I'll only talk to those...speak of those formulas that you're familiar with. Accurate though they may be, do you know, is it...is it a true assertion to say that minorities or people who live in socioeconomically disadvantaged areas tend to do worse under these type of formulas or do you know? [LB176]

ALEX HAGELI: Well, the FCC study that I mentioned touches upon that as to socioeconomic groups, and they find that, for instance, there's a small disparity between racial groups. However, they also find that the stratification of scores is equal in each subgroup as it is for the entire group which to them demonstrates that there is no...a scoring model is not inherently biased against a particular member of a group. [LB176]

SENATOR PIRSCH: I see. Thank you. I'm trying to see what the alternative...well, well, I'll ask that question at the end, so thank you. [LB176]

ALEX HAGELI: Okay. [LB176]

SENATOR PAHLS: Senator Langemeier. [LB176]

SENATOR LANGEMEIER: I'll try and be quick. Chairman Pahls, thank you. So I am...if I understand this right, if you...some insurance companies can use ChoicePoint who we just heard from, and I assume there's other companies out there that do that, or they can do their own. [LB176]

ALEX HAGELI: Yes. [LB176]

SENATOR LANGEMEIER: So they all have a range of numbers, whatever it happens to be. [LB176]

ALEX HAGELI: Um-hum. [LB176]

SENATOR LANGEMEIER: Then they take that number and take it back to their underwriting department and mix that with the age of the driver, type of car, their location, and then throw that in the hopper, and then that comes out a rate. [LB176]

ALEX HAGELI: Yes, to varying degrees at different steps of the process. [LB176]

SENATOR LANGEMEIER: Okay, thanks. [LB176]

SENATOR PAHLS: I have a question. I'm just reading from your pamphlet here that says, this tool avoids subjective value judgments. So if insurance companies use this, you are telling me this avoids a subjective value judgment on...because there is a...there's a standard for them to... [LB176]

ALEX HAGELI: Right. You're not...it allows them to take something and put it into a process that produces an objective number as opposed to, you know, taking an application and kind of guessing about the characteristics, first characteristics of an individual. I just testified in North Dakota, and the chair of the committee there commented on a conversation he had with an agent in his district about how that agent thought that insurance scores, based on his personal experience with his own clientele, were incredibly accurate. So there's a correlation between the two. [LB176]

SENATOR PAHLS: So you're telling me when my agent said, I need not worry about it, there may be some truth to that, right? (Laugh) [LB176]

ALEX HAGELI: He's got it figured out. He knows you pretty well. [LB176]

SENATOR PAHLS: Okay, thank you, appreciate your testimony. Next opponent please? [LB176]

JOE ELLIOTT: (Exhibit 4) Mr. Chairman, my name is Joe Elliott, E-l-l-i-o-t-t. I represent the Professional Insurance Agents Association, the state of Nebraska. And since...we're very much involved in credit scoring. We're appointed by the companies and to front-end underwriting authority, we want agents to have access to all the tools that companies apply to complement their individual underwriting practices. This includes MVRs which are Motor Vehicle Reports, CLUE reports which we get from other companies of their claim activity, insurance scoring, and other underwriting tools. How companies construct their underwriting grids and models to conform to the requirements of fair, equitable, and nondiscriminatory rates which is in the insurance code, and underwriting rules are matters of law. We can only comment on matters of law as these matters remain squarely with the insurers, courts, and lawmakers. We as agents have to accept insurance scoring as offered if we are to compete in the marketplace. The discounts are considerably and perhaps too high, because I've seen models as much as 10 percent on a homeowner, and as high as 55 percent. To me, that's unreasonable. I don't think there can be difference because one individual has got an 880 credit score, should be that much different with a person that's got 700. We must pass the quote on to our good customers. In some cases, we have to take several quotes. We must get sufficient information for the company so we can explain to the customer why his rate goes up or down. In my opinion, we're not getting that. I think there has been...the first draft did not spell it out in the...I think it was 2002, but now they have some revised ones that do go right down the line and say that the companies have to even write to the individuals if they make inquiry which I think the way it is. And a lot of people are still...don't understand it. I talked to my son today about it. He didn't...he wasn't very well informed about it, or the importance of it. And to me, for an agent to say that that isn't important is...when you're talking about a lot of dollars like we are, it's very, very important. But I think some of the models that we see coming from companies vary all over the place, and we don't exactly know as much about it as they should know, so we can intelligently talk to our insureds. For example, I had my insurance with a large company and had it there for 20-some years. I had a lake home up in Minnesota. I have a high credit score, and I tried to...this company didn't used to do it, but they had a new program, and they were going to use credit scores, so I asked them if I could get it. Well, they said...denied me, because I had this lake home in Minnesota because it wasn't considered...it's a difficult area. It's a storm area, and it was out in Class 10 which is too far from the fire department, so he denied me. I said well,...then I sold it August 30, and then a few weeks later, I asked the insured...the company, would he consider it again? No, we won't because...till the renewal. So the rules of doing this seem to me rather spread out to the point where I don't think their eligibility requirements are spelled out as well to the agents as they should be, and so forth. So...and then we're so concerned about the accuracy of the credit reports. Look what happened in the mortgage business is certainly some indicative feature there that tells you they didn't have as good of figures as they should have or weren't using the right things. So that's of great concern to us. And I think there's certainly concerns with the consumers, but they are getting a good deal in many, many cases if they're aware of, if their agent is telling them keep your credit score in line, and you're going to be getting something better off. I also called the insurance department of the state of Montana this morning, and I heard from our national organization that they have a very good law up there, and it's working very well. And so I got the law for you, and it's included in the documents that you will have. It does answer some of those questions about farm risk, for example. That's been a great concern, because farm...some farmers don't want to have a credit score. They don't...they're no credit. And what they're doing up there in their bill is they're making the companies use a neutral score or an average. In other words, off of the average for all insurers is 20 percent from the top to the bottom. They're going to have to apply that to that farm risk, and I think that's a very fair way of approaching it. Also, on medical, if they say here, an insurer shall on written request from an applicant or an insured, provide reasonable underwriting or rating exceptions for a consumer whose credit report has been directly affected by an extraordinary event which, in my opinion, would be certainly including a medical problem and so forth. And they do list in here some of the extraordinary events which is expenses related to catastrophic injury or illness, temporary loss of employment; that's a big one; death of an immediate family member or theft of identity pursuant to section so-and-so. But I think there is available improvements that can be made in the system, so we're in essence saying if the insurance companies feel this is a valuable tool to them, we'll cooperate and work with them on it, but keep us informed and give us some flexibility. And I think they are and have made some improvements, but there's still some to go. That's all my testimony. Yes, Senator. [LB176]

SENATOR PAHLS: Okay. Senator Gloor. [LB176]

SENATOR GLOOR: Thank you, Chairman Pahls. Mr. Elliott, your comment kind of gets to the heart to some of the misgivings I think I'm hearing here, and that is comments like agents are concerned about the accuracy of credit reports. Clearly, the agents themselves have some concerns about whether this is an accurate way to do rating. Is that what I'm...a part of what I'm hearing? [LB176]

JOE ELLIOTT: No, not really. I think it's more is in the input that comes into the credit report. I can remember when this was first introduced, and Senator Landis was the chairman, and he brought a credit report to the committee, and he found a lot of errors in it. And I think that's still existing to some extent. I'm not knocking necessarily the credit agencies, but it's a lot of the input, the accuracy of the system, you know, and I think we're in a very active world today with credit, and that's bringing about some of the changes. But I don't think that if we know an individual, and he tells us well, he's got a high credit rating, we have no way of saying aye or nay on that, because some people tend to be very assured of themselves that they're doing well in their credits. [LB176]

SENATOR GLOOR: But the truism is garbage in, garbage out. If we're feeding a lot of misinformation into what ultimately results in somebody's credit scoring and making decisions about loaning based upon that, that can't be a good thing. [LB176]

JOE ELLIOTT: Yeah, because I know in the property area, I think I've heard people say that I sold this piece of property two years ago, and the mortgage was still showing on the report. So, and there is some...in this Montana law, about the length of time that exists to use this reporting information. And I can't remember specifically what it was, but I thought, that's timely as well. But you can't use too much old information; you got to bring it up to date. [LB176]

SENATOR GLOOR: Okay, thank you. [LB176]

SENATOR PAHLS: Senator Langemeier. [LB176]

SENATOR LANGEMEIER: Chairman Pahls, thank you. Mr. Elliott, you have me kind of confused. On the handout you sent out, you're in opposition, but as I read it, you're telling me that you don't think these credit scores are accurate; they're confusing to the customers. You can't explain why your rates go up and down because of them, and so on and so forth. But yet is it your statement that they're confusing, you don't think they're right. They're not a good deal, but you'd rather err on the side of having more tools in the toolbox than not? [LB176]

JOE ELLIOTT: Well, I think I was just pointing out some of the weaknesses in the system. Overall, there is no doubt in my mind the companies have proven that this...there is validity to a credit score and automobile accidents. So that part of it, we totally agree with it. It's just a matter of how you're using that information and whether or not it's complete enough so that the agent can talk intelligently to their people about it. [LB176]

SENATOR LANGEMEIER: Okay, so what if we take a different approach with Senator Lathrop's bill and we gut it, and we come up with a standard procedure and a standard way you're going to get this data, so everybody has got a standard number whether it's 200 to 900, that everybody has to use it in a standard way? [LB176]

JOE ELLIOTT: Well, I don't know if you could ever use that model, because I think it would be too difficult, and you take out the personal aspect of a company's knowledge to do a better job. And they have more access to it, and some are trade secrets as well, so I don't know. But part of this Montana law does go a lot further than what we have in the state now here in getting to that point so. [LB176]

SENATOR LANGEMEIER: Okay. Thank you. [LB176]

SENATOR PAHLS: Senator Pirsch. [LB176]

SENATOR PIRSCH: Could you comment? What does the Montana law have in it that you think might be helpful? [LB176]

JOE ELLIOTT: Well, that first thing is using that farmer's section in there, going to a neutral credit information which, to me, the legal counsel up there told me that that meant middle road between what the lowest and highest credit score was. [LB176]

SENATOR PIRSCH: Is the problem with the farmers a specific exception whereby they have no credit a lot of times? [LB176]

JOE ELLIOTT: Right. [LB176]

SENATOR PIRSCH: And so... [LB176]

JOE ELLIOTT: I think there's a lot of wealthy people too, that have no credit. They don't want to release anything to anybody, and I've heard that from people for years. And so I think you'd be surprised. There's a pretty good collection of people that don't have...that would end up with no score. I don't know. Maybe... [LB176]

SENATOR PIRSCH: And you're saying that's a shortcoming of the formulas, the different formulas that you've seen on the market as far as the insurance ratings? [LB176]

JOE ELLIOTT: I would think so, yes. [LB176]

SENATOR PIRSCH: Okay. [LB176]

JOE ELLIOTT: There was one other one here, the extraordinary event. I think that's another big one. That can be medical certainly, and loss of employment. [LB176]

SENATOR PIRSCH: Yeah. [LB176]

JOE ELLIOTT: Should they be penalized for that? I don't know, but... [LB176]

SENATOR PIRSCH: From your position, are you able to assess the effects...well, first of all, to your knowledge, are those variables, the two that you mentioned being used and used as a heavy component in the formulas that are currently available in company...? [LB176]

JOE ELLIOTT: I would think so, I don't know. I have not access to what ChoicePoint and some of the other agencies do. [LB176]

SENATOR PIRSCH: Okay. So is...that's...that's something that you suspect is a heavy factor? Okay. [LB176]

JOE ELLIOTT: Yes. [LB176]

SENATOR PIRSCH: Thank you. [LB176]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony. [LB176]

JOE ELLIOTT: Okay. [LB176]

MARK JOHNSTON: (Exhibit 5) Good afternoon. My name is Mark Johnston. Mark, M-a-r-k J-o-h-n-s-t-o-n, and I represent the National Association of Mutual Insurance Companies, and I also have a statement here from the State Association of Mutual Insurance Companies of Nebraska which are the farm mutuals. I think the horse has been beat quite a bit. I'm happy to tenderize the meat, but otherwise, I'm happy to take questions. And I have some handouts. [LB176]

SENATOR PAHLS: Do you have some information for us? [LB176]

MARK JOHNSTON: Yes, sir, right here. Thank you. [LB176]

SENATOR PAHLS: Thank you. [LB176]

TAD FRAIZER: (Exhibit 6) Good afternoon, Mr. Chairman, Senators. My name is Tad Fraizer, F-r-a-i-z-e-r. I'm local counsel and lobbyist for the American Insurance Association, a national trade organization of property and casualty insurers. As the previous witness said, I don't want to unduly extend matters. I think we've basically covered the topics. I believe...or hopefully, if the e-mail gods have cooperated, you've received an e-mail with information from Mr. Steven Snyder, regional counsel of the AIA. But just to be careful, I'm passing out a packet of information just in case things didn't come through as attachments. In that packet, you'll find testimony from Mr. David F. Snyder, vice president and assistant general counsel of the AIA out of Washington, D.C. Mr. Snyder came and testified before this committee last year in opposition to LB900, and I think his testimony was found helpful by the committee. Unfortunately, he could not make that this year, so...or make it here this year, so we've provided a written version of his testimony. Also provided you with an AIA handout on the benefits and consumer protections of consumer use of credit, an AIA handout on the effect of banning credit-based insurance scores and an AIA brochure for consumers on what consumers need to know about credit-based insurance scores. I think Mr. Snyder's testimony pretty well outlines the basic points that we feel the market works fairly well, and that auto and other rates are low here in Nebraska; that most people benefit from, are not affected by credit-based insurance scores. That insurance scores based on credit are just one more tool in the toolbox of determining rates and underwriting for individual insurance consumers. It's certainly not the only one, but it does provide the ability to, shall we say, slice and dice the ratings ranges a little more closely and more accurately assign rates to individual consumers. As previous witnesses have noted, there is the NCOIL model in effect in Nebraska, so this area of insurance is already regulated. In addition to that, there's obviously federal regulation as far as the Fair Credit Reporting Act in similar matters, and that taken as a whole, we don't believe that use of insurance...excuse me, credit-based insurance scores are unfair to consumers, that the bulk of the studies show either a positive effect for consumers or a neutral effect on consumers. And as Ms. Nielsen indicated at the outset, I don't claim to be an actuary or an underwriter. I'm a layman in this area, but I would endeavor to answer any questions you might have. Thank you. [LB176]

SENATOR PAHLS: Seeing no questions, thank you, and appreciate the information. You have given us a wealth of things to read. Thank you. [LB176]

TED FRAIZER: Thank you. [LB176]

JANIS McKENZIE: Chairman Pahls and members of the committee, for the record my name is Jan McKenzie. Last name is spelled M-c-K-e-n-z-i-e. I'm here as a registered lobbyist and executive director for the Nebraska Insurance Federation. Today also wishing to be on record in opposition to LB176. I'll answer any questions if you have any. [LB176]

SENATOR PAHLS: Appreciate your testimony, thank you. [LB176]

GALEN ULLSTROM: Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is Galen Ullstrom. That's G-a-l-e-n U-l-l-s-t-r-o-m. I'm senior vice president of Mutual of Omaha Insurance Company, appearing today in opposition to the green copy of LB176. This subject has been in front of this committee and this Legislature a number of times in the past years. We have never taken a position because the bill has always been limited to personal lines property and casualty insurance. The statute that's being repealed by this bill is also limited to personal lines property and casualty insurance. However, as we read (LB)176 currently, it is not limited and, therefore, would apply also to life and health insurance and annuities. It also, in the past, has been limited to what is known as a credit score. We don't use credit scores in the underwriting process, but it also prohibits the use of credit information which is defined as credit-related information provided in the application. Our concern in the lines of insurance we write is that this could include financial information such as income, net worth, liquidity, and other things that we use in the underwriting process. In two specific lines of insurance, disability income and life insurance, we specifically need to have financial information. Disability income, for example, we don't sell someone $10,000 a month of disability income coverage if their income is $3,000 a month, because they would overinsure and it would be grounds or tend to be a fraudulent transaction. The same with life insurance. In order to qualify for $5 million of life insurance or a million dollars, you have to prove that you have the need, the financial need, to acquire or need that type of insurance. And if you don't, you effectively are overinsuring which is not a good situation for insurance. In a couple other lines of insurance, specifically annuities and long-term care insurance, we are also required by state law to inquire about net worth or financial status of an individual to ensure that the product we're selling is suitable for that individual. In long-term care insurance, for example, we should not be selling a long-term care policy to someone who is eligible for Medicaid or is certainly maybe just above the qualification level for Medicaid because they have a safety net. In the area of annuities, for example, this Legislature passed a law about five or six years ago dealing with annuity sales to seniors. It was then amended, I think, two years ago on behalf of the insurance department, to eliminate the senior designation, so effectively, it's the sales of annuities. And in order to do that, we have to inquire about the income level, liquidity level, assets that a person has available so he should not be putting all his money, for example, in an annuity that might have a surrender charge for the first X number of years, so he couldn't get at it. So we are actually required by law in those two instances to seek information dealing with financial information which could include income, net worth, those type of things. And so we're concerned that the present copy of the green bill, unlike past years which was limited to property and casualty, now would include other lines of insurance which would directly and greatly limit our ability to do business in the lines that we write. I'd be glad to answer any questions. [LB176]

SENATOR PAHLS: Okay. I think Senator Lathrop indicated that it's not... [LB176]

GALEN ULLSTROM: He did. And I talked to Senator Lathrop this morning about that. [LB176]

SENATOR PAHLS: Thank you. [LB176]

GALEN ULLSTROM: Thank you. [LB176]

SENATOR PAHLS: Appreciate it, thank you. [LB176]

GALEN ULLSTROM: Appreciate it, thank you, sir. [LB176]

SENATOR PAHLS: Any more...is anybody in the neutral? I thought I saw one hand in neutral. Apparently not. Senator. [LB176]

SENATOR LATHROP: (Exhibit 7) You'd think after all that, that I'd just skulk out of here (laughter), just leave with my tail between my legs. You know, I can't...actually, I'm glad I stuck around for this hearing because I learned something, and it's important because it becomes a policy issue for us. And I look at the handouts that were given to you, and if you open them up, what this is isn't about using consumer credit to predict if someone is going to get in an accident. It's about predicting whether they're going to make a claim. That's an important difference. I have young daughters, and my oldest, she would be embarrassed if she knew I was telling this story. She was coming out of a Baker's parking lot, and she hit a car on Frederick Street, and immediately put the car in reverse and hit another one behind her (laughter). All right, $1,500 damage, and my choice was to turn it into insurance or to pay it myself. And I knew my insurance rates would go up if I turned it in, so I wrote the check for three cars that got crashed in that flash (laughter). And there's a point in that. When you look at the handouts that you got, we're not predicting whether someone is going to get in an accident, because what does my credit rating have to do with whether a tornado hits my house? It doesn't. And what's my credit have to do with how I drive? No one came up here and told you that. What they said was, it has to do with whether you're going to make a claim. And here is, this little brochure here. I was looking at why all these people were trying to kill my bill, and it says on the second page, "a strong link between credit history and risk of loss" and that was consistent with why I came in here. There's some connection between your credit and getting in an accident, but if you read it, it's where the issue is, and that several independent studies have proven a strong connection between credit history and the likelihood of an individual filing a claim. That's the difference. They're using the credit score to determine whether I'm going to make a lawful claim against a policy they're marketing and selling me. Okay? And if I do, they're going to raise my premiums when I'm done. And worse yet, they get on TV, and I'm going to pick on Allstate because they advertise a lot. They say, we're going to give you one bite at the apple. But they're increasing your premiums because if you're somebody that has a lot of credit activity going on, you're getting a lot of credit cards and that sort of stuff, you're the person that's more likely to make a claim for that broken window. See, my daughter gets a broken window in her car--I'm going to write the check. Okay? And I'm probably somebody with good credit history, but the person who's just getting by, whose credit is a little spotty, is going to turn that in. So the question for you today with my bill, is whether or not you're going to let them do it, because they're not predicting the risk of an incident; they're predicting whether I'm going to make the claim. And if they're going to market these policies to people in Nebraska and say we're going to insure this risk, and then charge you more because you might actually take them up on it, I think that's wrong. And that's why I think, I don't have any problem accommodating Mutual of Omaha. This should apply to credit. But when you try to get your head around it, and the problem we were having is, there is no correlation. It doesn't matter what your credit risk is if the tornado goes down 72nd Street. But whether you're going to turn those claims in when a window gets broken in the back of the house which is what you bought the insurance for or whether you're going to turn in that claim when your daughter runs into two cars, is who they're trying to sort out. And I don't think that's a fair consideration. I don't think that's a fair consideration when they market to us that they are insuring a risk, and they're going to charge us more if we take them up on the bet. So with that, I'd be happy to work with you on the language. If there is a law that already prohibits the use of ethnicity and that sort of thing, then I don't mean for my bill to duplicate an existing statute. [LB176]

SENATOR PAHLS: Senator, in that same brochure, and I read what you had read, but the statement that caught my attention, so this too avoids, you know, subjective value judgment. Do you see that by using this, that would avoid that? [LB176]

SENATOR LATHROP: Say that again, Senator. [LB176]

SENATOR PAHLS: This tool, by using what they're using now, this avoids judgment; well, I like you or something, because your rates are... [LB176]

SENATOR LATHROP: Well, we can stop them. This committee can stop them from making a subjective judgment. We can set the criteria that they can use and not use, but the criteria that they came all the way from Atlanta, Georgia, to...what they're doing is there is an industry. And they're going to the insurance companies and trying to tell them, we'll tell you...these guys from Atlanta...we'll tell you who is more likely to make a claim. And that's why...I mean, it's a big business. They're making money; they're setting these computer models, and it's showing up in our premiums. And it doesn't have anything to do with the risk. This brochure also says the same thing. What does credit history have to do with how I drive is the question, and you're thinking like I was when I came here. What's this have to do with the chances I'm going to get in a wreck? But what they say is, research shows that consumers with better insurance scores file fewer claims. It's about the claims. And that's what they agreed to do when they sold you the policy, so. [LB176]

SENATOR PAHLS: Senator, I think we have a question from Senator Pankonin. [LB176]

SENATOR PANKONIN: Thank you, Senator Pahls. Senator Lathrop, if I was in an insurance company, I'd like to have you as a client because of you...you know, you're handling the lower risk. You know, insurance...if that claim would have been...someone would have been seriously injured and whatever, you would have turned it in with your daughter's situation. I guess my question is, there's folks that, you know, get penalized because of the system, but you would most likely, and a lot of folks would pay more under this scenario, if your bill was passed. You personally and a lot of people like you who will pay for some of those claims, probably have strong credit scores. So, you know, it's...when you talk about what's fair, there's also a lot of folks that may be of modest means, but they pay their bills, and they're responsible, someone who pick up those little ones, little claims, self-insure so to speak, that could be hurt by this as well. Would you agree with that? [LB176]

SENATOR LATHROP: Well, it's a cost shift. It's a cost shift. And what they've done is cost shift it down to the people who are poor, people who have more credit activity, and it's not with respect to the risk that they're assuming, but the likelihood that somebody is going to take them up on the very insurance that they've sold them. And, yeah, will I? You know, if the only...yeah, I voted for Barack Obama (laugh), and he promised that I was going to pay more taxes. I'm willing to do it because it's fair, I think, you know. And I don't think that just because my insurance premium might go up a little bit because I got a perfect score is a reason to tell people who have been roughed up or who don't have a job, the same kind of employment that I do, that those people should pay more than their share to the insurance company. So I just think that it's about whether you nick people that are just getting by so that people that have good credit scores and are affluent can pay less in premiums which is essentially what happens. [LB176]

SENATOR PANKONIN: But my....and tell me if I'm wrong in this. I think there's people out there that have modest means, but they pay their bills, and they have strong credit scores because of that, and the way they handle their personal finances and activities that would get hurt with this, too. That have modest means, that are struggling as some of the people you pointed out, but have been responsible about paying their bills and despite tough circumstances or whatever, and I see those folks getting hurt in this as well. [LB176]

SENATOR LATHROP: We could find a different way for...to reward them for being good citizens. It seems to me that lowering their insurance premium at the expense of increasing the insurance premium of somebody who may be just as careful on the road, right... [LB176]

SENATOR PANKONIN: That's probably a fair statement both ways. [LB176]

SENATOR LATHROP: Yeah. [LB176]

SENATOR PAHLS: Senator Pirsch. [LB176]

SENATOR PIRSCH: Is there another state that you've looked at who has language that is something along the lines of what you envision that wouldn't...which you feel excludes the harm that you feel exists today. And... [LB176]

SENATOR LATHROP: You know, after I...Senator, after I listened to Ms. Nielsen speak, and she said that we have a statute right now that says it cannot be the sole consideration, two things occurred to me. One is that they can weight these things so that it's 99 percent of the consideration. Okay? And the other thing that occurred to me is we could take it out of there completely, and say it can't be a consideration. There may be...I don't know the statute that she was looking at, but it may be as simple as just saying, where we now say it can't be the sole consideration, we just say, it can be a consideration. So I may come back to you if you're interested with something that simplifies it in a significant way. [LB176]

SENATOR PIRSCH: Well, and I'm looking at your section 1 of your bill, and it says, an insurer shall not use credit information with this, and then it goes down, defines credit information on line 14 to mean in part, and there's a number of one, two, and three. But information found in a credit report which I would imagine could include factors that you've stated today are okay, rationally related to somebody's driving, perhaps, if they're of age, 107--I'm not sure if that's permitted or not. I mean, that's what...are there factors that are in a credit report right now, and there's a large number of variables that might be rationally related to their, you know, ability to drive correctly without an accident? [LB176]

SENATOR LATHROP: Their name...you know, I don't know, I've looked at mine some time ago, and I couldn't see anything on there that had anything to do with my driving ability unless somebody takes a judgment against me for being uninsured. [LB176]

SENATOR PIRSCH: Or accident judgments, but other than that, you don't see anything in the credit reports that is rationally related? [LB176]

SENATOR LATHROP: No. No. [LB176]

SENATOR PAHLS: Thank you, Senator Lathrop, appreciate that. [LB176]

SENATOR LATHROP: My faithful assistant got me copies of some of these studies so I'll pass those out for you. [LB176]

SENATOR PAHLS: Great, appreciate that. Thank you. [LB176]

SENATOR LATHROP: Thank you. [LB176]

SENATOR PAHLS: That concludes our hearing on LB176. We are now ready for Senator Stuthman, LB484. Just so I get a feel of this bill, how many proponents? Three. Any opponents? Three, four. Neutral? One. Thank you. Senator. [LB176]

SENATOR STUTHMAN: Thank you. Chairman Pahls and members of the Banking, Commerce and Insurance Committee. For the record, my name is Arnie Stuthman, A-r-n-i-e S-t-u-t-h-m-a-n, and I represent District 22 in the Nebraska Legislature. I am here today to introduce LB484. LB484 gives authority to cities and villages to adopt ordinances to guarantee that an owner of a building destroyed by fire or natural disaster will remove debris and make the premise safe and secure. Failure to clean up a building destroyed by fire or natural disaster creates a hazard and ends up costing the taxpayers money to clean up the site. LB484 is based on a law from Kansas. Under LB484, the city will receive up to 15 percent of the insurance proceeds of a building that is more than 75 percent of the face value destroyed by fire or a natural disaster. The city is required to hold these proceeds in an interest-bearing account. The city has to release these funds within 30 days unless it has instituted legal proceedings to have the unsafe structure removed. If the property owner does not clean up the property, the proceeds will be used to make this premise safe and secure. The Department of Insurance will maintain a list of cities and villages with these ordinances, and will have the authority to promulgate rules and regulations to carry out this act. I'd be happy to answer any questions, but I think I have testifiers behind me that are very familiar with the law that was enacted in Kansas, and will be able to answer those questions. [LB484]

SENATOR PAHLS: Okay, thank you, Senator. Are you going to stay here for the closing? [LB484]

SENATOR STUTHMAN: No, I'll waive closing. [LB484]

SENATOR PAHLS: Okay, thank you. [LB484]

SENATOR STUTHMAN: Unless I get my committee taken care of before... [LB484]

SENATOR PAHLS: Okay, I hear you. I understand your... [LB484]

SENATOR STUTHMAN: Okay. Thank you. [LB484]

SENATOR PAHLS: ...your...okay. Thank you. Proponents. [LB484]

LYNN REX: (Exhibit 1) Senator Pahls, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First of all, I'd like to thank Senator Stuthman for introducing LB484, and I would like to just briefly walk through the bill with you, and then also indicate to you that we do have an individual who was a city administrator down in Kansas who will be talking to you about his experience down there, and how it worked down there. One of the problems that cities and villages across the state of Nebraska face, and this is no surprise to any of you, because some of you I know are mayors or have been in city councils or village boards before. But is the fact that when there is a fire damage, in particular, sometimes tornadoes, but certainly fire damage, you end up with a situation where if that building is not cleared and taken care of, it becomes a nuisance, an attractive nuisance to kids. And you have individuals that could be hurt from it. You have other things that need to be addressed, and especially if it's in a downtown area, those areas need to be cleaned up and proceed forward. The reason why we bring you this policy choice is because this has worked in Kansas. We think that you find that individuals will be ready and willing to clean up, and the city then just simply remits their check with interest. I would like to just briefly tell you a little bit about this bill. If you look in section 1 of the bill which starts on lines 1 through 9, it essentially outlines the fact that municipalities would be given the authority...I'm sorry, Senator? [LB484]

SENATOR PAHLS: No, no, no, no. [LB484]

LYNN REX: Oh, that municipalities would be given the authority to go ahead and receive...have a procedure in place for receiving not more than 15 percent of the cover claim payment, and this is for damage or loss to a building or other structure caused by or arising from any fire, explosion, wind storm, or other natural disaster. In addition to some of the other requirements here, you'll note than in (3) which starts on line 18 of page 2, it talks about the fact that the city shall release the insurance proceeds and any interest within 30 days. And that's unless the city or village has instituted legal proceedings to actually collect it or unless they have, in fact, issued an in lieu of certificate. Going to page 3 of the bill, line 13, which is section 3, it provides that a city or village that has adopted such an ordinance can certify that in lieu of payment of this, that in fact, they can assure that the property owner will in fact clean up the property and, therefore, the claim can be cleared, and they get the entire amount of proceeds. The individual that's going to follow me will outline for you how this process works, how it worked in Kansas. But I think what's so important to understand is that if, in fact, you do not have the property owner clean up this property, and especially if you're dealing with an absentee property owner, you are in a position where you are sitting there for sometimes years waiting to try to find that individual. I want to read to you just as I passed out a letter from the city of Columbus and, regrettably, they were unable to be here today, and their fire chief is the one that first initiated this discussion with us to get this done, because he was aware of the proceedings and what happened in the state of Kansas. And I just want to read to you a couple of sentences from this letter with February 9, 2009, dated to you as committee chair and as committee members. "In Columbus, a fire in a residential neighborhood left a basement and parts of the existing house in a pile of rubble for nearly two years while the city conducted a nationwide search for the property owner. Ultimately, the owner was found and rebuilt a new house on the property and is now renting the same." But during that period of time, that property sat there vacant, in a state where people were concerned about whether or not kids were going to get hurt, and the question was how the city...they even were trying to find someone in which they could institute actions against. So we think that this is a process that works. It is proven. It is simply a matter for the insurance company to, in fact, issue the check to the city, and then the city, upon making sure that that property is cleaned up, issues it back to the property owner unless, in advance, they get a certificate basically saying, we understand that the property owner is going to be cleaning it up and getting this done. I'd be happy to answer any questions that you might have. [LB484]

SENATOR PAHLS: Senator Gloor. [LB484]

SENATOR GLOOR: Thank you, Chairman Pahls. If you would please, I'm trying to get a handle on who determines when a premise is safe and secure, and how that's defined. Four walls still standing on a building that's been burned, but those four walls may be secure, and may be relatively safe, but be an eyesore. Does somebody have the ability to go in and because it's an eyesore, use this law, if it was passed, to still go ahead and withhold that 15 percent. On the other hand, if it gets torn down and the basement filled in, but there are still nails on the ground, maybe it's secure, but it's not safe because there are nails scattered about. I tried to get comfortable with how broad this definition may be, and who gets to make the decision about whether it's safe and secure. [LB484]

LYNN REX: Well, Senator, at the end, once the property has been either demolished or taken care of, or made safe and secure, the city does an inspection to verify that it is, because, in fact, the city is the one receiving the calls or the village is the one receiving the calls, saying please take care of this. My kids go over there after school and are playing around. Please take care of it. So the city is the one responsible for doing that in the same way that under the statutes, the city has the authority to move forward and, in fact, if the owner refuses to clean it up, then file a special assessment which can be a lien against the property or else proceed to try to collect in other ways as well in a civil action. But, for example, even when you have an eyesore that for...let's assume that the four walls are standing and they're safe. No kids are going to run into them and knock them down because we, obviously, some of you may remember we lost a little girl in Crete, Nebraska, several years ago. She ran into a...it was just an out...I guess an outside restroom in a public park and kids were ramming against it, and it fell down on her and killed her. But I will tell you that prior to that happening, I'm sure the parents and the people that were there at the time, the adults thought that that building was safe just by looking at it. So you really do need somebody who's qualified to look at it and make sure that accidents like that do not happen. Under this proposal, this would allow the city to basically have 15 percent of that until they can assure that that building is ready to go, and that that property is taken care of, because otherwise, that property sits there, and one of the biggest issues that's happened in city after city...I mean, we've had...many of you may remember York had part of a city block burn down. So did Broken Bow. We've had city after city that has faced these sorts of issues, and when that happens, you just simply can't have property just sitting there and no one taking action on it and taking care of it. This simply assures that this is taken care of, and that the property owner is basically the one that's going to be responsible for doing that, because if not the property owner, then who? It's going to be the rest of the taxpayers; that's how it works. [LB484]

SENATOR GLOOR: But you're saying that the building inspector... [LB484]

LYNN REX: Yes. [LB484]

SENATOR GLOOR: ...whoever that might be is going to be working off a set of codes that would help determine... [LB484]

LYNN REX: Yes. [LB484]

SENATOR GLOOR: ...what is safe and secure. [LB484]

LYNN REX: Yes. [LB484]

SENATOR GLOOR: In smaller communities, how does that occur that may not have a city building inspector as an example? [LB484]

LYNN REX: In some of the smaller communities, they actually have...they go together, and they have joint building inspectors, maybe one building inspector that serves three or four different villages. [LB484]

SENATOR GLOOR: Okay, thank you. [LB484]

LYNN REX: Yes, you're welcome. Thank you. [LB484]

SENATOR PAHLS: Senator Pirsch. [LB484]

SENATOR PIRSCH: No, no, Senator Utter, I was pointing... [LB484]

SENATOR UTTER: What's the magic of the 15 percent figure? How do you...? [LB484]

LYNN REX: Well, the magic is simply that it was taken out of a Kansas statute, and that's the number that they used. But the magic of that number is that it apparently is enough to make sure that the property owners clean it up, and as the individual that follows me will testify, in every incident in which he dealt with this, the property owners cleaned it up. And it was done in a short order. [LB484]

SENATOR UTTER: Of that 15 percent figure, assuming there's a mortgage on the property, deed of trust, or something, that deed of trust is satisfied. Is it 15 percent of the remainder or 15 percent of the total? [LB484]

LYNN REX: It would be after all of that. Then it's actually...what it amounts to is if you look on, it would be line 3 on page 2, line 3, "of not more than 15 percent of the proceeds of any insurance policy based on a covered claim payment" and then if you go down to line 10, it indicates that the insurer shall first pay all amounts due to the holder of a first real estate mortgage against the building, and also, Senator, we understand that there will be one or two individuals here testifying...I don't know if they're opposed or neutral, indicating that they'd like to have an amendment to make it clearer that this also applies to second mortgages and trust deeds, and we're fine with that. That would be...that's very...that's fine. [LB484]

SENATOR UTTER: But we're really talking about the maximum that you withhold... [LB484]

LYNN REX: That is correct. [LB484]

SENATOR UTTER: ...is 15 percent of the total insured value of that property unless the mortgage holder's interests do not leave 15 percent. [LB484]

LYNN REX: That's correct. [LB484]

SENATOR PAHLS: Senator Langemeier. [LB484]

SENATOR LANGEMEIER: Chairman Pahls, thank you, and thank you for your testimony. I think you bring up a couple of other points there in your testimony there. You talk about the building inspector is going to make him safe and secure after the fire or the cleanup, they're going to inspect to see that the property is safe and secure. [LB484]

LYNN REX: That's correct. [LB484]

SENATOR LANGEMEIER: But yet you brought up the little girl that happened to have the outhouse fall over on her and killed her. There's probably a building inspector that was supposed to have made sure that was safe and secure. There was probably a building inspector that was supposed to make the city of York's buildings safe and secure. [LB484]

LYNN REX: Well, in York, that was due to fire damage. [LB484]

SENATOR LANGEMEIER: But they were contiguous buildings that didn't have proper fire walls between them, and so the fire then kept running from building to building and building which was the neglect by the building inspector. Maybe we have a bigger issue. [LB484]

LYNN REX: Well, first of all, in the case involving the city of York, I don't know what the facts are in terms of whether or not that was a building inspector issue or not. Certainly in Crete, I would indicate to you that there was a settlement on that case. [LB484]

SENATOR LANGEMEIER: Sure, okay, thanks. [LB484]

SENATOR PAHLS: Seeing no more questions, thank you for your testimony. [LB484]

LYNN REX: Thank you. We really do appreciate your time today. [LB484]

SENATOR PAHLS: Next proponent? [LB484]

BRETT BAKER: (Exhibit 2) Senator Pahls and members of the committee, thank you for your time. We distributed some copies. My name is Brett, B-r-e-t-t Baker, B-a-k-e-r, city administrator down in Hickman, Nebraska, south here on 68th Street in Lancaster County. Formerly, before coming to Nebraska, was city administrator and public works director in numerous...a couple of cities down in Kansas, and had some hands-on, in the trenches, type experiences with this proposed bill which LB484, I'd like to share with you. The first document that you have on there is down on the bottom right corner is marked Exhibit 1 is a check that we have the insured name cleaned out of there, but it shows a fire dwelling claim from a insured company. And it's hard to read the date, Senator Pahls and committee, but it's 1-7-03, 2003, up in that top right corner. And this check was issued to the city, down in Kansas, under their legislative bill that dealt with fire insurance losses which would say that that had been in effect since 1982 is when Kansas actually passed that bill. And what this check was represented, was 15 percent of fire loss of this dwelling, and this is one of the last ones that I was involved with down there for $5,250. Now, Exhibit 2, Senator, has the check...cashier's check from the city to...and we whited out the name, once again, of the insured, payable to them for that $5,250, and, as you notice, the date on that was 1-13. And as I would testify, this was a relatively fast cleanup because this family did have their dwelling damaged. It was determined by the Kansas state fire marshal, couldn't rebuild it, so basically, it was in their best interests and the community interest to have that building taken down, and the site inspected. Our building inspector went back through, as you can see, six days he lapsed from the time that the payment was in and out, and so we thought that was pretty rapid community betterment project there. So those two checks are there. The other thing, on pages...to draw attention to, is page 3 on that is the Kansas statute, like I said, was enacted in '82, basically just...the summary is section (a), just that, you know, the city is authorized to have an ordinance that they would get 15 percent, not to exceed of any covered claim to damage or loss of building structure. And that would be paid back, like we stated, with interest. And then, Senator, pages 4 through 7, is basically more of in-depth language of the Kansas code, and then number 8, page 8 is basically a model ordinance that was adopted by the city...one of the cities down there which this front check, and deposit issue went to. So as you can see, it outlines basically who does the inspections; who does the actual final distribution; how the monies are handled into a separate fund, and that type of thing. So fairly...a real clean type bill that we thought that was really proactive, and that was used quite successfully. As I had stated earlier to Lynn Rex, I was involved in six of these, and there was not one...this was the fastest one to get turned around and cleaned up, and the neighbors were highly appreciative of that effort. And, hopefully, none of you have to go through a tragedy or have a neighbor that does go through a tornado loss or a damage loss, but a lot of this is stuff that may hang around for a year or two or three. Now in reality, I come to you and share some examples of coming across the state line and coming into...from Kansas to Nebraska, and one of the first things that I noticed was we had some issues with some houses that were fire damaged and some commercial buildings that were eyesores that were nuisance, that were complaints that generated a lot of comments and complaints to the city and governing body. When I got up here to Nebraska, well, I can say that down in Kansas, we did not have one that ever had to go...that we had to push the issue. The property owners whether they be in the actual community or out-of-state property owners, cleaned up this damage because that $5,200 on this home here may not sound like a lot, but it was to the individual that owned the home, and she was wanting that money. She got the contractor in and cleared the site which everybody appreciated. So there's numerous incidences on that, and for an example, down here in Lancaster County, we had...one of the first ones I had presented to me from our mayor and governing body was a residential home that had in the December, I think December of '05, maybe November, it caught fire, gutted the complete interior, and had numerous complaints filed against it. Well, in '06 we took the nice approach and tried to get a hold of the homeowner who happened to be not from Lancaster County, but in Ashland. He had no interest in really wanting to clean the house up even though the people around him on both sides and the elderly lady across the street was filing numerous complaints about kids being in the house, it being unsecured. We tried to get it secured with our sheriff's department, and we fought and fought that battle, and what I can tell you is, is as of two years plus, we finally succeeded in getting the property owner to get the house taken care of. He finally sold it, but only after we went through the form of abatement and condemnation. We had to start that. We had to involve Lancaster County Sheriff's Department; we had to get Lancaster County Health; Nebraska Department of Health, and staff time, you know. Now I'm just saying if this...I think if the same person that I know from...that was a homeowner in Ashland would have had 15 percent of that claim that his insurance company paid him on that house when he suffered the loss in '05, I don't think we would have had any interaction with him other than a final building inspection of the site. So that is one and then as I conveyed too, there is one other one which hits close to home, and hits close to us down here in south Lancaster County. It is right next to our city hall community center. We had in October of '05 a commercial restaurant start on fire. It burned the complete floor out of it. Structurally, it has...it needs a lot of help. Unfortunately, at this time, and as of today, and it's on our agenda for tonight's governing body meeting, the thing is still sitting there. You know, we got windows broke out of it. We can't get the owner from Lincoln to do anything with it. He supposedly has sold it on paper to another party. So tonight our city attorney will start the process for abatement. Now we think that once this thing burned, and there was a damage loss in '05, that the insurance company would have came in, paid 15 percent back to the city, that we wouldn't be in this position, you know, at this point. One last point I'd like to make to you, and take too much more time, is that document you had by Mr. Mueller from the insurance company that page 1, this basically, he was the insured adjuster on the scene. And he came in, and one of these were settled, basically, when he wrote the check to her on this. They came into our city hall facility, met there, met with the insured, said here, this is what we're going to pay you right now for the loss, but we have to take 15 percent out for the city until you clean that site up. And once you get that site cleaned up, they'll inspect it and do it. The adjuster told me that all it is, is basically...was the knowledge whether or not he had to check with the Kansas Department of Insurance to see if that city where that fire loss occurred, actually had an ordinance on the books before he came in to work the claim. Once he got there, he asked always for a copy of the ordinance which we gave you a copy of the one there, and that was it. It was just a...it was a check, you know, he made two checks instead of one, relatively painless. And like the adjuster told me on this case, he liked this one, because they closed the case immediately within ten days after the fire loss. This individual, she had the site cleaned up, and the city signed off and gave them the money back. So we think, you know, Culligan (inaudible) in Grand Island is no longer there, came out of Kansas too. He got to work a number of these fire claim cases, and we have talked before, and said, boy, wouldn't that be great if Nebraska would look at something like this? It's highly successful in Kansas, and so we think it's a great tool for community revitalization. We think it's a great tool for rebuilding. Let's think about, you know, let's look at Greensburg, Kansas versus Hallam, Nebraska. Maybe you get into a complete devastation on a tornado event. Kansas, same thing. Greensburg had this 15 percent law down there, and I think if you looked at what's going on, I think they had quite a bit of cleanup. I know Hallam has, but it's been four or five years, and there's still some signs of, you know, that devastation down there. So we need to be a win-win and worthy of consideration, so I'd answer any questions. [LB484]

SENATOR PAHLS: Seeing none, I thank you for your testimony. [LB484]

BRETT BAKER: Thank you, Senators. [LB484]

SENATOR PAHLS: Appreciate that. Next proponent. [LB484]

JACK CHELOHA: Good afternoon, Mr. Chairman, members of the Banking, Commerce and Insurance Committee. My name is Jack Cheloha. Last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I want to testify in support of LB484. Before I begin, Ms. Rex from the League of Municipalities, asked me to convey to you respectfully that we'd asked the committee to hold the bill so that we could work with the insurance industry to try and alleviate some of the concerns you may hear when you get to the opponent side. In the city of Omaha right now, and Omaha...let me back up a little bit. Omaha is a city of about a little over 150 years old in terms of its incorporation, so through the years, you know, some of our buildings, obviously, are old and some are new, and along the way we've redone and rebuilt and redeveloped a number of areas. We roughly have about 400,000 residents. And in our community we have a number of colleges, etcetera, where that leads to rental property and absentee landlords as the two previous witnesses have talked about. And additionally, just general people who own a structure may lose interest in it, as you heard from the previous testifiers as well. In Omaha right now, in terms of, you know, buildings that are decaying, there's a number of them. In our budget each year, we try to set aside money for demolition of buildings that are condemned or in such bad or poor condition that we have to demolish them at a cost to our taxpayers just in order to alleviate that nuisance. As you know, cities typically are charged with abating nuisances, and so when there's a structure that is attractive to children or dangerous or decaying, I mean, local officials are the ones who get the calls on them. We think LB484 would be another tool that cities could use to help alleviate a problem that we face. As we look at the numbers and the specifics of it, I think there's a lot of safeguards that Senator Stuthman put in the bill in terms of, you know, making the cities move forward with an official ordinance, having the Department of Insurance track that and register those in order to, you know, make sure we know which ones are participating in the program. And likewise we, you know, specifically put language in there to make sure the existing liens that are out there will be taken care of, so we don't run into concerns, you know, with loans and mortgages and even, you know, secondary loans, etcetera. This is probably more information than you want to know, but we had another bill this year in the Revenue Committee that has to do with special assessment liens. And right now, there was...or not now, but there was a Supreme Court case a few years ago that basically pushed special assessment liens back in terms of their priority. Once a property goes into tax foreclosure sale, where we've had a...because of that ruling, we've had a tough time recovering special assessments, so we're working with the Revenue Committee to try and come up with a solution to that bill. But likewise, when cities go in and have to take care of these nuisance homes, we will file a special assessment lien for the demolition cost or whatever, and that's out there. But sometimes even once the property moves forward through tax assessment foreclosure, we still have a hard time recouping that money for our taxpayers, and so ultimately they end up paying for it. It's not our goal to interfere with the contractual relationship between insurers and insureds. You know, insurance is a regulated industry, and so this, I think, would be a fair and reasonable regulation to put on the insurance company to help generally to make our state better and cleaner and abate nuisances. And for those reasons, we're in support of LB484. I'll try and answer any questions you might have. [LB484]

SENATOR PAHLS: Senator Pirsch. [LB484]

SENATOR PIRSCH: And just briefly, you said that it's tough to recover the special assessment liens in terms of time taken. What was the basis again on that? Is it just a lengthy matter or is it tough at all to collect? [LB484]

JACK CHELOHA: Well, thank you for the question, Senator. A number of times it's tough to collect just because of the fact that the property, once it goes to tax foreclosure sale, it's to the point where it's not so valuable anymore. And essentially, you know, property taxes are in line first. You want to pay the schools, the counties, the cities on the property tax, and then special assessments happen to come in afterwards. And if the pot is already divided up, there's nothing left so. [LB484]

SENATOR PIRSCH: Thank you. [LB484]

SENATOR PAHLS: Seeing no more questions, thank you. [LB484]

JACK CHELOHA: Great, thank you. [LB484]

SENATOR PAHLS: Any more proponents? Okay, that wraps up...opponents? How many opponents do we have? If I can just have you move to the front, so I could get sort of a picture of you. [LB484]

COLEEN NIELSEN: Good afternoon, Chairman Pahls, members of the Banking, Commerce and Insurance Committee. My name is Coleen Nielsen, C-o-l-e-e-n N-i-e-l-s-e-n. And I'm here on behalf of the Nebraska Insurance Information Service, testifying in opposition to LB484. I don't have a lot of prepared comments because I was aware that the League of Municipalities was willing to talk with the insurance industry about this situation, and see if we could come up with a solution. But I will tell you that I've had concerns when I've seen this bill. I think we've had this bill before, and part of it is, is that even though there might not be an intent to interfere with a private contract, that's exactly what the city is asking to do. And it puts the insurance company in an odd situation, because that contract is between...they are obligated by that contract to pay those proceeds to that individual. And the other...except for the bank, is also a party to that contract, so that when you have a total loss, the money goes to the bank because they're a party to the contract, and then if there's any remainder, it will go to that individual. It might sound like a simple process, and it might seem to make sense, but I can tell you that there are probably times when there are very emotional situations involved, and I wouldn't want to be the adjuster that goes to a family who just lost their home and told them, just because we have people who are derelict in their duties, we're going to take 15 percent of your proceeds coming to you, and we're going to hold onto that until you clean up your property. I mean, I don't know, I don't think that that should...I don't think that the insurance company should have to be placed into that position to do that. And thirdly, the question that I have, and this probably can come out in the discussions with the league, but on personal homeowners' properties as well as commercial properties, there is a provision for debris removal, and it's usually some percentage of the policy. And I don't know, I have never heard why that hasn't been utilized in any of these cases that we've talked about, but it will be something that we can discuss. So with that, I'd be happy to answer any questions if I can. [LB484]

SENATOR PAHLS: So you're telling me that...I hear good vibes between the insurance and the league, I mean, that you're both willing to...because this bill...I mean I have in the past, so? [LB484]

COLEEN NIELSEN: I don't know if we can come to an agreement, Senator, but I certainly think that we can sit down and talk with them and talk with...apparently, there's people from Kansas, and talk about how that's worked. I really am seriously afraid that this type of provision is subject to litigation, because I'm not sure that it is appropriate for a government agency or, I mean, a government subdivision to come in and interfere in a private contract, and I'd like to do some more research on that. [LB484]

SENATOR PAHLS: Okay. But you did tell me that there is removal of debris is...? [LB484]

COLEEN NIELSEN: Yes, there are provisions in both personal and commercial lines.

[LB484]

SENATOR PAHLS: Senator Utter. [LB484]

SENATOR UTTER: But there's no guarantee that that...whatever that provision in that policy is that pays for debris removal will actually be used for that, or is there? [LB484]

COLEEN NIELSEN: Well, and that's a good question because I have to look into that. But oftentimes what happens is, is the insurance company, until the insurance company will engage in that activity for them or will get that activity going for them and actually pay that provider for that. I don't know if the proceeds are actually given to the homeowner under that provision. But I have to check that out. [LB484]

SENATOR UTTER: Thank you. [LB484]

SENATOR PAHLS: Okay, thank you. Next opponent. Good afternoon. [LB484]

JIM CAVANAUGH: Good afternoon, Senator Pahls, members of the Banking, Commerce and Insurance Committee. My name is James Cavanaugh. I'm an attorney and registered lobbyist for the Independent Insurance Agents of Nebraska. We appear in opposition to this bill. I won't go over all the prior testimony that you heard, but I, you know, will just point out a couple of things. One of the questions that has merit that was asked earlier was, well, why is it 15 percent; 15 percent of every building, 15 percent of a $15,000 building, and a $15 million building? It seems to me that the 15 percent figure has an arbitrary ring to it, because 15 percent isn't a fixed factor of removal. The representative from the city of Omaha pointed out that the city had been in existence for over 150 years, and we've been...as a resident of Omaha, I can assure you, faced with the removal of properties, damaged properties. Many, many, many times the city has developed, I think, an effective procedure, including as the representative indicated, a budget item for debris removal. This does not mean that they come and remove your debris, and you're off the hook. It means they come if you, after repeated notices, haven't removed your debris and bill you for it. Also, a factor that has not come up yet, but it is certainly available to any municipality in the state are the courts. You can remove debris for someone, and then sue them for recovery. The technique used previously in Omaha was they would add it to your property tax bill, and if over time, you as an absentee landlord didn't satisfy that, then they would sell your property at an auction. It's interesting to me that there are no developers, private sector people here, requesting that this action be taken. I think it would act as a severe disincentive, particularly in smaller communities, for development to take place if they felt that there were going to be these types of ordinances that may occur in Papillion, but may not occur in La Vista. It might cause some developmental disadvantage. The final question I would raise is, as to the insurable interest. The bill takes care of the mortgage holder, fine, hundred percent. But the actual occupant of the structure is left to deal with the divvying up of the remaining dollars. And it seems to me that the person who is actually paying for the insurance is the person who, under this scheme, will get paid last for the damages that they bought insurance to cover. We represent the people who buy the insurance. Currently, that market seems to work. I personally suffered one of these losses in a wind and hail storm that we had up in Omaha last year, and what you do is you go out and get estimates for repair and removal of stuff. The adjuster and the insured work together to satisfy both sides that an adequate amount has been set aside, and they pay you to not only repair or remove your property, but to have the debris taken away. That's how it works; that's how it's always worked. It seems to work pretty well, and we would urge you to let it continue to work. I'd be happy to answer any questions you might have. [LB484]

SENATOR PAHLS: Seeing no questions, thank you, Mr. Cavanaugh. [LB484]

JIM CAVANAUGH: Thank you. [LB484]

SENATOR PAHLS: Next opponent. [LB484]

KORBY GILBERTSON: Good afternoon, Chairman Pahls and members of the committee. For the record, my name is Korby Gilbertson. That's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Property Casualty Insurers Association of America. PCI is opposed to (LB)484 as it was to the bills in prior years. I'll try to temper this a little bit based on the comments from the municipalities that they'd like to continue discussions with the insurance companies. But I wanted to make a couple of points. In discussions with different insurance companies that PCI has as members, the vast majority I won't say all, because I did not get responses from all, do provide for that additional coverage for debris removal in their homeowners and commercial policies. And typically, it was 5 percent, and that is above the actual limits of the coverage, so it's a 5 percent additional. So if you would look at...just do numbers, and I'm not very good with math, but if you take $100,000 home and it had the $75,000 mortgage. If you could get 15 percent of that remainder for the city, that would be $3,750. But if you got 5 percent excess of the total amount, that would be $5,000 so actually you would be looking at more money there for debris removal if you just look at the basic policy coverage that's already available. Secondly, I think there was one comment made about Hallam, and I know that at least Farmers Mutual last time this bill was introduced, talked at length about what happened in Hallam several years ago, and they would work directly with the municipality to contract for debris removal and worked as the insurance company, because they had a number of homes that were insured in Hallam, and worked with them directly to get the debris removal done. And I think that that...we want to be able to foster relationships like that rather than forcing insurance companies into situations that (LB)484 would create. Finally, I just want to reiterate one more time that cities do already have a remedy. They can assess...do special assessments against property. They have the right to remove the unsafe structure and the debris, and then they can also file civil suits against the owners. So with that, I'd be happy to try and answer any questions. [LB484]

SENATOR PAHLS: Seeing none, but I do like the part that said you could work with municipalities. [LB484]

KORBY GILBERTSON: We'll see what we can do. [LB484]

SENATOR PAHLS: Thank you. Next opponent. [LB484]

JANIS McKENZIE: Senator Pahls and members of the committee, you need a bigger chair for some of us or a booster. For the record, my name is Jan McKenzie. Last name is spelled M-c-K-e-n-z-i-e. I'm here testifying in opposition on behalf of the Nebraska Insurance Federation on LB484. I want to add one other thought to this argument and discussion, and that's that while in many cases we talk about the industry as though it is one thing, it is once again a private industry in competition with itself. Various carriers compete, as you heard before, base their book on a certain clientele they're trying to work with, and we also wanted to add as a thought, that while we understand the concerns of municipalities in having hazardous properties sitting around with landowners who have plead or maybe were so devastated and had no additional insurance left after the mortgage was paid, that to put insurance in the role of police or incentive for a municipality in order to remedy something that may be happening, we believe in a very small percentage of incidences is, we don't believe the role of a business community in general. So with that, I would answer any questions you might have. [LB484]

SENATOR PAHLS: Seeing no questions, thank you. I think we have one more opponent. [LB484]

JANIS McKENZIE: Thank you. [LB484]

TAD FRAIZER: Good afternoon, Mr. Chairman, members of the committee. My name is Tad Fraizer, F-r-a-i-z-e-r, representing the American Insurance Association, a national trade organization of property, casualty insurers, coming at kind of the tail-end here. I think all my best comments have been stolen by the witnesses ahead of me. But again, I'd re-echo the fact that this is using a private contract for a public enforcement purpose that you are injecting the...for a governmental purpose, you're injecting the locality into a private contract, and, of course, it's going to be the insurance company and the insurance agent who's going to feel the brunt of the property owner's concern up to wrath when you inform them that after the mortgages get paid off of whatever might be left, we got to pay a percentage to the city. Maybe they'll get around to calling the city, but I have a feeling it's going to be the adjuster, the agent, the company who's going to get the complaints and the ill will first. And, of course, we just had a long hearing on a bill in which the effect of various insurance actions on consumers was discussed, and I think this will just have a negative effect on insurance consumers if this bill proceeds forward. And, therefore, we would oppose this bill. Thank you very much. [LB484]

SENATOR PAHLS: Seeing no questions, thank you. I think that is the last of our opponents. I think we...in neutral? We have one in the neutral? [LB484]

JERRY STILMOCK: (Exhibit 3) Good afternoon, Senators. Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, appearing on behalf of the Nebraska Bankers Association to tender an amendment in the event the committee does take some action, based upon the opponents and proponents. It simply inserts the language that is used that is in the bill, refers to a mortgage, and we would request the committee to insert "trust deeds" as well as the most popular vehicle of securing loans, and also that it would be inclusive also of not only a first, but any trust deeds or mortgages that would be filed. Right now there's specific reference to first real estate mortgage, and certainly for any property of value, it's possible that there may be more than one lien out there. And that concludes my testimony. [LB484]

SENATOR PAHLS: Seeing no questions, thank you. [LB484]

JERRY STILMOCK: Thank you, Senators. [LB484]

SENATOR PAHLS: (Exhibit 2) And I think the senator said he would not have closing, so that closes the hearing on LB484. Thank you. Our next bill is LB551 by Senator White. And as he prepares to come forth, I'd like to read into the record a letter of support from the Opportunity@Work. You may begin, Senator. [LB484]

SENATOR WHITE: (Exhibit 1) Thank you, Mr. Chairman, members of the Banking and Insurance Committee. Thank you for allowing me to present LB551. LB551 is a bill that is designed to assist Nebraska families who have found themselves in a situation where they have children who are not insured. This is becoming an increasing problem given the economic stress that all Americans, including, unfortunately, many Nebraskans are facing. LB551 would increase access to health insurance. By allowing families to purchase coverage for family members up through the age of 29 in their family coverage plans at the family's own cost. Under the bill, health insurers that offer dependent care coverage would be required to extend the terms for the children of policyholders to age 29. This extended coverage would be eligible only for unmarried children of private insurance holders' families, not employers, again, would be required to pay the full cost of the policy. Currently, insurers may offer coverage for children up to age 23, but are not required to. This bill would make it mandatory to offer coverage up to age 23 or 29 if the child is unmarried, presuming in the first instance that the policy provides coverage for children at all. It would remain the option of the policy issuer and the employer to have policies that don't offer any children's coverage at all, which is an option they currently enjoy. This is a sensible market-based solution to provide access to affordable healthcare for a critical segment of the work force. Now, according to the U.S. Census estimates, there are 279,000 Nebraskans aged 19 to 29, and approximately 78,000 are uninsured. This bill could extend potential coverage to approximately 75,000 Nebraskans. We are bringing an amendment that we believe eliminates a potential unintended consequence regarding children 18 to 23, and that amendment has been handed to you. This morning, just so the committee is aware, we have circulated this language to the insurance industry. It is our absolute intent to cooperate with them. We do not want to place any financial burdens on employers or insurance industries that they will not willingly undertake themselves. The only thing this bill is intended to do is to assist families who find children who are over 18, still dependent, and without insurance. And this is increasingly occurring in a number of situations. Some families can no longer afford, after their child turns 18 and graduates from high school, to send their child full time to college, which is frequently a requirement to keep them on your insurance policy. They must attend full time. This would allow a family where the child needs to work in order to go to college, but can still go part time to remain on the policy. Another frequent issue that we are seeing is students graduating from university with degrees, not finding jobs that offer insurance or not finding jobs, and being put in a position where they lose insurance. We'd ask you to note, again, and we'll go through it, the intent is that the families, if they're able, they pay all of it. This is not an additional burden on employers nor is it a burden on the insurance companies. In fact, we would argue that if you could pick any demographic, any demographic to add to insurance pool, the age of 18 to 29, 23 to 29 is absolutely the best. It's the healthiest part of our population generally. And their addition, paying full premiums, should only reduce the overall risk cost to that pool. That, at least, is the intention. But Department of Administrative Services indicated that they had a fiscal note, they believed, of $3 million under the belief that it required them to offer and pay for insurance from 23 to 29. We would point out that there are several provisions in the bill that actually state, nothing shall be required for the employer to have to pay any part of this. But just so that there's no question, and that is found, by the way, on page 5, lines 17 and 18, it reads, "Nothing this subsection shall require such additional premium to be paid by the policyholder's employer." So if that's not clear enough, we had also recommended then the amendment that on page 4, line 17, after the second comma, the language would be inserted, "if the policy insurers' dependent children, such coverage shall include" and then, again, that same language should be placed on page 8, line 9. Now, this is not my area of expertise. We'd be delighted to work the committee and its counsel to fine-tune any kind of language that carries out the overall basic intent. And that intent is, again, at the family's expense if they find themselves in a situation where they have a child who does not have an insurance policy or access to its own insurance policy, and they can afford to pay the entire cost of it, they can keep that child insured until they find a job or a situation where they have their own insurance. An increasing number of students are finding themselves under pressure, taking classes, trying to stay full time to keep insurance. I've had several college counselors thank me for this bill, because they said, I have kids who are afraid to drop classes they should drop, should get out of areas of study because they become ineligible for their insurance. With that, I would be happy to try to answer any questions. Again, we would invite and welcome the committee's amendments to effectuate the overall intent of the bill. [LB551]

SENATOR PAHLS: Senator McCoy. [LB551]

SENATOR McCOY: Thank you, Chairman Pahls, and I thank you for your testimony, Senator White. You touched on earlier Department of Administrative Services, I believe,... [LB551]

SENATOR WHITE: Yes. [LB551]

SENATOR McCOY: ...fiscal note, not knowing exactly what the total might be. Do you mind clarifying that a little bit and going over that here more? [LB551]

SENATOR WHITE: Sure. What happened was, this morning we were told for the first time that they had a fiscal note, and they had indicated to us, it might be $2 million to $3 million. That was, of course, staggering to us, because the bill expressly says, an employer which would be the state would have no obligation to pay it. We then tried to contact their office a number of times, my staff did, and we couldn't get anybody to return our call, so we remain baffled, Senator McCoy. But certainly it's...the bill can be written in a way, should be written in a way that it does not add any cost to any employer including the state. And if language is necessary to effectuate that, and we haven't provided it, we'd ask the committee's own skills be employed to fix the problem. [LB551]

SENATOR McCOY: Thank you. [LB551]

SENATOR WHITE: You're welcome. [LB551]

SENATOR PAHLS: Senator, just since you made that comment, you called a...? [LB551]

SENATOR WHITE: We've heard the Department of Administrative Services felt that the bill, as they read it, required the state to pay for the policy. We didn't understand that, given our language. We then called...my staff called on several occasions today, and we have not gotten...been able to get ahold of them. They didn't return our calls, so I don't know what...other than the general description I've given the committee, Senator, what their problems are. I only can tell you what I understood, is they thought the state would have to pay it. Given the express language in the bill, but nothing in the subsection should require the employer to pay the additional cost. I'm baffled, but if it's there, we'll fix it. [LB551]

SENATOR PAHLS: I just want to go over this further, because if we're throwing roadblocks up, that is a little bit of an irritant. You called like the Department of Insurance or Banking, or...? [LB551]

SENATOR WHITE: No, we called the Department of Administrative Services, and what happened is, we didn't even know the intent of the fiscal note. Now, I'd contrast that with the university, which put a $350,000 note on it. We contacted the university. They've been most cooperative, explained and pointed out the language. They said they were going to review it. Again, if there's language that needs to be changed, so there is no cost, then that's fine. There should be no fiscal note on this bill. [LB551]

SENATOR PAHLS: Okay, thank you. Senator Gloor. [LB551]

SENATOR GLOOR: Thank you, Mr. Chairman. And thank you, Senator White. This is a poignant issue for me, having spent quite a bit of time in recent years trying to find insurance coverage for adult children as well as recently, trying to find coverage for myself and my spouse. And I have an idea of what kind of dollars we're talking about when we chase after insurance policies. But it also gives me a clear understanding of what the additional cost out-of-pocket may be that somebody is going to pay to bring on an adult child to their plan which leads me to say, I think the only reason somebody would be willing to do that is faced with a child who already is faced with some sort of illness, chronic illness, continuing disease, that makes them a little harder to get insurance in the private sector when they went out to seek it privately. Did you have any stories like that, that were brought forward by constituents when you were putting this bill together? [LB551]

SENATOR WHITE: Actually, no, Senator, they have not. You know, the problem with self-selecting would be an issue, you know, certainly. But the CHIPs program exists as well, you know, which would probably meet most of those needs as it sits, though, you have its own challenges. But, actually, I...you know, through my insurance in my small firm, have regularly provided insurance to my family, so both sides of it, so I recognize the cost as well. It actually, though, has become really, for many folks, it's just a matter of belonging to any group that you can. And so, the people that did talk to me were folks who have either had kids who have graduated and now are back home looking for work, or kids who are going part time and become ineligible under their parents' policy, and there's really not an adequate substitute. Those are the folks who have talked to me. I've not had the problem of self selecting. I think most folks who get that, they...you know, they look at working their way into CHIPs, doing other things in that situation. [LB551]

SENATOR GLOOR: Okay, thank you. [LB551]

SENATOR PAHLS: Senator Pirsch. [LB551]

SENATOR PIRSCH: Thanks. The concept or premise underlying your bill is that, of course, these kids between the ages 23 to 29 now, who are not required to be covered in any policy under any circumstances,... [LB551]

SENATOR WHITE: Right. [LB551]

SENATOR PIRSCH: ...their ability to get insurance now as adults, age 23 to 29, think the rates then would be at a significantly higher premium, you're saying, than if they were part of a mandatory group that included their family, is that? [LB551]

SENATOR WHITE: Certainly, if you, for example, have a group that offers any kind of coordinated care, any kind of a larger group, preferred provider groups, things like that. Yes, you can get as part of a group, better prices, not only because you're part of a larger risk pool that's balanced in also because they have economies of scale in the purchase of medical care, hospitalization. And so, yeah, they can deliver insurance to even individuals at lower costs. [LB551]

SENATOR PIRSCH: Okay, so you're saying, you're going to dovetail or piggyback on to this existing group by, you know, the 23- to 29-year-olds, and saying that they can achieve lower premiums as a result of that. [LB551]

SENATOR WHITE: If they are already...if their parents already belong to a group that offers insurance for children, dependent children, which not all employers do, and which remains the right of the employer. Some employers just say, we don't insure families. You know, we offer only individual coverage. But if they offer that, yes, it would allow them paying not just their side, but both sides of the additional expense, whatever share the employer would otherwise have picked up. [LB551]

SENATOR PIRSCH: Would the overall premiums for the group rise? [LB551]

SENATOR WHITE: Probably not. Probably in terms of the overall premiums, you would be bringing into, certainly statistically, you'd be bringing into the group the healthiest subpopulation you could, 23 to 29. You know, by and large, those are some of your healthiest years. [LB551]

SENATOR PIRSCH: Yeah. Has this plan been implemented in any other state with experience? [LB551]

SENATOR WHITE: My understanding is similar plans have been implemented in other states. I cannot tell you what their experience is, although it's been popular, and it's been useful. [LB551]

SENATOR PIRSCH: You don't...do you know what states? [LB551]

SENATOR WHITE: I don't off the top of my head, Senator, no. [LB551]

SENATOR PAHLS: Senator Utter. [LB551]

SENATOR UTTER: Thank you, Chairman Pahls. Senator White, are you suggesting that this would be done without any form of medical underwriting at all that...? [LB551]

SENATOR WHITE: Well, yeah, they would have a guaranteed issue just like they do now. Essentially what would happen is, when you come into an employee's position, and they hire you, and they offer you insurance, there's no medical underwriting now. We have portability, would be my understanding. Yes, I would assume it's portable, and they could come in. Now, we have talked to insurance people about continuity care and some issues like that. We'd be happy to work with them on that. The main hope is that folks who are...let's say they're 17 or 18; they're getting ready to graduate. It just keeps them insured until they qualify under their own policy if the family can afford to pay the premiums. [LB551]

SENATOR UTTER: Is the age 29 kind of a safety...that seems like a large age to me. [LB551]

SENATOR WHITE: Yeah, and... [LB551]

SENATOR UTTER: Is that kind of a safety valve in your... [LB551]

SENATOR WHITE: Yes. [LB551]

SENATOR UTTER: ...in your mind that that ought to cover the... [LB551]

SENATOR WHITE: Well, hopefully, at 29, they will have had...I mean some states, I know, I think have gone higher. I think, if I recall, Senator Pirsch, and I don't recall what state, it was 31 or 32. But 29 just seemed...you know, it's in the end an arbitrary number, I think, Senator, but hopefully, it would cover the vast majority of people in this situation. [LB551]

SENATOR UTTER: And have you talked with the insurance companies that verify the fact that you don't think this will increase the overall cost of group coverage in terms of a raise in premiums for the rest of the people in the group because they're required to carry this insurance on these individuals up to age 29? [LB551]

SENATOR WHITE: Senator, I think that you will find that we will have several people from the industry testifying in favor of this bill behind me. But have I run my own actuarial study? No, Senator, I have not. But I would tell you, if I were going to pick a group, having been married to an insurance lawyer for a long time and spent probably 15 years in this area, this is the group you would want. [LB551]

SENATOR UTTER: Thank you. [LB551]

SENATOR PAHLS: Senator Pankonin. [LB551]

SENATOR PANKONIN: Thank you, Senator Pahls. Senator White, I think this is a valid issue, and I think our children being in that age group, of having kids in their twenties, sometimes they're not as settled as they may have been a generation ago, of...between the education, traveling before they get married. My daughter, who is going to get married in Senator Utter's fine community this late July, but she's ending a teaching job. Individual insurance is probably $450, $500 a month for a good, you know, good insurance. I know from our business which if we could get her back on, that for a couple it's like $900; for a family which they don't care how many kids you have, it's $1,100 in rough numbers. So maybe it's $200, $250--if this was in place, that's what we would do if we could. Otherwise, you've got this gap, and we're messing around with that so... [LB551]

SENATOR WHITE: Yeah. [LB551]

SENATOR PANKONIN: ...until she can get on her intended's insurance. So I think there's more of that with kids today. They come back home, and these guys don't know that yet, but that's what will happen... [LB551]

SENATOR WHITE: Boomerang children, I think they call them. [LB551]

SENATOR PANKONIN: ...Senator Pahls knows how that works (laughter). [LB551]

SENATOR WHITE: Yeah. Well, and I appreciate that, and the committee, I'm sure, well knows, when you do have a car accident or something, one of these kids is uninsured, so often it comes back to the state anyway. So whatever we can do to keep people insured without burdening employers, we should do it, in my estimation. [LB551]

SENATOR PAHLS: Thank you, Senator. Do you plan to stick around for closing? [LB551]

SENATOR WHITE: I can, Senator,... [LB551]

SENATOR PAHLS: Well, let's see how many... [LB551]

SENATOR WHITE: ...and if it looks like it's unnecessary, I'll just waive it at that point. [LB551]

SENATOR PAHLS: Okay. Just a feel, how many proponents? Opponents? Looks like we have one proponent, no opponents. Any neutral? And one neutral. Have you noticed the difference in the chair? [LB551]

JANIS McKENZIE: (Exhibit 3) It goes higher when you're in favor of something (laughter). Senator Pahls and members of the Banking, Commerce and Insurance Committee, for the record, my name is again Jan McKenzie spelled M-c-K-e-n-z-i-e, here in testimony in support of LB551. And I'm sorry, but I'm going to have to switch to glasses that I can read with, so I've hit that point. I want to talk about a couple things, first of all. In the paper that I'm handing out to you is the National Health Insurance Association's summary of what states are doing nationally regarding age of dependency along with a number of other kinds of specialty coverage areas. But if you will flip to the very back page, you will see that in the last year, in 2008 there were nine additional states who have added some sort of extended dependent coverage. And in some cases, I believe as Senator White stated, it goes up as high as 30 years old in Florida and New Jersey, but there has certainly been a trend nationally to try to address this population. As kids either cannot afford to go to school full-time to continue to qualify; in some cases, kids take more than just four years to go to college, especially if they're working part time and going to school part-time. Once they hit that magic age of 23 in Nebraska, they lose coverage as a dependent under their family's policy. The worse case scenario is to have someone between the age of 23 and say whatever. I mean, we can pick a number, who does not have any insurance, who's a pretty healthy kid, doesn't believe anything will ever happen to them, and then they're in some sort of catastrophic accident, are diagnosed with a catastrophic illness, some sort of cancer, have hepatitis which is so common in this population group, and we now have very expensive medical costs, catastrophic costs to a family, and the child had no insurance. Other states have begun to address this population, in particular, as a highly uninsured group, and I think that's true in many states besides Nebraska. Now the magic number...do we know if it's 29? You'd kind of hope by then, you could launch them out of the house if they have boomeranged back, but I think, as you can see from the materials I've provided, there are a lot of different states who have taken a different approach. In Nebraska, we still allow, and I know I had my son under my policy until he was 23, because he was working and was not provided insurance under his work situation. There is an independent market out there for healthy kids, who they can look to that, Senator Gloor. But it depends also, how much money they're making as to whether they can afford that. So a difference of $250 to buy a policy if they're married and not able to get fully supplied family insurance through one employer or the other if they're married or if they're single, and not able to completely be independent of themselves financially, seems to be a nice way to begin to address this uninsured group. I'm surprised no one from the Hospital Association is here today because they tend to come in and talk a lot about what happens when they, as emergency rooms become the first line of defense for serious illness instead of a provider. And often that's what we see in this population group as well. I would think they would think it was smart to have some of these kids insured. There's one other piece I want to mention, and that's once in awhile we see kids in college who are diagnosed with a very serious illness and need to take a leave of absence from college. And that's actually being addressed in a number of states and even federally, and it's called Lisa's Law that you cannot drop a child from coverage if that's a situation. And there are a number of states who have addressed that as well, and I believe Nebraska actually has language similar to that. So we appreciate Senator White bringing this idea before the committee and before the Legislature this year. The industry is willing to work with the committee and Senator White's office to try to craft language that clearly addresses the intent of bringing this group into insurance in ways that are not at the expense of the employer. That is not anything that companies favor or the National Trade Association. And that we also want to make sure...I think the neutral testimony today will be regarding special sorts of limited benefit policies, and that we clearly do not include in the health insurance category, and we want to make sure they're not brought in under this bill. So we'll also be looking to work with them to support that type of amendment. But we would be happy to work with the committee and provide any kind of information and support that we can in order to get the bill in good shape. And we encourage you to advance it to General File with amendments. [LB551]

SENATOR PAHLS: I take it, you basically are telling us the insurance world is behind this. Of course, with us working on some issues that, you know, it is like it is a little bit of surprise. Now I can see why your chair is a little higher right now because... [LB551]

JANIS McKENZIE: I'm sitting up higher. I'm happier when I can say yes (laugh). [LB551]

SENATOR PAHLS: So I know we do have some neutral, but for the most part, you're saying that our concerns should be worked out within our committee? [LB551]

JANIS McKENZIE: With our help. [LB551]

SENATOR PAHLS: With your help, of course, right. Okay. Thank you. Yes. [LB551]

SENATOR PIRSCH: Has this or a similar idea been brought forward before in the past? [LB551]

JANIS McKENZIE: No. In fact, one of my member companies brought it up this fall when we were having just a general meeting, having lunch actually, and had said, you know, maybe in Nebraska we ought to look at bringing in a bill to increase the age of dependency because it is becoming increasingly a problem nationally. Kids just don't graduate from college and go out and find jobs, or in some cases, their employers don't provide insurance. And they're working, but they may or may not (a) believe they need to have insurance and without the guidance of maybe family, don't realize that there could be something catastrophic happen to them; and/or (b) that it's just not...had been made available to them. [LB551]

SENATOR PIRSCH: You don't see an increase in premiums overall to the group, having this population or self selection? [LB551]

JANIS McKENZIE: No. Actually, as Senator White said, this is the healthiest population you can put into a pool. In many cases, you might argue bringing this group in reduces premiums for the pool. [LB551]

SENATOR PIRSCH: Have other experiences occurred in other states specifically with that such that we can see empirical information? I guess the one thing is, these...kids feel like they're adults 23 to 29, tend not to view insurance as something they need, and they put it off and whatnot. Is it going to result that the only ones who do focus in on this and avail themselves of this, in an unintended manner are those who suddenly (inaudible) a malady or something that then look...or I mean, self selection is, I guess, the possible harm that... I mean, have other states that have done something similar experienced that? [LB551]

JANIS McKENZIE: Senator, I'm not familiar with any cases that have been brought forward, but I can certainly ask my companies to see if they have any examples of that kind of use. But we are concerned in making sure that the language in the bill addresses it; there has been a continuity, and that it isn't someone who just suddenly now gets ill, and wants to be included. [LB551]

SENATOR PIRSCH: Okay, thank you very much. [LB551]

JANIS McKENZIE: We're concerned about that as well. [LB551]

SENATOR PAHLS: I just want to make sure that I'm clear on this. If the insurance world is willing to work with us, they're not going to do something that's going to cause them harm. I would not...I would think not. [LB551]

JANIS McKENZIE: That would be unusual (laugh). [LB551]

SENATOR PAHLS: Yes. Senator. [LB551]

SENATOR GLOOR: Thank you, Mr. Chairman, and thank you for your testimony, Ms. McKenzie. [LB551]

JANIS McKENZIE: Certainly. [LB551]

SENATOR GLOOR: I'm going to go back with Senator Pirsch's comment because it gets to the heart of the question I had for Senator White. What makes me uncomfortable about this, not that the concept isn't a good one is, I'm shocked on the market, because I found myself in somewhat the same predicament. And the cost to add my children on to a health insurance plan that I would have already had, as best I can determine, was far more expensive. I think Senator Pankonin talked about 200 and some dollars, but to go out and get a catastrophic plan, which had a $2,500 or $5,000 deductible for a relatively healthy youth...I'll still use that term, young adult, age 23 to 29, was far less expensive. Obviously, there's high risk with...we're talking about a healthy population base, and so it just has me wondering, realistically, is there a need for this when you could go out in the open market and buy a catastrophic plan for a lot less than tacking on your children to your plan, unless they have a preexisting condition that makes it unlikely that they'll be able to get that coverage. [LB551]

JANIS McKENZIE: Right, and I think that's a very good question. We haven't really looked at...and I'll see if my companies have any better insight into that or their experiences in other states that have already implemented this type of higher age requirement. But I think in certain cases where you have family policies, the family policies may include better coverages and lower deductibles... [LB551]

SENATOR GLOOR: Absolutely. [LB551]

JANIS McKENZIE: ...than you may be able to find in the individual market. [LB551]

SENATOR GLOOR: But you're paying for that better coverage, lower deductible... [LB551]

JANIS McKENZIE: Exactly. [LB551]

SENATOR GLOOR: ...I mean you're paying for all that. But if you think your child is going to be healthy as most are through those age categories, you're not as concerned about that. You're not planning on them actually using it. You're concerned about the catastrophic potential of a car accident... [LB551]

JANIS McKENZIE: Right. [LB551]

SENATOR GLOOR: ...or cancer diagnosis... [LB551]

JANIS McKENZIE: Right. [LB551]

SENATOR GLOOR: ...or something like that. [LB551]

JANIS McKENZIE: Right. I'll see if I can find some information to address that one way or the other, Senator. [LB551]

SENATOR GLOOR: Okay, thank you. [LB551]

SENATOR PAHLS: Appreciate your testimony. [LB551]

JANIS McKENZIE: Okay. Thank you. Oh, Senator. [LB551]

SENATOR UTTER: One more quick question. [LB551]

JANIS McKENZIE: Sure. [LB551]

SENATOR UTTER: Are we envisioning this as a come-and-go plan? That once I...my child reaches 23, gets a job, lasts a couple of years, was covered by insurance for a couple of years, then out. Then can he come back on to...to the...is it...or is it, are we anticipating that this is continuous coverage up to age...a maximum age of 29? [LB551]

JANIS McKENZIE: Well, my guess would be that if you had a child that you were trying to just make sure had some sort of insurance because they hadn't found a job, you'd be kind of hoping that when they found a job, it would be going on to that policy, if it was possible. But, I mean, I think we're seeing with what's happening today, you know, kids who have gotten jobs two years ago are now suddenly unemployed. Now... [LB551]

SENATOR UTTER: So you are envisioning a come-and-go type plan. [LB551]

JANIS McKENZIE: ...I guess we're looking in the crystal ball. We don't know. But we certainly think it should be a way that a family can say we need to protect our kids until they're able to take care of themselves. [LB551]

SENATOR UTTER: And you see with guaranteed coverage, if it becomes a come-and-go plan, why we would have a tendency...the abuse thing would seem to me to have some tendency, unless there was some type of medical underwriting that would allow that insurance company to assure themselves that there was just the normal risk, and not an unusual risk is the reason I come back... [LB551]

JANIS MCKENZIE: Right. [LB551]

SENATOR UTTER: ...under my folks' umbrella... [LB551]

JANIS McKENZIE: Right. [LB551]

SENATOR UTTER: ...for a policy. [LB551]

SENATOR PAHLS: See, there's still some questions to answer. Thank you. [LB551]

JANIS McKENZIE: You're welcome. [LB551]

SENATOR PAHLS: Neutral testimony? [LB551]

CURT BROMM: (Exhibit 4) Good afternoon, Senator Pahls, committee. [LB551]

SENATOR PAHLS: Good afternoon. [LB551]

CURT BROMM: You've had a full afternoon, and I'll try to be pretty brief. My name is Curt Bromm, C-u-r-t B-r-o-m-m, and I'm a lobbyist for AFLAC Insurance Company. And let me say first of all, that AFLAC certainly commends the efforts of Senator White and this committee to try to figure out a way to increase insurance coverage, major medical coverage for this age group. As we read the bill and studied what AFLAC does, we have run into this before in other situations, and we are concerned that there may be an unintended consequence of the wording of the bill in this section of the statutes which is where it needs to go. AFLAC sells what is referred to as a limited benefit policy, and these products cover a specific event such as an injury or so much per day for each day in a hospital, or if you lose an arm, or if you have a specific problem, that does prevent you from working, so much per day when you're off work. That's the kind of limited benefit that it sells. And they are unique in that if you buy a policy with them at whatever age, 25 or 40, that premium will never change. If you want that policy, that coverage, the rest of your life, you pay the same premium no matter what age you are. And the coverage doesn't change, and the premium doesn't change. Now that's their philosophy, and that's how it's worked for them. So as we read this, it's difficult to determine whether or not this should apply or doesn't apply to us. I talked to legal counsel who's very helpful, and what I handed out was some wording that comes...we've had this problem come up before in other circumstances, and this is the kind of wording that we have used in the past to identify limited benefit policies and to exclude them. I briefly talked to Senator White about this, and I'm certainly going to let him speak for himself. I don't think we have any problem. I don't think his intent is to go into these types of policies, but he can certainly clarify that. So all that we would say is, we would ask the opportunity to work with the committee to with whatever you come out with, to make sure that it does what it's intended to do, and doesn't cause some unintended consequence to the type of coverages that we sell. And with that, Senator Pahls, I'd be glad to try to answer any questions. [LB551]

SENATOR PAHLS: Seeing none, thank you. [LB551]

CURT BROMM: Thank you. [LB551]

SENATOR PAHLS: Senator White, closing? [LB551]

SENATOR WHITE: Yes. Thank you. Thank you, members of the committee. First of all, Mr. Bromm is quite correct. This bill is intended for major medical, and we have no problem with this amendment at all, in fact, welcome it. Just briefly, on a couple other points. Senator Gloor, I would say to you that it depends on what policy you belong to. I know of groups whose policies can provide better coverage for less money than catastrophic. If, however, in my small firm, with our various health experiences, healthy 23-year-old could get a better price, so not all children in all situations will be the same. But, for example, I know a number of large groups, especially some organized...I know, for example, at Teamsters Healthcare, they can deliver health services of exceptional coverage for 15 or 20 percent lower than anybody else I've ever heard of, because they manage and contract well, so I think it will be a market selecting matter. Senator Utter, my understanding, but again, I would defer to your committee counsel would be that whatever the terms of entry into the policy are otherwise for children would be the same. So, for example, transferring a child from one custodial parent to another, you know, transferring or entering into policies, again, things like continuous coverage. The one thing we would ask and work with the industry on is, sometimes children at 18 go on to college policies. If you have somebody who needs to go part time because of illness or financial situations, we would prefer that it be portable in that situation as long as there was some kind of coverage. But, again, that problem of self selection is a legitimate one. And if there's language that will accommodate those concerns, I think they should be. I would, however, urge the committee also to consider this: A lot of times in a recession, and we're clearly facing a bad one right now, people who can't get jobs or who have lost jobs, go back to college because they can improve their skills at that point in time. It makes the most sense. Yet also, I'd really submit, if we do this properly in a businesslike manner, and that's our intent to work with the industry to do it that way, that we could help a substantial number of Nebraskans. My parents always kept me on an insurance plan for all of it, because they believed in it, checkups and all that kind of stuff. And I think there are other parents who will do that as well. And I appreciate the committee's attention and their courtesy. I know it's been a long day, but I would try to answer any other questions anyone has. Final thought, Senator Pirsch. A number of states have worked with this. You've heard there's New Jersey and New York, Florida, others. I think if the industry had had the adverse experiences that you were legitimately concerned about, that should show up, and that should come through the industry's input. [LB551]

SENATOR PAHLS: Thank you. Seeing no questions, thank you. That closes the hearing on LB551. [LB551]

Disposition of Bills:

LB176 - Held in committee.
LB484 - Indefinitely postponed.
LB551 - Placed on General File.

Chairperson

Committee Clerk