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Banking, Commerce and Insurance Committee
February 01, 2010

[LB693 LB807 LB912]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, February 1, 2010, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB807, LB912, and LB693. Senators present: Pete Pirsch, Vice Chairperson; Mark Christensen; Mike Gloor; Chris Langemeier; Beau McCoy; Dave Pankonin; and Dennis Utter. Senators absent: Rich Pahls. []

SENATOR PIRSCH: It's 1:30 so we'll get started. Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Pete Pirsch. I'm from Omaha, represent the 4th Legislative District. I serve as Vice Chair of the committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceeding, I ask that you abide by the following procedures. The information is posted on the chart to your left. Please turn off cell phones at this time. If you do plan on testifying here today on any of the three bills, please move to the reserved chairs when you are ready to testify. As far as the order of the testimony, we'll start with the introducing senator. Then I'll ask for proponents of the measure to come forward and then opponents, finally neutral and then the senator will close. If you can remember, if you're going to be testifying, to sign in. The forms are on the front left table, those are the pink forms. Hand your sign-in sheet directly to the committee clerk, Jan, when you come up to testify. Please spell your name for the record when you sit down in the chair here to make sure that the committee clerk has it spelled right. If you could remember to be concise with regards to your statements. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand it to the page for distribution to the committee and staff. We need ten copies of that. So if you don't have ten copies prepared, just let the pages know and they can arrange to have more copies made. If you do have those copies just raise your hand and the pages will come to you. To my immediate left is committee counsel, Bill Marienau. And to my left at the end of the table is the committee clerk, Jan Foster. And I'm going to have the committee members who are with us today introduce themselves, beginning at your far left, my right. []

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

SENATOR PANKONIN: Senator Dave Pankonin, District 2, I live in Louisville. []

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

SENATOR MCCOY: Beau McCoy, District 39, Elkhorn. []

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

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SENATOR PIRSCH: Great. And our pages today are Abigail Greene from Omaha and Alex DeBrie from Scottsbluff. The committee today is going to take up the following bills in the following order, that's going to be...we'll start off with LB807, Senator McCoy; and then we'll move to LB912; and finally, LB693, which is Senator Price's bill. So without further adieu, let's...Senator McCoy, if you're ready to take the hot seat. []

SENATOR McCOY: Thank you, Vice Chairman Pirsch and committee members. I am Beau McCoy, B-e-a-u M-c-C-o-y, and I represent the 39th District in the Legislature. I'm here to introduce LB807 this afternoon which seeks to amend the Property and Casualty Insurance Rate and Form Act by requiring the policy filing not be less than six months for newly issued private passenger automobile liability policy. It does not prohibit an insurer or the insured from canceling a private passenger automobile liability policy within six months nor does it prohibit the application of any of the other policy provisions within six months. LB807 does not apply or make changes to an existing private passenger automobile liability policy or change how an insurer chooses to accept payment. LB807's only requirement is that the initial policy filing be no less than six months. Now I became aware this morning that there may be one insurance carrier who is concerned with the six month requirement. As I understand the fact, it's been many years since this particular company sold a three month policy. And let me reiterate, LB807's only requirement affects the initial policy filing. A heartbreaking car accident occurred in my district on May 12, 2009, that took the life of a 4-year-old little girl. In talking with others about the tragedy, conversation turned towards those who seek to purchase a short-term liability insurance policy to get around the laws of Nebraska that require all drivers to carry liability coverage. Everyone knows and acknowledges that uninsured motorists are a problem that affect us all, whether we were in a car accident that involves an uninsured motorist or by increased insurance costs as a result of those who choose to break the law and not carry liability coverage. LB807 seeks to address one small portion of the Property and Casualty Insurance Rate and Form Act by inhibiting those whose main purpose is to either prey on people who are financially struggling or assist people who are looking for a way to cheat the system by becoming an uninsured motorist once their car is registered. We are fortunate in Nebraska that our Department of Insurance and our director do an excellent job of reviewing and determining if an insurance policy meets the specifications to be sold in our state to protect the citizens. In asking if a short-term private passenger automobile liability insurance policy was offered in Nebraska, I learned that even with the safeguard of our Department of Insurance, there is not a statute in place that prevents such a product from being sold. In looking for ways to best address this issue I was pleased to work with the insurance industry to come up with a bill that closes this loophole without causing unintended consequences for both the insurer and the insured. LB807 is offered as a preventative measure to protect our citizens. Thank you. And I'd be happy to entertain any questions if there are any. [LB807]

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SENATOR PIRSCH: Thank you, Senator McCoy. Senator Utter. [LB807]

SENATOR UTTER: Senator McCoy, that's one of the better looking fiscal notes I've seen. I just want to compliment you for that. (Laughter) [LB807]

SENATOR McCOY: Thank you, Senator Utter. [LB807]

SENATOR PIRSCH: Yes, Senator Langemeier. [LB807]

SENATOR LANGEMEIER: Senator McCoy, thanks. Thank you, (Vice) Chairman Pirsch. In reading your very simple bill not only does it have a fiscal note, that's about as conservative as you can get on paper for a bill too. It shall not prohibit an insurer or insured from canceling this liability policy within the six months. Before I came into the Legislature I happened to sell insurance in our real estate office, and we had many times where people came in and would buy a policy. They'd buy it 3, 6, 10, 12 months, whatever you made them buy they'd buy, but they'd come back within a week, two weeks and they'd want to cancel it. And there was nothing you can do about that; and even your legislation wouldn't do anything about that. And the canceling is a problem, I think. What are your thoughts if we put on here that you can't cancel it without proof of sale of the auto or cancellation of the registration? [LB807]

SENATOR McCOY: Well, that's certainly something, Senator Langemeier, we could look at. I think specifically one of the reasons that we didn't address this and it was a concern that the insurance industry brought was that if an insured wanted to change insurance, found a better deal, wanted to change it in some way and that's why we had this in here the way we did, certainly that would be an area perhaps that we could look at. [LB807]

SENATOR LANGEMEIER: And you could add to that, or proof of replacement policy. [LB807]

SENATOR McCOY: Right. [LB807]

SENATOR LANGEMEIER: I don't know that buying a six month policy really solves anything. I think the cancellation end of it is our biggest issue, in my opinion. [LB807]

SENATOR McCOY: I would agree. And I think that's certainly a real concern is that someone would cancel this and continue to be or would then be uninsured. [LB807]

SENATOR LANGEMEIER: Thank you. Very good. [LB807]

SENATOR PIRSCH: Yes, Senator Pankonin. [LB807]

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SENATOR PANKONIN: Thank you, Senator Pirsch. Senator McCoy, under, just kind of following up the line of questioning of Senator Langemeier. Where do you think this will help then knowing that the issue is maybe people canceling and gaming it that way? Where do you think this will help? [LB807]

SENATOR McCOY: Well, it was brought to my attention, Senator Pankonin, and I appreciate that question, that there are other states out there that allow some very short-term policies. And it becomes very easy for someone to purchase a very, very short-term insurance policy, just cancel the policy once they've gotten their registration and tags for their automobile and then obviously join the ranks of the uninsured driving on our roads and which, obviously, contributes to a whole host of problems. And that's what we are attempting to try to address, at least in some part. Does it completely close the loop on the issue? Absolutely not. I'm not sure, and there may be some very worthwhile suggestions that we maybe can explore further. And I would be happy to take those under consideration because clearly it's a problem. This particular little girl, Josie Bluhm is her name, was killed less than half a mile from our home, and that just kind of...I drive by there, in fact I did this morning. You just...you think about it quite often just that, what could have we done differently from a policy angle to try to address that situation? Would it have cured it? Perhaps not, but maybe we can prevent some of those unfortunate circumstances from happening again. [LB807]

SENATOR PANKONIN: So the circumstance, and I sort of remember that, but obviously it wasn't in my district, not as much firsthand. The person driving the vehicle did not have insurance then I take it. [LB807]

SENATOR McCOY: Correct. [LB807]

SENATOR PANKONIN: Okay. [LB807]

SENATOR McCOY: Yep, and had had insurance. As I understand the facts, the particular individual involved had insurance on the vehicle then promptly canceled it within a short time later. It was in a different state, had out-of-state tags on the vehicle, I believe it was the state of California if I'm not mistaken, and was uninsured. [LB807]

SENATOR PANKONIN: Thank you, Senator McCoy. [LB807]

SENATOR PIRSCH: Yes, Senator Gloor. [LB807]

SENATOR GLOOR: Thank you, (Vice) Chairman Pirsch. I guess we're all going to take a bite of this apple. Tell me, did you...how did you arrive at the 6 months versus 6 weeks or 12 months or 3 months? What was the thought processes behind your time frame? [LB807]

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SENATOR McCOY: Well, Senator Gloor, that seemed to be a length of time that was commensurate with what a lot of, you know obviously insurance policies in our state, as I've discovered and going back to what we have with our family are even an annual renewal policy or a six month policy. As I said in my opening remarks, there have been at times in our state that a three month insurance policy has been offered. It's my understanding that isn't the case now, that there's really nothing that's offered less than six months currently from what the insurance department was able to...the information they were able to give us. But there have been times in the past that there have been three months. So six months seemed to be a reasonable length of time that the rank and file of Nebraskans across the state either have that or have a 12 month policy, one or the other. [LB807]

SENATOR GLOOR: Okay. Thank you. [LB807]

SENATOR PIRSCH: I tell you, I just have one question. And as a prosecutor at the heaviest volume courthouse in the state, I can tell you it's a big problem in that there is just a certain segment of the population that is savvy. And whereas most individuals are out there buying insurance to cover their car. And some individuals are just buying a card that says covered for six months. And so, I guess, I have the same kind of questions that Senator Langemeier did. As well as regardless of the length of the purported policy, since they're paying on a month-to-month basis, whether it's three months, six months, a year or two years, whatever that length is typically once it's placed in their hands on day one taking out the policy and they've achieved a certain segment of the population what they hoped to achieve is that they have coverage for an X amount of time yet they've only paid for one month up front. You know, does this...the language of this bill really get at that harm that does exist? I mean, is it...because typically is it not six months is the standardized language? [LB807]

SENATOR McCOY: You mean here in the... [LB807]

SENATOR PIRSCH: I mean the policy, the usual policy, isn't that six months already that when you take out a usual insurance policy isn't that standardly (phonetic) six months, the industry practice? [LB807]

SENATOR McCOY: That would be correct as far as what's...as I understand is being offered by insurance carriers in the state currently. That hasn't always been the case. As I remarked with Senator Gloor's question, there have been times in the past when there have been three month policies that have been offered. It's my understanding that that hasn't been the case for quite a number of years. And that probably, I don't know the exact number of years, but it's been quite some time that there's been anything less than six months that were offered by insurance carriers in the state. However, there's nothing in statute that prevents that specifically. So this legislation would seek to for sure close that hole in statute and say that you could not offer such a short-term policy...

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[LB807]

SENATOR PIRSCH: Okay. [LB807]

SENATOR McCOY: ...as some states allow. [LB807]

SENATOR PIRSCH: Thank you. Any other questions? Senator...did you have your hand raised? No. Thank you very much. And we will move on to proponents. Are there any proponents of LB807 here to testify? [LB807]

ANN FROHMAN: (Exhibit 1) Good afternoon, Senator Pirsch, members of the committee. My name is Ann Frohman. For the record that's A-n-n F-r-o-h-m-a-n. I'm the director of insurance and I'm here to testify in support of LB807. The Department of Insurance reviews property and casualty rates and forms to determine if they're in compliance with the state statutes. Under current law, Senator McCoy is correct, if we were to receive an insurance policy that was proposed for a three month or even a one day duration there isn't any clarity in the law that we could actually disapprove that form. Purchasers could use such a policy then to qualify for vehicle registration. So this is obviously in no one's interest and would be a concern. We believe at the department that this bill is drafted to clearly allow policyholders, as well as insurers, to cancel a policy if, for example, the policyholder was able to get a lower rate elsewhere. We believe the insurance markets work best when the policyholders have that ability to shop their rate. And we don't believe that it would be an impact then for them. The six month policy does strike a balance to provide for some flexibility. So I also would like to point out that the issue with the uninsured and underinsured motor vehicle drivers that are out there is one that we've tackled from a different way than cancellation because that's a tough one because folks don't pay their premiums and things happen. It's very difficult to get your hands around canceling insurance policies. So it's been handled through the underinsured on underinsurance coverages that are out there so that folks are covered in the event of, you know, a very bad situation that was earlier described. I would then ask that you advance LB807 and answer any questions. [LB807]

SENATOR PIRSCH: Super. Any...Senator Utter. [LB807]

SENATOR UTTER: Director Frohman, I know a lot of people buy their auto insurance for six months, it's a six month policy, in my case mine is always a year policy, but then pay for it monthly through an automatic debit to their checking account or something like that. In your testimony, of course, this matter of being able to shop and those type of things are important, but it seems to me like we are skirting the issue of the people who buy and cancel just to get their car licensed. And, I guess my question is, are you aware as the director of the Department of Insurance, of other states, how they handle this matter or our neighboring states, is there any differences there? Is Nebraska very lenient? Are we...can you give me any feeling for that? [LB807]

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ANN FROHMAN: I feel that where we are is fairly standardized. The reasons for canceling a policy are enumerated in the statutes. And I don't think they deviate much from state to state. The big deviations are in the...really in the demographics of like Texas is a very high...has high numbers when it comes to dealing with uninsured motorists. Where Nebraska, we've been hovering around 5, we've been one of the lower in the country, hovering around 5, 6 percent. Although I think it's trended upwards a little bit in the last decade. So I don't think there's anything out there that would set us apart. We haven't done any research lately that I'm aware of. Again, you know, we...all states look to the underinsured and uninsured motorist coverage as providing the protection you need because you can't...it's like one of those situations with fraud. If someone intends to deceive you, they're going to do it no matter how much we sit back and try to figure out a way to legislate protections. And this is one of those areas that can get very frustrating because you try to come up with, you know, a mechanism here. And I think the best way we've done it is through making sure that coverage is in place on your own policy. So if you have the misfortune, you do have the coverage. [LB807]

SENATOR UTTER: So it's your testimony then this bill is probably as good as we can expect to get it? Is that what you're saying? [LB807]

ANN FROHMAN: Yes, in terms of giving us the tools to make sure that we're not allowing a one day policy to be issued, absolutely. Kind of closing a loophole. [LB807]

SENATOR UTTER: Thank you. [LB807]

SENATOR PIRSCH: Yes, Senator Pankonin. [LB807]

SENATOR PANKONIN: Thank you, Senator Pirsch. Director, I've just been sitting here thinking then. If we're supposed to have this protection, our policy, so when you have two...just a hypothetical here, but I'm sure it happens. You got two individuals, two vehicles and they both cancel. So then, I mean, you know, you don't have...when you say, you know like, we have the underinsured/uninsured on our own definition. [LB807]

ANN FROHMAN: Um-hum. [LB807]

SENATOR PANKONIN: But if I don't have it and the people that hit me or whatever, there's an accident and we both canceled out so there's no insurance on either vehicle. [LB807]

ANN FROHMAN: Wow, right, there isn't...I mean, I'm not...that fact pattern can happen regardless of anything we can come up with. [LB807]

SENATOR PANKONIN: Well, I kind of expect what Senator Langemeier was asking

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Senator McCoy, if there is any way, because I'm sure it happens, wouldn't you think? Both...I mean, I know, you know...but then I'm just thinking whether someone is seriously hurt or whatever, then I guess they're... [LB807]

ANN FROHMAN: Yeah, I don't see it coming up because the lapse of an insurance policy on its own terms here, on a six month basis. I see it as more of someone intending to circumvent the requirements. [LB807]

SENATOR PANKONIN: Okay, thank you. [LB807]

SENATOR PIRSCH: Senator Langemeier. [LB807]

SENATOR LANGEMEIER: Thank you, Director. I think everybody that doesn't have the insurance, at least I see it in our community, is trying to circumvent the system. And I understand in the language here where it says, shall not prohibit an insurer the ability to cancel. And I understand that. That would be nonpayment, that's pretty straightforward. But the part where it talks about the insured from canceling the private policy, what's your thoughts, and if you want to get back to me on this, that's fine, if we put in there that to cancel within the first six months they have to provide proof of replacement insurance and/or...I guess it would be "or" sale of the auto or cancellation of registration. [LB807]

ANN FROHMAN: Or any other scenario where... [LB807]

SENATOR LANGEMEIER: I'd limit it there. I think that's all I want to put in this. [LB807]

ANN FROHMAN: Well, they give the auto to their child who is off in another state. You've got to come up with all the fact patterns. So we would have to think about that to make sure we would loop them all in. And that might be a challenge, trying to chase the patterns, but it's something that could be considered. [LB807]

SENATOR LANGEMEIER: Thanks. [LB807]

SENATOR PIRSCH: Senator Utter, did you have your hand up? [LB807]

SENATOR UTTER: Well, I just...thank you, Senator Pirsch. I just...the two uninsured vehicles, I can kind of understand that. The unfortunate part of it is this child on the bicycle that gets hit by an uninsured motorist that circumvented the law. And it just...it seems like maybe there ought to be some way we can give that child some bit of protection. [LB807]

ANN FROHMAN: Other than the court system, yeah. [LB807]

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SENATOR UTTER: Well, you wonder what the court system...what protection does the court system provide? [LB807]

ANN FROHMAN: If it's simply a matter of the assets of the individual, right. [LB807]

SENATOR PIRSCH: Senator Christensen, yes. [LB807]

SENATOR CHRISTENSEN: Thank you, Senator Pirsch. Thank you, Director. Is there any history kept of people canceling their policy all the time. Do we know who they are? [LB807]

ANN FROHMAN: Oh no, oh no. There's no database, none of that ever. [LB807]

SENATOR CHRISTENSEN: Because I would say it's the same people over and over. And... [LB807]

ANN FROHMAN: I would tend to agree with you on that. [LB807]

SENATOR CHRISTENSEN: I guess, what I look at, I'm tired of it and I know it's an imposition to some people to have to pay more. But I think if they got a new policy that ought to be three months prepaid. And then all of a sudden...and because I say new policy because if somebody has got a history of paying it's not an issue. But I'm sick and tired of all the uninsured and there's a ton of them in my community. And I think they ought to have to prepay three months. And then we know you're at least covered part of it. And that's why I wondered if there's any history. Because I think it could be very easily tracked because insurance companies know when you cancel. They may not know if they switched to another company. Now we're in the computer age, it would be simple I would think to do. And... [LB807]

ANN FROHMAN: Yeah, I guess we'd have to talk to the industry on how they could do that, but... [LB807]

SENATOR CHRISTENSEN: But I just think until we start making it so they have to prepay or they have to have some type of arrangement, we're never going to get rid of this cycle. And I guess I'd be interested to ask the questions of the industry, what could be done? Because it would be better for them, it would be better for us, better for everyone involved. [LB807]

ANN FROHMAN: How is a prepaid be...how is that any different then when you show up at the motor vehicle licensing department and you have your registration of our vehicle, you have your insurance at that time. I mean these are the same folks that aren't going to prepay and they're going to hop in a vehicle and drive it. [LB807]

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SENATOR CHRISTENSEN: Then they ain't going to get a license. If they ain't going to prepay three months they just couldn't get insurance, then they couldn't get a license and then they're going to get caught. [LB807]

ANN FROHMAN: But I'm saying they're going to hop in a vehicle, they will hop in, you know, someone else's vehicles. [LB807]

SENATOR CHRISTENSEN: At least then the police enforcement can catch them because they're on invalid plates. [LB807]

ANN FROHMAN: Well, no, I'm saying if they borrow someone else's vehicle. It's a tough issue, I give you that. But I don't know that this would be a panacea for resolution of it, trying to do something here. Maybe there are some things that could be... [LB807]

SENATOR CHRISTENSEN: But if they borrow somebody else's vehicle that vehicle is insured. They either got to report it stolen or their insurance is going to be applied. [LB807]

ANN FROHMAN: There's an issue, yes. [LB807]

SENATOR CHRISTENSEN: So, you know, I think sometime we're going to have to get tough. Thank you. [LB807]

SENATOR PIRSCH: Thank you. Go ahead, Senator Langemeier. [LB807]

SENATOR LANGEMEIER: Thank you, (Vice) Chairman Pirsch. I just want to give you an example. Two weeks ago, in front of the Schuyler Elementary School a little van rear-ended another van. And the law enforcement officer got called. So he had to go check it out. Well, the first driver didn't have insurance, didn't have a license. The second driver didn't have insurance, didn't have a license. The third gal in the van says, well, I'll haul the kids home. The officer just jokingly says, well, let me see your license. She didn't have a license or insurance. The fourth car in line didn't have license or insurance, picking that up. This is a very big problem. And the officer is like, I quit asking. He says after the fourth car I said, take the kids, I'm not going to ask. He wished he'd never got called out there because there wasn't damage on the first accident. But somehow we got to address it. And I agree, this isn't going to solve the world's problems. But I would say we do more than just shadow Gus out. [LB807]

ANN FROHMAN: Right, in terms of this proposal here, I think this works for the department so we can stop the short-term policies. In terms of the bigger issue I think we need to look into it and spend maybe a little time on it and see if there's something we could visit with the industry. I know other states are looking at this as well, and kind of draw upon that and see what's going on. [LB807]

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SENATOR LANGEMEIER: Thank you. [LB807]

SENATOR PIRSCH: And I'm not going to beat a dead horse. Just a few other comments and observation. You're quite right, under Nebraska law with no policies in force then it really gets down to just criminal type of penalties under misdemeanor charges under 63-21. But that, you still can't squeeze blood from a turnip. In most cases those criminal court judges will say, that's a civil matter and we're not going to consider that. You know, with some of the chronic violators if, in fact, and we're not talking about people who have the valid cards, but if you are caught and convicted you are required to get the SR22 insurance under the...for a year, which is kind of like baby-sitting. The insurance companies, at the end of the month, have to report to, if I'm not mistaken, report on, yep, he still has his insurance, it's paid... he paid for October so it's still in effect. And then if it isn't in effect they notify then and suspend...the Department of Motor Vehicles suspends your license. So...but problem is I see it is a lot of these chronic violators do have these cards. And so it is...there is a significant population that does do this. What of the idea that...and I know that it does exist in some format, an electronic database that...of insurance that the insurance...of insured's. Well, to your knowledge does such an electronic database exist? [LB807]

ANN FROHMAN: I know Director Neth is aware there have been discussions on trying to get something that will serve this very purpose. And I think we will get there eventually. She would have more information on that than I have. But I know there are things in the works to try to plug these sorts of holes so that folks aren't out there driving their vehicles without insurance and using the registration process and the licensing process of motor vehicles is the way to do it. [LB807]

SENATOR PIRSCH: Well, the beauty of such an electronic product would be that, you know, right now officers who respond to the scene of an accident just simply ask for the piece of paper, even if there's, you know, quite a bit of accident and make the assumption if there is a paper that purports to cover the dates, you know, the six months in which the accident occurs. They take no further measures routinely. It would seem to be if there's an easier process by just calling into an electronic database, you could have instant, you know, up-to-date accuracy. [LB807]

ANN FROHMAN: Yeah, yeah. [LB807]

SENATOR PIRSCH: And I know when I was up in New York at an NCOIL conference that there was at least one private provider of such an electronic database. Are you aware of these commercial... [LB807]

ANN FROHMAN: I am aware. I think one of the issues that I last heard when I had a discussion with Director Neth about this, was the issue of real time. And they don't have

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that...the kinks worked out on that yet. Because what's going to happen is as law enforcement wants to rely on that instantaneously out in the field, and that's where the challenges are. Because the insurance industry doesn't get it necessarily in real time from their field, from their agents and brokers and then into their system and back to law enforcement. So that's where they're working to try to get it so that when they get there, they'll overcome that real time piece of it. [LB807]

SENATOR PIRSCH: Sure. [LB807]

ANN FROHMAN: And the information, I think, can have current value. [LB807]

SENATOR PIRSCH: Well hopefully, we'll have some other testifiers today who might...I'd be interested in knowing where the state of the art is with respect to such electronic databases are and what the trends are there. And so I thank you for your testimony. Are there any other questions? Thank you very much, Director. [LB807]

ANN FROHMAN: Thank you. [LB807]

SENATOR PIRSCH: I'll ask for any other proponents of LB807 at this time. [LB807]

JIM DOBLER: Senator Pirsch, members of the committee, my name is Jim Dobler, that's D-o-b-l-e-r. I'm vice president and general counsel with Farmers Mutual Insurance Company of Nebraska, I'm also a registered lobbyist. And I appear today on behalf of Farmers Mutual in support of LB807. I want to express my appreciation to Senator McCoy and his staff for extending to the personal auto insurance industry and giving us the opportunity to provide input on this bill. The real challenge of the bill when we looked at it was trying to say, on the one hand, that the initial term of an auto policy ought to be for six months but on the other hand still allow that policy and the parties to the policy to do whatever they think they need to do in terms of continuing that contract. In other words, if somebody wants to cancel they still ought to be able to do so. If they want to make changes to the policy, they ought to be able to do so. To say that it has to be for six months under all circumstances, nothing else can happen, I think would create a lot of problems. For example, our auto book of business per year we make 65,000 changes in a one year period for our auto policies. It's about 1,200 every week. These are adding drivers, subtracting drivers, adding vehicles, taking vehicles off, raising limits, lowering limits, taking some limits off the policies. There's also the issue of lienholders, constantly refinancing or the lienholder is sold to someone else. There are just a lot of changes that take place day in and day out with the auto book of business. We think LB807 certainly addresses the issue of a company trying to issue a one day policy, and in that sense it's helpful. Is it an ironclad solution to the uninsured motorist problem? Of course not. With that, I'll conclude my testimony and be happy to answer any questions. [LB807]

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SENATOR PIRSCH: Oh, I'm sorry. Senator Christensen. [LB807]

SENATOR CHRISTENSEN: Thank you, Senator Pirsch. Question. I know I'm hitting you cold. But how hard would it be to have a centralized system to report all cancellations to, then a report that run out to the latest address and local police department of the cancellations if there wasn't another one bought, and then literally have it set up so if people are going to cancel all the time, they have to buy a monthly driver's license? It's going to cost them more, your registration. The thing is you'll eventually end it if they have to go to a month's registration. It's going to cost them a lot more because there's going to be a lot more fees at the county office, going to make them busier. You literally would start forcing them. How hard would that be to develop? [LB807]

JIM DOBLER: Well, I think Director Frohman kind of touched on the basic fundamental problem here and it is real time application. Let's start at the front end when insurance is bought. All of our agents are independent agents. They all have binding authority. So on Saturday morning they can bind coverage for an individual for their car and we may not know about it for two, three or four days. If they do it electronically we probably would know about it on Monday. But we're not going to know the moment they've bought a policy. We won't know that. We won't know what they've done prior to that moment either. We'll have no idea where their coverage was or what they might be doing. We have no idea, in terms of their vehicles that might be titled in their name, whether we're insuring all of them, one of them. We have no way to know when they've decided to turn in their registration and turn in their license and not license the vehicle. So there is a lot of things there that happen. At the end of the process there's another big problem and it's late payments on your auto policy. In theory when you have a one year policy, at the end of the term, before that term expires you should get your premium payment. Our records show that at least a quarter of our customers don't pay by then, a quarter of them. So that's why we have a grace period for all of our policies, not just auto but all of them. People don't like to pay their insurance premiums very much and they tend to put it off to the last minute. And so assume they don't pay until after the term has expired but before our grace period has ended, what do we do with those folks? Do we turn them in and say, you're uninsured. If we get it a week late there's a grace period and the policy goes...is automatically extended from the expiration date, from the end of the term. If they go too long before they pay then they're done and the best they can do is reinstate at that time. So real time is a huge issue. And the insurance process, particularly the personal lines process, is a very fluid process, very flexible and allows a lot of things to take place without a lot of formality. So I don't...I'm...I know...conceptually I know what you're trying to get at but it would be very hard to do. And a thing I'd throw in, we...a lot of our policyholders they're monthly pay and quarterly pay. We don't have a whole lot that pay per year, they don't have the money. And we see premium increases, say, look at the homeowners, just a cost of living, an inflation adjustment per year. People will call and complain if it's gone up ten bucks. So it's huge out there and they

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pay close attention. But again, there is a problem with some that don't pay at all. It's a long answer. I hope I kind of am helping with what you're trying to get at there. [LB807]

SENATOR PIRSCH: Thank you very much. Just a follow-up. With respect to concern about real time application and lag time. You say it could be up to four days between the time your agent binds somebody and the time that they're able to report that, and that certainly is a concern. It would be in terms of cancellations, right? So if they purportedly have a piece of paper that purports to insure them and then they...but they've in fact canceled it two weeks or so, there might be a lag time on that as well, correct? [LB807]

JIM DOBLER: Yes. [LB807]

SENATOR PIRSCH: But you're talking about the situation where somebody initially signs up. And having that reflect on the database then would take perhaps up to four days, right? [LB807]

JIM DOBLER: It could. [LB807]

SENATOR PIRSCH: But would they have at that point...at the time that they're bound they would...the agent would presumably at least give them a card, correct,... [LB807]

JIM DOBLER: Yes. [LB807]

SENATOR PIRSCH: ...so they would have at least something. Well, and I guess that's something to think about in terms of the lag time. But in terms of the alternative, which is, you know, no independent verification, it may be preferable. To your knowledge are there any commercially going products, commercial products out there that do purport to give law enforcement that information? [LB807]

JIM DOBLER: Yes, there are. I think there are a number of companies that work from the motor vehicle department database. And there are programs in which they will watch and maintain all the VIN numbers on all cars that are registered and they try to match insurance coverage with those VIN numbers to try to keep track of what's going on between coverage on a vehicle and being registered. And Nebraska did not use a vendor. Nebraska created their own database and we currently have a database. Obviously, it has all motor vehicles that are registered, all the VIN numbers. And then once a month my company submits our entire database of insured VIN numbers to DMV and they match up with the VIN numbers that they have. And that database sits there and will show yes or no. [LB807]

SENATOR PIRSCH: By and large do law enforcement in Nebraska have access to that database, do you know? [LB807]

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JIM DOBLER: They do. [LB807]

SENATOR PIRSCH: They do. Is it just their own choice because they're crunched for time, is that why they don't typically use it then? [LB807]

JIM DOBLER: Oh, I don't know. I mean I have no firsthand knowledge at all. My guess is they probably use it a lot. The thing of it is though, again, when we turn in a record and it says the policy is canceled the...that particular VIN number that we show now canceled, somebody may have gone somewhere else and obtained coverage. And that may not show up until the next month's download. So if the patrolman pulls them over in the interim, then that's not good. Now as I recall the way it's set up now is the patrolman can use it to see if there is coverage. They cannot use it to issue a citation for no coverage. [LB807]

SENATOR PIRSCH: I see. [LB807]

JIM DOBLER: And it's primarily because of the lag time in what's going on there. [LB807]

SENATOR PIRSCH: So it can be used as a shield but not a sword. [LB807]

JIM DOBLER: Yes. And related to that, one other issue to consider are VIN numbers. I mean, as you know those are long numbers. And the VIN number we get we get from the agent and they're not always right. So there again when we turn the VIN number in and show that this VIN number is insured, we get an error report back, this isn't right, you're not insuring...it doesn't...this isn't in our system. So whatever vehicle it was we were supposed to be insuring is still showing up in their system as not insured. So then you got to go back and get the right number and run it through again. The logistics of it are real hard. Aside from that database, you should know there's one other process that everyone is looking at and it's a system where insurance companies have their database out there. And there is a way to just go to the insurance company database and look. And I think that's being tested in a few states. And so it gets away from working with DMV records. And it just goes to insurance companies. One of the main problems in that area is privacy. But that is something the industry is looking at in conjunction with motor vehicle departments to see if maybe there is a better way to do it. I would point out one other thing that I think is very important for this state. And that is we have affordable automobile insurance. And affordable insurance is one of the best ways right now to make sure you're uninsured motorist population is low. The main reason people won't buy it, it gets expensive. And so I...for not only the Legislature but the regulator, too, I think Nebraska has a good private passenger automobile insurance market. There are a lot of players, a lot of competition. And the rates really are reasonable and that's good and that helps. Not perfect, not a solution, but it sure helps.

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[LB807]

SENATOR PIRSCH: Senator Pankonin. [LB807]

SENATOR PANKONIN: Thank you, Senator Pirsch. Just a follow-up question to that. Based on what? Comparisons that the industry does or the insurance department does? When you assert that our insurance is reasonable compared to what? [LB807]

JIM DOBLER: The...it's an industry, the one I'm thinking of is generated by the I think it's the Insurance Information Institute. And then they do rate comparisons and compile what it costs to insure a vehicle under certain situations. [LB807]

SENATOR PANKONIN: We'd be in the bottom half, bottom quarter,... [LB807]

JIM DOBLER: Oh, we're, in terms of best rates or most affordable rates, I know we're in the top ten. We've been, I think, as high as number three. I think we might be around number seven or so right now. [LB807]

SENATOR PANKONIN: And why do you think that's true? [LB807]

JIM DOBLER: I think a competitive market, ease of entry and exit into the market, in other words, auto insurers want to do business in this state because it's an environment where you can come in, sell your product, that makes it competitive. And so everybody is watching their rates. The other really big factor is...one of the main factors is our tort system. We have a conservative tort system. We...it's one in which on the liability side, again, the premium is fairly affordable I think. You have some other factors. If you look at a state like Florida or New York and you have huge metropolitan areas, there are all kinds of risk factors associated with those areas, you know, I'm sure have some impact on auto rates. [LB807]

SENATOR PANKONIN: Thank you. [LB807]

SENATOR PIRSCH: Oh, Senator Langemeier. [LB807]

SENATOR LANGEMEIER: I don't want to drag this on any further. But in the Natural Resource Committee we had a bill to look at reducing the deer population significantly. Maybe we can help you with your rates in the meantime. (Laughter) [LB807]

JIM DOBLER: I saw that. And I will tell you we...I get a fair number of calls from agents wondering why something isn't done about that. We have a lot of auto deer hit accidents, a lot of them. [LB807]

SENATOR LANGEMEIER: Thank you. [LB807]

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SENATOR PIRSCH: Seeing no other questions, I really thank you, Mr. Dobler. Your comments are very helpful. [LB807]

JIM DOBLER: Thank you. [LB807]

SENATOR PIRSCH: We'll move on to other proponents of LB807. Any other...seeing none, we'll move on to opponents of LB807. Anyone here to testify in opposition? Seeing none, we'll move on to neutral testifiers. [LB807]

KORBY GILBERTSON: Good afternoon, Vice Chairman Pirsch, members of the committee. For the record my name is Korby Gilbertson, it's K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Property Casualty Insurers Association of America. PCIA is very supportive of the idea to protect consumers from short-term insurance policies. And although PCIA doesn't have any members currently writing policies for terms shorter than six months in the state, we are concerned with setting the standard at six months and wonder if there could be something kind of middle of the road, say a three or a one month limitation afforded to this bill. I think when it first came across my desk in an email form the concern was against one day policies. I don't think that we're suggesting we do something as short as that. But there are companies that have written three month policies in the past and they are just concerned with putting something like this in statute that would prohibit them from doing that in the future. And that's all I have. I'd be happy to try to answer any questions. [LB807]

SENATOR PIRSCH: Senator Utter. [LB807]

SENATOR UTTER: Thank you, Senator Pirsch. Korby, what would be their objection to writing the law? What's the advantage to the insurance company and why would they not want to write a six month policy? [LB807]

KORBY GILBERTSON: Basically, there are a number of comments that were given to me. But they're very much concerned with just the erosion of contract rights and not being able...insurance is a contract, it's obviously stated in the policy how long it is for. Just because you're given a card saying it's good for six months you can still cancel it at any time. There might be a legitimate reason that someone is going to be here living in Nebraska for a three month period and comes to the state, gets a car and only is going to be here for three months so they might only want a three month policy before they're leaving. [LB807]

SENATOR UTTER: They can still cancel, right, at the end of... [LB807]

KORBY GILBERTSON: That's true, but they'd still have to purchase a six month policy.

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They just...they don't see that there is a necessity to have a six month limit in statute if there isn't...for other good reasons. They just think that that is...might just be a little too long and would prefer something shorter. [LB807]

SENATOR UTTER: I'm having difficulty with that concept, to be honest with you. [LB807]

SENATOR PIRSCH: Any other questions? Seeing none, thank you very much, Ms. Gilbertson, for coming down. [LB807]

KORBY GILBERTSON: Thank you. [LB807]

SENATOR PIRSCH: Are there any other neutral testifiers on LB807? [LB807]

JAMES CAVANAUGH: Senator Pirsch, members of the Banking, Commerce and Insurance Committee, my name is James Cavanaugh. I'm a registered lobbyist representing the Independent Insurance Agents of Nebraska. I appear today on their behalf on a neutral capacity on this bill. I just, in listening to the testimony was struck by the fact that this committee is fortunate that it has committee counsel who has been around for a very long time. He and previous Banking, Commerce and Insurance Committee members, and myself, and I know Jim Dobler and others worked a number of years ago on establishing just exactly the kind of information database, accessible by law enforcement for catching people who do what you are concerned about in terms of letting their insurance lapse after they register their vehicles. That exists in some form now. And at that time the technology was of such a level that it could be done, as Mr. Dobler indicated, on a monthly dump by the insurers to the Department of Motor Vehicles. And that database, I believe, currently is accessible by the highway patrol and other law enforcement entities to at least determine whether or not you've canceled it in the last month. Now Mr. Marienau could better inform you about this legislation. It was a specific bill over a number of years to establish this, that it might have been so long ago that the technology has advanced to the point where maybe we could do better now. I don't know about real time, but maybe we could do better than a 30 day lapse. I just wanted to let you know that program is out there and existed. And a previous Banking, Commerce and Insurance Committee spent a ton of time developing that. You might want to look at that. I'd be happy to answer any questions you might have. [LB807]

SENATOR PIRSCH: Thank you, Mr. Cavanaugh. Any questions? Senator Langemeier. [LB807]

SENATOR LANGEMEIER: Mr. Cavanaugh, you didn't tell us why you're in a neutral position. [LB807]

JAMES CAVANAUGH: Neutral position. [LB807]

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SENATOR LANGEMEIER: But why? You told us about the system that may be out there and the history. But you didn't tell us why are your agents your representatives... [LB807]

JAMES CAVANAUGH: Our agents sell policies. And if the product is out there and you want to buy it, our job is to represent it to you and what it does and the good points and the bad points. And we'll sell it to you. Currently, I mean, in talking to the agents, and we represent more than 600 agents statewide, there weren't a lot of people who were selling policies at less than a year term. I know you've heard some testimony about people who want it and people who don't. You know, we'll sell what is out there. You know, we sell policies, so... [LB807]

SENATOR LANGEMEIER: Okay, thanks. [LB807]

SENATOR PIRSCH: Senator Christensen. [LB807]

SENATOR CHRISTENSEN: Thank you, Senator Pirsch. Thank you for your comments. It's almost to me like we're trying to go to a six month policy, which is going to make us show more people that are dishonest. To me, if you had a one month policy noncancelable, at least you know you got them for a month. If we went the other direction we at least would be getting some people for a month instead of never having them if you had a one month noncancelable prepaid to get a new policy. To me we're almost attacking this backwards. We're going to give them six months and then we're going to give them a year, so they can never have it and we think they do. I almost wonder if this legislation isn't backwards for what we need. We should go to one month policies. [LB807]

JAMES CAVANAUGH: Well, that's your decision. [LB807]

SENATOR CHRISTENSEN: Because, you know, then they'd at least be legit for a month. [LB807]

JAMES CAVANAUGH: Well, there's some truth to that. [LB807]

SENATOR CHRISTENSEN: You know, it's just a thought. (Laugh) [LB807]

JAMES CAVANAUGH: I understand. And the reason that that database was set up was to go directly to this problem. Nebraska at that time, it was estimated, had about 9 percent of drivers driving around uninsured. And the whole purpose of that effort was to drive that number down to, you know, some number lower than 9 percent. Well, that's been on the books now for some time. Mr. Marienau, of course, can give you a better idea than me of when it actually went into effect. But you know, maybe there's a better

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way to do it now using the technology that's developed since that bill was passed.
[LB807]

SENATOR CHRISTENSEN: Thank you. [LB807]

SENATOR PIRSCH: Thank you. Any other questions for Mr. Cavanaugh? Seeing none, thank you very much for your testimony today. [LB807]

JAMES CAVANAUGH: Thank you. [LB807]

SENATOR PIRSCH: Are there others here to testify in a neutral capacity? [LB807]

JOE ELLIOTT: Mr. (Vice) Chairman, members of the Banking (Commerce) and Insurance Committee, my name is Joe Elliott. I'm a lobbyist with the Professional Insurance Agents Association. My last name is spelled E-I-I-o-t-t. I've been on this issue for a long time. And one of them, Senator Christensen brought up is a 12 year...don't we hope, a one year policy. And it was kicked around for the better part of two years. I think Senator Landis was the committee chairman at the time. And they just figured the cost would drive it out. One of our agencies writes a lot of these substandard business...policies. In fact, she sold...she told me today she sold two of them this week. One of them for six months, it was \$800, the other one was \$1,200. So if you double that and then some, because some of them you're going to have real tough company problems underwriting it, you're going to be talking about too many dollars to ever get a 12 month policy. I don't think there's any state that's ever done that. It sure makes sense. But she also made the comment that she sent a recommendation to the Governor's Office when we were talking about cutting expenses. She said one of the ways she thought was to confiscate the automobiles. If they had uninsured motorist, just pick up the automobile. And that's pretty harsh, there's no doubt about it. But you can talk here all day and probably won't find a better way of doing it. And there's been a lot of people that are going to have personal feelings strongly on it that they wouldn't do that. But it's a consideration. And I know that agency also writes policies for Medicaid. I said, what? I didn't ever hear of that before. They get a voucher and they get a three month policy and a lot of those people are canceling after one month and continuing on driving for the full year. And they finally discontinued it because they couldn't make any money on it. And this is a consideration too in the agency, business too, as Senator Langemeier knows, that this business isn't desirable business in a lot of situations, and particularly if they're going to continue on it and get 50 percent of their business in substandard business, when they turn around and try to sell that agency they're not going to get one-half the money that you would on commissions and arrangements. But we thought when we worked real hard on that program for the Department of Motor Vehicles, which I understand now has been moved over to the Department of Roads, according to that bill in Transportation last year that did pass. And which I thought was a mistake because if they're going to get into the technical part of this system and getting

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these...follow and track these people whether or not they're insured, but the error problem came up and certainly was a part of it. Cost was very much a part of it. I remember when Colorado went into this program they had a 35 or 36 percent uninsured motorist, which is about the highest in the Midwest here. They did manage to cut it to about 25 percent. I haven't heard what's happened since then. But they did it with this program. But they spent something like \$6 million, about seven, eight years ago. So you can multiply that in big numbers, so certainly the costs are part of it. And errors and 17 number VIN numbers, as Jim Dobler mentioned, was a big part of it. But I don't know what the answer is. It seems to me that you're going to have to have a cancellation provision in there somehow to put some meat on this or something that's going to help more than that. Any other questions or any questions? [LB807]

SENATOR PIRSCH: Thank you, Joe. Any questions for Mr. Elliott? And I'll just ask you one. You mentioned impounding a vehicle as a possible remedy. Is that right? Does that go on in any... [LB807]

JOE ELLIOTT: Well, then you're going to take care of the uninsured motorists in a sense because at least turn around, sell the vehicle and give the proceeds to the injured party. At least that's part of it or could be medical costs as well. [LB807]

SENATOR PIRSCH: Is that...do you know if that's in place in any jurisdiction, Joe? [LB807]

JOE ELLIOTT: I don't know. I just heard that from this girl that sells these policies all the time and she's been doing it for 10, 15 years, and she's convinced that's the only way they're going to go and get the job done. [LB807]

SENATOR PIRSCH: Well, I appreciate that thought from outside the box. Any other questions? Seeing none, thank you very much for coming down. Are there any other neutral testifiers here today? Seeing none, Senator McCoy. [LB807]

SENATOR McCOY: Thank you, Senator Pirsch. I think we got great dialogue today. And probably talked about a few other issues that may be out there that may go beyond what this specific piece of legislation seeks to address. Certainly would welcome, as we talked about, any improvements that can be made on this legislation to help address the short-term problem of that. And with that, I'll close. Thank you. [LB807]

SENATOR PIRSCH: Thank you. Any other questions? Thank you. We will proceed on to the second bill up for hearing today. We will proceed to LB912 then. Any time you're ready, Mr. Marienau. [LB807]

WILLIAM MARIENAU: Okay, thank you. Mr. Vice Chairman, members of the committee, for the record, my name is Bill Marienau, M-a-r-i-e-n-a-u. I am legal counsel to this

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committee, and I appear this afternoon on behalf of the introducer of LB912, Senator Pahls. I've been admonished by our committee clerk that either the introducer or someone on his behalf must come up and say a few words, so that the record is complete and the committee statement will be accurate. I can say a couple of words about LB912, maybe to set the stage because I know there are witnesses to follow who will tell the story and tell it better. As you can tell, is unscripted and unrehearsed. LB912 was brought to Senator Pahls by the director of insurance to address some issues that had come up at the department. This bill involves auto insurance and two areas of auto insurance. One is the uninsured and underinsured coverage part of the law, and that's in section 1 of the bill. And today you'll hear people refer to UM and UIM as shorthand for uninsured and underinsured coverage. The next two sections deal with the liability portions of your policy, and today the issues involve not who is covered, but to what extent in a dollar amount is there coverage for certain individuals? The first section today is a sequel to a bill that was heard by this committee last year--LB152, and the bill was ultimately passed and signed. That was a bill introduced by Senator Pahls that undid the underpinnings in a Supreme Court opinion in the area of uninsured and underinsured motorist coverage. The Supreme Court had been urged by an insurance company into the position that that company was not required by the statutes to cover all occupants of a vehicle that was struck by an uninsured vehicle or...and by extrapolation, it would have been an underinsured as well. So the issue became what occupants in a vehicle are subject to the uninsured portion of the policy? And the court agreed with the argument that only those occupants in a vehicle that are coming under the liability portion of the policy are entitled to the uninsured and underinsured portion of the policy. And so as an example, if my wife and I are driving in our car, one of you were a passenger with us, we are struck by an uninsured vehicle, under the old rule an insurance company was not required to cover you in the uninsured or underinsured portion of our policy. That, I think, in the minds of a lot of people was a loophole. It was plugged, and that language actually appears in LB912 on page 3, lines 18 to 22, and that was Senator Pahls's LB152. So now the law says that for UM and UIM purposes, you can't define the term insured to exclude any person occupying the insured motor vehicle with the permission of an insured. At that point, I think most people thought, game over, mission accomplished, we don't need to revisit that anymore. What we have learned is that at least one company has said, in effect, and Director Frohman, I think, will give us more detail on this...one company has said, fine, we will cover those passengers except we will not cover them at higher limits if you have opted for higher limits. In the law, we are required to carry basic limits for liability coverage and for UM, UIM, we can opt for higher limits. The issue here is do the higher limits apply to those passengers which we are now requiring be covered under LB152 from last year? Today's bill will address that and today's bill, LB912, would require that all of those occupants be covered at the same limits. A similar issue arises in section 3 in the liability coverage. As I understand it, one company has said that in the area of liability coverage, for example, if you have opted for higher liability limits they wouldn't apply to say, a permissive driver of your vehicle. Today involves, on this bill, a public policy

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decision of what expectations the Legislature has for the UM/UIM statutes and for the liability statutes. There is...I one time figured there's a thousand pages of insurance statutes. Not all of those apply in the area of automobile insurance. And there are a lot of provisions with regard to motor vehicle coverage yet there's a lot in insurance policy that is not dictated down to the last tittle and jot by some particular portion of the statutes you can point to. That's left up to the contract that forms the policy, and the issue becomes are what are the expectations of the Legislature when it sets out the UM and UIM statutory provisions, when it sets out the liability provisions? I like to think of the statutes as being like latticework of prohibitions and requirements and exclusions, etcetera, but they're limitations. But there's still sunlight coming through that latticework. That's where all the contract rights are for the company. But if the Legislature decides that perhaps there's been an effort to stray away from what is the overarching intent or expectation, then a bill like this is going to come before the Legislature for your consideration. But that is a quick overview of what I think the issues are in LB912. If anybody has any questions, I'd sure be glad to try to answer them. [LB912]

SENATOR PIRSCH: Are there any questions for Mr. Marienau? Seeing none, I appreciate the opening. We will move to proponents of LB912 then. [LB912]

ANN FROHMAN: (Exhibit 1) Good afternoon. My name is Ann Frohman. For the record, that's A-n-n F-r-o-h-m-a-n. I'm the director of insurance and I'm here to testify in support of LB912. I do concur with the comments just provided by Mr. Marienau, and want to thank Chairman Pahls for introducing this bill. Mr. Marienau was correct in the background he set forth in terms of why this bill is before you today, and it essentially is in concept of what occurs when individuals hop into an automobile, and what are the expectations of coverages? And the concept here is one that involves and refer to it as split coverage or step-down limits which basically sets different limits of coverage to passengers in the vehicle, depending on whether they're members of the insured's household or are other individuals that are, with permission, within the vehicle. Again, it does follow from the developments of last year's LB152 which, among other things, overturned the Jones v. Shelter decision, and I think Mr. Marienau laid out that fairly clearly as to what occurred with terms of extending coverage and closing that loophole. Interestingly, though, post closing of that loophole, the department received filings, I would venture to say, in response and under the filings we in essence have a situation where an insurance company is seeking to offer reduced limits on both UIM and underinsured motorist coverage as well on private passenger auto liability coverage, such that you would have depending on who the insured driver is or owner of the vehicle, you might have different scenarios in terms of whether coverage limits would be the same for the occupants or different. So what we did was we met with the insurance company that was proposing to offer step-down limits and did, in fact, learn that a policy had been filed with the department and approved in 2001 that provided for step-down limits. In looking at that, I disagreed that in light of the developments of LB152, that step-down limits or split coverage made a lot of sense in Nebraska. And it was one of

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those scenarios where it felt to me that the best place for developing is public policy, and it belongs in the Legislature. And rather than going through litigation where we ventured this would develop because I wasn't inclined to approve a policy that set different limits for the passengers than the owners of the vehicle, and then we would have, in essence, you know, no clear-cut rules of occupying vehicles that we maybe would bring this to the Legislature for consideration. Interestingly, in terms of what's going on with the situation in other states we did a little research, and this is what we found that this has litigated, and courts in two states have upheld split coverage. So I do think that, under the circumstances, with a little guidance in the law, probably if this got to the courts, they would uphold step-down limits as being authorized under the law currently. Two states, however, we are aware of did prohibit through the Legislature step-down limits, so that's what we know in terms of what's out there in the other states. My opinion on this question is that insurance products are often challenging for Nebraskans, and that it would probably be adding to confusion if we would have different sets of rules for passengers really at the decision of the owner of the vehicle in terms of what they purchase and what they don't purchase. So different limits, depending on, you know, what the owner chooses is something that I think would be confusion that wouldn't be something that we would benefit from. So it appears to me that adding split-down limits would not only create confusion but add to the claims costs, and it would also just create a reallocation problem because what you would really have is some insurers seeing in the market that other insurance companies are trying to push those limits down, so that will transfer to their own coverage on underinsured and uninsured, so it's just moving it all around creates administrative costs. And at the end of the day, I don't think it benefits anyone, so they would have to come in and revise their forms and products because I think probably 99 percent of what we have do not have split coverage in them. So it would just...it would create a new environment for us, but I just don't see the benefit of doing that. So another concern we have is in addition to shifting around among the industry, it also probably would create some shift to maybe Medicaid and Medicare for those that offered step-down limits and the passengers being recipients of radius limits would, perhaps on occasion, need the benefits of the Medicaid or Medicare systems, depending on their situation. So that was another facet that I think ought to be considered. While I believe the best decision here would be to outlaw step-down limits as is provided in the bill, I did ask Senator Pahls to bring this bill because we believe it's the best decision. The maker on this question is the Legislature, and to have one set of rules for everyone is better than having the department with all sorts of rules in play for the public. And it's much better also for the Legislature to make the decision than leaving it in the course as a matter of simply what the law has authorized rather than giving any thought to it. That concludes my testimony, and if there are any questions, I'd be happy to answer them. [LB912]

SENATOR PIRSCH: Very good. Are there any questions for the Director? Senator Langemeier. [LB912]

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SENATOR LANGEMEIER: I just have one and we've had this...thank you, Director, for your testimony. We've had this discussion, but I just want to remind myself. Basic liability I know is 25/50...25 in Nebraska. Is underinsured and uninsured the same? [LB912]

ANN FROHMAN: Currently, yes. [LB912]

SENATOR LANGEMEIER: That's what I thought. Thank you. [LB912]

SENATOR PIRSCH: Any other questions? Seeing none, thank you for your testimony. And I will move on to the next testifier. Any other proponents? [LB912]

JIM CAVANAUGH: Mr. Vice Chairman, members of the Banking, Commerce and Insurance Committee, my name is James Cavanaugh, C-a-v-a-n-a-u-g-h. I'm a registered lobbyist representing the Independent Insurance Agents of Nebraska, appearing here today on their behalf in support of LB912. I think the director outlined pretty much the policy considerations that this bill covers. It's simpler, and it's more uniform than what we have now. We sell insurance; we like simplicity; we like uniformity. It makes it easy for us to tell you what you're buying. It makes it easy for you to understand what you're buying. When you get in a wreck, it makes it easy for everybody to be taken care of. Thank you very much. Be happy to answer any questions. [LB912]

SENATOR PIRSCH: Thank you, Mr. Cavanaugh. Any questions based on that testimony? Seeing none, we will move on to the next proponent. Thank you. When you're ready, Mr. Dobler. [LB912]

JIM DOBLER: Senator Pirsch, members of the committee, my name is Jim Dobler, D-o-b-l-e-r, Vice President and General Counsel Farmers Mutual of Nebraska. I'm also a registered lobbyist and appear today on behalf of Farmers Mutual in support of LB912. Just two comments. It's my experience that most insurers...auto insurers write this coverage as proposed in LB912. And in addition, it seems to me it's good public policy in that the bill...the effect of the bill is to provide broader automobile insurance coverage and with that, I'd be happy to answer any questions. [LB912]

SENATOR PIRSCH: Any questions for Mr. Dobler? Seeing none, I appreciate your coming down. [LB912]

JIM DOBLER: Thank you. [LB912]

SENATOR PIRSCH: Any other proponents? [LB912]

TAD FRAIZER: (Exhibit 2) Good afternoon, Mr. Vice Chair, members of the committee, my name is Tad Fraizer, T-a-d F-r-a-i-z-e-r. I'm a representative of the American

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Insurance Association, a national trade association of property casualty firms. Last year we appeared in support of LB152, and we'd like to reiterate our support for the bill before you today. Our one suggestion is...while we have...we are not concerned about the so-called step-down limits which treat occupants in the same vehicle differently. We have spoken with the insurance department, and they have assured us that this bill is not intended to affect a common situation in purchasing insurance where you may have a \$100,000 per person and \$300,000 per occurrence split in limits. And I've just distributed some language to you that we think might just possibly clarify that a little better to make sure that that part of current insurance practice is not affected, and with that, I'd be pleased to answer any questions you might have. [LB912]

SENATOR PIRSCH: Any questions based on Mr. Fraizer's testimony? Seeing none, I appreciate your testimony and your submission of language. And are there any other proponents of LB912? No. Okay. Are there any opponents of LB912? [LB912]

KORBY GILBERTSON: Good afternoon, Vice Chairman Pirsch, members of the committee. For the record, my name is Korby Gilbertson, 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 in opposition to LB912. As you might guess, PCI has a quite wide range of member companies, and one of those companies was the party to that suit. And because of that, they have some underlying concerns, again, on the erosion of contract rights, and what can be written in insurance policies. And we do realize that this is a policy decision for the Legislature to make, but we also want you to keep in mind that making changes like this does erode the contract rights that companies have when they're writing these insurance policies. Be happy to try to answer any questions. [LB912]

SENATOR PIRSCH: I just have a brief question. Do you think that there's a threat with regard to this that it could lead to increases in the cost of insurance? [LB912]

KORBY GILBERTSON: You know, (laugh) I'm always told that that's what the insurance industry always says to everything. So I think that was one of the things that was brought up, but I don't know how. There's nothing...there's no specific amounts that have been shown. [LB912]

SENATOR PIRSCH: Well, I thank you for your testimony. Are there any questions other than that? Thank you very much. Anyone else here to testify as an opponent of this bill? Seeing none, is there anyone here to testify in a neutral capacity for LB912? Seeing none, that will...well, we'll go ahead and end...wrap up our hearing on LB912 then. And we'll start with LB693. Senator Price, I see you've entered the room so have at it. [LB912]

SENATOR PRICE: (Exhibit 1) Senator Pirsch, members of the Banking, Commerce and

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Insurance Committee, good afternoon. My name is Scott Price spelled S-c-o-t-t P-r-i-c-e. I represent the 3rd Legislative District, and I humbly submit LB693 for your consideration. The intent of this bill is to establish a framework to buy and sell health insurance across state lines. Under LB693, the director of the Department of Insurance would have the authority to enter into interstate agreements with other willing states for this purpose. Before entering into an interstate agreement, the director in consultation with the Attorney General shall review and certify the other states' laws governing health insurance are similar to Nebraska's laws. The director shall also consider whether insured individuals will have access to doctors, hospitals, pharmacies, and the like as well as policies and procedures to resolve, benefit, claims, and payment disputes. Under LB693, foreign insurers offering insurance in Nebraska would not be subject to Nebraska laws, but instead, would be subject to the laws of their domicile state and the interstate agreement. Similarly, Nebraska insurers offering insurance in another state would be subject to Nebraska laws and the interstate agreement. Finally, any insurance application and policy issued to a Nebraska resident under LB693 would require a disclaimer to notify the applicant policyholder that the insurance policy is not subject to Nebraska law. The idea for this bill came when the conceal-carry bill passed last year by the Legislature. That bill required the Attorney General to evaluate the conceal-carry laws of other states to determine what other states' permits would...and whether they would be recognized in Nebraska. So I thought, could we do a similar thing for health insurance? As with the conceal-carry law, my intent with LB693 is to give the state officials the experts who understand the intricacies of health insurance the tools they need to make this work. Now, I'm not going to spend much time on the problem. Unless you've been under a rock, you know healthcare costs are a significant concern across the country. And when you exclude those who qualify for Medicare, Nebraska's uninsured population is about 14 percent. Between 1999 and 2009, health insurance premiums rose approximately 131 percent, a much faster rate of increase than the general inflation rate of 28 percent or workers' earnings of 38 percent. Now, I'm not naive enough to believe that this is a panacea that will solve all the state's healthcare issues. I know LB693 could die a horrible death by a thousand paper cuts from the what-ifs people could ask about it. But I think it's incumbent on this body to look for ways we can ease the burden on hard-working families in Nebraska. Now, opponents will say there's already enough competition in Nebraska. I've been told that there are more than 200 insurance companies authorized to do business in Nebraska, and we are a low mandate state compared to others. But there are other factors that contribute to the cost of doing business and the cost of health insurance such as estates tax structure, regulatory requirements, real estate prices, workforce availability, and wage costs, the ability and the propensity to file lawsuits, etcetera, etcetera. It's my belief that if the business climate, mandates, or other business factors in another state result in lower premiums and the product fits the customers' and consumers' needs, then we should make those and these options available to Nebraskans. I also believe this bill is an opportunity to export health insurance products offered by Nebraska-based companies, using ehealthinsurance.com, the cheapest insurance policy in Nebraska for

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a single mother of two children is \$149 per month. In Virginia, a state which has expressed an interest in purchasing health insurance across state lines, the cheapest policy is \$195 a month, almost \$50 more a month. In New Jersey, another state that has expressed interest in this idea, the cheapest policy is \$430 a month. A state like New Jersey of 1.2 million uninsured, holds a great potential for Nebraska-based insurance companies to sell their products. Now all told, bills similar to LB693 were introduced in 11 other states last year alone, so there's clearly an interest in this idea all across the country. Again, I'm not suggesting that this is an end-all to be-all, and Nebraskans will never have to worry about health insurance again. I understand a lot of intricate details will have to be worked out, but without the authority provided in LB693, I can guarantee nothing will happen. I appreciate your consideration of this bill. I urge you to advance LB693 to the floor, so we can have this important debate, and you will have by now the handout. I'd like to have that added to the record. We were going to have someone come in and testify, but that is their testimony there. And in that testimony, and I have a book full of testimony stuff, you will find some rather incredible issues there, and particularly when we talk about the number of health coverage people...number of people who don't have health coverage, and then when we talk about all those percentages, but more importantly to me, when we talk about the mandates because I believe that's a big concern that we have. Nebraska has 32 total mandates yet Alabama has 21; Idaho 13; and on the other end of the spectrum we have Rhode Island that has 70. So, again, the idea here is to provide the beginnings of the discussion, to put a pillar in place of a bridge that provides the underpinnings, the structural support of a bridge that takes us from where we are today to a better place, not a panacea, not a one-shot fixed-it, just the beginnings and to authorize the Department of Insurance to begin to figure out how they would go about eating this elephant. Thank you, and I would answer any questions you might have. [LB693]

SENATOR PIRSCH: Thank you, Senator Price. Are there any questions? Senator Gloor. [LB693]

SENATOR GLOOR: Thank you, Chairman Pirsch. Thank you, Senator Price, and you and I have had a chance to visit about this a little bit, given our proximity to each other in the chamber. My experience and concern about this bill as we've talked comes from both provider side as well as some experience on the insured side, and that is most folks when they sign up with an insurance policy just assume that their hospital or their physician is going to be part of the provider panel. And part of my concern about this bill is that an insurer will build a network that includes a couple of hospitals in Omaha, some physician groups in Omaha, but use that as a justification for saying they have a Nebraska panel. And whether it's through the Internet or however they choose to sell it, most consumers who buy it will just assume that their local hospital or their local physician is, in fact, a member of this panel. How do we protect the consumer from dozens and dozens of insurers who won't necessarily take the time to put together a product that really serves the needs of Nebraskans when it comes to availability...or

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accessibility to providers? [LB693]

SENATOR PRICE: Senator Gloor, I appreciate both the opportunity to talk to you on the floor about that so I could come prepared, and that you asked...and you would see basically on page 6, line 2, paragraph 3. And what that says is when determining whether to enter into an interstate agreement with another state under this section, the director shall consider whether insured individuals will have access to a sufficient number of healthcare providers in Nebraska including specialty healthcare providers. So, again, we tried to think of these things. And I'm not an insurance guy nor am I a health guy, but what's important here is that we enable and empower the people who are the professionals and that we can add, and as a committee may find perhaps a solution that helps us move forward. I would obviously entertain any framing amendment of that type to move this discussion forward. But thank you, Senator Gloor. [LB693]

SENATOR GLOOR: Thank you. [LB693]

SENATOR PIRSCH: Thank you. Are there questions? Senator Pankonin. [LB693]

SENATOR PANKONIN: Thank you, Senator Pirsch. Senator Price, appreciate you bringing this idea and have received a fair amount of e-mails in support of the concept. You mentioned 11 states where this type of legislation was introduced. Was it passed in any state? Has it passed in any state yet? [LB693]

SENATOR PRICE: No, not to this date. [LB693]

SENATOR PANKONIN: Okay. So it's just becoming more of a national discussion and a policy statement or a policy issue that is fairly new, but I appreciate you bringing it so we can learn more about it. [LB693]

SENATOR PRICE: Well, thank you, Senator Pankonin, and I don't know that it's new. But, you know, like I said, we all have heard the national discussion on healthcare, and but for a few short votes, there's good argument to say that the health insurance industry would have been completely renovated, all right? So sometimes I like to think of it like the steel industry didn't want to renovate, didn't want to update and now they're offshore. Now, I'm not saying that could happen directly, but we all know with businesses there's a necessary adaptation phase to continue, and I believe the discussion has come to the forefront in many people's minds, and you know, we've heard that this one subject is very important. People consider it to be an opportunity, an area to save costs. So that's why I bring it forward, and I believe that's where other states are, and we sure as heck don't want to be the one standing on the outside looking in and saying, we're not prepared to act when someone comes up with a plausible solution. [LB693]

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SENATOR PANKONIN: Thank you. [LB693]

SENATOR PIRSCH: Any other questions? Seeing none, thank you very much for your opening, Senator Price, and we'll move to proponents. [LB693]

SENATOR PRICE: Thank you. [LB693]

PETE McClymont: Vice Chairman Pirsch, members of the committee, for the record, I'm Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president of legislative affairs for the Nebraska Cattlemen. Our board reviewed this bill two weeks ago and voted to support it. We actually have policy that encourages legislation and I quote, "for patient choice of caregivers and the ability to go across state lines for healthcare." Obviously, a major component of our industry is a strong workforce, and one of the things that is more and more necessary and acute is the wage and benefit package that our employers provide to our workers, so I think LB693 at least starts a discussion of having more options for our members. Obviously, Nebraska has state statutes regulating insurance companies doing business in our state for the benefit and the safety of our citizens. Nebraska has a strong insurance industry here and, hopefully, we can maintain that. It would be the hope that the Department of Insurance and the insurance industry can work with Senator Price on this concept and possibility if LB693 were to move and with that, I would conclude my remarks in support of LB693. [LB693]

SENATOR PIRSCH: Thank you very much, Mr. McClymont. Any questions based on that testimony? Senator Gloor. [LB693]

SENATOR GLOOR: Thank you, Chairman Pirsch. Mr. McClymont, would it be safe to say that probably most of your members don't reside in the Omaha area? [LB693]

PETE McClymont: That would be a fair assumption. [LB693]

SENATOR GLOOR: Okay. And Senator Price appropriately referenced part of the verbiage on here that specifically said to my question, shall consider whether insured individuals will have access to a sufficient number of healthcare providers in Nebraska including specialty healthcare providers. I think the challenge, of course, is access, that if all of the specialty providers whether it's cardiologists or orthopedic surgeons or whatnot, reside in Omaha and are not in Norfolk and North Platte and Scottsbluff, would that be problematic, do you think? I understand the pro competition issue. I am worried about access to healthcare services and how an insurer might define that as opposed to how most Nebraskans might see it especially if they've been used to having that specialty service a little closer to home. Might that not be a problem? [LB693]

PETE McClymont: Sure, but by the same token right now, it would be safe to say

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anybody especially in the 3rd district, if they need healthcare for these specialty services, are going to travel to Kearney, to Grand Island, to Lincoln, to Omaha to have those services rendered, so we're used to traveling. So if this helps in that way, obviously, there's some challenges here with this bill, and I understand that. But in terms of the concept... [LB693]

SENATOR GLOOR: And you bring up the age-old predicament when it comes to healthcare and healthcare costs, how much does it take in terms of insurance savings for somebody to be willing to hop in their car and drive X number of miles. And there have been a number of figures thrown around including a decade or a decade and a half ago, a popular number of...to save \$30 or \$40, people may well drive 50 or 60 miles just to save \$30 or \$40, so you may be right. That may be the case, but it's something that we certainly ought to talk about a little bit, I think. Thank you. [LB693]

PETE McCLYMONT: Appreciate that. [LB693]

SENATOR PIRSCH: Are there any other questions? Seeing none, thank you very much for coming down, Mr. McClymont. [LB693]

PETE McCLYMONT: Thank you. [LB693]

SENATOR PIRSCH: Are there any other proponents? Can I also see a show of hands of all those who plan on testifying as a proponent? How about opponents? Can I just get a show of hands? Okay. And in the neutral capacity? Thank you. Whenever you're ready. [LB693]

BRAD STEVENS: Thank you, Vice Chairman Pirsch and members of the committee. My name is Brad Stevens. That's B-r-a-d S-t-e-v-e-n-s. I am the state director of Americans for Prosperity Nebraska, and we are a statewide grass-roots organization of over 28,000 members in Nebraska. And we work for the core principles of individual freedom, limited government, and free market enterprise which is why we strongly support Senator Price's LB693. I thank so much the members of the committee for an open discussion on a very important issue of healthcare reform. Nebraskans have every reason to be grateful for the open and transparent way that our Legislature operates, so thank you. LB693 is a commonsense approach to healthcare reform that would increase competition amongst health insurance companies by removing arbitrary barriers to purchasing insurance from across state lines. On a national level, arbitrary interstate barriers have contributed to the current system where in many states insurance companies are not adequately competing for customers, but instead enjoy the benefits of a monopoly. By comparison, Missouri has more insurance carriers and plans than Nebraska. And we believe that explains why Missouri also has lower individual and family coverage rates. By advancing LB693, Nebraska would serve as a national leader in healthcare reform and would send a strong message that we believe free market

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policies produce better results than government overregulation. Again, by comparison, Iowa has 26 benefit mandates compared to Nebraska's 32, and Iowans enjoy considerably cheaper insurance rates. The average Iowa family pays \$233 per month while Nebraskans pay \$314 on average. The cost of health insurance is far too high and has left many Nebraskans unable to afford coverage. Nebraskans deserve quality healthcare but not at the expense of higher taxes and more government mandates. Senator Price's bill is a commonsense approach that requires no new government programs or massive new spending. Instead, individuals have greater control over their healthcare. So we believe there are many practical reasons why to support this bill, but as I mentioned, we're a grass-roots organization. We have done over 50 healthcare events whether they be town halls or rallies in over 30 communities in the state in many of your legislative districts. And we have literally met tens of thousands of Nebraskans discussing the healthcare policy, and we discuss alternatives as opposed to yes, the national healthcare bill which is generally why people come out to our events. And we oppose the alternatives, and we talk about ending these barriers to interstate competition. Nebraskans are excited about this principle. Nebraskans are excited for free market policies that will lower their costs. So that's why we're strongly supportive of LB693. Again, thank you for your time, ask for your support, and open to any questions you may have. [LB693]

SENATOR PIRSCH: Thank you for your testimony. Are there any questions? Senator Gloor. [LB693]

SENATOR GLOOR: Thank you, Chairman Pirsch. Mr. Stevens, thank you. Could you read a section of that testimony again that related to Iowa? [LB693]

BRAD STEVENS: Yes, sir. What I provided was the list of benefits that Iowa has 26 state mandated health benefits compared to Nebraska's 32. Iowa also has an average family costs for insurance of \$233 compared to Nebraska's average of \$314. We believe that less regulation as we see in Iowa results in lower costs. [LB693]

SENATOR GLOOR: Okay. It didn't have to do with the number of insurance companies. It just had to do with the regulatory reduction. [LB693]

BRAD STEVENS: Yes, sir. I was comparing Iowa's mandates. Yes, sir. [LB693]

SENATOR GLOOR: Okay. Thank you. [LB693]

SENATOR PIRSCH: Senator Pankonin. [LB693]

SENATOR PANKONIN: Thank you, Senator Pirsch. So if Nebraska has 32 mandates, Iowa has 26, and a company from Iowa is going to do business in Nebraska, they would be subject to the Nebraska mandates, correct? [LB693]

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BRAD STEVENS: I believe as Senator Price spoke and his bill is written first, the companies are operating under their states' policies, but also it'll be under the policy that is agreed to by the Attorney General and the director of the Department of Insurance. So I can't really speak to that because I don't know what kind of agreement those entities would create. But I do believe the principle behind this, which is what we believe in, is that other states by my count, there are 15 states that have less state mandates than Nebraska. As we see one of those states being Iowa, a neighbor, they have less expensive healthcare. We believe it's just a commonsense principle of a free market economy. More competition equates into lower cost for consumers. [LB693]

SENATOR PIRSCH: Yes, Senator Utter. [LB693]

SENATOR UTTER: Thank you, Senator Pirsch. Brad, looking at this, do you think this creates a...from a regulatory standpoint, and from the coordination that has been done among the states, another layer of bureaucracy? [LB693]

BRAD STEVENS: That's a very interesting question, Senator. While I would not envy the Director of Insurance, the director's job...it's a very complicated job, we do have a responsibility to provide the lowest cost healthcare so that more Nebraskans can be insured. I fundamentally believe that, and if this agreement that Senator Price's bill would create under LB693, yes, there might be more...it might be more difficult for the Department of Insurance...it might be more difficult for the Attorney General's Office, but whether or not that equates into more regulation in terms of mandates on consumers which I believe are driving up the costs of health insurance, I do not believe that would be the case because if more states enter into the compact and are competing from states such as Iowa that have less state mandates, if they're able to compete in Nebraska with their policies and with their carriers, that would be a benefit for Nebraska consumers. Yes, it might be more difficult for the Department of Insurance, but it would be better for Nebraskans. [LB693]

SENATOR PIRSCH: Senator Gloor. [LB693]

SENATOR GLOOR: Thank you, Chairman Pirsch. I would, Mr. Stevens, appreciate your thoughts on this...your argument of lower mandates where Iowa results in lower costs on an average monthly premium for Iowa, but at least, unless this has changed over the past couple of years, Iowa is also dominated by Blue Cross. In fact, I believe over 50 percent of the market is currently covered or dominated by Blue Cross, or I forget what the name of Blue Cross is called now in Iowa. That tells you I've been away from the industry long enough to...who'd have ever thought I'd forget? But in either case, if that's true, and Iowa is dominated by a single insurer, it would seem to speak not to more competition but that some degree of consolidation might, in fact, bring down costs rather than fragmentation. [LB693]

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BRAD STEVENS: Yes, Senator, I appreciate the question. I believe it...we're not just looking at one silver bullet. I believe Iowa has less expensive rates because they have less mandates. So I believe that takes into...that's not the only answer, but I believe that the more mandates, the more costs that the state...in this case, the state of Iowa, I believe, puts on less costs than the state of Nebraska does because less mandates equates into lower premiums. To go to your question, though, Senator, and this is also found in the testimony that Senator Price provided from ALEC which is where I'm providing just these statistics, is that the state of Missouri has more...excuse me, has more plans in terms of what citizens in the state of Missouri can go and purchase. And because they have more plans, a comparable amount of carriers, the state of Missouri has less costs. So, I mean, you can take state to state. Missouri also has higher mandates, so the...it's not a one-size-fits-all. We're talking about we want to have more plans that Nebraskans can choose from. We want to have less regulation or mandates in those plans which lowers costs, but we also want more and more carriers. We want more competition from companies, and I believe you can pick and choose out of those three streams that we're talking about, but I believe that any time that you can get all three to work together which is what I believe LB693 does, you're going to see a benefit to consumers. I hope that answers your question, sir. [LB693]

SENATOR GLOOR: Well, it offers some interesting perspectives, and I agree, there may be, you know, if we're statisticians we go into a multiple linear regression, and we figure out which of these are statistically significant, but once... [LB693]

BRAD STEVENS: Some people smarter than me. [LB693]

SENATOR GLOOR: ...Yeah (laugh). I get nightmares thinking of my statistics class still. But the one thing that has always fascinated me about Iowa is I think it's well marked...whatever the Blues hybrid is in that particular market, very much dominates the Iowa insurance market, and their rates are lower. And it just kind of speaks in a contrary nature to a lot more insurers automatically mean lower costs, and I also agree with you, there have to be other things that you would look at. But it's fascinated me about Iowa. Market dominance seems to have resulted in lower costs...lower premium costs. [LB693]

BRAD STEVENS: Senator, I would just also add that less state mandates also seem to contribute to that from our perspective. [LB693]

SENATOR GLOOR: Thank you. [LB693]

SENATOR PIRSCH: Senator Langemeier. [LB693]

SENATOR LANGEMEIER: Thank you, Chairman (Pahls) Pirsch. And Mr. Stevens,

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thank you for your testimony. You brought up state mandates just about every other sentence in your testimony as well as your responses. You stated that Nebraska has 32 mandates and Iowa has 26. [LB693]

BRAD STEVENS: Correct. [LB693]

SENATOR LANGEMEIER: So we're six higher. What six do you want to get rid of? [LB693]

BRAD STEVENS: That's...again, that's not an answer that I'm going to provide in terms of what I think consumers ought to be able to decide that question themselves. Consumers...that's what I believe the fundamental principle of (LB)693 is, provide more options, provide more different styles of plans, provide it from different carriers, and then consumers can decide what mandates they want or do not want and having them as options, I believe that then does, at the lower end of costs for premiums, consumers will have that option. Do they want the less...a premium that might have less benefits because of less mandates, but at least they can choose if they want the lower cost policy. But in terms of your question, Senator, which ones do I want to get rid of? That's not a question I want to answer. I believe Nebraskans should be able to determine that by having greater options, by having greater choice, by having greater competition. [LB693]

SENATOR LANGEMEIER: I understand what you're trying...you don't want to answer that; I understand that. But the reality is, is we can't make them choices if we don't make them remove them from the mandate list. So we need to know what to remove from the mandate list to be offered a la carte or to the public. So I'd like you to think about that and respond at a later day. [LB693]

BRAD STEVENS: Yes, Senator, I can do that. [LB693]

SENATOR LANGEMEIER: Thanks. [LB693]

BRAD STEVENS: Thank you for your question, sir. [LB693]

SENATOR PIRSCH: Thank you. Any other questions? Seeing none, thank you very much for your testimony. We'll move on to the next proponent then. Are there any other proponents? Seeing none, we'll move on to opponents. Are there any opponents of this bill? [LB693]

MARK INTERMILL: (Exhibit 2) Thank you, Senator Pirsch and members of the committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today representing AARP. We had a lot of discussion about this bill because it does address an issue that needs to be addressed, and that's the high cost of health insurance.

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Health insurance costs is a problem, and we were discussing this issue up until a few minutes before I came over today. But we decided that we would oppose the bill and just a couple of reasons, or one of the main reasons is an issue that the committee has been discussing, and that's the issue of mandates. This would essentially negate the mandates that this body has decided are important enough to put into Nebraska law. The genesis of most of those mandates probably was in this room. We thought that it was important to have colorectal screening insurance coverage, and by allowing interstate marketing of insurance, you do have the effect of eliminating that mandate for people. It isn't their choice, but it is something that had been determined in the past to be important enough to be able to include in the statutes. Just a couple of the other issues that we looked at that caused us to speak in opposition are the fact that we are...there's some questions about the protections that would be afforded to somebody who purchased an insurance policy across state lines. Whether or not the Department of Insurance would have the authority to enforce the consumer protections that are afforded to consumers who buy a policy within the state of Nebraska. We are concerned about whether or not there would be an adequate network of providers, and I did note that section that requires that there be providers in Nebraska...adequate providers in Nebraska, but that's a phrase that is open to interpretation. So weighing the potential cost or the potential benefits of lower insurance premium cost against the loss of some consumer protections, we did decide that we would oppose LB693, and with that, I'd be happy to try to answer questions. [LB693]

SENATOR PIRSCH: Thank you very much, Mark. Senator Gloor. [LB693]

SENATOR GLOOR: Thank you, Chairman Pirsch. I want to thank you for taking a stand on this, and I would tell you this whether you were for or against it because you're doing what I think we need to do in this country and that is have significant discussions about some of the more weighty and important components of healthcare whether it's insurance or whether it's delivery. These are difficult decisions, and I think the more informed associations are, the better chances are that more and more citizens will begin to understand the system and can provide better guidance to legislators both at the state and federal level what they really expect out of the American healthcare system, again, whether it's insurance; whether it's the delivery system; or whether it's issues around tort reform and the law that protects citizens. And so, I didn't get a chance to tell Senator Price, but that's one of the reasons I appreciate him bringing it forward. It provides an additional forum to educate all of us on how intricate and difficult some of these decisions are, so thank you to AARP for taking a stand and thinking about this difficult decision before you made a decision. [LB693]

MARK INTERMILL: Thank you. [LB693]

SENATOR PIRSCH: Thank you. Are there any other questions? Seeing none, thank you very much. We'll move on to other opponents. Are there any other opponents of this

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bill? [LB693]

JENNIFER CARTER: (Exhibit 3) Good afternoon, Senator Pirsch and members of the committee. I apologize; I'm losing my voice. I'll do the best I can. My name is Jennifer Carter; I'm the director of the Health Care Access Program at the Nebraska Appleseed Center for law in the public interest, and I'm also their... [LB693]

SENATOR PIRSCH: Ms. Carter, if you need some water to...just let me know. Could we have...could we get a glass of water for the testifier? [LB693]

JENNIFER CARTER: Oh, thank you. And I also serve as a registered lobbyist. And we also actually wanted to thank Senator Price for bringing the bill and for his interest in increasing coverage for uninsured Nebraskans because as he said, there's actually...I mean, there's a growing number, and we share his concerns about the increasing premiums rising faster than wages. And so, we understand the interest in creating this kind of flexibility. Our understanding, as Mark Intermill from AARP was testifying, was that part of what this...the goal of the bill is to allow insurers to...by not abiding, by the mandates in Nebraska, provides a certain amount of flexibility to create more limited benefit plans. And we understand the attraction of that flexibility, but our concern is that limited benefit plans have been tried in most states, whether it's through an inter state agreement or not, and generally have not really proved to be successful, have not actually generated any enrollment or have raised other concerns. And I think part of it is just that individuals realize that when the policies offer really limited benefits, even the reduced premiums which are not reduced that greatly, are not really of enough value for them to think of purchasing the plans. And I think part of that problem is that research has shown that the mandates don't raise the premium costs enough that you see such a significant savings by avoiding a few of the mandates to actually see such a reduction in premiums, that having that kind of limited coverage gives you the value you want in these plans. And interestingly, the states that have seen the greatest uptake in these limited plans have offered taxpayer subsidies to help with the premiums, and I understand that's not what's being proposed here, but I think that speaks to the fact that it doesn't necessarily help the plans become affordable enough for most people. Our other concern is that limited benefit plans might distort the market. When you have a limited benefit plan available to the extent that anyone does take it up, you tend to see healthier folks go to purchase those plans and leave their comprehensive coverage pools that our other employers are using, leaving folks who may have healthcare access needs in those comprehensive pools, and you see those premiums rise. And then at the same time, the folks who bought the limited benefit plans sometimes because the value is not great, and the coverage is...can be pretty thin, when they actually face a medical need, they end up being underinsured and facing a lot of the same risks as our uninsured population of maybe foregoing care, foregoing even preventative care, ending up at our safety net providers like hospitals and clinics who then have uncompensated care they have to deal with which usually gets passed on to

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premiums, again raising premiums in the comprehensive...actually, in every pool. So for those reasons, we have some concerns about how these would actually work here, and we would agree as well that we...it's important to remember that the mandates that we have in Nebraska were put in place because this Legislature thought they were good public policy, and we would agree that things like mammography and cancer screenings and vaccinations are things that help reduce more acute care costs down the line and are things we'd like to see. So, and the only other thing we wanted to mention is that if the committee did decide to advance the bill, we would respectfully encourage you to consider requiring certain accountability measures from these insurers and these interstate agreements and perhaps ask that the insurers report on what premium savings they have seen by offering these plans, and how many previously uninsured people have become covered through these plans to see if they're really working since we haven't seen that much uptake in other states. I'm happy to answer any questions. [LB693]

SENATOR PIRSCH: Yes, Senator Utter. [LB693]

SENATOR UTTER: Thank you, Senator Pirsch. Ms. Carter, the...do you believe that the offering of a limited benefit plan of some kind that didn't include all the mandates that are covered under the Nebraska mandates would encourage more people to obtain some kind of health coverage and reduce the uninsured population of this state even though it maybe wasn't even a consortium, that it was developed within the state? [LB693]

JENNIFER CARTER: I think that's the theory and that tends to make sense, and that's why it's been interesting that they have not seen that kind of enrollment. And I have more detail in the testimony that I handed out, but in several states they've either...either insurers haven't actually decided to offer any plans or the enrollment has been so low that they've discontinued the plans. Again, unless there is some help from the state in terms of using...providing some kind of subsidy, and I think it's just that balance that gets difficult in terms of what is really valued...what am I really paying for? So even if I'm paying less and I'm paying \$100 a month, am I still throwing that \$100 out the window because I don't really get enough from the plan that when I need to go to the doctor, I need an...you know, patient at the hospital surgery or something like that, I don't actually have the coverage so that I'm still left in the same position I was in before. And that seems to have been...I don't know...it apparently seems that nobody has struck that right balance just yet. [LB693]

SENATOR UTTER: So what you think might be the appropriate incentives then in your view that would encourage more of our uninsured population to acquire at least some kind of health coverage? [LB693]

JENNIFER CARTER: Well, I think that's a good question, and you know, there may be

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some value to creating something that's more of a catastrophic plan. But our concern, I mean, we've obviously been supportive of a more serious overhaul of the healthcare system generally, so that we are focusing on preventive care and all of the kind of things that help reduce the cost drivers going forward. And, you know, we are supportive...we were supportive of their efforts at national healthcare reform. It's not perfect by any means, but we thought it was an important step forward, so those...I mean, we believe in the programs that are available now for uninsured, very low income folks. We liked the idea of tax credits to help with subsidies and providing those exchanges which I think was mentioned before, so that you have that kind of comparison of information, so that people really understand what they're getting from their plans. All of that we saw as a positive development that might actually get more people engaged. [LB693]

SENATOR UTTER: So I guess my understanding of some of the national healthcare talk that at least had been made public, that it included some kind of a transportability of healthcare, and so now you're telling me you don't believe in transportability of healthcare. Is that right? [LB693]

JENNIFER CARTER: Oh, no, I was just suggesting that if what is...and it's interesting because actually if these...if I'm understanding this bill correctly after...and after part of this discussion, it may be that somebody from a higher mandate state wants to enter into an interstate agreement, and I don't totally understand if they'd be subject to the mandates of that state, and would actually have to offer a greater number of benefits in their plan, and...when they offer it in Nebraska, and in which case, maybe that would turn out to be a really good thing for patients. But I was just suggesting that if the goal is to reduce the number of mandates that have to be offered...or benefits essentially that have to be offered in a plan, those have been less successful in other places I think just because they're not able to strike that balance between value and otherwise. And I think you're right that there are opportunities for interstate offerings of insurance under the national healthcare plans. And it's not the nature of interstate agreements that is the problem for us. Our concern is what level of benefits are actually being offered, and is it valuable? So, I mean, it could be that interstate agreements are great, but we're concerned... [LB693]

SENATOR UTTER: Would one of your goals be to include...to have more people insured? [LB693]

JENNIFER CARTER: Oh, absolutely, sure. [LB693]

SENATOR UTTER: Thank you. [LB693]

SENATOR PIRSCH: Senator Langemeier. [LB693]

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SENATOR LANGEMEIER: Thank you, Vice Chairman Pahls (Pirsch). Thank you for your testimony; you're doing a good job. [LB693]

JENNIFER CARTER: Yeah. [LB693]

SENATOR LANGEMEIER: So if we amended this to say that any policy that came from a provider out of state had to cover our 32 mandates, you'd support this? [LB693]

JENNIFER CARTER: I think we don't...yeah, I think we don't really have any concern that it's an out-of-state insurer. Our concern is what kind of value are folks getting for their money so that when you have...if you're looking to reduce benefits, and if lower income families are purchasing those because it seems like the premiums are lower, we just want to make sure they're well informed enough about what the benefits are, and that they're actually getting coverage that isn't going to still leave them at risk of medical debt or forgoing care or things that are going to continue to be cost drivers in the system and not healthy for the family. [LB693]

SENATOR LANGEMEIER: Thank you. [LB693]

JENNIFER CARTER: So... [LB693]

SENATOR PIRSCH: I have a question. I must profess I'm not aware of how these bare bones or mandate-like policies, you know, have fared in other states, but in the examples you give Minnesota, North Dakota, Maryland, Utah, Montana. A couple of them didn't offer any policies, and the other ones you said were not popular, and then you posit because individuals realize that the policies do not provide enough benefits to be useful. Is that...I mean, is that a...pretty well documented, or could the problem be that the people in those states are not aware of...they're not advertised; perhaps there's not as much of a premium or a markup attached to those products. [LB693]

JENNIFER CARTER: My understanding from the mathematic apiece that is cited there and from Families USA is that, generally speaking, that's been their experience in doing their research is that people haven't...it hasn't offered enough value for them for the reduction in premiums. And I think that's borne out which I don't think I detailed too much, but it's in the mathematic apiece, I believe, in particular in Florida, where they've actually, I think, done quite...my understanding...I mean, I was aware of it being done in Florida, and I think there's been a lot of discussion in Florida about this, and it just hasn't seen the kind of enrollment that they were hoping to, and my understanding is that Blue Cross...there was...they under estimated the costs, and that their premiums are likely to go up quite a bit, and that the governor of Florida has actually suggested that perhaps they need to start offering subsidies to help with the premiums in order to get people engaged in it. And so...so it's certainly possible that maybe they're not being well advertised enough, but it seems they've been...I believe this has been around since the

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mid-'90s, and it hasn't really...they just, for whatever reason, have not really caught on, and so we just wanted to make sure we raised that reservation that it may not end up being as helpful as we would hope in theory. [LB693]

SENATOR PIRSCH: Well, Florida is an oddity. You say here that it's...that these bare bones or mandate like policies are actually being offered at a price which is higher than the full, you know, than the premium full coverage type of...I mean, any...I mean, it wouldn't surprise me if that's the cost dynamics there that people would (inaudible)... [LB693]

JENNIFER CARTER: Yeah. [LB693]

SENATOR PIRSCH: ...but why is that dynamic present then in Florida, do you know? [LB693]

JENNIFER CARTER: No, I don't because I don't fully understand how...why all that is working in Florida as it is in detail. But I do think some of it is that it doesn't actually...they don't necessarily see a reduction, is my understanding, in the natural increase that you'd see in premiums from year to year. You're going to see that in the limited benefit plan, and you're going to see that in a comprehensive plan. And it may be that because of lack of enrollment in setting it up, that there's greater costs because of that, I don't actually know. I mean, I don't know if there's anyone following from the insurance industry that may be able to speak to that. But I can certainly try to find out if that's helpful. [LB693]

SENATOR PIRSCH: Oh, sure. Well, if you happen to...that would be...I'd appreciate that. Thank you very much. [LB693]

JENNIFER CARTER: Okay. [LB693]

SENATOR PIRSCH: Senator Gloor. [LB693]

SENATOR GLOOR: Thank you, Chairman Pirsch. Ms. Carter, were you here earlier at the opening of this particular...? [LB693]

JENNIFER CARTER: Oh, yeah. [LB693]

SENATOR GLOOR: ...Okay. So you heard my questions to Senator Price about concerns about networks and incomplete networks or small networks or perhaps eastern Nebraska located networks. The mandate discussion to me seems to be one of availability. You know, what services are available or are we going to mandate, be available? [LB693]

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JENNIFER CARTER: Uh-huh. [LB693]

SENATOR GLOOR: But my concern is the access issue, and it's one thing for me as a retiree, as a legislator maybe retired in spades, but a retiree, and being able to have the time to travel someplace to see a subspecialist or a specialist. But for a segment of our population that gets paid hourly, that has a problem making payments on tankfuls of gas to travel, and that could be problematic. Do you have any concern about the access issue that relates to this? [LB693]

JENNIFER CARTER: Yeah, I'll confess I hadn't actually been focused on that until I heard you mention it, but I think it's an excellent point. From a lawyer's perspective, reading that part of the bill, I think it's absolutely right that I would hope that the way the Department of Insurance would read that was to make sure that they were looking at the sufficiency throughout the state of access and providers and not looking at...you know, and I don't know how they would set it up, but not just looking at...okay, you've got a hundred primary care guys, so I'm going to assume that that's fine, but not recognizing that they're all concentrated. So I think it's an excellent point, and if this was implemented, I would, you know, hope that that was implemented in a way as you're saying because we do see...we do hear about access problems. And certainly people in, you know, out-state Nebraska drive far to do a lot of stuff, and I know they...I think they'd be willing to drive, you know, a certain length to get the care that they need, but I think there are definitely...from the clients that we serve, there are really serious cost issues to making that happen, just even getting off work or doing what they need to do. [LB693]

SENATOR GLOOR: Well, there are studies out there in the healthcare industry that I think show that in many cases the lower cost of healthcare in rural areas may in fact just be a function of access. If you're not using healthcare services, obviously, the cost to provide services to you is a lot less, but that's because you can't get to them or you can't get them or they're not available, so thank you. [LB693]

JENNIFER CARTER: Yeah, thanks. [LB693]

SENATOR PIRSCH: Thanks. Any other questions? Seeing none, I'd ask if there is any other testifiers here in opposition? Opposition to LB693. [LB693]

ANN FROHMAN: Good afternoon, Senator Pirsch, members of the committee, my name is Ann Frohman, that's A-n-n F-r-o-h-m-a-n, Director of Insurance, and I'm here today to testify in opposition to LB693 as an approach Nebraska should be considering this year right out of the gate. My understanding of the intent of this legislation is to increase competition and lower premiums through opening up access to insurance coverage. And as we know, access is a fairly important issue. It's important for our employers who...to the extent they're not large self-insured employers, but yet they'd

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have employees across state lines, get challenged with some of the compliance issues and doing business in several states and covering their employees. It's also a challenge in the individual health insurance market to the extent that you have portability issues with individuals that may want to move in or out of the state, and networks are important there. Access to...access to coverage even within the state can be challenging as I've heard earlier in terms of those concerns. While LB693 would promote a new structure whereby insurers could sell across state lines, and they do so through this compacting arrangement, it would create a new structure of regulation, indeed, and that structure would be fairly complex. I do have concerns with that at this juncture because we do already have a lot of confusion in the marketplace dealing with current regulatory structures out there, that being the state system for private health insurance, the ERISA system, then we have Medicaid and Medicare, and so we get roughly 42 percent of all complaints that come into the insurance department involve health insurance. And it's not an easy one to walk through for individuals and helping Nebraskans get what they need both on their coverages and in the jurisdiction in those areas. Under the proposal, it assures domiciled state laws, so if it's a Kansas company, their state laws, interpretive opinions, rules, regulations would apply here in Nebraska in the event they came under a compact, thus preempting our laws governing sales, marketing, misrepresentation, managed care requirements such as grievance procedures, network adequacy, emergency services, credentialing, grievances, utilization review...just a whole myriad of areas. These are all requirements that have been adopted by the Legislature, and there in the instance that the current coverages don't measure up. Additionally, Nebraska law requires prompt claims payment to providers, and that would not apply. All of this would lead to increased confusion for Nebraskans and for the medical providers to submit claims due to the interaction of a number of structures we're dealing with. These problems aren't insurmountable, but they are issues that need to be considered as part of an authorization of any agreement that would allow for a compact as a result of the bill. The department has submitted a fiscal note on the legislation, and we estimate that we would need probably one-half of a consumer affairs investigator, whatever those look like, to implement LB693 for the reasons I just explained. In addition, the bill could have a significant impact on the premium tax revenue that we generate for the state. The amount of premium tax paid by the life and health insurance industry to the state of Nebraska on a per year basis, at least looking back at 2008, was \$21 million for those insurers that are not domicile in the state. Pretty big number. Premium tax is not levied against some of these insurance companies because they choose to opt under a compact basis. We think they probably surrender their license, so we would be unable to estimate how many of them would choose that, but clearly there would be a number of insurers that would take advantage of the compact as a way to circumvent premium tax payments to the state. So that would be something that also would need to be considered. I was able to meet briefly with Senator Price last week, and he did indicate to me that he wanted to introduce this bill to start the discussion, and we welcome a conversation. I think it needs to begin; we need to have the conversation. And the department would like to contribute to that, and based upon the things I've heard today,

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very interesting dialogue, a lot of thought going into what something might look like. I would be happy to answer any questions anyone has. [LB693]

SENATOR PIRSCH: Are there any...Senator Pankonin. [LB693]

SENATOR PANKONIN: Thank you, Senator Pirsch. Director, do you see and just on the surface...do you see reasons why out-of-state insurance companies might be interested if some of these other technical things could be worked out? I mean, having a larger market, more competitors, you know, we heard testimony earlier today that our automobile insurance rates are some of the lowest around because there's a lot of competition and then the environment we hear for maybe torts and this sort of thing are favorable for good rates. Would the same sort of thing apply to this market if it was more open? [LB693]

ANN FROHMAN: I'm not certain that it would. It might be a scenario where we would see increased competition in the areas that have higher population bases, and there might be reasons...business reasons insurance companies would want to come in maybe into...I think of the Omaha-Council Bluffs market where we do have a demarcation there in terms of a state line, and an employer with, you know, employees running over the border, whatever, to do business, that there would be an incentive there to enter into a compact perhaps. But to say that this would...I still believe Nebraska is a low mandate state, and I think...I think we're fairly competitive, but I do think the driving issue here is the networks. Insurance companies will come into the state to the extent that they feel they have a network that they can base their business operations on. I mean, it's truly tied into what they can gauge in a relationship. It's a relationship business, and if they have those networks in place, then yes, they'll be interested. Networks are expensive to operate. They're difficult to find and rent. Nebraska has challenges with the out-state issues, so I'm not so certain that, you know, we'd have to have discussions on those issues, very complex. I don't have any answers for you today on it, but I do think those are some of the challenges that would have to be explored. And whether it's really an advantage at this time, I'm just not sure. [LB693]

SENATOR PANKONIN: Thank you for your insight. [LB693]

ANN FROHMAN: Um-hum. [LB693]

SENATOR PIRSCH: Any other questions? Senator Utter. [LB693]

SENATOR UTTER: Thank you, Senator Pirsch. Director Frohman, I sense and not only from your standpoint but for some other standpoints, this is a little bit of a pushback from a...from a multi-state consortium of some kind doing this. One of our goals has to be, as I see it, is creating an environment of some kind where we can have more of our uninsured people become insured. And I would submit to you that not every person in

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the state that is uninsured is uninsured because they can't afford it. There's some people are uninsured because they feel like they really don't need to be insured until they need it. And so, I guess... [LB693]

ANN FROHMAN: A smart 20...a smart 20...a smart, healthy 20-year-old. [LB693]

SENATOR UTTER: That's right (laughter). That's exactly right, and then...and, frankly, I had some clients of mine that when I was active in the bank, that felt differently about insurance than...health insurance than I did, and would take considerable risk, quite honestly, to not pay that insurance premium. So one of our goals has got to be to get much like our taxes, get a much broader base of people insured. What suggestions do you have if we...that what can we do to do that in your opinion? [LB693]

ANN FROHMAN: I think everything that's being vetted nationally that it's...I think we're seeing coming back locally, are all good issues. I think we have really issues with healthcare costs that need to be addressed. We have issues with how we take advantage of technologies that get us there, and there's going to be efficiencies there, and the redundancies, and some of the way healthcare is delivered, and looking at that. In the insurance side, I do think we can look at access and see if there's anything we can do in terms of I think regional...regionally might be a way to do it. We do have an interstate compact mechanism that the NAIC, National Association of Insurance Commissioners, put together for life insurance products. Now, this is a little bit different and even much more complicated because of the issues with provider relations and network services. But, again, there's...I think it will require some communication and working with other states because you're going to always have reciprocal issues arising under something like this. If we do this, what is the other state doing? I mean, are we operating on the same wave length, or do we have a different set of rules for a compact than Kansas has? That's going to be unworkable, so. [LB693]

SENATOR UTTER: Looking at the mandate, we've talked about mandates a lot today. Have you...as you review the list of mandates that Nebraska has got as compared to the mandates, for example, that Iowa has, have you compared those two lists? [LB693]

ANN FROHMAN: I haven't looked at Iowa. The mandates I currently hear the most about are Florida, California, and New Jersey (laugh). We're a low mandate state, no doubt about it. [LB693]

SENATOR UTTER: But not as low as Iowa. [LB693]

ANN FROHMAN: I wasn't aware of that, and I, you know, I...I don't hesitate to believe that, yes, there would be some nuances in pricing with six more mandates. But I don't think that's the whole story. It's a...they have a larger population to spread losses across, and I'm sure there are other factors that go into that. [LB693]

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SENATOR UTTER: Thank you. [LB693]

SENATOR PIRSCH: Senator Gloor, did you have your hand...? [LB693]

SENATOR GLOOR: Thank you, (Vice) Chairman Pirsch. Madam Director, I'm going to read this. I would be remiss not to take advantage of your being here to share your wisdom with us. "The director shall consider whether insured individuals will have access to a sufficient number of healthcare providers in Nebraska including specialty healthcare providers." How would you begin to solve that particular puzzle? [LB693]

ANN FROHMAN: I can tell you how it would play out. [LB693]

SENATOR GLOOR: That will... [LB693]

ANN FROHMAN: Carrier would come in and say, we want Omaha. Well, what about North Platte? Well, we're not interested in North Platte. We can't work out the numbers to make a profit. Then what? I look to that, and I say, I don't know where it takes me. I don't see the guidance there. Tough issues. [LB693]

SENATOR GLOOR: So, what you're saying is you'd...from a standpoint of working this out, you would need more direction on what the definition of access here means for you to do....jump (inaudible) on it. [LB693]

ANN FROHMAN: Absolutely. And I would also be thinking about reciprocating. What's happening with our insurance companies going into that state? Are they going to be forced to go into the rural? How is that? So it's complex. [LB693]

SENATOR GLOOR: Okay, thank you. [LB693]

SENATOR PIRSCH: Any other questions? Seeing none, thank you very much, Director, for your testimony, and we'll move on to other opponents. [LB693]

JANIS McKENZIE: (Exhibits 4 and 5) Senator Pirsch, members of the Banking, Commerce and Insurance Committee, for the record, my name is Jan McKenzie. I'm here today in opposition to LB693, representing the Nebraska Insurance Federation. And that is J-a-n M-c-K-e-n-z-i-e. My first time in the chair this year; I've kind of forgotten what I'm supposed to do. I apologize. I'm handing out two pieces of material for you today, and I'm handing out the directory for the Insurance Federation for your benefit. These are the companies who are currently members, and if you recall, unlike a lot of the other trade associations you hear testify before you, these are companies who are Nebraska domestics, so they are property casualty companies; they are life companies; they're health companies; they're title companies, and there's a work comp company.

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We also have a number of associate members, a couple of those who are foreign insurers who are in the health market as well. And so from my perspective this afternoon, I come to you having a company who sells only health products in Nebraska, a company that sells in all 50 states, and a company who sells in a major portion of the Midwest, but not all 50 states. So we've had a very good discussion about this bill and whether or not it does the kinds of things that we think the introducer is hoping it does. And in particular, we wanted to talk a little bit, and I shared with you a nice little sketch of a dollar bill, about whether or not we really are getting at what is driving the issue of health insurance cost and health cost, and we appreciate the fact that the senators looking for any way at all to make insurance more affordable. And, Senator Utter, by the way, my father was one of those people you're talking about. I grew up in a household with a father who did not believe in health insurance, and we never had health insurance, and my mother got cancer, and he spent seven years paying for her treatment. So after that, he was happy to turn 65, and I think he learned his lesson. But I wanted to talk a little bit about what drives the cost of healthcare and health insurance. This is a document that comes from a Price Waterhouse Coopers analysis that was just done in 2008. And the America Health Insurance Plans organization out of Washington, D.C. is a sponsor of the study, so I want to be up-front with you about that. But if you'll notice, 87 cents out of every dollar that goes into your health insurance is going toward the things you want it to go toward. It's going toward the medicine, the outpatient costs which include ambulatory service centers and outpatient surgical centers, inpatient costs which is your hospital coverages and your physician services. Over the past seven years, there have been some changes in the way that the health costs have increased. Back in 2002, 2004, it was a lot about drug costs and overutilization. And to be honest, overutilization has sort of slowed down, and what's happening now is pricing is outpacing inflation as well. So what a hospital has to charge or a physician has to charge or an outpatient clinic has to charge is also outpacing inflation. And part of that is driven by the fact that we're cost shifting; that what happens when Medicare doesn't pay at a rate that adequately covers or a negotiated rate in a network doesn't always adequately cover what it costs the hospital or the physician. Those costs get passed on to private insurers who have private insurance. And that is, in fact, the reality. So for us, I think, to have an on-target discussion about what's driving the cost of healthcare and our health insurance premiums, I think we have to consider a number of factors and we, too, welcome the discussion that Senator Price's LB693 provides us, and would also reiterate in following Director Frohman, our concern about consumer confusion. A lot of times people don't understand what coverages they have. They don't understand what an ERISA plan is; they don't understand...would they understand that if they're buying a policy from Iowa that it...now they're under Iowa law and regulation, not Nebraska law and regulation, and how would that affect Nebraska citizens? We think it would be very difficult for folks who are really kind of at a loss in understanding being their own health advocate in understanding what their coverages include. So with that, I would conclude and answer any questions you might have if I can. [LB693]

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SENATOR PIRSCH: Thank you for your testimony. Any questions based on that?
Senator Utter. [LB693]

SENATOR UTTER: Are you sure from the information that has flown back to me from
the Far East, I think you've got the blue and the white turned around. [LB693]

JANIS McKENZIE: (Laugh) Well, I didn't do the study, so (laughter)...but I'm happy to
leave you a copy of the actual study if you would like to have, or I'd be happy to give
you copies (laugh). [LB693]

SENATOR UTTER: Well, you know I'm just kidding with you. [LB693]

JANIS McKENZIE: (Laugh) But it does...I will actually make sure to drop a copy of this
to your offices because it's a very interesting analysis of what is...has changed over the
past seven or eight years in terms of what's driving the costs, and some very thoughtful
other things that I think we should also be considering in the discussion. Thank you.
[LB693]

SENATOR PIRSCH: Any questions? Seeing none, thank you. Any other opponents?
Seeing none, we'll move on to those who wish to testify in a neutral capacity. [LB693]

GALEN ULLSTROM: Senator Pirsch, members of the Banking, Commerce and
Insurance Committee, for the record 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 and a lobbyist for Mutual of Omaha Insurance
Company, appearing today in a neutral capacity. As you've heard the testimony, I think
the intent of both the introducer and the discussion about both proponents and the
opponents address this as or trying to address the lack or undercoverage of medical
expense coverage in the state. Unfortunately, because of the way Nebraska statutes
are, this refers to accident and sickness insurance, and would authorize foreign insurers
to come into the market through this interstate agreement to sell accident-sickness. We
don't sell major medical insurance anymore. We were a large writer of it until about four
years ago. However, we do sell a lot of supplemental coverages, and as I read this bill
as drafted, it would apply to coverages like hospital indemnity, accident only, specified
disease coverage, Medicare supplement, long-term care, and I don't think that's the
type of products you're really looking at. We have found if a company wants to sell
those products, it's pretty easy to get licensed to sell them, and then we compete on a
level basis. There's really no applicability of mandated benefits to those products. The
network adequacy is not an issue for those products, and so I think that's a technical
issue, but one that we think that Nebraska, for example, long-term care. Nebraska has
passed the NAIC Model Long-Term Care Act which includes a lot of product
specifications and consumer protections. That model has not been passed in other
states; in a number of other states. And so we would feel that if Nebraska consumers
are going to buy a product in Nebraska, it should be subject to those same safeguards

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with regard to that type of product. So I only point it out that I'm not...I share some of the concerns regarding the premium taxes applicable to these companies, whether there might be guarantee fund coverage for a company that sells this product in another...in Nebraska not licensed, and maybe insolvent. But those are major medical related issues. My concern is that the bill, as drafted, is broader and that's really because the definition of sickness and accident insurance in Nebraska is broad. And if you look back at some of the mandates we've considered in this committee in the past, usually those mandated benefits have a list of exclusions or products that this does not apply to, and to narrow the scope of those mandates. And I think if the Legislature would decide to move forward to this, hopefully, that would be limited also. And I'd be glad to answer any questions. [LB693]

SENATOR PIRSCH: Thank you very much, Mr. Ullstrom. Are there any questions? Seeing none, thank you for coming down. [LB693]

GALEN ULLSTROM: Thank you, sir. [LB693]

JULIE ERICKSON: (Exhibit 6) Senator Pirsch, members of the committee, my name is Julie Erickson. I represent the American Cancer Society as a registered lobbyist. And we are in a quandary on this bill, and so we took a neutral position because we do feel it is important that we start looking at access, and that is a big priority for us and allowing more folks into the marketplace. The problems that this bill presents, though, in the case of...and it seems to be a logistical nightmare when it comes to trying to figure out which rules you're following, and I would imagine the department would have a very difficult time tracking that as has already been mentioned before. We agree with most of the opponents, and we do agree that access is an important issue as well. I think the confusion in the marketplace is of concern, and we also feel like there is a concern that a lot of folks even who have insurance do not get coverage for all the things that they need, and, in fact, 60 percent of all the bankruptcies in the United States are medically related, and 78 percent of those bankruptcies are for folks that actually do have insurance. So the underinsured is another issue that's involved in this scenario, and we have many concerns there. We do feel like looking at new ideas, new ways of handling health insurance, and in health and coverage is an important piece of the overall argument. And you guys are going to have to talk a lot about healthcare reform and health access, and how we're going to work through all of this. But for purposes of this legislation, we would take a neutral stance and be available to work with you down the road as you have to deal with all these issues. Thank you. [LB693]

SENATOR PIRSCH: Thank you, Ms. Erickson. Are there any questions? Seeing none, I appreciate your testimony here today. Are those...are there any other individuals here to testify in a neutral capacity? Seeing none, Senator Price, if you'd like to close on your bill. [LB693]

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SENATOR PRICE: Thank you, Senator Pirsch and the committee. First and foremost, I'd like to thank you for your patience and endurance here on this. I mean, it just seems like the national thing is playing out again here in a macrocosm...in a microcosm here. And I appreciate all the people who came to testify both in opposition and in the neutral because it brings to light the complexity of what we're dealing with here. There are no easy solutions, and we did hear...and Senator Utter did present how it seemed if it's done from a national level it was good to do, but from a state level it's not good to do as far as portability and going across. So we were presented with a lot of things, and I have a lot I'd like to comment on. But out of respect for your time, I'm going to keep it down as short as I can. And the question we first saw was, we went to mandates and we went there real quick. This isn't just about mandates. It's about the business climate. You know, Senator Pankonin, you have a business where you have to compete with other people who have a business climate in Iowa different than yours, where you can't sell a tractor if not certified by the lack of...by the Nebraska tractor pull. It impacts what you can do. So these are things we're dealing with. We're dealing with regulatory issues that are causing a cost. We're told that they're 13 percent of a dollar bill left over. Who here can maybe operate with a 13 percent margin? Some people would like more. Some people couldn't live with that, but some people can make quite a good living on 13 percent. Now, when I came here, and some of you...the other folks who came in with me, we were presented with a training opportunity. We did a mock hearing, and in that mock hearing we had the opportunity to deal with prosthetics and a mandate there for prosthetics. Now, what if New Jersey has an insurance plan that covers prosthetics and you want to buy into that? All of Nebraska doesn't have to buy into that. There's a lot of work here. I'm not saying there isn't work here to figure it out. But we're not...it's not just about the mandates, and if this...this legislation would not automatically impose that we can have insurance across state lines. As Director Frohman said, there's a lot of work to be done. There's probably amendments that need to be done. We'll probably bring the bill back, and we'll keep working on it. There's an A bill here, so I know that's the kiss of death. That's okay. We get to have the discussion. We all get to be on record how we feel about this. We get to tell our voters, yeah, we're willing to take on this task, to be a leader. We hear so many times we're the one of state. We can be the first one who at least took a positive step to realizing a portion...again, remember, just a part of a pylon of an infrastructure of a bridge that takes us from today to a better place. And with that, I will conclude my comments and answer questions you might have. [LB693]

SENATOR PIRSCH: Thank you, Senator. Any questions in response? Seeing none, thank you very much, Senator Price. [LB693]

SENATOR PRICE: Thank you, Senator Pirsch. Thank you, committee. [LB693]

SENATOR PIRSCH: And that concludes our hearings for today. [LB693]