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Banking, Commerce and Insurance Committee
March 09, 2015

[CONFIRMATION LB341 LB488]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, March 9, 2015, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB341, LB488, and a gubernatorial appointment. Senators present: Jim Scheer, Chairperson; Matt Williams, Vice Chairperson; Kathy Campbell; Joni Craighead; Mike Gloor; Sara Howard; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR SCHEER: Good afternoon and welcome to the Banking, Commerce and Insurance Committee. I'm Jim Scheer from Norfolk representing the 19th Legislative District and I serve as Chair of the committee. The committee will take up the bills and the hearings in the order that they are posted. Our hearing today is your part of the public legislative process, your opportunity to express your position on any proposed legislation before us today. Committee members will be coming and going during the hearing. We have to introduce bills in other committees and are called away. It's not an indication that we're not interested in the bill being heard at this time by the committee, just part of our process. To better facilitate today's proceedings, I would ask you to abide by a couple of items. First, if we could all turn our phone off or to silence so that at least we are not interrupted with rings. If you are going to be testifying, if you could move up in the first or second row so that we know how many people are waiting to testify and in what order to ask you to come up. The order of the testimony will be the introducing senator. We will have proponents, opponents, those in a neutral capacity, and then the closing by the introducing senator as well. Testifiers need to sign in on the pink sheets. Fill them out in completion and turn them over to Jan Foster, our clerk, so that she has it for the records. When you are testifying when you come up, if I could ask you the first thing to do is to give us your name and please spell your first and last name so the transcribers have that for their purposes as well. If you are here and would like to express your support or opposition to any particular bill but do not want to testify, there are white sheets by both doors that you can sign your name, the date, and whatever the bill number it is that you either support or oppose. I would ask when you are testifying to please be concise so that we don't duplicate others message. If somebody has already said what you wanted to say, you can simply just say that you support whatever the other person said and that will be fine. Truly don't have to hear it that many times before we'll finally catch on. So please keep that in mind. If you're testifying, please make sure you're speaking into the microphone so that, again, the transcribers can pick up your testimony as well, as the senators on the committee, if you can make sure that you're testifying into the...as well. If you have handouts that you're going to be providing the committee, we will need at least ten copies of those. And if you don't have those, our page Jake will be glad to make those copies, preferably before you testify so that we have them while you're testifying to look at the information in case we do happen to have any questions. The committee counsel is Bill Marienau to my right and our committee clerk is Jan Foster to my far left. And I will let the rest of the committee introduce themselves. We'll start with Senator Schumacher.

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SENATOR SCHUMACHER: My name is Paul Schumacher, representing District 22 in the Legislature. That's Platte and parts of Stanton and Colfax County.

SENATOR HOWARD: I'm Senator Sara Howard. I represent District 9 in midtown Omaha.

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

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

SENATOR CAMPBELL: Kathy Campbell, District 25, Lincoln.

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

SENATOR SCHEER: And our page today is Jake Kawamoto from Omaha sitting over here, and he will be glad to assist you if you need something as well. And with that, we are ready to start today's hearings. And so the first would be for the Director of the Department of Economic Development, Brenda Hicks-Sorensen. Please come forward. Good afternoon and welcome.
[CONFIRMATION]

BRENDA HICKS-SORENSEN: Thank you. Good afternoon, Chairman Scheer, members of the Banking, Commerce and Insurance Committee. For the record, my name is Brenda Hicks-Sorensen, B-r-e-n-d-a H-i-c-k-s-S-o-r-e-n-s-e-n. It is an honor to appear to you today as the professional selected by Governor Ricketts to serve as Nebraska's Director of the Department of Economic Development. I am excited to serve in this role and enthusiastic about having the opportunity to be part of helping to grow Nebraska. To tell you a little bit myself, I recently moved to Nebraska from Wisconsin. I'm a certified economic developer with extensive experience in program development and organizational leadership. I have provided leadership at both the local and state level through my work with the Wisconsin Economic Development Corporation and Fond du Lac County Economic Development Corporation. I've also operated my own business so I understand what it is like to be an entrepreneur. My work experience has provided me with significant knowledge of business attraction, existing business development, entrepreneurial assistance, targeted industries, financial packaging, project management, and administration of state and federal funded programs. I understand the importance of strengthening Nebraska's economy, continuing to improve Nebraska's communities, and creating jobs. In my role as the Director for the Department of Economic Development, I will work to ensure that others know that Nebraska welcomes business investment. We have a good foundation here in Nebraska to attract businesses to our state. I would like to highlight a few of

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the business incentive programs administered by the Department of Economic Development. We have the site and building development program which is used to make industrial and commercial sites ready for business operations and growth. We also have the Business Innovation Act programs that assist startup companies with innovative and technological ideas, pursue necessary research, build a prototype of a product or process, and work towards commercialization and growth of their businesses. Additionally, we have the job training grant program that provides financial resources to businesses that maintain, expand, and diversify the state's economic base by retaining and/or creating jobs in Nebraska. I will also work to ensure that others know that Nebraska has good jobs in great communities. We want to attract talented work force to our state. In order to do this, we need to have strong communities. The department will continue to make investments in communities through the Community Development Block Grant Program, the HOME Investment Partnership Program, the Nebraska Affordable Housing Program, and the Civic and Community Center Financing Fund. It is important that we make investments in our work force by providing them with the right training and education. As you may know, the Governor has proposed the Developing Youth Talent Initiative. I am hopeful that you all will be supportive of the Governor's request for funding of this initiative. This initiative is intended to create a talent pipeline to attract and maintain high-skill, high-wage jobs in Nebraska. If the program becomes law, the department will identify and select up to two private industry grant recipients in the manufacturing and technology sectors. These grants recipients will administer a program that will offer career exploration to students beginning in the seventh and eighth grades. Preferences will be given to employers that agree to provide scholarships for qualifying students to compete in industry-recognized credential in the field after graduation from high school. We are still working on some of the details of this program, but the department is excited about exploring the opportunities that this new initiative may bring to our state. Along with implementing this new initiative, I want to take an innovative approach to economic development here in Nebraska. In order for our state to remain competitive, we need to continue to review, evaluate, and modernize our incentive programs. We also need to determine the right approach to marketing our state. In April, the department will initiate an incentive modernization process with the ultimate goal of revamping existing programs where needed, determining whether there are new programs that should be implemented here in Nebraska, and finding ways to measure the success of these programs. We will encourage the involvement of key stakeholders as we lead this effort. We will also be working on a plan for marketing our state which will include an evaluation update of our promotional materials and Website and a review of how we can improve our contact management or cost-relationship management process. I've already been meeting with individuals and groups that represent economic development, community development, and housing interests across the state of Nebraska. Through these meetings, I've become more familiar with the state and I am excited to visit additional communities and businesses. It doesn't take long to recognize that Nebraska is a great place to live and work. I want to ensure the continued growth and success of our state. Carefully analyzing and modernizing businesses incentives, along with developing and implementing a

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plan for marketing our state will be a great beginning to Nebraska's next stage of growth. I am proud to serve with Governor Ricketts and call Nebraska my new home. Thank you for your time. I'm happy to answer any questions you may have. [CONFIRMATION]

SENATOR SCHEER: Thank you. Questions? Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Thank you. Director-Elect, we have spent a lot of time in the last couple of years here in Nebraska, we had a performance audit, in fact, take a look at the evaluation of Nebraska initiatives. And I'm glad to hear that you're going to take a look at all those. What criteria should we be looking at when we evaluate the incentives we have in place? [CONFIRMATION]

BRENDA HICKS-SORENSEN: Sure. The way I really approach incentives is that you really should be implementing incentives that address the problem. So, first, you identify the problem and then you look at incentives as the solution or one part of the solution to fix those problems. And then you really look at what you anticipate how you're going to move that, you know, so whatever the case may be. So then you identify those metrics. I personally like looking at what other states have been successful doing. For example, Michigan has in the last handful of years implemented some very successful work force training initiatives. And I like looking at what those states do because that gives you a baseline for your metrics. You can take a look at how do we make it our own here in Nebraska to fix our specific problems, and then what can we expect as part of those metrics. I am a huge fan of semiannual reviews for incentives, for example. So really taking a look at are they doing what we anticipate them to do, are we starting to meet some of our...meet our benchmarks that we've set forth for those, and then what adjustments do we need to make. Now obviously with some of those programs you're not going to move the needle overnight. So you might just decide that it's important to stay the course, but at least you're monitoring it on a regular basis. That's also important for the CRM system that we mentioned, the customer relationship management tool. There's some really great programs out there that can track your activity, your...those measurements, your dashboards, in a real-time basis. So as soon as a contract, for example, is executed, that would then tie into that dashboard and we can really watch that and monitor it real time. So it's really a number of pieces that go together as we're looking at those incentives. [CONFIRMATION]

SENATOR CAMPBELL: Thank you. [CONFIRMATION]

SENATOR SCHEER: Other questions? Senator Williams. [CONFIRMATION]

SENATOR WILLIAMS: Thank you, Senator Scheer. Thank you for being here. Several questions actually. You talked about modernizing the process and what you're bringing from

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Wisconsin and your background. Are there any things in particular that you have seen that you would like to begin by proposing? [CONFIRMATION]

BRENDA HICKS-SORENSEN: Sure. Each one is very...you know, each is very specific to the state, but there's some overall programs that seem to be pretty successful. I've mentioned already the work force. Every place I go so far, everybody I've talked to, work force and housing. And market housing is really important, you know, those houses for folks who have the jobs or who are considering the jobs at a current employer, for example. So really taking a look at really that flexibility when you talk to site consultants across the country through the different venues that are available and the relationships I have. When we talk work force, that flexibility is really important. Iowa, quite honestly, is highlighted as one of the examples to follow for work force. Closing funds. I know there's been a lot of talk here in Nebraska about different closing funds. There's quite a few states that do have closing funds. And taking a look at closing funds and how...again, how that specifically would work for Nebraska, what starts to make sense. A lot of states are starting to target their incentives towards specific industries. And that's really where you identify what is our goal. So, for example, do we want to raise the incomes? You know, our median income perhaps isn't where we would like it to be here in the state. So how do we move that needle so that they we're more on check at the national level with median income? And then how can we target industries or certain cluster groups that will help us do that? So those are all just some of the things that I've seen implemented, have been part of implementing, but have also had the opportunity to evaluate across the country, and we really want to. It's been a few years admittedly since I've done a comprehensive review of programs across the country, and that's part of our plan for modernization is really step 1, do that evaluation and then again make it work for Nebraska. Why start...why recreate the wheel if there's something out there already. [CONFIRMATION]

SENATOR WILLIAMS: Sometimes there seems to be a reluctance of government to want to engage the private sector. You mentioned in your conversation with us wanting to engage the private sector. How would you attempt to do that? [CONFIRMATION]

BRENDA HICKS-SORENSEN: Sure. Well, I've already had the opportunity. Last week was my first time out in one of our communities. I was in northeastern Nebraska in Norfork (phonetic) or Norfolk. I had mixed indications on how to properly say it, so I said it both throughout the day. And my first meeting was with a private-sector entity and their entire leadership team. And we really talked about what are the challenges for them to grow here in the state. And heard a lot about, again, talent attraction, work force, the usual. We talked about utility rates. There was a lot that came out of that one-hour-plus meeting. We also had a roundtable at lunch with a variety of business sector leaders from the community involved in that as well. The week of March 30th I'm going to be touring the state. So I'll be out and about in a lot of locations starting in Scottsbluff and working my way east. And there's a lot of opportunity throughout that. We really

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emphasize, making sure that we're meeting with various stakeholders, including private sector. The department also has some industry cluster groups, manufacturing, bioscience, IT, for example, and we definitely continue to take...want to take advantage of that and utilize those insights as well. So we're putting together a strategy for that incentive modernization to ensure that we have stakeholder engagement and those businesses are very, very critical. They're our customers, after all, and they're the ones that are going to be using whatever we put in place. [CONFIRMATION]

SENATOR WILLIAMS: You mentioned housing and certainly all across the state, whether it's a large community or a small community, housing is one of the major issues holding back our ability to continue to grow. And I won't ask you the question now, but a year from now we'd love to see what solutions DED could help the state in with housing. Thank you. [CONFIRMATION]

SENATOR SCHEER: Any other questions? Senator Schumacher. [CONFIRMATION]

SENATOR SCHUMACHER: Thank you, Chairman Scheer. Thank you for your testimony today and your willingness to move to the Cornhusker state. [CONFIRMATION]

BRENDA HICKS-SORENSEN: Glad to. [CONFIRMATION]

SENATOR SCHUMACHER: We have kind of a unique situation here. We have full employment, albeit a lot of underemployment, but we're full employment. We have the economy for a vast majority of the land area of the state driven by a agriculture which is low employment, but very high productivity. It's probably going to continue to become high productivity and less employment. We have a roads and layout of our towns and cities based upon 1920 needs along railroad tracks and along routes to the Black Hills or wherever else you're supposed to find gold, and maybe some ethnic communities. We have a strong exodus from the rural area to the area that's within 60 miles of downtown Omaha. In that environment, what's your thoughts as to how we should structure our economic development efforts? Do we continue to try to pump money into telecommunications and housing infrastructure in a town of 800 to 1,000 people that happen to be there because there was a railroad there and a main-use highway there 50 or 100 years ago? Where do we make the tough decisions? And where do we...what's your thought of where we depart from the past and start saying there's some areas we got to start over in? [CONFIRMATION]

BRENDA HICKS-SORENSEN: Sure. Well, that is in part as part of my tour and my goal is to really be out as much as possible in the communities talking to, again, our customers, our stakeholders for economic development. The towns are there, you know, they're there. We want to see what we can do to support them. So I think as part of our incentive initiative as we move

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forward, again, really taking a look at where we're going to have the biggest bang for our buck, and that's really...there's only so many resources available. But as part of that, also working with our planning districts, for example. And I've had an opportunity to meet a couple of our planning directors, and I think they're doing some really great jobs, at least based on my conversation thus far. I'm really working with those communities and I think we can further support that on planning for what they have the opportunity to do and to be. You know, they might not, let's face it, they might not be able to attract the next large attraction project. But not every community wants to or is in that position to. So really how can we help support their investments and perhaps their downtown, their investments in quality work force, housing, if...to support the existing businesses. So that's really, again, where can we have the biggest bang for our buck, so to speak, but also what are some tools or resources. And it doesn't necessarily need to be financial resources, but what are some tools and some resources that we can put into place to work with our communities to further support their efforts. You know, some programs, for example, that have been pretty successful in some rural communities are micro-loan programs--\$2,500, \$5,000 loans to support the entrepreneur. You don't know where you're going to get your next Cabela's from or, you know, whatever the case may be. So how can we support the entrepreneur community? And, again, it might be providing the technical assistance or the resources or perhaps some seed funding. But a lot of times the banks and other partners will provide some of that micro-loan funding. It's just helping them get through that process of planning and deciding that's what to do, you know, an opportunity. Facade grants are another great way, you know, to help a smaller community perhaps encourage some development. And, again, it can be a pretty limited investment and it may just be technical assistance and some other resources that we provide through our field staff or our community development team and so forth. So, again, that's one of the things that we'll be looking at. Not all resources necessarily require or not all programs or assistance necessarily require financial assistance as well.
[CONFIRMATION]

SENATOR SCHUMACHER: Thank you. [CONFIRMATION]

SENATOR SCHEER: Any other questions? Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Nebraska has been criticized because it doesn't have very many angel investors or a structure. I mean, there's some, but it has been criticized for that. How do we begin really shoring that part up? [CONFIRMATION]

BRENDA HICKS-SORENSEN: Sure. I think the Business Innovation Act really has helped. I think there's a lot more discussion, at least from my understanding at having been here. But it definitely seems like there's some networks out there and now some more awareness. And a lot of times that's really what it is, is really starting...you know, it's such an interesting culture and so

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you're really trying to support that culture because a lot of times the folks that have the resources that are interested in the angel investing, they just maybe don't know how to get connected or it's more word of mouth. So I think a significant role is for the department and for all of us actually is to then just continue to support that entrepreneurial spirit, help raise the culture, and then, you know, you can have some pretty significant impacts with programs like tax credits and a variety of things to continue to support that. [CONFIRMATION]

SENATOR CAMPBELL: How do you think we're doing in terms of connecting with our colleges and universities in this state as we look at economic development? [CONFIRMATION]

BRENDA HICKS-SORENSEN: Sure. I have not been able to meet with the university folks. I've only had a 20-minute tour of one of our community colleges. So that is...in fact, I have a number of meetings coming up to address that. But it does appear to me that there's a greater opportunity for us to have a better connection. It seems like we have some really good ties with our team members, our colleagues, with some individuals, and relationships that they may have. But I think as a systematic approach we could perhaps do some more things to encourage stronger relationships. There's some things that I know I've been asking some internal questions about spinning out technology and how startups from the university. And, again, I think there's some really neat things in place. It's just how do we better integrate that and again make it a more systematic approach, and then role DED can play in that, for example. [CONFIRMATION]

SENATOR CAMPBELL: I'm sure when you were at Wisconsin you had a card that you pulled out that just said this distinguishes Wisconsin when you were talking to people or businesses that were going to come. How do you get to that card for Nebraska? What is that card? [CONFIRMATION]

BRENDA HICKS-SORENSEN: We actually had multiple cards, and we really...we took the approach of focusing a lot on targeted industries, as I mentioned earlier something to look at. So when we were talking to businesses that were focused on water, whether it was an existing manufacturer who was making parts for pumps and wells and whatnot or a new company with new technology coming out of the university, we had a very different message and it was very targeted as to why Wisconsin in that case. And that's one of the things that we would like to be able to do through our efforts as part of that modernization, but also really why Nebraska. So why Nebraska for this, this, and this? And again have that message. I mean, let's be honest, every state, every community says that they have the best quality of life, the best education, great cost of living. And while that may be true, it sometimes goes in and out of the ears of our customers because they've heard it everywhere. So we want to make sure that we're targeting those industries and we have that specific message for them so that we really can prove to them that this is the best place to be expanding, starting, or growing. [CONFIRMATION]

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SENATOR CAMPBELL: Thank you. [CONFIRMATION]

SENATOR SCHEER: Any other questions? Senator Schumacher. [CONFIRMATION]

SENATOR SCHUMACHER: Thank you, Chairman Scheer. One final question. If you were to predict based upon your training and experience where you see things going, what Nebraska will look like in 50 years as far as population disbursement and economic activity, where do you see us being? [CONFIRMATION]

BRENDA HICKS-SORENSEN: Gosh, if I could do that I probably admittedly would be retired someplace a little bit further south from here. (Laughter) You know, quite honestly, I mean, there are certain trends that are going to, I think, continue. I do think that, but it's interesting. I think you're going to continue, you know, that quality of life. People are no longer choosing careers based...they tend to choose their location where they want to live first in a lot of cases, and then they're choosing, you know, their careers or their...you know, an opportunity where they can follow a career path where there's that next opportunity, you know. My parents and a lot of individuals, you know, they were in the same job for 30-40 years, so, you know, they asked why are you changing jobs after 7 years or, you know, aren't you going to retire from there. And that's not the environment we're in, and I don't see any change in that. I think you're going to see a very mobile work force, so I think talent attraction is always going to be at the top of our discussion when we talk about economic development. I think the state that can figure out talent attraction and really some solutions in there is going to be a winner in the world of economic development, and I definitely hope that's Nebraska. So, you know, as far as the patterns, I think there's going to continue to places where there's good schools, where there's making investment in communities so that, you know, people like to have different options, the coffee shop, the movie theater, you know, whatever, good parks, whatever the case may be. As to specific which communities and exactly where that's going to be, I wish I knew. [CONFIRMATION]

SENATOR SCHUMACHER: But the trends are pretty definite. [CONFIRMATION]

BRENDA HICKS-SORENSEN: Yes. [CONFIRMATION]

SENATOR SCHUMACHER: They're vacating the rural areas, not because there's anything wrong with them, because that basically the Omaha-Lincoln area instate is where it's attracting. We're seeing a migration to the coast, a migration to warmer weather. So if we have limited resources to give out in credits and grants and angel perks, how should they be targeted? How many losing battles do we fight or do we pick a winning battle and fight that?
[CONFIRMATION]

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BRENDA HICKS-SORENSEN: Well, I mean, I'm very competitive so I want us to be a winner. So I think that's where we'll definitely take a look with our stakeholders and try to predict what investments...and, again, going back to the initial conversation is you really identify what is the problem that you're trying to solve with incentives and, again, what do you want it to look like in 10 years, 20 years. So let's just say the median income, where do we have the biggest opportunity to influence that increase in median income, for example? And how are we going to meet those investments? What's interesting is part of the trends is, yes, people are moving to the East Coast, the urban areas, and that probably will not change here in Nebraska. But on the other hand we have a lot of opportunity that I think we need to take advantage of to have people relocate here. We have a lot of people in the state that are educated here, have family here, and perhaps have relocated to the coasts or someplace a little bit warmer or, you know, a larger metropolitan area. But when they hit a certain age where they're having children or, you know, parents are aging and they want to move back, I mean, there's such an amazing quality of life. So, again, it's going back to what's our calling card for those folks? So Greg Ibach and I, for example, from ag, you know, he's going to be in New York, as just an example, promoting the beef industry. So one of my comments is like, well, you know what? We should have an alumni event there at some point in time, you know, not necessarily this April trip, but in a subsequent trip that we should just coordinate, and let's start attracting alumni, and again, telling our story and letting them know. Some of those folks might want to move back to their hometown because of nostalgia and they're to the...you know, that's one of the nice things. I talked to a gentleman this morning that literally because of his job and being able to work remotely could live in any community he wanted to. And he chose to move home to his hometown in Nebraska.
[CONFIRMATION]

SENATOR SCHUMACHER: Thank you. [CONFIRMATION]

SENATOR SCHEER: Other questions? Well, one, I can't think of a better community to start with than Norfolk. (Laughter) And most people... [CONFIRMATION]

SENATOR WILLIAMS: How do you pronounce that? [CONFIRMATION]

SENATOR SCHEER: Well, most people mispronounce it because they see the l in folk, but it's actually an r, it's Norfolk (phonetic). So if you can just remember that imaginary "r" you'll always pronounce it correctly. [CONFIRMATION]

BRENDA HICKS-SORENSEN: Okay. Perfect. [CONFIRMATION]

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SENATOR SCHEER: Thank you for coming this afternoon. We will act pretty quickly on your nomination and hopefully we will get it to the floor for you. So good luck to you.
[CONFIRMATION]

BRENDA HICKS-SORENSEN: Thank you. [CONFIRMATION]

SENATOR SCHEER: And with that, we will now move to LB341. Senator Howard. Whenever you'd like. [CONFIRMATION LB341]

SENATOR HOWARD: Okay. Good afternoon, Chairman Scheer and members of the Banking, Commerce and Insurance Committee. My name is Sara Howard, H-o-w-a-r-d, and I represent District 9 in Omaha. Today, I'm here to present you with legislate...to present to you LB341 at the request of the Douglas County Board of Commissioners. Nebraska counties are overwhelmingly reliant on property tax as its source of revenue. LB341 is a measure to curb escalating health care costs for those incarcerated in Nebraska counties. Currently, there's no restriction on whether an insurance provider can drop coverage for the uninsured if they are incarcerated. LB341 would prohibit insurance providers from dropping coverage once an individual is processed in a county correctional center. This would only apply to those with private health insurance and only from the time period before the disposition of their case. So once they are found guilty, they're no longer eligible for their insurance anymore generally as part of their contract. And once they're found guilty, their health care costs become the full responsibility of the political subdivision in which the sentence is carried out. You'll see the fiscal note in there. It's the longest fiscal note I've ever seen. It doesn't approximate the number of individuals that they think have private insurance and have come in, in a pre-adjudication phase, but the guess is about 8 to 9 percent total across the board. Douglas County corrections has approximately 18,000 admissions per year, and based on the high number of admissions, Douglas County is confident that LB341 would result in a positive fiscal impact, as in the health care costs that they're currently absorbing now they would be able to bill for, which makes a lot of sense. And I would point out on the Lancaster fiscal note, I think there may have been some confusion because they...I'm not sure if they understood that you can bill...under this law, you would be able to bill both for the health care services within the prison as well as outside of the prison as long as you haven't been found guilty if you have insurance. Does that make sense? Okay. LB341 would allow counties to reduce spending on jail inmates' health care and repurpose those dollars. Ultimately, county taxpayers are paying for inmate health care and it seems a matter of fairness for private insurers to continue the coverage while the inmate is in the pre-adjudication phase. Thank you for your time and consideration of this matter and I would urge you to advance the bill. Thank you. I'm happy to try to answer any questions. [LB341]

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SENATOR SCHEER: Thank you, Senator Howard. Any questions? Senator Schumacher.
[LB341]

SENATOR SCHUMACHER: Thank you, Chairman Scheer. Thank you, Senator Howard. Why wouldn't you go a step farther and say, look at, if somebody's got a policy when they come into jail whether or not they're guilty or not and the insurance remains in force and have the county or the state have the option to continue to pay the premium and maintain the insurance in force?
[LB341]

SENATOR HOWARD: Well, it should never be the county's obligation to pay an individual's premium even though it may be to their benefit because it's the individual's insurance. [LB341]

SENATOR SCHUMACHER: But it's the county's obligation to pay for their health care if something goes wrong, so if the county finds it economically sound to pay for that health care while they are in jail by maintaining their insurance, then why shouldn't the county or the state have that option to continue to pay for the insurance of somebody who already has a policy instead of gambling that...having to take the gamble that they'll turn out to be sick and... [LB341]

SENATOR HOWARD: You know, this bill doesn't really speak to that. It actually says specifically that the county will not pay those premiums on their behalf. But it's an interesting idea, certainly. [LB341]

SENATOR SCHUMACHER: Okay. Now let's just say that someday Nebraska engages in some form of Medicaid expansion. In the states that expand Medicaid, does the Medicaid system pick up the tab right from the point they're arrested or does it wait until they are adjudicated?
[LB341]

SENATOR HOWARD: Medicaid doesn't cover felons. However, and that would be another bill and it would be in another committee, we could ask them to use it during their pre-adjudication phase although we don't right now. [LB341]

SENATOR SCHUMACHER: And that would be paid for by 90 percent by the federal government or 100 percent until 2016 or whatever. So wouldn't that be a preferable option for this rather than having our counties pay it or having our insurance companies pay it? [LB341]

SENATOR HOWARD: Well, the insurance companies have already accepted the risk of the individual, and the individual has paid their premium consistently, otherwise they wouldn't be covered. And so it makes sense to start with third-party payers in a way, especially since we

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don't have Medicaid expansion. So very few inmates, even in their pre-adjudication phase, would be eligible at this point. [LB341]

SENATOR SCHUMACHER: Right, but... [LB341]

SENATOR HOWARD: We would have to have expanded Medicaid first and then a second bill that was on the Medicaid side. [LB341]

SENATOR SCHUMACHER: If we were to, then that could replace this entire mechanism that you're laying out in this bill. [LB341]

SENATOR HOWARD: Not necessarily. If somebody had insurance, wanted to keep their insurance, knew they weren't going to be there for a long time, felt that they weren't guilty, they would want to keep their insurance and not have a lapse in coverage. [LB341]

SENATOR SCHUMACHER: As long as they could pay for it. [LB341]

SENATOR HOWARD: As long as they can pay for it. [LB341]

SENATOR SCHUMACHER: Okay. Thank you. [LB341]

SENATOR HOWARD: Thank you. [LB341]

SENATOR SCHEER: Other questions? Just a couple, Senator Howard. If somebody...they're not incarcerated, but they're being held before a trial basis, to me that tells me that they probably can't afford bail or bail wasn't offered. [LB341]

SENATOR HOWARD: Right. [LB341]

SENATOR SCHEER: Either extent, are we really looking at maybe a maximum of about 30 days worth of coverage because I can't believe somebody is going to pay an insurance premium if they're in jail, especially if they can't afford to pay their bond out. And if there is no bond, they're going to be in there for a substantial amount of time. I would venture to say most people would not probably pay their premium. So this is really a fairly short term facilitation of coverage. Am I seeing that correctly or... [LB341]

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SENATOR HOWARD: You know, I think there are scenarios on both sides. You become incarcerated and your employer maintains your insurance for you, and they make you take a leave, but they maintain your insurance for you. So then you still have that private insurance until you're convicted. If you have family on the outside that's willing to pay your premium for you or if you already have it direct deposited out of your checking account, I mean, you're not touching that money while you're in there generally. But it is a very small population, but the counties really feel as though it could make a difference in their budgets. [LB341]

SENATOR SCHEER: Okay. Thank you. Any others? Okay. And I know you're staying around, so. [LB341]

SENATOR HOWARD: I am. [LB341]

SENATOR SCHEER: Okay. We will enter the proponent today, so those that are in favor of this bill who would like to testify. Good afternoon and welcome. [LB341]

MARY ANN BORGESON: (Exhibits 1 and 2) Good afternoon. Good afternoon, senators, and thank you for your time this afternoon. My name is Mary Ann Borgeson, M-a-r-y A-n-n B-o-r-g-e-s-o-n. I am the chair of the Douglas County Board of commissioners and here today speaking in support of LB341. LB341 is basically a tool that we can place in our county's toolboxes to reduce the reliance on property taxes or the property taxpayers to pay for the medical needs of those individuals within our jails. This bill would prohibit insurance providers from terminating coverage of the individual that have been booked in our county jails, and this would allow their private insurance to cover their medical cost up until the time of sentencing. LB341 is basically modeled after action taken by Oregon's legislature in 2014 known as HB4110. And I've learned of this bill through our national association of counties during one of our legislative conferences. They talked about it and then presented it and I have handed out some pretty in-depth material on that from the county news. But basically the purpose of HB4110 was to prohibit a private insurer from denying reimbursement under a health benefit plan for covered services provided to an insured person in the custody of local supervisory authority pending charges. LB341 will also better prevent an insurer from denying reimbursement when an insurer is taken into custody and given medical treatment at any of our county facilities. For fiscal year '13-14, Douglas County spent approximately \$5.2 million on health services in Douglas County corrections. In general, we track about \$5 million per year depending on what our population is. And although the number of privately-insured inmates in our county jails are relatively low in the overall scheme of things, nonetheless, we believe that LB341 will have a positive fiscal impact on Douglas County. And according to the Oregon's statewide survey on average, they're projecting at about 8 percent to 9 percent of pretrial inmates would have private health insurance coverage. And to your point, Oregon also estimated that their figure could rise as high as 30 percent since the

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Affordable Care Act's insurance mandate take effect this year. So, again, we feel that LB341 is a win-win for the county taxpayer and we urge your to support LB341 and move it to the floor. And I'd be happy to answer any questions. [LB341]

SENATOR SCHEER: Any questions? Just out of curiosity, the...you note that Oregon has the 8 to 9, so is that...we're assuming that Nebraska would mirror Oregon using the same numbers? We don't really know, we just assume that might be the case. [LB341]

MARY ANN BORGESON: Right. We're just assuming that. Yep. [LB341]

SENATOR SCHEER: Okay. Thank you. Oh, I'm sorry. Senator Campbell. [LB341]

SENATOR CAMPBELL: Yes. Ms. Borgeson, in Douglas County if someone is apprehended by the Omaha Police Department and there's an altercation and that person has to be taken to the hospital, does the Omaha Police Department then cover that cost rather than the Douglas County jail? Do you know? I mean, I'm making an assumption that that person was still in custody with the Omaha Police Department. [LB341]

MARY ANN BORGESON: I'm going to look at our...yes, they do. That's our Director of Corrections back there. [LB341]

SENATOR CAMPBELL: If I recall that's the way it was in Lancaster and used to always be sometimes a debate as to when that person actually then became in the custody of the county jail. But in any case, I would assume that. So there would be at some point some savings also to city police departments. It probably wouldn't have as many as the county jail, but the bill would still apply to them. [LB341]

MARY ANN BORGESON: Right. And right now counties can also if an inmate is taken out of our facilities and into a hospital we can try to capture reimbursement with a stay 24 hours or more in that facility outside of ours. [LB341]

SENATOR CAMPBELL: Thank you. [LB341]

SENATOR SCHEER: I think that's it. Thank you very much. [LB341]

MARY ANN BORGESON: Thank you. I'm sorry, did you have a question? [LB341]

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SENATOR SCHEER: Oh, I'm sorry. Did you have...Senator Schumacher. [LB341]

SENATOR SCHUMACHER: If somebody is arrested and their employer is either paying their premium or they're paying their own premium and, of course, the employer maybe quits paying their premium or the person in jail has no income and does not pay their premium, well then the insurance company cancel the policy assuming they were in there for a few months waiting and maybe six months even waiting disposition. Do you view this bill as saying that the insurance company would have to pay on the policy even after the premiums had stopped? [LB341]

MARY ANN BORGESON: Good question. We actually did talk about your question you asked Senator Howard as to whether or not we should talk about in the bill paying the premium, and that scenario did come up. But we felt this maybe would be a first step, if you will, and not get too complicated. But those are scenarios that I'm not sure that this bill addresses that. [LB341]

SENATOR SCHUMACHER: Okay. Thank you. [LB341]

SENATOR SCHEER: Now I think you're safe. Thank you. [LB341]

MARY ANN BORGESON: Okay. Thank you. [LB341]

SENATOR SCHEER: Next proponent. Good afternoon. [LB341]

MARK FOXALL: Good afternoon, senators. Mark Foxall, I'm director of corrections, F-o-x-a-l-l, director of corrections for Douglas County. We're a fairly large jail. Our capacity 1,453 beds. Our average daily population is approximately 1,100, and as already testified to, we book approximately 18,000 people a year, about 1,700-1,800 a month, so we're...that's a lot of in, a lot of out. We have medical intake within the first three hours of arrival. We have an LPN at admissions and they do an immediate work up on someone coming in to determine if there's any emergent issues, and then collect information so that subsequent health and physical can be done within 14 days of the arrival. Our medical provider is a contract that service out to Correct Care Solutions. We have an MD. We have a nurse practitioner. We have RNs, LPNs, CMAs, and those individuals can handle a variety of things. We are not a full service hospital, however, we can handle a variety of ailments that come into our facility. We have two housing units that are dedicated as infirmaries for male and female inmates. They are not, again, full-service hospital units, but they are places we can pull inmates from general population in order to house them in a different type of facility so we can provide that emergent medical care. We have a part-time dentist as well because a lot of people come in with a lot of issues relative to oral care that need to be addressed fairly soon. We also have a need for off-site medical services, as I indicated. We

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can handle some things. We can't handle everything because we're not a full-service hospital. We have sick call five days a week, which a lot of inmates take advantage of that. Our population tends not to take advantage of preventative health care, though we have a lot of things in place for that. We also have an opportunity with our emergent issues to the extent we can handle, but sometimes we, as Commissioner Borgeson indicated, will have to send people out. We have chronic health care that we deal with on a daily basis, for example, high blood pressure, diabetes, hep C, things like that that we have to tend to daily. And we dispense medication daily as well several times a day. So as I said, we're not a full-service hospital, but we do perform quite a bit of services in the health care related fields, and I am a very strong proponent of this legislation and I think that it would help us significantly to defray some of our cost. As the commissioner indicated, I don't anticipate a very large number of people coming through with private insurance, but to the point that some do, you know, that we could take advantage of the cost savings in that area. And \$5 million a year, that's quite a bit of money coming through. Senator Scheer, I think you asked a question about I think it was you, I was sitting in the back, I'm sorry, about 30 days. I think it was you. [LB341]

SENATOR SCHEER: Sure. [LB341]

MARK FOXALL: About 30 days. Our average length of stay is 21 days. Our population turns over very quickly. So even if it is within that 30 days before the insurance times out or if the person can't continue to keep up the premiums, that's still a potential savings for us. We recently have heart conditions come in and open-heart surgery within that first two or three weeks, and that would have been a huge savings for us if that individual had, had private insurance. As it is, it's going to be very, very expensive for us to cover the cost of that procedure. [LB341]

SENATOR SCHEER: Senator Schumacher. [LB341]

SENATOR SCHUMACHER: Thank you, Chairman Scheer. Thank you for your testimony. Now when the insurance...is the insurance company's position basically that once they enter your facility, the policy does not have to pay? Is that a provision of their policies or how does that happen? [LB341]

MARK FOXALL: Sir, in terms of what the individual insurance companies, how they write their policies, I'm not sure. I don't know if that's a blanket provision in the different providers in the community or if that's a case-by-case issue. [LB341]

SENATOR SCHUMACHER: When they...someone comes in without insurance, even prior to conviction, does the...and they have a problem, the county has to pick up that bill? [LB341]

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MARK FOXALL: Yes, sir. [LB341]

SENATOR SCHUMACHER: Does the county carry any insurance on that or is that just out of the pocket? [LB341]

MARK FOXALL: That's...we have a...negotiate part of that fee with our contract provider. So it's out of our pocket. [LB341]

SENATOR SCHUMACHER: Now if there were a Medicaid expansion to cover people coming in, would that cover such things as you talk of a three-hour booking in medical review or something? Would that be covered by Medicaid, do you know? [LB341]

MARK FOXALL: I do not know that. [LB341]

SENATOR SCHUMACHER: Thank you. [LB341]

SENATOR SCHEER: Any other questions? Seeing none, thank you very much. [LB341]

MARK FOXALL: Thank you, everyone. [LB341]

ELAINE MENZEL: Good afternoon, Chairman Scheer and members of the Banking, Commerce and Insurance Committee. Spit it all out. For the record, my name is Elaine Menzel, that's E-l-a-i-n-e M-e-n-z-e-l, and I'm here on behalf of the Nebraska Association of County Officials in support of LB341. As the prior testifiers have mentioned, our interest is the costs of rising health care that counties have incurred as a result of inmate care. I don't want to be repetitive, but there have been a couple of other pieces of legislation this year that our association has also been supportive of to add to as Commissioner Borgeson indicated our toolbox of tools to address some of these issues with health care in the jail population. And Senator Campbell is familiar with one of those for sure and that had been advanced to General File, and I believe Senator Williams with the copay in from Judiciary. The one I'm referring to that Senator Campbell...was taken before Senator Campbell's committee would suspend rather than terminate the Medicaid of an individual who is an inmate. And for those reasons as well as the reasons that the previous testifiers have indicated, I am asking for the committee's support in LB341. If you have any questions, I will certainly try to answer those questions. [LB341]

SENATOR SCHEER: Any questions? Just one. I'm not trying to pick on you. I'm just thinking and sometimes they hit me at different times, but there's an actual expense. I understand that there would be a reimbursable cost that the counties would get back from insurance carriers. But

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having said that, insurance carriers have to get the money that they're paying out from someplace. And so essentially we're shifting the cost from the counties to insurance carriers and then insurance carriers back to taxpayers. So if we're going in one gigantic circle, what have we really gained? [LB341]

ELAINE MENZEL: I'm at a loss. (Laugh) I mean, I believe the argument is that the individual is paying for the up-front cost at this point and, therefore, it would be a recovery to the counties in that they already paid for their policies. [LB341]

SENATOR SCHEER: Well, but at this point in time it is excluded. [LB341]

ELAINE MENZEL: Right. [LB341]

SENATOR SCHEER: And so that's not part of what an insurance carrier would assume he's going to be paying for. So if an insurance...I mean, otherwise they wouldn't exclude it. So if they're excluding care while being in an incarcerated state, then any funds that are paid for a inmate in any capacity, and so using Douglas County, if they spend \$5 million and we believe it's 8 or 9 percent and if we say the 8 or 9 percent is same prorated basis of expenses, they'd save \$450,000. Well, if the insurance companies doing business in the state of Nebraska for health coverage are going to have to now pay that \$450,000 that they weren't paying as of today, they have to get that \$450,000 back from somewhere, which leads me to believe they're probably going to get it back from their policyholders, the existing policyholders. [LB341]

ELAINE MENZEL: Maybe I'm incorrect, but my thought to some extent is that the policy has already been paid for by that individual, therefore, it's...maybe windfall is too strong of a word, but maybe that insurance company is getting a windfall at this point for that time because they don't anticipate an individual to being arrested. But... [LB341]

SENATOR SCHEER: Well, yeah, you're right. I don't know that you can anticipate someone being arrested, but they clearly have that in the back of their mind if it's in the policy that it's excluded, so. I mean, we can split hairs, but... [LB341]

ELAINE MENZEL: Yeah. I concur. Yeah. [LB341]

SENATOR SCHEER: I mean, I guess my point is that at some point it ends up going back to the policyholders which would be residents of the state of Nebraska. [LB341]

ELAINE MENZEL: That's correct. [LB341]

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SENATOR SCHEER: And so if we're paying it via property taxes or we're paying it from insurance premiums, it's still coming out of the same pocket only it's going around the bend. And, quite frankly, if you are doing it from an insurance standpoint, and that's an industry I'm familiar with and I'm not trying to cut their income, but if they raise their rates part of that goes to commissions. And so that's a compensation that is even directly resulting additional health care. I understand I'm spouting here, so I'm not expecting a response. But, you know, there are some additional expenses by doing it that way that really have no benefit to health care at all. [LB341]

ELAINE MENZEL: And in deference I apologize in that I've not fully thought out some of those questions that you're presenting to me at this point, but would be glad to... [LB341]

SENATOR SCHEER: Fair enough. I just came up with them myself, so don't worry about it. But thank you very much. [LB341]

ELAINE MENZEL: Thank you. [LB341]

SENATOR SCHEER: Other proponents for LB341? Seeing none, are there any opponents to LB341? Seeing none, are there any in a neutral capacity for LB341? Good afternoon. [LB341]

ERIC DUNNING: Good afternoon, Mr. Chairman and members of the committee. My name is Eric Dunning, for the record that's spelled E-r-i-c D-u-n-n-i-n-g. I'm a registered lobbyist and the director of government affairs for Blue Cross and Blue Shield of Nebraska here today to testify in a neutral capacity on LB341. Although we believe the bill could be improved, we believe it's a bill that can be improved and would ask to be included in any group that is convened to work on the bill. I'd like to begin by telling the committee that we believe that Blue Cross and Blue Shield of Nebraska is in compliance with the standards set out in LB341. In our fully-insured plans, we do continue to provide coverage for members who are in jail awaiting disposition of charges and we do continue to do that until there's a conviction for a felony. However, we explicitly exclude coverage for the consequences of an illegal act. So, for example, God forbid, someone was burned as a result of manufacturing methamphetamine, we would not provide coverage for the injuries that resulted. There's a longstanding insurance principle that forbids insurance contracts that insure against the consequences of an illegal act. And as the bill appears to recognize that, we think that's a part of the bill that strikes a good balance. Setting a minimum standard prohibiting insurer termination of coverage before conviction is fairly straightforward, but we think the bill needs some polishing. As one example, the bill prohibits insurers from refusing to credential providers on the basis that they are employees or a contractor of a political subdivision, and then goes on to require a specific process that we have to engage in if we refuse to credential a health care provider on that basis. We understand the perceived need for the

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provision, however, we do want to avoid creating yet another additional process for credentialing publicly-operated facilities which we believe includes other types of providers other than jails. In addition, there's some language in paragraph (3)(c) that doesn't make sense to us. For example, why are conditions being placed on our ability to apply utilization controls for insureds who are not in custody. These are concerns about language rather than substance and we'd be happy to work with proponents of the bill. Thank you. [LB341]

SENATOR SCHEER: Thank you, Mr. Dunning. Senator Gloor. [LB341]

SENATOR GLOOR: Thank you, Chairman Scheer. Mr. Dunning, do you know back to that previous line of questioning, would there be a reason that--if you covered it just now I missed it--the counties couldn't go ahead and pay if they wanted to? Not an issue for Blue Cross, but it must be an issue for somebody. [LB341]

ERIC DUNNING: It must be an issue for someone. It's not an issue for us. [LB341]

SENATOR GLOOR: What if that payment came from a hospital? What if a hospital wanted to pay the insurance premiums on an insured who was hospitalized? Seems to fit in the same category for me. [LB341]

ERIC DUNNING: Well, I think we might be going down a trail that's much bigger than the bill in front of us in that we're going to third-party payments of premiums. And there's a whole series of additional concerns that we would have. Would providers or other folks who could benefit from specific insurance contracts... [LB341]

SENATOR GLOOR: Sure. [LB341]

ERIC DUNNING: ...being allowed to pick and choose between the contracts that they were paying for. There would be an interesting risk there for us. [LB341]

SENATOR GLOOR: Okay. Thank you. I think I've got some questions about employers on this, but I need to keep reading and figure that one out. [LB341]

ERIC DUNNING: And, again, my testimony is limited to our fully insured plans. [LB341]

SENATOR GLOOR: Yeah. Thank you. [LB341]

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SENATOR SCHEER: Other...Senator Schumacher. [LB341]

SENATOR SCHUMACHER: Thank you, Senator Scheer. You raised a point in your testimony with regard to what appears to be maybe something that needs clarification in the bill. But in page 3, line 5 it says that an insurer may not refuse to credential a health care provider who is an employee or contractor on the basis that the employer or contractor provides services to a facility operated by a political subdivision. That seems to be a clear may not. And it's only on some other basis for disqualification does the requirement that there must be written notice to the provider explaining the reasons for the refusal. Is that the way you read it? Never can you do it on the basis that they provide services to a...that they're a contractor for a facility operated by the subdivision. But if it's for some other reason, then you must give written notice. [LB341]

ERIC DUNNING: Well, it looks to us that any time the political subdivision owns...is delivering the services that because of their status as a political subdivision that we have to engage in a specific type of notice in subsection (4)(b) whether or not it's...that denial is based solely on the grounds in (4)(a). [LB341]

SENATOR SCHUMACHER: But it says may not refuse. It doesn't say has the option of refusing. So under (4)(a)... [LB341]

ERIC DUNNING: Right. [LB341]

SENATOR SCHUMACHER: ...one reason that can never be used is that the provider provide services to a facility operated by a political subdivision. [LB341]

ERIC DUNNING: Right. But some political subdivisions own health care facilities and we would not want to have to engage in the process in (4)(b) just because of their status as something that's owned by a political subdivision as opposed to a jail. [LB341]

SENATOR SCHUMACHER: Get some language that, maybe point it, out needs to be worked on. Thank you. [LB341]

ERIC DUNNING: Thank you, Senator. [LB341]

SENATOR SCHEER: Any other questions? Seeing none, thank you, Mr. Dunning. [LB341]

ERIC DUNNING: Thank you, Mr. Chairman. [LB341]

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SENATOR SCHEER: Any other in a neutral capacity for LB341? Seeing none, Senator Howard. [LB341]

SENATOR HOWARD: Thank you, Chairman Scheer and members of the committee for listening to testimony today on LB341. I really appreciate it. To your question about sort of if we're going in a circle, what's the point, right? And so I wanted to point out that in section, what is it, (3)(e) it says that the insurance company is able to deny coverage for diagnostic tests or health evaluations that they already have to provide as part of their intake. So they won't have to cover the intake. However, if something comes up during those tests like an STD, then the treatment could be covered by the insurance. So the STD was going to be there whether they were incarcerated or not and the insurance company was going to have to pay for the treatment for that eventually as well as the office visit. And so in this instance the insurance company actually doesn't have to pay for the office visit, but does have to help with the treatment. And so I think while there are inevitably going to be claims from this bill, I think it will alleviate some taxpayer burdens especially on property taxes in regards to health services provided behind bars. With that, I'm happy to try to answer any questions. [LB341]

SENATOR SCHEER: Senator Gloor. [LB341]

SENATOR GLOOR: Thank you, Chairman Scheer. Senator Howard, I wonder if this is like my eye drops bill that we just heard last week I think where the insurers came up and said actually we have policies in place that would address this, in some cases they were better than what we were proposing in the bill. But the problem isn't related to a couple of specific insurers as opposed to broadly for all insurers across the spectrum. I mean, I'm still looking into that as it relates to my bill, but I have some guesses if it is related to some specific insurers who that might be. But you don't know that for a fact. [LB341]

SENATOR HOWARD: No, I don't. I don't know that for a fact. What I do know is that county jails have not been billing. If they had the opportunity to bill, they didn't know about it. And so this would really clarify both parties and their roles and expectations. [LB341]

SENATOR GLOOR: Okay. Thank you. [LB341]

SENATOR HOWARD: Thank you. [LB341]

SENATOR SCHEER: (Exhibits 3, 4, and 5) Any other questions or comments? If not, I would say that a couple of letters were, one for support from a Don Zebolsky of Omaha, and one in

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opposition from a Kathy Wilmot of Beaver City. And with that, I would end the hearing on LB341. [LB341]

SENATOR WILLIAMS: All right. We will open the hearing on LB488 and I would again invite anyone that is going to be testifying up to the front so we can identify you and would ask Chairman Scheer to begin his opening. [LB488]

SENATOR SCHEER: Thank you, Vice Chair Williams and members of the Business (sic: Banking), Commerce and Insurance Committee. My name is Jim Scheer, S-c-h-e-e-r, representing the 19th District in the Legislature. I bring to you LB488 which provides consumer protections for drivers and passengers of transportation network companies, such as Uber or Lyft, by requiring consumer disclosure and ensuring that there are no coverage gaps which would cause a driver or passengers to get caught in the middle at the time of a claim. The bill allows TNCs and their drivers options to meet basic coverage requirements while also providing the basic regulatory framework to allow insurers to provide new products to meet the demand in this new marketplace created by TNCs. Some of the insurance-related challenges involving the transportation network companies are as follows. The TNC business model allows individuals to use their own private passenger car to transport others for hire. However, personal auto policies traditionally contain a livery exclusion specifically excluding coverage for transportation of passengers for hire. The livery exclusion exists because of the type of activity driving passengers for a fare is traditionally more risky than typical use of a private passenger vehicle. It is riskier for a number of reasons. One, the drivers for hire typically drive more miles. Drivers for hire typically drive in more congested areas, for example, around concerts, bars, city centers, and etcetera. Drivers for hire may have to drive in very unfamiliar areas. They may have...they are for hire for typically drive with more passengers in their vehicle at any given day than typical passenger cars during their use. And drivers for hire also have a higher duty of care. Whenever you're paying for a service, you generally expect a higher expectation of quality and service and when that threshold is not met, there is a greater potential for liability. For all the reasons, livery exposure has typically been covered by a commercial policy and excluded from a personal passenger auto policy. However, a new business model that has been developed which has blurred the lines, LB488 has developed to ensure that TNC drivers and passengers are not unintentionally driving or riding without insurance. Many drivers and passengers are not aware of the livery exclusion within their policies. LB488 has...was also developed to protect all the other drivers who use their private passenger autos for personal use for an additional risk and exposure of this commercial TNC activity. LB488 provides clarity regarding insurance policies used to insure those involved in the business of a transportation network company. LB488 provides a bright line by requiring the use transportation network company policy at any time a driver is engaged in commercial activity of a transportation network company. These policies may be maintained by a driver, a transportation network company, or a combination of driver and

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company-owned policies. I would urge you to advance LB488 to the General File. Are there any questions that I might try to answer? [LB488]

SENATOR WILLIAMS: Questions for Senator Scheer? I would ask you one question and then I know we have experts coming up. Can you just walk us through a transaction the way it is right now with Uber? [LB488]

SENATOR SCHEER: With Uber. Well, certainly. I am not an Uber spokesman, but I have used them on previous occasions. And normally what you do is you have an app on your phone and you will click that app and it will pick up your location based on the GPS. You tell it where you're going. You have some enclosed normal sites, so if you have your home designated in there, you punch that. It sends it to the Uber computer. The Uber computer will match it up with the closest vehicle in your location. The vehicle...and it will send it back to you. It will tell you the price. One thing that some people were not familiar with, Uber is not like a cab company to the extent that your rate is always the same. A cab company will be charging you \$4.50 for the first half mile, 20 cents for the additional blocks or whatever, and a dollar for an additional passenger. With Uber, depending upon supply and demand, they have what's called spiking. So if a regular fare is \$30, if there are twice as many people trying to catch rides as there are drivers, that may spike up to \$40 or \$45, whatever the market demand is. So their rates are more flexible than that of your regular livery service. That's one distinction between the two. But essentially back to your question, once that comes up it'll tell you what the fare is, you punch okay, and essentially within three to five to eight minutes or whatever, the vehicle pulls up, you get in. The transaction is already completed because you have an account and with one of those carriers they would have your credit card number. It would be being posted as a debit and it would be credited to the driver for his percentage and Uber would take whatever retainage they have as a service provider. When you get to the location that you have expressed that you want to be delivered to, you simply get out of the car. There is no other transaction. You don't swipe a card. You don't sign anything. You just simply say thank you and you get out of the car. At least the experiences I've had. And I'm sure there's somebody from one of those two that certainly could expand upon that, but that's my assessment of what happened. [LB488]

SENATOR WILLIAMS: And further questions? Thank you. [LB488]

SENATOR SCHEER: Thank you. [LB488]

SENATOR WILLIAMS: Would the first opponent...excuse me, proponent (laughter). We're going to do this back...no we're not going to. [LB488]

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KORBY GILBERTSON: (Exhibits 1, 2, and 3) Vice Chairman Williams, members of the committee, for the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Property Casualty Insurers Association of America in support of LB488. I, first, want to take a moment to thank Senator Scheer for putting this piece of legislation in. Some of you probably noticed in the newspaper that there was similar legislation discussed in the Transportation Committee last week. The reason why we came to Senator Scheer and worked with him on introducing LB488 was because we felt it was important to have a piece of insurance legislation in front of the committee of jurisdiction so that in case things didn't work out in Transportation Committee there was a committee that understands the insurance side of the legislation because the other bill, LB629, covers a myriad of issues including the regulations to the PSC and other things. So that's why we came up with the idea of LB488. We've been working on this since last fall, have had numerous conversations amongst Uber, Lyft, and other interested parties. And obviously we're here and you'll see people in support of the bill and opposed to the bill because we still haven't reached a lovely agreement. But I want to give you just a quick down and dirty on what this bill does because I think there's a lot of misinformation floating around there. And you'll see a few handouts and I'll try to get those discussed and then there's other people behind me that can discuss them as well. But in a nutshell, what this bill does, it says that a driver who is doing work for Uber or participating in a commercial activity should have coverage by a policy, a TNC policy. That's what it's called. I think there's been some confusion that we're saying that it's the TNC that has to provide the insurance. That is not the case. In the bill, it says it very clearly. It can be purchased by the driver, the participating driver, the company, or a combination thereof. Therefore, it does not matter who has it. In other states, there's only one state that has actually enacted legislation. There are three others that have passed it. So...but in the state of Colorado that has passed it, there are some products available already. Some of those are endorsements on a personal auto policy. So we want to make sure that that's clear to everyone so that it's not necessary that the transportation network company will have to purchase anything. It can be provided for by the driver, which I believe is their general practice right now with their drivers anyway. I want to talk a little bit about some things that you'll probably hear from the opponents. You'll hear that no other state is requiring us to have primary coverage app on to app off. Like I said earlier, there have only been four states where this legislation has passed. So we are not out on a limb here, folks. And in three of those states, it is app on to app off. Why do we say it should be app on to app off? If you want to take a look at the article that I provided you that was in Forbes in January, it discusses things that Uber is doing to incentivize its drivers to keep their application turned on and to do as many pickups as possible. In this article, it talks about how Uber is incentivizing people by paying anywhere from \$10 to \$26 an hour depending on if they're peak hours to keep their applications on for at least 50 minutes out of every hour. And then also another bonus if they are to pick up at least 90 percent of the rides. Now you'll hear that they don't think that you should be considering the app-on period as a commercial activity. However, I would disagree in that if they are paying someone to have that app on and that person

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is most likely trying to get near where the rides are going to be, that is a commercial activity. They're not sitting at home doing this unless they live downtown and can run down to their car in two seconds because people aren't going to ride with them if it takes them 20 minutes to get there. Another thing that you'll hear is I heard that we should let the courts decide this and let the courts decide whether or not this is commercial activity. We would argue that that is probably not good public policy for the state. Why would we want to encourage that drivers for Uber be faced with having to adjudicate every single claim to determine whether or not if they get in an accident in period one whether or not that was a commercial activity. It's much clearer to have a bright line in statute that says once you turn that application on, you are in fact engaged in a commercial activity and you should be covered by a transportation network policy, not the company, a policy. The basic reasons for this and I think if you look at the two handouts you have in front of you, the one with the circle on it shows you the gap in coverage right now, and that's the app on stage because clearly if there is a commercial activity going on, your personal auto policy will not cover you. And if someone is in an accident and even if they did have it adjudicated or it did...the claim had to be filed with an insurance company, it would be found to not be covered. And that would lead to a lot of liability for those drivers which do not necessarily have other insurance or anything else that can back them up because their personal auto policy will not cover them. And with that, I'd be happy to answer any questions. [LB488]

SENATOR WILLIAMS: Senator Gloor. [LB488]

SENATOR GLOOR: Thank you, Senator Williams. Ms. Gilbertson, do you know, this...I'm looking for parallels, but if I call a rental company, give them my driver's license, credit card, maybe I do a lot of business with them, they have it already, and tell them I want to rent a car and I want you to deliver it. I'm staying at the Cornhusker, I want you to deliver it to the Cornhusker. And they're in an accident bringing that car to the Cornhusker, who's got the coverage of that at the time? [LB488]

KORBY GILBERTSON: The rental company. They're still in the delivery phase that would be covered by a commercial policy. That's a commercial activity. And then that, you know, once you're driving it, then it can either be covered by your policy or you can always buy additional insurance through the rental agency. [LB488]

SENATOR GLOOR: Okay. Thank you. [LB488]

SENATOR WILLIAMS: Questions? I have a question. What we are talking about in this bill is the insurance coverage of the driver and the car... [LB488]

KORBY GILBERTSON: Right. [LB488]

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SENATOR WILLIAMS: ...not the passenger, right? [LB488]

KORBY GILBERTSON: It can also be...it will also cover the passenger. [LB488]

SENATOR WILLIAMS: Okay. Can you take me through that scenario, the coverage of the passenger? [LB488]

KORBY GILBERTSON: Okay. And Kelly Campbell from PCI is behind me, so she can kick me if I say anything wrong and then she can correct me when she gets up here. But what will happen is depending on the different types of coverage, so the portion of the coverage that we're kind of in debate about is period one. So we'll walk you through on that. In the bill if you have a policy that has liability so anytime you're in a car accident if you would be the driver, you would be the driver driving for Uber, if you're in a car accident...oh, you wanted to talk about when there's a passenger in the car. I'm sorry. [LB488]

SENATOR WILLIAMS: Go ahead. [LB488]

KORBY GILBERTSON: So I'll talk about that. But if you get in an accident and it is your fault, the liability will cover both the passenger and whoever you also...whoever you hit. Does that make sense? Then when we talk about the other types of coverage like comprehensive and collision coverage, that's important because when you look at most...if people don't own their vehicles if you have an auto loan or something, most loans will require that you have full coverage for your automobile. And so if you're found not to have it and a lot of loans it will state that the bank can then go purchase it for you and charge you for it if they find out that you don't have proper coverage. And sometimes you wouldn't know about that until you get that lovely bill in the mail and they're probably not out shopping for the cheapest rates. But the problem is that you would have no coverage if there was a comp or collision type issue in period one if you're sitting in a parking lot or sitting on the street and do something that's not, you know, not a liability issue, but scrape the side of your car on something. That would go under comp and collision. And under this bill it just says that you have to have that if you have it in your private policy, in your personal auto policy, not automatically. So it covers both the driver, the vehicle, and any other people who are injured or involved based on liability for when they're in the car and then getting a ride. [LB488]

SENATOR WILLIAMS: Seeing no other questions, thank you. The next proponent to come to the stand. [LB488]

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KELLY CAMPBELL: Thank you, Vice Chair Williams, members of the committee. My name is Kelly Campbell, for that record, that's K-e-l-l-y, last name Campbell, C-a-m-p-b-e-l-l, and I'm the vice president of state government relations for the Property and Casualty Insurers Association of America. Our association represents insurance companies and those insurance companies write half of all the personal and commercial auto insurance here in Nebraska. And the insurance industry's priority in their involvement with LB488 is to ensure that both drivers and passengers and transportation network companies do not unintentionally get involved in a coverage gap or a coverage dispute with their personal auto policy, the TNC policy, and unfortunately find themselves in court fighting it out or worst-case scenario, find themselves with absolutely no coverage. As Chairman Scheer indicated in his opening remarks, the personal auto policy traditionally has a livery exclusion or an exclusion in the personal auto policy whenever that automobile is made available for hire and used to transport passengers. That has typically been covered by a commercial auto policy. However, we have this new business model in which people are allowed to use their personal auto policy. And so our intention with (LB)488 is to make clear what coverages apply when during this new business transaction. And by providing that clarity in (LB)488, then we aren't punting it to the courts and asking the courts to interpret it and asking these drivers and passengers to go through the court process to get that certainty about what coverage applies. Now the most controversial period that you've already heard about a little bit is known as, quote, period one, and that's when the driver turns on the application and is available for a ride and until they are matched with a passenger. So from when the app is on to when they're matched with a passenger is that period one. You will hear from the TNCs that that's not commercial coverage that should be covered by the personal auto policy. However, from a personal auto insurer's standpoint, that is commercial activity and it's commercial activity for a number of reasons. You've already heard examples of the surge pricing. There's a lot of incentives that these companies do to get these drivers not only on the application, but out on the road to provide prompt service to make sure that these passengers are picked up quickly so there's this surge pricing to incentivize drivers to get out on the road when there's a lot of demand. You also heard Korby talk about their guaranteed hourly rate if they are on the app for a certain amount of time, pick up a certain percentage of rides. They also often tout their self-regulating system of rating drivers and passengers. So, again, that creates an incentive not only for the driver to be on the application, but to be very available to those passengers. The driver isn't likely to get a high rating if it takes 20 minutes to get to the passenger. So there's a number of ways in which I think it goes to show that this activity is not just turning on the app and sitting in your living room. It really is turning on the app, making yourself available to hire...for hire so that you can get those rides more quickly and provide for those passengers' needs. And...but on...during that period one, how it currently exists is that the transportation network companies have a type of liability coverage called contingent coverage. It's called contingent because it's contingent on a denial of the personal auto policy. So as it stands right now, these TNCs are expecting the personal auto policy to step in. And if they don't step in or if they deny the claim, there's an opportunity for a dispute. And that's where these

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drivers are going to get caught in the middle. In addition, this contingent coverage that the TNCs have is only liability coverage. It does not include the other coverages that may be on a vehicle such as comp and collision, medical payments coverage, uninsured motorist coverage. None of those coverages under the current system are made available to TNC drivers or passengers. So that is another key component of LB488 is to provide those coverages during period one. And so with that, we can talk a little bit more about the other stages, but that is certainly the most controversial stage and the stage where there is the most potential for coverage gaps and the most potential for litigation. And, again, we believe with (LB)488 we will avoid a lot of that litigation. Because what (LB)488 does is not only clarify specifically that the personal auto policy doesn't provide coverage, but then it clearly states that there...when and how there is primary coverage from the moment that app turns on when they're matched with a passenger, the passenger is in the car, that passenger exits the vehicle, and the app is turned off. So it very clearly defines what policies will step in during those various periods. And Nebraska has already determined that all drivers on the road, whether it be a personal auto or a commercial auto, have primary coverage while they are on the road. And that's really the intention of (LB)488 is to continue that public policy decision that has already been made that all drivers on the road need to have that primary coverage. And so with that, we believe that (LB)488 helps provide that clarity for TNC drivers and TNC passengers. And I would be happy to take any of the committee's questions. [LB488]

SENATOR WILLIAMS: Questions? I want to be sure I understood something correctly. So a normal TNC policy would not cover comp/collision. It would be a liability only policy. [LB488]

KELLY CAMPBELL: Vice Chairman Williams, if it would helpful if you don't mind, maybe if I expand on the different periods and what's available during each period. And I know Korby provided the committee that kind of donut-type graphic, and that's to illustrate what those coverages are. So there are essentially three periods. So you have period one, and that's what I talked about with app on to when the driver and the passenger are matched. What happens right now is that that is the contingent coverage. So the transportation network company holds contingent coverage that will only kick in if there is a denial and what they believe a valid denial by the personal auto policy. And you are correct, Senator, that coverage that they provide is only liability coverage. There are no other coverages such as comp, collision, uninsured motorist coverage, medical payments coverage. None of those coverages are available to the driver of that vehicle. [LB488]

SENATOR WILLIAMS: Even if they had it on their personal insurance? [LB488]

KELLY CAMPBELL: That's correct, Senator. Yes. It is not available. There are some distinguishing elements in periods two and three. Period two is when the driver and the rider are

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matched and the driver is headed to pick up the passenger, and then period three is when the passenger is clearly in the vehicle. Now as it works today, the TNCs do provide primary liability coverage during periods two and three. They also provide uninsured motorist coverage. They also provide comp and collision if it is in the underlying personal auto policy. I do think it's important to note that the deductibles on those comp and collision coverages are typically far higher than what they are on a personal auto policy. The standard deductible is \$500 on a personal auto policy. Depending upon which TNC, it could be a thousand or \$2,000 for that deductible for comp and collision. But they do provide it if it is on the underlying policy during periods two and three. And actually (LB)488...for periods two and three, the language in (LB)488 mirrors exactly what's happening right now during periods two and three. [LB488]

SENATOR WILLIAMS: So our concern becomes the period one? [LB488]

KELLY CAMPBELL: Yes. Yes, Senator Williams. It really is period one that is the most contentious period. [LB488]

SENATOR WILLIAMS: Any other questions? Senator Schumacher. [LB488]

SENATOR SCHUMACHER: Thank you, Senator Williams. So we're concerned in this bill with the driver having coverage rather than the passenger. [LB488]

KELLY CAMPBELL: Senator Schumacher, because of the nature of the coverages, by having clear primary coverage, then that will ensure that the passenger has coverage as well. Typically the kind of situation you're going to run into is an at-fault situation. So if the TNC driver has an...causes an accident and there's a passenger in the vehicle, then that passenger will be covered. And, actually, they'll be covered today because of the primary coverage that exists while the passenger is in the vehicle. Now where the question may come in is during period one for anyone in another vehicle that a TNC driver hits, so a passenger in another vehicle. So, again, that's why it's important that we have that primary coverage as outlined in (LB)488. [LB488]

SENATOR SCHUMACHER: So right now if somebody decides they're going to make a little extra money, he's going to paint a mustache on the front of his car or whatever they do, and going to drive around waiting for his iPhone to go off and telling him he's got a fare that he can pick up 20 blocks down the road. Okay. And the insurance company's position is, look, buddy, we're paying you because we show when we rated you that you were just an ordinary Joe who drives to work, not somebody who roams the street at night looking for a fare. And we don't want that additional obligation without getting additional money for it in a premium of some kind. And so that's really what we're trying to do here. Insurance company is saying no, we don't want to insure you because you're roaming the streets at night looking for a fare. We didn't think

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we were insuring that kind of critter. We thought we just insuring an ordinary guy who drives back and forth to work and the grocery store. And so that's what this is about. [LB488]

KELLY CAMPBELL: Senator Schumacher, I think you have said it better than I did. Yes. [LB488]

SENATOR SCHUMACHER: Okay. So what happens, let's take it one step farther and just pretend that we're shrewd attorneys here, and we're in the yellow mode on Korby's graph and the match is made. And I'm the passenger and I'm waiting and waiting at the street curb for the driver to show up. And lo and behold somebody swerves, hits me, and I'm hurt. Who's insurance is protecting me at that point because I was waiting so long? Am I in the care now of the Uber company? They've told me to wait there for the driver to show up. [LB488]

KELLY CAMPBELL: You know, Senator Schumacher, I think that's an excellent question. I have to admit I've worked on this issue in a lot of different states and I have yet to get that question. But I do think that, I mean, it raises... [LB488]

SENATOR SCHUMACHER: I'm just looking for a contingent fee, that's all. [LB488]

KELLY CAMPBELL: Yeah. (Laughter) Excellent question. And I wish I had a clear answer for you. But, you know, in that situation it would be during period two and so at least there would be a primary coverage provided by the TNCs during primary two...during period two, so there actually would be a little more certainty about where coverage could come from than there is during period one. I suspect there might still be a little bit of a dispute between the TNC during period two and the liability coverage of the driver who actually hit the passenger waiting on the street corner, but I think that's a separate issue. [LB488]

SENATOR SCHUMACHER: Thank you. [LB488]

SENATOR WILLIAMS: Any further questions? Thank you for your testimony. [LB488]

KELLY CAMPBELL: Thank you, Senator. [LB488]

SENATOR WILLIAMS: The next proponent. [LB488]

COLEEN NIELSEN: Good afternoon, Vice Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Coleen Nielsen, spelled C-o-l-e-e-n N-i-e-l-s-

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e-n, and I am the registered lobbyist for the Nebraska Insurance Information Service. I have also been asked by the executive director of the Nebraska Insurance Federation, Jan McKenzie, to indicate that she also supports this bill and asked me to testify on her behalf as well. As you've heard before, and I don't really have a lot more to add here, but the purpose of LB488 is to ensure that we...that an individual who decides to drive for Uber experiences no gaps in their coverage and that the integrity of the personal auto policy remains so that a personal auto policy is not subsidizing commercial activity. And that's why we continue to emphasize the fact that once you turn that app on, that you are definitely engaged in commercial activity. You're soliciting a ride and most likely are traveling or in areas that you would be available for a ride and, consequently, the risk is greater. In addition to that, we think that comp and collision is important and we are talking mostly about the period one. So the difference between (LB)488, this bill that's before you now, and the bill that is currently in the Transportation Committee is basically those two things. One, Uber in (LB)629, the Transportation Committee, is asking that the TNC policy only provide contingent coverage in period one. We are saying that Uber or the TNC insurance policy should carry...should be primary in that period. So basically what we're doing here is that we're just defining what a transportation network policy should look like. And when Ms. Campbell was talking about the fact that what we have going on now is that there is contingent coverage at period one and then in periods two and three they are primary, it's because there isn't the Uber company and other transportation network companies have purchased a policy out there. But we've seen that there are gaps in coverage and so we've come to you to define that insurance policy to make sure that there aren't any gaps. I think I want to reiterate about the comp and collision in that period one, it could very well be that an individual in that period could be driving for Uber. They're not matched with a driver yet. They're sitting at...they're driving downtown to Omaha and they get hit by hail. And, consequently, they make a claim. And the personal auto policy says, well, what were you doing? Well, I was driving for Uber at the time. Well, your personal auto policy even though you carry comp and collision won't cover you and it appears that, you know, the Uber coverage in period one currently doesn't cover you as well. And so they're out. I think in this legislation this also makes sure that transportation network companies do disclose to the Uber drivers what actually would be covered. And so with that, I'd be happy to answer any questions. [LB488]

SENATOR WILLIAMS: Questions? Senator Schumacher. [LB488]

SENATOR SCHUMACHER: Thank you, Senator Williams. Thank you for your testimony. What difference should it make to the casualty carrier assuming that the person doesn't normally garage their car whether he was hit by the gods with hail with his app on or his app off? The risk hasn't changed. [LB488]

COLEEN NIELSEN: Well, actually it has in the sense that the personal...the integrity of the personal auto policy is such that if you are paying for comp and collision, that's just part of the

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policy. It's just part of the premium. And the livery exclusion would exclude any aspect of that particular coverage. [LB488]

SENATOR SCHUMACHER: Why should it be allowed to? The risk hasn't changed. [LB488]

COLEEN NIELSEN: Because now you're engaged in a commercial activity. That's not personal auto. [LB488]

SENATOR SCHUMACHER: I'm still under the same sky. I paid for coverage from hail dropping on my car from the sky. And why just because I'm also driving...my car is under the sky while I'm waiting for a fare, why should it change? The risk hasn't. I mean, unless the gods are mad at somebody at Uber, it's the same deal. [LB488]

COLEEN NIELSEN: I think that it makes it easier in terms of predicting the risk to divide it between a commercial policy and the personal auto protection policy. And you can argue that you may not be outside in hail waiting. You know, if you were at home you could garage your car and because you saw the storm coming, but as a commercial driver you're downtown waiting to pick up a ride. [LB488]

SENATOR SCHUMACHER: How does the insurance company know whether your app is on or off? [LB488]

COLEEN NIELSEN: There is supposed to be I think in the bill and I can't tell you which page it's on, but there will be during the claims process some disclosure and exchange of information between the insurance company and the Uber driver so that they can see when that app was on and when they engaged. [LB488]

SENATOR SCHUMACHER: If I'm an Uber driver, can I beat the system by not turning my app on and just driving on with a sign on the side of my car that says "wave if you want a ride"? [LB488]

COLEEN NIELSEN: I don't know. I'm not... [LB488]

SENATOR SCHUMACHER: Okay, okay. Thank you. [LB488]

COLEEN NIELSEN: You're welcome. [LB488]

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SENATOR WILLIAMS: Other questions? I have a quick question. [LB488]

COLEEN NIELSEN: Sure. [LB488]

SENATOR WILLIAMS: Many of...I'm assuming many of the Uber drivers would also have additional vehicles insured on their personal automobile policy combined with anybody's. Is there any issue with the insurance on any of the other vehicles that would be covered by the same policy during any of these periods? [LB488]

COLEEN NIELSEN: That's a good question. I think that currently the way that it is now that the transportation network company has their own policy, and so it doesn't matter right now currently what you have in terms of coverage over on all the other vehicles. In the future what we're hoping to see is that products will come out that would involve endorsements or riders on personal policies or separate commercial policies that can be purchased. And then I don't know whether or not there would be some effect with that, whether there would be an effect with the different insurances. But I would think not. I would think that the product that actually covers TNC coverage would be the only one at play. [LB488]

SENATOR WILLIAMS: And it would be specific to the vehicle that the driver had contracted with Uber or Lyft to drive? [LB488]

COLEEN NIELSEN: I believe so. I believe so, but you're getting a little bit beyond my expertise. [LB488]

SENATOR WILLIAMS: Thank you. [LB488]

COLEEN NIELSEN: Thank you. [LB488]

SENATOR WILLIAMS: Next proponent. [LB488]

TAD FRAIZER: Good afternoon, Vice Chair Williams and members of the committee. My name is "Tad" Fraizer, that's T-a-d F-r-a-i-z-e-r, representing the American Insurance Association, a national trade association of property and casualty insurance carriers. I think Ms. Gilbertson and Ms. Nielsen and Ms. Campbell have given the committee an excellent rundown on the insurance industry position on TNC insurance coverage. Again, I'd just say that the bottom line from the insurance industry point of view is that commercial risk should be borne by commercial-type insurance, in this case, TNC-type insurance, and should not be subsidized by regular consumer passenger coverage because that basically results in consumers subsidizing a business risk. And

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we don't think that's appropriate. It is not a question of insurance companies not understanding this new business model. As you're well aware, we've brought bills before this committee to have various forms of insurance dealt with through e-notices, things like that. We're comfortable with working in an e-environment. It's just that the proper insurance should be in place whether you're running an old-fashioned, as some might consider it, taxi company or a modern e-based TNC-type of service. And I'd be happy to try to answer any questions you might have. [LB488]

SENATOR WILLIAMS: Any questions? Senator Schumacher. [LB488]

SENATOR SCHUMACHER: Thank you, Senator Williams. On the mechanics of this, when you punch in...you've got your little Uber account on your iPhone and you punch it in and you make a deal that...to take a ride on Uber. Okay. Is your credit card dinged at that point so that if you disappear, decide you're going to take another route, do you still have to pay the bill? [LB488]

TAD FRAIZER: I'm not quite sure on that, Senator. I've never taken advantage of... [LB488]

SENATOR SCHUMACHER: Yeah. I'll maybe ask someone else that's up here whether or not. When are you locked in? When do you come under the care of Uber? [LB488]

TAD FRAIZER: Well, when you pay and when they consider you under their care, I'm not sure. There could be two different periods. [LB488]

SENATOR SCHUMACHER: Thank you. [LB488]

SENATOR WILLIAMS: Thank you for your testimony. Next proponent. [LB488]

JERRY STILMOCK: (Exhibit 4) Good afternoon, Vice Chair Williams, members of the committee. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client the Nebraska Bankers Association in support of LB488. What my handout states is the importance of comp and collision coverage in this situation. So I go into my banker, my banker today is Bill Marienau, and I ask him for a loan to buy a 2012 Impala and he said, Jerry, we'll make you the loan. Here are the parameters of what you're going to have to have. You're going to have to have it insured. I said, I know that, Banker Bill. But you're also going to have to have collision and comp. And I said I routinely do that for my new used cars purchases, so I will get that absolutely. Then I have a collision. And then I go home and I look at my policy. My policy says what items are excluded. And right away I see what's excluded: Transportation of a vehicle while it is being used to carry persons or property for a compensation or a fee. Wow! I don't have coverage then. I don't have comp and collision. And on the banking side of life, we've

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made that loan based upon that individual having comp and collision. So we would ask that this legislation include that for those reasons. I don't want to throw a chink or a problem into the legislation, but when I read my policy to come here before this afternoon it said property as well. And so I throw that out for the consideration because so far we're talking about a person being transported. The literature that I've read and I've had the opportunity, obviously being in the committee room this afternoon, to listen what others have said and what you have asked of them, and in the literature that I've read it also suggests that, well, maybe they also in addition to transporting people, maybe they are couriers. Maybe they take the place of Hy-Vee to get catered food from point A to point B or a florist or a veterinarian that you want to take...you can't leave your home, but your pet needs to get to the vet. And so it focuses on persons or people in the bill, but it did cause me to hesitate the issue of property and maybe the folks in the TNC networks, they don't allow the transportation of property. But it was an item I thought of. There's another area of the law that you as a Legislature has already dealt with when you talk about that moment or that instant. And I don't want to confuse the issues, but if I separate out clearly enough it's when in previous years when a volunteer firefighter was called to duty by a siren or a page. And there was some instances of, well, when does that coverage begin. Should it begin here or should it begin there? And in Senator Scheer's bill it uses the word moment. In other portions of the statute, it used the word instant. The instant that, and then whatever the context is. But I think it describes a clear, distinctive fact pattern of what I would ask you to consider when you make these determinations. Mostly for the reason that unnecessary litigation and the problems that it causes. Has the person fully exited the vehicle? One foot in, one foot out. Is part of what the language is before you is the coverage ends in the last phase that you heard, period three. If I understood the testimony, the last phase ends when the app is turned off or the person exits the vehicle. Now for the attorney that's going to follow me behind me representing the group that he does, he may have a comment of what determines exits. For those reasons, I think it's important that you all in considering this legislation, we would certainly urge you to advance LB488 to the full floor of the Legislature. Thank you. [LB488]

SENATOR WILLIAMS: Questions for Mr. Stilmock? Senator Schumacher. [LB488]

SENATOR SCHUMACHER: Thank you, Senator Williams. Thank you for your testimony, Jerry. Right now, when the pizza man delivers a pizza, dumps off the pizza, and is just a contractor working for tips, driving back, is he covered or excluded under that language you quoted? He's driving back. He's not deliver...he's not...nothing is in his car but him. [LB488]

JERRY STILMOCK: You know, and I don't know what...is the delivery person going back to pick up more deliveries? No, he's not done. Is the delivery person, he's made his last delivery, it's 11:00 p.m. at night and he's going home, possibly so. [LB488]

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SENATOR SCHUMACHER: But why, using just the language that you read, used to carry persons or property for a fee, he's not using the vehicle to do that until he picks up a passenger. He's just roaming the streets. [LB488]

JERRY STILMOCK: Okay. [LB488]

SENATOR SCHUMACHER: So why would the exclusion apply now? [LB488]

JERRY STILMOCK: He's roaming the streets and now we have a situation where contracts or the purported contracts have created a gap, and I think the proponents, me included, would say let's cover the gap. Let's just cover the gap in contracts. [LB488]

SENATOR SCHUMACHER: But there is no gap because his policy is still in force because at that particular moment he's not carrying persons or property. [LB488]

JERRY STILMOCK: Okay. Now I'm at the Supreme Court and I'm trying to decide...I'm trying to anticipate what the Supreme Court would do in Nebraska and what the legislative intent of the legislation was and you and your colleagues determining what is a commercial purpose and what is not. And once I hit the app on, have I invited...am I ready, willing, and able to respond at that point in time? And if I'm not, don't hit the app. If I am, hit the app and I'm engaged. I'm on. And... [LB488]

SENATOR SCHUMACHER: Can the driver decline? I mean, he gets notice, can he say accept, I'm on the road or no, I'm not? Does he have that option? [LB488]

JERRY STILMOCK: I don't know the answer to that, sir. [LB488]

SENATOR SCHUMACHER: So unless he's locked in, he may or may not be roaming the streets. He maybe just is enjoying the scenery. [LB488]

JERRY STILMOCK: And I think that's a very good question because if I...and I don't know, so maybe there's a clear answer, but let's say I want to play the game and I'm at home. I don't hit yes, but I'm going to get a head start. Let's say I get 6 blocks or 5 blocks and my destination is 20, let's say that the 6 blocks, it's like traffic is moving pretty good, I'm going to get there. Boom! I'm app on, but I've already left my house. I'm 6 blocks away from where I left from my house and now I have 14 blocks to go to the destination. So I don't know, that's an interesting question. When is app on and app off? When do I hit it? Your first example was you were at home or you're somewhere dormant, and the signal comes on for me to pick up a fare. The other is, well,

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what happens if I get close and then I hit app on? What are the ramifications of that? They're huge. They're huge. You raised one other point and I'll leave it at that if I may. There was one state that, I hate to do a play on words, but hailing a cab we were talking about, that you're not permitted to hail a ride using one of the TNCs. It was one of the states had included that in their legislation, sir. Curb side, you had mentioned earlier to one of the other testifiers. [LB488]

SENATOR SCHUMACHER: Thank you. [LB488]

SENATOR WILLIAMS: Other questions? Jerry, quick one. In your judgment then in reviewing the bill, the moment of coverage, you know, to app on and the exit of leaving the vehicle, are they sufficiently covered in the green copy? Is that your testimony? [LB488]

JERRY STILMOCK: Boy, my concern is the app off or the passenger exiting the vehicle... [LB488]

SENATOR WILLIAMS: Right. [LB488]

JERRY STILMOCK: ...not exiting. It clearly says exits the vehicle. And I want two feet on the ground, the door closed. You know, I want specificity as to when... [LB488]

SENATOR WILLIAMS: You would like more clarity on this? [LB488]

JERRY STILMOCK: Well, you asked. I guess that's my answer, sir. Not to tear down all the build up of the testimony that I've just given on Senator Scheer's bill because I think it does a magnificent job, but it causes me to hesitate. What does exits the vehicle mean? [LB488]

SENATOR WILLIAMS: Okay. Anything else? Thank you. [LB488]

JERRY STILMOCK: Thank you, Senators. [LB488]

SENATOR WILLIAMS: Next proponent. [LB488]

JOHN LINDSAY: (Exhibit 5) Thank you, Senator Williams, members of the committee. My name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of the Nebraska Association of Trial Attorneys. This is the second time in a week, there was a transportation network company bill in Transportation Committee last week. And so again I'm really nervous being up here on the same side as the property and casualty insurers. (Laughter) It's a...and I

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would invite all of you to share in that nervousness. (Laughter) There is...NATA believes that...supports this bill because it makes a strong effort towards providing that certainty in coverage. We don't want...I don't think we want to have a system where we know you have to litigate to try to figure out which carrier is on the hook for everything from duty to defend onto what...who has to provide the coverage. We believe that the bright line is the app goes on and the app goes off. That's when coverage should be in place. And my understanding, I'd certainly defer to those from Uber who would have a better understanding of the technology, my understanding is you turn on the app on your phone, you're a driver, that makes you available to receive a request for a fare. It also sends out a signal to everybody out there looking that, hey, there's a driver available. So at that point, the commercial enterprise has started. There is a benefit to the transportation network company that says look at the drivers we have available. Look at the...there's certainly going to be somebody that will be there to pick you up. So there is that commercial benefit. Just as a cab, having cabs out on the street driving along, their coverage doesn't change from the time that they see somebody, Senator Schumacher, in your example, see somebody hailing a cab. Their liability, their coverage isn't different driving around waiting to see somebody like that. They're at the time their coverage would be the same throughout the process. And we believe that's how it should be in this new age of transportation sharing. Where we would be a little bit different is that we believe there's a few places that coverage should be made a little bit stronger. We don't believe in the step down that the...in that first stage where the application is on through to the point where they're engaged should be lower limits where it's \$500,000 during these active stage and in that first stage, I believe, it drops to \$25,000/\$50,000, which are the minimum coverage limits. So we believe that those should all be consistently higher. Second, we believe that UIM should be higher throughout, the underinsured motorist provision. There's a lot of folks that, myself included, that buy higher underinsured motorist protection for myself because if I run into somebody who has \$25,000 of insurance, if I spend any time in the hospital I'm going to blow through that \$25,000. So I buy higher limits. But if I then become a driver for a TNC, my UIM, my underinsured motorist coverage, is no longer valid. So I think that the drivers themselves, certainly those who would want that higher protection, should have that opportunity to have those higher UIM coverages. I passed out an article that shows we're talking about a totally different animal. Drivers in transportation network companies are not covered by worker's compensation. They are not covered by unemployment. They don't get paid time off. They don't get all of the benefits that an employee would have because they are, under this model, independent contractors. If that's the case, there are things, and this article displays some of the problems of the driver who was injured, didn't have the insurance coverage in place, hadn't...because of course there's no comp coverage. So they're in a situation that there simply is no income and no ability to pay medical bills, etcetera. And from an employer's perspective or an independent contractor, the transportation network company, they're not paying all of those additional costs as well for those drivers. So having a little bit of additional protection through the additional underinsured motorist protection I think is a step that would help protect those drivers. Then, finally, we'd suggest that med pay coverage which is kind

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of the no questions asked medical payments coverage for driver and passengers also be included in these coverages. But in any event, we would encourage that LB488 be advanced to the floor. I'd be happy to try to evade any questions. (Laughter) [LB488]

SENATOR WILLIAMS: Questions for Mr. Lindsay? [LB488]

JOHN LINDSAY: Thank you. [LB488]

SENATOR WILLIAMS: Thank you. Any other proponents? We would invite the opponents to move up to the front please and then invite the first one to the witness stand. [LB488]

CURTIS SCOTT: Good afternoon, Senators. My name is Curtis Scott, that's C-u-r-t-i-s S-c-o-t-t. I'm senior counsel of insurance for Uber Technologies, Inc. The gentleman up here before me said he felt a little uncomfortable being on the same side of insurance and I wanted to reassure him that the natural order seems in place. The insurers don't want to pay for it and he wants more insurance, so I guess it's a starting point that we'll go through. Let me talk about a couple of things today that I think are important that we haven't talked about. Insurance companies at the end of the day, they sell a contract, they sell a promise. And the one thing we've not really talked about today is what's actually in the contract itself. The second thing that we haven't heard much of is the insurance industry is an extremely data-driven industry. They make their living off of assessing risk through statistical analysis. We've heard a lot about fear of things like litigation. We've heard little to no factual evidence whatsoever to support the fear. The first part I want to talk about is the contract. So insurance contracts like to be understood...you have to understand how they're structured. An auto insurance contract is what we call a multiperil contract. It covers a whole variety of perils from meteors to jumping Bambi deer to people with keys that scratch your car to other car crashes, things of that nature. Covers a whole bevy of losses. And it does that through what's called a broad coverage grant. And every personal auto policy says we will pay all property damage and bodily injury you're liable for involving the covered auto, and then it says unless specifically excluded. So what we have to talk about here is we're starting with everything in the world that could happen to the car is covered unless we exclude it. We've heard a lot today about this commercial activity, commercial activity. The fact of the matter is, is that most insurance policies, in fact, the highest percentage may be less than 5 percent have a commercial exclusion. What they do have is a livery exclusion. And you heard the gentleman before me I believe from the bankers read what it says. The most common wording is we will not pay while you are carrying a passenger for a charge. The plain words of that are pretty clear. You have to have, one, a passenger, so that would be a person in the car and, two, you have to have compensation changing hands. So if those two conditions are fulfilled, we totally agree. There's no coverage. Now I think we've heard a little bit about the three periods. I want to recap those so we can now apply how this exclusion works. So we have period one is the point in time where an

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Uber driver were to turn on the app, and it goes up until the point where they decide to accept a request. Okay. Period two is the point in time where they've accepted the request and they then drive in route to the requesting passenger. Period three is then at the point when the passenger gets into the car, is being transported, and until the point in time when they leave the car. So let's take that exclusion now into each of the three periods. Period one, we have an app on, we have no passenger, and we have no compensation of it at this point. I don't see how that exclusion applies. Period two, we have a person who now may get a cancellation fee. So we agree that there could be compensation. Don't have a passenger yet. We have an identified passenger who will be picked up in the future, but we don't have a passenger yet. We have a requestor. That exclusion probably doesn't apply. Period three where a person is in the car, that's where livery-type risk is happening. We have now a person in the car being transported for compensation. And we agree that the policy would exclude coverage there. That's what the terms of the policy say. What we've heard though today is this thing about a bright line. And what bright line is, is really code for reinterpreting the contract. So there are two options. One, we could go to the Department of Insurance and file an new exclusion. We could amend the contract to say we no longer want to cover while you're logged into a TNC app, and it would be approved by the DOI and they're off their risk. Option two, which PCI and the insurance industry is passing, is for you to change the terms of that contract. Contracts that are already sold to consumers and they're not going to get any premium back and their coverage is going to be limited by doing this. It's going to be reduced. Geico, the largest member of PCI, filed such an exclusion on September the 30th in Nebraska and it was approved on October 10th. It's a very simple process and to use their own words, it's so simple a caveman could do it. This is the process that has been followed for decades. In the 1980's, we excluded damage to a cassette tape under all personal autos. The CD was invented in 1990. We had to come out and amend policies to exclude for damage to cassettes or CDs. The policies then were amended. The industry didn't come to a legislator and say, will you change the meaning of our policy terms. We have this unanticipated new risk, this CD that we did not know about, this new technology. They filed an exclusion. At the end of the day, we're for free markets, we're for freedom of contract, and we believe that contracts should be interpreted according to their four corners and they should be upheld. That's what we've done for decades. And the last, I want to go on because I see the yellow light here so I'm running out of time, I talked about data and statistics. We heard about all this litigation. In almost two years of peer-to-peer transportation in the United States, millions of rides conducted, there has not been one single piece of coverage litigation filed against Uber and its insurer James River. As a former coverage attorney who used to file a third of these a month easily, I can tell you that the industry knows very well how to file these suits, they're very good at doing them, and they file hundreds of them when they know they have a point to make. They're not filing these because they know the terms of their contract don't properly exclude coverage. Thank you and I'll take any questions. [LB488]

SENATOR WILLIAMS: Questions for Mr. Scott? Yes, Senator Campbell. [LB488]

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SENATOR CAMPBELL: Thank you, Senator Williams. Mr. Scott, was there anything you wanted to say and you ran out of time? [LB488]

CURTIS SCOTT: Couple other things I could say, if you don't mind. I want to be clear, too, just the insurance that we do provide, so during periods two and three we have a million dollars of nonowned auto, commercial auto coverage that is expressly primary to any personal policy. So from the point of time when we actually know that a person has committed to do something with Uber, we're picking up the risk from the point they accept the ride, while they're in route, and they're carrying the passengers. There's a million dollars of coverage, also with uninsured and underinsured motorist. And that's because we can actually identify what they're doing. During period one, we carry a commercial coverage to a \$50,000/\$125,000 limits, so well in excess of your state financial responsibility rules. And the reason why it's important that, you know, one, that we respect the coverage of the person that has already purchased in period one because most of their contracts are providing coverage here, but, two, the coverage that PCI is advocating for us to carry during period one, comp, collision, med pay, all these additional things that make this a very Cadillac policy all of a sudden. There's two things. It creates, one, a moral hazard. So it's going to incentivize people to drop their own personal insurance and simply turn on a button to have coverage. And then, two, it disincentivizes the marketplace to actually function. If I have to provide every single coverage that's not required of any vehicle in any of the 50 states, comp/collision, what's the incentive for the industry (a) to develop these same products and (b) for someone to buy it? Why would they buy it from an insurance company if I have to under statute give it away for free? So the point is here is comp and collision is not a public safety issue, it's not required of any motor vehicle in any of the 50 states. Thank you. [LB488]

SENATOR CAMPBELL: Thank you. [LB488]

SENATOR WILLIAMS: Senator Schumacher. [LB488]

SENATOR SCHUMACHER: Thank you, Senator Williams, and thank you for your testimony here today. I'm still a little confused on the mechanics of it. You have the app and you say, okay, I want a ride. And the app transmits your coordinates and your identity to the central computer. And the central computer out there knows that so-and-so is driving the streets looking to provide service. When that person driving the streets gets the message that there's somebody out there that wants a ride, do they have any obligations at that point yet to pick them up and take them for a ride? [LB488]

CURTIS SCOTT: No, they don't. They can accept the ride or decline the ride. And it's very practical especially. You have to understand, Uber is right for communities of all sizes. So it's not just in urban area. It could be in suburban and even rural areas. And sometimes when you turn on

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the app in a more rural location, the frequency of rides goes down considerably. So I may not get a request for an hour, a half an hour, two hours. So I may have turned it on thinking, hey, if something comes up in the next 30 minutes or so I'm going to take this, but now I'm busy later. And then we give them the option. That way every single ride, they choose to accept it or not accept it. It's much like a substitute teacher in the morning. Hey, we've got a class for you down on 3rd Street. It's a kindergarten class. Do you want to show up today for to teach? It's very...each opportunity is presented to the person. They can accept it or decline it. [LB488]

SENATOR SCHUMACHER: Okay. Now suppose they hit accept. At that point, am I out there on the street who sent the request in, am I obligated to pay money if I'm not there when they get there? [LB488]

CURTIS SCOTT: So what happens is from the point you hit accept, generally we strive to get a deliver...like an in route time of roughly five minutes when a market is more mature. What happens then is that they come there and they have...they're asked to wait for a certain amount of time. They can park the car. You now, usually you know where they are, what they look like. If you're an excessive canceller or you have...you know, they've waited 15 minutes and then you cancel, we will charge the requestor of that ride a \$5 cancellation fee. And, you know, we often waive those if it was a mistake for a person the first time or they hadn't understood it, but it's clearly disclosed and that's to disincentivize certainly people from making someone drive all the way out there and then just leaving them high and dry. [LB488]

SENATOR SCHUMACHER: So as a user, I might get charged if I'm not there when the driver gets there. [LB488]

CURTIS SCOTT: If you're not there within like ten minutes afterwards. They just can't show up and say, I don't see you and go. We ask them to park the car and wait. They have the ability, too, to at that point in time after they're off the road they can call you and say, hey, I know it's dark outside, do you want to come outside the house? I'm over here in the red Prius. [LB488]

SENATOR SCHUMACHER: Okay. Now what happens when they call...reason to believe that the driver will be there in ten minutes. They're standing outside waiting for the driver. The driver doesn't show. And they're waiting for the driver, driver doesn't show. The taxi goes...a couple of taxis go by, but they don't want to get dinged the \$5 bucks because that would be...you know, don't want to not be there when the driver shows. And then ends up there's no taxis, there's no Uber, and they have to walk home at 2:00 in the morning. And they get mugged. [LB488]

CURTIS SCOTT: Well, Senator, I'm going to (laughter)...you'd be quite the law professor. We've got a difficult exam here. [LB488]

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SENATOR SCHUMACHER: Actually, I just described a real case. [LB488]

CURTIS SCOTT: Let me try to take you through, and I am going to...I'm going to try to answer, but I'm also going to suggest that you ask this question to my colleague who's on the operations side. I'm the...I design insurance coverage. So what happens if you're waiting for an excessive amount of time and, you know, one, you can see where the car is on the map coming to you the whole time so you can adjust, like, hey, I don't want to go outside. It's snowing. Obviously it's going to take them a little bit longer. I can see right where they are. I'm also going to get an update when they're near automatically from the system. But if it's taking an excessive amount of time, they can cancel the ride and we're not going to charge them for that. If the promise of arrival time has deviated significantly from what the system reflected. And it's pretty easy to do that. We have a customer service staff, too, 24 hours a day that works. So you would get a receipt if you were charged a cancellation. You can respond, hey, the person didn't show up and this is going to be resolved within 24 hours. [LB488]

SENATOR SCHUMACHER: Are they told, you know, we're going to be there within ten minutes or you're not bound? [LB488]

CURTIS SCOTT: Sure. It doesn't say that. What it says is when you accept the ride what happens is so when I turn on the Uber app, I can kind of see roughly the closest variety of cars that are nearby me and I can toggle depending on the class of car that I want, whether I want in Chicago maybe a, I could get a Chicago taxicab, I could get a black car limo, or I could get an UberX, a Prius. I could see that class of cars nearby me. Once a driver accepts the closest one to me, all I see from that point forward is that person's car. And it's got an icon on it that's going to say, you know, counting down number of minutes based on where they are in GPS of how long it's going to take to get to where I am. [LB488]

SENATOR SCHUMACHER: Thank you. [LB488]

SENATOR WILLIAMS: Additional questions? Thank you, Mr. Scott. [LB488]

CURTIS SCOTT: I appreciate your time. Thank you. [LB488]

SENATOR WILLIAMS: Next opponent. [LB488]

DAVE BARMORE: Good afternoon, Vice Chair Williams and members of the Banking, Commerce and Insurance Committee. My name is Dave Barmore, that's Dave, D-a-v-e, Barmore, B-a-r-m-o-r-e, and I'm with Uber's public policy team. Thank you for allowing me the

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opportunity today to speak with you all on the important issue of ride sharing. Not to have a duplicative speech here, as Curtis is the insurance expert, I will not pretend to be an expert on these issues, so I'm glad he was able to be here today to field those questions. But I do want to...I think it would be helpful to walk everyone through as a consumer what that Uber experience is like just so it is clear from the consumer standpoint. So as a rider I would download the app on my phone. And at that point you input your e-mail address, credit card information, and that's all stored securely within the app. So if I'm in need of a ride, I open up the app, and at that point I can see literally cars driving around my location of where I am. I push a button to make that request, and then what that does at that instant is send out a notification to the nearest driver that is available on the app. And then at that point, the driver has the option of either accepting or denying that request. And then at that point if the driver accepts, the driver and rider are matched. And what the consumer sees from their phone is then, as Curtis described, the time dial where it describes how far away the driver is from arriving to pick you up. But also I think more importantly it shows a picture of the driver, the name of the driver, make and model of the vehicle, and the license plate number. And it's all made available to the consumer so they know what car is picking them up, and then they also have the option of calling the driver to help facilitate that pickup location once the driver arrives. So the driver arrives to pick up the rider. The rider then can at that moment also type in their destination address. And then what that does is sends the address to the driver's phone, and then at that point the driver has turn-by-turn directions of how to get to the destination. So that cuts down on the ability of the driver to maybe make a wrong turn or to take a less direct route to the destination. So the rider arrives at the phone destination. No cash has exchanged hands. At that point, the rider can exit the vehicle. No tip is necessary. It's all included in the fare. That is then at that point sent to the consumer in an e-mail. And with that e-mail it comes a detailed receipt of the origination, the destination, breakdown of the fare, the name of the driver, a map of where the car went for the trip, and then the consumer has the ability to contest or to question any details of that receipt with an Uber staff that's available to help them through that. So hopefully that helps paint a little bit more clarity to the Uber experience. I just want to say that, you know, it has been mentioned before, but we have been working with Senator Mello on his more comprehensive TNC bill, LB629, since last fall. And while, you know, we appreciate the Chairman coming out with this bill, we, you know, would ask that you all oppose this measure and allow us to continue working with Senator Mello on this more comprehensive approach. You know, I really do believe that, you know, Senator Mello's bill while far from perfect, it is a much more sensible approach to this new kind of technology and I think it is timely with the economic development chair that was up for a confirmation. You know, she mentioned briefly about how to bring innovation technology to the state. I think it's very, you know, important to note that with such restrictive requirements on TNCs, that would be in no way welcoming different kind of companies like Uber and Lyft into Nebraska. So in closing, I just want to allow you all to ask any questions you might have more on the operations side or on the policy side. And thank you again for your time. [LB488]

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SENATOR WILLIAMS: Questions for Mr. Barmore? Senator Schumacher. I didn't even have to look. [LB488]

SENATOR SCHUMACHER: That's right. (Laughter) Thank you, Senator Williams. How does the money work? I mean, so you...the customer pays for the fare. Okay. Who gets what out of that money? [LB488]

DAVE BARMORE: Yep. It's a great question. So how we determine the fare is that we have a base rate, a base fare for every market. And then beyond that base rate is a measurement of time and distance that we have that calculates the final fare. And of that final fare the drivers take an 80 percentage of that final fare and Uber takes a 20 percent commission. [LB488]

SENATOR SCHUMACHER: Okay. You know, in some respects this seems to resemble the Internet movie companies where they're able to deliver their product on a telecommunications infrastructure that was never designed or priced to deliver movies. Kind of get a free ride. And here it looks like what's happening is that there's some underutilized cars, people that are out there. And so those are underutilized resources, so what this system does is utilize those resources to perform a function that they were traditionally not thought to perform, i.e., delivering taxi service. And when you do that, you put additional burden on some of the entities that were sustaining that old infrastructure, i.e., in this case the insurance companies. They now are taking on somewhat an additional risk because somebody who should be or in past worlds would have been home watching a movie over Netflix and drinking beer is now roaming the streets looking for a fare, running into the possibility of running over a pedestrian or crashing with another car or going into a skid on ice. And so the insurance company is being expected to pick up that additional exposure and the provider, the person who's making money whether it's the driver at 80 percent or the carrier at 20 percent, they're expecting not to have to pay for that element of risk that is now in the system and should...somebody should be compensated for, and it should be the person making the money. So isn't that what this bill is trying to address? [LB488]

DAVE BARMORE: Yes, sir. I think we can all argue that, you know, there needs to be adequate insurance in place. And, you know, it is our opinion that Senator Mello's bill, you know, it is a comprehensive bill, but it does address insurance and it does require that during that time of greater risk, periods two and three, when... [LB488]

SENATOR SCHUMACHER: What about one? [LB488]

DAVE BARMORE: Right. [LB488]

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SENATOR SCHUMACHER: There's a risk at one because this guy instead of sitting at home on the couch is roaming the streets looking for a fare, hoping to be in a strategic position because he knows that a movie is going to be getting out or an opera is going to be getting out or a game and there's where the fares are going to be. So instead of his vehicle being safely tucked away in his garage, it's out there bumper to bumper with somebody else. So who should pay for that additional risk? [LB488]

DAVE BARMORE: You know, as Curtis mentioned, there is an existing process for any insurer that would not want to provide coverage for that period one time. They have that option of going through that exclusionary process that exists, much like Geico has already done in the state. You know, I think it is telling though just to look within the past couple of months how different personal insurers are seeing that this is a new marketplace being created and they're adapting and they're innovating. They're creating new policies to cover... [LB488]

SENATOR SCHUMACHER: So if it's so easy to get...file one of these exemptions, let's assume they all do it so easy and they put that little fine print in every policy saying if you're out cruising for a fare on one of these things, you're excluded. Now what have we accomplished? We're back to the original question, who should have to pay the bill for the additional risk? Should this mechanism of providing transportation get a free lunch on the existing system? [LB488]

DAVE BARMORE: I think it is telling though, Senator, that, you know, these insurers, USAA, Farmers, a new startup insurance start up called Metromile, they are creating these products and they're...you know, the free market is working in that they are providing this kind of coverage for TNC partners during that period one time. So, you know, we would just ask that, you know, the Legislature allows that innovation to take place in Nebraska and that those policies can be released in the state as soon as possible. [LB488]

SENATOR SCHUMACHER: So how is that different from this bill saying, you know, that these policies have got to a...this coverage has got to be there and the company offering the service or the driver has got to pay for it? [LB488]

DAVE BARMORE: I think it's just to require that insurance be primary disincentivizes that kind of innovation within the insurance industry to take place. So we would ask that, you know, that be contingent just because we are... [LB488]

SENATOR SCHUMACHER: Yes, but if the personal policy is the primary one rather than the commercial policy being the primary one, you're going on the premium that's been calculated for just Joe sitting at home watching a movie and drinking beer rather than Joe driving the streets. [LB488]

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DAVE BARMORE: But with those new products in place, he would then have coverage over that period of time as a rider on their...as an extension of their personal lines policy they would have that coverage. [LB488]

SENATOR SCHUMACHER: Thank you. [LB488]

SENATOR WILLIAMS: Any additional questions? Senator Craighead. [LB488]

SENATOR CRAIGHEAD: Thanks for being here. Okay. Just a question as you were talking about new insurance products and things like that, so when people get those products, are they being insured not only as a residential driver, for lack of a better word, and a commercial driver? [LB488]

DAVE BARMORE: So it's my understanding, and again, not the insurance expert, but I will...Curtis, you can come up here and slap me if I say this wrong, but, you know, what we're finding in all these states, Colorado, Texas, Illinois, is that these new products that are being released are extensions of the personal policy that the driver holds. And so it would simply allow them to have that coverage in place for that period of...that period one time. Uber's liability policy would still be in effect from periods two and three when they begin to be in route to pick up a passenger to the time they reach the destination. This is just over that period one time when there's no trip being conducted. They simply have the app on. [LB488]

SENATOR CRAIGHEAD: So it's like the zone one commercial rider is what you're saying basically? The new product would be. [LB488]

DAVE BARMORE: Right. These products, yes. [LB488]

SENATOR CRAIGHEAD: Okay. So then that would be a commercial...that portion would be a commercial policy. Correct? [LB488]

DAVE BARMORE: I would...I guess, yes, you could classify it as such. Yeah. [LB488]

SENATOR CRAIGHEAD: Thank you. [LB488]

SENATOR WILLIAMS: Additional questions? How soon are you going to be in Dawson County? [LB488]

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DAVE BARMORE: (Laugh) My parents were disappointed to hear I wasn't able to make it back to see them as they are constituents of Senator Williams, so they're actually coming out to D.C., very soon, to see me out there, so. Thank you, though. [LB488]

SENATOR WILLIAMS: Thank you for your testimony. Next opponent. [LB488]

SAGAR SHAH: Good afternoon, Mr. Vice Chairman. My name is Sagar Shah, spelled S-a-g-a-r, last name, S-h-a-h, and I'm a general manager with Uber in the operations group. Wanted to come here and talk a little bit more about Uber a little bit more broadly as an organization. I know there have been a lot of questions about our operations and we've really honed in on insurance. But I think it would give everybody a little bit of good context just kind of coming out of here today, understanding how we started and some of the impact that we're having on local communities as well. So Uber started as a company in 2009 under the idea that anybody should be able to get a ride within five minutes. The premise of the whole idea was I want to be able to push a button on my smartphone, smartphones had just become developed in 2007-2008, and I want to push a button on this thing called an app and I want a ride to come in five minutes. So at that time, what we did was we contracted with limos. We started in San Francisco and we contracted with existing limo companies. It almost served as an Expedia.com. Right. You could either go to American Airlines and book a flight or you could go through Expedia and book a flight. We were that Expedia.com. You download Uber and you push a button and you'll get connected to the closest limo in your area. Fast-forward a couple years and we realize that we wanted to bring this really reliable, easy-to-use option to communities of all sizes and at a price point that everybody can afford. So this whole concept of ride sharing was really created. The idea that anybody could use their personal vehicle to provide rides in a very reliable way and at a much more affordable price point. What we typically see as the average UberX driver is a part-time driver. So stay-at-home parent, a school teacher who might have the summer off. We actually have a lot of military veterans on the system as well. Of retirees. They're typically the drivers on the UberX platform who operate at a part-time basis. So to talk about the operations and how that works, I mean, these, again, are part-time folks who aren't commercial full-time drivers as you might see in other industries and what you might try to wrap your head around when you think of Uber and its insurance policies. During this whole period one, app on stage that we have talked extensively about, the way it works is that demand is pushed to you as a driver. You're not typically roaming the streets looking for a fare. That's how taxis work because they can pick up based on street hails. But with Uber, it's smart just to sit at the side of the road and wait until you get a ping on your phone because otherwise you're just wasting gas. The whole point is that the request is sent to the closest driver in your area. So it really technically shouldn't matter whether you're driving around the downtown area or if you're just parked in one spot. You never know where that request is going to come from. It could be coming from a building right next to you. So the way the operations work I wanted to clear that up a little bit. From a community development standpoint we've done a lot of things, you know, that have come

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out Uber other than just provide very ease of use and reliable transportation. One of the first things that we noticed are a reduction in DUIs. There are cities such as Seattle and Philadelphia that had incredibly high DUI accidents and DUI arrests largely because there were not reliable transportation options for people late at night and were, therefore, driving drunk. There have been studies that have been conducted that after ride sharing companies like Uber have entered these markets, DUI rates have come down close to 10 percent per month. We're also creating jobs, economic opportunities. These are people who otherwise, you know, aren't able to have the flexibility that Uber provides. So what Uber does is actually provide a really incredibly flexible opportunity for people using an existing asset which is their car. And they're able to do so in a way that's very flexible and on their own schedule. And one of the biggest reasons people drive with Uber is the flexibility that it offers. A recent study conducted said that over 73 percent of people who drive with Uber is because of that flexibility. So of course as we go through this, safety is always something that we pride ourselves on and is always a number one issue that we're focused on. And, you know, my colleagues Curtis and Brad...Curtis and Dave have gone extensively through that process as it relates to insurance, but wanted to give you all a little bit more macro picture on Uber. So with that said, I thank you for your time and happy to answer any questions. [LB488]

SENATOR WILLIAMS: Any questions? Senator Craighead. [LB488]

SENATOR CRAIGHEAD: Thank you, Senator Williams. Thank you for being here today. What is the average hourly wage of an Uber employee? [LB488]

SAGAR SHAH: So, Senator Craighead, thank you for your question. First of all, just to clarify, Uber driver partners are not employees. They're independent contractors. But the average wage, it depends on what city and what products are around. Here in Lincoln, Nebraska, it's about \$12 to \$13 an hour. In Omaha, it's a little bit higher, it's closer to \$17-18 an hour. [LB488]

SENATOR CRAIGHEAD: Thank you. [LB488]

SENATOR WILLIAMS: Any additional questions? Thank you for your testimony. [LB488]

SAGAR SHAH: Thank you. [LB488]

SENATOR WILLIAMS: Next opponent. Seeing no one stepping up, is there anyone here to testify in neutral? [LB488]

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JERRY VAP: (Exhibit 6) Good afternoon, Senator Williams, members of the Banking, Commerce and Insurance Committee. I'm Commissioner Jerry Vap. I am the chairman of the Public Service Commission. I represent the 5th district which consists of 47 counties from Grand Island west. I'm here today to testify in a neutral capacity regarding LB488. As you know, LB629 and LB399 are currently pending in the Transportation and Telecommunications Committee and create a new class of transportation services for those who utilize an on-line enabled application or platform to provide prearranged transportation services for compensation. Currently, these carriers are required to meet the same obligations as other carriers, including obtaining from the commission a certificate to operate, filing tariff rates for approval, and providing Form E coverage of \$500,000 per accident. The question of insurance coverage has been a significant concern expressed by many with respect to transportation network companies. We appreciate the efforts to clarify the level of insurance to be required and the terms of coverage. I'd be happy to answer any questions. [LB488]

SENATOR WILLIAMS: Questions for Mr. Vap? Senator Campbell. [LB488]

SENATOR CAMPBELL: That you, Senator Williams. Commissioner Vap, are you aware of any complaints about Uber or any of them to the Public Service Commission? [LB488]

JERRY VAP: Not at this point in time. They're not certificated by the commission as of yet and we have not received any complaints from customers. [LB488]

SENATOR CAMPBELL: Okay. Thank you. [LB488]

SENATOR WILLIAMS: Seeing no questions, thank you for your testimony. [LB488]

JERRY VAP: Thank you. [LB488]

SENATOR WILLIAMS: Any further neutral testifiers? If not, Chairman Scheer, you're invited to close on LB488. [LB488]

SENATOR SCHEER: Well, thank you for your time and patience to this issue. I want to bring this back around to square one. And it's sort of serendipitous that the Public Service Commission would be here in a neutral capacity because realistically that's what we're trying to duplicate here. Public Service Commission was created to protect consumers, and that's what we're trying to do here. Trying to protect the consumer not only that's riding in the vehicle but the one that owns the vehicle. Now Mr. Scott, in his testimony, went into detail that we have a livery exclusion and went through the three parts of a new variety. First one where you turn the app on

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and there's no compensation. So that can't be considered anything that they're responsible for, and they accept the risk to go get the passenger, but there's still no compensation because he's driving, he hasn't been paid, he's just going to pick him up. The only time that there's compensation is when there's a passenger in the car. Had a lot of camouflage on how nice a company it is and all the other things that they do and how they promote jobs, and they do that, but bear in mind they're promoting jobs at the expense of cabs. But let's go back to one of the first premises Mr. Scott made. There's no compensation. Well, now wait a minute. Uber pays people to turn their app on in busy times. They want you to be there. They want you to be able to go get that person right away. And I don't know, you know, how disingenuous a person can be saying, well, they're just going to sit by the road and, you know, they'll wait because somebody close will give them an app. Anyone that drives for a living goes where the fares are at and just as Senator Schumacher said, if it happens to be a Nebraska football game or if it's downtown Omaha at the Qwest Center or wherever it might be, they're going to be in close proximity to that because that's where the money is. You don't drive to sit. You drive to drive and make money. And as long as Uber is going to pay people to be on-line on an hourly basis so that you are on call so that they can get cars there quickly, you are compensated. It does cover one, it covers two, and it covers three. If we're going to protect consumers in the state of Nebraska, this is the vehicle to do that. Now I don't blame them for wanting to utilize Mr. Mello's, Senator Mello's concept. It's much easier for them. It's not very restrictive at all. And I will tell you right now that Mr...Senator Mello doesn't really know his bill to the extent that you folks know this bill. This is an insurance question. We call it a ride share, but essentially it's a livery service. You know, it's a duck by any other name. It's got a bill. It's got webbed feet. It's a duck. It's a livery system. We need some way to make sure that those people that are riding in it are those people that are using their vehicle in the process of providing services to people have protections in the state of Nebraska. That's all this does. Pure and simple. This is good legislation. This is something that's needed. You know, we can say, well, you know, this is a platform-based deal so, you know, this is all that's different. Really? Because, you know, for the last 40 years cab companies worked by that platform system, but it was called a telephone. There's really no difference if you call for a cab or you punch a button, tell a cab where you want to go. They're both livery systems. We should be protecting people. That simple. Answer any questions. [LB488]

SENATOR WILLIAMS: Questions for Senator Scheer? Thank you. That will close the hearing on LB488 and that ends our day in the Banking Committee today. [LB488]