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COMMITTEE ON BANKING, COMMERCE AND INSURANCE
January 23, 2006
LB 819, 868, 985

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, January 23, 2006, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 819, LB 868, and LB 985. Senators present: Mick Mines, Chairperson; Pam Redfield, Vice Chairperson; Mike Flood; Jim Jensen; Joel Johnson; Chris Langemeier; LeRoy Louden; and Rich Pahls. Senators absent: None.

SENATOR MINES: Good afternoon. I'd like to welcome all of you to the Banking, Commerce and Insurance Committee public hearing. My name is Mick Mines and I am proud to chair this committee. I represent the 18th Legislative District. This hearing is part...you're part of the process. This is where we seek your input, your advice, your counsel, and we'll do everything we can to make sure that you get a fair and square opportunity to testify today. Before I introduce the members of this committee, please let me ask you to help facilitate this meeting. Turn off your cell phones. Prior to testifying, if you would fill out the testifier form. They're located either at the door or on the table in front of me. If you have written materials, please hand those to our page who will distribute those. You don't have to get up and hand them to us. We need ten copies, by the way. And please listen to the testifiers before you. We don't have a packed house today, but if you want to be repetitive, do it on someone else's time (laughter). You can see the on-deck chair. Senator Byars is there. Please get there before you testify. When you testify, please spell your first and last name because Jan is responsible for making sure that the record is correct and we just want to make sure your name is appropriately spelled. Following introduction, I'll ask for proponents of the bill. I'll ask you to raise your hands, opponents, and those testifying in a neutral capacity so be prepared for that. Now let me introduce members of the committee. On your far left, Senator Rich Pahls from Omaha; Senator Joel Johnson from Kearney; Senator Pam Redfield, Omaha. On your far right, Senator Chris Langemeier, Schuyler; Senator Mike Flood from what town is that? That'll be Norfolk.

SENATOR JOHNSON: Caring and sharing, I think it is.

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SENATOR MINES: Caring and sharing district (laugh), Senator LeRoy Loudon from Ellsworth. Committee counsel with us today is Bill Marienau on my right. Committee clerk is Jan Foster and welcome to everyone. Now, I am going to ask our Vice Chair, Pam Redfield, to take over, to assume responsibilities and no disrespect intended. I have a bill I'm introducing first off in General Affairs right across the hall. So, Senator, would you assume command?

SENATOR REDFIELD: Absolutely. Senator Byars for LB 819. Whenever you're ready, Senator.

LB 819

SENATOR BYARS: Thank you, Senator Redfield, members of the banking and insurance committee, appreciate it very much. And for the record, I am Senator Dennis Byars, D-e-n-n-i-s B-y-a-r-s, from the 30th Legislative District which is the true "caring and sharing" district (laughter), but thank you, Senator Johnson. We will keep trying to transcend Flood accordingly (laughter). The bill that I'm about to introduce you to today is truly you hear all the time and this is about as simple a bill as I have ever introduced I think in my entire tenure in the Legislature. Your statement of intent spells it out in a couple of sentences very clearly. It will amend the statute, the Nebraska Real Estate License Act regarding the return of pocket cards when these affiliated licensees leave the employ of an employee-broker. And the legislation would eliminate the need to return the pocket card which will assist in making the process more efficient. It doesn't change the license issuing, the return of license, the reissuance of license but does eliminate the return of the pocket card itself. And I will, because you'd like to have a short afternoon, will conclude my opening on this bill and will defer to the chairman of the Real Estate Commission who will follow me and explain to you why this will make the process easier.

SENATOR REDFIELD: Are there questions? Senator Byars, do you want to reserve closing?

SENATOR BYARS: I will reserve the right to close (laugh).

SENATOR REDFIELD: All right, thank you very much.

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SENATOR BYARS: Thank you, Senator.

SENATOR REDFIELD: Proponents.

LES TYRRELL: Senator Redfield, members of the committee, my name is Les Tyrrell, L-e-s T-y-r-r-e-l-l, and I am director of the Nebraska Real Estate Commission, appearing here today on behalf of the members of the Real Estate Commission for what, as Senator Byars put, is a very simple bill. I'll give you a very brief explanation of what it is. The pocket card, in effect, over the years, has become a receipt. We have to issue a receipt for monies so the pocket card is the document that is...how its nomenclature is in the bill. It's a pocket card, it's a receipt. Our old computer system didn't have a history so the auditors required us to get the old pocket card back because it told who the person worked for. Our new system has a whole history in it, and so they can see that, that, yes, there was actually a person there before. And now we can do away with it. And, basically, it's for efficiency within our office of trying to collect pocket cards whether it be an agency of 2 or an agency of 400. But, for the most part, it's also efficiency for the licensees, especially the designated brokers who have to collect the pocket cards to return them the way the transfer process is set out in law. And so we're saying is that there's no longer a need to have those come back in, we've discussed with the auditor. And so, therefor, rather than just keep that antiquated system, we'd very simply just like to do away with it. We have to maintain the pocket cards themselves because they are a receipt and move forward. And we would ask for your support in advancing the bill to the floor and advancing it through the Legislature this session.

SENATOR REDFIELD: Thank you. Are there questions? Yes, Senator Langemeier.

SENATOR LANGEMEIER: Thank you, (Vice) Chair Redfield. Being in that business, I'm very familiar with the pocket card. Would there be a need to not just go to a receipt and get rid of the total pocket card?

LES TYRRELL: I believe the auditor would require us to have a receipt. We are required to give a receipt to people. Basically, they use it for income tax purposes and those

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types of things so as far as I'm aware, at the present time, everything that we take money in for, we need to issue a receipt for.

SENATOR LANGEMEIER: Okay, will the new receipts then also have, or the new pocket cards, then have our employing broker?

LES TYRRELL: Yes, they'll still have that information on there. The information will remain the same and what we'll do is it'll just be a matter of telling the person when the new pocket card, new pocket card receipt comes out, to destroy the old one.

SENATOR LANGEMEIER: Thank you.

LES TYRRELL: Um-hum.

SENATOR REDFIELD: Senator Louden.

SENATOR LOUDEN: Oh, I think Senator Langemeier probably asked most of my questions. I guess my question would be mostly how will you keep track of this person then if they move on to someplace else?

LES TYRRELL: Well, there would still be a transfer. The transfer has to come through our office. That by law has to happen. And then when they send through and it says, I'm going to move from Senator Langemeier to Senator Flood, broker A to broker B, that individual won't have to send it back and we'll still have then...the pocket card will go out and it will still show so we'll still have that control. When they do big companies or medium-sized companies, when those come in, they just won't have to collect all of them and send them in to us. It will simply be a matter of doing it in writing. You see, if it's a large company they sign off on a list. I agree to have my license transferred from broker A to broker B and they sign a list and it's over.

SENATOR LOUDEN: Okay, in other words, you'll still have a way of tracking where those people go without getting into an animal ID?

LES TYRRELL: Correct, that's correct.

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SENATOR LOUDEN: Okay (laughter).

SENATOR REDFIELD: You're not advocating ear tags (laughter).

LES TYRRELL: If I understand animal ID, yes, that's correct (laughter).

SENATOR REDFIELD: Thank you. Any other questions? I think you've covered it well. Thank you.

LES TYRRELL: Okay.

SENATOR REDFIELD: Other testifiers. Proponent.

PERRE NEILAN: Senator Redfield, members of the committee, my name is Perre Neilan, P-e-r-r-e, last name N-e-i-l-a-n. I appear before you today as an employee of and registered lobbyist for the Nebraska Realtors Association, here simply to offer our support for Senator Byars, the Real Estate Commission, and LB 819. If you heard Director Tyrrell's opening, we concur.

SENATOR REDFIELD: All right. Questions? Thank you for your testimony. Are there other proponents? Any opponents? Any neutral testimony? Senator Byars. Senator Byars waives closing and we will conclude the hearing on LB 819. And we will have to stand at ease for a minute until Senator Mines returns for the next bill unless you are authorized to introduce that on this bill.

BILL MARIENAU: He never said anything.

SENATOR REDFIELD: All right.

SENATOR JOHNSON: I'm a...

SENATOR REDFIELD: You're a fill-in? (Laughter) We'll just have to wait for Senator Mines. He has both of the next two bills (laughter).

AT EASE

SENATOR REDFIELD: We will open the hearing on LB 868. Senator Mines.

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SENATOR MINES: (Exhibits 1, 2) Vice Chair Redfield, members of the committee, thank you for your patience. You said LB 869, right?

SENATOR REDFIELD: Did you want to do that one first? I said LB 868.

SENATOR MINES: LB 868?

SENATOR JOHNSON: LB 868.

SENATOR MINES: Got it. There we go. Thank you very much for the opportunity. My name is Mick Mines, M-i-n-e-s. I represent the 18th Legislative District, and I'm the principal introducer of LB 868. LB 868 updates provisions regarding the state Real Estate Commission and require education for nonresident applications and allow for the delivery of a listing agreement. Section 1 modifies the membership of the state Real Estate Commission to reflect the current three congressional districts rather than the four districts that existed in 1962. So this hasn't been tinkered with in awhile. Transition will be provided which would maintain the current members on the commission. With this change, the membership of the commission would be maintained at seven by having the fourth broker position appointed at-large. This change would allow for representation on the commission to be reflective of actual population. This change would move the current third district commissioner to the one at-large, and the current fourth district commissioner would become the new third district commissioner. Section 2 would require an applicant from another state to take a three-hour course approved by the commission on the (Nebraska) Real Estate License Act and agency relationships within 90 days of receiving a reciprocal license from the commission. This requirement would better educate licensees from other states on Nebraska specific law. Currently, an applicant can just sign off that he or she has read and understand Nebraska law. And then finally, section 3 would allow for a copy of the signed listing agreement to be delivered to the seller within a reasonable time rather than left as current law states.

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This change would make this requirement consistent with the requirement for delivery of a completed purchase agreement. Having said that, we have an amendment and I would ask the page to distribute the amendment, please. Thank you. When you receive that, we're going to amend the bill and specifically section 2. It amends it in two different ways. Section 2 of the bill provides that within 90 days after issuance of a license to a nonresident, the new licensee shall complete a three-hour class, specific to the Nebraska Real Estate License Act and the real estate agency relationship statutes. Amendment 1965 would go a step further and provide that if the new licensee fails to provide proof of completion of the class within the 90 days, the director of the commission shall place the license on inactive status and notify the licensee that he or she must show cause why the license should not be censured, suspended, revoked, and or placed on probation. That's in section 2. Amendment 1965 would strike from the bill section 3 which would provide that the written listing agreement may be delivered to the seller within a reasonable time rather than shall be left immediately with the seller. With that, I will conclude and there are others behind me that can maybe specify more directly any questions you might have, but I would answer any that I'm capable of.

SENATOR REDFIELD: Senator Jensen.

SENATOR JENSEN: Thank you, Senator Redfield. Senator, should we have an amendment that should Nebraska go to two legislative districts that we want to take care of that now so that someday that we don't have to come back again?

SENATOR MINES: You know, I hope that the next committee doesn't have to come back to two districts and there are rumors that we may not be cut to three legislative districts in 2010 or three congressional districts. So, this might last for awhile longer.

SENATOR JENSEN: All right.

SENATOR REDFIELD: Other questions? Seeing none, thank you, Senator Mines.

SENATOR MINES: Thank you.

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SENATOR REDFIELD: Proponents?

PERRE NEILAN: Senator Redfield, members of the committee, my name is Perre Neilan, P-e-r-r-e, last name N-e-i-l-a-n. I appear before you today as an employee of and registered lobbyist for the Nebraska Realtors Association and here to offer our support on behalf of our 4,300 members for LB 868. LB 868 is a partial result to some task force work that was done by our volunteer members and going through the statutes and some of the rules and regulations on different things. A lot of those, there are several other recommendations that have gone before the real estate commission themselves. Many of those, we are glad to work with them and concentrate with them on perhaps changing some policies or some rules and regulations. These are a few things that we thought should come forward and in negotiations with the commission in their last meeting, in fact, just last week and discussions over the weekend, we were able to come up with this compromise on AM1965 to help with the administration component of requiring that education of reciprocal licensees. We think it's important that those that come into Nebraska and want to do business could at least be educated even without having to...no requirement to pass a test or anything like that as is the case in many other states that you have to, in fact, pass some type of test. There are, in fact, some states that don't offer license recognition at all or reciprocal license for real estate so they have to go through a lot more hurdles. This is what we could come up with that was reasonable, still provide some additional education for folks and some back and forth on whether it should be 90 days or immediately or before a transaction or something. But this was the smallest hurdle that we could come up with, most reasonable, in negotiations with all parties involved so. And on the first component, the commission districts, Senator Jensen, just some research that I did over the last couple of months. I fortunately have not found anywhere where Nebraska is, they call it on the bubble on whether or not we'll be losing a congressional district. Now that's completely not exhaustive research but certainly would offer that to you. So we're excited to continue three congressional districts in Nebraska so, hopefully, that won't have to be changed for a long, long time. Just want to have the commission districts more representative of where the transactions are occurring, where the licensees are, and where the consumers are that

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the commission oversees and protects. So, the last thing, striking section 3 on a listing agreement, something that needs a little more work if we're going to do it at all. So, we would ask that you would go ahead and strike section 3 and just focus on the first two components. That is all I'd have. Senator Redfield.

SENATOR REDFIELD: Mr. Neilan, we've had some discussions recently in this committee on classes and hours, and I want to just make sure that we understand whether you mean three calendar hours or do you mean three credit hours in this second section, component?

PERRE NEILAN: Someone who testifies after me may answer this better for you, but there would be three required hours of coursework to be completed. Now, you mean sitting in a class for three-and-a-half or four hours total to do introductions and those types of things. But the actual coursework material that you're going over, and not talking about shutting off your cell phone and taking breaks and that type of thing, you would be required for the three hours.

SENATOR REDFIELD: So we're talking about one afternoon or one evening. We're not talking about one college course that lasts a semester for three credit hours.

PERRE NEILAN: The former, yes. Yes.

SENATOR REDFIELD: All right, thank you. Other questions? Senator Johnson.

SENATOR JOHNSON: I've looked into the chance of losing a third congressional seat. It appears that we're okay in 2010 because it's most likely going to be Iowa, Michigan, Ohio, and New York but we are in grave danger for 2020.

SENATOR REDFIELD: Thank you. Senator Flood.

SENATOR FLOOD: Thank you, Senator Redfield. Why do we want to make it so easy for another real estate agent from a different state to come into Nebraska, is my opening question?

PERRE NEILAN: Because they do it for us (laugh) is an

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answer for...I mean, that's another policy question, I mean, that we're not directing right here. But there...like I said, runs the gamut between don't recognize at all and Nebraska has offered license for license recognition with many states and has assigned reciprocal agreement that's approved by the real estate commission.

SENATOR FLOOD: Can you sufficiently treat someone as a licensee...okay, let's say a different, a foreign real estate agent from Kansas comes into Kearney and sells a house within the 90 days and he hasn't yet taken or watched their video or whatever it may be or three-hour deal. Can you sufficiently say that he is a licensee, having not completed that course?

PERRE NEILAN: Yeah, they will officially be granted a reciprocal license with Nebraska.

SENATOR FLOOD: Oh, subject to being revoked...

PERRE NEILAN: Right.

SENATOR FLOOD: Just by sending it in. Do you do any background checks on that individual when he or she applies for that license?

PERRE NEILAN: I will leave that up to the director of the real estate commission to answer, Senator Flood. I believe they have to go through the same FBI fingerprint background checks and other things that the applicants have to do, but I will defer to the director on that.

SENATOR FLOOD: I'll wait for him. Thank you very much, Mr. Neilan.

SENATOR REDFIELD: Senator Langemeier.

SENATOR LANGEMEIER: Thank you, Senator Redfield. I'm going to ask you or thank you for testifying. I'll ask this question to you and to Dr. Tyrrell when he comes up. The 90 days, in the real estate business it's a fast-paced business. Would there not be in most of the cases, if someone came into Nebraska, got a reciprocal license listed commercial, listed residential, have the whole deal done in 90 days and then go, oops, I need to take that class but yet

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the class was ethics or it was something that may inform them how things work in Nebraska. My concern is that the deal is done. The education they had to do the deal is over long before they ever take the class. Do you have a thought on that or?

PERRE NEILAN: Yes (laugh). Yes, they could, and like I said, the discussions that we have, 90 days is what we were able to come up with, we're not tied hard to the 90 days but, again, on not trying to become too stringent as it were, put up too many walls to Nebraska on reciprocal licenses in Nebraska. We kind of landed on 90 days. We as the association would not be opposed to shortening that time period, probably going to run into some flak with some folks if we say prior to consummating a contract or something, but we would not be opposed to shortening up that time frame.

SENATOR LANGEMEIER: Okay, and I understand there's some limitations to actually getting the class in some timely manner as well, too.

PERRE NEILAN: Right, and we're pretty confident that those will be able to be offered. The market place will respond to that and probably, as well, in a distance education format also to be offered on-line.

SENATOR LANGEMEIER: Okay, thank you.

PERRE NEILAN: Thank you.

SENATOR REDFIELD: Thank you. Seeing nothing else, thank you.

PERRE NEILAN: Thank you.

SENATOR REDFIELD: Other proponents?

LES TYRRELL: Senator Redfield, members of the committee, my name is Les Tyrrell, L-e-s T-y-r-r-e-l-l, director of the Nebraska Real Estate Commission appearing here on behalf of the members of the commission today in support of AM1965.

SENATOR REDFIELD: I believe we're on (LB) 868.

LES TYRRELL: Well, yeah, the amendment part to it, of

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(LB) 868 and in a neutral capacity on the first proposed amendment, the real estate commission, members of the commission, in a vote have determined that they want to remain neutral as a commission on the changing of the districts. So I'm here as a...couldn't figure out what...I figured I was a proponent of two-thirds so that made me more of a proponent than a neutral. So, anyway, the real estate commission is in agreement and supports LB 868 with the amendment, AM1965 as proposed here today. And I would be happy to answer any questions that you might have.

SENATOR REDFIELD: Any questions? Yes, Senator Louden.

SENATOR LOUDEN: Yeah, on this commission, I thought I read in there something about seven members or something like that. Is that correct?

LES TYRRELL: There are seven members on the commission.

SENATOR LOUDEN: Okay, and they're appointed by the governor or how are they...?

LES TYRRELL: Six are appointed by the governor. Four are broker member appointees. One is a salesperson appointee, and one is a public member. Current and then the Secretary of State, by law, serves as chair so that gets us to the seventh member. Currently, the salesperson member and the public member are appointed at-large and the four broker members are appointed from the old four districts. And then this, of course, propose to make it three and making one of the four broker members an at-large appointment.

SENATOR LOUDEN: What do you gain by going from three for districts and then having one at-large. I mean, you still got four people on there. If you do away with that one district, why that one would be about as at-large in Nebraska as any part of Nebraska because it would be about three-fourths or seven-eighths of Nebraska that would be the district he would come from. Do you feel that you would gain an advantage by doing that?

LES TYRRELL: As I indicated, I'm here under the direction of the commission and they have instructed me to remain neutral on that position, on this provision.

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SENATOR LOUDEN: Okay. And then I presume when they say, strike the original section 3, they mean just strike it out of the bill. They don't mean strike it out of the statute?

LES TYRRELL: That is the way I understand the amendment to read is that they're just proposing to strike the language on page 11 in lines 6 through 8 that are the change language, and to leave it in its original, current state. That's my understanding.

SENATOR LOUDEN: Okay. Thank you.

SENATOR REDFIELD: Senator Flood.

SENATOR FLOOD: Thank you, Senator. Thank you for your testimony today. I guess, would you describe for me the background check that's conducted on an applicant for admission as a real estate agent in Nebraska?

LES TYRRELL: Specifically, with regard to nonresidents in this case or...

SENATOR FLOOD: Yeah.

LES TYRRELL: ...because there's a bit of a difference?

SENATOR FLOOD: Yeah.

LES TYRRELL: The only difference is, is that whenever a nonresident applies for licensure, we ask for a certification of licensure history from the other jurisdiction. And then, in that case, of course, we see if they've had any disciplinary actions, how they got their license, those types of things. Then that's something we don't do, of course, for resident licensees because they haven't had a license. And then we also do the criminal background check and everybody gets a criminal background check as an original applicant. In fact, even when a licensee goes from a salesperson to a broker license, we consider that another original applicant step and so that person when they move from salesperson to broker has another criminal background check at the broker application stage.

SENATOR FLOOD: Is there a uniform exam among the states or do we belong to a compact? I know that there's a real

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estate exam in Nebraska. Is it the same exam in Iowa, Kansas, South Dakota?

LES TYRRELL: Well, no, not exactly. The testing company that gives our examination is called Applied Measurement Professionals out of Lenexa, Kansas, and I believe there are three additional...there are three other states that do that exam. I thought there were more but, anyway, the examinations, pretty much, if you talk about a national portion, most of them have a quasi-national portion and then a local or a state or a jurisdictional portion. In my experience, I would say that most of the national portions of all the exams of any of the examination companies are probably 95 percent the same because there's only so much general knowledge in real estate that you can ask at any one time. And then the state portions of those portions of the exams that deal with the states would deal with quirks and, you know, how the state handles their laws. But I would say that most of the state laws, in fact, I can expand that a little. Probably most of the jurisdictional laws, if you want to bring in Canadian provinces and some others, that those examinations are probably fairly similar in nature also except for Louisiana which does not operate on the rectangular system. So, to say they're the same, I guess the answer would be no. But are they similar? Yes, I'd say that they're fairly similar just based on the way real estate is handled.

SENATOR FLOOD: And this three-hour course, would this course address some of the quirks in Nebraska real estate law?

LES TYRRELL: Right. As we understand the reading of the proposed changes, that it would be a three-hour course and that would be three clock hours. A three-hour course that deals with the Nebraska Real Estate License Act and the laws that we administer including the Agency Relationships Act.

SENATOR FLOOD: Would you feel more comfortable if we required that, the applicant/immediate licensee...I would prefer they remain an applicant until they take the course and then they're issued their license following the successful completion. My biggest fear and I ask you that question is, that you've got a real estate agent across the border that has the chance to close a really hot deal and

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they rush through it. And they see their commission at the end of the tunnel and not maybe all their responsibilities to the principal, their client, and maybe you skip over some certain laws. We wouldn't let somebody practice law in Nebraska without first getting their license in our state.

LES TYRRELL: Well, now the way I understand the way this provision is written, the way the commission understands, is we will actually issue them the license. What this is referred to in the real estate industry is a post license course. So we will issue them a license based on the first half of the section...

SENATOR FLOOD: Yeah.

LES TYRRELL: ...where it talks about, as it is currently, where they file an affidavit that they have read, understand, and will abide by the laws in Nebraska. So we will issue them a license based on that and then they have 90 days post license to complete this three-hour course.

SENATOR FLOOD: Would you prefer that they complete the three-hour course before...?

LES TYRRELL: The commission felt that they were comfortable with this situation the way it is. I think that, yeah, you could have a situation where there would be somebody who would say, I've already completed that transaction. I'm not going to spend 30 or 40 bucks or whatever it would be or 50 bucks or, you know, whatever the course might be and take the course. But the situation then is, is that...

SENATOR FLOOD: You revoke their license.

LES TYRRELL: Yeah, we'd go through the show-cause process. And so then they would be done and then, of course, if they'd ever reapply in the future, you're done. And that was one of the things we wanted to make sure that we got in here was that they had to do something,...

SENATOR FLOOD: Sure.

LES TYRRELL: ...that there was some kind of a hook because if you noticed in the way it was originally written, we had no hook.

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SENATOR FLOOD: Thank you very much. I appreciate your testimony. Thank you.

SENATOR REDFIELD: Thank you. Other questions? Senator Langemeier.

SENATOR LANGEMEIER: Thank you, (Vice) Chair. When an individual lives in Council Bluffs, there's many in Council Bluffs that are licensed in Nebraska. Every year, do you intend for every renewal they would need this three-hour class? And then the second part of that is do we currently require continuing ed like resident agents have to take continuing ed every two years? Does someone that continuously renews a reciprocal license in Nebraska subject to any continuing ed?

LES TYRRELL: Yes. I'll answer the first part of your question first. No, this would be an original issuance situation. It would not be something that they would need to take every year.

SENATOR LANGEMEIER: Okay.

LES TYRRELL: The situation with regard to continuing education is, yes, all licensees have to complete continuing education. Under some of the licensure recognition agreements that we have, there are provisions whereby if the person maintains their continuing education in their state of residence, and I'm going back to now my previous comment with regard to the body of knowledge in general, that if a person maintains their continuing education at the qualified level that they're required to in that jurisdiction, as a part of a written agreement with that jurisdiction we would not make their people take our continuing education again or our people wouldn't have to take their continuing education. And, basically, it's more of an opportunity situation so that it doesn't throw up many more barriers and yet the body of knowledge is particularly the same. But they get all the same information. Every licensee gets the same and commission comments and those types of things.

SENATOR LANGEMEIER: Okay. And my last question would be, are there other states doing this? Are we just kind of the first to try and do this or?

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LES TYRRELL: No. No, we aren't the first to try and do this. There are some states who require examination, that the person take the state portion of the examination; some that require that they take a course similar to this, a state law course is how most of them refer to it. So, no, we're not the first to do this.

SENATOR LANGEMEIER: Thank you.

LES TYRRELL: It will be a situation where probably many of the jurisdictions that we currently have license-for-license recognition with will throw a three-hour course on our people, too, going to them.

SENATOR LANGEMEIER: Okay, thank you.

LES TYRRELL: Yes.

SENATOR REDFIELD: Other questions? I don't see any. Thank you.

LES TYRRELL: You're entirely welcome.

SENATOR REDFIELD: Other proponents? Any opponents? Neutral testimony? Senator Mines to close and Senator Mines waives closing. That is the conclusion of LB 868's hearing, and we will open on LB 985. Senator Mines.

LB 985

SENATOR MINES: Vice President...Vice Chair. You could be Vice President today. Vice President Redfield, members of the committee, my name is Mick Mines, M-i-n-e-s, representing the 18th Legislative District. I am the principal introducer of LB 985. This bill would amend sections 8-1601 and 8-1602 and (8-)1605 of the bankers bank statutes. These statutes currently allow for the formation of a banker's bank which is FDIC insured, owned by other Nebraska banks, and provides services exclusively for other banks. The bill would allow a banker's bank to be owned by bank holding companies, foreign bank holding companies as well as other Nebraska banks, or a combination of any of these entities. The bill would allow banks to own an

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interest in a bank holding company or foreign bank holding company of a banker's bank or a foreign banker's bank. Now, to explain more about the banker's bank, Kurt Yost is behind me as are other testifiers, but I would answer any questions that you might have.

SENATOR REDFIELD: Senator Mines, would this mean that a bank could own a bank holding company which would own the bank? I mean.

SENATOR MINES: A bank could wholly own the holding company? I can't answer that, but that's a great question.

SENATOR REDFIELD: Okay.

SENATOR MINES: That is a wonderful question. Perhaps Mr. Yost could answer that for us.

SENATOR REDFIELD: All right, thank you.

SENATOR MINES: Great question. Thank you.

SENATOR REDFIELD: Other questions? Senator Louden.

SENATOR LOUDEN: Yeah, I'm not that familiar with banker's banks, but we have this French bank that's got some banks out in western Nebraska. Does this give them the authority then, they could go in and buy up some of these holding companies, bank holding companies then and control those holding companies besides their own bank?

SENATOR MINES: No. It's my understanding that the holding companies, right now only Nebraska banks participate, Nebraska chartered banks participate in the banker's bank. And what this would allow is a foreign bank to purchase part of or wholly own a banker's bank. So your example of the French-owned bank, they obviously have to be chartered in the United States, but very possibly...I don't know. I wish I could answer...I'm thinking and talking at the same time, and that's trouble. Let me ask Mr. Yost. Let me defer that to Mr. Yost. Thank you.

SENATOR REDFIELD: Seeing no further questions. Proponents?

KURT YOST: Madam Chair, members of the committee, I will

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lead off briefly because I'm going to defer to the gentleman sitting right back here. Don't go away, counsel, for the Nebraska Bankers Association. He's also in the room. But behind me is Bill Voss who's the president and CEO of the Nebraska Bankers' Bank and he can define the issue and the resolve of LB 985. I simply come before you today...by the way, I am Kurt Yost, K-u-r-t...sorry about that, Senator. K-u-r-t Y-o-s-t, I am president of the Nebraska Independent Community Bankers. We, 20 years ago this year, asked this committee to introduce language that created the opportunity to have a banker's bank in the state of Nebraska. In layman's term, a banker's bank is a pure wholesale bank, ladies and gentlemen. It is designed to provide correspondent services and other financial services to a bank. It does not take consumer deposits. It does not make consumer loans and those kinds of things. It provides services to other banks and is owned by banks. Mr. Voss will explain...when we talk, Senator Loudon, about a foreign bank holding company, we are not per se talking about a bank in Paris. We are talking about a bank in Missouri or Wyoming or Colorado, that type of thing. There are several banker's banks today that actually operate in Nebraska. Bankers' Bank of the West from Denver; there's one in Minneapolis; there's one in Wisconsin, all who provide correspondent banking services to commercial banks in the state. The gentleman behind me is the head of Nebraska's banker bank and with that, I will defer the questions, all of which are good questions, but I'm going to let the pro answer them, if you don't mind. We simply were the instigators 20 years ago.

SENATOR REDFIELD: Are you willing to let him go? It looks like it. Thank you.

KURT YOST: Bless your heart, thank you (laughter).

SENATOR REDFIELD: Next proponent. And for the record, if you would spell your name.

BILL VOSS: (Exhibit 1) Thank you. My name is Bill Voss, B-i-l-l V-o-s-s. I am the president and CEO of the Nebraska Bankers' Bank. I do have some handouts that I hope will further simplify the discussion. August, 2001, our holding company...when I speak of our holding company, it's Midwest Independent Bancshares of Jefferson City, Missouri, decided

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that the opportunity was right for Nebraska banks to form a Nebraska banker's bank. We, at that time, went to the Nebraska department of banking and through conversations with the counsel over at the department of banking, it was determined that we did not qualify for a state charter via statute 8-1602 which says ownership of a banker's bank in Nebraska must be substantially by other Nebraska banks and it was determined that substantially owned means 80 percent. In this case and in the case of most holding companies, the banks that participate do not own any of the, let's say Nebraska Bankers' Bank. They own the holding company that owns the bank. So there is only one stockholder, one sole owner of Nebraska Bankers' Bank, and that is our holding company. So, now we come asking for the opportunity to change the statute 8-1602 to allow for ownership by a foreign holding company. The language in (section) 8-1602 that we discussed would be to add bank holding companies, foreign bank holding companies, or a combination of such entities that in (section) (8-)1602 has precipitated the changes in the other statutes so that they're common and they are all kind of guided under (section) 8-909 which is the Nebraska holding company regulation. And the answer to your question, Senator, was it will not change the way that holding companies are owned or operated in Nebraska. It allows Nebraska banks to own stock in a holding company, a foreign holding company, out-of-state holding company, if you will, and there, in turn, they own a Bankers' Bank in Nebraska. As history, in 2002, when we were chartered, October, 2002, when Nebraska Bankers' Bank was chartered, 55 Nebraska banks came forward with \$3.4 million in capital to capitalize this effort. Subsequent to that, we now have 75 Nebraska banks that have put in about 5.4 million in capital into the holding company to capitalize this. So, if you will, the bank has been capitalized by Nebraska banks and so going further, to understand what a banker's bank in Nebraska, ownership of a banker's bank in Nebraska means, we do business with 115 banks in the state of Nebraska, and we provide 642 services to those banks, maybe anywhere from one to nineteen of the services that we provide. The core services are investment of fed funds. We can invest fed funds for these banks where let's say the First National Bank of Yost would have \$150,000 at the end of the day and someone else's bank would have a million. We can pool these dollars into blocks of 15 million and go out to the market and get a considerable return for the banks that are working

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with us. That's one of the services. Another service that we provide, one of our core products, is loan participation. Each bank in Nebraska has a lending limit. If they have a project they want to participate in that exceeds their lending limit, we then, in turn, buy the excess and from there then we sell the excess back out to our other stockholders in Nebraska. So, this is an opportunity for banks in Nebraska to own the correspondent that they do business with. Right now we have a national charter, the Office of the Comptroller of the Currency. We are insured by the FDIC. We undergo examinations for safety and soundness. We go under director's audits; we go under opinion audits, all the requirements of any other state or national chartered banks we have to abide by. Any questions? I might point out, though, the graph that I gave to you, the red box on top is an existing condition. Nebraska banks and Nebraska bank holding companies can now own stock in a banker's bank; an individual cannot. The middle box, the Nebraska holding company then, in turn, can be the sole owner of a banker's bank in Nebraska. There in the italicized, underlined foreign holding company would be the only addition to this regulation that we're asking for. The rest of the language is to make it compatible with (section) (8-)1601 and others listed therein. So, questions?

SENATOR REDFIELD: Senator Louden, I assume you'd have a question.

SENATOR LOUDEN: Well, yeah. First off, when you talk about the end of the day you go out here with this 15 million bucks and invest. What do you invest it in?

BILL VOSS: Those are overnight funds that generally we have a Regulation F that we're required to do diligence on; other banks throughout the United States that may need funds overnight. Likewise, there's banks in Nebraska that may need funds overnight and it's a short-term vehicle.

SENATOR LOUDEN: It's all just short term? There's nothing long term...

BILL VOSS: It's always to another bank. Yeah, generally, yes.

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SENATOR LOUDEN: My concern is whether there was money going out of the community for a higher rate...

BILL VOSS: No.

SENATOR LOUDEN: ...of interest or something like that.

BILL VOSS: No, no, not at all. We can relay it to a consumer transaction. You know, at the end of the day some accounts have excess money in them and some accounts don't have enough so.

SENATOR LOUDEN: Um-hum. Now, this French bank I was mentioning, do they already belong to this Nebraska bank holding company?

BILL VOSS: No, they do not.

SENATOR LOUDEN: Will they after this law goes into effect?

BILL VOSS: I would seriously doubt that. Now...

SENATOR LOUDEN: Or will they be able to, I should say?

BILL VOSS: Yes, they would be. Now, there is a statute...anticipating a question, there is a statute that no bank or bank holding company can own more than 5 percent of us so takeover is virtually impossible. The other side of that statute is no bank may spend more than 10 percent of their capital and surplus account on stock in a banker's bank.

SENATOR LOUDEN: Now, this is just strictly for banks or can credit unions or farm lending agencies or anything like that be a member of any of this?

BILL VOSS: They could. Currently, they are not. Currently, banks and savings associations are the only members in Nebraska.

SENATOR LOUDEN: Okay. But like Farm Credit Services or anybody isn't a member of it?

BILL VOSS: No, no. They would not...

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SENATOR LOUDEN: It isn't possible that they...

BILL VOSS: They would not.

SENATOR LOUDEN: It is...

BILL VOSS: A credit union possibly could, a farm service...

SENATOR LOUDEN: Then...

BILL VOSS: ...agency would not be able to.

SENATOR LOUDEN: We don't have to worry about Robo Bank getting into this?

BILL VOSS: No, sir.

SENATOR LOUDEN: Okay.

BILL VOSS: There would be no advantage for an institution like that that has the vehicle to do their own fed fund investing and place their larger loans. This is primarily for smaller community banks.

SENATOR LOUDEN: Okay. Thank you.

BILL VOSS: I believe the largest bank we have in Nebraska is about \$250 million in assets.

SENATOR LOUDEN: First National don't belong to this or?

BILL VOSS: First National of Omaha? No, sir.

SENATOR LOUDEN: So they got their own?

BILL VOSS: There would probably not be any advantage for them to join.

SENATOR LOUDEN: Okay, thank you.

SENATOR REDFIELD: Are there other questions? I would have one. I'm assuming that you're looking for more capital. Is the capital in the state of Nebraska insufficient? Are you looking for an opportunity for a foreign holding company because it would increase our assets? What would be the

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thought behind that?

BILL VOSS: We are able to raise additional capital as a national bank...

SENATOR REDFIELD: Um-hum.

BILL VOSS: ...so that would not be an advantage of being a state bank. Our choice originally was to become a state chartered bank and as I said before, (section) 8-1602 didn't allow that. So, we're qualified to be a national bank and we chose that route. Now we come three years hence and why now? We went through the process of being chartered by the Office of the Comptroller of the Currency. They have some very strict requirements of de novo banks. We were examined every year, every 12 months as opposed to a normal 18-month schedule. We had opinion audits done by independent auditors. We chose to continue that process and graduate from that process, if you will, before we started this process of trying to become a state-chartered bank, maybe to prove our worth, you know. There are only 22 banker's banks in the United States so it was pretty much an unknown quantity back in 2001 when we started talking about this.

SENATOR REDFIELD: What would you see the advantage of being a state chartered bank for you?

BILL VOSS: There are some lending limit advantages. The majority of our stockholders are state-chartered banks, a little familiarity. There are some economics in the examination process.

SENATOR REDFIELD: Good answers.

BILL VOSS: And those economics are then passed back to our stockholders through dividends.

SENATOR REDFIELD: Okay. Good answers. Other questions? Senator Louden.

SENATOR LOUDEN: Yeah, I got one more, I guess, just to clear it up for my personal knowledge. This, then, is exactly kind of a co-op amongst smaller banks, independent banks, and that sort of thing in Nebraska. This is what you're trying to do and you're trying to streamline...

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BILL VOSS: Well, co-op, if you will. But our smallest bank in Nebraska, smallest stockholder bank in Nebraska has \$4 million in assets and, as I said, our largest is \$250 million in assets.

SENATOR LOUDEN: Okay, thank you.

BILL VOSS: Um-hum.

SENATOR REDFIELD: Seeing no further questions, thank you very much.

BILL VOSS: Thank you.

SENATOR REDFIELD: Other proponents?

ROBERT HALLSTROM: (Exhibit 2) Senator Redfield, members of the committee, my name is Robert J. Hallstrom. I appear before you today as a registered lobbyist for the Nebraska Bankers Association in support of LB 985. Simply put, I believe the bill will provide the flexibility and authorize the Nebraska Bankers' Bank to operate as a state-chartered institution, if you will, or banker's bank rather than having to be a nationally chartered institution because of the restrictions that currently exist under Nebraska law. We think the flexibility should be provided and it's warranted, and we support the bill. And we encourage you to advance the bill to General File. Thank you.

SENATOR REDFIELD: Thank you. Questions? Senator Langemeier.

SENATOR LANGEMEIER: Is this LB...

ROBERT HALLSTROM: Did I give you the wrong one?

SENATOR LANGEMEIER: LB 843, Business and Labor.

ROBERT HALLSTROM: I handed you the wrong one. Excuse me. (Laugh) You got an extra one.

SENATOR FLOOD: He can use mine.

ROBERT HALLSTROM: Excuse me.

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SENATOR LANGEMEIER: Okay, thank you.

ROBERT HALLSTROM: Got one extra one in there. Any other questions?

SENATOR LANGEMEIER: Good topic but (laughter)...

SENATOR REDFIELD: Other questions? Senator Johnson.

SENATOR JOHNSON: At the end of the day, I've been sitting here and I can't keep from asking it. Is this then basically a way to piggyback the piggybank? (Laugh)

ROBERT HALLSTROM: To piggyback the piggybank, I'm not sure but (laughter).

SENATOR REDFIELD: Do you want an answer?

SENATOR JOHNSON: No. (Laughter)

ROBERT HALLSTROM: I will stand down on that (laughter).

SENATOR REDFIELD: Seeing no further questions, thank you.

ROBERT HALLSTROM: Okay, thank you, Senator.

SENATOR REDFIELD: Other proponents? Opponents? Neutral testimony? Senator Mines waives closing, and that is the conclusion of the hearing on LB 985. Thank you.