

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee February 16, 2021
Rough Draft

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WILLIAMS: Well, welcome, everyone. It is 1:30, so we will get started. Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Matt Williams. I'm here from Gothenburg and represent Legislative District 36. And I'm honored to serve as Chairman of the committee. The committee will take up the bills in the order posted. Our hearing today is your part of the legislative process. This is your opportunity to express your position on proposed legislation before us today. Committee members may come and go during the hearing. We have to introduce bills in other committees and are sometimes called away. This is not an indication that we are not interested in the bill being heard; it's just part of the process. To better facilitate today's hearing, we ask that you abide by the following procedures. Please silence or turn off your cell phones. Seating is limited. Therefore, we ask that you only maintain a seat in the hearing room when you have an interest in the bill currently being heard. We will pause between bills to allow people to come and go. While exiting the hearing room, we ask that you use the east door. We request that you wear a face mask while in the hearing room. Testifiers may remove their face mask during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity will be monitored by the sergeant at arms, who will allow people to enter based on seating availability. Persons wanting to enter the hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. In order-- the order of testimony will be the introducer, followed by proponents, neutral testimony, and then closing by the introducing senator. Testifiers, please sign in and fill out the pink sheet, and turn it in at the box on the testifiers table when you come up to testify. As you begin your testimony, we ask that you please spell your first and last name for the record. It is our request that you limit your testimony to five minutes. We use a light system. The light will be green for four minutes. It will turn yellow with one minute remaining, and turn red at the conclusion of the five minutes. If you will not be testifying at the microphone, but want to go on record as having a position on a bill being heard today, there are white tablets at the entrance where you may leave your name and other pertinent information. The sign-in sheets will become part of the exhibits in the permanent record, at the end of today's hearing. We

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ask that you please limit or eliminate handouts. Written materials may be handed to the clerk only while testimony is being offered. To my immediate right is committee counsel Bill Marienau. To-- to my left, at the end of the table, is committee clerk Natalie Schunk. The committee members with us today will introduce themselves, starting with Senator Pahls.

PAHLS: Rich Pahls, from southwest Omaha.

McCOLLISTER: John McCollister, District 20: central Omaha.

SLAMA: Julie Slama, District 1: Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

AGUILAR: Ray Aguilar, District 35: Grand Island, Hall County.

FLOOD: Mike Flood, District 19: Madison and part of Stanton County.

WILLIAMS: And our pages with us today are Caroline and Ashton. Thank you for being here. And we will open the hearing this afternoon with Senator Matt Hansen's bill, LB439. Welcome, Senator Hansen.

M. HANSEN: Thank you. Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. For the record, my name is Senator Matt Hansen, M-a-t-t H-a-n-s-e-n, representing District 26 in northeast Lincoln. And I'm appearing here today to introduce LB439, which would change the state's current policy prohibiting stacking or combining of uninsured or underinsured motor vehicle insurance coverages. Current law states that, if a consumer has available two or more policies providing coverage in a vehicle accident, or one policy covering multiple vehicles that provides two or more policy limits, the consumer may recover, at most, the highest coverage of those policies. The current law also sets forth the method for determining which coverage is applicable. I believe this policy is unfair to-- against the consumers of Nebraska. Insurance companies take risks in exchange for a premium paid for by consumers. The consumer pays a policy premium [INAUDIBLE] to the insurance company and agrees to pay upon-- pay up to the limit of the policy recovered if an accident occurs. But under our current condition and statutory framework, the consumer here pays a premium for each of multiple policy coverages. You cannot recover under all of those policy coverages. Thus, the consumer pays the separate premium but are not receiving separate

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coverage. And in my opinion, this is unfair. I introduced a similar bill way back in 2015, and, after feedback from the committee concerning the ability to unfairly stack coverage for policies of those related to and living in the same household, I introduced this version of this bill in 2017. LB439 is a reiteration of my two most recent attempts, which allows for stacking of policies held by different policy holders to determine the amount of insurance coverage available, does not allow stacking for the same policy or separate policies held by the same persons related to persons living in the same household. I believe that LB439 is a fair approach to recovering damages in these specific situations. I'll note there'll be testimony behind me in support, who have experience with these specific scenarios, but with that, I will close and encourage you to vote LB439 to General File.

WILLIAMS: Thank you, Senator Hansen. Are there questions? Seeing none, will you be staying to close?

M. HANSEN: I plan to. I will say I have a bill in Urban Affairs, so I might have to see.

WILLIAMS: OK, cool. We'll take that into consideration. We'd invite the first proponent of LB439. Welcome.

MARK RICHARDSON: Thank you. Good afternoon, committee members. My name is Mark Richardson, R-i-c-h-a-r-d-s-o-n. I am here testifying in support of LB439, on behalf of the Nebraska Association of Trial Attorneys. This is not our first attempt to mitigate the effect of the antistacking. I can tell you that the reason that we keep coming back, year after year with this bill, is that the result of the current state of stack-- of the antistacking policies in Nebraska is that your constituents are not getting their bargained-for exchange. They're not getting what they pay for as a result of their insurance coverage. Specifically, there are situations where you have your-- your constituent can have the identical situation as another one of your constituents. One of them gets the full amount of the coverage that they're paying for under that-- under a certain policy, and the exact same person, with the exact same injuries, and for their-- from their point of view in the exact same situation, receives zero coverage at all. Let me explain that type of a situation. If you're in-- you're involved in a collision and you're injured, and the other person, the person that caused your injury has \$100,000 of coverage, you're

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entitled to get that person's \$100,000 coverage. And if you have underinsured motorist coverage of \$100,000 and your damage is warranted, you're entitled to your own \$100,000, as well. So there's \$100,000 of other coverage out there for you, plus you get your \$100,000. You have that exact same situation where that same person is a passenger in a vehicle driven by somebody-- driven by somebody else, not in their family-- you're in a friend's car or a coworker's car, what have you-- that person gets involved in the exact same collision. It's the other person's-- it's the-- it's the person's fault that's not in that vehicle, they don't have any coverage at all. Now you're in uninsured motorist coverage territory. It turns out that you-- the person whose car you're in has underinsured motorist coverage of \$100,000, and you have uninsured motorist coverage of \$100,000. In that situation, you now have other insurance out there of \$100,000, just like the other situation was. But in this situation, Nebraska law says you don't get a dime of your underinsured motor-- or your uninsured motorist coverage, because the guy whose vehicle you're in, he also has uninsured motorist coverage and his policy is primary, even though it's a completely separate policy with a completely separate company that you pay com-- pay completely separate premiums for. You can go get his \$100,000, but you're totally excluded from getting your own \$100,000. That is an unjust result for the constituents of Nebraska, for Nebraska residents. That is what this bill is targeted to aim at. And we've heard the testimony from opposing-- from the insurance companies before, that have come in and said: You know, I might have a situation where I have two kids in my house, plus my wife. Both of them-- all three of them drive. So we have four vehicles. So we have-- technically, we have four different policies that have four different coverages. We shouldn't be able to stack those together 'cause they're all under the same policy, all under the same-- under the same house. That situation is not affected by this bill. We've specifically stripped this down so that it is that situation where you have totally unrelated people, totally unrelated policies. There's no reason why-- there's no valid reason why your constituents should have to suffer in that kind of situation. And just to drive the point home, it seems like every time I'm up here testifying, I have a more egregious situation than the last time. I currently have a case right now where the insurance company is using antistacking policies in Nebraska to come in and say that our client is not allowed to have the full access to the limits of their umbrella coverage because they have an underlying policy of coverage. Now the

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whole purpose of umbrella coverage that you purchase yourself is to be able to increase the amount of benefit that you have, over and above what's on your principal policy. But the insurance company, in one of the cases I have right now is coming in and saying: Well, wait a second. Because of antistacking, you're-- the insured has-- has already recovered X number of dollars under their underinsured motorist coverage that is sitting on their vehicle policy. Yes, we know they purchased this umbrella policy, and we're pretty sure they probably purchased this with the understanding that they have an-- a million dollars' coverage in addition to what's underlying that-- in this case, I believe was a half a million dollars underlying-- but we're not going to give you a million dollars. Our position is you only get a half a million dollars. I cannot imagine there is any Nebraska citizen that thinks that's how their policy actually works or thinks that that's how their policy should work. It's just another egregious example of how this antistacking pro-- how these anti stacking provisions are completely unfair to the consumers of the state of Nebraska. After I'm done testifying here, I think you're going to hear from an individual that has been personally affected by this antistacking. A Mr. Steve Karloff is going to get up here and testify about an actual situation that he's involved in-- or was involved in-- where he was a part of-- he was involved in a motor vehicle collision in the exact circumstances that I just previously described. He was a passenger in somebody else's vehicle. That other vehicle, the vehicle that he was in, the owner had underinsured motorist coverage. He ended up losing his leg as a result of this collision. And when it came time to-- to go out to these insurance companies and collect on these policies, he found out that his own insurance company, the one that he had been paying the premiums for to make sure he had coverage over and above people out there that might be underinsured or uninsured, he did not have the access to his-- to his own insurance policy proceeds and was precluded from recovering under the full terms of that policy. This is just common sense to me that, when you go out and get insurance and say, I'm going to have underinsured motorist coverage to make sure that whatever else is out there, I'm also going to have this amount of coverage. But for whatever reason, we fail to gain traction with this committee. This bill has never been passed out of committee, as far as I'm aware. I-- I continue to search for the reason why that is and I continue to not be able to come up with the-- the logical answer to what that is. With that, I'll field any questions that you have regarding this bill.

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WILLIAMS: Thank you, Mr. Richardson. Question? Senator McCollister.

McCOLLISTER: Thank you, Chairman Williams. Is Nebraska an outlier in this practice?

MARK RICHARDSON: Not an outlier. I believe there's over half of the states now have-- have some form of antistacking. And again, we are not-- we are not putting forward a bill to do away with stacking in its entirety. But every state has different levels of stacking. I can't-- I can't tell you exactly the number of states, off the top of my head, that have some level of stacking, but I'm sure it's over half at this point. But again, we're not proposing doing completely away with stacking. We're proposing doing a much more commonsense approach to stacking that makes sure everybody is treated fairly here.

McCOLLISTER: Thank you.

WILLIAMS: Additional questions? Seeing none thank you, Mr. Richardson.

MARK RICHARDSON: Thank you.

WILLIAMS: Thank you for your testimony. Invite the next proponent? Good afternoon. Welcome.

STEVE KARLOFF: Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Company [SIC]. Thank you for letting me talk. I'm a farmer from Yutan, Nebraska. Our farm is approximately 45 miles north of here.

WILLIAMS: Sir, could you state and spell your name for the record, please? Thank you.

STEVE KARLOFF: Oh, sorry about that. My name is Steve Karloff, S-t-e-v-e K-a-r-l-o-f-f.R.

WILLIAMS: Thank you.

STEVE KARLOFF: Yeah. So as I said, I'm a farmer, so I'm not a good speaker. I'll just tell you that right now. But on April 7, I was on a motorcycle. I was out at the farm in the shop, preparing for spring planting. It was a nice April morning. I decided to go for a ride on my motorcycle. And so about eight miles into my ride, this gentleman turned right in front of me. As a result of the accident, I severely

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injured and lost my left leg. My right knee was also injured. I've had two surgeries on it. I still have to have it totally replaced. My right shoulder is totally in need of replacement, also. The gentleman that hit me had the state basic insurance of \$25,000 and that's it. This is something that needs to be addressed. \$25,000 is such an adequate-- inadequate amount of insurance at-- at an accident of this magnitude. I hope to be able to talk to whoever governs that, as well, down the road. As for LB439, if this were in effect right now, it would help me tremendously. I've been with State Farm ever since I bought my first car at 15, not knowing about the stacking law until my accident and paying premiums that are taken from the consumer and not available to the person when it's really needed. As for self-- I am self-employed. I have had-- spent all the time checking in with all the health change insurance companies, with everything going on. My health insurance has a clause that says that they do not have to pay the medical bills if it is caused by a motor vehicle accident, which I was not informed of when I purchased this policy. So as of right now, I have gotten no help from any insurance company whatsoever. My medical costs are well over a million dollars. And the vehicle that hit me, once again, had the basic \$25,000 of insurance. And the gentleman that hit me has absolutely nothing. There's nothing there to help me out whatsoever. So with this loss of my life-- my leg, my life and everything will change forever. I have seven licensed vehicles. Being from the farm, I have semis and stuff like that that would be in that stacking. To be able to-- ability to have the stacking law. My farm may be at risk because of this law, the way it is right now. I don't know that it's probably going to help me at all. But if I can help anyone down the road, possibly, with this, it would totally be worth it. I've had \$250,000-\$500,000 on all my policies ever since I was insured. My dad always told me, make sure you're very well insured. I've always thought being proper insured is something that is-- everyone should as they are driving on our roads. Come to find out, paying all the premiums really does not do what it's totally-- should for the insured. And it's truly one of the benefits for the insurance companies. I've always been the guy that likes to do all the dirty work. I'm a farmer. I've always enjoyed farming. My family's had a farm for over 125 years. I have a son that's farming now and this-- the way it is put right now could really help it changed. The way it is now, there's really no benefit. I have a \$2 million dollar umbrella, as he spoke, above and beyond, and we can't even get any part of that to become something that we can go for. And so I feel

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that there's-- we pay insurance companies to know that we're, you know, that we're-- we have-- they have our back. And then when we need it, we can't get it. So by changing his law, I really feel that it's a possibility it could help somebody that's in my-- or anybody like me, it could really help them. Thank you.

WILLIAMS: Thank you, Mr. Karloff. Any questions for the witness? Seeing none, thank you for your testimony.

STEVE KARLOFF: Um-hum.

WILLIAMS: Invite the next proponent? Seeing nobody jumping up, is there anyone here to testify in opposition? Good afternoon, Miss Nielsen.

COLEEN NIELSEN: Good afternoon.

WILLIAMS: Welcome.

COLEEN NIELSEN: Thank you, Chairman Williams and members of the Banking Commerce and Insurance Committee. My name is Coleen Nielsen; that's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for the Nebraska Insurance Information Service, testifying in opposition to LB439. I have also been asked to testify on behalf of the Nebraska Insurance Federation and the National Association of Mutual Insurance Companies. Stacking of uninsured and underinsured motorist coverage is currently prohibited by both court decisions and by statute. The case law against stacking in Nebraska has existed since the mid-1980s, and the current statutory scheme was created with-- with that case law in mind. The current law governing how UM and UIM coverages work reflects what our Legislature and our Judiciary felt was fair for Nebraskans, and has been working well for the people of Nebraska for many years. This bill would result in increased UM, UIM coverages in some cases. However, this increased coverage is seldom necessary. If a passenger is injured in an accident, he will get access to the liability coverage of the person who caused the accident. And if that's not enough coverage, he will also have the full amount of the UIM coverage on the vehicle in which he was riding. It sits on top of the liability coverage as an additional source of recovery for the injured person. This coverage application is more than what most states require, and if that's not enough, an injured passenger may also tap into his own UIM coverage that he has under his

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own auto policy to the extent that that coverage exceeds the UIM coverages on his vehicle. In addition, an insured always has the right to buy more coverages on his or her own policy if he or she feels like extra protection is needed. The insured can choose how much coverage is available to him above any mandates that already exist. Specifically, this bill allows coverages to stack. When you have an unrelated occupant of a car, or related but not living together, you're defining a very specific group of insurance who will get special treatment. It seems strange that a passenger injured while riding with a friend would not-- would be entitled to enhanced coverage under this bill, but a passenger riding with his sister would not, for instance. Or a passenger injured while riding with his sister, with whom he lives in the same house, would not get the benefit of the stacking, but a passenger injured while riding with his sister, who moved out and got her own apartment last year, would get the increased stacking coverage. That doesn't seem to be the distinction that makes sense. It's arbitrary. And because it's arbitrary, how is an insurer adequately-- how do they-- how does an insurer adequately assess the risk? And how do they set the rate? Stacking is not necessary for insurance to have adequate coverage. It's not how our courts intended the coverage to apply, nor is it how our Unicameral deemed the best way for the coverage to apply when they set the statutory scheme all those years ago. And it's certainly not what insurers anticipate when setting rates. Nebraska auto policies generally succeed in covering most accidents and at the same time work to keep insurance policies affordable for most Nebraskans. I'd ask that you not advance LB430, and I'd be happy to answer any questions.

WILLIAMS: Thank you, Miss Nielsen. Questions? Senator Flood.

FLOOD: Ms. Nielsen, were you here for the prior testifier?

COLEEN NIELSEN: Yes.

FLOOD: What about his situation? Do you-- do you think-- I mean, what is your response to what happened to him?

COLEEN NIELSEN: Well, I-- I-- I did listen to it. I was not sure about what his limits were on his policy on his motorcycle, whether he-- what he carried in terms of coverages, whether that was minimum. It was difficult--

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FLOOD: It sounded like it was \$250,000-\$500,000-\$250,000.

COLEEN NIELSEN: I don't know. If that's correct then, that his-- his UIM should have applied to his accident. So that would be \$250,000, if that's the case. In terms of the umbrella, I'm not sure. I don't know what the contract provisions of that umbrella policy was.

FLOOD: I can certainly see where he has a point when he laid out the facts that he laid out. If you-- if you have an umbrella and you have purchased a policy for that kind of money, if that really is what's happened to him, it seems like it's an unjust result.

COLEEN NIELSEN: If the premiums for a policy are based on the provisions of the contract and if and if, and I would imagine that if he had injuries, his UIM to the tune of \$250,000, and that's what his injuries were, then that's what would have been paid. In--

FLOOD: But ultimately, regardless of what the court has said, if the Legislature decides to change it, it becomes the law of this state. It doesn't matter what the court says. Right?

COLEEN NIELSEN: If you change the law, the statute in this-- in this case, yes, that would become the law. Yes, sir.

FLOOD: Thank you.

WILLIAMS: Additional questions? Senator Slama.

Thank you, Chairman. And thank you, Miss Nielsen-- Nielsen, for being here. Just a quick question. Bringing up Senator McCollister's question, how does Nebraska's stacking policies compare with other states in the country?

COLEEN NIELSEN: There are-- I think Mr. Richardson had indicated, too, there's-- there's probably maybe half. I think what's-- there are some-- I think there's like four or five that are just-- completely prohibit antistacking laws. But most states-- or-- or some states allow for an antistacking provision, but also allow for it to be in the policy, as well. So in other words, they-- they-- they are-- they're OK with the antistacking provisions. But you can put it in your policy if you want to.

SLAMA: OK. Thank you.

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COLEEN NIELSEN: Um-hum.

WILLIAMS: Additional questions? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Chairman Williams. The situation that he described is something we need to guard against. Is there a way to put in statutory-- put into the bill that if a certain poli-- policy, either the other driver or the other car, and your policy is insufficient? I mean, I'm trying to figure out a way that a person could, in fact, cover an accident situation, like he described, with multiple policies.

COLEEN NIELSEN: Right. Well-- well, currently, the way that it works is, is that we have the liability policy for anybody that was at fault and hit a person. And then you're underinsured motorist coverage would then apply. And so-- and then, in terms of the umbrella, it's my understanding that there are umbrella policies that don't apply to uninsured, underinsured motorist coverage, but there are some that do. And so that product is available to you.

McCOLLISTER: OK. That's a good answer; thank you.

WILLIAMS: I just have an additional question--

COLEEN NIELSEN: Sure.

WILLIAMS: --for you, Miss Nielson, because I think you were describing this. I'm going to the situation with the passenger in the car.

COLEEN NIELSEN: Um-hum.

WILLIAMS: So there you have the-- the liability of the person at fault.

COLEEN NIELSEN: Um-hum.

WILLIAMS: Then you have the UMI coverage up to that limit on the car that you were in.

COLEEN NIELSEN: Correct.

WILLIAMS: Then if you, the individual, had UMI coverage in excess of the UMI coverage on the vehicle-- let's put a number on it-- you had

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\$50,000 and now the passenger had \$100,000, you would have an additional \$50,000. Am I interpreting that correctly? Help me find out--

COLEEN NIELSEN: Yes, it's-- it is-- it is-- it is applied as excess. That is correct. So that if I had a \$100,000 of-- if I was the owner of the car and I had \$100,000 of uninsured motorist coverage or underinsured motorist coverage, and my passenger had \$150,000 of motorist coverage, then that excess of \$50,000 would apply to the-- to the accident, but no more.

WILLIAMS: So the consumer that we're trying to protect has a-- has a way of adding protection--

COLEEN NIELSEN: Yes.

WILLIAMS: --with that. OK. Any additional questions?. Seeing none, thank you for your testimony. Invite the next opponent? Seeing no one coming forward, is there anyone here to testify in a neutral capacity? Seeing none, Senator Hansen? And while you are coming up, we do have a drop-off testimony, in opposition, by Jim Dobler, from the Professional Insurance Agents of Nebraska, and Korby Gilbertson, from the American Property Casualty Insurance Association. And that's it. Welcome back, Senator Hansen.

M. HANSEN: Thank you. Thank you, members of the committee. Thank you, Chairman Williams. First and foremost, I will say-- Ms. Nielsen mentioned the exception to limit members of the same household. That was something we had put in after our first hearing where that was the concern presented the first hearing, that you'd have, you know, a dad putting their 16-year-old driver on a car they don't drive in order to gain extra coverage. And so that was a shell game everybody was worried about at that time that we tried to solve with this. This was not to create a specific provision or-- or excess benefit. And personally, if that's the hang up, I'm happy to have it apply equally across the board. Fundamentally, this gets to your paying for some sort of policy that you ultimately cannot get into. And so, for example, that scenario in which, you know, you have a driver and a passenger and then you have the other driver who's at fault. So you have liability, you have the driver's uninsured motorist claims and potentially the passenger's. But again, it's capped at the maximum, whatever the highest policy is. And so if, say, for example, the

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passenger and the driver have the exact same policies, it's capped at that first one. So the driver's will apply and you'll get none of the passenger's, even if the passenger had put it on, on their own. Fundamentally, we're getting to a scenario where we're talking about people paying for types of insurance that they expect to get coverage of, and they expect to cash out if they need it; and they don't get to. And then finally, it's-- it's come up this year, and it's come here in this-- years past, it was mentioned that this might increase, you know, premiums or might increase rates. You still actually have to show damages. People still have to actually be injured in order to tap into these insurances. So if rates need to go up because of this, that proves kind of the issue right now that people are being injured and not recovering money that they would otherwise be able to, but for the stacked. With that, I would close and be happy to take any questions.

WILLIAMS: Thank you, Senator Hansen. Questions for the senator? Seeing none,--

M. HANSEN: Thank you very much.

WILLIAMS: --that will close the public hearing on LB439. Welcome, Senator Lathrop.

LATHROP: Good afternoon.

WILLIAMS: We will now open the public hearing on LB530.

LATHROP: LB530, OK. Good afternoon, Mr. Chair and members of the Banking and Insurance Committee. My name is Steve Lathrop, L-a-t-h-r-o-p. I represent District 12, which includes Ralston and parts of southwest Omaha. I'm here to open on LB530. LB530 is a bill that is offered in response to a decision from the Nebraska Supreme Court called Shelter Insurance Company v. Gomez. And the best way to describe my bill is to tell you what happened in that case. Shelter Insurance v. Gomez involved an individual that was riding his bicycle and was struck by a semitractor trailer. The owner of that semitractor-- and killed. The owner of that semitractor had purchased a policy from Shelter, a commercial policy, and it complied with the state minimum requirements. So in Nebraska, we passed a law to adopt the federal highway statutory minimums for coverage. So you want to drive a big semi tractor, you're going to have to have \$750,000 or \$1 million, depending on the-- on the vehicle. You're going to have to

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have a certain amount of coverage. And that applies whether you're interstate commerce, which the federal statute controls, or intrastate commerce because of our state law. While the individual that was struck and killed, in Gomez, was riding his bicycle when he was killed, that person that was driving the semitractor had \$100,000 in coverage. And this is how they did it. When he bought the policy, he bought a million dollars worth of coverage, which complied with the state law requiring that you carry that much coverage if you got-- a if you're going to drive a semitractor in this state, whether in interstate commerce or just within the state. After the person bought the policy, he then calls the Shelter agent and says: You know what? I'm not going to drive the truck today, lower it down to a hundred. And then if he wanted to drive it, he said: You know what? I think I'll drive the truck, make a little money, raise it up to a million. And he was making his policy limits go up and down and up and down. And at the time this person was killed, he had \$100,000 in coverage. He was out of compliance with state law on the mandatory minimum. The claim was brought against Shelter, and the Supreme Court basically said it's not the insurance company's responsibility to ensure that the policy that's issued complies with state law. That's completely different than what happens with your auto coverage or my auto coverage. Your agent can't write you a policy for less than \$25,000. This bill would require that insurance agents determine that the person-- the policy they're selling will keep the person in compliance with state minimum limits for big trucks. It is necessary. We cannot have large semitractor-- semi-- semis driving around the state with whatever limits they choose to-- to purchase, nor should we have agents selling policies to operators of semis that are not in compliance with state law. With that, I would be happy to answer any questions you might have.

WILLIAMS: Thank you, Senator Lathrop. Questions? Senator McCollister.

McCOLLISTER: Yeah. Senator Lathrop, thank you for being here. The minimum coverage for a Class A truck is a million dollars? Thank you.

LATHROP: Right.

WILLIAMS: Senator Lathrop-- and-- and maybe if you-- if you can't, somebody coming behind you can. Are there situations where the same vehicle would have different required coverages because of what they

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are doing with that vehicle? If that vehicle were doing farm work, if they were doing commercial work, if-- is there a difference like that?

LATHROP: So 75-363 contains a list of federal regulations adopted by Neb-- in Nebraska law. One of those included 49 CFR 387. It depends on what-- I think it's the gross weight, actually, of the vehicle and maybe how many axles it has. I couldn't honestly tell you, other than we've adopted it, and it would then define what your limits have to be, at a minimum.

WILLIAMS: OK. Thank you. Any additional questions, Senator McCollister.

McCOLLISTER: Yeah. Thank you, Chairman Williams. So the coverage is anywhere, based on what you're using the truck for, from \$100,000 up to \$1 million?

LATHROP: There's-- \$750,000 is the least amount in the federal-- Code of Federal Regulations I cited. I think it goes up to \$1 million, so it's somewhere between \$750,000 and \$1 million. And now if you have a whole fleet of them, you probably have higher responsibilities. But the point is they shouldn't be issuing policies for less than the mandated statutory limit for semis.

McCOLLISTER: On what basis would the insurance company lower that-- that amount to \$100,000?

LATHROP: I don't think it-- Senator McCollister, it's-- to me, it is ridiculous that someone would write or allow somebody to lower their limits on a commercial policy, insuring a semi, to \$100,000. They don't get in \$100,000 accidents, they get in million dollar accidents because they do a lot of damage when they run into things.

WILLIAMS: Additional questions? Seeing none, thank you.

LATHROP: Thank you.

WILLIAMS: We would invite the first proponent for LB530. Welcome back, Mr. Richardson.

MARK RICHARDSON: Good afternoon again. Thank you for your time again. My name is Mark Richardson, R-i-c-h-a-r-d-s-o-n. I am once again here on behalf of the Nebraska Association of Trial Attorneys, in support

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of LB530. I can-- I think I'm here to just answer some of the practical or provide some more of the practical context here. The question-- one of the questions that I heard asked was: Are there different levels of coverage that are required? And the answer is yes, there are. There are some weight limit requirements, but those actually aren't the big drawing points. What you're pulling, if you're transporting hazardous substances, for example, I think there's a-- in the federal regulations, it's a \$5 million limit. So it is tied to what you are actually hauling. But the absolute minimum for any motor vehicle-- motor vehicle-- motor carrier in Nebraska is \$750,000. It never drops below that. There was a question about, OK, well, why would an insurance company drop below that? If you read the facts of this case, I understand the explanation was, you know, he was saying it was in season, it was out of season. If I'm reading the way he did his insurance coverages and the timing of it, I mean, you have to have proof. There are certain times, as a-- as a-- as an operator of a over-the-road truck, you have to have proof of your insurance. You have to prove to the Department of Insurance that you have the necessary coverage. And all of a sudden, for weeks at a time, he would all of a sudden jump up to the \$750,000 level. And to me, he was-- he was-- I don't have any specific knowledge of this, but that sure smacks of somebody that was trying to prove that he had the \$750,000 when he needed to prove it and then dropped back down to \$100,000 when he didn't need to have that, so that he could save those costs. That should-- I think that should have been apparent to the insurance company what was happening. But in theory, there are some situations where you could say: Well, wait a second, maybe this person has more than just the coverage with my insurance company. Maybe this person has insurance coverage through multiple levels of insurance companies. In fact, that's what the court in Gomez-- in Shelter v. Gomez had said, is, there are-- there are other ways that you could satisfy the \$750,000 minimum limit, other than just one policy with one insurance company. From a practical aspect, I've been doing claims-- personal injury and, specifically, over-the-road trucking, commercial trucking, personal injury cases, and wrongful death cases-- for over a decade now, I have never once seen a trucking company that has gone to two separate insurance companies and said: I want \$400,000 of coverage over here and I want \$350,000 of coverage over here. Now-- now we have it, now we've met it because it's just not financially feasible to do-- financially practical to do that. You're going to end up paying more than you would if you just got \$750,000 through-- through one

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company. That said, the way the statute-- the way this bill is written, it addresses that. If an insurance-- if a-- if a commercial driver, a commercial trucking company can come into the insurance company and prove that they have other coverage out there, the-- the-- then combined with what they're buying in addition to that from a particular insurance company, then they're fine to write that policy. But this just guarantees that the-- that the person on the receiving end of being hit by a commercial trucker isn't the one that has to bring or bear the burden of the malfeasance of the-- the trucking, the truck driving company to not get adequate limits. There is one situation that I can think of, that I actually have seen sources come from insurance or coverage come from two different sources, and that would be in a self-insured retention policy. So somebody could come in and say: Well, what about self-insured retention? Self-insured retention policies were the-- were the-- this would be a motor carrier that's a huge fleet, and they have the capability to pay things out of their own pocket up to a certain level, and then their insurance coverage kicks in. That is written into those policies. So there's no-- there's no surprise there. It's written in there. That one's-- that one's taken care of by the statutes themselves. From my perspective, this-- this bill just makes all the sense in the world. I think Senator Lathrop did a better job than I-- I mean, probably I could have, explaining that, you know, this is something that we don't allow us to do, as private indi-- as private citizens, with our own personal vehicles. If we go to a State Farm or a Nationwide or whomever it may be, and we say: You know, and I know the-- I know the state limit's 2-- \$2,500 or \$25,000, but I only want to do \$10,000, an insurance company is not going to write that in the state of Nebraska. This makes this consistent when it applies to much more dangerous vehicles in the state of Nebraska. And for those reasons, I would encourage you to forward this bill out of committee. Happy to take any questions.

WILLIAMS: Questions for Mr. Richardson? I have one. Is there-- is there anything in this legislation that would prevent someone-- let's say they have the coverage and they have the minimum coverage, and they decide they're going to go on a two-month vacation south in the wintertime and not drive their truck. Can they take the coverage off their truck and then add it back on?

MARK RICHARDSON: Well, I guess that-- that-- to me, that question is: What's the status of their company during the time?

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WILLIAMS: If they park their truck and their shop and take the keys out of it, is what I'm talking about.

MARK RICHARDSON: That's a good question,

WILLIAMS: I'll ask it of the insurance people.

MARK RICHARDSON: Yeah. That is a good question. I don't-- I can't tell you definitively. First of all, I can certainly find out the answer to that to you, and make sure that that gets to you. In my mind, in my head, I don't-- I can't think of anything that would stop them from doing that short of, are they actually giving up their-- their licensure for their-- for their motor vehicle. If you have the licensure for the motor vehicle and you're not giving that up, then you're probably needing to keep coverage on it during that time. That's off the top of my head. But I can certainly find that answer out for you, Senator.

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

MARK RICHARDSON: Thank you.

WILLIAMS: Any additional proponents? Seeing none, is there anyone here to testify in opposition? Good afternoon.

CRAIG POSSON: Good afternoon, Senator Williams and the committee. My name is Craig Posson, C-r-a-i-g P-o-s-s-o-n. I'm the general counsel for Great West Casualty Company. We insure over-the-road trucks in the lower 48 states, and that's basically all we do besides Work Comp and other related coverages like cargo. So we basically insure the trucking industry. We've been a Nebraska-domiciled property casualty insurer since 1956. Our corporate headquarters are located in South Sioux City, Nebraska. We employ approximately 575 people in that office. We employ additional 350 people in regional offices throughout the company. Last year we wrote approximately \$1.13 billion in direct written premium-- in 2019, I guess, instead of last year-- 2019-- exclusively for for-hire, long-haul markets. The Nebraska direct-written premium for 2019 was \$58 million. I'm here on behalf-- let me back up. I'm here on behalf of Great West Casualty Company, the Nebraska Insurance Federation, and the Nebraska Insurance Information Service. We oppose this legislation in LB530. And in support of our

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position, we note that the Code of Federal-- Federal-- excuse me-- Federal Regulations sets forth and regulates the trucking industry, and has for many years, with the exception of some purely intrastate movements. And Nebraska has the statute that the senator, previous senator, quoted that requires the same limits in Nebraska. Trucking companies with one unit-- one power unit-- or thousands of power units are required to, but-- are required to comply with many of these rules and regulations related to the trucking industry. They prescribe hours of service. They prescribe logging information, filing reports for taxes. They're also requiring the limits for what you're hauling. So essentially, with regard to Senator McCollister's or the other senator's question, the limit depends on what you're hauling. And so if you're hauling hazardous waste, as defined by the Code of Federal Regulations, it's \$5 million. Gas haulers, I believe, are \$2 million, regular commodities are \$1 million, and you can go as low as \$750,000. Great West primarily writes \$1 million policies. We have written some others higher, but in-- but that's been in the past. So the reason why we're testifying in opposition is, LB530 would transfer the burden of compliance to the insurance company. So instead of the insurance company being responsible for making sure they have the right limit or the right hours of service or the right logging information, it's going to require the insurance carrier to understand what limits of insurance that they have. Now it-- it may sound easy, but-- but here's the situation. I'll give you an example of a situation. So you have a Nebraska farmer that has a farming operation. They-- they employ or they insure their farming operation, including some of their tractors and trailers, through a farming policy. We might write a policy that takes care of them when they-- when they-- when they haul commodities in interstate commerce. So for instance, if it's unrelated to their farming operations to and from the field, to and from the elevator, we might insure them if they go and haul grain to-- across the state line into Kansas or across the state line to Iowa, or even haul feed to Texas or whatever the story is. So they're competing policies. And what for-- for Great West Casualty to comply, to make sure that they're actually hauling the-- that have the right limit, we would need to examine their operation, the other policies, if they would provide them to us, and any other policies that could apply in certain situations. And for us to do that, it would take more time and increase the cost of insurance to Nebraska residents. The other part of that is it's not-- OK, so determining the limit is not quite as easy as it sounds either. So I'll give an example. We were involved in

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a situation where a motor carrier had a \$1 million limit. They told the insurance company they were hauling 100 percent frack water, salt water from the oil fields. They hauled what they call drip gas to a facility in Montana. And it was actually a flash point of 50 degrees-- the real question is whether or not it was hazardous waste or not-- moved in the facility and spilled. It got ignited by a space heater, blew up the facility. They ultimately got charged with insurance fraud. But there was a question as to what limit they needed to provide, the \$5 million for the hazardous waste or regular limits. So it's not as easy as it sounds just to just apply the correct limit. The second part of that, as it says that-- the bill says that we need to provide an increased limit upon request. We generally write \$1 million policies. We wouldn't necessarily write an extra million or even an extra \$500,000 on certain policies. And this bill would require us to do so. I'd be more than happy to answer any questions you have.

WILLIAMS: Questions? Senator McCollister.

McCOLLISTER: Thank you, Chairman Williams. In the situation that Senator Lathrop described, where the client was allowed to drop their coverage down to \$100,000, wouldn't that be something way beyond what an insurance company should be allowed to do?

CRAIG POSSON: It should and-- and to be honest with you, I've been in the trucking industry now for-- I've worked for Great West Casualty for 19 years. We've seen, and we've litigated against other insurance companies to determine which one's primary. I've never heard of another trucking company insurer reducing limits, as happened in this particular case. So Century, in my opinion, was probably a bad actor. However, I think the testimony earlier, the insurance agent is probably the one to be in the best position. So he called the insurance agent in that particular case and raised and lowered the limits with the insurance agent. We-- we write insurance through independent agents, so we would not be in a position to ask them the question or even know if they were raising and lowering the limits unless it came through the insurance agent.

McCOLLISTER: But the insurance company establishes the premium rate, correct?

CRAIG POSSON: Correct.

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McCOLLISTER: So when somebody reduces their coverage down to \$100,000 from a \$1 million or \$750,000, would there be a sizable decrease in the premium?

CRAIG POSSON: There could be. We don't do that. The way we handle-- Senator Williams' example-- the way we handle that is, we spare rate. So it keeps the limit, but it reduces the premium if they go on vacation. So if Nebraska farmer decides he wants to go to Arizona for the wintertime during this period at 25 degrees below zero, we would-- we would allow them to spare rate the unit, which would keep the appropriate liability limits on it, but it'd reduce the premium because it was-- the exposure is lessened.

McCOLLISTER: But if they decide-- it warms up in Nebraska and they come back before they've increased the coverage and they have an accident, what would occur?

CRAIG POSSON: We would still pay. And that has happened. We would still pay the appropriate limit. They would-- we just would be out the premium. Sometimes we would try to go back and collect the premium if we knew that they're running. But if it wasn't a material amount that they were running, we wouldn't increase the premium.

McCOLLISTER: Thank you.

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

CRAIG POSSON: Thank you.

WILLIAMS: Additional opponents? Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Lathrop, you're welcome to come up. And while you're coming up, we have one opponent drop-off testimony from Korby Gilbertson, from American Property Casualty Insurance. And we have letters for the record: a neutral from Dan Watermeier, at the Nebraska Public Service Commission. Senator Lathrop.

LATHROP: You know, I'm a little surprised that Great West Casualty would come up here if they only issued million dollar policies. I get they don't like the last paragraph that would require that they issue a policy for more. That's-- that's sort of a throwaway. But they know, those guys know. Insurance companies know that no one with one of

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these trucks ought to be below \$750,000 or \$1 million. Right? They are concerned about having to take some time to figure out whether the person's insured. Everybody else is on the road with these trucks. Right? So we're talking about, are you going to take care of and require that somebody make sure that, when they issue a policy, it comports with state law. Right? That-- it's already the law that this is what should be in the policy. But there's a lot of people that don't have a say in the policy that gets purchased, and they're the people who get run into by these big trucks. They are semis, running up and down the road, and they ought to have adequate coverage in case they hit somebody. I'm happy to work with you on this one; I really am. We'll figure out who ought to be responsible, but making the guy who owns the truck responsible isn't enough. Somebody in the-- somebody in the industry needs to be responsible for ensuring that the policy that issues is enough to comply with state law. And by the way, the same group of people who were on the list of opponents are the same ones that won't write a policy in Nebraska for less than \$25,000, 'cause they know that that's what the law requires. And this is consequential because these are-- these are big trucks, and when they hit stuff, it causes a lot of damage, kills a lot of people; and there ought to be adequate coverage. With that, I'll close and answer any questions.

WILLIAMS: Thank you, Senator Lathrop. Any final questions for the senator? Seeing none, thank you. And that will close the public hearing on LB530. And we will go ahead and open the public hearing on LB612. Senator Lathrop.

LATHROP: Good afternoon once again, Chair Williams and members of the Banking and Insurance Committee. My name is Steve Lathrop, L-a-t-h-r-o-p. I'm the state senator from District 12. Today I'm here to introduce LB612. It is a simple bill. It's simple in that it is easy to understand. It's pretty straightforward. It simply raises a policy-- the mandatory minimum policy limits from \$25,000, \$50,000 up to \$50,000, \$100,000. It gets introduced every session. Senator McCollister carried it, I think Senator Hansen carried it. And in-- and in some ways, the bills that get brought every time are kind of a punch line. Like we see this one every time. We'll look forward to seeing you in the committee. And then it gets easy to dismiss what the policy considerations are for the bill. And today I'm introducing this, and I'm insistent on introducing it myself, because I'm serious about it. I'm serious about it because the history of this bill is, it

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gets introduced and it goes nowhere; and it's consequential. I looked back to see when we set the policy limits at \$25,000, \$50,000. I could-- I could go back to 1984, and see-- I'm not even sure. I started practicing law 40 years ago, and my recollection is it was \$25,000, \$50,000 back then. But if it was changed in the first few years I was practicing law, it would be the early '80s. So for 40 years, we've had the same policy limits: \$25,000, \$50,000. And I want to talk to you today about why that doesn't work anymore, because at some point you have to agree with me that \$25,000, \$50,000 is inadequate. Right? Is it today or are you going to wait another 10 years? And I'm not saying personally, this isn't me making some kind of indictment of this committee, but-- but it's-- it's important and it's consequential. So liability claims, for those of you that aren't familiar with the liability claims, they're driven-- and one of the biggest components of liability claims is the medical expenses. We're talking about people that get in an automobile accident. And like this gentleman that you heard from earlier today, you may have lost a leg. You may have shoulder surgery, you may have back surgery, but it's the medical expenses that are driving the cost of liability claims. And those-- those-- those bills, since you set the limit at \$25,000, \$50,000, have gone up like 400 percent-- 400 percent. And by the way, at the same time as this was set at \$25,000, \$50,000, the med-mal cap was at \$500,000. The med-mal cap has been raised like four or five times. It's up to \$2.-- \$2.25 million. All right? From \$500,000-- \$500,000 up to \$2.25 million, recognizing that liability claims are driven by the medical expenses. So what's the problem and who's getting the short end of the stick on-- on this \$25,000, \$50,000? The injured person and the insured. And let me explain how that works. For the insured. I go out and I buy a policy. Maybe I'm watching TV and I see the Liberty Mutual thing come on or the progressive thing come on. And they say: Only buy what you need, Lathrop. You can get a hold of us online and purchase your policy. And I'm thinking, all I really want to do is get down to the DMV and get my car registered. And I don't want to spend any money, and \$25,000-- \$25,000 in coverage sounds like a hell of a lot of money to me. So I buy a \$25,000, \$50,000 policy, the statutory minimum, and I can now register my car. Except that what that person doesn't know who's buying this from TV and off the Internet is that \$25,000 doesn't cover most accidents. Right? Because of course, medical expenses are going up, damages are going up, and \$25,000 is well below the average claim. So I bought the policy, thinking I was covered. No one's taking my house. Right? No

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one's taking my stuff, and no one's going to sue me. The reality is, the average claim is going to be worth more than \$25,000, and you now, the insured, are exposed to what we call an excess liability claim. Liberty Mutual, our friends at these different insurance companies that you'll hear from in a moment, they only pay up to the \$25,000. They go, here's the \$25,000; the rest you can get out of my insured. Right? So low limits affect the insured. And for the injured person, the consumer, these are people that you represent and I represent. For the injured person, if I have a \$25,000-- if the guy that hits me-- say he's a drunk driver-- and he hits me, and he's rolling with a minimum limits policy, and I get in an accident and, like the fellow you heard today, I lose my leg. All I can get out of the guy who hit me is \$25,000. Right? But here's the other thing that's in play in most of these claims, and that's my health insurance. And you hear from those guys all the time and they are permitted, particularly with ERISA-controlled plans, to have subrogation claims. Right? And so how that works is, Blue Cross Blue Shield and a-- and an employer-sponsored plan has a right to be reimbursed from the liability carrier. Right? So I get in a car accident, say my bills are \$50,000. The guy who hit me has a \$25,000 policy. Blue Cross Blue Shield gets to get in line ahead of me. They get to be reimbursed before me, the injured person, gets a dime. So when you have low-- low liability limits, Blue Cross Blue Shield or UnitedHealthcare-- any one of those, Aetna-- any one of those liab-- health insurance carriers, they get reimbursed before the guy that got hurt. So I could literally find myself having all of that little \$25,000 policy limit go to Blue Cross Blue Shield, and I still have to pay my deductible, copay, and any amounts not covered by my Blue Cross Blue Shield policy. So low limits affect not only the insured, exposes them to an excess liability judgment, but it-- but it's bad for the person who gets hurt, as well. And so why do we keep doing this? Why do we keep doing this? At what point, colleagues, has it been long enough? Med-mal limits have gone up from \$500,000 to \$2.25 million, and you-- not you-- this-- this Legislature has left policy limits at \$25,000. What's the explanation? Because it's not adequate; it's not adequate. It doesn't cover the average claim. When I first start practicing law, somebody involved in an accident-- say they have just the standard ordinary cervical strain. They go to the emergency room, they see their family doctor, they do the physical therapy. And the claims result, they-- they maybe have, maybe \$2,000 in bills and the claim is resolved for-- for \$6,000. Now that person-- same injury, same

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accident-- goes into the E.R., they're probably going to do some CT scans, the bill's going to be a lot higher, and the claim is-- is greater than \$25,000. It's time for us to take this bill serious. It's time to take this bill serious, and advance it, and increase the limits, and recognize that-- that our first responsibility isn't to this industry that's here frequently, but to the people that are paying premiums and the people who are getting hurt on our roads. With that, I'll answer any questions.

WILLIAMS: Thank you, Senator Lathrop. Questions for the senator? Senator, have you done any analysis on what other states around us are charging for these limits?

LATHROP: I don't know what they're charging, but I know that--

Or excuse me. I mean, what's their--

--that the limits--

--minimum level of coverage?

--the limits aren't unlike ours at this time.

WILLIAMS: OK. Any additional questions? Thank you.

LATHROP: Thank you.

WILLIAMS: Will you be staying?

LATHROP: I will.

WILLIAMS: Thank you. We'd invite the first proponent. Welcome back, Mr. Richardson.

MARK RICHARDSON: It's good to be back. I promise this will be the last time you see me today. Again, my name is Mark Richardson, R-i-c-h-a-r-d-s-o-n. I'm here on behalf of the Nebraska Association of Trial Attorneys, in support of LB612. It's an unusual position for me to be in when I have an introducing senator who knows more about this kind of stuff than probably I do. Normally, I could be the person that answers all the more technical stuff, but Senator Lathrop did a phenomenal job of that. So let me just add a couple of things here. The last question, Senator Williams, that you had asked Senator

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Lathrop was about what other states do. I have taken a look at this in the last 12 months. Senator Lathrop is right. We are not outside the norm. In fact, there are a couple of states that are actually lower than us. You can find states where \$15,000 is the minimum. You can find a couple of states that are more than us. I know. I've seen \$35,000, \$40,000. I thought I'd saw-- seen a \$50,000, but, to be honest, it's been a couple months since I looked at that, so I don't want to hold myself to that. But the trouble, I think, we're getting into when we start looking and saying, OK, what is what are all the other states doing, is, we're using other states as a nonsensical reason to not take action instead of doing what we know to be the logical solution here, which is Senator Lathrop is right. Since 1983, medical care costs in the United States have gone up 468 percent, according to the Center for Medicare and Medicaid Services in a 2020 report that it issued. We know, logically, this has been happening. We know that these-- these claims keep going up. The value of the health-- health services keep going up, and yet the insurance coverage is exactly the same. I can tell you, from a practical standpoint, I encounter this issue multiple times every year for clients. And I'm sure a jaded person might come in here and say: Well, wait a second, that plaintiff's personal injury attorney is up here testifying, telling me to-- that we need to raise those limits because he has a financial stake in that, as well. I can tell you, in a lot of ways you would be making plaintiffs' personal injury-- plaintiff's' personal injury attorneys work harder because, in these \$25,000 minimum limit cases, a plaintiff's personal injury attorney shows up, and the adjuster or the insurance company comes in and says: We don't want to fight this. We're just going to pitch the limits and be done with it. And the-- and the plaintiff's personal injury attorney has done his or her job, collects those limits, and resolves the case. By increasing these limits, you're going to work for that. You're going to make sure that you're proving up those damages more often than not. So this is a situation that comes up frequently for us. We-- you know, every time we see a Geico or a Progressive or what sometimes gets referred to as cut-rate insurance, you know, we just start shaking our heads and start having to explain to our clients, you know, unfortunately, there's just not going to be enough here to take care of you. We've been talking a lot about medical bills here, and medical bills are only part of it. We also have huge lost-income claims. And when you have medical bills that have keep going like this and keep going like this, there's nothing left over then, at the end of the day, for-- for

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the lost-income portion of the claim, which has every bit as big of effect as those medical bills that they have to pay because now they've lost their ability to-- to make their wage, to earn their money. The-- the costs associated with an average personal injury case, I mean, ten years ago, it was probably time to-- to move these numbers up, move these limits up. There's no question that it's time today. You know, I've been up here testifying on antistacking. I'm now up here testifying on-- on the minimum limits. And it's all part of the same continuum. It's all part of making sure that our constituents, that our-- that the Nebraska citizens have the appropriate levels of insurance to make sure that they are doing what you're supposed to do with your insurance, which is be a responsible Nebraska citizen, and make sure that, if you make a mistake, you have means in place of taking care of yourself and taking care of those that you might injure. This is-- this is one of those ways that we do that with these minimum limits. And it just-- again, there's 100 different reasons why it's time to move these up. And I would encourage you to advance this bill out of committee. And I'm happy to take any questions you might have.

WILLIAMS: A question for Mr. Richardson. Do you have any statistics or anything with your practice that you could share with us about what you see as the average kind of claims, size of claims?

MARK RICHARDSON: I don't have statistics. I could tell you anecdotally. I would guess our-- our firm, there's two and a half attorneys, basically, that do full-time personal injury work, plaintiffs' personal injury work. We probably resolve somewhere-- I'm going to guess-- between 30 and 40 cases a year. Maybe one a year is under minimum limits, maybe one a year is under \$25,000. That would be my best-- my best guess, and I think that's pretty accurate.

WILLIAMS: OK. Thank you. Additional questions? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Chairman Williams. To follow up on Chairman Williams' question, in that case where the coverage was insufficient, how insufficient was the coverage?

MARK RICHARDSON: In the case where it's insufficient? I'm sorry, I took the question to be how many cases have you had, where it was sufficient, where \$25,000 was enough coverage.

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McCOLLISTER: It wasn't.

MARK RICHARDSON: Yeah. I mean, we-- out of-- 1 out of-- 1 out of 30 cases, probably \$25,000 is enough coverage for what we do now. I'll admit we-- we're pretty selective in the cases we take. We-- we focus on the bigger claims. But yeah, 1 out of 30.

McCOLLISTER: So-- so if I hear you correctly, only 1 out of all of those cases, the coverage was sufficient? Is that what you said?

MARK RICHARDSON: I-- I said-- believe my testimony is 1 out of 30 cases has-- has total damages of less than \$25,000. One out of 30 cases that we-- that we handle have damages where the minimum limits would actually be enough to pay the claim.

McCOLLISTER: So the vast majority of those cases exceeds that minimum coverage

MARK RICHARDSON: By a fact-- by some factors.

McCOLLISTER: OK. Thank you.

WILLIAMS: Additional questions? Seeing none, thank you, Mr. Richardson.

MARK RICHARDSON: Thank you, Senators.

WILLIAMS: Additional proponents? Good afternoon.

PEGGY McDONALD: Good afternoon. Thank you, Chairman, committee members. Thank you, Senator Lathrop, for bringing this very important legislation bill up. My name's Peggy McDonald, P-e-g-g-y M-c-D-o-n-a-l-d, and I'm here to speak in favor of LB612, representing the Independent Insurance Agents of Nebraska. And I serve as the president for the 2021 year. Independent Insurance Agents of Nebraska represent 525 agencies. That's 2,200 insurance agents and professionals across the state of Nebraska. We are an independent agency, which means we represent more than one company. I have 39 years of experience. LB612 is proposing that we double our minimum, our state's minimum limits of liability to \$50,000 per person, \$100,000 per occurrence for bodily injury, and \$50,000 of property damage. And actually, the last time that the state of Nebraska increased their limits of liability to \$25,000, \$50,000, \$25,000 was

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in 1988, which was 32 years ago. That's when the cost of milk was 90 cents a gallon, average price of a vehicle was like \$13,700, and medical bills were relatively inexpensive. That's when my youngest daughter was born, so I know that firsthand. Fast forward 32 years, average gallon of milk is \$3.09, an average price of a vehicle now, according to Kelley Blue Book, is \$37,800. And we all know what healthcare costs have done; they've skyrocketed. Everybody's-- maybe our proponents-- or our opponents would say: Well, what's the cost to increase these limits of liability? And that's probably one of your questions. For me, living in southwest Nebraska-- good credit, good rating-- my cost to double limits of liability would be \$12 more, per year per vehicle. If I lived in Omaha and I had low-to-no credit, but I had a good, clean driving record, it'd be \$70 dollars a year, a little more because you have more population. If I had a couple of violations and an at-fault accident, the cost would be \$130 a year, which breaks down to about \$11 more a month per vehicle. Some of our-- if we did increase these limits of liability, some objections might be, well, if you increase that, nobody's going to be able to afford that, and they'll-- they'll not carry insurance; they'll quit. The state of Maine has some of the highest limits of liability-- minimum limits of liability. Yet they have the lowest number of uninsured motorists at 4.5 percent. Florida, on the other hand, has the minimum limits-- the lowest minimums of any state, and yet they have 27 percent uninsured motorists. Nebraska has 6.8 percent uninsured motorists, which equates to about 97,000 drivers. Nothing brings this home like a real life example. And this is personal to me. My niece, three years ago, who was involved in a serious bodily injury claim. A drunk driver hit her and her childhood friend. They were driving home after supper. He was in a brand new Dodge Ram pickup, bulldozes into the back of them, puts them up over the curb into oncoming traffic, and hits a tree. Sorry. What happened is the niece-- Lindsey [PHONETIC] is her name-- she lost three months, basically; she couldn't talk. She had to be in a dark room-- terrible migraine headaches. Her friend-- and she was lucky because her friend Carrie [PHONETIC], who was an ICU nurse at the Med Center, she was placed in a coma, medically-induced coma, for six months-- or six weeks-- and then had intensive inpatient rehab for six months, and then transferred to a long-term facility for traumatic brain injury. Three years later, these girls both have severe migraines. Carrie [PHONETIC], she can't walk properly. She has to-- she's still in physical therapy to correct the gait on her walk. Bless the U--

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Methodist-- or the Med Center, because they thought so much of her, they created a position for her to work at a job-- office job-- so she can continue to get her health benefits. The drunk driver in a shiny black new Dodge Ram pickup, he runs away to-- he doesn't run and check on the girls, he runs to a local bar and hides out. He ends up having four years in prison. But guess what his minimum limits, what-- what he had for liability limits were the minimum limits of liability, which hardly covers this. Bottom line is, there's no way the innocent party should have the financial hardship of paying their own bodily injury and property damage. By increasing our state's minimum liability limits, it helps shift the cost of the medical bills and property damage expenses back to the at-fault party, where it belongs. You know, it's been 32 years. I would hope you don't wait any longer to make this simple increase at a minimal charge for Nebraska motorists. And so I appreciate you doing the right thing. I would entertain any questions that you might have.

WILLIAMS: Thank you, Ms. McDonald. Questions? Seeing none, thank you for your testimony.

PEGGY McDONALD: Thank you.

WILLIAMS: Additional proponents? Seeing none, is there anyone here to testify in opposition? Welcome back, Ms. Nielsen.

COLEEN NIELSEN: Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Colleen Nielsen; that's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for the Nebraska Insurance Information Service, testifying in opposition to LB612. I'm also testifying on behalf of the Nebraska Insurance Federation and the Nebraska-- or the National Association of Mutual Insurance Companies. LB612 seeks to increase the financial responsibility limits from \$25,000 per person to \$50,000 per person to-- \$50,000 per person and \$100,000 per accident. Our concern with this bill is that an increase in limits will affect the affordability of this insurance and consequently increase the number of uninsured motorists in Nebraska. Currently Nebraska has the low percentage of uninsured motorists at 6.8 percent, which is the sixth lowest in the nation. Just a brief explanation of how our mandated coverage works. As you know, liability coverage is the part of your auto insurance that pays for the injuries and damage to other people. So if you run a red light and hit Mr. Jones's car and he's injured, Mr. Jones injuries

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will be paid by your liability coverage. But under current Nebraska law, you also have a minimum of \$25,000 in liability coverage, but you also have a minimum of \$25,000 in your uninsured motorist coverage. So that-- that-- this coverage applies on top of the liability, as an additional source of recovery for the injured person. So in addition to the liability coverage that you'll get-- he'll get from your policy, Mr. Jones will have at least another \$25,000 available to him under his own policy, for a total of \$50,000 to pay for his injuries, and that is if the driver only carries a bare minimum. This is a fairly comprehensive coverage structure that already exceeds the coverage available in most states. There are only two other states that have \$50,000, \$100,000-- \$100,000 limits. The majority of the states have limits like Nebraska, at \$25,000, \$50,000, including our neighboring states of South Dakota, Kansas, Missouri, Iowa, and Wyoming. There are 44 states that have required bodily injury liability-- liability limits of \$25,000, \$50,000 or less. I think that they-- I think it was mentioned that there are less-- there are some states that carry \$15,000-- \$15,000, \$30,000 limits, and one of them is California. So it puts Nebraska up there as a state that you already have more access to coverage than anywhere else. If this bill were to pass, the total amount of insurance money available to an injured person would be a minimum-- minimum of \$50,000 in liability coverage, plus a minimum of \$50,000 in underinsured motorist coverage, for a total of \$100,000. In a-- in addition to increasing the required minimum limits for bodily injury, this bill would double the amount of property damage liability coverage from \$25,000 to \$50,000. If you compare all 50 states that have minimum property damage cover-- coverage limits of \$25,000 less, not one state is more than \$25,000. The current minimum limits are sufficient to cover the majority of claims. Proponents argue that the limits haven't been raised for years and the medical costs have risen dramatically. But overall, claim value hasn't risen as-- at the same pace because cars are safer and making more serious injuries less common. So I have this data from Farmers Mutual Insurance Company. The general counsel, Ann Par, shared this with me. This was testified-- I think she testified to this a year ago, so I don't know how dated it is. But what she testified was that the average bodily injury claim for Farmers Mutual-- Mutual over the past 9 years is \$22,483, with the median a little over \$5,000. And the average property damage claim over the last 9 years is \$3,019, with a median of \$1,826. So this is currently well below current minimum limits. We want to be able to continue to offer a product to

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the public that provides adequate protection for most claims, especially if that consumer can't afford more. The higher price of higher coverage limits could mean the difference for some people between having that coverage and dropping it. It's often low-income households or high-risk drivers who are most likely to buy minimum amounts of auto insurance. They may not be able to afford higher limits and, also, they may not have significant assets that need to be protected by higher limits of liability coverage. Higher auto insurance costs will only lead to more low-income houses and high-risk drivers going without any coverage at all. It's our position that it's better public policy to have greater participation in the auto liability insurance market, at a lower price, than to have less participation in this market, with a higher cost for insurance. And so we ask that this committee not advance LB612. And I'd be happy to answer any questions.

WILLIAMS: Thank you, Miss Nielsen. Questions? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Chairman Williams. Mr Richardson stated that a great many, in fact the majority of the cases he's seen, the limits are insufficient to cover some of those claims, including lost income, medical bills. What would you-- what's your reaction to that?

COLEEN NIELSEN: Well, I---- you know, I would-- I would only be able to-- to-- to speculate. But I-- I understand that there are very serious accidents out there. And clearly, they-- they testified that they're-- that they're not always covered. But I will tell you that, by increasing-- by mandating higher limits, it's not going to change the behavior of people out there, and that you're better off by obtaining coverage for yourself and try to protect yourself because-- and because people that can't afford it are going to drop that coverage, and we're going to end up with higher uninsured motorists in our state.

McCOLLISTER: What is the current rate of folks that don't carry any insure-- the uninsured motorists?

COLEEN NIELSEN: The 6.8 percent, and that's really low. That's-- we're sixth lowest in the nation.

McCOLLISTER: And you contend that, if we raise that-- those limits, we're going to have a higher rate?

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COLEEN NIELSEN: I think that affordability is-- is clearly an issue. And as I was doing research for this testimony, I noted that in California they only require \$15,000, \$30,000 limits, and-- and yet the government has instituted a program there where you can buy-- for people who can't afford even those limits, can buy less limits at \$10,000, \$20,000. And so-- so clearly they've-- California's found affordability to be a problem.

McCOLLISTER: Thank you.

WILLIAMS: Additional questions? Seeing none, thank you for your testimony. Additional opponents? Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Lathrop? And while you are coming up, we have one drop-off testimony in opposition, Korby Gilbertson, from the American Property Casualty Insurance Company, and no letters. Welcome back, Senator Lathrop.

LATHROP: Thank you. The opposition says the same thing every time this bill comes up. It's been 38 years since it's been changed. And one of the arguments is, well, the average claim is \$22,000. So don't raise it up to \$50,000, because the average claim is \$22,000. Well, that just means they sell a bunch of coverage no one's ever going to make a claim against. Right? That argument doesn't make sense because the only reason they're concerned about it is they might have to pay more if the premiums were higher or if the limits were higher. One thing-- and maybe everybody on this committee already appreciates this-- but the cost of a \$50,000, \$100,000 isn't twice as much as the cost of a \$25,000, \$50,000. Right? There's a lot of administrative, there's-- there's a lot that goes into-- it's the first part of the coverage, the first \$5,000 in coverage, because that comes with a right to a defense and things like that. So it is a nominally-- nominal increase, as the agent indicated, in terms of the premium. Two realities that make this different than 38 years ago when this limit was set. One is that when I purchased a policy, I could talk to an agent and the agent could say: Well, Steve, your net worth is this. And you know what? You really shouldn't be rolling around with a minimum-limits policy. But they're not talking to people anymore. Oh, they may be talking to some of them. I have an agent, but not everybody does. They're buying this stuff on TV, off of the Internet, and-- and they don't know that \$25,000 isn't adequate. No one's-- no one's talking to them. Right? They're just, name your price, you know, cut-rate stuff. And they don't have the benefit of an agent, but the other reality is that

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health insurance policies-- and this has been true since I started practicing law. When I started practicing law, you settled a case and-- or completed a case, and the person-- we paid the bills off and they took a recovery home, assuming there was enough coverage. Now the health insurance carrier has a right to subrogation, and if that's in a risk control plan, they get the first dollars, even before the person pays off their out-of-pocket expenses. Think about that. Like, this is really consequential. This resource is being captured by the health insurance companies, who have a right to subrogation, and it's not a pro rata, we'll share it with the person that got hurt. They take all the money until they've been satisfied. So a person can literally find themselves still having to pay their deductible and co-pay. And to say, well, yeah, but they're also required to have-- the person hurt is also required to have UIM coverage, so we're not going to increase the minimum because I should, as the injured person, use my UIM coverage. That's not fair either. It's been 38 years-- 38 years. And the agent told you the nominal increase in premium to go from \$25,000, \$50,000 to \$50,000, \$100,000-- and I'm just trying to think. You know, when I-- when I was in law school, I bought my first car. It was a little Nissan; it cost \$4,600 brand new-- brand new. You can't touch a car. They're-- they're starting at \$20,000. Right? Things have gone up, and everything about-- everything about that car accident is more expensive: the property damages, the medical expenses people have, the income that they've lost during the time that they can't work. And it's time. And you know, the-- the people that are opposed are associations, and they go from here, and when they try to raise the limit over in Iowa, they go, well, Nebraska's only \$25,000. And you know, up in South Dakota, they go, well, you can't raise it 'cause our neighbors are at \$25,000. And it's-- it's sort of a conversation or this idea that we're going to look to other states. Well, the same associations are running around every state saying: Well, don't raise-- raise it past \$25,000 'cause that's what everybody's at. And perhaps if we were concerned about the consumers that are buying these small policies, and the risk we're exposing them to-- and by the way, if-- if some-- if I make a claim against my underinsured, my underinsured carrier can still go after the underinsured driver personally. So this is not good for the injured person, it's not good for the insured. And it's time that we take care of the consumer after 38 years of having the limits at \$25,000, \$50,000. So please, advance this to the floor where we pass it and take care of people in Nebraska.

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WILLIAMS: Thank you, Senator. Lathrop. Questions? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Chairman Williams. In your practice, have you seen that these unchanged limits have caused hardship and unpaid claims that you may have experienced?

LATHROP: All the time, all the time. And I would say, you know, to get to an average that Ms. Nielsen testified to, there's a lot of, you know, a bump in the-- in the shopping center parking lot. Right? That's going to make the average of-- of a-- the typical claim that I see in my practice, or-- or others see, that's how-- that's how you get to that average that sounds pretty reasonable. That's not the-- the run-of-the-mill case. Those are offset-- you know, the regular cases are offset by, you know, a tap at a-- a tap at a stoplight that does, you know, \$1,000 damage to a bumper, the person goes to the emergency room once, handles it themselves. And the whole thing doesn't cost State Farm any more than a few thousand dollars. That's how you get an average somewhere where-- where you heard. But the great majority of cases-- that-- certainly that I see-- have a value that-- that's probably-- around \$50,000 would be the average. But we see-- we see people that, you know, that have medical expenses in the hundreds of thousands of dollars. You spend time in an ICU and it's-- it's a really, really high bill. And then your Blue Cross Blue Shield jumps ahead of you, and you're essentially not compensated for your deductible, your co-pay, and your time off work. So it's-- and exposing-- exposing the underinsured guy to a personal liability.

WILLIAMS: Additional questions? Seeing none, thank you, Senator Lathrop.

LATHROP: Thank you.

WILLIAMS: And that will close the public hearing on LB612. The committee will take a short break, and we will convene again at 3:15.

[BREAK]

WILLIAMS: Welcome back. As-- as we are gathering up, there's a number of new people in the room that were not here for the original instructions. We do use a light system in the-- for the testifiers. You'll see them on the front of the table. The green light.-- it's a five minute light. Green light will be on for four minutes, and the

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yellow light comes on for one minute. And then the red light comes on, when we would ask you to end your testimony. I think everything else you would know about. With that, we will open the public hearing on LB602. Senator Pahls, welcome.

PAHLS: Thank you. Good afternoon, Chairman Williams and members of the committee. My name is Rich Pahls, R-i-c-h P-a-h-l-s. I represent District 31. I come before you today to introduce LB602. Basically, I'm going to boil down-- it addresses two specific issues. The first issue is the use of aftermarket parts instead of original equipment manufacturer parts for insurance repair within the first 36 months after the purchase of a new car. The second issue is addressing the issue of insurers' designated, designated otherwise repairable cars as a total loss. Hopefully, this would be considered a consumer-friendly bill. People who have just bought a new car do not want aftermarket parts installed, and they often would prefer to repair and keep their cars rather than having them totaled out by an insurance company. The end result is actually hopefully to make this a consumer-friendly bill. And just want to point out a couple of things. We're looking for fairness. We're looking for transparency. And also and when there is a total loss, figuring out why some of those cars are brought back, repaired and brought back, but we are maybe unclear if they are safe or not. So that's an issue that we probably need to address. As you can see, I did include an amendment to clarifying what fair market is. And I shall leave it at that because it looks like we have a number of individuals who want to testify for and, and against this bill.

WILLIAMS: Thank you, Senator Pahls. Questions for the senator? One quick question of clarification on the 36 months after purchase of a new car.

PAHLS: Yes.

WILLIAMS: If a car is traded in that first 36 months, does the new owner-- does the 36 months from the time that the car was originally sold or another buyer?

PAHLS: Well, it's my understanding-- and there is some question on that when it actually was purchased or when it's sitting on a car lot. So we probably-- we'll need to carry that out, but it is within the first 36 months.

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WILLIAMS: OK, thank you. Additional questions? Seeing none, thank you. And I'm sure you're going to stay to close.

PAHLS: I shall.

WILLIAMS: We'd invite the first proponent. Welcome, and if you would, please, state and spell your first and last names, we would appreciate it.

JAMES RODIS: Chairman Williams and members of the Banking, Insurance and Commerce Committee [SIC], my name is James Rodis, J-a-m-e-s R-o-d-i-s. I'm here today in support of LB602. I serve as a vice president in Nebraska Auto Body Association and have worked in the industry for 34 years. I support LB602 because I've witnessed for too long the consequences for Nebraska consumers with respect to motor vehicle repair. I'm sure you're all wondering, why now? We can all remember our favorite flip phone or that big screen TV from ten years ago that was as big as a house. Cars today are no different. Vehicles can see in the dark, detect pedestrians, anticipate collisions, even park themselves. Think Tesla is the only vehicle that drives without hands on the wheel? Wrong, that's just the beginning. Section 2, line 11 of LB602, requiring original equipment manufacturer parts known as OEM parts for three years would simply cover the cost of most vehicles for the length of their lease and most factory warranties. Today, you will hear testimony from the other side about how parts are just as good as the OEM. I find it troubling because the same company that certifies these parts, the Certified Automotive Parts Association, known as CAPA, also publishes a weekly list of parts that should not be used any longer. When oftentimes the week before they thought these-- tout these parts as good as OEM. How can we trust CAPA pride [INAUDIBLE]? How can we trust CAPA certification when they don't even crash tests their parts? OEMs take great pride in their crash test ratings. That's why so many consumers buy a specific model is for their safety. I sent a video to you all yesterday that, that illustrates the difference in a split second using a watermelon. If you've not had the chance to view it, I encourage you to do so. That's what this bill will address. The sad and terrifying part is insurance companies directing the use of these aftermarket parts do not track or notify consumers when these parts are decertified. Each one of these parts is integral in a collision. Think back to that watermelon airbag video. Can we take the chance at seven one hundredths of a second? Won't matter with these noncrash tested parts. I don't think so. I

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supplied you with just two years of decertified parts list. Now compare that to the OEM who do not-- who do notify consumers of a recall. I have supplied you with pictures of their CAPA certified parts compared to the OEM. Notice the missing welds, short welds, inferior welds, metal hardness that simply do not compare. Even a headlight, which is no big deal, right? In some cases this is as much as 75 percent less bright. That's a pretty big deal. These same companies are close to producing sensors for vehicles. Some of these sensors read as much as 800 feet ahead of the car detecting for things like deer. Can we expect them to make the sensors correctly? What about the car that is supposed to stop itself to avoid an accident? Are these parts like, kind, and quality? Maybe similar, somewhat the same, definitely not the same quality. Absolutely not the same performance for today's space shuttle on wheels. Insurance companies that require us to use these parts hold zero liability when they put them on the car. It's all about saving money. In addressing Section 3, line 14 of the bill, having the consumer sign off and acknowledge aftermarket parts just makes sense. Let's make sure they know what they're getting. After the warranty has expired, shouldn't it be the consumer's choice once they have all the facts? Currently, consumers are upset once they learn that they are forced to use aftermarket parts. Even if somebody else hits you, you still have no choice. Why is valuation under 75 percent so important? Section 4, line (a) of this bill addresses insurance company's practice of totaling a vehicle at whatever percentage they see fit. They tell us they get a good buy bid. We never even know if they really do get a buy bid. For example, Betty Case [PHONETIC] bought a vehicle 2019, which had lost 40 percent of its value in those two years before it got in an accident. The insurance company totaled out her car and paid her considerably less than her loan was for. She had to put that negative equity into another loan and start behind the eight ball. If Betty Case got in an accident, this bill was in place, the car would be fixed, Betty continues to drive the vehicle until she chooses. Maybe another 10, 15 years with good maintenance. What a savings to the consumer. Due the-- due to the extreme cost of the safety components on today's vehicle, a car more, more often than not does not sustain, sustain severe structural damage that justifies replacement of the car. A totaled vehicle does not require significant damage anymore, which is why Section 4, line 16 is so important. Removing of airbags, seat belts, aftermarket add-ons, wheels and tires from the initial factory and the repair cost is vital and, and important. These systems get expensive.

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Multiple states, Missouri is, is one, have removed these systems from the evaluation of the repair when calculated. This would allow for more qualified repair facilities to repair perfectly safe vehicles and less of these vehicles getting into the secondary markets. They get banded together, which is what happened to Jesalynn, which you will hear from later, and hundreds of other consumers across the state. We just got another call from a consumer of a poorly repaired car from the secondary market that was bought at an insurance auction. It was stamped to salvaged, but it was told that it was totally 100 percent fixed. I appreciate your time you have given me today, and I hope you will help us protect consumers, friends, families, neighbors. Nebraskans deserve better. Thank you for your time and I am happy to answer any questions.

WILLIAMS: Thank you, Mr. Rodis. Questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams. How many years have you been in the business?

JAMES RODIS: Thirty-four.

McCOLLISTER: That's a lot. Of those cars that are totaled by the insurance company, what percentage would you estimate end up getting fixed and are back on the road?

JAMES RODIS: I would say in the last five years, the majority. It's gotten really bad the last probably five to seven years.

McCOLLISTER: So over 50 percent.

JAMES RODIS: I would assume so, yes. If, if you go to the insurance auction off of I-80 there, you can just see him leaving on tow trucks. There's, there's businesses in Nebraska, Lincoln, and probably smaller towns, too. That's their business model, buy these totaled cars. Let's fix them up and sell them to the consumer again. And it's, it's a horrible deal. I mean, these, these people have no idea that it's happening.

McCOLLISTER: And when a car like that is repaired, is there anything on the title that would indicate that it's been totaled and, and repaired?

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JAMES RODIS: I would say most often, yes. But when you tell a consumer who doesn't know anything, this car is completely fixed, they're going to believe you. In these secondary mar-- markets, they don't have the same tools that we have. They're not-- manufacturer tells us how big a weld has to be. They don't care how big a weld has to be. They're just putting a car back on the road. That's all they're doing. It's us repair facilities, true repair facilities that care about that. That care about the consumer, that care about the car that we're repairing.

McCOLLISTER: What should we put in a bill that requires that many of those cars should be fixed rather than totaled?

JAMES RODIS: Well, that's why I think this raising the minimum standard of a totaled right now, their totaling them at 45, 50 percent. If we can get that up to 75, that lets us people that know how to repair a car correctly and care about repairing them correctly, we're going to repair them correctly then. And we're going to make sure that our neighbors, friends, family, their cars are going to be correct again and on the road. We always side with an insurance company, with, yeah, this one needs to go bye-bye.

McCOLLISTER: In your industry, do you have a code of ethics?

JAMES RODIS: We like to think so. You know, it's nothing written, it's nothing like that. But we like to think, at least in our association, we have people that care about fixing cars correctly. Are there people who don't? Absolutely. And we try to call that out when we see it.

McCOLLISTER: Thank you.

WILLIAMS: Additional questions? Senator Bostar.

BOSTAR: Thank you, Chair Williams. Thank you, sir.

JAMES RODIS: Yes, sir.

BOSTAR: So I'm just trying to take a lot of this in. Currently, are aftermarket parts approved or certified? And, and if so, by whom? And how does that work?

JAMES RODIS: So there is a company called CAPA who does say that they certify parts. That's supposed to be the highest level of certified parts. I believe you all got an email from me yesterday where we sawed

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through a factory [INAUDIBLE] reinforcement for a bumper, which is a safety structure. And we also sawed through the CAPA, certified one. I believe, the Ford Fusion, we stopped it two minutes and we were a quarter of the way through it. Brand new blade. We did the same thing with the aftermarket. We cut through it in 17 seconds. The factory one had 59 welds, the aftermarket had 26. They're just not made the same. They're reverse engineered. And that's it.

BOSTAR: So with this entity that's responsible for the certifications-- perhaps you don't know this, right, but why, why would they be certifying products that aren't-- is there a minimum standard or why is this happening?

JAMES RODIS: Like, kind, and quality is what they certify to. They're not certifying to the crash standards of the OEM. The OEM doesn't give them that information. You've got to remember when the OEM crash test a car, all of those parts are integral, right? This part's meant to absorb, this part's not. The next part might be. Aftermarket parts don't care about that. They care about, OK, how does this part perform? Too weak is bad. Too strong is bad. Seven one hundredths of a second is, is a big deal in this. And simply they just don't stand up. You, you stack on two, three, four of those parts-- I mean, it could be catastrophic.

BOSTAR: And so what, what does this look like in other states? Is-- you know, what's the national landscape really in this issue?

JAMES RODIS: So I believe there's 31 states that-- or 20 states that require like, kind, and equality. But when shops got that passed, they're finding out that insurance companies using that language again against us. It looks like, it looks kind, quality looks OK. Performance does not stand up. Crash test data just isn't there. So a lot of states are now going back and trying to get things like that amended. There's 10, 11 states that are going after it again this year and--

BOSTAR: Going after something similar to what LB602 would.

JAMES RODIS: Yes, very similar. And--

BOSTAR: Has anyone passed it yet?

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JAMES RODIS: Yeah, there's six states that have something fairly similar as far as the OEM parts. Rhode Island actually has OEM parts for four years. We think it-- we should cover the length of a lease. You know, these, these brand new trucks. We're truck country, right? We've got all kinds of farmers. These trucks are, you know, 50, 60, 70, \$85,000. We should probably put OEM parts back on them and not diminish the value of the vehicles. I can tell you that when they get traded into dealerships, they look for stuff like that. Customers aren't very happy when that happens.

BOSTAR: Well-- and, and thank you. This is helpful. Just one, one last-- just trying to understand.

JAMES RODIS: Yeah.

BOSTAR: So, you know, it sounds like what we're talking about is let's ensure that the safest parts are in the vehicle. Not, not-- I don't want you to argue against yourself, but what's the argument against this? Why would someone-- is it, is it, is it cost? Is it that then insurance-- I mean, would this increase the cost of car insurance?

JAMES RODIS: So we've done a little checking ourselves. We call insurance agents and we ask what it would raise it. You're looking at anywhere from \$45 to \$60 to \$100 for a year. That's it. To make sure that we're safe, that is it. What are-- what's their argument? You know, a bumper is a bumper. Used to be. We have sensors now that will read through the bumper and if that mill on that bumper is too thick, it's not going to read the same. It's, it's a sonar basically, like on a submarine. So if you're blocking that sensor, it's going to read less farther than it's supposed to. Your, your windshield now reads 800 feet down, down the road. That's, that's detecting a crash that could happen potentially. It's going to apply brakes. It's going to keep you in your lane. Even aftermarket glass effects that. I can tell you we put in-- customers say I want aftermarket glass, you put it in. Those won't even program sometimes. One degree at 800 feet is two lanes of traffic. So now you're supposed to be reading here, but you're reading over here. So when it's detecting that crash, maybe it's you're, you're at 400 feet instead of 800 feet. That's not very safe. That's not how the car was designed. We're just trying to put them back the way that they were designed.

BOSTAR: Thank you.

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JAMES RODIS: Yes, sir.

WILLIAMS: Additional questions for Mr. Rodis? I have a couple.

JAMES RODIS: Yes, sir.

WILLIAMS: Where do recycled parts fit into this discussion?

JAMES RODIS: Are they as bad as the aftermarket? Probably not. But again, on a modern vehicle, the way it's meant to carry the energy transfer across the vehicle, there's some discussion as to are those parts tweaked, right? Are they-- is it skewed a little bit. Would I put on an aftermarket fender or an aftermarket-- or excuse me, recycled fender over an aftermarket? Every day of the week. Every day of the week. It has the factory corrosion protection. There's just a lot of things that it doesn't-- that it has that the aftermarket does not. And as you saw from the video, you, you would probably rather have OEM, too. I mean, it just makes a huge difference.

WILLIAMS: And maybe you don't know the answer to this question, but it would be my understanding that a number of the aftermarket manufacturers are also the same people that are manufacturing the OEM parts. Is that your case?

JAMES RODIS: So I've, I've done a lot of checking and talked to a lot of national organizations about this. And while they may be the same companies, it is not the same standards that they are using. So, again, the manufacturer doesn't give them their stamps, right? It doesn't tell them what they're using for material when they do it. It's, yep, here's the part. And that's kind of what it is. But it is not the same one that is made for the OEM. They just don't perform the same. And Collision Industry Conference actually had a whole deal on this a couple of years ago. And it was pretty enlightening because the aftermarket companies did come in and they said that. And in the conference it came out, a guy actually stood up who makes aftermarket parts and he said, this is false. He said, we don't make them to the exact same standards that the OEM does. We reverse engineer. And if you were to look at those photos, which somebody will describe later, supposed to be the exact same part, right, made in the same place, why do they look different? Why do the welds look so different? Why does-- even just the forming of the metal is completely different.

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

JAMES RODIS: Thank you for your time today.

WILLIAMS: Invite the next proponent. Welcome, Mr. Sabin, and you might want to tell everybody where you're from.

SEAN SABIN: Gothenburg. Chairman Williams and members of the Banking, Insurance and Commerce Committee [SIC], my name is Sean Sabin, S-e-a-n S-a-b-i-n.

WILLIAMS: And I'm from Gothenburg, Nebraska.

SEAN SABIN: It's coming. It's coming.

WILLIAMS: Oh.

SEAN SABIN: And I am here today in support of LB602. I own and operate Sabin's Body Shop in Gothenburg, Nebraska, with my father, who started the company in 2006. I have been in or around the collision repair industry my entire life. I support LB602 because I have witnessed for far too long the consequences for Nebraska's consumers with respect to automotive repairs. Today's vehicles are becoming more and more sophisticated as auto manufacturers constantly strive to improve the driver experience and the safety of their vehicles. My testimony today is going to focus more on the sections of LB602 that reference the use of aftermarket parts. But I want to be clear that I fully support the entire bill and believe that it supports the consumers of our great state. Did you know that the average \$19,000 vehicle today has more lines of code built into it than a space shuttle? Did you know that the vehicle you're driving today likely has more than 100 million lines of code built into it to make it operate safely, not only to protect the occupants inside of the vehicle, but also everything around the vehicle? Take that front bumper cover, for instance, that James mentioned. The plastic piece on the front of your vehicle that seems fairly meaningless to the human eye, it has been designed to the perfect thickness and density for the sensors mounted inside of it and behind it to operate very precisely. Those sensors are the vehicle's eyes seeing everything in front of it and around it. If that aftermarket bumper does not conform to the same thickness and density as the original equipment manufacturer's part, those systems may not

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work correctly, causing the vehicle safety systems to possibly delay or malfunction. As James mentioned, Honda has released a video which he sent to you, showing that when an airbag deployment is delayed just seven one hundredths of a second, bad things can happen. That is the small difference between a life being taken and a life being protected. Other documentation on how aftermarket parts have been found to be insufficient in meeting the same safety standards of the original equipment manufacturers can be found at the vehiclesafetyfirm.com, where renowned safety expert and attorney Todd Tracy has several verified tests confirming these points. One of these tests resulted in a consumer being awarded a \$42 million lawsuit from the dealership where the vehicle was repaired. As a shop owner, I speak with hundreds of insurance adjusters every year. The only conversation that ever comes up is solely about the cost of the repair. They never ask about the consumer. They never ask if the repair we are discussing is adequate to protect the family in the event of another accident in the future. They only ask about how we can lower the cost of the claim. I had a couple in my office just yesterday with a 2018 Jeep Compass with only 19,000 miles on it. They had their insurance company on the phone while in my office and they were trying to explain to the adjuster that they only wanted original equipment parts to be used because the vehicle was so new and had such less miles. The adjuster's response was, and I quote, I don't care what you want. You signed an auto insurance policy that states we have the right to put the cheapest part we can find on that vehicle after 24 months of age or 30,000 miles. The adjuster didn't care if the family was OK after the accident, nor did he care about their future in any way. The only thing that mattered to him was reducing the cost of the claim. This policy does not allow the vehicle's manufacturer warranty to expire before putting on inferior parts. If this was a leased vehicle on a 36-month contract, the consumer would be in violation of almost every vehicle manufacturer's lease requirements. Not only is this unfair to the consumers of Nebraska, it has also been proven to be unsafe in many situations. Today's vehicles are not just metal and paint. They are sophisticated mess of sensors and modules that talk to one another continuously. Today's vehicles are equipped with options like Alexa, Apple CarPlay and safety systems such as Advanced Driver Assist, also known as ADAS. All this technology, together with groundbreaking achievements in creating high strength steels and occupant safety systems like pretension seat belts and year-over-year improvements in airbag technology have consistently

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reduced the number of highway deaths in America. According to the National Safety Council, roadway deaths continue to drop at a rate of about 2 percent year over year since 2017. All the while, the top insurance companies in America continue to show profits from their automotive divisions in the hundreds of millions during the same period. LB602 has been crafted for the consumer. The shops do not benefit financially from this bill. As a shop owner, the profit margins on aftermarket parts are actually better in most cases than when we purchase OEM parts. LB602 is a bill that forces both repair shops and insurance companies to stand up and protect the consumer, as it should be. James touched on the fact that the supposed certified aftermarket parts that are being used because that is all the insurance policy will cover can become decertified and unsafe in as little as 30 days from when they were certified. What happens when that vehicle that has been repaired with now decertified aftermarket parts and is unsafe, is traveling through your neighborhood and one of your children or grandchildren run into the street? Will that vehicle systems operate properly? Is that something you're willing to risk? To wrap up my testimony today, my question to you is, if the vehicle manufacturers and the people engineering these vehicles are being held to such a high standard when, when they're building them, then why are we as auto repairers, insurance companies, and state legislators not held to the same standards when repairing them? Why do we think it is acceptable to use parts, repair standards, and procedures different and less than those who engineered the vehicle just to save a few dollars? What is the price you're willing to put on a human life? Thank you for your time today and I'd be happy to answer any questions.

WILLIAMS: Thank you, Mr. Sabin. Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams. In the example you cited with the Jeep,--

SEAN SABIN: Yes.

McCOLLISTER: --how-- what was the difference in the repair cost using the OEM original parts versus the aftermarket parts?

SEAN SABIN: It's a great question, and that's something that we hadn't even got to. The vehicle was just towed in yesterday. The customer was sitting in my office and an estimate had not even be done-- began, but

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they had contacted the adjuster to start to claim and right away one of the adjusters said, no, we would like OEM parts to be used. We don't want aftermarket parts to be used. And that was the adjuster's response before an estimate had even been written to see the difference.

McCOLLISTER: But in your experience, what, what does that typically run?

SEAN SABIN: It's going to depend on the severity of the accident. But you're, you're going to see a small difference. So a fender on a vehicle, for instance, on a typical vehicle, OEM part might run \$300. The aftermarket part might run \$220.

McCOLLISTER: OK, so--

SEAN SABIN: Very minimal difference when it's all said and done.

McCOLLISTER: Twenty percent estimate.

SEAN SABIN: Yeah, or less.

McCOLLISTER: OK, thank you.

SEAN SABIN: Yeah.

WILLIAMS: Senator Bostar.

BOSTAR: Thank you, Chair Williams. And thank you, sir. The, the process of an aftermarket part being decertified, so it's the same entity that certifies them that would then turn around and decertify a given part?

SEAN SABIN: That's correct. So every month CAPA, who James mentioned, releases a list of now decertified parts. So that means the insurance company can get me because that's all they're willing to pay for to put a part on your family's vehicle today. And next month, that decertified list comes out, but nobody knows about that decertified list. The consumer doesn't know about it. There's nobody out there that's going to contact you and say your vehicle was repaired with the part that is now decertified and your family could potentially be at risk driving down the road. It doesn't exist. They would decertify that part, in my opinion, because they don't want to be held liable if

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that vehicle was in an accident saying we certified the parts that were supposed to protect that person.

BOSTAR: And, and do you have a sense of how that, how that happens, how CAPA goes about determining whether or not a currently certified part should be reviewed for decertification? Is it, is it because accidents happen and things didn't go well? Is it because they're doing consistent testing? Is it-- how does this happen?

SEAN SABIN: I would purely be speculating if I answered that, so I'm not sure I have a good answer on the exact process that they use to certify or decertify the part.

BOSTAR: Thank you very much.

SEAN SABIN: Yeah.

WILLIAMS: Additional questions? I just have one as a point of clarification so that we clearly hear you on this. If you repaired the same car with OEM parts and then did them with aftermarket parts, your profit would be the same.

SEAN SABIN: Potentially. It's-- the, the profit's potential, in my experience, when using an aftermarket part is higher than when using the OEM part.

WILLIAMS: OK, thank you.

SEAN SABIN: Yes.

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

SEAN SABIN: Thank you.

WILLIAMS: Invite the next proponent. Good afternoon.

JESALYNN FOUTCH: Good afternoon. Chairman Williams and members of the Banking, Insurance and Commerce Committee [SIC], my name is Jesalynn Foutch. That is spelled J-e-s-a-l-y-n-n F-o-u-t-c-h. And I am here today as a concerned citizen in support of LB602. In April of 2020, due to an auto accident, my SUV ended up in the Collision Center in Ashland, Nebraska. After a week, the owner called-- from the shop

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called to let me know my SUV would be ready to go the next day. They just needed to do a few more things, test drive it before they could release it. He called the next day and told me he couldn't release my SUV due to safety codes and warning lights that came on. It was then stated that the warning lights are safety features on my car, which make it technically unsafe to drive. My car was then taken to Woodhouse to have diagnostics ran on it. Woodhouse came back with a report of about \$8,000 worth of repairs, in addition to what the Collision Center had already done. I was asked to reach out to the dealership where I bought my car as this vehicle should never have been sold to me in this condition. I was then diverted to corporate office in Utah, where they denied that the vehicle was unsafe to drive and the claims were incorrect. They wanted my car back at the dealership so they could have their master technician look at it before any repairs were done. Corporate reached out to me to let me know that they will fix the repairs at the dealership and release the car back to me. What Woodhouse said was wrong and what their master technician said, they didn't agree. I had my car for about ten minutes before all the warning lights came back on. Once again, I called the dealership to let them know that the \$58 worth of parts that they put into my car failed and all the lights were back on. The dealership came and got my SUV and finally agreed with what Woodhouse initially stated. However, they only agreed to put \$4,000 into my vehicle and said the other repairs I could pay for because they didn't feel that it affected the safety features. After several phone calls to the dealership and to corporate and numerous left messages that were not returned, my husband had to go down to the dealership due to me not being able to leave work continuously. They had my SUV for about three months before I was able to get it back, all putting blame on the pandemic. This whole time, their corporate office and the dealership kept telling me that the Collision Center and Woodhouse were incorrect in telling me that my SUV was unsafe to drive. Corporate office told me that I had two options. I could have the Collision Center and Woodhouse fix my SUV, but I would be responsible for all the repair cost, or I could take it to the dealership and have them fix it and they would cover all costs. They kind of had my hands tied because I couldn't afford to spend \$4 to \$8,000 in repairs. The fact I didn't trust the dealership would repair it correctly, given the fact that they've had my car in the repair shop four times since I bought it in October of 2019. They made it sound as they were doing me some favor to fix the repairs because this isn't something they normally would

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do. The worst part about this entire situation is that it didn't bother them to sell me an SUV with safety features that weren't properly repaired. The fact that they put my life, my unborn son's life, my husband's life, and my other two children's life at risk on a daily basis is actually quite sickening to sit back and think about. If LB602 were law-- were the law, this situation would not have happened to me because my car would have been repaired in a safe manner and I would have had a safe vehicle for my family. Thank you and I'm happy to answer any questions.

WILLIAMS: Thank you, Miss Foutch. Questions? Seeing none, thank you for your testimony. Invite the next proponent. Welcome.

DAVE YARD: Welcome, welcome. Thank you for having me. I want to thank you, Chairman Williams and committee members for giving me-- giving LB602 your attention. My name is Dave Yard, D-a-v-e Y-a-r-d. I am the chairman of the Nebraska Auto Body Association and owner/operator of the Collision Center in Ashland, Nebraska. I have five employees. As the chairman of the NABA, represent your constituents and almost all of Nebraska. We were asked if industry has a code of conduct, and I would, I would kind of answer that you could go on to the website in the Nebraska Auto Body Association and it'll tell you what, what we're about. And it's about fixing cars correctly. It's about getting education out there to do that and getting that to all the shops. It's about shops improving conditions for them so that they can fix cars right so they can pay their employees so that they can better their lives. It's, it's not about-- it's not so much just about cost and making money. It's my passion to get the word out so that people are safe. So with that said, I want to address the total lost part of this. My shop's in a small town. I know almost everybody that comes in the door. They're my customers. They're my family. They're my friends. They're my neighbors. Town is growing, it's getting a little harder trying to grow with the town. But my job as a collision repair shop owner is to make every one of them-- to make sure every one of them makes it home safe every night. As a shop owner, I have been seeing a rising issue with how-- why vehicles become-- how and why vehicles become a total loss and what happens to them after they're declared a total loss. When an insured-- when an insurer declares a vehicle a total loss, it does not have to mean that the vehicle is beyond repair. It doesn't even mean the repair cost is more than the value of the vehicle. Often it happens when it is the most cost effective for the insurance company. I have customers that are, that are devastated

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when the biggest investment is their vehicle is declared a total loss. I can't tell you how many times a retired person has come to me and said this was going to be my last vehicle. It's been declared a total loss. What am I going to do? The problem is, their vehicle is worth much less than what it would take them to get in another vehicle. They've got a four- or five-year-old vehicle with 40, 50,000 miles on. It looks like a brand new car. But the value is not there. So now they're forced to buy another car. We also have people that come in that owe way more than what the car's worth. And this happens a lot when the car is newer. That's when you will see that the most because the value drops in the first year or two more normally. These people that kind of-- these people that get deep into their car, they're not bad people. Things happen. Life happens. There is a second part to this as well. What happens to these cars after they declare them a total loss? They go into a secondary market, which in the industry we would call them builders. So when these-- what a builder is, is when someone finds a, a, a way to repair a car that was deemed a total loss and put it back together to put it into the market, market and make a profit. Like was said earlier, that's their business model. Unfortunately, when I see these builders come to my shop for repairs, it is scary how unsafe they are. Some of, some of them, you can tell just by walking up them, others we find on pre-diagnostic scans. By the way, just because there's no lights on your dash doesn't mean that there isn't air bag codes, there can be all kinds of issues with that. There isn't necessarily a light. Lastly, some of these we don't find until we disassemble them, part of the repair process. Very first thing after a scan is to disassemble it and, and look at the car, blueprint the repair, make a repair plan. And in that stage, you pull a fender off, it looked great, fit the car fine. You find a crumpled up rail underneath there. If they get hit in that vehicle again, the timing is going to be off for that airbag. We'll back to the watermelon video that James was talking about. The timing's off. So now, instead of saving somebody, that airbag is possibly going to injure them or kill them. It, it-- I see this a lot. I've seen in cars with drywall screws hold structural components on. Sticking through, sticking through underneath the carpet. Most of these cars that I see come in, they're younger people. Parents bought these for their kids because it's a cheaper car. So they take a child and put them in this car, the safety equipment is not going to perform, they're not an experienced driver, and they put them on the road. These, again, are my family, my friends, my neighbors, my constituents-- or your

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constituents. I take this very personal. I, I, I really care about it. When you see-- when you're-- like I said, I'm a shop of five guys, and when you see or hear about one of your customers in an accident, and first thing of concern is, how are they? I don't use a lot of these parts, I find ways. I'll take a loss and use the right part to make sure it's repaired right. The total loss industry is just not right. I've been across Nebraska and I'm totally off my sheets here, so I'm skipping around a little bit, but I, I get passionate and that's the way I go. So sorry about that. I've been across Nebraska with the Nebraska Auto Body Association and I've talked to shops all across Nebraska. And I hear these things from everybody across Nebraska. It doesn't matter if it's a big shop, a small shop, they're all seeing the same things. I will say with this issue at hand, there's, there's only one right way to fix a car. Anything beyond that is, is just a business decision. I, I prefer to fix the car right. I care about my customers. I'm asking you to support LB602. LB602 will help people retain their vehicles if they choose to. It will keep a lot of cars out of the secondary market, a biller market, allowing safer repairs. Thank you. And, and do you have any questions?

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

DAVE YARD: Thank you.

WILLIAMS: Invite the next proponent.

TONY ADAMS: Good afternoon.

WILLIAMS: Thank you for being here. Welcome.

TONY ADAMS: Thank you. Chairman Williams, members of the Banking, Insurance and Commerce Committee [SIC], my name is Tony Adams. It's T-o-n-y A-d-a-m-s, and I am here today in support of LB602. I'm a member of the Nebraska Auto Body Association. I'm also the vice president of the Kansas Auto Body Association and former owner/operator of Weaver's Auto Center in Shawnee, Kansas. I also am a board member of a national auto body association and I work with the few automotive committees nationally as well. Personally, I've been in the automotive industry for 33 years. With advances in technology such as advanced driver assist systems and new lighter weight construction materials as original equipment manufacturers scramble to meet federal

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Corporate Average Fuel Economy or what is known as CAFE requirements, the use of OEM parts for 36 months, in my opinion, is necessary and warranted. These individual parts that we keep talking about are all designed to operate in a system, whether it be a safety restraint system, whether it be crashworthiness system, they're all these individual components are designed to work as a system. And it's these systems that protected the consumer in that first collision as it was designed by the OEM. Collision repairers have an obligation to return that vehicle back to that same five star or four star crash rating for when the vehicle gets into the next accident. And I think it's important to note that that's what we're talking about today, is the crash worthiness of the next accident. The only way to ensure that happens is to repair the vehicle following the OEM repair procedures as designed by the engineers of that make and model vehicle using OEM parts. Ignoring these procedures and introducing parts not approved or crash tested by a vehicle manufacturer puts Nebraska, Nebraska consumers and automobile consumers at-large at risk. Additionally, most automotive lease agreements mandate the use of OEM parts in the lease, and consumers could be in a negative financial position at the time of lease turn-in by violating the terms of the lease agreement by using non-OEM parts in a repair. The language in LB602, Section 2 would help meet this expectation of the consumers' lease agreement and help ensure safe and proper repairs are reimbursed for. I have worked with several customers firsthand who were shocked to find out that the repair estimate from their insurance company contained non-OEM parts in the repair of their car. The disclosure for such parts is listed on the estimate provided by the insurance company. It is, however, rarely, if ever, communicated to the customer verbally when the estimate is given to them. And consumers are not educated in reading an estimate full of our industry jargon and acronyms such as A/M, recon, or LKQ, which stands for aftermarket, reconditioned, and like, kind, quality parts. When a collision repairer points this out to a consumer, consumers are often frustrated as they, quote, don't want those parts on their car. When they call their insurance company to inquire, they are shocked to find out that the automobile insurance policy they purchased approved the use of such parts in the contractual language. Being more transparent by having a consumer sign a disclosure at the time of policy purchase like proposed in LB602, Section 3 will help give transparency to this language and give consumers a choice in the type of parts selected. For example, I have a 2016 Honda Accord and the additional premium for me for an OEM rider

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is about \$50 a year. And an OEM rider endorses the use of OEM parts in my policy. Section 4, paragraph 2(b) of LB602 specifies excluding certain items for cost of repair for the purpose of calculating a total loss. Items such as airbags and safety restraint systems can cost thousands of dollars and is mainly related to the cost of a part. Just one single airbag, for example, can cost \$1,000, and it's held in by only four nuts or bolts. Missouri and Maryland both have similar languages, excluding some of the cost of these parts. And in Kansas, we have introduced a bill similar to the language proposed in LB602. Lastly, I've also witnessed insurance companies total vehicles that are nowhere near a state's 75 percent total loss threshold simply to avoid paying for a safe and proper repair or doing so in the best financial interest for the insurance company. This puts consumers at a potential financial risk as vehicle manufacturers offer 60, 70, to even 84 months of zero percent financing. As we've heard in earlier testimony, maybe being 30 or 40 percent down in that first or second year. Totaling that car that is otherwise repairable and below the state's total, total loss threshold could put a consumer in an upside down financial position, leaving them potentially owing more than what the total loss settlement is. LB602, Section 4, paragraph (1) addresses this. Thank you for your time today and I'm happy to answer any questions that you might have.

WILLIAMS: Thank you, Mr. Adams. Questions? Senator McCollister.

McCOLLISTER: Thank you, Chairman Williams. Thanks for being here.

TONY ADAMS: Yes, sir.

McCOLLISTER: A car coming out of the secondary market,--

TONY ADAMS: Um-hum.

McCOLLISTER: --can you resell that car without an airbag?

TONY ADAMS: It should not be, but cars can be resold without airbags. And that's what some of these rebuilders do, is they'll-- you can get online and, and Google airbag covers and they're just blanks that somebody that would do that would be in a pretty litigious situation by not having an airbag in that car.

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McCOLLISTER: So the seller of that car would be in a, in a serious liability issue if the car would be in a serious accident that-- and there was no airbag. Correct?

TONY ADAMS: Yes.

McCOLLISTER: Do people still sell a car without an airbag that's been repaired?

TONY ADAMS: I haven't seen one in my market, so anything I would just be pure speculation. But there have been stories that you can go out there and read. There was a guy that stole a, a vehicle, crashed the car, the car didn't have an airbag in it. And he ended up suing the people because, in one, the guy that stole the car because it didn't have an airbag in the car. So there are stories out there, but anything that I would have as concrete evidence would be purely speculative.

McCOLLISTER: Thank you.

TONY ADAMS: Yes, sir.

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

TONY ADAMS: Thank you.

WILLIAMS: Invite the next proponent.

KURT PERKINS: It's like [INAUDIBLE] in here.

WILLIAMS: Good afternoon.

KURT PERKINS: Good afternoon. I want to thank you, Chairman Williams, and the committee here for allowing us to give testimony here on LB602. Thank you very much. My name is Kurt Perkins, spelled K-u-r-t P-e-r-k-i-n-s, and I'm the general manager at Anderson Auto Group here in Lincoln, Nebraska. We have stores in Missouri, Lincoln, Nebraska here, and actually Grand Island as well. And I oversee all of our service parts and body shop operations. In 1992, I started my career in the auto body industry actually up in the Twin Cities in Minnesota, and I've managed facilities since 1992. In 2019, I decided to move back to Nebraska. I grew up here, graduated high school. And, you

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know, once you-- there's no place like Nebraska. Only Nebraskans know that. So I'm back. But anyway, I became the general manager at Anderson Auto Group right here in Lincoln. And I've noticed a very large difference in the repair procedures and protections for our consumers in Nebraska than what we had in Minnesota. Just last month here at Anderson, I had a customer that came in, he had a 2020 Ford F-150 and only had 2,500 miles on it. He had extensive damage to his F-150 of \$22,000 when he wrote the initial estimate. The customer brought the vehicle to us at Anderson because he trusted that we would put his \$50,000 investment back together again and put it back on the road just like it was. And then so the accident would look like it never happened. After we emailed our estimate to the insurance company, it came back to us with used and aftermarket crash parts. Used parts were not like and kind quality because they were off of vehicles that were very much more than 2,500 miles on them. And I would argue that that isn't a like, kind, and quality part. It's used much longer, for instance. On an aftermarket part, they're giving us not even certified aftermarket parts. They were giving us all kinds of aftermarket parts that were-- had no certifications on them whatsoever and not the original equipment. These parts were-- come off higher, higher, higher mileage vehicles, not the same quality. They were inferior quality. And the insurance companies only considered price when they were searching these parts. Nebraska seems to be, in my opinion, lagging behind the rest of our country for consumer protections. Minnesota statute 72A.201 states that the consumer has the right to choose any repair shop they want to. They also have the right to repair their vehicle back to its pre-accident condition. And they also have the right to have the vehicle repaired with original equipment parts, which would make it back into pre-accident condition. This customer was notified by us that the repair being called for, for the vehicle would be in inferior repair. Picture this. You're this customer, you just had an accident in your brand new vehicle and you'd only had it for two or three months and now you have \$22,000 worth of damage to it. It's stressful enough that you're worried about the second biggest investment that you make in your entire life besides your home. And you're not asked, you're not informed about the repair methods. You didn't sign off on anything on these type of parts. And it was just done strictly for cost reasons by your insurance company. These repairs will literally void your warranty. So when these customers come back into my service department, it can actually void their warranty. And I'm not able to help them in the future with

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warranty repairs. Or worse yet, the structural integrity can put their family at risk in the vehicle when they have an accident. The vehicle after repairs will not perform the same way it was designed. The insurance company used the most cost effective parts they could, but they were not crash tested, the aftermarket parts. They would not perform like the original equipment that has been crash tested. OEM procedures through Ford, all the different manufacturers, Ford is one of my brands that we have, but they have repair crash standards for all the parts that they use for durability and safety. Now, in this case, we assisted this customer and after weeks of back and forth with the consumer having to threaten to go elsewhere for their policy and their insurance needs, we were able to continue with repairs, but not after weeks of delay when the customer just wants to get back in their vehicle and drive a safe vehicle. Consumers should not be expected to be experts. They should be able to trust that the premiums they pay will put their vehicles back into pre- accident condition. Right now in Nebraska, there is zero perception, in my opinion, for consumers. The premiums they pay are the same as what we paid in Minnesota. In fact, after I moved here from Minnesota, my premiums actually went up in Nebraska. I'm not quite-- don't quite understand that. But, but they actually did go up. And I can tell you that the repair methods used by insurance companies in Nebraska are far different than the methods that are the standards of parts that we used in Minnesota when I lived there. In your email, I think we sent you some pictures of reinforcements. And to me, a reinforcement is usually made out of a high strength steel. And when they cut through that material like he was saying before, it takes, you know, three times, ten times as long to cut through the aftermarket part. It's just not built with the same quality. I find it interesting that in my home insurance, we have hailstorms and things here in Nebraska. If you had an insurance adjuster come out and put an inferior shingle on your house, I think all of us would be very upset about that. We wouldn't accept to put a 10-year shingle on a 20-year shingle or what have you. Or if I had Andersen windows in my house, I would expect them to put Andersen windows back in my house again. And that's not what happens in our auto body repair industry here in Nebraska, so.

WILLIAMS: Thank you, Mr. Perkins. Your red light is on.

KURT PERKINS: Thank you.

WILLIAMS: Did you have any final comment?

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KURT PERKINS: No, sir.

WILLIAMS: OK. Are there questions? Senator Bostar.

BOSTAR: Thank you, Chair Williams. Thank you, sir. So I just-- I think this is what you said, but I want to be clear and understand. So the insurance company can require a customer through the process of fixing their vehicle to install products that would void their warranty.

KURT PERKINS: That is technically correct. So they're asking them to put on a part that could potentially void their warranty with us at the, at the manufacturer level. That is absolutely correct.

BOSTAR: OK. Thank you, sir.

KURT PERKINS: Yep.

WILLIAMS: Additional questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams. But after three years, they, they have the right-- or the insurance companies have the right to change that policy?

KURT PERKINS: Well, if you're asking me what I advocate for, or what the bill advocates for, is that we at least look at a minimum of three years. Right? But technically, the 3 year, 36,000, that's most of the bumper-to-bumper warranties that manufacturers have. There are some powertrain warranties that will go longer than that. Typically, the powertrain is not considered-- you know, typically, you hope you don't damage your transmission or engine in an, in an accident. It can happen. But, but, yes, the, the 3, 36 would be the bare minimum, in my opinion, that we should have the parts on it was what the bill calls for.

McCOLLISTER: So most cars, most manufacturers with the 36, 3 years that's-- the car is out of warranty anyway.

KURT PERKINS: And most of the time after the 3 years, 36,000 miles, the car does go out of warranty, out of the initial factory bumper-to-bumper warranty.

McCOLLISTER: OK, thank you.

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KURT PERKINS: Yep.

WILLIAMS: Additional questions? Seeing none, thank you, Mr. Perkins.

KURT PERKINS: Thank you. Thank you very much.

WILLIAMS: Invite our next proponent. Good afternoon.

DOUG KELLER: Senator Williams, committee members, my name is Doug Keller, D-o-u-g K-e-l-l-e-r. I'm the owner of Eustis Body Shop. I live in Eustis, which is 30 miles from Gothenburg. We started our business and Eustis in 1979. We have shops in Eustis, Cozad, Lexington, Kearney, Grand Island, and now in Lincoln. We have grown to 65 employees and repair approximately 6,500 crashed vehicles for Nebraskans each year. I'm also a 42-year member of the NABA, which is a Nebraska Auto Body Association and currently serve on the legislative committee. Through the years, I have become increasingly frustrated by the insurance companies' insistence on only paying for aftermarket parts. Aftermarket parts, even though are touted as like, kind, and quality, fall far-- far short of being equal to an original factory part or an OEM part. Some of the issues we deal with while using aftermarket market parts are poor fit, poor corrosion resistance, missing spot welds, paint adhesion problems, especially on bumper covers. Those are just a few of the obvious shortfalls. What you do not see is how these parts hold up in a collision. Today's vehicles are built to save passengers' lives in an accident. And having a part that is not crash tested to make sure they are like, kind, and quality, is an incredible disservice to the unaware vehicle owner. Insurance, insurance companies are requiring these parts because they are cheaper. However, the insurance company does not assume any of the liability. The body shop and the vehicle owner does. The OEMs are required-- requiring us to follow their collision repair procedures and they only recommend original factory parts. Another issue in using aftermarket parts in the first three years, many car-- new car leases and new car warranties, it'll just void the warranty. I propose that LB602 to protect Nebraska vehicle owners from unsafe repairs to their vehicle due to cost saving tactics from the insurance company. LB206 [SIC] states that new OEM parts should be used on vehicles for the first three years. After three years, insurance companies must make their customers completely aware of what their policies are paying for and make them sign off that they understand and are OK with using aftermarket parts to repair their vehicles.

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Another frustration for myself and many Nebraskans who have been in an accident with a newer vehicle where due to the first year, depreciation of approximately 30 percent puts them in a situation that they are upside down in their loan or they owe more on the, on the vehicle than what it's worth. In the past, insurance companies were more standardized on the percentage they used to determine the vehicle when it's a total loss. That threshold is normally 75 percent of retail value. Lately, the trend has been to question repairs at 60 or 65 percent of retail value. This is great for the insurance companies because they can settle the claims faster and still come out good with a healthy demand for salvaged vehicles. But the, but the customer is the big loser in this situation, sometimes losing thousands of dollars of value. Then there is the aftermath of the salvaged vehicle market. Many of them are bought by repairers, improperly repaired, and sold back to the public. I have witnessed many of these situations where our customers have unknowingly purchased a rebuilt salvaged vehicle. The things that we have seen and many times have had to re-repair are appalling. What we are proposing with LB602 is to protect Nebraska vehicle owners from losing equity in their vehicle due to having the insurance companies total out a perfectly repairable vehicle. We propose that the total loss threshold be set at 75 percent of the vehicles retail value. Along with this, we'd like to remove from the 75 percent the cost associated with the airbag system, scanning computer systems, aftermarket add-ons like air-- running boards, bug shields, tires, wheels, and sales tax. This prevents the vehicle from being totaled from damaged safety systems, getting sold to a salvage yard, improperly repaired, and sold back to the customer without proper safety systems putting unsafe vehicles on the road. Thank you for your time and consideration for LB602, which would protect Nebraskans from improper repairs from use of aftermarket parts and to protect them from the insurance company prematurely deeming their vehicle a total loss which could cost them thousands of dollars in lost value. Thank you. Any questions?

WILLIAMS: Thank you, Mr. Keller. Senator McCollister.

McCOLLISTER: Thank you, Chairman Williams. The retail value of a car, is that something that's published that anybody can see?

DOUG KELLER: In like a Blue Book value?

McCOLLISTER: Yes.

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DOUG KELLER: You get online and, and do a Blue Book search, retail value or trade-in value or private sale value.

McCOLLISTER: But isn't there a ranking based on the quality of the vehicle?

DOUG KELLER: On the condition of the vehicle, mileage, and-- yeah.

McCOLLISTER: So any customer can find that?

DOUG KELLER: Yes, um-hum.

McCOLLISTER: OK, thank you.

WILLIAMS: Senator Bostar.

BOSTAR: Thank you, Chair Williams. Thank you, sir. Did, did you say that you have 65 employees?

DOUG KELLER: Sixty-five. Yes.

BOSTAR: And that over the course of a year you would repair 6,500 vehicles?

DOUG KELLER: Uh-huh.

BOSTAR: So you repair 100 vehicles per employee per year?

DOUG KELLER: Um-hum.

BOSTAR: Sort of incredible. I just wanted to make sure I got the numbers right. So the follow up to that. Since it seems like so much repair is not necessarily reliant on aftermarket parts, but is utilizing aftermarket parts. Is there any concern that if OEM parts were required that there wouldn't be enough or that repairs would take longer to accomplish?

DOUG KELLER: Well, the effects in, in our shop. We generally use OEM parts no matter if we have to cover the cost or take, take less profit because we want to repair vehicles correctly.

BOSTAR: Got it.

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DOUG KELLER: And there's occasions we do use aftermarket, but it is rarely. We, we use OEM most of the time.

BOSTAR: Got it. OK, so then this wouldn't, this wouldn't impact your sort of supply chain in any way then since you're already sort of doing this practice?

DOUG KELLER: Right.

BOSTAR: OK, thank you very much.

DOUG KELLER: Um-hum.

WILLIAMS: Any further questions? Seeing none, thank you, Mr. Keller.

DOUG KELLER: Thank you.

WILLIAMS: Next proponent. Welcome.

GINA COTTON: Hi. Chairman Williams and committee, thank you for having me today. My name is Gina Cotton G-i-n-a C-o-t-t-o-n, and I'm here on behalf of the NABA. I'm serving as their executive director and we have 47 shops in 49 districts across Nebraska. We're pretty excited about that. We're pretty excited about this legislation. I'm a consumer. I didn't know what I didn't know. When James showed that video of the watermelon, my heart dropped, .7-- 0007 of a second. I don't know, I'm not here for your technical information. I'm here as a mom and a grandma to tell you I had no idea what I didn't know. And I'm going to have to confess that I bought my car because it was cute. And if you ask me what kind of engine I have in my car, I don't know. But I bought the car because the mirrors come in. It'll stop me before I hit the front of my garage and it'll kind of goose me a little bit if I sway out of my lane. Right? I bought the car because it's a computer on wheels. To get in an accident to find out that it could be repaired so poorly that none of those systems can work, scares, scares me. I have an 18-month-old and a 2-month-old grandbaby. That scares me to have them in the car. When I hear the words totaled, I think, oh my gosh, if my car's totaled and I'm alive, I didn't realize that totaled is a calculation. It's a money issue. I always thought totaled meant your car was "irreparable." Not the case. And I look at the young people, their first car on the road, that's what they're doing. I think of Jesa's story and think, oh, my gosh, she had no idea. She thought she was getting a good deal. She was not getting a good deal,

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but she didn't know it. Unless you get under the hood and you know what you're looking at, you really can't see it. The naked eye can't see it. If it's not crash, crash tested, you can't see it. That's scary to me. So I'm every woman. I think I'm, you know, you buy a car, it's white, it's pretty. It drives great. I'm not thinking about the insides of the car. I have made a comment to James about bumper's a bumper. He goes a bumper's a bumper? He showed me a video of cutting through a bumper that takes longer than two minutes on a real OEM bumper. And he shows me an aftermarket part bumper and it's seconds to get through it. I thought a bumper was a bumper. What do I know? So I'm here today to propose-- I highly, highly, highly urge you to go for LB602 because I think it's definitely consumer driven. It's going to protect people like me on the road, people like you on the road. And I think it's a good bill for everybody concerned in Nebraska. So I urge your support of LB602. That's all I have.

WILLIAMS: Thank you, Miss Cotton. Are there questions? Seeing none, thank you for your testimony. Invite the next proponent. Seeing none, we will switch over to opponent to bring, bring up the first opponent. Welcome, Mr. Bell.

ROBERT M. BELL: Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Robert M. Bell. First name spelled R-o-b-e-r-t, middle initial M., last name spelled B-e-l-l. I'm the executive director and registered lobbyist for the Nebraska Insurance Federation. Nebraska Insurance Federation is the state trade organization representing the domestic insurance industry in Nebraska. I've also been authorized today to speak on behalf of the Nebraska Insurance Information Service, the property and casualty trade in Nebraska. You're getting a letter from the National Association of Mutual Insurance Companies. They wanted you to have that as well. Mutual, I would point out, mutual companies who do not make profits, they're owned by their policyholders. They're both stock companies and mutual companies in the insurance world. I'm here today testifying in opposition to LB602. Aftermarket parts save Nebraska policyholders money. Premiums are lower when insurers and their policyholders are able to have a body shop use aftermarket parts. According to a very dated but relevant study from 1999 from the Alliance of American Insurers, a \$25,000 vehicle rebuilt with only, only OEM parts would cost approximately \$100,000. You might ask yourself, are aftermarket parts as good as OEM parts? And you've heard plenty of testimony on that. And you've heard about like, kind, and

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quality. In Nebraska, in 1988, the Department of Insurance promulgated a rule in regulation that requires aftermarket parts must be at least equal in like, kind, and quality, but also the second half of that-- to the original part, but there's a second half in terms of fit, quality, and performance. You can see this for yourself at Title 210 of the Nebraska Administrative Code, Chapter 45. Under this rule, insurers must disclose to the claimant in writing on the estimate that this, quote, this estimate has been repaired based on the use of automobile parts not made by the original manufacturer. Parts used in the repair of your vehicle by any other than the original manufacturer are required to be at least equal in like, kind, and quality in terms of fit, quality, and performance to the original manufacturer parts they are replacing. LB602 would also require a similar notice be placed in a policy. If, if I read the legislation correctly, if after three years, you wanted to use aftermarket parts, in the policy that has to be written into the policy and then would have to be signed by that consumer. Of course, this would frustrate our efforts to make e-delivery of policies more-- well, do that more often. Obviously, last year, you passed a law that allows e-delivery of P&C policies to have somebody to actually sign those. In real life, if that's what the legislation means, would be problematic. There's this-- also this provision related to 75 percent, related to the total lien on the vehicle, so a total loss putting it at 75 percent. Nebraska salvage law right now is at 75 percent. If, if the repairs are over that, it doesn't talk about all of these other expensive repairs that are involved. And that's at 60-171 in the, in the motor vehicle code. However, there's another provision of that statute that also if the owner agrees to have that, that title salvaged, they can. I would imagine flexibility is probably what consumers and insurance companies are wanting out of that. I mean, certainly there are cases when you want your vehicle totaled and there's probably some situations where you do not. So placing a statutory provision into the insurance code, I, I think deprives the policyholders of needed flexibility when attempting to determine the best way forward during a claim. Finally, there was-- you have this warranty section at the end. And I heard, heard comments before me that said that using aftermarket parts would void the warranty, but that doesn't square up with federal law on the issue. And specifically to Magnuson- Moss Warranty Act prohibits warrantors from voiding an automotive warranty merely because an aftermarket part is utilized. In fact, I believe the Federal Trade Commission did a consumer alert in this area a couple of years ago,

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which I can provide it to the committee. In summary, I had a colleague, we were talking about different line of insurance. But it's real simple, rates equal claims or wait, claims equal rates. So the more you pay, the higher your rates are going to be for your insurance. So we use this as a tool, aftermarket parts as a tool to keep rates down. And that's what our consumers want. I've had aftermarket parts used on my vehicles. It's interesting, I, I just bought a new vehicle and I'll end, I'll end with this anecdote. Just bought a used vehicle. It's a 2018, so I don't know if this would necessarily apply. And at, at the dealer that I bought it for, it comes with a warranty, right, and I had a mechanical issue probably because it's, it's very cold outside. And I went into the, into the warranty and, of course, it says like, kind, and quality in the replacement of the parts it have to do the repair at the dealer. So with that, those are the reasons the Nebraska Insurance Federation opposes the passage of LB602 and I thank you for the opportunity to testify.

WILLIAMS: Thank you, Mr. Bell. Questions for Mr. Bell? Senator Bostar.

BOSTAR: Thank you, Chair Williams. Thank you, sir.

ROBERT M. BELL: You're welcome.

BOSTAR: So I just-- I want to, I guess, ask you about some of the things that have been said.

ROBERT M. BELL: Sure.

BOSTAR: So related to, you know, you spoke to the warranty issue, but so related to the-- people are describing the material nature of some of these parts, what seems like the durability of some of these parts.

ROBERT M. BELL: Right.

BOSTAR: Different, different tests. So, you know, you talk about it in Nebraska statute, that performance is also something that has to be--

ROBERT M. BELL: In Nebraska regulation. So--

BOSTAR: OK.

ROBERT M. BELL: Yeah.

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BOSTAR: So, so what I mean, what should my take away be here, right?

ROBERT M. BELL: Well, if, if, if an insurer is requiring an insurer in, in an auto body shop to use an inferior product that, that doesn't meet fit, quality-- or like, kind, and quality in terms of fit, quality, and performance, they're, they're committing an unfair trade practice in the, in the business of insurance according to that regulation. You know, what, what I think people have-- and I was reading up on, on the history of this, and I am, I am not an engineer. I am not an auto body repairman. But, you know, a long time ago there was a monopoly. There was a monopoly of auto, auto parts, right, by the equipment manufacturers. The original-- the, the people who manufacture the cars. Right? And then eventually came along a market that had products that were just as good, that were cheaper. And as you might imagine, insurance companies are financial. You know, we are-- we're, we're looking to save money for our policyholders so we can charge lower premiums. If you want OEM parts, like the gentleman said behind, behind us, you're, you're welcome to get a rider on your policy if your policy allows that or go shop for insurance. Right? If you're unhappy with your policy, go get a different policy. I mean, consumers have that, have that ability and we want them to use that ability. And if, you know, State Farm doesn't have that and Farmers Mutual of Nebraska does, you know, they're going to get those customers. But maybe State Farm has their reasons why they, they don't want to do that. So in the end, what we're trying to do is keep down the costs of, of that repair. We don't want our insured injured. We don't want unsafe vehicles either. I mean, if, if it's in a veh-- if it's in an accident later and there's more injuries or more property damage because of this aftermarket part, guess who pays? It's the insurance companies that are paying at the end of the day. I mean, you know, and that's not-- and we care. I heard that we don't care about our policyholders. We do care about our policyholders. Right? I mean, that is-- again, I kind of made that comment, snarky comment at the beginning in a mutual company, we are owned by our policyholders if you are a mutual company. Right? So very much-- I mean, we, we do care about our policyholders. So if this committee takes away anything away from this hearing, know that insurance companies do care, so.

BOSTAR: OK, so, thank you. A previous testifier talked about in his particular case, an OEM rider on his policy was \$50 a year.

ROBERT M. BELL: Um-hum.

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BOSTAR: Is that-- I mean, I don't know if you can speak to this.

ROBERT M. BELL: I can't. I don't know. I have no reason to dispute that. So, you know, it, it, it was interesting. I, I thought of that when he, he mentioned that and I had my stat in here from the Alliance of American Insurers. And, you know, that's about four times the amount. But there-- I mean, honestly, there could be some-- one part might be 10 times as much. Another part might be, you know, an extra 20 bucks. It, it just might depend on, on the part that we're talking about,--

BOSTAR: OK.

ROBERT M. BELL: --you know, so. And, and certainly just because we may ask the-- I mean, or we may only compensate up to the level of with an aftermarket part. There might be other situations where we're paying for the, for the OEM part or we believe that the OEM part is, is, is the correct product to use on that particular vehicle. So, you know, we don't, we don't really see a problem. I guess, I don't walk in the shoes of the, of the-- of this particular group of auto body shops, so it's hard for me to, to answer.

BOSTAR: Got it. And last, and last question, I--

ROBERT M. BELL: Sure.

BOSTAR: --a previous question I had was about how CAPA, the certifier of, of aftermarket parts goes about determining when and under what conditions to decertify an aftermarket part. Do you have any knowledge about this process?

ROBERT M. BELL: I don't. I don't. In fact, I was, I was thinking about that. And, you know, we've all had cars that have had recalls. I only drive Hondas as an example. And I can tell you none of my Hondas had their original airbags in them. They're, they're all-- they've all been replaced. Now, I, I don't know what that means under the law, like, is that an aftermarket part or is that-- and is, is that considered OEM? I'm, I'm sure they can probably answer it. I would hope that's an OEM part. Right? But it might be an-- I mean, it's not the original equipment manufacturer. I would have to go in and read the definitions, do those sorts of things. I am not familiar with this

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CAPA process. But again, the standard in law that we must follow is like, kind, quality in terms of fit, quality, and performance, so.

BOSTAR: All right. Thank you, sir.

WILLIAMS: Additional questions? I've got a couple. Mr. Bell, you spent a number of years with the Department of Insurance.

ROBERT M. BELL: Yeah.

WILLIAMS: They have a [INAUDIBLE] consumer complaint department.

ROBERT M. BELL: Right.

WILLIAMS: When it-- based on your knowledge, when you were there for those years, were there many complaints coming into the department concerning these kind of issues that we're talking about today?

ROBERT M. BELL: It wasn't an issue that I saw a lot of. We, we-- I do-- I can remember auto body shops coming in and talking to us about the rule at one point, and that was it. So would the occasional consumer call the department and complain? That wouldn't surprise me on this. People are very passionate about the vehicles. Right? But when it actually got to the legal department of-- we only-- it only came to us if, if there was a, a very serious problem.

WILLIAMS: OK, let's ask a, a legal question next then. And you talked about fit, quality, and performance.

ROBERT M. BELL: Um-hum.

WILLIAMS: If an insurance company requires a body shop to use aftermarket parts, and we've heard a lot of testimony about some of the quality issues potentially with that, if it is proven later based on an accident, that, that the fit, quality, and performance of those parts that were required failed to meet, meet those standards, who would be liable in a case like that? You've got a situation where you have people injured in a, in a car crash and--

ROBERT M. BELL: You know, I'm, I'm thinking back to law school.

WILLIAMS: You're not Lathrop sitting here.

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ROBERT M. BELL: Yeah, to them all, right? To everybody, including the insurance companies, including the, the body shop. You know, you, you would do it all.

WILLIAMS: You got everybody out there.

ROBERT M. BELL: If the insurer-- if the insurance company is requiring a, a-- something that is-- of not-- doesn't-- is not in equal in terms of like, kind, and quality in terms of fit, quality, and performance, I think they may have a problem out in the future. Again, the insurance company, though, is-- presuming it's the same insurance company, of course, you can all shop for insurance and change your insurance on a yearly basis, especially with your auto insurance. They're paying anyway, Senator.

WILLIAMS: Yeah.

ROBERT M. BELL: You know, they're-- that's why to hear that insurance companies don't care about the safety of their policyholders, I mean, just isn't true from both a moral sense and also a financial sense.

WILLIAMS: Thank you, Mr. Bell. Any further questions? Seeing none, thank you for your testimony.

ROBERT M. BELL: You're welcome.

WILLIAMS: Invite the next opponent.

SCOTT MERRITT: Good afternoon, Mr. Chairman, members of the committee. My name is Scott Merritt, S-c-o-t-t M-e-r-r-i-t-t. I currently serve as a director of the Automotive Recycling Industry of Nebraska. I did a handout of our test-- of our testimony. I'd like to take a few minutes, though, just to kind of summarize and go over the, the comments. Our membership represents the auto recycling yards and businesses across the state of Nebraska. We have members from Gering to Falls City and a lot of communities in between across the state. For the most part, we're locally owned, we're family-owned businesses operating many times in the second and third generation. Our opposition today is the restrictive intent by placing barriers on this bill. The professional auto recycling industry has long been an advocate for consumer choice and open competitive automotive parts markets. We believe that LB602 creates an unfair marketplace for major auto manufacturers. It places restrictive barriers for the use of

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nonoriginal equipment manufacturer parts or recycled OEMs, as we've talked about. This resulted in increased costs to our consumers and a loss of choice. Creating these government-imposed restrictions that hinder free market and cause consumer price increases, insurance pricing premium increases to rise is not in the best interest of Nebraska. Nebraska statutes-- well, let me back up, proponents contend-- contended that this is a consumer protection and safety issue. As we have heard, Nebraska statutes along with federal laws provide for consumer protections due to the standards, including replacement parts, as we've heard, must be like, kind, and quality, and quality parts. The other part of it is the safety is there are several third-party groups over the last decades that have studied this issue. And we have provided those studies, I believe, to your offices or they will be provided in the next few days, such as the Institute for Highway Safety and many other. And there's very mixed thoughts on that. So as we get into the complex issue of safety, there's a lot to be discussed going forward. With this, we just believe that LB602 will be a, a very detrimental to the small family businesses in Nebraska that are supplying auto parts to the auto industry. With that, I'd like to answer any questions that may come up.

WILLIAMS: Thank you, Mr. Merritt. Any questions? Seeing none, thank you for your testimony. We invite the next opponent. Welcome, Mr. Hruza.

TIM HRUZA: Chairman Williams, members of the committee, my name is Tim Hruza, last name spelled H-r-u-z-a, appearing today on behalf of LKQ Corporation. I'm also authorized to testify on behalf of the Nebraska Retail Federation. I'm passing around to you a, a handout with a packet. First, is a copy of some testimony that's written that, that, that I will, I will summarize for you for speed. As well as there's some handouts that go along with that, as well as some letters from a number of different industry folks. I don't represent them, but they did submit letters that they wanted to make sure that you had. Among those, the Auto Care Association, the Automotive Recycling Industry of Nebraska, Certified Automotive Parts Association, the Automotive Body Parts Association, Automotive Recyclers Association, as well. So all of those industry groups have submitted letters in opposition to this legislation. Just to give you a little bit of background, LKQ Corporation is one of the leading providers of alternative auto parts, including aftermarket, recycled, refurbished, remanufactured, and

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specialty auto parts. We operate eight facilities in Nebraska, located in Lincoln, North Platte, and Omaha, testifying in opposition to LB602 today. The bill does two things and I think some of it, through the testimony from proponents, has maybe overshadowed the, the two aspects that I think I want to highlight here. The first is the fact that it prohibits the use of aftermarket parts on late-model vehicles. So alternative parts includes aftermarket parts. It also includes recycled parts and other, other components that, that could be used. The second piece is that it would require OEM, or original equipment manufactured repair specs to be used in completing repairs. Those two components are different pieces of legislation that have different impacts on the industry. But at the end of the day, they ultimately result in less choice for consumers, fewer options for price repairs, and don't really get to the heart of the issue, which I think most of the proponents, proponents have tried to highlight, but that the alternative parts that we're discussing are of like, kind, quality and perform in the, in the way that they're supposed to perform, that the OEM parts do. And some of the stories that you've heard today about parts not meeting up, I guess we would submit on behalf of LKQ Corporation that we provide warranties for all of the parts that, that we do, whether it's a recycled part, an aftermarket part. Most of the aftermarket parts truly are created, manufactured in the same sorts of manufacturing facilities, if not the exact same manufacturing facilities with the same equipment that are just simply labeled differently. And that allows us to provide options for consumers at lower cost. LKQ strongly opposes the efforts to create a de facto monopoly in favor of OEMs and their franchise dealers. Bills such as LB602 portray alternative parts as not being equivalent in like, kind, and quality. They're highly misleading and discriminatory. What LB602 would do is translate into a monopolistic government mandate that attempts to disrupt Nebraska's auto repair industry. To turn my attention quickly to the written remarks that I've submitted and some of the handouts that are attached thereto, you'll see page one of the handout one that's attached directly behind the written remarks is a cost breakdown that demonstrates sort of what we're talking about when we talk about the, the cost of repair. And I know some of-- there were certain questions about that. But you can see-- it'd be this sheet that was handed out to you has a comparison of two different cost calculations using CAPA estimates and then car company service costs for the total savings that can be found by using aftermarket products. Again, that we would submit, at least as far as LKQ is concerned, are

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of like, kind, quality, and performance. With that, the handout number two that says that on average, by our calculations, alternative parts are around 30 to 60 percent cheaper than OEM parts for Nebraska consumers. In all respects, greater competition in this arena lowers repair costs, lowers insurance premiums, and are direct benefits to the free use of alternative parts. What I would also note is that there's some provisions in the bill that require transparency or knowledge of the consumer in terms of the parts that are used. We have no objection to making sure that consumers know what parts are being used on their cars. We simply believe that the approach that's taken in the bill is, is sort of discriminatory toward the alternative parts industry. Right? So we're trying to, we're trying to present to consumers that these parts are different and, and they're just not. There, there may be some that are different, but-- or there, there may be stories that you've heard today. We would submit that those are probably from "unreputable" or other types of, of companies. There's a-- there's counterfeit markets and those sorts of things that, that are out there. But if we're talking LKQ type parts, we're talking recycled parts. Sometimes those recycled parts are OEM parts that have been taken off of an actual OEM vehicle, recycled, refurbished, and then used in repair. So with that, I see my red light is on. I'm happy to answer any questions or address any concerns that I can. And I, I ask you to oppose LB602.

WILLIAMS: Thank you, Mr. Hruza. Senator Aguilar.

AGUILAR: Thank you, Chairman Williams. You made the statement that some of these parts are made in exactly the same factory as original ones, they're just labeled different.

TIM HRUZA: Yeah, that--

AGUILAR: Does that mean they didn't pass quality control inspection?

TIM HRUZA: What my understanding, Senator, is that they're made under the same conditions in the same factories. As far as that last question on quality control, I don't know that I can answer that. I suspect that that's not the case, but I will follow up with you.

AGUILAR: Thank you.

WILLIAMS: Additional questions? Seeing none, thank you, Mr. Hruza.

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TIM HRUZA: Thank you very much.

WILLIAMS: Invite the next opponent. Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Pahls. While you're coming up, we have one proponent, Loy Todd from the Nebraska New Car and Truck Dealers Association; and one opponent-- these are the drop-off testimonies, Korby Gilbertson from the American Property Casualty Insurance Association. And we have letters of support, one letter of support and one in a neutral capacity. Senator Pahls.

PAHLS: Thank you, Chairman. I must say that I was impressed by those individuals who work on automobiles. I-- like I say, I just buy them and drive them. But the quality of their discussion really impressed me. And I know we have two different groups working this, other-- I mean, I know the insurance would be, but two other groups. But I see enough merit in this that we need to continue working on this because this is throughout the whole state. This is not in the city of Omaha or Lincoln. I heard people from throughout the state. And I think that brings some true interest in trying to resolve this issue. Safety is important. Cost is important. But I, I-- in our discussion, I need to, to see what direction we may be going, if, if at all possible. But I was impressed with the testimony on both sides, but especially those individuals who actually work the product. They don't talk it, they work it. There's a difference. I'm a talker.

WILLIAMS: Thank you, Senator Pahls. Questions for the Senator? Thank you and thank you all for being here with your testimony today. We appreciate getting that feedback. That will close the public hearing on LB602. The committee will be going into Executive Session. So--