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Health and Human Services Committee
January 24, 2014

[LB665 LB859 LB869]

The Committee on Health and Human Services met at 1:30 p.m. on Friday, January 24, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB665, LB859, and LB869. Senators present: Kathy Campbell, Chairperson; Bob Krist, Vice Chairperson; Tanya Cook; Sue Crawford; Mike Gloor; Sara Howard; and Dan Watermeier. Senators absent: None.

SENATOR CAMPBELL: Good afternoon, and I'd like to welcome you to the hearings of the Health and Human Services Committee. I'm Kathy Campbell and I serve as the Chair of the committee. I represent District 25, which is east Lincoln and eastern Lancaster County. Before we start this afternoon, we'll go over the usual announcements. If you have a cell phone with you, please turn it down to silent or off, and the same things goes for a tablet if you are using one of those. Although handouts are not required, if you are going to distribute handouts we would like 15 copies. If you need assistance with the copies, the pages over here will help you. When you come to testify, before you come up you need to have one of the bright orange sheets that are on either side of the hearing room, and complete those, printing as legibly as you can. And when you come forward you can give your material or your orange sheet to the clerk, the committee clerk who is sitting to my far left. And we do use the lights in the Health Committee, so you will have 5 minutes. It will start on green. It will seem green for a long time, and then it will go, with 1 minute left you have a yellow. And when you get to red you'll look up and you will see me trying to get your attention to finish. Please state your name for the record and spell it so that the transcribers who listen can get your name correct in their records also. I think that's all the announcements that I have for today, and we'll start with my far right and the senators can introduce themselves.

SENATOR WATERMEIER: Dan Watermeier, District 1, from Syracuse.

SENATOR HOWARD: Sara Howard, District 9, midtown Omaha.

SENATOR COOK: Tanya Cook, District 13, Omaha and Douglas County.

SENATOR CAMPBELL: Senator Krist, would you like to?

SENATOR KRIST: Bob Krist, District 10, northwest Omaha and Bennington.

MICHELLE CHAFFEE: I'm Michelle Chaffee. I'm legal counsel to the committee.

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

BRENNEN MILLER: I'm Brennen Miller, committee clerk.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

SENATOR CAMPBELL: And our pages today are Emily and Stuart, and both of them go the University of Nebraska. Emily is from Sioux Falls, South Dakota; and Stuart is from Lincoln. So we're very glad to have the pages' assistance. To start out today to open our hearings, we will start with the hearing on LB665, which is Senator Krist's bill, to change the Engineers and Architects Regulation Act. Senator Krist, please begin whenever you're ready.

SENATOR KRIST: (Exhibit 1) Thank you, Senator Campbell. Good afternoon. And fellow members of the Health and Human Services Committee, for the record my name is Bob Krist; that's B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha along with a north-central portion of Douglas County, which includes the city of Bennington. And I appear before you today in introduction and support of LB665. LB665 primarily implements editorial and technical changes to the Engineers and Architects Regulation Act, which modernize and simplify the act. The Nebraska Board of Engineers and Architects brought this legislation to me, and I think it is important to read this committee the board's mission. That mission reads, and I quote: Overseeing the laws and rules which govern the practices of engineering and architecture in this state in order to safeguard life, health, property and promote the public welfare. End quote. I give you the mission to present to you the board's interest in this legislation and the impact that it has on the profession. To put it simply, they want to present the best legislation for engineers and architects in this state. The catalyst for the changes proposed in LB665 were originally discussed by the Nebraska Board of Engineers and Architects in early 2012. The initial discussion of the statutory change related to the movement of the National Council of Examiners for Engineering and Surveying, which administers the fundamentals of engineering and examination. This is one of the tests required for licensure as a professional engineer in the state of Nebraska, and LB665 allows a transition from a paper and pencil based format to a computer-based testing environment, beginning in January 2014. Consequently, the board decided that instead of making changes to the act to only accommodate this minor exam-related change to the act, it should task a special committee to study each of the sections of the act. In essence, the changes needed to accommodate the fundamentals of engineering exam process presented the board with a unique opportunity to clarify and simplify the act's language, and make the act more accessible and understandable throughout. The board reviewed and discussed all the recommendations at a public meeting held June 13, 2013, and approved the committee's final recommendations on August 16, 2013. Following the final recommendations, the board then reached out to over 20 impacted stakeholders across this state. Going back to the mission of the board, they really wanted to present the best legislation for all affected groups. After gathering feedback from a number of stakeholders, the board implemented the changes suggested and presented this important bill to me for introduction this session to you. While I stated earlier that many changes are technical and editorial, these language changes lead to substantive change and make the act better as a whole. You will also hear from the representatives

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

of the Nebraska Board of Engineers and Architects regarding their support for the proposed changes and compromises that occurred in reaching out to the interested stakeholders. Before I make my final closing, I wanted to review the recipe for making Jell-O. You start out with a box of powder and sometimes it has sugar in it and sometimes it has a flavor in it. You pour it in a bowl, and then you usually use hot water. Sometimes lukewarm water doesn't work, and so you use a little hot water. You put in there and you stir it up real well and you put it in the refrigerator. It starts to take shape and get semi hard, and that's when we love it. That's when it's ready. I would say that this piece of legislation, given the eleventh hour of things, and you know how I love eleventh hour changes, some of the changes and recommendations that have been made just within the last few days represent, after the extensive work that they did to try to make sure that everybody was heard, there were a few people that didn't put warm water in the Jell-O to start out with, and they'd like to make a few changes. So to accommodate that, I submitted a change, dropped it into the hopper this morning, which I'm sure most of you don't have. And I will have copies made and given to you while we hear testimony. It's very simple. And the changes in line strikes a particular line. That was an amended change that was coordinated just within the last 48 hours. In addition to that, there is a change proposed. Being an engineer is a pretty serious matter, and doing your internship and then actually being licensed and certified to do what you need to do, sometimes there's a four-year period before you can actually take the test. This reduced...this last change really reduces it to two years. So this one I would like to address as a committee change when we do a committee amendment when we do our Exec Session. And I would like them to talk to you about that today in preview. Again I'll have a copy made of this change for all your folders, which is in the machine on your gadget. And then again, this other will be a change that we can discuss later. In closing, I want to thank you, Madam Chair, for scheduling an early committee hearing on LB665, and I will stand for any questions. [LB665]

SENATOR CAMPBELL: Questions? I think it's probably best that we hear the testimony and then come back to questions, because I know you're going to... [LB665]

SENATOR KRIST: It actually... [LB665]

SENATOR CAMPBELL: ...be here. [LB665]

SENATOR KRIST: It might be cold Jell-O by the time we finish up here. [LB665]

SENATOR CAMPBELL: Okay. All right. [LB665]

SENATOR KRIST: Thank you. [LB665]

SENATOR CAMPBELL: Thank you. We will start with our first proponent. Good afternoon. [LB665]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

STEVE MASTERS: Good afternoon. [LB665]

SENATOR CAMPBELL: Do we have an orange sheet? Mr. Miller, do we...? There we go. [LB665]

STEVE MASTERS: Thank you. [LB665]

SENATOR CAMPBELL: We get in big trouble if we don't have that orange sheet. Yeah. [LB665]

STEVE MASTERS: I understand. [LB665]

SENATOR CAMPBELL: So go ahead and introduce yourself and start out. [LB665]

STEVE MASTERS: Okay. Madam Chair, members of the committee, I'm Steve Masters, executive director of the Nebraska Board of Engineers and Architects. S-t-e-v-e M-a-s-t-e-r-s. Senator Krist outlined the process by which we proceeded to bring forward and work with him on this piece of legislation. As a result of the work that we did with the various groups to which we had outreach, we've supported and encouraged three amendments to the bill. One would remove building officials as a responsibility in the process; another changes some language on the act as it relates to licensees; and the third one was removal of landscape architects as coordinating officials. And those came about again as the result of reaching out not only to groups but also individuals. Initially, the proposed statute revisions brought by the board were intended to include more than how licensees obtain their licensure but also to get into how they practice. And as a result of the work that we did, it was concluded it best if our focus was primarily on how licensing occurs and not on how the practice proceeds. So that's the background on the legislation and our work. We've worked very closely with the board here in the last few weeks, as executive director. And at this point our legislative committee chair, Krista Kester, is prepared to further present information from the board. Thank you. [LB665]

SENATOR CAMPBELL: Questions that you might have? Thank you, Mr. Masters. And our next proponent. Good afternoon. [LB665]

KRISTA KESTER: Good afternoon. Michelle, it is nice to see you again. [LB665]

MICHELLE CHAFFEE: You too. Thanks. [LB665]

KRISTA KESTER: Love the color of your hair. (Laughter) Sorry. Our days go back to her time in law school. [LB665]

SENATOR CAMPBELL: It's quite all right. [LB665]

KRISTA KESTER: My name is Krista Kester, K-r-i-s-t-a K-e-s-t-e-r. I know that's way too many K's, r's, and t's, but that is my name. I am the public member of the Nebraska Board of Engineers and Architects. I've been on the board since 2008, so I'm into my second term on the board. I am a retired attorney, and so that is my work experience. I am not a licensee; I am not a professional engineer, an engineer by training, education; I'm not an architect. I'm none of those things. And so I have a unique perspective on the board. And partly, as a result of that perspective, I have chaired our board's legislative committee for the past four or five years, and have worked extensively with the revisions that we bring to you in LB665. Mr. Masters described a little bit of some of the proposed changes that we have already agreed to withdraw from this bill, and Senator Krist's bill reflects that. And, in general, we have sort of two pockets of activity. One is the licensure processes that we undergo with both architects and engineers; and the other is sort of the practice side, which is where we regulate what happens with respect to projects that are governed by the act. And there were...we had a number of changes in this second part of the bill that we wanted to bring forward, but we got feedback from a variety of different types of interested parties, or stakeholders, as we refer to them. And it became clear to us, you know, as time progressed, that we needed to pull all of those off the table at the time, and on December 18 we assured, in writing, to all of our stakeholders that we were going to address those practice issues in the future in their own sort of arena, because there's a lot of dialogue that we can see needs to transpire. So what we brought forth to you in this particular bill, through Senator Krist, are just those issues dealing with licensure and how a particular licensee gets to that stage. One...there's a description in this profession that describes licensure as a three-legged stool. Now, as an attorney, I thought that was very strange, but that's how they describe it. And so there are these three legs of the stool which give it tremendous support. There's the educational leg, there's the examination leg, and there's the experience leg. And a license will not be issued until each of those three legs has been uniquely satisfied. And one of the...although we have made concessions on a number of different provisions, there is one provision that we've brought forth that has...that remains unresolved with some of our stakeholders, and I believe you're going to hear opposition testimony with respect to that issue today. And that issue would allow an applicant, an engineering applicant, to take the examination leg of that stool at any time after...in essence, after their graduation from an accredited program. The current law requires graduation and what we call a fundamentals of examination...a fundamentals of engineering exam, at graduation, and then it goes four years and then they can take the principles of engineering exam. During this time, they have to acquire a certain level of experience. And so we have graduation; the experience; examination. And we find we lose many, many prospective licensees during that period. We want to eliminate this four-year delay in taking the exam and allow the examination to be taken here. Licensure still won't happen until the four-year period of experience has passed. In particular, we believe that the existing law unduly burdens women applicants. And as a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

law student, I was a...you know, I had a family when I went to law school, and we all know that you graduate from law school and when do you take the bar exam? Two months later. You're in student mode. That's when you take it. That's when your life is ordered for student activities. By requiring engineering applicants who are women to wait four years, you really create almost a glass ceiling for them. And, in fact, we lose half of the engineering graduates who are women between here and four years later. Half of the engineering women never apply for licensure. And in my own experience as a woman with a family pursuing a professional degree, the reason for that is just not surprising. [LB665]

SENATOR CAMPBELL: We are at...did you want to... [LB665]

KRISTA KESTER: Yes. We are at. [LB665]

SENATOR CAMPBELL: Did we miss hearing any very important point that you needed to make yet? [LB665]

KRISTA KESTER: I think the other thing that we would like that we believe this change in the law will do is it will also help capture engineering graduates, male or female, who take a job in an industry or in a position--for instance, a public service provider--that doesn't require licensure in order to practice. And once they've left school, for them, then four years later to put a student hat back on is very difficult. And we believe that by allowing them to take that examination at any time after graduation, there may be more of them step up to the plate, take the examination. And once you've passed the examination, why would you not go ahead and complete your application? Licensure is a positive thing. It promotes health safety, it requires continuing education, it allows...I mean, there are all kinds of positive things about licensure; and we're losing many of them. Thank you very much. If there are...unless there are questions. [LB665]

SENATOR CAMPBELL: Are there questions? Senator Howard. [LB665]

SENATOR HOWARD: Thank you, Chairwoman Campbell. Thank you for your testimony. As a former law student myself and having to take the bar, I can't imagine having to wait four years to take it, because it was horrible during the two days that I did take it. How many other states have made this change? [LB665]

KRISTA KESTER: There aren't a lot of states that have made the change at this point of which I'm aware. But it...and you're going to hear testimony about the positions of the national organizations on this issue. It is an issue that's being widely discussed and is moving forward. Even though Nebraska sits out here in God's country--and I, frankly, like not being discovered a lot because it makes I think our quality of life much better than that of many places--but even though we are quite a remote state, Nebraska has always been a leader in engineering and architecture law. And, you know, having come

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

on the board in 2008, I sort of, you know, have to cock my head at that because I find it somewhat surprising. But we've always been on the forward-thinking edge of these issues, and we certainly believe that we should be on that forward-thinking edge here and be at the head of the pack, not at the tail of the pack. And I think again I think you'll hear from Mr. Roger Helgoth in just a moment where he has some additional information about that exact issue, if that's satisfactory. [LB665]

SENATOR HOWARD: That's wonderful. Thank you. [LB665]

SENATOR CAMPBELL: Senator Gloor. [LB665]

SENATOR GLOOR: That was my question. Thank you. [LB665]

SENATOR CAMPBELL: Okay. All right, Senator Cook. [LB665]

SENATOR COOK: Thank you, Madam Chair; and thank you, Ms. Kester, for your testimony. I have communication from a constituent of mine related to Section 37 and the inclusion/exclusion of landscape architects. [LB665]

KRISTA KESTER: Oh, yes. [LB665]

SENATOR COOK: Is that something that's back in? It's kind of a late Friday afternoon experience I'm having intellectually. From the amendment I'm hoping that you and perhaps others can let me know whether or not AM1704 will satisfy the concerns of landscape architects. In the green copy of the bill, they are--I'll go ahead and say--eligible to be brought on as consulting professionals. [LB665]

KRISTA KESTER: Correct. [LB665]

SENATOR COOK: Then not. Then where are we with AM1704? [LB665]

KRISTA KESTER: My understanding is that we are still at the amendment stage, which is we...the provision to allow landscape architects to serve as coordinating professionals is not a part of LB665. Now unless something has transpired (laugh)--and it has been. I mean, I love control; you know, control is such a good thing. And this last several days, notwithstanding our effort to communicate with stakeholders over the last six months, has just been a flurry. I described myself as suicidal Krista the other day, because I couldn't keep up with the passage. But I think that it is out. [LB665]

SENATOR COOK: Okay. [LB665]

KRISTA KESTER: We still believe it's a provision that is appropriate and would enhance projects and owners of projects and licensees that we regulate in this state. But we did

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

concede to the opposition to that provision and... [LB665]

SENATOR COOK: Okay. I guess I'll learn more about who the opposition is and why, and why they brought...added tepid to the Jell-O recipe. [LB665]

KRISTA KESTER: Well, and I would say this, Senator Cook, that in the event that there was the view of the Health and Human Services Committee that that provision should be reinserted in LB665, you would have no opposition from the Board of Engineers and Architects. [LB665]

SENATOR COOK: Okay. Thank you. [LB665]

KRISTA KESTER: And I don't really know exactly what your procedures are, but we conceded to the opposition we were getting in order to try to make some peace and warm up the temperature of the Jell-O a little bit so that it would congeal. [LB665]

SENATOR COOK: Okay. (Inaudible.) Thank you. [LB665]

KRISTA KESTER: Anything further? [LB665]

SENATOR CAMPBELL: Thank you very much. [LB665]

KRISTA KESTER: Thank you. [LB665]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB665]

ROGER HELGOTH: (Exhibit 2) Good afternoon. My name is Roger Helgoth, H-e-l-g-o-t-h. And I guess I want to say that my address is 2517 South 126th Street, Omaha, Nebraska. I'm a professional engineer. I've been a licensed engineer in Nebraska since 1974, so I guess it's a decade...another decade milestone. I've been a practitioner in the state and consulting arenas for most of those 45 years, so I've been a practicing engineer. The last 12 years I've been on the Nebraska Board of Engineers and Architects I have served in a capacity of board chair and all the other positions within the board. It's been a privilege to serve on the board. I've also been...served on the National Council of Examiners for Engineers and Surveyors, which is--I hate to use an acronym--NCEES, which is the national organization that represents all of our organizations. In that capacity I've had a chance to share nationally with a lot of people the issues that were faced, etcetera, both as a board and nationally. I'm here primarily to further emphasize some of the issue on the early education thing. I was one of those people, an old engineer, that represented this change not being acceptable; meaning if you read the article that was passed around, it was published by NSPE magazine in December, it talks about many of the people in there that had to deal with rationalizing this in their own mind of whether or not we could even think about allowing early

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

examination for engineers and requiring the four years. That was part of my change. And like anything, once you've been through it, you say, well, if it was good for me, it's good for everybody. So I was part of that constituent group that said, you know, I think it's worthwhile. But when you look at it, when you think about it--and the article goes into it; I know most of the people that were quoted in the article and how they dealt with this issue. As a professional I was an opponent to this maybe three or four years ago. I've heard the arguments. I've studied it. I've looked at it extensively, and I feel, as Krista, our fellow board member has mentioned, this is the correct time to move on this. I also passed out...I know Senator Krist was talking about his Jell-O example. I sent out an example of the three-legged stool, and Krista talked about it. It talks about the legs of our licensure. And, of course, I used a three-legged stool working on the farm milking cows, so I knew what a three-legged stool--mine wasn't that tall; but anyway, the three-legged stool, the equal legs supporting engineering licensure: education, examinations, and experience. And what we're doing here is decoupling; decoupling the requirement that you have four years' experience to take that examination. You still have to have that four years of experience. We're not letting up on that. In fact, we may...there may be some improvements to that in mentoring and things like that. But the point is, there's no rational reason to force people to wait four years and then take the exam. Last year we licensed three chemical engineers, for instance. We've got a lot more chemical engineers than that. Well, they go to industry, they go to work for ADM, they go to work out there in Grand Island for some of those great companies. They go to work and they are lost from the licensure track because they're busy working, etcetera. Krista mentioned the women. That is a real issue, you know, women with motherhood, etcetera. And I'm not going to talk about that anymore, but there is an issue there with a lot of licensees that are working for industries, etcetera. They get lost in the process. They will do fine taking the examination. That doesn't mean they're going to be practicing, they're going to be past the education hurdle, they've got to deal with the experience level and move on. So it's a great thing for economic development. Our architects--we're a Board of Engineers and Architects. Our architects take their exam right after they graduate. Guess what? Architecture is doing fine. So we have a good reason to be consistent within our own board, architecture profession, engineering profession, to do the right thing. I've got the yellow light so I'll open it up for questions. [LB665]

SENATOR CAMPBELL: Okay. Thank you very much. Questions? Senator Cook. [LB665]

SENATOR COOK: Thank you, Madam Chair. Do you know why the landscape architect provision has been changed; or is that for somebody behind you to answer? [LB665]

ROGER HELGOTH: You know, I think Krista answered that correctly. The board is behind that. In fact, I was very supportive of that as a coordinating professional. There are landscape architect-driven projects that are driven by...and they really are in the role

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

of being the coordinating professional, and the engineers and architects support them. So from our standpoint, I think the board feels that it would be the right thing to do. But there are some issues here. I think we just want to...you know, I think Krista characterized that absolutely correctly, there is no sense of moving...in page 37, it's been excluded from this bill. So at this point we can take that up another day, I think. [LB665]

SENATOR COOK: Okay. I'll ask somebody else because I still don't have a why... [LB665]

ROGER HELGOTH: Okay. [LB665]

SENATOR COOK: ...that satisfies me. But thank you. [LB665]

ROGER HELGOTH: Well, I guess I'll try and answer it. The why I think that most of the civil engineers--and I'm a civil engineer, environmental--feel that landscape architecture overlaps some of the duties that civil engineers classically do. But realistically, if it's a landscape-driven project where you're not getting into health and safety issues with civil engineering, it really belongs there. But there's an issue there between professionals. Okay? [LB665]

SENATOR COOK: Okay. Thank you. [LB665]

SENATOR CAMPBELL: Thank you. [LB665]

ROGER HELGOTH: Thank you very much. [LB665]

SENATOR CAMPBELL: Thank you. Our next proponent. [LB665]

SENATOR HOWARD: Madam Chair. [LB665]

SENATOR CAMPBELL: Oh, I'm sorry. [LB665]

ROGER HELGOTH: Oh. [LB665]

SENATOR CAMPBELL: I missed seeing Senator Howard's... [LB665]

SENATOR HOWARD: I'm sorry. [LB665]

ROGER HELGOTH: Oh, no. That's fine. [LB665]

SENATOR HOWARD: Just traditionally, do engineers that are educated in Nebraska generally take the exam and stay in Nebraska? [LB665]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

ROGER HELGOTH: Well, by discipline. We're a discipline licensed state. I would say most of the civil engineers and structural engineers would take the exam. A lot of the mechanical and electricals will. Not many...not so many of the chemical engineers, etcetera, because they usually are headed more toward industry. So it depends on the discipline, you know. [LB665]

SENATOR HOWARD: I guess I'm wondering, because in the legal profession...I studied in Illinois but I also took the bar in Nebraska or I'm barred in Nebraska. And if we had an earlier exam than everybody else and sort of getting it out of the way, do you think other people from other states would come to Nebraska to take the exam? [LB665]

ROGER HELGOTH: They might. And that was addressed a little bit, the whole comity issue of mobile, being mobile, highly mobile. Nebraska will be in the state where you don't have to take it early; you can take it early. Some engineers that take the exam early will have to make their own mind up about whether or not they want to go to a state that's going to be hard and fast and say we need the four-year requirement to allow you to get your license in our state. So there are some comity issues right now. I think that's changing fast because I think states are adopting this practice and streamlining it. There's no logical reason to do it. It's the right thing to do. So there might be a time when we have some states that are more rigid than Nebraska in this, and there could be a question there. But if that's a big concern to an engineer, then they can wait and take it after four years of experience, and then they're fine. So there is a comity concern but I think it's manageable; and I think if the people understand that, it's not a significant hurdle to not do this and move along with it and be a little more progressive on this issue. [LB665]

SENATOR HOWARD: Thank you. Thank you. [LB665]

SENATOR CAMPBELL: You're welcome. I'm sorry. Okay, thank you very much. [LB665]

ROGER HELGOTH: Thank you. [LB665]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB665]

JACKIE McCULLOUGH: Good afternoon, Senator Campbell, members of the committee. I'm Jackie McCullough, J-a-c-k-i-e M-c-C-u-l-l-o-u-g-h. I represent American Council of Engineering Companies of Nebraska. We're the only organization that is devoted exclusively to the business interests of engineering firms across the state. We're engaged with the Engineers and Architects Board of Regulations through their process in developing the bill that sits before you today, and I'm here to testify in support of LB665. I'd be happy to...oh, I guess I would add that we do have a little hot

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

water that we'd like to bring (laughter), but we would like to save that and work that out and bring it back to you next year for your consideration. I'd be happy to answer any questions. [LB665]

SENATOR CAMPBELL: Okay. Questions? So what is the hot water? (Laughter) I mean, you know, really? That's tantalizing. We've got to know that. [LB665]

JACKIE McCULLOUGH: Oh, I know. I probably shouldn't have done that. There were some other things that the Engineers and Architects Board had in their original proposal, and they dealt with exemptions to the act and different... [LB665]

SENATOR CAMPBELL: Oh, okay. [LB665]

JACKIE McCULLOUGH: As Krista mentioned, the practicing side of the business. And I think there's some areas for us to work out with all the stakeholders, and we'll come back with something that's pretty cohesive for your consideration. [LB665]

SENATOR CAMPBELL: Good. Glad I asked. Thank you. [LB665]

JACKIE McCULLOUGH: Okay. [LB665]

SENATOR CAMPBELL: Any other questions? Double-checking. Thank you. [LB665]

JACKIE McCULLOUGH: Thank you. [LB665]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB665]

LOWELL BERG: Senator Campbell, members of the...other senators here. And I'm Lowell Berg. In case you're tired of engineers, I'm an architect. My name is spelled L-o-w-e-l-l, last name B-e-r-g. And I represent the 650 members of the American Institute of Architects in Nebraska. We believe that the board has gone through a thoughtful analysis of the changes to the act; we're supportive of it. We just wanted to let you know that, and make myself available for any questions you might have for me. [LB665]

SENATOR CAMPBELL: Senator Cook. [LB665]

SENATOR COOK: Madam. Thank you, Madam Chair. And are the landscape architects part of the AIA? [LB665]

LOWELL BERG: They are not. [LB665]

SENATOR COOK: Okay. [LB665]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

LOWELL BERG: They have their own professional associations. [LB665]

SENATOR COOK: Why not? [LB665]

LOWELL BERG: Well, they have their own association: American Society of Landscape Architects. [LB665]

SENATOR COOK: Okay. [LB665]

LOWELL BERG: However, I must say the architects are generally supportive of their role as a coordinating professional as outlined in the act, as it was drawn up originally, with the limitations. [LB665]

SENATOR COOK: All right. Thank you. [LB665]

LOWELL BERG: You're welcome. [LB665]

SENATOR COOK: I'm looking to see who's out there. [LB665]

SENATOR CAMPBELL: Other questions? Mr. Berg, I have a question. I want to make sure I heard the testimony correctly, that when students graduate from the School of Architecture, they can take their tests the very first year? [LB665]

LOWELL BERG: They can. Our test is much different. It's, like, I think seven parts, and it's been a while since I took it, Senator, but (laugh). [LB665]

SENATOR CAMPBELL: It's okay. [LB665]

LOWELL BERG: It's seven parts. It's a combination of you have to graduate from an accredited college; you have to go through an intern development program that I think requires 1,860 hours of experience; plus you have to take seven different exams that, by practice, usually take three or four years to complete. But they can start right away. That's correct. [LB665]

SENATOR CAMPBELL: Oh, okay. So it may take them three or four years to get through all seven parts. [LB665]

LOWELL BERG: In practice. To get the combination of the hours required and pass the examination sections, it typically takes about that amount time. [LB665]

SENATOR CAMPBELL: Is that a national practice, all 50 states would have that; or is every state different? [LB665]

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Transcriber's Office

Health and Human Services Committee
January 24, 2014

LOWELL BERG: We're pretty coordinated on that. And you might ask one of the members of the board; they would probably know that better than I. But it seems to me that there's a fair continuity across the states in the way we do exams. [LB665]

SENATOR CAMPBELL: Thank you very much. Any other questions before...? Good to see you. [LB665]

LOWELL BERG: Thank you. [LB665]

SENATOR CAMPBELL: Our next proponent? Okay. Those who wish to oppose the bill? Opposition testimony? Good afternoon. [LB665]

DOUG HOLLE: (Exhibit 3) Good afternoon. My name is Doug Holle; it's spelled D-o-u-g H-o-l-l-e. I'm the current president of the Nebraska Society of Professional Engineers. We're handing out the testimony that I'm going to go through today, and then we'll definitely open it up to questions. As I said, I'm the current president of the Society of Professional Engineers here in Nebraska, the primary organization that promotes and supports the licensed professional engineers within the state. Our society has had the opportunity to read the proposed bill and the proposed changes to the Engineers and Architects Regulation Act, and we are in opposition to just one component as it is currently written with the amendment. That component is the elimination of the requirement to have the four years of post-degree education or engineer experience prior to being allowed to take the PE exam, or the principles exam, to become a licensed engineer. While we want to encourage engineering college graduates to consider the PE path, we fear that front-loading that rigorous testing at the start of a career could lead to less qualified engineers becoming licensed, which potentially impacts the public health and safety and welfare of this state. Requiring the extra effort of the exam years after school will help safeguard what being a professional engineer means. The reason to have a PE and the process involved does and should require a rigorous process and we want to continue to give the public confidence in that PE designation. NSPE would, however, be willing to discuss reducing the four years of experience after graduation that would be required. But at this point we do oppose the current proposed language to the bill. So with that, I'll open it up to questions, so. [LB665]

SENATOR CAMPBELL: Senator Gloor. [LB665]

SENATOR GLOOR: Thank you, Senator Campbell; and thank you, Mr. Holle, for taking the time to come. [LB665]

DOUG HOLLE: Sure. [LB665]

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Transcriber's Office

Health and Human Services Committee
January 24, 2014

SENATOR GLOOR: I don't want to put words in your mouth, but is the issue then that the feeling is there should be enough retention so that you are capable of taking the test four years later and proving yourself at that point in time as having retained enough of what you got in school so that you are truly a quality engineer? [LB665]

DOUG HOLLE: Sure. I think a lot of...the primary issue is you get...you're in the kind of the student mode in college. You're studying the books. You're taking the exams. You really have no practical experience at that point. And we feel as the Nebraska Society of Professional Engineers that it's very important to kind of get away from the college classes component, gain that experience, and then after so many years it really forces you to dig back in to the core of what you learned during school and dig back into the books and take the eight-hour exam to ultimately to become registered as an engineer, so. [LB665]

SENATOR GLOOR: In that light, is there any requirement that once you've passed the exam that you have to go back every four years after that and retest? [LB665]

DOUG HOLLE: You do not, but there are some continuing education requirements as part of being a registered engineer. [LB665]

SENATOR GLOOR: Sure. And most licensures I think require that. [LB665]

DOUG HOLLE: Sure. [LB665]

SENATOR GLOOR: But, I mean, your argument to me also speaks to the fact that maybe you ought to be required to take the test again and again and again. [LB665]

DOUG HOLLE: I believe doctors...I think doctors are required to do that, if I'm not mistaken, after ten years, so. [LB665]

SENATOR GLOOR: Sure. There is some recertification that people have to go through that requires testing. [LB665]

DOUG HOLLE: Sure, sure. [LB665]

SENATOR GLOOR: But I'm trying to think through what the argument is and whether that's a fit with that. I don't think anybody is going to come running up here with an amendment, but... [LB665]

DOUG HOLLE: Sure. Yeah, probably not, so. [LB665]

SENATOR GLOOR: Thank you. [LB665]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

SENATOR CAMPBELL: Other questions? Senator Howard. [LB665]

SENATOR HOWARD: Thank you for your testimony. [LB665]

DOUG HOLLE: Sure. [LB665]

SENATOR HOWARD: You speak about less qualified individuals. Is there a difference in the test, whether you take it early or later? [LB665]

DOUG HOLLE: There would not be a difference. I know historically the test has been set up and I'm sure the board can definitely add to this as well, but there's been an experience component to that which I think the intent is to use that experience to help you pass that exam versus not having that experience coming up right out of college. [LB665]

SENATOR HOWARD: So there is an experience component of the exam? [LB665]

DOUG HOLLE: Of the exam itself. [LB665]

SENATOR HOWARD: Okay. And what does that look like? [LB665]

DOUG HOLLE: I think it varies on a year-to-year basis as those questions get developed, so. [LB665]

SENATOR HOWARD: Is it sort of an essay question on your experience? [LB665]

DOUG HOLLE: It's been a lot of years since I've taken that, but there is...yeah, it's kind of word problems that it's not necessarily an essay. I mean, you're ultimately coming down to a single answer, but it's trying to incorporate more real-life examples into the exam. [LB665]

SENATOR HOWARD: Oh, so hypotheticals? [LB665]

DOUG HOLLE: Correct. Correct. [LB665]

SENATOR HOWARD: Okay, great. Thank you. [LB665]

DOUG HOLLE: Yes. [LB665]

SENATOR CAMPBELL: Mr. Holle, are there members of the society on the board? I mean, we heard that...the board talked about here and the...I'm trying to differentiate Mr. Masters' group and what this group, are they one and the same, or? [LB665]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

DOUG HOLLE: They are not. [LB665]

SENATOR CAMPBELL: Okay. [LB665]

DOUG HOLLE: Mr. Masters is...he's the executive director of the Board of Engineers and Architects. [LB665]

SENATOR CAMPBELL: Okay. [LB665]

DOUG HOLLE: He may be a member of the Society of Professional Engineers, I'm not sure. He would definitely be eligible to be a member. [LB665]

SENATOR CAMPBELL: Do you have members who have served on that board or are currently serving? [LB665]

DOUG HOLLE: Yes. Yes, we do. [LB665]

SENATOR CAMPBELL: Okay. I'm just trying to clarify. [LB665]

DOUG HOLLE: Sure. Yeah. Yeah, there's definitely some overlap. They have different purposes... [LB665]

SENATOR CAMPBELL: Okay. [LB665]

DOUG HOLLE: ...but there's definitely an overlap, so. [LB665]

SENATOR CAMPBELL: So one is more an association... [LB665]

DOUG HOLLE: Correct. [LB665]

SENATOR CAMPBELL: ...and the other is more...? Okay, that helps. [LB665]

DOUG HOLLE: Yeah, we, the Society of Professional Engineers, is a professional society for the organization. [LB665]

SENATOR CAMPBELL: That makes sense. Okay. Any other questions? Thank you, Mr. Holle. [LB665]

DOUG HOLLE: Sure. [LB665]

SENATOR CAMPBELL: Our next opponent. Anyone else in the hearing room who wishes to oppose the bill? Anyone in the hearing room who has...would like to come in a neutral position? Good afternoon. [LB665]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

GARY KRUMLAND: Hi. Senator Campbell, members of the committee, my name is Gary Krumland; it's K-r-u-m-l-a-n-d. I'm here on behalf of the League of Nebraska Municipalities. I'm appearing neutral today. We originally had concerns about Section 44, some city officials. It had to do with building code officials and there was some concern expressed about that. However, the amendment that Senator Krist has offered takes care of that concern. It deletes that section. So that takes away any concern we have about the bill. But I did want to appear to support the amendment and also just to publicly thank Senator Krist and the proponents of the bill for working with us and addressing those concerns. [LB665]

SENATOR CAMPBELL: And this, as Senator Krist explained, is the amendment that has already been introduced this morning. [LB665]

GARY KRUMLAND: Yes, it was introduced this morning. Yes, and so...and we really appreciate that. [LB665]

SENATOR CAMPBELL: Okay. And it dealt primarily with public engineers? I mean, those who serve...? [LB665]

GARY KRUMLAND: No. It dealt with...there was a...the section dealt with building code officials... [LB665]

SENATOR CAMPBELL: Oh, building codes. [LB665]

GARY KRUMLAND: ...and what their role is in reviewing plans and that sort of thing. And there was strong disagreement among the building code officials whether to support it or not, and we could not come to a resolution on that, so. [LB665]

SENATOR CAMPBELL: Okay. That helps clarify it. Other questions for Mr. Krumland? Thank you very much. [LB665]

GARY KRUMLAND: Thank you. [LB665]

SENATOR CAMPBELL: Our next neutral. Good afternoon. [LB665]

WARD F. HOPPE: Hi. My name is Ward F. Hoppe, W-a-r-d H-o-p-p-e. I'm here on behalf of the Metro Omaha Builders Association and the Home Builders Association of Lincoln, as well as the Nebraska Realtors Association. We're here neutrally but we have a couple issues with some things that are in the act, particularly dealing with the exceptions, and we think we can work these out in the discussions that may come forward over these amendments that come. But basically there are two issues that need to be addressed in the bill for the benefit of our industries: one, dealing with the reuse of

owned plans. If I go out and buy a set of plans, I could buy it nationally or I could buy it locally, and have somebody prepare those plans and I get them stamped and I go build the building. Normally, when I engage engineers or architects, I make them work for hire. In other words, the work is mine when it's over. If I want to reuse those plans, I don't want to have to pay the same amount to get them re-stamped for the second building I build of the same unit. And I personally do multifamily construction, so when I do that I may build the same building eight times or ten times. And so that's a concern of mine and that's a concern of the bill and the exceptions that are in it, and it needs to be addressed. Number two is the adoption of work as the architect's own. The exception in there for the adoption of work into plans that are there isn't broad enough to allow for a complete adoption of a set of plans. So if I go to a plan company or an architect in Nashville, Tennessee, and buy a set of plans and bring them into Nebraska, I need to get a Nebraska engineer or architect to stamp the plans. So I may not want them to mess with the plans; I want them to use the plans that I bought. But they've got to check those plans and adopt that work as approved for Nebraska codes and so forth, but the exceptions that are in the act don't allow that. So they couldn't just adopt those plans as their own, stamp them, and let me use the plans and take them to the code officials. So what I'm saying is there's two different areas in the exceptions that need to be addressed, and we think they will be when they address the amendments that are to come. Last, one of the issues that is important, very important to both of the realtors and builders, is the size requirement for the exceptions. Today there's an exception for plans that are less than 5,000 square feet. We want that to remain. And although we don't know that that may be proposed to be changed, but we just heard from one of the prior testifiers that it may be in the future, and we don't want that. We want to be able, on small projects, to take them forward without requiring an architect's or an engineer's stamp. So that would be the extent of my testimony, our concerns; and I appreciate your consideration. [LB665]

SENATOR CAMPBELL: Okay. Are there questions? Senator Gloor. [LB665]

SENATOR GLOOR: Thank you, Senator Campbell. Fred, let's say your concerns couldn't be addressed this year but would be addressed in future years. Would you be in opposition to this bill if those adjustments weren't made to this bill, the three concerns that you had? [LB665]

WARD F. HOPPE: Well,... [LB665]

SENATOR GLOOR: Would your group be in opposition if this went ahead without being able to make those adjustments this year? [LB665]

WARD F. HOPPE: I would say we would...I guess that's kind of hard to say. We don't want to interfere with people but we want the ability to use plans again, and we want the ability to bring in plans and get them stamped. As the bill sits, those two things are not

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Transcriber's Office

Health and Human Services Committee
January 24, 2014

in there. Definitely, if there was a reduction of the size requirements, we'd be opposing it. We have in the past opposed it on the same basis and fought to keep the 5,000-square-foot requirements. These are just a couple tune-ups that really need to be in the bill. [LB665]

SENATOR GLOOR: Okay. I'm just trying.... [LB665]

WARD F. HOPPE: Is that a fair answer? [LB665]

SENATOR GLOOR: Yeah, I think so. [LB665]

WARD F. HOPPE: And I guess we... [LB665]

SENATOR GLOOR: I mean, this will be up to Senator Krist, obviously,.. [LB665]

WARD F. HOPPE: Correct. [LB665]

SENATOR GLOOR: ...to work through it. I'm trying to decide if, using the metaphor of Jell-O, if the Jell-O sits in the refrigerator too long, it gets a little stale. And so I think there's some concern there. [LB665]

WARD F. HOPPE: That's correct. Let's put it this way: On the reuse of plans and adoption work, we're probably warm water; for sure, on the 5,000 square feet we're hot water. [LB665]

SENATOR GLOOR: Okay. Thank you. [LB665]

SENATOR CAMPBELL: Any other questions? Thank you, Mr. Hoppe. Anyone else in a neutral? Good afternoon. [LB665]

KORBY GILBERTSON: Good afternoon, Chairwoman Campbell, 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 Nebraska Realtors Association. And hopefully, Fred answered all of your technical questions because that's why I sent him up here first. I wanted to talk about just about the whole Jell-O making issue. We were shown the bill back...and I went through my phone sitting in the room when that discussion got started. Back in October we did review the bill, the proposed legislation, and did make comments and specifically in regards to the square footage. That was then taken out of the bill. But as most of you know, it's always smart to read the green copy once it's introduced because it can be different. And I honestly did not take a side-by-side of the original draft we were shown and the green copy, to know if what Mr. Hoppe talked about were in both of them. So I apologize if they were, but it was not our intention to be trying to dilute the Jell-O at all. So we...and the reason

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

why we testified neutrally is because we feel very confident that we can work with Senator Krist to get anything dealt with, because we're not trying to stand in the way of the legislation. [LB665]

SENATOR CAMPBELL: All right. Any questions? [LB665]

KORBY GILBERTSON: Great. [LB665]

SENATOR CAMPBELL: No technical questions, at least. [LB665]

KORBY GILBERTSON: (Laugh) Thank you. [LB665]

SENATOR CAMPBELL: Thank you. Anyone else in a neutral? [LB665]

BRAD SCHAAP: Madam Chair and members of the committee, thank you very much for hearing my testimony today. My name is Brad Schaap, B-r-a-d S-c-h-a-a-p, and I represent the Structural Engineers Association of Nebraska. Another acronym for you: it's SEAON. And we registered four thoughts with Senator Krist and I'm pleased to say that three of those have already been addressed to our satisfaction, and there have been conversations about the fourth concern; and we understand that there will be further discussions about those to help explain the board's position and to convey our thoughts further, but I want to give you just a sense of that for the public record. And primarily SEAON proposes that any changes to the statute currently in place are only the result of actual issues that the board has experienced while enforcing the statute rather than any wholesale changes for only the sake of conformity to any model code or other state's language. Many of the changes in the proposed legislation appear to us may be unnecessary, while others loosen standards and provide for more gaps and room for interpretation that could be a detriment to the health, safety, and welfare of the public, as well as the design profession. And primarily when we're talking about future acts...or excuse me, future legislation that may affect the practice portion of the acts, we feel things such as the definitions at the beginning of the proposed legislation, that we've shared thoughts about, need to be clear and make sure that we're not opening up any unintended consequences. So while perhaps good intentioned, there is significant potential with the extensive amount of changes, that there could be unintended consequences resulting from those proposed changes. And so we'd like to continue on the conversation with the board about the reasoning for a lot of those changes, again primarily towards the front of the legislation regarding definitions and so forth. Thank you very much for your time today and I'd be happy to try and answer any questions you may have. [LB665]

SENATOR CAMPBELL: Questions? Mr. Schaap, you said some changes, and you talked about at the beginning with the definitions. I'm just trying to ascertain the specificity of your concerns. [LB665]

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Transcriber's Office

Health and Human Services Committee
January 24, 2014

BRAD SCHAAP: Sure. [LB665]

SENATOR CAMPBELL: So you've given a list to someone of what those concerns are? [LB665]

BRAD SCHAAP: Right. We marked up the proposed legislation and sent those marks forward for consideration and discussion, and understand that those are being considered. [LB665]

SENATOR CAMPBELL: Okay. [LB665]

BRAD SCHAAP: And the board has reasoning, so we'd like to hear that in more detail. [LB665]

SENATOR CAMPBELL: Okay. And could you repeat for me once more, because I was trying to write everything down,... [LB665]

BRAD SCHAAP: Sure. [LB665]

SENATOR CAMPBELL: ...the organization that you represent. [LB665]

BRAD SCHAAP: Yeah, it's the Structural Engineers Association of Nebraska. [LB665]

SENATOR CAMPBELL: Okay. [LB665]

BRAD SCHAAP: So it's an association similar to the society. It represents just structural engineers. [LB665]

SENATOR CAMPBELL: Thank you. [LB665]

BRAD SCHAAP: Sure. [LB665]

SENATOR CAMPBELL: Any other questions, senators? Thank you very much for coming. [LB665]

BRAD SCHAAP: All right. Thank you very much. [LB665]

SENATOR CAMPBELL: Other testimony in a neutral position? Okay. Senator Krist, would you like to close? [LB665]

SENATOR KRIST: (Exhibit 4) Absolutely. I hope no one took the analogy of the Jell-O in a condescending way because that's really what this process is all about. And it may

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Transcriber's Office

Health and Human Services Committee
January 24, 2014

have started a year ago and it may have started two years ago, but it needs to be fixed, even if it's two minutes ago. So I'm happy that everyone who was here had a chance to weigh in. I think that for the committee's point you have two amendments now in front of you: AM1704, which is the shorter of the two amendments, is the amendment that has been filed and is on your gadget now. I filed it today. It does as was described, and it solves a number of the issues notwithstanding the concern of Senator Cook, which we still need to run down. The other amendment that I just handed to you is AM1705. This one represents a compromise between "take the exam now, take it in four years"; this is a "take it in two years." And I think you understand why I withheld it because I wanted you to hear the testimony that came forward really from the only opposition at this point. There were concerns and things that need to be worked out, but we have to respect that opposition because it comes from a professional engineers association. So those would be the two things that I would point out to you, and I would also say by withholding AM1705 I'm hoping it becomes the basis for which we can put a committee amendment on this process, lock it up, and send it out to our committee. So this is the beginning of the last of the amendments, and I know Mr. Lombardi is working to get any other concerns that we might hear. I do thank you for your time and I thank everyone for coming and sharing their opinion on the subject. [LB665]

SENATOR CAMPBELL: Are there questions for Senator Krist? Okay, Senator Krist, this is kind of a question from left field. Did we not have a bill two years ago, and did you carry that bill? Did we pass that legislation? Okay. I just couldn't recall the specifics. [LB665]

SENATOR KRIST: And I didn't learn from that experience. (Laughter) [LB665]

SENATOR CAMPBELL: No, I wasn't implying that. I was just thinking, haven't we dealt with some of these issues before? [LB665]

SENATOR KRIST: Yes. [LB665]

SENATOR CAMPBELL: Okay. That's where I was going. So thank you very much for reading my mind. [LB665]

SENATOR KRIST: Thank you. [LB665]

SENATOR CAMPBELL: (Exhibit 5) All right, that concludes...we should note that we received a letter, a memorandum, from Michael J. Conzett in support of the bill. That will close the hearing on LB665. If you are leaving, I'd ask you to leave as quietly as you can because we will be moving on to our next bill; so we'll give people a minute to leave the room. Okay. The second hearing this afternoon is on LB859, Senator Krist's bill to change provisions for on-site vaccinations at certain health facilities. Senator Krist. [LB665 LB859]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

SENATOR KRIST: Thank you, Chairwoman Campbell. Again my name is Bob Krist, B-o-b K-r-i-s-t, representing the 10th Legislative District in northwest Omaha, along with a north-central portion of Douglas County which includes the city of Bennington. This is the introduction of LB859. LB859 is being introduced to clarify and harmonize statutes regarding the offering of immunizations. Last summer, as you may recall, there was a nationwide shortage of vaccines; and thus, healthcare facilities were unable to offer the vaccinations as required by law. LB859 seeks to clarify that if there is a shortage of vaccines, the immunizations are obviously not required because they are not available and should be made at the earliest time. So it makes it clear. There is existing language in one section dealing with shortages. LB859 expands that language to cover both contradictions and shortages, and harmonizes the language in the three sections of the statute requiring the offer. In closing I just want to thank you for the opportunity to come before you. We did pass this last year, and I didn't learn from that either. But Korby Gilbertson has been very helpful in putting this thing forward. Thank you. [LB859]

SENATOR CAMPBELL: I do remember that bill vividly. [LB859]

SENATOR KRIST: I know you do. [LB859]

SENATOR CAMPBELL: Senator Gloor. [LB859]

SENATOR GLOOR: Me too. Thank you, Senator Campbell. Actually it was pretty clear to me last year with the bill we passed that if there's a shortage, there's not a problem. So who raised the flag on this, if I might ask? [LB859]

SENATOR KRIST: I think Korby will be up to talk to you and I would ask that question, but... [LB859]

SENATOR GLOOR: I will. Thank you. [LB859]

SENATOR KRIST: I'm sure you will, sir. Thank you. [LB859]

SENATOR CAMPBELL: Any other questions from the senators? Thank you, Senator Krist. [LB859]

SENATOR KRIST: Thank you, Senator Campbell. [LB859]

SENATOR CAMPBELL: Our first proponent for the bill. [LB859]

KORBY GILBERTSON: Good afternoon, again. [LB859]

SENATOR CAMPBELL: Again. [LB859]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

KORBY GILBERTSON: Chairwoman Campbell, members of the committee, for the record my name is Korby Gilbertson; it's K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of Sanofi Pasteur in support of LB859. I received a phone call this summer from the Hospital Association saying, hey, there's a shortage of Tdap; are we going to be required to follow...to do the requirements that we passed in the session? I went back and looked at the section, and there were...and honestly, when you look at the existing language in earlier sections, I think there was...some people thought that it would cover any shortages. But when you look at it, it wouldn't have covered it, and the circumstances in which we required it, having this separate in-house offer and things like that. So we went back and looked at what we had done last year, and then in discussions with the Bill Drafting Office decided to make the changes in all three sections that require immunizations and make them all harmonized so that there isn't any question about what happens if there's a shortage. And I'd be happy to try to answer any questions. Obviously shortages exist, and they're more of a problem with vaccine-type drugs because you are not working with just a recipe of making a medication; and so it's a lot more difficult to get things fixed and back on line if you've got issues with the vaccine. And obviously that's a good thing that they don't just try to stick them right back out on the market, so. [LB859]

SENATOR CAMPBELL: Questions? Senator Gloor, does that answer your question? [LB859]

SENATOR GLOOR: Thank you, Senator Campbell. Well, you know, the law is an interesting thing, and I'm not a lawyer so I'm going to trust those folks who deal with this all the time to tell us this is better language, and because it's better language there won't be any question as to what the intent was behind the law. [LB859]

KORBY GILBERTSON: Right. I mean, I guess, we kind of laughed and said, well, how could you do it if you can't get the drug? But, you know, it's the old impossibility defense. And so it's, I guess, better just to put it in the statute and say, if you can't get it then you don't have to do it. [LB859]

SENATOR CAMPBELL: Any other questions? Thank you, Ms. Gilbertson. [LB859]

KORBY GILBERTSON: Okay, thank you. [LB859]

SENATOR CAMPBELL: Our next proponent. Anyone in the hearing room who wishes to testify in opposition? Anyone in a neutral position? Senator Krist, would you like to close? [LB859]

SENATOR KRIST: Can I close from here? [LB859]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Health and Human Services Committee
January 24, 2014

SENATOR CAMPBELL: Absolutely. [LB859]

SENATOR KRIST: It was probably a hospital administrator who couldn't read it (inaudible). (Laughter) [LB859]

SENATOR GLOOR: With a law degree. [LB859]

SENATOR KRIST: Thank you for listening to it, and thank you, Korby, for bringing it to us. [LB859]

SENATOR CAMPBELL: (See also Exhibit 8) Okay. With that, we conclude the hearing on LB859, and Senator Gloor can make his way to the table. We are going to open the hearing on LB869, Senator Gloor's bill to change and transfer provisions on prescriptions and controlled substances. And we are down to a precious few people. Good afternoon. [LB859 LB869]

SENATOR GLOOR: (Exhibit 6) Good afternoon, Senator Campbell and compatriots. This may be a nice little bill to wind up the day; the week, for that matter. I'm Senator Mike Gloor, G-l-o-o-r. The main purpose of LB869 is to clarify in Nebraska law that electronic prescribing of controlled substances, as allowed in federal law, is also permissible in Nebraska. I'm introducing LB869 on behalf of the Nebraska Pharmacists Association. Over the last 18 months the NPA has been working on updates to the Pharmacy Practice statutes. Their work has resulted in this bill that I'm carrying, LB869, and another bill that will come before this committee, LB1017, that Senator Krist will bring forward. Mine deals only with controlled substances. Senator Krist's deals with pharmacists, I believe is accurate. This bill, LB869, updates provisions of Nebraska's Uniform Controlled Substances Act regarding the practice of pharmacy. These provisions clarify the requirements of a prescription for a controlled substance whether in writing, oral, or--and this is important--electronic. It also clarifies the recordkeeping and filing requirements associated with each type of prescription. It updates definitions as suggested by the Revisor of Statutes and adds a definition of compounding to the act. And if you've been keeping track of things happening nationally, compounding is a big issue, and that addition is important for us. LB869 also takes Nebraska Revenue Statute Section 28-414, which is a very, very long single section--I'd compare it to a long sentence that runs on and runs on and runs on--and it separates it into individual...or into additional individual sections based on topic. For example, a section pertaining to prescriptions and filing, a section on transfers of controlled substances by registrants, and a section on destruction of substances. Dividing this one long section into smaller sections will hopefully make the law a lot easier for practitioners to read and understand; and consumers, for that matter. I want to stress to the committee what the bill does not do. It does not expand the scope of practice for pharmacists. It does not make any changes to the controlled substance schedules. It deals only with the prescription itself, keeping records of the prescription, and doing some updated

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Transcriber's Office

Health and Human Services Committee
January 24, 2014

language. Since the bill was introduced, the Nebraska Department of Health and Human Services asked for two minor changes to the legislation that are found in the amendment I offered to the committee for consideration. Copies were passed out to you. The amendment adds "the department" to the list of agencies that may request records. That was overlooked in the original drafting. I have no concerns with the amendment; neither does the Nebraska Pharmacy Association. And a representative of the NPA will also provide testimony and may be better able to answer any technical questions you have. Thank you. [LB869]

SENATOR CAMPBELL: Thank you, Senator Gloor. Questions from the senators? Okay. [LB869]

SENATOR GLOOR: Thank you. [LB869]

SENATOR CAMPBELL: We'll move on. Our first proponent. Good afternoon. [LB869]

KEVIN BORCHER: (Exhibit 7) Good afternoon, Senator Campbell, members of the Health and Human Services Committee. My name is Kevin Borchers, K-e-v-i-n B-o-r-c-h-e-r. I'm a pharmacist and cochair of the Nebraska Pharmacists Association's legislative committee, and I'm testifying today on behalf of the Nebraska Pharmacists Association. I appear before you today in support of LB869 and would like to thank Senator Gloor for introducing this legislation at our request. If I could temporarily digress: I like pudding. But the problem with pudding, as you make it close to Jell-O, is that it's really sweet but it's thick and sometimes messy. Jell-O, on the other hand, is very clean and clear and neat. So this bill helps to make the legislation cleaner, clearer, and neater. As Senator Gloor shared with you, the NPA has spent the last 18 months reviewing pharmacy practice statutes and regulations in order to update and modernize them to reflect current and ever-changing practice in technology. Our Practice Act has not been reviewed in total since the mid-1990s. As a result of the discussions of the pharmacists in Nebraska, we drafted for your consideration what has become LB869 that we are discussing today, and LB1017 that we will discuss in a future hearing. LB869's primary focus is Nebraska's Uniform Controlled Substance Act. We are not proposing any changes to the list of scheduled drugs. That will be a fix for next year. Instead we focused on pharmacy practice provisions. One of the particularly important updates is the specific recognition that electronic prescribing of controlled substances is allowed in Nebraska, as it is allowed in federal law since 2010 with all the restrictions and necessary precautions outlined in federal law. In addition to Revisor changes in the definition section, we added the definition of compounding to the list of definitions. LB1017 will amend that definition to include compliance with United States Pharmacopeia-National Formulary Chapters, or USP 795 and 797 standards. Those standards are being specifically added to elevate the practice of compounding for all who compound in Nebraska to make sure we do not have another compounding tragedy like that which occurred in New England last year. Nebraska Revised Statute

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Transcriber's Office

Health and Human Services Committee
January 24, 2014

28-414 is where most of the information with regard to the prescribing, dispensing, filing, recordkeeping, transfers, and destruction of controlled substances occurs. That statute has become very cumbersome and very hard to understand. To alleviate that confusion we propose in LB869 to separate the statute into several separate statutes while still retaining the requirements. With the passage of LB869 we will be able to have separate statutes for prescribing and recordkeeping, transfer of controlled substances between registrants, destruction of controlled substances by registrants and nonregistrants, and specifically allow patients to participate in drug take-back programs. I want to point out that we are not expanding our scope of practice, as Senator Gloor pointed out. Senator Gloor also mentioned an amendment offered by the Nebraska Department of Health and Human Services. We are supportive of those suggested changes, as those changes were simply an oversight by us when drafting. On behalf of the Nebraska Pharmacists Association, thank you for your opportunity to offer this legislation. I hope the committee will advance LB869, and I am happy to answer any questions you have. [LB869]

SENATOR CAMPBELL: Any questions? Senator Crawford. [LB869]

SENATOR CRAWFORD: Thank you, Senator Campbell. And thank you for your testimony and your service to the NPA. I received one letter, one e-mail in support from a pharmacist, and that e-mail mentioned pharmacists being reimbursed. So I haven't heard anything or seen anything that relates to reimbursement, but maybe there's a step I'm missing. Is it your understanding that any of the changes that we're talking about here would impact reimbursement? [LB869]

KEVIN BORCHER: No. In LB869 there's nothing that directly impacts reimbursement. [LB869]

SENATOR CRAWFORD: Thank you. [LB869]

KEVIN BORCHER: You're welcome. [LB869]

SENATOR CAMPBELL: Okay. Other questions? Yes, Senator Cook. [LB869]

SENATOR COOK: Thank you, Madam Chair. And thank you for joining us today. What is compounding and can you describe the compounding tragedy that perhaps I'm already supposed to be familiar with? [LB869]

KEVIN BORCHER: Yes, Senator. Compounding has been really making headlines in the last couple of years, especially since October of the previous year, where in Massachusetts, New England Compounding Centers had manufactured or prepared some sterile products which had been distributed throughout the United States. Several people had died because there were infections from those products. It...since then, the

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Transcriber's Office

Health and Human Services Committee
January 24, 2014

FDA has been making stringent changes with legislation, which just recently passed in the last couple of weeks. There are greater inspections going on throughout the National Association of Boards of Pharmacy and the FDA. [LB869]

SENATOR CAMPBELL: The compounds are specially mixed at a doctor's prescription, correct? [LB869]

KEVIN BORCHER: Correct. [LB869]

SENATOR CAMPBELL: I mean, they're a very...they can be very specialized medications. [LB869]

KEVIN BORCHER: Yes. Compounding occurs pursuant to a medical order from a practitioner, and those are typically based on the federal standards that are followed through USP 795 for nonsterile, more like topical products; and then USP 797, which are for sterile products, usually in specialized equipment hoods, using special garb; you're gowned up, protected; you keep rooms; you keep very strict records of the particulate count in a room to make sure you won't have any contamination. [LB869]

SENATOR COOK: Okay. Thank you. [LB869]

SENATOR CAMPBELL: Does that answer? [LB869]

SENATOR COOK: Yeah, that's better. [LB869]

SENATOR CAMPBELL: Actually, you can come visit my neighborhood. We have a compounding pharmacist who has opened a business there. [LB869]

KEVIN BORCHER: Very good. [LB869]

SENATOR CAMPBELL: I had an opportunity to talk to Ms. Cover about this summer, and I visited just briefly in the facility. It's very interesting. So I'm more familiar than I was, let's put it that way. [LB869]

KEVIN BORCHER: That's good. [LB869]

SENATOR CAMPBELL: Any other questions that you have? Thank you very much for coming. [LB869]

KEVIN BORCHER: Thank you very much. [LB869]

SENATOR CAMPBELL: (Exhibit 9) Our next proponent? Okay. Those who wish to testify in opposition? Those who wish to testify in a neutral position? I believe we're

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Transcriber's Office

Health and Human Services Committee
January 24, 2014

back to you, Senator Gloor; and Senator Gloor waives closing. All right. And we should note for the record that we received a letter of support from the Nebraska Medical Association for the bill. That concludes our hearings for this afternoon, so have a good weekend. And the hearings will resume next Wednesday. [LB869]