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Banking, Commerce and Insurance Committee  
January 27, 2015

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[LB139 LB198 LB269 CONFIRMATION]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, January 27, 2015, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB198, LB139, LB269, and gubernatorial appointments. Senators present: Jim Scheer, Chairperson; Matt Williams, Vice Chairperson; Kathy Campbell; Joni Craighead; Mike Gloor; Sara Howard; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR SCHEER: Good afternoon. Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Jim Scheer. I'm from Norfolk, representing the 19th Legislative District and I serve as Chair of the committee this year. Now the committee will take up the bills in the order that they're posted. Our hearing today is your part of the legislative process and it's your opportunity to express your position on any of the proposed legislation that we have before us today. Just a reminder that committee members will come and go during the hearing. We have to introduce bills in other committees and are called away. It is not an indication we are not interested in the bill being heard in the committee, just part of the process that we have to undertake. To better facilitate today's proceedings I ask that you abide by a few procedures. First of all, please make sure your phones are either on silence or off, if you would, please. If you are waiting to testify, if you could come up in the front-row area so that we know who is in the queue and how many people there may be left. Order of testifiers will be the introducer, proponents, opponents, neutral, and the senator will then close. Testifiers will be asked to sign in on a pink sheet that are available at both doors. Make sure you fill that out and make sure that you hand it to the clerk, Jan, over on the side here before you testify, not after. When you testify, the first thing that I would ask you to do is please introduce yourself, your name, and spell both first and last name for the transcribers. Please be concise if you can. And it would be my request that the testimonies will be limited to five minutes. We will use the lights just like we do everyday. The green light means that you have plenty of time. When you get to the yellow, you are one minute off. And when the red comes, it's just like a car, you stop. So...and if you're not testifying by the microphone, you can sign in in the back on the white sheets. Just simply put your name and if you're supportive or opposed and make sure you note the bill number in regards to that as well. Written materials that you want distributed to the members as exhibits, make sure that you hand them to the page and we will need ten copies. If you do not have ten copies, please contact the page and he will make those for you, preferably in advance so that we have them when you're testifying rather than later. It would be to your benefit. First, a few little introductions. The committee clerk is to my far left, Jan Foster. The committee counsel, a newcomer, is Bill Marienau. And I would let the committee that is here introduce themselves, starting on my left with Senator Campbell.

SENATOR CAMPBELL: I'm Kathy Campbell and I represent District 25, which is east

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Lincoln and eastern Lancaster County.

SENATOR CRAIGHEAD: Senator Joni Craighead, District 6, Omaha.

SENATOR WILLIAMS: Matt Williams, District 36, Gothenburg and the rest of Dawson County and Custer County and the north part of Buffalo County.

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

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

SENATOR SCHEER: Thank you, Senators. Our page today is Jake Kawamoto and he is sitting over to the left. And the committee will begin in the agenda order which are two hearings. And I believe the first is the Department of Banking, Mr. Quandahl.  
[CONFIRMATION]

MARK QUANDAHL: Jan made it clear that I needed to fill out one of those pink sheets before I could get up here and sit down, so I will do that. Chairman Scheer and members of the committee, I'm Mark Quandahl. And I'm here for the appointment hearing to the directorship of the Department of Banking and Finance. As you know, I was appointed by... [CONFIRMATION]

SENATOR SCHEER: Mr. Quandahl, could you please spell your name?  
[CONFIRMATION]

MARK QUANDAHL: Quandahl. I think I have that here in my spiel here too. Q-u-a-n-d-a-h-l, first name is Mark, M-a-r-k. [CONFIRMATION]

SENATOR SCHEER: Thank you. [CONFIRMATION]

MARK QUANDAHL: Yeah. I know that's necessary, so sorry about that breach in protocol. But just to tell you a little bit... [CONFIRMATION]

SENATOR SCHEER: We're getting off to a good start. [CONFIRMATION]

MARK QUANDAHL: That's right, I know. You know, this is the first time I've done this too, so. [CONFIRMATION]

SENATOR SCHEER: The instructions are not that difficult. I'm wondering.  
[CONFIRMATION]

MARK QUANDAHL: It's not that I don't come before you with a little bit of trepidation because this is the first time that I've done anything like this, so. [CONFIRMATION]

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SENATOR SCHEER: It's all yours. [CONFIRMATION]

MARK QUANDAHL: I know. Thank you. Anyway, the Nebraska Department of Banking and Finance regulates state-chartered banks, credit unions, one S&L in the state, and other financial industries within Nebraska. The department also regulates state securities laws to include: licensing, registration of investment advisors, broker-dealers, and securities. Our goal and mission at the department is to ensure the safety and soundness of our state-chartered financial institutions, also consumer protection, protecting economic growth while fostering innovative and responsive supervision. So that, in a nutshell, is what we do over at the state department. We do have a legislative agenda this year and you will be seeing that next week. It consists of three bills and you'll find out more about them next week, but it's not a very aggressive legislative agenda. From time to time we will come before you to testify on bills, in favor, sponsored by the department or in a neutral capacity, too, when you need additional information, so. Our department's main office is located right across the street to the north in the 1526 K Building on the third floor. And so I'd invite you, if you ever do want to come by and see me, talk to me about anything, to come over and feel free to do that, so. A little bit about myself, I'm a lifelong Nebraskan. I graduated from Ralston High School. I also have two degrees from the University of Nebraska-Lincoln. One of them is a law degree, the other one is a journalism degree, so. You can see I was going to be a...I was actually going to be--this is off my script here--I was planning on being the next Dan Rather. But when I didn't get any job offers after that, I went to law school. And so since then, I have practiced law in the state of Nebraska for 27 years. I retired from the active practice of law at the end of last year in 2014 to take this appointment. I did serve as a state senator for six years from 1999 to 2005, four of those years on the same committee that we're here today. So that was a good time. I also served four-plus years on the State Board of Education; got off in 2014. And also, I served as a bank director at a community bank for six years; really enjoyed my service, unfortunately, I had to resign from that also in order to accept this directorship, so. I'm looking forward to moving the state of Nebraska forward. And I pledge to do my best as director of the Nebraska state Department of Banking and Finance. So I'd stand for any questions that you have of me. [CONFIRMATION]

SENATOR SCHEER: Okay. Questions for the applicant? Senator Williams.  
[CONFIRMATION]

SENATOR WILLIAMS: Thank you, Senator Scheer. I was going to call him Director Quandahl. I'll hold that for a second. You forgot one thing in your resume that I'm acquainted with, and that's that you not only served on this committee, you served as chairman of this committee. [CONFIRMATION]

MARK QUANDAHL: That's correct. [CONFIRMATION]

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SENATOR WILLIAMS: And I would just like to say this in the form of a question as a banker that's regulated by the state Department of Banking and a banker that testified before this committee when you were chairman on numerous occasions. Thank you for your service. Mr. Quandahl is highly qualified for this position. And I would highly recommend this committee move forward with his confirmation. Thank you, Mr. Chairman. [CONFIRMATION]

SENATOR SCHEER: Thank you, Senator Williams. Any other? Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Well, what should we say? Director designee maybe is the right term. [CONFIRMATION]

MARK QUANDAHL: There you go. [CONFIRMATION]

SENATOR CAMPBELL: You and I had a great conversation when you came and just kind of introduced yourself and so forth. What issues do you think are coming forward in the banking area that this committee should be aware of? [CONFIRMATION]

MARK QUANDAHL: You know, that's a good question. As I said, the department itself, we don't have a very aggressive or very extensive legislative agenda this year. But you will be hearing a bill next year...next week, for example, on crowdfunding. So kind of an informal investing in the state of Nebraska. And so that is something that there has been some federal legislation passed on that. And the federal legislation, the regs haven't progressed as quickly as some of the states, including Nebraska, perhaps would have liked. And so we're going forward and actually there's going to be a bill before you--it's not a department bill--dealing with crowdfunding. So that's something that the department does deal with on occasion. Another thing I guess I'd tell you to be aware of, too, is bitcoin, bitcoin and virtual currencies, too. Right now it's kind of an emerging technology, but that's something that I would imagine that you and the department will be getting more and more involved with as we go forward. [CONFIRMATION]

SENATOR CAMPBELL: Thank you. [CONFIRMATION]

SENATOR SCHEER: Senator Williams. [CONFIRMATION]

SENATOR WILLIAMS: Thank you, Senator Scheer. I do have one more question. One of the things that I think is of concern to bankers across our state right now is the...I'll call it seniority rather than age of some of the field examiners in, in particular, the office that I'm acquainted with in Kearney. What is your position and your role for addressing that issue as we move forward? [CONFIRMATION]

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MARK QUANDAHL: Right. Well, one of the first things that I have to do in the office is to find a new deputy director. Ray Pont, who's been with the department for a number of years providing great service, unfortunately has decided to retire. And so in the middle of April he'll be going away. Now that deputy directorship is the direct supervisor of the field examiners. And so first things first, deputy director. And so that's going to be one of the first things that we do, but I am aware. As a matter of fact, I had a meeting this morning on that same subject. And so we're going to do everything that we can not only to attract, but also to retain the best examiners that we can. [CONFIRMATION]

SENATOR WILLIAMS: Thank you. [CONFIRMATION]

SENATOR SCHEER: Other questions? One for myself, if I could. You haven't been in the department that long, but do you see any changes that you would hope to make or are we going to continue as we have? Do you feel that's appropriate? Or what...where is your direction going to lead? [CONFIRMATION]

MARK QUANDAHL: That's a good question. I told...actually, one of the reasons why I put my name forward to be the Director of Banking and Finance was because of my respect for that particular department because I have practiced law not only in the state of Nebraska, but essentially, nationwide for the last 27 years. I've had the opportunity to rub up against and interact with departments and agencies all across the country. And I've said it before and I'll say it again, that people in the Department of Banking and Finance are second to none as far as not only their knowledge, their experience, their efficiency, but also their dedication to public service. And so when you say, are there changes that...sure we can always improve. And I could tell you that the Department of Banking and Finance is...it's a great institution. And I want to continue on with not only the good work that's been done in the past, but to build on that. [CONFIRMATION]

SENATOR SCHEER: Okay. Senator Craighead. [CONFIRMATION]

SENATOR CRAIGHEAD: This is just a comment. I've had the opportunity to know Director-Elect Quandahl for a number of years in many arenas. I'm very excited he'll be the director. [CONFIRMATION]

SENATOR SCHEER: Any other comments? Seeing none, thank you, Mark. [CONFIRMATION]

MARK QUANDAHL: Thank you. [CONFIRMATION]

SENATOR SCHEER: I would now open the hearing to anyone that would be speaking as a proponent for the nominee. I would entertain anyone that would like to speak as an opponent to the nominee. I would entertain anyone that would like to speak in a neutral

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capacity in regards to the nominee. Seeing none, this hearing is closed. We will now have our second hearing, Mr. Ramge, for the Department of Insurance. Welcome.  
[CONFIRMATION]

BRUCE RAMGE: (Exhibit 1) Thank you. Good afternoon, Chairman Scheer and members of the Banking, Commerce and Insurance Committee. My name is Bruce R. Ramge, for the record that's spelled B-r-u-c-e R-a-m-g-e. I appreciate the opportunity to be here with you this afternoon to discuss my appointment and confirmation as Director of Insurance. First, I would like to express my gratitude to Governor Ricketts for selecting me as his Director of Insurance and for allowing me to continue to serve in this role as I have for the past years under former Governor Heineman. I am proud of the achievements of the department during my time as director and I look forward to continuing to serve Nebraska in the future. In the past four years, the department has focused on protecting policyholders, maintaining a fair regulatory environment, creating a competitive marketplace for insurers and their customers, and attracting insurers to domesticate in Nebraska. In fact, just this last summer I was able to announce that First American Title Insurance Company domiciled from California to Nebraska. First American Title is one of the largest title insurers in the nation. Before I talk about the department and my vision for the future, let me provide a little biographic information. I grew up near Murray, Nebraska, graduated from Dana College in Blair, and received my MBA from the University of Nebraska-Omaha. After a time working in the insurance industry, I joined the Department of Insurance. I began as a market conduct examiner and worked my way up through the ranks, including time as both the chief of market regulation and the deputy director, before ultimately becoming the director of insurance late in 2010. The department exists to serve the people of the state and it does so in many ways. Insurance is the sale of a promise that, in exchange for money now, the insurer will take action when the worst happens and the insured needs help. Making sure that those promises meet the standards that the Legislature sets and that they are kept in the manner set out in Nebraska law is a key function of the department, along with licensing thousands of insurance professionals, preventing insurance fraud, collecting significant state revenue, and resolving insurance disputes between insureds and insurers. In the past four years the department has accepted new duties and responsibilities related to the federal healthcare reform. Like most states, the state of Nebraska did not choose to run its own healthcare exchange, but the state did remain a "plan management state," meaning that the department retained regulatory oversight over the health plans that were issued in Nebraska. Department staff continues to closely monitor healthcare reform issues and works on a daily basis with federal agencies and the National Association of Insurance Commissioners or NAIC on issues that affect Nebraska policyholders and health insurers. Insurance regulation is a state-based regulatory system. And insurance solvency regulation represents interstate cooperation at its finest. The NAIC is the United States' standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five United States territories. Through the NAIC,

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state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based regulation in the United States. The department is accredited through the NAIC as the national regulator for solvency for each of Nebraska's domestic insurers. So other states rely on the department and the department relies on other states. To make this system work, each of the departments goes through a rigorous annual NAIC review and a very thorough accreditation examination by a team of regulators every four years. During that process they look to see that we are performing our duties within appropriate time frames, we have adequate staff resources, and most importantly, that Nebraska has adopted appropriate regulatory and statutory standards. Maintaining NAIC accreditation is important because if the department loses accreditation, other states would not have to accept financial examinations conducted by the department, which would have an adverse effect on domestic insurers in Nebraska. Now that I've told you a bit about where I've been and where the department is, I'd like to talk about my vision for the agency in the future. Nebraska is one of the leading states in terms of economic size of its domestic insurance industry and I would like to continue to grow our insurance industry in Nebraska. With the help of state leaders, such as the members of this committee, Nebraska has created a great environment for insurers to be located. We have a favorable tax rate, a great legal climate, practical, fair-minded regulators, and state leadership, both from the Governor and the Legislature, which understands the importance of the domestic insurance industry to the economic future of this state. Most of all, we have a talented pool of insurance professionals for insurers to hire. Nebraska has a great foundation on which to build and I intend to do just that. In the future, the department will need the appropriate regulatory tools to continue to stay in the forefront of insurance regulation. And I'm looking forward to working with the Banking, Commerce and Insurance Committee and the Legislature to get the tools to continue on that path. So not only am I asking today for you to forward my nomination to the floor for consideration, I'm asking for your help in a long-term project to foster the growth of the Nebraska domestic insurance industry. Thank you for allowing me the opportunity to be here today. I'd be happy to answer any questions you have. [CONFIRMATION]

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

SENATOR GLOOR: Thank you, Chairman Scheer. And, Director Ramge, thank you for being here and congratulations on your selection. [CONFIRMATION]

BRUCE RAMGE: Thank you. [CONFIRMATION]

SENATOR GLOOR: You and I have had a chance to talk a little bit about this general issue that has to do with healthcare providers, health insurers in the context of the recent insolvency of CoOpportunity. [CONFIRMATION]

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BRUCE RAMGE: Yes. [CONFIRMATION]

SENATOR GLOOR: And my question really is, in this day and age with the inability to...for insurers to be selective about who they write policies on, is it going to be possible for us to ever have...I mean, will we see a dwindling number of health insurers who serve us in this state? It seems almost impossible to me that anybody new is going to be able to come on board with any sort of actuarial comfort... [CONFIRMATION]

BRUCE RAMGE: Sure. [CONFIRMATION]

SENATOR GLOOR: ...that they can write up policies with people jumping to better pricing, with obviously, a need for health services that puts their solvency at risk right off the bat. And we're talking about wanting to encourage more domestic insurance growth. [CONFIRMATION]

BRUCE RAMGE: Yes. [CONFIRMATION]

SENATOR GLOOR: That may be in property and casualty, but on the other hand, clearly most people spend more money on healthcare than they do on taxes. And it's certainly going to be a growing issue, I think. [CONFIRMATION]

BRUCE RAMGE: I agree. And right now, it appears that for a company to get into the market they would need to have some really substantial backing and assets. I think that as things progress though, we may see some specialized carriers being able to eventually get into the market when we see perhaps networks or health systems developing and deciding that they want to manage the risk of their clientele. So that's a possibility in the future. But for right now, I really think that it's going to take companies with significant assets and backing to enter into the market. And I think there is interest out there from some carriers...regional carriers in expanding into this state. And so that's a very good thing for us to have competition. And we'll certainly work to foster that. [CONFIRMATION]

SENATOR GLOOR: That was going to be my follow-up question, which is: Are there things we should be doing legislatively, things the department will bring to us that can help in that capacity? [CONFIRMATION]

BRUCE RAMGE: We'll certainly watch as things progress. Right now, a big challenge is--and we're trying to work with the federal counterparts--is that the challenge of timing of when they want all the filings to be done. They want the rates and the forms and everything to be completely filed and reviewed on our end by April 1, and that's for 2016. And that's a challenge for insurers because they don't even have their full exposure, you know, and so it's hard to price. But we'll certainly come to this committee if we see anything that would help with the environment. [CONFIRMATION]



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SENATOR GLOOR: Thank you. [CONFIRMATION]

BRUCE RAMGE: You bet. [CONFIRMATION]

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

SENATOR HOWARD: Thank you, Senator Scheer. You and I have had long discussions about insurance because I am very interested in it. And I believe the last time we spoke I had asked you about accountable care organizations,...  
[CONFIRMATION]

BRUCE RAMGE: Yes. [CONFIRMATION]

SENATOR HOWARD: ...what your oversight might look like for ACOs in the state of Nebraska. Could you tell us a little bit about that? [CONFIRMATION]

BRUCE RAMGE: Certainly. You know, accountable care organization is a concept that has developed primarily out of the advent of the Affordable Care Act. And our expectation is that we will first see this grow in the Medicare arena. In terms of the regulatory environment, the NAIC has not really taken time yet to develop a structure. However, I feel like what we have here in Nebraska that would most closely suit an accountable care organization would be our Health Maintenance Organization (Act) statute. And so something like that with potential revisions might do the job in terms of if there were an organization wishing to start up under that model. [CONFIRMATION]

SENATOR HOWARD: Thank you, Director. [CONFIRMATION]

SENATOR SCHEER: Senator Schumacher. [CONFIRMATION]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you, Director Ramge, for being here today and congratulations on your reappointment. [CONFIRMATION]

BRUCE RAMGE: Thank you. [CONFIRMATION]

SENATOR SCHUMACHER: A couple of questions. Philosophically, what do you see the role of the department or the state in, in such squabbles as we're seeing between CHI and Blue Cross Blue Shield and impact in the discomfort that squabble has caused the public? [CONFIRMATION]

BRUCE RAMGE: Yes. And yeah, thank you for that question. It's a good opportunity for me to explain our role. And the Department of Insurance really does not have the ability to go in and force these private companies to negotiate. We don't have the authority to

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say to a hospital, oh, you must accept this particular rate. And we don't really have the authority to go to an insurer and say, oh, you must offer that rate. However, we do have the ability to watch out for policyholders and encourage both parties to help their prospective members. And we have been monitoring the situation. We've had conversations with both entities. But yet we're not really able to go in there and say, you have to get this resolved. So we've received, you know, communications from both that asked our opinions about communications with members. And we are very careful to look at that. But I wish that that dispute could get resolved, especially for the insureds who have limited providers in their network area. And so it's something we'll monitor closely. [CONFIRMATION]

SENATOR SCHUMACHER: Should you be given that authority? [CONFIRMATION]

BRUCE RAMGE: That's a really tough policy decision because I think that would boil down to, do we want to start setting medical rates. And I think that would be very...I don't know that that's a good thing for the state to get into. But short of that, I don't know that there are measures that would be helpful. [CONFIRMATION]

SENATOR SCHUMACHER: And one last question: There's a book that's recently getting some publicity called America's Bitter Pill. Have you heard of that book at all? [CONFIRMATION]

BRUCE RAMGE: I've heard of that, yes. [CONFIRMATION]

SENATOR SCHUMACHER: I haven't read it. But I have actually ordered it, I think. And I think, from what I understand the premise is that large hospitals, health conglomerates, in the life after the ACA, should actually begin to function as insurance companies. And actually, you pay your premium to the large health conglomerate for your insurance and they take care of you. And if they don't have service in the area that you happen to be traveling, they have cross agreements with other guys. Your reaction to that kind of thing? [CONFIRMATION]

BRUCE RAMGE: I think that's down the road in the future. I think Senator Gloor has been very active in trying to promote the concept of "medical home." I think that's a part step in that direction when you can get people to be more accountable for the care they get, and the physicians for looking over their entire health situation and wellness, as opposed to just treating the symptoms when they come up. [CONFIRMATION]

SENATOR SCHUMACHER: Thank you, Director. [CONFIRMATION]

BRUCE RAMGE: You're welcome. [CONFIRMATION]

SENATOR SCHEER: Thank you, Senator Schumacher. Any other questions? Senator

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Campbell. [CONFIRMATION]

SENATOR CAMPBELL: And Director, this is, you know, more probably a comment than a question, but feel free to comment, too. I read this morning an article and I think it might have been out of The New York Times, in which the Blue Cross Blue Shield nationwide did a study of what it costs for knee replacements and they saw great variations across. And yet when they were asked whether they would use that leverage in order to drive down that cost, they said, no, they didn't see that as their place. Do you think we'll get to the point where we will know, from insurance companies, more data and be able to leverage that information? [CONFIRMATION]

BRUCE RAMGE: I believe there is a movement towards more transparency, both on costs, but also on outcomes. And I think that's a good thing for everyone. I think right now the primary utilization of that data has been with the educational institutions. And it will be nice to see someday when patients and insureds can make better decisions and have more information at their fingertips. [CONFIRMATION]

SENATOR CAMPBELL: Thank you. [CONFIRMATION]

BRUCE RAMGE: Yes. [CONFIRMATION]

SENATOR SCHEER: Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: Thank you, Chairman Scheer. This also will be a comment sort of in response to my friends, Senator Campbell and Senator Schumacher. And I'll try and do this as a two-minute, quick tutorial. Price has nothing to do with cost. And those comparisons have nothing to do with the traditional competitive market. The "Blues" and any payer are just as guilty of that price discrepancy as anybody because they've negotiated all kinds of different prices. And in some cases, they negotiated tightly for prosthetics for knees, in some cases they didn't. So those prices vary all over the place for all kinds of procedures in this country. And the thing we have to remember is, it has nothing to do with the cost. It has to do with all kinds of things, including charity care and whatnot that get folded into pricing structures. And you charge what you can get away with and what the insurer agrees to or the payer agrees to. It is a complicated issue. And back to Senator Schumacher's issue, the (America's) Bitter Pill, what we're trying to move to is, so accept responsibility for paying for the care of a population group and everything that goes along with it. That's where you start getting into taking a look at actual costs and away from paying any attention at all to price because the two are so disassociated. We fool ourselves if we think there's an answer there to try and control healthcare expenses. It just isn't. [CONFIRMATION]

BRUCE RAMGE: Thank you. [CONFIRMATION]

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SENATOR CAMPBELL: Amen. [CONFIRMATION]

SENATOR SCHEER: Any other comments or questions? Seeing none, thank you.  
[CONFIRMATION]

BRUCE RAMGE: Thank you. [CONFIRMATION]

SENATOR SCHEER: I would now open to any proponents of the nominee. Are there any opponents to the nominee? Is there anyone wishing to speak in a neutral capacity? Seeing none, this hearing for the Director of Department of Insurance is closed. My comment to the two nominees, we will certainly act on this in an expedient manner and try to get it to the floor so that, in some cases, the acting may be taken off and the other would be renewed. So it would be our intent to do that shortly, shorter than longer. So thank you very much. We would now open the hearings with LB198, Senator Williams.  
[CONFIRMATION LB198]

SENATOR WILLIAMS: Good afternoon, Chairman Scheer and fellow members of the committee. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s, I represent District 36 and I'm the sponsor of LB198. End of life planning can be a difficult issue for individuals and families. In addition to the emotional aspects of these discussions there are significant financial commitments that must be addressed. The good news is, that pre-need funeral insurance is available to Nebraskans to help cover the cost of funeral and burial services through licensed insurance agents. However, currently, in order to sell this product an agent must have a full-fledged producers license issued by the Department of Insurance. I think the insurance agents across our state have done a reasonable job promoting funeral insurance. But the plain fact is, that this is not the focus of most life and health producers. Most individuals turn to their funeral director to seek out assistance with preplanning funeral expenses. With LB198, we can make this insurance product more available to Nebraskans. What this bill would do is create a limited line insurance license for pre-need funeral insurance. The license would be issued by the Department of Insurance, which allows the department to oversee the licensed agents and the funeral insurance policies they sell. The bill establishes minimum education requirements to obtain an initial license as well as continuing education requirements to maintain a license. Limited line licenses are not new for the state of Nebraska. For example, we currently have a limited line license for the sale of crop insurance. Before a person can receive a full life license they must complete twenty hours of prelicensing classroom work. In addition to maintaining a life license, a producer must complete twenty-one hours of continuing education each two years, plus three hours of ethics training. That's twenty-four hours of continuing education over that two-year period of time. For a limited line pre-need funeral insurance license, under LB198, a producer would be required to complete six hours of classroom work to receive the license and three hours of continuing education each two years plus the three hours' ethics training. This requirement matches the requirement for the producer selling the limited line crop

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insurance products. LB198 would allow funeral directors to obtain a limited license to sell funeral insurance. Many funeral directors are presently not using this product because of the onerous licensing requirements. LB198 would require adequate licensing and oversight by the Department of Insurance and allow funeral directors to expand the options they can offer individuals and make this important tool available to more Nebraskans. I look forward to having you favorably act on this legislation. And I would try to answer any questions that you have. [LB198]

SENATOR SCHEER: Any questions? Senator Gloor. [LB198]

SENATOR GLOOR: Thank you, Chairman Scheer. Senator Williams, is the intent that this ultimately be a replacement product for prepaid funeral/burial expenses? [LB198]

SENATOR WILLIAMS: There are several ways, and I think you're going to hear from a funeral director in a minute, of how people can do preplanning and make arrangements for the financial aspect. Right now, we have situations where people are, through the funeral director, purchasing a CD in a bank, for instance, and letting that sit there. We've also had situations where some of them are using this pre-need funeral insurance product, which is basically a life insurance product or a single-pay annuity product. But again, this licensing requirement precludes most funeral directors from taking the time to do that. We've also had some experience in our state--and I think maybe you will hear some testimony on this--that some funeral directors have just held the money for the potential client. And I think using an insurance product, which is regulated, monitored, is a much better solution to that. [LB198]

SENATOR GLOOR: But would this legislation address people who just hold the money? Is there going to be any sort of regulatory requirement that that can't be done anymore or is that not spoken to in this legislation? [LB198]

SENATOR WILLIAMS: That issue is not addressed by LB198. This simply opens the door, changing the licensing requirement to sell pre-need life insurance. [LB198]

SENATOR GLOOR: Okay. [LB198]

SENATOR SCHEER: Any other questions? Seeing none, thank you, Senator Williams. I'd now open the testimony to proponents of LB198. Go ahead. [LB198]

WILLIAM LAUBER: (Exhibit 1) Good afternoon, Chairman Scheer and members of the committee. My name is William Lauber, L-a-u-b-e-r. I am the legislative chairman for the Nebraska Funeral Directors Association, whose members make up about 90 percent of the funeral homes in the state of Nebraska who participate and are members of the association. And they asked me to introduce this bill to you this afternoon. I also have served on the state Board of Funeral Directors and Embalmers for the Nebraska

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Department of Health. And I also have developed policy positions for legislative efforts in Washington, D.C., for the National Funeral Directors Association from time to time. I also have a 25-year career in funeral service. I have funeral establishments in small communities in Saline and Seward Counties just west of here. This bill, as you heard, indeed discusses preplanning of a funeral and, more specifically, prefunding a funeral in advance of need. It's more common than you think. In fact, last year when I totalled up my numbers in 2014 for the funerals that I conducted in 2014, about 40 percent of the funerals and memorial services I conducted last year were prefunded funerals. So we're approaching, at least in my neck of the woods, about half of the funerals I conduct are prefunded funerals. The aspect of...the question was brought up is, what kind of mechanisms do people place their money in funeral homes for funerals in advance? In the '70s and '80s, before I started practicing, a lot of funeral directors parked their money for their families they served in those certificates of deposit at the banks, their local banks. And back then, interest rates were really attractive for such vehicles. But as we all know, as interest rates started to fall and became down to historic lows, we needed to search for other vehicles to place these folks' money in. Insurance companies came into play in the '90s and they came to us as an alternative to these certificates of deposit and trust accounts. These are policies designed specifically for funeral preplanning only. And they are, like Senator Williams said, they're a lot of times single-premium policies written for the cost of the funeral only, most generally. There is little or no underwriting to these. And the real attractive thing to these as far as the consumer was concerned, and what we like too, and that is, is the portability of it. If someone prearranged a funeral with me ten years ago and we used an insurance product to fund that funeral and then the children came back to me this year and said, you know, we're going to move mom to New Mexico, their home state. That's where she wants to die. She's changing her mind. With an insurance product, all I need to do is contact the insurance company, complete a reassignment form. And that reassignment is to the funeral home B down in say, Albuquerque. And the transfer is real easy. There's no revocation or transfer fees that we charge the families. There's no charges by the insurance company, unlike the certificates of deposit and trust accounts that we have. Those are much more difficult to transfer. And like Senator Williams said, we...a burden to the selling of funeral insurance was the licensing requirements. And more generally, it's been the continuing education requirements. We, as a licensed funeral director, already have continuing education requirements to hold our credential license as a funeral director; 16 hours every two years. And then if we sell pre-need funeral insurance we have another 24 every two years to maintain and qualify for that producer's license. So it was just a real burden. Unlike the life insurance agent down the street who has multiple lines of insurance that they sell we, as funeral directors, can't tell our secretary, hold our appointments tomorrow, I've got to go get my continuing education requirements out of town. When we have a death, we can't hold our appointments. And so it was really getting difficult for us to do that. And so when we went to the Department of Insurance and we discussed this issue, they suggested that we explore redefining pre-need funeral insurance and redefine it as limited line. And it

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made a lot of sense to us because it is a limited line of insurance. A lot of these policies are under \$12,000, these costs of these funerals, unlike the individual down the street on Main Street. Their insurance companies, they probably can't even issue a life insurance policy for under \$25,000. Some insurance companies, they can't even write anything under \$100,000 for life insurance policies today. The cost of life insurance has gone down for the consumer. But anyway, so we have not in this bill eliminated the continuing education requirements. If this is passed we are suggesting, like Senator Williams said, that we continue to learn. I think it's important that we, in any occupation, that we continue to learn. And by offering continuing education for licensed funeral directors to sell pre-need funeral insurance, we have in the bill...it's three hours of life and three hours of ethics. And ethics is crucial in pre-need funeral insurance. And why is that? It's because we are dealing with a majority of policies written are those over the vulnerable age of 70. And keep in mind that you do not have to be a licensed funeral director to sell pre-need funeral insurance. And so in this bill I have introduced an idea that, if you are a nonlicensed funeral director and you want to sell funeral insurance that there is...when you take the exam to be qualified for a limited line funeral insurance that you have two hours on top of the three that you are educated on funeral service background so that if you're going to sell funeral insurance you know a little bit about how a funeral works. If you're a licensed funeral director you already went to college and you know how that works. But for those who are going to sell it who are not licensed, that's why we had that little add-on. Is there any questions I can answer? Yes, Senator Campbell. [LB198]

SENATOR SCHEER: Senator Campbell. [LB198]

SENATOR CAMPBELL: Thank you, Chairman Scheer. I'd like to go back to Senator Gloor's question about that in this bill there is nothing that precludes someone from just holding the money. Do you think looking into the future we should do that? [LB198]

WILLIAM LAUBER: When I heard Senator Gloor ask that or Senator Williams, there just may be some pockets of funeral establishments that actually hold money in their business checking account. But if they do that, I swear it's got to be illegal. You know, when we have prearranged funerals and they're prefunded, you have to understand, there's a lot of people that when they prefund their funeral there is a high likelihood that they're going to have to apply to Medicaid to pay for nursing home care. And the Department of Health and Human Services requires we park it in a certain manner. And if they just hold it in some kind of savings account, that is not going to qualify for them for Medicaid, ultimately, to pay for nursing home care. So there...if they apply for Medicare, funeral homes are required to park them in a certain way. If they are never going to apply for Medicaid for nursing home care, then I'm going to suggest to these families that they do not prefund their funeral because it's not necessary. It may be because they already have long-term care insurance or they have assets available to pay for nursing home care. The majority of people who prefund their funerals are ones

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in which maybe their parent or parents are in a nursing home and their assets are becoming depleted rapidly. And as we all know, nursing home costs are exceedingly expensive and they'll take farms if you're in there long enough. There are people who prearrange their funeral and prefund their funeral who are not going to ever apply for Medicaid eligibility. And those people are free to park their money any way they want. But when they apply for Medicaid is when there's rules that apply. [LB198]

SENATOR CAMPBELL: Thank you. [LB198]

WILLIAM LAUBER: Yeah. [LB198]

SENATOR SCHEER: Senator Howard. [LB198]

SENATOR HOWARD: Thank you, Senator Scheer. Thank you for your testimony today. I'm curious about your continuing education requirements. For funeral directors is it an on-line or do you have to go in person? [LB198]

WILLIAM LAUBER: We have the option of doing on-line learning. And, in fact, I just did that last quarter, in December. My license expired at the end of the year and I was busy in my business. And suddenly I procrastinated and I thought, I've got to get this done. And I needed 21 hours of life and 3 hours of ethics. And with that, all I had to do...I had to do all that on-line because every time I wanted to schedule a continuing education seminar that they offer us in an out-of-town place like Council Bluffs or something, I always had funerals or I had to meet with families. So on-line is sometimes the only way funeral directors could do it. But to give you an idea, just to do 21 hours of life and 3 hours of ethics on-line--and those on-line entities, they're not open book, there's chapter tests and things--and it took about almost three and a half, four weeks for me to do that on-line. That's like three or four nights a week until I could get it done. So it takes a lot of our time. And it's not impossible, but when we already have continuing education requirements for our credential license as a funeral director, we just had double duty. And it was difficult for us. [LB198]

SENATOR HOWARD: And just to clarify, I was asking the question more because I'm an attorney and I also have to get my CLEs. And I usually do it on-line because it's easier. For your funeral director's license, that is also an option that you could do on-line or do you have to do it in person? [LB198]

WILLIAM LAUBER: Oh, no, there's a limit on that with the funeral directors. The Department of Health only requires, I think, four hours that could be on-line. A lot of the rest has to be...it's all categorized on what we can have that's qualified for continuing ed and what is not. Like, for example, we can have only up to one hour of tours. If you had a tour of a funeral home, that would consider one hour. Workshops, that would consider you could have up to nine hours of workshops and things like that. [LB198]



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SENATOR HOWARD: And so for the funeral director's license you can only have a small portion that's on-line but for the insurance portion, that can be completely on-line? [LB198]

WILLIAM LAUBER: Right. Completely on-line if you wanted to, yes. [LB198]

SENATOR HOWARD: Thank you for the clarification. [LB198]

WILLIAM LAUBER: Yes, uh-huh. [LB198]

SENATOR SCHEER: Senator Schumacher. [LB198]

SENATOR SCHUMACHER: Thank you, Chairman Scheer. And thank you for your testimony today. Do other states have similar programs, do you know? [LB198]

WILLIAM LAUBER: Yes. In fact, a proponent is going to testify after me. He will give you a handout that shows 15 states that have implemented some kind of limited form of pre-need funeral insurance. [LB198]

SENATOR SCHUMACHER: What do you see the probability of somebody deciding I'm going to be a funeral policy seller agent. And we having...since we've taken out the requirement that you've got to be a full-time insurance agent or a funeral director, we're having people going and putting in the three or five hours of education, knocking on door-to-door and basically selling products to people just because they can make some money at it? Is there good premiums in that? Is there any exposure by creating this class of subagent that might find an easy population to prey on? [LB198]

WILLIAM LAUBER: That's a good question, Senator. And we looked at that possibility that we'd be opening up a Pandora's box for solicitation. And I think there is already that door-to-door solicitation already. More specifically, it's probably more susceptible in urban areas than rural areas, more common in large-volume funeral homes versus smaller funeral homes. It's already occurring. I don't think we're going to see more of it by reducing our continuing education or the requirements for that; I certainly hope not. But keep in mind that everyone who does that has to sell this for a funeral establishment. So the ultimate responsible party is the one who hires those people who go door-to-door. So it's those funeral homes who hire these people, if they want to be aggressive like that, are the ultimate responsible party for their...these solicitors' actions and responsibilities. [LB198]

SENATOR SCHUMACHER: So these policies are payable only to a single funeral home? [LB198]

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WILLIAM LAUBER: Right. In most agencies, the agents who work and sell pre-need funeral insurance are working for funeral establishments. [LB198]

SENATOR SCHUMACHER: So if you bought one of these policies, your heirs couldn't say, well, gee, "Joe's Funeral Parlor" down the street is 50 percent what "Pete's" is up the street and take a "Pete's" policy to "Joe's." [LB198]

WILLIAM LAUBER: Right, but they are portable. They are portable, Senator. So if someone sold you a pre-need funeral insurance policy and you decide you did not want to use a Columbus funeral home, you wanted to use a Fremont funeral home, you could transfer that policy with a simple reassignment. [LB198]

SENATOR SCHUMACHER: But I have to go to the Columbus guys to ask them? [LB198]

WILLIAM LAUBER: Well, yes, you'd have to have that in writing that you want to make that transfer. [LB198]

SENATOR SCHUMACHER: And then they could... [LB198]

WILLIAM LAUBER: They have to abide by it. [LB198]

SENATOR SCHUMACHER: But they could have a chance at talking me out of it. [LB198]

WILLIAM LAUBER: Well, of course, yes, yes. And that's their prerogative, but most generally there is a reason for your transfer. There's usually a reason. [LB198]

SENATOR SCHUMACHER: Are these one-time premiums that you buy these policies or do you have periodic payments that you have to make every month? [LB198]

WILLIAM LAUBER: Multiple payments? Most of them are single-pay although there are multiple-premium policies available for a one-year, three-year, five-year, even some ten-year pays, depending on the age of the insured. [LB198]

SENATOR SCHUMACHER: And if you have a \$10,000 policy and you decide to do it quickly and get done with \$2,000, who gets the eight grand? [LB198]

WILLIAM LAUBER: Well, you get...the insured...well, it depends on how long. I think my proponent will be able to tell you, he's with the insurance company. But you'll get your money back if you die early. All right? You won't lose any money. And depending on the product,... [LB198]

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SENATOR SCHUMACHER: Premium money back? [LB198]

WILLIAM LAUBER: Right, you'll get your premium money back. [LB198]

SENATOR SCHUMACHER: What about...well, you've got \$10,000 paid up and the heirs decide, gee whiz, you know, a cardboard box is good enough and it costs \$2,000, who gets the \$8,000? [LB198]

WILLIAM LAUBER: Well, there will be a refund back to your next of kin or your estate if you choose something of a lesser degree. [LB198]

SENATOR SCHUMACHER: So it's kind of like life insurance in that respect. [LB198]

WILLIAM LAUBER: Right. [LB198]

SENATOR SCHUMACHER: The heirs get the \$8,000. [LB198]

WILLIAM LAUBER: Right. Oh, yeah. [LB198]

SENATOR SCHUMACHER: Okay. [LB198]

WILLIAM LAUBER: Unless you're on Medicaid and the state has been paying for your nursing home care. Then there's the Omnibus Recovery Act, which is some of that. If you choose a lesser service and you downgrade that service and you're on Medicaid and the nursing home...and the state is paying for nursing home care. Then that excess may go back to the government. [LB198]

SENATOR SCHUMACHER: But the government has got to figure that out first? [LB198]

WILLIAM LAUBER: Yeah. [LB198]

SENATOR SCHUMACHER: Okay. [LB198]

WILLIAM LAUBER: Well, the Department of Health and Human Services are getting pretty good at that. [LB198]

SENATOR SCHUMACHER: Thank you. [LB198]

WILLIAM LAUBER: Yeah, you're welcome. [LB198]

SENATOR SCHEER: Other questions? Two, following up on Senator Schumacher, you have to stay with the existing--based on what I heard you say--if you are a Columbus service provider, can I switch to a different Columbus service provider? Or does it have

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to... [LB198]

WILLIAM LAUBER: Yes. Yes. [LB198]

SENATOR SCHEER: Okay. So it does not have to be a change of location? [LB198]

WILLIAM LAUBER: Right. Right. [LB198]

SENATOR SCHEER: Okay. All right. And then second one, when you're working with a single payment, it's a set amount. So how is it that someone can...do they buy more than they need? Or, you know, as far as some type of inflation-type policy because I mean, realistically, those that were utilizing...here, Joe, here's \$7,000 in 1972 were banking on a 5 percent or whatever percent return on a CD in a bank so that when it got to be 1984, instead of having \$6,000 he may have \$12,000 or whatever the case is, where now I'm buying a single policy. You know, I may outlive the value of that. [LB198]

WILLIAM LAUBER: Yeah, certainly. Yeah, I have accounts in my file where they made prearrangements in 1994 and they're 101 and they're still alive today. And that's a good question. A lot of...most if not all pre-need funeral insurance products have an inflation death benefit rider to it and it will continue to grow. So if they paid \$7,000 in premiums and they lived ten years, that \$7,000 may be worth \$9,500 or something like that. [LB198]

SENATOR SCHEER: So there is an escalator clause in it. [LB198]

WILLIAM LAUBER: Yeah. Yeah. [LB198]

SENATOR SCHEER: Okay. Any other questions? Thank you very much, Mr. Lauber. Any other proponents? [LB198]

GERRY KRAUS: (Exhibits 2, 3) Good afternoon, Chairman Scheer, and thank you for helping me find the meeting room today. [LB198]

SENATOR SCHEER: Sure. [LB198]

GERRY KRAUS: Good afternoon to the rest of the committee. My name is Gerry Kraus, that's G-e-r-r-y K-r-a-u-s, I am the compliance officer for Homesteaders Life Company in West Des Moines, Iowa. Homesteaders is licensed throughout the United States with the exception of New York State. And do you want me to fill this out before I go? I'm sorry, I thought it was already done. Before? [LB198]

SENATOR SCHEER: Yeah, we're fine. No, you're...go ahead. [LB198]

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GERRY KRAUS: Okay. Homesteader specializes in the distribution of life insurance and annuities through the funeral industry where they are utilized to fund formal pre-need contracts. We are a national leader in this important consumer market. It's about all that we do at Homesteaders and we sell about \$1.5 million a day. On the insurance side of pre-need funding, it's kind of like the seed corn business. There are about three national players that have about 30 percent market share each. And the other 10 percent of the market is made up by another ten carriers who all have single-digit market shares. During recent years, we've seen a considerable change in the insurance licensing landscape in many of the states for people that sell pre-need funding. And we're talking about people who are authorized by the funeral home to transact a funeral contract. And they are also authorized to act for that funeral home in arranging the funding, whether it goes into a trust fund that the funeral home maintains or if it goes into an insurance policy that one of the insurers maintains. The result of this change in the landscape is that it's making it easier for funeral home personnel to get and keep an insurance license. And pragmatically, I think that's the main question that this bill raises: Should we make it easier for funeral home personnel to get and keep an insurance license to sell these kinds of products? Right now--you can look on your handout--there are 15 states that give some kind of special consideration in the licensing process for these people. And this year we have...we see proposals under way in Nebraska and in Oklahoma. And, you know, if I had to describe where those 15 states are all alike, I don't think I could find that likeness among all of them. But they all give either a break on the testing or a break on the continuing education. In many...in some instances, there is no continuing education, so I think Nebraska is going to establish itself as probably having, for these limited licenses, probably the highest continuing education requirement. The Nebraska Funeral Directors Association has met with the Nebraska insurance department and they're in agreement that this makes a great deal of sense and poses little threat to Nebraska consumers. There are families throughout this state walking into funeral homes every day. They, for the most part, have the money and that money will either end up going into some type of a trusting arrangement or it will end up going into a life insurance policy. And on the insurance side there's high portability. We have the backing of the Nebraska Life and Health Guaranty Association for every one of those policy owners. And we have the great protection of the director and the Nebraska insurance department. We think that's where we want this money to go, and we want to break down some of the barriers that prevent insurance funding from being more highly utilized by funeral home personnel. I'll be happy to answer any questions. [LB198]

SENATOR SCHEER: Thank you. Questions? Senator Schumacher. [LB198]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you for your testimony. Earlier today we were told that the way the mechanism works is if you buy from one funeral home and then want to change to another funeral home, you've got to go to the first funeral home and notify them that you're transferring it to get the transfer papers or not. Is that the way it works? [LB198]

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GERRY KRAUS: Well, in these transactions there are two contracts. The funeral home contracts with the family for the funeral, the future performance of the funeral. And that...they're contingent on their performance. If they perform, they can get the benefit of the assignment from the insurance transaction which is between the insurance company and the family. So if the family wants to cancel the funeral contract, they can do that at any time because all funeral contracts basically are revocable, and they can go to another funeral home. Very often they do without the original contracting funeral home's knowledge. And they go to another funeral home and change the assignment and, in many cases, execute a new prefuneral contract with a new funeral home. And all we require on our side is that they contact us as a policy owner and execute a reassignment. In the absence of that reassignment we will pay the beneficiary that they named on the application. And does that answer your question? [LB198]

SENATOR SCHUMACHER: Gosh, it sounds to be a complicated procedure. If they don't get buried by the first funeral home... [LB198]

GERRY KRAUS: Right. [LB198]

SENATOR SCHUMACHER: Do they owe them damages? [LB198]

GERRY KRAUS: In some trust funded contracts there are liquidated damages clauses and they're recognized by statute in many states. I don't believe that...I don't know about Nebraska if it is or not on the trust side. [LB198]

SENATOR SCHUMACHER: So basically, on the insurance side of it all they... [LB198]

GERRY KRAUS: Not on the insurance side. They cannot get money. The funeral provider cannot. [LB198]

SENATOR SCHUMACHER: But general question, on the insurance side, if the parties decide to use a different funeral home, they can just contact you and say, it's no longer "Pete's Funeral Home," I want "Joe's Funeral Home?" [LB198]

GERRY KRAUS: Right. [LB198]

SENATOR SCHUMACHER: And they can do the assignment paperwork with you without having to go back and face the guy who sold them the policy? [LB198]

GERRY KRAUS: Right. And their insurance policy would not be changed in any way except it would be reassigned. The values would not be changed. [LB198]

SENATOR SCHUMACHER: From an insurance company's perspective, is there any

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money in these policies? [LB198]

GERRY KRAUS: Well, there's a lot of different... [LB198]

SENATOR SCHUMACHER: I mean, compared to a regular \$10,000 life insurance policy. [LB198]

GERRY KRAUS: The average of these policies is \$5,700 nationally. And that's a lot of \$2,500 cremations and a few \$12,000 funerals. But nationally, it's \$5,700 dollars. So there are what we call very small face amount life insurance policies. They don't involve a lot of underwriting. We pretty much take everyone and then try and control the bad risks by limiting the policy benefits during the first years when there's high mortality. [LB198]

SENATOR SCHUMACHER: So the basically younger and healthier you are, the less you pay. It's just like life insurance. Is that true? [LB198]

GERRY KRAUS: No. I think the younger...well, the premiums are lower. And, yes, these policies pay up...70 percent of them pay up...are paid for in a single payment. Folks have the money. They walk into a funeral home, they want to plan their funeral and they want to write a check. The ones that don't have the money pay either over a three-, a five-, a seven-, or a ten-year period because that's the type of insurance that is offered in the pre-need market. If they wanted a whole life policy, they'd probably have to go to some other agent or go on-line and buy it. [LB198]

SENATOR SCHUMACHER: What type of commissions do they get? The door-to-door guy that goes selling it door-to-door, how much of a bite does he get out of it? [LB198]

GERRY KRAUS: Typically, the...because we're...insurance companies compete with trusts that permit between 5 percent and 15 percent withdrawal from trust earnings, depending on the state requirements, our commissions range from 5 percent to 15 percent to match that. And it varies by age and size. [LB198]

SENATOR SCHUMACHER: So they sell a \$5,700 policy, they end up with \$570 from knocking on the door? [LB198]

GERRY KRAUS: Yeah, they could. And in most situations, the families are walking into the funeral home rather than the insurance person going to the family. There are families that don't want to go to the funeral home, so in some cases the transaction is done at the kitchen table. [LB198]

SENATOR SCHUMACHER: Thank you for your testimony. [LB198]

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GERRY KRAUS: Sure. Yes. [LB198]

SENATOR CAMPBELL: And maybe you answered this and it wasn't clear to me. Oh, thank you, Mr. Chairman. When...do you offer a contract, your company, to funeral homes to be the person who sells the insurance? In other words, would you contract with three or four funeral establishments? [LB198]

GERRY KRAUS: The funeral homes choose to use our policies and probably those of other companies to help meet their families' needs. Their life...we have no other connection with them other than our life insurance agents that work with them become appointed with our company, and then if they're going to go pre-need contracts--this is the funeral transaction for that funeral home--they have to become authorized by the funeral home to act on the funeral side. So they get authority from the funeral home to act as a funeral transactor and they have authority from us as an agent to do the insurance side. [LB198]

SENATOR CAMPBELL: Thank you. [LB198]

GERRY KRAUS: Does that answer your question? [LB198]

SENATOR CAMPBELL: I think so. [LB198]

GERRY KRAUS: Okay. [LB198]

SENATOR SCHEER: Any other questions? I do have a couple. I think what Senator...well, I shouldn't say that, I don't know what she was thinking. But what I assume she was asking about was exclusivity, that if you contract...you would go into Lincoln and perhaps you only contract your services with one or two funeral homes. So if you were wanting that service, you had to utilize that funeral home. And I'm not trying to put words in her mouth, but... [LB198]

GERRY KRAUS: I think most funeral homes use two different insurance companies, some use three. My wife at one time was a sales agent for our company and she called on funeral homes. And she tried to bring them some value in their business planning and so on. And both her and a competitor were usually both there saying, just give us some of your business and they would split the business. There are a lot of exclusive arrangements where funeral establishments decide that one insurance company will serve all of their needs and they may get a higher agent contract for those people that are associated. So that's out there, too, some exclusivity. [LB198]

SENATOR CAMPBELL: Great. Thank you. [LB198]

SENATOR SCHEER: A question to follow up Senator Schumacher, because I think



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when you were talking about controlling your risk, my assumption you were talking about that there would be a time-sensitive deductible, so to speak, that if I bought the policy and I died perhaps within the first 24 months, instead of having a \$10,000 payment, it may be brought back to \$6,800. Or do you sort of vest yourself at a certain amount of time? [LB198]

GERRY KRAUS: The single-premium policies always have more benefit than premium. So 75 percent of the people are never going to have a situation where they might have a shortage. People who pay over time get immediate coverage if they can answer the health questions, which are fairly simple. So they get in the same boat with those people who have written a check for the full amount. But the people who have difficulty with the health underwriting--they may have been hospitalized recently or they may have a serious illness presently--to protect our solvency, we have to give them a graded product that says we'll pay you 50 percent...because you're on a three-payment plan, we'll pay you only 50 percent if you die during the first year. And the first day of the second year, we'll pay you the 100 percent. On a longer payment plan like a five year or a ten year, there's two stairsteps: 30 percent the first year; 70 percent the second year; reaches full benefit in the third year. In all of those scenarios the consumer would always have more coming out of the policy if they die during those periods than they would have paid in. So they never are upside down during the limited death benefit period. [LB198]

SENATOR SCHEER: Okay. And finally, as far as the funeral director being an agent, how do you work protecting yourself and others in relationship to an E&O policy? Do most funeral homes carry an E&O policy to cover this exposure on their part? [LB198]

GERRY KRAUS: I'm not sure I understand the question. If... [LB198]

SENATOR SCHEER: Well, most insurance agents, by company requirements, are required to have some type of an E&O policy to cover their errors or omissions. And so if I'm an agent for you, then you do not require anything to cover any error or omission on my part? [LB198]

GERRY KRAUS: We...yeah, I don't know that answer if we have...I know we have errors and omissions coverage in some states where it is required for our agents and I don't know if, just as a blanket policy, we have...cover errors and omissions. I know we're responsible for the acts of our agents under almost all insurance laws. [LB198]

SENATOR SCHEER: Well, the concern I would have is, most funeral directors that I would know of in the state have liability as a funeral director, but that is not contemplated to be in insurance sales as well. So I would assume there would have to be something augmented to that in order to protect... [LB198]

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GERRY KRAUS: I'm sorry, I don't know if we have blanket errors and omissions or not. [LB198]

SENATOR SCHEER: Fair enough. Fair enough. [LB198]

GERRY KRAUS: But I can say this, you have two entities in the transaction, both the funeral directors and the insurance companies and they are some of the best customer service people. If there's a problem, they're going to solve it. [LB198]

SENATOR SCHEER: I'm not disputing that. I was just...technical question. Any other questions? Seeing none, thank you very much. [LB198]

GERRY KRAUS: Thank you. [LB198]

SENATOR SCHEER: Any other proponents for LB198? Seeing none, are there any opponents to LB198? Seeing none, are there any that would like to speak in a neutral capacity? [LB198]

BRUCE RAMGE: (Exhibit 4) Good afternoon, Chairman Scheer and members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge, spelled B-r-u-c-e R-a-m-g-e, and I'm the Director of Insurance. I'm here this afternoon to provide neutral testimony and background on LB198. Currently, the Department of Insurance issues two types of insurance licenses. First is a normal insurance producer license that allows a producer to sell any type of insurance specified in that license. These licenses allow producers to sell multiple lines of insurance if a producer meets certain requirements. The second type of license is a limited line insurance producer license which limits the license to very specific, limited insurance lines. Limited lines license requires less prelicensing education, a less formidable licensing exam, and less continuing education requirements. This makes sense because limited lines producers typically sell products more limited in scope than traditional insurance products and are often far less complicated. Under current law, funeral directors have two types of products that they can sell to consumers and both products are regulated by the department. First is the pre-need trust which is a product that consumers may buy from individuals specifically licensed by the department to sell such products. The pre-need trust is not insurance, but is instead the prepurchase of a funeral by a customer. The funds are held in trust by a trustee, such as a bank. Some funeral directors are also fully licensed life insurance agents able to sell life insurance and annuity products to pay for the cost of a funeral. LB198 provides for a new type of limited line insurance producer license for pre-need funeral insurance. As defined in the legislation, pre-need funeral insurance would be limited to life insurance and fixed annuity contracts purchased by or on behalf of the insured solely to pay the costs of funeral services or funeral service merchandise to be purchased from the funeral home establishment or cemetery. The legislation would limit the amount of prelicensing education and continuing education a

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funeral director would have to take to sell these limited types of insurance products. It is my understanding that funeral directors already have significant continuing education requirements from Health and Human Services for their funeral director license, so that the continuing education requirements of a fully licensed insurance agent is a considerable hurdle for funeral directors to tackle to sell products that are very limited in scope and complexity. If passed, these limited line licenses will have an examination that is more limited in scope. It is important to note that the ethical continuing education requirements would be the same as other insurance producers and I am confident that amount of continuing education required would be more than adequate to continue to provide consumer protection. The advantage to a funeral director of a limited lines license for pre-need funeral insurance is that it will allow more funeral directors to be licensed to sell these insurance products to complement their pre-need trust seller licenses. Depending on the individual situation of the consumer, a pre-need life insurance policy, a pre-need annuity, or a pre-need trust may be more beneficial. Removing preclicensing and continuing education hurdles will allow more funeral directors to become licensed to sell pre-need funeral insurance and thereby allow consumers more choice in meeting their funeral financial needs. Pre-need trusts can also become cumbersome for a funeral director to administer. LB198 would make it easier for a funeral director to direct more business to an insurance product if he or she so chooses. With that, I am very much appreciative of the opportunity to appear before the committee to provide information on LB198. I would be happy to answer any questions of the committee. Thank you. [LB198]

SENATOR SCHEER: Any questions for the director? Seeing none, thank you very much. [LB198]

BRUCE RAMGE: Thank you. [LB198]

SENATOR SCHEER: Any others that would like to speak in a neutral capacity? Seeing none, Senator Williams. [LB198]

SENATOR WILLIAMS: Thank you, Senator Scheer and committee members. The plain fact is, people are dying to get into these funeral homes. We're just simply trying to find a way to help their families pay for it. I appreciate your questions and comments and the interesting discussions about the product. The plain fact is, the product that we're talking about is available today. It's being used in Nebraska today. The funeral director that testified is using the product from the company that also testified. What we're talking about is simply lowering the threshold of education on the front end and continuing education required so that it can be available to more people. My funeral director in Gothenburg presently has a father-in-law who's fully licensed in health and life. So what he is doing, because he cannot take the time to meet the education requirements, is he is meeting with the family, going through all the process, and then at the last minute bringing his father-in-law into the picture to actually sell the insurance because he's

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licensed. That's just not a doable situation in most of our communities. Funeral directors are licensed, prepared, highly ethical in what they are doing, and they're providing that service. And I believe this helps them provide the tools that are necessary to help people pay for these services as they come up. So with that, I would close and encourage the committee to move this bill forward. Any questions? [LB198]

SENATOR SCHEER: Any final questions? Seeing none, that would close the hearing on LB198. Per our agenda, we will take a five-minute break and reconvene at approximately five to 3:00. [LB198]

BREAK

SENATOR SCHEER: We've been retired for about five minutes so I will go ahead and reopen the hearings and we will start on LB139. Senator Johnson. [LB139]

SENATOR JOHNSON: Thank you, Chairman Scheer, members of the committee. My name is Jerry Johnson, J-e-r-r-y J-o-h-n-s-o-n. The purpose of the proposed legislation is to address a multitude of issues concerning the administration and enforcement of the act along with the inconsistencies found throughout the act. The primary purpose is to bring the definitions and applications in line with the Uniform Standards of Professional Appraisal Practice, USPAP, the standards recognized by the Appraisal Subcommittee through Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Over the years the definitions and applications of USPAP have changed, but the Real Property Appraiser Act was not updated to reflect these changes. This has resulted in inconsistent definitions and terms and difficulty establishing cohesiveness between the standards and the act. The board would like to eliminate as much of this inconsistent language as much as possible. I'm going to defer to people that will be testifying. I'm bringing this bill on behalf of the Nebraska appraisers. And if you have some quick questions, I can answer them. But I prefer to defer to the representatives from the appraisal world. [LB139]

SENATOR SCHEER: Okay. Thank you, Senator. Questions of Senator Johnson? Seeing none. [LB139]

SENATOR JOHNSON: Okay. I'll stay. [LB139]

SENATOR SCHEER: Okay. Now open for proponents for LB139. Whenever you're ready. [LB139]

TYLER KOHTZ: (Exhibit 1) My name is Tyler Kohtz, T-y-l-e-r K-o-h-t-z, and I'm the director for the Nebraska Real Property Appraiser Board. I want to thank you, Chairman Scheer, and the members of the committee for the opportunity to speak in front of you today regarding LB139. Senator Johnson did a good job of explaining some of the

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background on what the board does. I'll offer a little more insight into that before we move on. The Real Property Appraiser Board was established as the Real Estate Appraiser Board on January 1, 1991, and the purpose was to carry out the requirements of Title XI of the Federal Financial Institutions Examination Council Appraisal Subcommittee, which is also known by a shorter name, the Appraisal Subcommittee. The Real Property Appraiser Act consists of qualifications for credentialing as well as standards for appraisal practice and appraiser conduct. The board's primary functions related to the Real Property Appraiser Act are to issue new credentials, develop and implement standards for appraiser credentialing, approve appraiser qualifying courses and appraiser continuing education activities, investigate and adjudicate grievances, and disseminate relevant information to the general public, credentialed appraisers, and appraisal management companies. The board's appraiser program is primarily funded by the appraiser credentialing fees and no tax money is used to support the program. The Appraisal Subcommittee does an on-site compliance review of the agency's appraiser program once every two years, the last being in 2013. And the Appraisal Subcommittee has the authority to derecognize a state appraiser regulator program if the policies, practices, and procedures in place are inconsistent with the requirements of Title XI. It's important that the board's program serves the best interests of the citizens of the state, is compliant with Title XI, and operates in a manner that is efficient, consistent, and equitable. LB139 eliminates inconsistencies within the Real Property Appraiser Act. And this act often reads like rings on a tree. Many changes were made to the act throughout the years without consideration of the effect of other provisions on the act. Some definitions and provisions when read together are confusing to interpret and different terms or phrases are used throughout to reference similar things. LB139 eliminates inconsistencies between the Real Property Appraiser Act and the Uniform Standards of Professional Appraisal Practice, also known as USPAP. And that is the quality control standards applicable to real property appraisal practice. USPAP is developed by the Appraisal Foundation's Appraisal Standards Board and is authorized by the United States Congress as the sole source of appraisal standards and appraisal qualifications. Title XI mandates that all appraisals performed in connection with federally related transactions be in written form prepared in accordance with the generally accepted appraisal standards in USPAP and be subject to appropriate review for compliance with USPAP. Approximately 90 percent of the board's investigations concern USPAP violations. USPAP also contains the standards used to evaluate qualifications of the applicant for real property appraisal credentials. And the standing of USPAP in the appraisal industry is the reason why it is so important that the Real Property Appraiser Act and the USPAP are cohesive together. Finally, LB139 provides clarity for administrative issues faced by the board, the specific changes related to the Real Property Appraiser Act found in LB139. I'd like to go through those real quick here. LB139 adds definitions for appraisal review assignment, assignment, automated valuation model, client, credential holder, education provider, employee, instructor, jurisdiction, person, scope of work, specialized knowledge, valuation service, and workfile to provide clarity. The following definitions are also updated: appraisal,

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appraisal practice, complex residential real property, jurisdiction of practice, real property appraisal activity, report, two-year continuing education period. And these updates also are to clarify the interpretation of the act and also provide consistency between USPAP and the Real Property Appraiser Act. LB139 clarifies the Real Property Appraiser Board's ability to issue cease and desist orders related to noncredentialed appraisal practice. And that can be found in section 43, which is modeled after 81-885.03 in the Real Estate License Act. LB139 changes "real property appraiser" to "person" in 76-2221(1) to clarify who this exemption applies to. Also "elected officials" and "automated valuation models" are added to the exempted activities. LB139 removes the requirements for the initially appointed board members, changes a quorum from four to three members, and expands activities that qualify for per diem payments. LB139 adds a requirement that credentials should only be issued to persons who have demonstrated general knowledge of Nebraska law as it pertains to real property appraiser practice. It's the board's position that it's important that those being awarded a credential understand the laws, the rules, and the standards that they're required to adhere to. LB139 adds a real property associate credential for those wishing to be recognized within the appraisal community with a professional designate but do not wish to become credentialed as a licensed or certified real property appraiser. The credential may be utilized by any...in any professional capacity. Some examples could be: a county assessor's office, banks, attorneys, or those in the real estate profession. The requirements will be similar but less stringent to the qualifications of the licensed real property appraiser credential and the scope of work will be limited to valuation services not requiring a credential in one of the other classifications...existing classifications. LB139 adds a requirement that a nonresident must be currently credentialed to appraise real property under the laws of another jurisdiction to qualify for a temporary permit. Also a contractor letter of engagement showing a completion date must be submitted to the board's office prior to a temporary permit being awarded. And LB139 also removes the requirement that an appraiser must submit a letter of good standing from his or her resident state. The appraiser's standing will be verified through the Appraisal Subcommittee's federal registry, which is already an existing method to do...to verify an appraiser's background. LB139 will also limit the validity of an application for a temporary permit to one year. LB139 clarifies the board's authority over temporary permit holders. Currently, the board's authority is unclear after assignment is completed and a complaint is filed against the temporary permit holder. And it creates a situation where at the time the complaint is filed, the subject appraiser is not under the jurisdiction of the board. LB139 clarifies that a credential may be renewed for one or two years, better defines renewal dates, and eliminates the late processing fee for those that are awarded a credential after November 1, but must renew before the end of the current year. LB139 adds an inactive status for current credentialed appraisers. Instead of having to let a credential lapse, an appraiser would have a set period in which he or she could continue to meet the continuing education requirements, but not have to hold an active credential. This ability would prevent an appraiser from being required to reapply and meet the current requirements in place for credentialing if he or she was

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unable to practice for a short amount of time. LB139 clarifies who and when continuing education requirements must be met by appraisers and what those education requirements are. LB139 removes the requirements that the rules and regulations should be transmitted to each credential holder electronically. Currently, the board sends through the mail each resident appraiser a hard copy of the Uniform Standards of Professional Appraisal Practice. LB139 adds additional acts or omissions that shall be considered grounds for disciplinary action or denial of an application by the board. LB139 clarifies the board's investigative authority over noncredentialed individuals. It is the Nebraska Attorney General Office's Opinion that the board does not have statutory authority to investigate noncredentialed holders. LB139 adds requirements for issuance of duplicate proof that a person has been credentialed under the act. LB139 updates the place of business requirements and removes the requirement that proof of credentialing must conspicuously be displayed. The Appraisal Subcommittee's position on reciprocal credential holders is that they should not be held to different standards than resident credential holders and the current language outlines two different standards in this case. LB139 removes the requirement for an appraiser to return his or her proof of credentialing to the board upon surrender, cancellation, suspension, or revocation. LB139 eliminates inconsistencies within the Real Property Appraiser Act, inconsistencies between the act and USPAP, and provides clarity for administrative concerns of the board. Much time was spent drafting and reviewing this language. And furthermore, the board was very transparent during the process and invited interested persons to provide comments and recommendations concerning this language. Those solicited include all Nebraska credentialed appraisers, the Nebraska chapter of the Appraisal Institute, Nebraska Bankers Association, the Nebraska Association of County Officials, the Nebraska Realtors Association, and the University of Nebraska-Omaha Real Estate program. All feedback that was received was taken into account and changes were made in preliminary drafts based on the feedback received. I would like to specifically thank the Nebraska Realtors Association for doing a little extra work to meet us halfway on some ideas that we had. If this bill is not passed, the board will continue to sort through its inconsistencies found in the act and address its administrative concerns the best that it can without adequate statutory guidance. The Nebraska Real Property Appraiser Board supports LB139. I thank you for this opportunity and if you have questions, please feel free to ask. [LB139]

SENATOR SCHEER: Questions? Senator Schumacher. [LB139]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you for your testimony. How will the changes in this bill impact the county assessors and the appraisal work they do for taxes? [LB139]

TYLER KOHTZ: It would currently have no impact on the work that they do. [LB139]

SENATOR SCHUMACHER: The people that they employ, would it impact them? Limit

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the number of people they could employ? [LB139]

TYLER KOHTZ: No, it would not. [LB139]

SENATOR SCHUMACHER: So their help that may be hired now on a part-time basis to appraise real estate in mass appraisals or work in the office, they would not fall under the purview of this act? [LB139]

TYLER KOHTZ: No, as long as they're full-time employees of that county they... [LB139]

SENATOR SCHUMACHER: What if they're part-time? [LB139]

TYLER KOHTZ: If they're part-time employees? [LB139]

SENATOR SCHUMACHER: Right. [LB139]

TYLER KOHTZ: I believe that you have to be a full-time employee. I...if that situation came up, it would have to be addressed as a... [LB139]

SENATOR SCHUMACHER: Well, how would it be addressed if they're not covered in the statute? [LB139]

TYLER KOHTZ: I would say, right now, based on the definition for "employee" that a part-time employee would not be considered under that. So they would have to be a credentialed appraiser in order to provide appraisal services for a county. [LB139]

SENATOR SCHUMACHER: And what would that do to the counties' ability to hire somebody at a reasonable rate that it could afford? [LB139]

TYLER KOHTZ: I couldn't answer that question, I don't know. [LB139]

SENATOR SCHUMACHER: Would you object to language changes in the bill that took those people out of the purview of the act, the part-time employee? [LB139]

TYLER KOHTZ: The board had discussions about that and agreed that they wanted to go with full-time employee in that definition. It would be something that I suppose we could consider, but I couldn't give you an answer yes or no right now. [LB139]

SENATOR SCHUMACHER: Were you aware that there were quite a few counties who hire part-time people to do this work? [LB139]

TYLER KOHTZ: I'm not aware that there's part-time employees hired for this, no. [LB139]



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SENATOR SCHUMACHER: When your board discussed this and took its position, was that part of the discussion that it would be causing these counties to have to hire credentialed people instead of the people that they'd been employing? [LB139]

TYLER KOHTZ: Partially, yes. Where the definition of employee came from, yes, that was part of the conversation. [LB139]

SENATOR SCHUMACHER: So you were aware then of the...that this would be an issue? [LB139]

TYLER KOHTZ: I guess in your context, yes. [LB139]

SENATOR SCHUMACHER: Okay. Is...and your testimony is today--with that single issue aside--this does not impact any way the way that the county assessors do their business, who they hire, put them under regulations or guidance that they aren't already under? [LB139]

TYLER KOHTZ: No. [LB139]

SENATOR SCHUMACHER: It does not? [LB139]

TYLER KOHTZ: It does not, no. [LB139]

SENATOR SCHUMACHER: Thank you. [LB139]

SENATOR SCHEER: Thank you, Senator Schumacher. Other questions? Senator Williams. [LB139]

SENATOR WILLIAMS: Thank you, Senator Scheer. Mr. Kohtz, in your last paragraph or next to the last paragraph of your testimony you talked about the fact that your organization worked with a lot of other organizations and you took their considerations into concern as you reached this. Were there areas that you were not able to address the concerns of these agencies and come to agreement? [LB139]

TYLER KOHTZ: No. For the feedback that we received we were able to address all of the concerns. [LB139]

SENATOR WILLIAMS: So the bottom line is these agencies that are listed here are all on board with these changes? [LB139]

TYLER KOHTZ: All were solicited, not all responded, not all provided actual feedback. [LB139]

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SENATOR WILLIAMS: Okay. One of the issues that we have across the state is finding an adequate supply of appraisers who can conduct appraisals in the time frames that are needed by financial institutions across our state. How do you think this will...what effect will this have on that situation? [LB139]

TYLER KOHTZ: This will have no effect on the time frame that an appraiser operates within. There's nothing in this bill that would affect that. [LB139]

SENATOR WILLIAMS: Will this create more or less availability of appraisers for financial institutions? [LB139]

TYLER KOHTZ: It would be a wash, there would be no difference. This is more related to...most of the language in here is more related to how the board does its business as opposed to the effect on the actual appraiser community. [LB139]

SENATOR WILLIAMS: Okay. Thank you. [LB139]

SENATOR SCHEER: Other questions? I do have a few. I'm confused. To follow up on Senator Schumacher, he asked you specifically if you were aware of the concerns and you said, yes, in the context of his question, that would be the case. Yet Senator Williams asked if all concerns were taken care of in relation to this and you said yes. Now there seems to be a difference because obviously...and I got the same calls that I believe Senator Schumacher did. County assessors do not believe those concerns were adequately covered within the final draft of your revision. So from my perspective, this isn't a finished product in relationship to that. Would you like to respond? I mean, because that I think is Senator Schumacher and my concern is, the county assessors out there do not believe that their concerns were adequately remedied in what you have provided. [LB139]

TYLER KOHTZ: Specifically for the work that county assessors do, this bill really has little to no bearing on them. And what this comes from is, they introduced a bill last session for a mass appraiser act. And they wanted to basically get an exemption in the Real Property Appraiser Act. In terms of this language in this bill we have had no communication from them and they've provided no feedback to the board. [LB139]

SENATOR SCHEER: Okay. And you're not aware that they're also concerned about either part-time employees or contracted employees that would not...would no longer fall under their jurisdiction? [LB139]

TYLER KOHTZ: Every county is in compliance with the Real Property Appraiser Act at this point. So there's no county that, as far as the board is aware of, would have concerns going into this year. Yes, last year there were concerns raised. Last year there

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were discussions. This year there was no feedback from the counties. We've...the board has continued to look into this matter and all counties are following the act. And so there's been no issue as far as the board is concerned. [LB139]

SENATOR SCHEER: Well, I'm confused because that's certainly not the indication that I've received from county officials. But perhaps there might be some others testifying that will be able to clear that up. I can't speak to that. My final question would be, you've changed the number for quorum. What is the number on your board? [LB139]

TYLER KOHTZ: There's five members. [LB139]

SENATOR SCHEER: Okay. And so changing it to three is still a majority, just not a super majority, as one would say. [LB139]

TYLER KOHTZ: Yes. Yes. And the purpose is sometimes travel makes it difficult for a statewide board to get four members at the meeting, where three would make it much easier. [LB139]

SENATOR SCHEER: Have you thought about including in your revamp the availability of using technology for those meetings rather than covering the cost of transportation and housing and everything else, simply making them either telephonic or video-type conference that would meet the requirements of the statute? [LB139]

TYLER KOHTZ: I know there's limitations for boards to be able to use that methodology. I don't...other than that, I know the limitations exist and so it's never been pursued. [LB139]

SENATOR SCHEER: Okay. Is that something that you would like to pursue? [LB139]

TYLER KOHTZ: I don't...I think it would change...it would take a law change outside of our act to be able to do so. [LB139]

SENATOR SCHEER: I'm not sure of that, but that's fine. And one final question: You have always...this act or your association has always covered the requirements to be a county assessor. Is that a correct assessment? Or has anything in this changed? [LB139]

TYLER KOHTZ: No, we do not regulate assessors. We regulate appraisers. [LB139]

SENATOR SCHEER: Okay. So that has no effect on the county at all? [LB139]

TYLER KOHTZ: No, it does not. [LB139]

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SENATOR SCHEER: Okay. All right. Thank you. Any follow-up questions from anyone else? Thank you very much, Mr. Kohtz. [LB139]

TYLER KOHTZ: You're welcome. [LB139]

SENATOR SCHEER: Other proponents? [LB139]

TOM KUBERT: Good afternoon, Senators. My name is Tom Kubert, it's Thomas, T-h-o-m-a-s, Kubert, K-u-b-e-r-t. I am currently the chair of the Nebraska Real Property Appraiser Board, representing District 1...Congressional District 1. I'm in my fifth year on the board. I'm also a certified general appraiser in the state of Nebraska. I am also a licensed broker in the state of Nebraska. I am a certified assessor...deputy assessor in the state of Nebraska. And I currently serve as the Lancaster County referee coordinator for the Lancaster County Board of Equalization. I have heard quite a bit of discussion. Tyler Kohtz, Director Kohtz has done a good job of explaining many of the issues, but thank you for letting us appear today, Chairman Scheer. And thank you to Senator Johnson for introducing our bill. Any time we open our bill, my experience has been that there is a steady stream of people who would like to not be regulated. What we are seeing is normal experience where people would like to not be regulated. There is a lot of discussion about whether assessors are regulated. They are not. They are not part of our act. They are not required to be credentialed under the Nebraska Real Property Appraiser Act. They're elected officials, they're exempt. Their full-time employees who work for their assessors' offices are exempt. Where we have run into problems over the last few years are people who are contracting for appraisal services not being credentialed in our state. The regulations through the Department of Revenue Property Tax Division allow for assessors to contract with people who they feel are qualified. So they are able to hire whoever they feel are qualified. They're the elected official, they can make that choice. What we're seeing is, that the people out providing the services are not necessarily qualified. They may not have any education. They may not have any experience. They have not been subject to any kind of examination or have no regulatory authority. There's no regulatory oversight there. The board has done the best job that they can to try and make sure that the property taxes...I mean the property values being assessed in our state are set by qualified individuals who are not otherwise exempt. And so as they're exempt, we have a hands-off policy. But we have people out there in the private sector who are contracted for services. We have no idea who they are or if they're qualified. We believe that the taxpayers, as part of the mission of our board, deserve to have their assessed values that are represented to be appraised values to be set by credentialed appraisers. There are a number of exemptions in our act. We've talked about elected officials, we've talked about their full-time employees. Owners are exempt. Bank employees are exempt as they do their job. Real estate brokers in some areas are exempt as well as others. The exemption list, in our opinion, in my opinion, is long enough. To extend that beyond there opens up a quandary. If we provide that anyone can provide services to the assessors' offices in

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our state, then that's going to also open up that taxpayers can be represented by anyone. That drives up the cost of the Board of Equalization. If anyone can represent a taxpayer, then my neighbor could go door to door and solicit to represent people at their tax hearings, calculating values, making the county defend those values through their Board of Equalization and on up to the Tax Equalization Review Commission, increasing the expense considerably for all counties. We have solicited as many opinions as we could this year to try to get feedback on our bill. We met directly with them when necessary. I think this is a solid bill. It helps us do our job. It helps us to regulate the over 700 appraisers that serve our state of Nebraska, serving in the banking and finance, but it's also important in property tax. It's also important in condemnation and in litigation. And in those areas, I strongly encourage you to maintain the requirement that those people be credentialed by the state to provide those services. Thank you. [LB139]

SENATOR SCHEER: Questions? Senator Schumacher. [LB139]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Cost to have a credentialed person, a licensed person appraise a home, what's the bill going to be, average? [LB139]

TOM KUBERT: Are you talking about one appraisal for one client, such as a bank? Or are you talking about in a mass appraisal setting? [LB139]

SENATOR SCHUMACHER: I'm talking about, what is it going to cost me for one appraisal on a house? [LB139]

TOM KUBERT: To do it for the bank would run between \$350 and \$400. [LB139]

SENATOR SCHUMACHER: To do it for...why does a bank...do they get a discount rate if they're a bank? [LB139]

TOM KUBERT: I suppose that depends on the bank, Senator. [LB139]

SENATOR SCHUMACHER: Well, of course, they get a discount rate. What would it cost an assessor? [LB139]

TOM KUBERT: Typically those contracts, my experience has been that they're on a per parcel basis. They may be anywhere from as low as \$25 a parcel up to \$100 a parcel. And I would also point out that we have people who provide this service in the private sector who are credentialed in our state. So there are private companies out there who have state credentials who are providing tax ad valorem services to smaller counties and they're doing it with credentialed people. [LB139]

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SENATOR SCHUMACHER: So you're saying it would cost an assessor less than \$100 to have...to contract with somebody and go hit house by house by house? [LB139]

TOM KUBERT: It depends on the scope of services that they need in terms of what they're asking the appraiser to do. [LB139]

SENATOR SCHUMACHER: What I'm trying to get is, how much of an unfunded mandate are we going to put on county assessors by requiring them to do it this way compared to the way that a number of counties are doing it. I don't know about Omaha and Lincoln, but apparently a number of counties are doing it outstate, enough to make the assessors' red flags go up and say, wait a minute, this is going to drive our cost way up. And we're doing just fine now. [LB139]

TOM KUBERT: Under the competitive nature that we have in our market right now there are, off the top of my head, at least four providers of this service who are credentialed in our state. And I'm only aware of a couple who are out there wishing that they were not needing to be credentialed. And so there's services out there. It's able to be provided. It's able to be provided within the guidelines of the Nebraska Real Property Appraiser Act. And I think that that is adequate and also a good protection for the taxpayers of our state that they are taxed fairly and uniformly and consistent with appraisal practice. [LB139]

SENATOR SCHUMACHER: You had made a comment that every time we bring this kind of legislation there are people that oppose it who do not want to be regulated. What type of people are these? What industries are they in? And if they're regulated, what impact would it be on the business out there? [LB139]

TOM KUBERT: Yeah. I'm not sure that they oppose the legislation as much as they would wish to be exempted from it. [LB139]

SENATOR SCHUMACHER: Well, who are these people? [LB139]

TOM KUBERT: I think that we have heard in the past, in front of this committee, we have heard from people who would like to provide mass appraisal services on a contract basis to counties. They would like to be exempt. In my role as the Lancaster County Referee Coordinator for the Board of Equalization, I see tax representatives who would like to be exempt, who would go door to door and solicit business to represent and try and take the commission off of being...going in and be able to argue the value down for any given reason that may or may not be bound in appraisal theory. I also see people that want to be exempt who would like to do price opinions for banks, that they may be knowledgeable in their local market, but they may not be knowledgeable in appraisal theory. I see them out there wanting to provide these services and be exempt from the act. And so there are a number of people that, for their own business reasons,

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would like to be exempt and not be subject to the Uniform Standards of Professional Appraisal Practice. But those guidelines are in place for a reason; they're there to protect people. [LB139]

SENATOR SCHUMACHER: So basically, we've got two worlds out there. We've got the commercial world and they have to meet standards for mortgage loans and documenting their portfolio for sale on the market, estate appraisals which IRS taxes might be computed on. And then we've got the world of mass appraisal that under our system is apportioned out to the county assessors as the primary regulatory authority of the appraisals for tax purposes. And this is an effort then of your board to reach in and propose some type of regulation on the county assessors' purview. [LB139]

TOM KUBERT: No. Our bill would regulate those that provide appraisal services in the state of Nebraska. It has no effect on the assessors or the way the assessor chooses to do their job as an elected official. [LB139]

SENATOR SCHUMACHER: But they cannot...would no longer be able to hire contractors or part-time people to do what they've been doing for years. [LB139]

TOM KUBERT: Well, I don't know about for years, because this has been in our act this way for a long time. But we do ask that the people that provide that service in the state of Nebraska be credentialed. [LB139]

SENATOR SCHUMACHER: At least it's fair to say, currently doing it. [LB139]

TOM KUBERT: We are aware of no county that is out of compliance with the Nebraska Real Property Appraiser Act. [LB139]

SENATOR SCHUMACHER: Not aware of Madison County, not aware of Platte County? [LB139]

TOM KUBERT: Senator, if they're out of compliance with the Nebraska (Real Property) Appraiser Act, I'm not aware of that. [LB139]

SENATOR SCHUMACHER: What language requires those part-time people to be licensed now? [LB139]

TOM KUBERT: The Nebraska Real Property Appraiser Act requires those providing appraisal services that are not full-time employees to be credentialed. If the hang-up is on part-time employee, that may be something that the board would need to simply look at. That's in our policies and that can be looked at. Primarily, this has come to a head in front of our board as contractors, people contracting for services, people going county to county selling their services. This isn't an employee who lives in town working part-time

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answering the phone. This is people providing valuation services. [LB139]

SENATOR SCHUMACHER: Thank you for your testimony. [LB139]

TOM KUBERT: Thank you, sir. [LB139]

SENATOR SCHEER: Senator Craighead. [LB139]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Hi, sorry I walked in late. I was testifying in another committee. Can you explain to me, as an example, within the real estate industry--which, of course, we know appraisal is very closely tied into that--we have agents, brokers, managing brokers, etcetera, with different levels of education and testing. Can you explain to me, within the appraiser industry, those levels of experience, testing, and education? [LB139]

TOM KUBERT: Sure. There are currently three active credential levels within the state of Nebraska. A licensed real property appraiser is, if you will, at the first level of residential. The second level above that is a certified residential. Both those have a scope of one- to four-family units with the certified residential being qualified to do complex properties. With the certified general is the third credential within the state, provided you are credentialed to do all types of property to which you have a competency. There is a competency rule that comes in under the Nebraska act that you need to be competent. And so those are our three credentials. Within our act we have suggested to have a credential as an associate, allowing for people who are entry level who would like to explore more about the industry as a long-term solution to trying to get more appraisers, people interested in the industry. We have heard from some employers who are interested as using it as an employment requirement so they'd have something to show that they're taking classes. The associate credential has the same classes as a trainee, which is 75 hours of education. The trainee would have an exam. And then it goes on up from there in terms of experience and education. [LB139]

SENATOR CRAIGHEAD: Do you think that 75 hours is enough to be adequately qualified to be an appraiser? [LB139]

TOM KUBERT: I do not, and that's why it's 75 hours. An associate would need to work either in an exempt category or with a credentialed person. They could be their office support staff or something of that nature. As a trainee they take the same courses and they would be credentialed to then work with a certified appraiser to gather the experience and education necessary in order to become an appraiser later down the line. [LB139]

SENATOR CRAIGHEAD: Are all appraisers in the state of Nebraska now at the certified level? I know we've had discussions, especially like with Senator Schumacher, where



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we are. Is everyone who is appraising in the state of Nebraska qualified to be doing that job? [LB139]

TOM KUBERT: Under our act, they have met the minimum qualifications for credentialing. [LB139]

SENATOR CRAIGHEAD: Thank you. [LB139]

SENATOR WILLIAMS: Other questions from committee members? Yes, Senator Campbell. [LB139]

SENATOR CAMPBELL: Thank you, Senator Williams. You talked about if the...from a county's perspective that if that person is not qualified, it could eventually cost the county. Can you amplify a little bit on that? [LB139]

TOM KUBERT: Sure. There are a number of places that there are expenses in the assessment field. We have talked today about some of those in the initial setting of the value and what that might cost. But there are other costs that come to the county in terms of the appeal process. And that's where I'm very active for Lancaster County in watching those costs where we have to hire consultants as referees to come in and represent for the county board to process those complaints as well as to analyze what is a reasonable value. Each taxpayer after the county board acts...takes final action can appeal that to the Tax Equalization Review Commission for a fee of \$25, in which there are extensive legal costs and professional fees for testimony there that can reach into the thousands of dollars per parcel. And so there is a risk there. [LB139]

SENATOR CAMPBELL: I'd just like to share with my colleagues that when I served on the county board one of the costs that Mr. Kubert may not be hitting upon because he wouldn't have the figure, but the great cost to the county attorney. And the time and effort it is to defend cases at TERC when you don't have an appraiser that is certified and does a good job. I realize the county assessors may be called into question, but their job is to make sure that they have the best appraisal on a parcel because that's a tax issue. That's what we all count on when we pay our taxes. But I can tell you from a county board's perspective, we paid a great amount of money. It cost us a lot to have the county attorney and their deputies at the TERC hearings all the time. And if you don't have good appraisals, you're in trouble. [LB139]

SENATOR WILLIAMS: Thank you, Senator Campbell. Other questions of the witness? If not, thank you for your testimony. [LB139]

TOM KUBERT: Thank you. [LB139]

SENATOR WILLIAMS: We'd ask other proponents testifying on (LB)139 to come

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forward. [LB139]

JUSTIN BRADY: Senator Williams and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y, and I appear before you today as the registered lobbyist for the Nebraska Realtors Association. They are in support of this bill and they want to thank the appraisers for working with us over the last year. For those of you that were here last year may recall that we actually came in opposed to the bill. There was a provision in the bill that said there was a subjective...if in the subjective opinion of an appraiser they had been influenced by anybody on the appraisal, they could then bring charges or bring sanctions against them. Our opinion from the realtors was, that was probably too subjective. You know, if a realtor says this is a nice two-bedroom or they put in a new bathroom. I mean, at that point are they "influencing" the appraisal? And so that language has been cleaned up and some parts removed. There's still the issues of it's against to bribe and do undue influence in the bill. And so with that we thank them and support the bill. With that, I'd try to answer any questions on that small part. [LB139]

SENATOR WILLIAMS: Questions for Mr. Brady? Thank you, Justin. [LB139]

JUSTIN BRADY: Thank you. [LB139]

SENATOR WILLIAMS: Other proponents? Seeing nobody moving forward, are there opponents that would like to testify? [LB139]

LARRY DIX: (Exhibit 2) Good afternoon, Senators. For the record, my name is Larry Dix, D-i-x, I'm executive director of the Nebraska Association of County Officials, appearing today in opposition to LB139. It's...I find this quite interesting we're spending a tremendous amount of time and it has to do with the assessor component of this bill. And I would tell you about 97 percent of this bill, the assessors have no problem with, they're not involved in. Typically, a bill like this comes forward and it doesn't impact us too much. I'm a little bit concerned by a couple of statements that were made and I just want to clarify that. We were contacted for comments. Anyone who has been around the Capitol for a very long period of time would know that we testified in opposition to the bill in the past. We came to an impasse when it came to mass appraisal. We're still...nothing had ever changed in regards to the exemption on the mass appraisal. And so probably through my fault...I should have said, no, we're still opposed so that these folks wouldn't be able to say they didn't hear anything back from us. But nothing has really changed from where our position was in the past. I passed out a letter from the Madison County Assessor and he apologized he couldn't get down here to testify. Normally we would have an assessor here to testify on that behalf. But earlier testimony indicated that we could...the assessors are exempt. Okay? I think the assessors are exempt. I think it states that. It states it on page 13, line 12. The question becomes employees. And I appreciate Mr. Kubert's experience in Lancaster County. And I appreciate anybody's experience in the eastern side of the state. The concern comes in

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when you get off of the I-80 corridor and you get to rural counties where this expertise is not available. We do not have an over abundance of people out there to do this work. In many of those offices they look to contract with folks who have done this in the past. Now the question was, how long has this contracting gone on? I would tell you with my experience, it's gone on since 1977. That's when I was a deputy county assessor in Buffalo County and Buffalo County contracted for that. So this isn't something new as has been told. This has been going on for a long, long period of time. The issue that comes up, we're really spending a lot of time trying to...we know we want to exempt them. We've got statements saying we don't have any problems with any of the counties out there today. But yet we're spending a lot of time trying to make sure that this person is a full-time person. In Arthur County, we're not going to have a full-time employee to be able to do this. It's not going to happen. There's no way we're going to be able to afford to do this. We're going to probably have to contract, that's the simple fact of it. The reason that I think they're saying there is nobody that is outside of compliance is that right now, through additional expense of the countries, we have jumped through some hoops to make people full-time employees. It's a tremendous expense to some of these counties just to do this. We need to understand and need to separate mass appraisal from fee appraisal. This is mass appraisal. We do thousands of properties. We reassess properties on a rotating basis. All properties in the county have to be reassessed every six years. That's why we want an exemption out of the act. We don't care about the other 99 percent of it that's in here. We're just saying, mass appraisal is so incredibly different that we need to look outside of that. As far as the number of cases that go to TERC, an example that...let me give you, we have had counties that have received cease and desist statements, letters from the Appraisal Board for contracting. A couple of years ago in the western part of the state, a county hired a company to come in from Texas that their profession was in oil and mineral interests. I would tell you there are very few appraisers in the state of Nebraska that specialize in oil and mineral interests. When we did that, that county gets their hand slapped because they contracted with somebody to do that specialized assessment. And that's why we want mass appraisal exempted out of this act. When you look at that on page...line 13...I see I've got a minute left. When you look at that, I don't see anything that says any relationship to employees, full-time, part-time, anything like that. It says: An elected official of this state or any political subdivision of this state who estimates the market value of defined real property while acting in his or her official capacity. I don't read it. And it may be somewhere else in this bill that it talks about full-time and part-time. But I'm...if it's there, I apologize I missed it. But we would be happy to work with the committee to work through those issues. I think you heard from our assessors, you know our points. We've been in front of the committee before, we've raised the same points in the past and as we will raise them again. So I will stop and answer any questions that anybody may have. [LB139]

SENATOR WILLIAMS: Thank you, Mr. Dix. Questions? Senator Craighead. [LB139]

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SENATOR CRAIGHEAD: Mr. Chairman, thank you. Mr. Dix, I have a question. You talk about the few appraisers there are in the western part of the state. If someone wants to sell their home, what do they do? [LB139]

LARRY DIX: They have to hire a fee appraisal. [LB139]

SENATOR CRAIGHEAD: No, I mean who do they hire to sell the home? [LB139]

LARRY DIX: Oh, let me correct. There are a few, very few appraisers who are doing mass appraisal. [LB139]

SENATOR CRAIGHEAD: Okay. But I guess where I'm going is, don't they have to hire a licensed realtor to sell their home? [LB139]

LARRY DIX: Yes, uh-huh. [LB139]

SENATOR CRAIGHEAD: Okay. Are there any more realtors in the western part of the state than there are appraisers? [LB139]

LARRY DIX: I don't know that. [LB139]

SENATOR CRAIGHEAD: Okay. I'm just trying...I mean, I think it may be difficult in both regards, but I just was curious. [LB139]

LARRY DIX: Yeah, I wouldn't know that. I wouldn't know the number of realtors nor would I know the number of appraisers. We just come at it from a mass appraisal point of view. [LB139]

SENATOR CRAIGHEAD: Thank you. [LB139]

SENATOR WILLIAMS: Senator Schumacher. [LB139]

SENATOR SCHUMACHER: Thank you, Senator Williams. On page 11 of the bill it refers to (1)(a) that the act will not apply to any person engaged in appraisal practice in his or her capacity as an employee of (sic: ii) an agency of state government or a political subdivision. I note there that it does not say "full-time" employee. [LB139]

LARRY DIX: Right. [LB139]

SENATOR SCHUMACHER: Page 11 just down about line 8 or so. So that would seem to be that would...part-time employees would be exempt. But then we still have the contractor issue. [LB139]

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LARRY DIX: Yeah. And I think it boils down to the contractor issue. I think, you know, when we cut through this the Real Estate Appraiser Board doesn't like that some folks are doing mass appraisal work for county assessors who are not licensed through the Real Estate Appraiser Board. I mean, let's call it what it is. That's exactly what they don't like about it. [LB139]

SENATOR SCHUMACHER: In...have you had any...I would guess you've had some experience of how many cases go to the TERC board and the issues involved there. Is that true? [LB139]

LARRY DIX: Well, I mean, anybody can of course protest to TERC. I don't know that we have any evidence that there are more cases going to TERC if the mass appraisal is done by a contractor versus a noncredentialed employee. [LB139]

SENATOR SCHUMACHER: And it may be that if Omaha and Lincoln have trouble, it's just those litigious people in Omaha and Lincoln have a lot of younger lawyers looking for work which isn't the case out in Madison or Platte County. [LB139]

LARRY DIX: I think in your larger counties even a lot of your staff are credentialed employees. I think even amongst the assessors' staff there are a number of those people who are credentialed. But, you know, when you get to the rural areas on mass appraisal it's a different world. [LB139]

SENATOR SCHUMACHER: So from the latest perspective that you bring, if we just simply take the assessors' offices out of this green piece of paper, we're cool? [LB139]

LARRY DIX: If you would say mass appraisal is exempt, we're happy. We won't show up again at this hearing. [LB139]

SENATOR SCHUMACHER: Thank you. [LB139]

SENATOR WILLIAMS: Senator Campbell. [LB139]

SENATOR CAMPBELL: Thank you, Senator Williams. Mr. Dix, how many counties would use contracted...because really, as you said, let's just call it what it is. It's not that part-time person, but it's the contracted that comes into a county and does it and doesn't have...I mean, that's what you said as articulate the problems for the county. How many counties would be using contracted companies that aren't certified? Just... [LB139]

LARRY DIX: I would say maybe roughly 20 that we're aware of. [LB139]

SENATOR CAMPBELL: Okay. [LB139]

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LARRY DIX: Some counties contract with companies who are credentialed, some counties contract with those who are not. [LB139]

SENATOR CAMPBELL: Yeah. It would be interesting...and do we know how many companies that is? I mean, are we talking about one company who does 20 counties or two companies? [LB139]

LARRY DIX: Oh, I think probably there's three or four people that are contracted. [LB139]

SENATOR CAMPBELL: Okay. [LB139]

LARRY DIX: You know, the point I guess that I look at is, I know a number of these folks that contract. And they're not people just off the street assigning value. They've had a great deal of experience. Some of them have previously been assessors, I mean, so they have that. So to say that these folks would set values differently or less accurately than the exempted part-time employee that the assessor has to sign off on...the assessor has to sign off on all the values. That is the assessor's responsibility. So it's hard to make the argument that the person who is experienced, but just noncredentialed is doing anything that's setting values and doing a poor job of that than an employee who is exempt. It's mass appraisal. [LB139]

SENATOR WILLIAMS: I have one question, Mr. Dix, I'd like to follow up on. I think you stated that at the current time none of the counties are out of compliance, but you're doing some creative things making people employees or full-time employees. Can you clarify that statement for me, please? [LB139]

LARRY DIX: Sure. Because of the cease and desist orders that were issued some counties have contracted with people for a number of years to establish their values. A couple of years ago, the Appraiser Board said, okay, we need to have a cease and desist order for these people because they're not credentialed. Counties have a unique--not necessarily unique to counties--but political subdivisions have the ability to sign interlocal agreements. And so in doing so, you can hire somebody as an employee full-time in a county and then a county, numerous counties, can sign interlocal agreements to utilize that person's expertise. They meet the requirement of an employee by everything that's stated. Multiple counties then can do that. What happens is then when you do that you are paying more for that service because now you're starting to pay benefits to that employee, where normally you wouldn't from a contracted point of view. And so that's been what has been represented to me as to what counties are looking at doing. [LB139]

SENATOR WILLIAMS: If we were to adopt LB139 in its present form, even though it

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would cost more, could the counties continue to get around that issue on the mass appraisals by doing the interlocal agreements? [LB139]

LARRY DIX: They probably could until you get to probably some of the most sparse areas. In some of those areas it would probably be hard to sign that much of an interlocal agreement when...let me take for an example, Grant County. You know, they may have just a handful of properties that had any change in them over the past year. So, I mean, creatively, it could be done. I would never say it couldn't be done. What's funny about that when you think about it, at the end of the day that same person is establishing that value. [LB139]

SENATOR WILLIAMS: Yes, Senator Craighead. [LB139]

SENATOR CRAIGHEAD: I think I'm confused here. I'm trying to make the correlation between qualification, followed by to be an appraiser, and full-time employee. [LB139]

LARRY DIX: When we think of a full-time employee, that is somebody employed by the county that meets the personnel requirements of that county to determine what full-time employment is. That may be that that person must work 35 hours a week; that would probably qualify. Forty-hours a week, that would qualify that person as a full-time employee. [LB139]

SENATOR CRAIGHEAD: Right. But just because they work 20 hours a week or 40 hours a week, I guess what I'm trying to say is, if they're working 40 hours a week why does that make them qualified for...to serve as an appraiser when working at 20 hours may not? [LB139]

LARRY DIX: That's our exact point. Right now it states that if they're an employee they don't fall under the act. So we've got numerous employees working in assessors' offices that are full-time...just...you know, all the way down to very clerical people. So that really is the point we're trying to make. [LB139]

SENATOR CRAIGHEAD: Thank you. [LB139]

SENATOR WILLIAMS: Senator Schumacher. [LB139]

SENATOR SCHUMACHER: Thank you, Senator Williams. What is the teeth behind a cease and desist order? Is there a fine? Is there jail time? How many years in Leavenworth? [LB139]

LARRY DIX: I couldn't answer that. I don't know. I don't know. [LB139]

SENATOR SCHUMACHER: Thank you. [LB139]

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SENATOR WILLIAMS: Any further questions? If not, thank you, Mr. Dix. [LB139]

LARRY DIX: Thank you. [LB139]

SENATOR WILLIAMS: Other opponents? [LB139]

BILL PETERS: (Exhibit 3) Members of the committee, my name is Bill Peters, B-i-l-l P-e-t-e-r-s. I'm appearing in opposition to LB139 as an individual and from my professional experience, representing no specific clients, though I must tell you I have clients that are involved very deeply in this issue since about 80 percent of my practice is property tax. My opposition is the unfunded mandate on counties and cities when we depart from the issue of federally related transactions. Larry and I would disagree but mean the same thing when we talk about mass appraisal. We are short of appraisers. And if the bankers didn't have to get a new report every six months we might have enough appraisers that we could get our inheritance taxes worked out. There is a shortage of appraisers. The shortage of appraisers, for whatever reason, is keeping the price up. This bill would force the counties to hire more. That's what I call the unfunded mandate to the counties. Our system has an unfunded mandate to the taxpayer. To prevail in a case on county values you have to establish: one, that the county was arbitrary and unreasonable. And the court has many pages of that that make those rather strong terms. Then once that is established you have to establish the real value of the property. Now if you have a property of any significance my recommendation is going to be, we've got to get us an appraisal. But I don't necessarily need that appraiser that came in and did the oil and gas out in the Panhandle. I might need an appraiser that's really good on strip malls, but doesn't require the certification. I don't need the certification. Right now if I'm going to TERC with a nice home, I can't use a real estate broker for a witness. I use the owner, usually the one that knows probably less about their value or has a more positive opinion of their value. I have to have a USPAP trained appraiser. I might digress a moment on Platte County. Platte County is working under an interlocal governmental agreement and the appraiser is a former state appraiser. His degree is in soil science. He's only worked in the business 30 or 40 years. The other thing is that the appraiser working for the counties, the smaller counties, often does their pickup work as well as any particular property, doing that function of the assessors. I think we should also remember that the assessor is an individual who had many titles before she gets to assessor: clerk of the district court, register of deeds, county clerk, and assessor. A lot of their work has to be hired. They're elected to the office and we don't elect county appraisers. I have passed--I hope it's passed around--what I think is an easy solution for now. It's sort of kicking the can over to another committee. Until '94, under the Appraiser Act we didn't do anything on property tax. In fact, this language that I've submitted is an exact quote from the reissue of 1994 which says that real estate taxation is not covered by the Appraiser Act. That answers the specific concerns that have been expressed, but you should be aware that this transfers some jurisdiction to



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the Department of Revenue. The Department of Revenue, approximately four or five years ago, proposed regulations for qualifications for assessors' personnel on appraisals. And it got stopped in the Attorney General's Office as the Attorney General pointed out that the reappraisal act was all encompassing and, therefore, the department would have no authority to take any action as far as a formal regulation. Adoption of this amendment would open it and put the responsibility back to the department to be in charge of any training requirements. There are currently...I personally know of three of the guys out there doing appraisals, four or five doing individual appraisal work. Some are credentialed, some run their answers through a credential, and some are just doing the work; the county attorneys have told them to go ahead. Once those values are appealed, it's still up to the taxpayer to find a witness if it's in addition to the taxpayer to determine the value that should be used in an appeal to TERC. There's one last point that I need to mention because I know some strong feelings in Lancaster County. One of the issues that has come up is what we call the consultants that sign contracts with... [LB139]

SENATOR WILLIAMS: Mr. Peters, the red light is on. Could I ask you a question to go ahead with the statement that you're making about Lancaster County? Thank you. [LB139]

BILL PETERS: And then shut up. [LB139]

SENATOR WILLIAMS: No. I asked you to finish. [LB139]

BILL PETERS: I will. But sign contracts to file a protest at the county level with the county commissioners in Nebraska. They often do not show up. Sometimes they send written documentation. I know that has caused some concern. However, I would point out that once they get past the commissioner level, county commission, then they have to hire a local attorney, which is good. That concludes my testimony. [LB139]

SENATOR WILLIAMS: Thank you, Mr. Peters. Questions for our witness? No questions. Thank you, Mr. Peters, for your testimony. Are there other opponents to testify? Is there anyone who wishes to testify neutral? Hearing none, Senator Johnson, would you like to close? [LB139]

SENATOR JOHNSON: My closing will be brief. The main reason I stayed here partly was for education purposes, as you have done a very good job of analyzing the bill. And it appears that we're almost to the goal line, but maybe that last couple, three yards is going to be tough to get things together. But I'll talk with my presenters and see where they want to go with it and see if there's some things they want to change or how they want to proceed. So I appreciate your time and will close with that. [LB139]

SENATOR WILLIAMS: Thank you, Senator Johnson. Are there any questions or

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comments that any members would like to make? Senator Schumacher. [LB139]

SENATOR SCHUMACHER: Thank you, Senator Williams. And I probably should have asked this question earlier, but I've got a situation now where I've got some brothers and sisters own a farm, three or four of them together. And they want...the brother wants to buy the sisters out. Okay? And so they want to come up with a number, a fair number. They ask an appraiser what it would cost to appraise a farm and they got a guesstimate back of about \$5,000. They asked the local auctioneer who's familiar with the sale of farms, probably as familiar as the appraiser is, if for a couple hundred bucks he'd shoot them a figure that they're perfectly satisfied with. Would this prevent that auctioneer from doing that? [LB139]

SENATOR JOHNSON: A conflict of interest, you mean? [LB139]

SENATOR SCHUMACHER: No, not a conflict of interest. From giving them...shooting them the figure of \$200, for \$200. [LB139]

SENATOR JOHNSON: Oh, I don't know. I'll defer, but I would doubt it. I don't know. [LB139]

TOM KUBERT: It does not change that that one is not right. This bill does not change the fact that that is not a credentialed (inaudible.) [LB139]

SENATOR SCHUMACHER: So what is being done often and frequent. [LB139]

SENATOR JOHNSON: Yeah. [LB139]

SENATOR SCHUMACHER: Thank you. [LB139]

SENATOR WILLIAMS: Any other questions of Senator Johnson? Thank you, Senator Johnson. [LB139]

SENATOR JOHNSON: Thank you. [LB139]

SENATOR WILLIAMS: This will close the hearing on LB139. At this time we will open the hearing on LB269 and invite Senator Hughes to the witness table. [LB139 LB269]

SENATOR HUGHES: (Exhibit 1) I'm glad you saved the best till last. I will be brief. [LB269]

SENATOR WILLIAMS: That's enough. [LB269]

SENATOR HUGHES: Good afternoon or good evening, whatever it is. Chairman

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Williams, members of the Banking, Commerce and Insurance Committee, for the record, my name is Dan Hughes, D-a-n H-u-g-h-e-s. I represent the 44th Legislative District. I am here today to talk about LB269. This is a very simple bill that was brought to me by the Nebraska Abstracters Board of Examiners. This bill simply removes the requirement that abstracters...the Abstracters Board of Examiners prepare, publish, and distribute a roster of all the registered abstracters in the state of Nebraska. Currently, they collect the names and places of business of abstracters which is then mailed to all the abstracters...registered abstracters biennially. I do have an amendment that is passed out to you that I would like the committee to consider, AM68. There was a concern by the title industry. They want to make sure the information regarding the abstracters registry is available to the title industry and to the public. If the amendment is adopted, the bill would read: A roster showing the names and places of business of abstracters holding an operative certificate of registration shall be prepared by the director and maintained and updated at least annually on the board's web site in a printable format. Since the Abstracters Board is a government agency it makes sense that the roster is currently...of currently licensed abstracters be available to the public. Since we are eliminating the requirement that a hard copy of the abstracters roster be mailed to each abstracter, we are adding a provision that the roster be available on-line in a printable format. This will allow the information to be available to the abstracters, the title industry, and interested members of the public. I believe there will be people following me that can explain why this is no longer necessary in this day and age. I'll be happy to try and answer any questions. [LB269]

SENATOR WILLIAMS: Thank you, Senator Hughes. Senator Craighead. [LB269]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Senator Hughes, how many abstracters are there in the state of Nebraska, about? [LB269]

SENATOR HUGHES: I don't have that in my notes. I think there will be someone from the Board of Abstracters that may be able to answer that. [LB269]

SENATOR CRAIGHEAD: Okay. I just wondered. [LB269]

SENATOR HUGHES: Yeah. [LB269]

SENATOR CRAIGHEAD: And I guess my other thing is, why would anyone really need the name of abstracters unless you were a title company? [LB269]

SENATOR HUGHES: Yeah. My understanding, if you want to buy property at the other end of the state, you would call an abstracter, a licensed abstracter. You could look up in the book today, find an abstracter in Chase County where I'm from, licensed abstracter. They would go look and do the title search for the property within that county, refer back to you that, yes, title is free and clear or, no, there may be a couple of

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hiccups. [LB269]

SENATOR CRAIGHEAD: Thank you. [LB269]

SENATOR HUGHES: Okay. [LB269]

SENATOR WILLIAMS: Other questions? Seeing none, thank you, Senator Hughes. [LB269]

SENATOR HUGHES: Thank you. [LB269]

SENATOR WILLIAMS: We would invite those speaking in favor of LB269 to the witness table. [LB269]

DEBORAH SCOTT: Good afternoon. I am Deborah Scott, D-e-b-o-r-a-h S-c-o-t-t, and I'm currently the vice chair of the Abstracters Board of Examiners. I'm here today to testify in support of LB269. The Abstracters Act requires that the Abstracters Board of Examiners publish a directory every two years. This legislation is sought to eliminate that requirement. Currently, all of the information that would be contained in a directory is available on our web site and the web site is not only less expensive, but is actually more current because it's updated after each test is administered and graded. With the advent of, you know, technology and web sites and so forth, most other agencies that have licensees have eliminated the publishing requirement and mailing out the hard copies. Our hope today is that we will no longer be required to do that either. The expense of publishing the directory accounts for about 4 percent of our budget. Maintaining the web site is only about 1 percent of our budget. That's pretty much all I have. Questions? I heard some, yes. [LB269]

SENATOR WILLIAMS: Senator Craighead. [LB269]

SENATOR CRAIGHEAD: Mr. Chairman. So how many abstracters are there in the state of Nebraska? [LB269]

DEBORAH SCOTT: There are roughly 400, give or take. [LB269]

SENATOR CRAIGHEAD: Never thought about that though. [LB269]

DEBORAH SCOTT: Right. And it's interesting. Am I just at liberty to speak freely here? [LB269]

SENATOR WILLIAMS: Yes, you are. [LB269]

DEBORAH SCOTT: Okay, so. It's interesting. It was kind of touched on a little bit earlier.

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Why would you need to find an abstracter? You know, as we become more technologically dependent, oftentimes title companies on the eastern side of the state need to find somebody that they feel is competent. So they reach out to their abstracters directory and find someone that they feel is qualified to produce a title search that they can rely upon in the issuance of the title insurance that you mentioned. [LB269]

SENATOR CRAIGHEAD: Thank you. [LB269]

DEBORAH SCOTT: You're welcome. [LB269]

SENATOR WILLIAMS: Senator Gloor. [LB269]

SENATOR GLOOR: Thank you, Senator Williams. Thanks for your testimony. I'm just curious, if we're moving to on-line is it reasonable to think that this might ultimately be a document that's continuously updated as opposed to just annually updated? [LB269]

DEBORAH SCOTT: It's actually updated at least twice a year. We administer our exams twice a year. So after each test then and they're graded and we have new abstracters come on board, then we update that directory, yes. [LB269]

SENATOR GLOOR: So why the language that says, "at least annually"? I'm just... [LB269]

DEBORAH SCOTT: Probably so that there's a statutory requirement for it to get done so that it doesn't fall by the wayside. Right now, Mardy McCullough, she's our current director, at some point in time she's going to retire. We need somebody that's in the position of the director that's going to keep these records available on-line updated. [LB269]

SENATOR GLOOR: Have you attempted to go on-line before or is this your first go at going away from paper to electronic? [LB269]

DEBORAH SCOTT: The topic has actually come up a couple of different times with the Abstracters Board. This is our first attempt at getting a legislative resolution of that. It's just been a requirement up to this point. [LB269]

SENATOR GLOOR: Okay. For some reason there was a ring of familiarity to that...to this, but... [LB269]

DEBORAH SCOTT: Perhaps it was one of the other agencies that doesn't have to do it anymore. [LB269]

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SENATOR GLOOR: Sure. Thank you. [LB269]

SENATOR WILLIAMS: Senator Schumacher. [LB269]

SENATOR SCHUMACHER: Thank you, Senator Williams. To who do you mail out this thing currently that costs you 4 percent to do? [LB269]

DEBORAH SCOTT: Each registered abstracter is currently entitled to a hard copy, so. [LB269]

SENATOR SCHUMACHER: Okay. What is 1 percent of your budget? [LB269]

DEBORAH SCOTT: Unfortunately, I did not look at our budget and I don't know off the top of my head. But it's about--I'm just taking a guess here--I think it's approximately \$70,000 on a biennial. [LB269]

SENATOR SCHUMACHER: Seventy thousand, so we're talking 1 percent of seventy thousand dollars is what this web page is going to cost? [LB269]

DEBORAH SCOTT: The web site is already in place. The information is already available so it's not going to be a cost that we're going to be incurring or swapping out or anything like that. The...I believe that the information was provided in this testimony just so you can have an idea about the cost of mailing and...not...preparing the hard copy directory and postage for mailing. It's just that much more than it is to, you know, maintain it on the web site, which is already being done, so. [LB269]

SENATOR SCHUMACHER: Are you guys listed on the index of the state of Nebraska's web page? [LB269]

DEBORAH SCOTT: The Abstracters Board? Yes. [LB269]

SENATOR SCHUMACHER: You are? Okay. [LB269]

DEBORAH SCOTT: Uh-huh, right. [LB269]

SENATOR SCHUMACHER: So if somebody were trying to find your web page, they...if they stumble onto that one they could stumble onto yours. [LB269]

DEBORAH SCOTT: Yes, absolutely. [LB269]

SENATOR SCHUMACHER: Thank you. [LB269]

DEBORAH SCOTT: Uh-huh. [LB269]

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SENATOR WILLIAMS: A couple of quick questions, Ms. Scott. Is there anyone in addition to the current abstracters that are mailed the hard copy or if they requested it, would be mailed the hard copy? [LB269]

DEBORAH SCOTT: So there are a couple of older abstracters that have not migrated to the age of technology and still operate with typewriters and fax machines and the like. And there are only a couple of them that we're aware of. And yes, upon request, they would get a hard copy. [LB269]

SENATOR WILLIAMS: Are you also sending this list to any attorneys? [LB269]

DEBORAH SCOTT: I'm told that the abstracters are listed in the bar directory, so that would be not necessary. [LB269]

SENATOR WILLIAMS: Okay. The reason I'm asking that question, I'm aware of...as opposed to lawyer Schumacher who is very technologically adept, the senator that I replaced does not touch a computer. [LB269]

DEBORAH SCOTT: Okay. [LB269]

SENATOR WILLIAMS: And he practices law in my district. Do you see that as a problem for professionals that may need the use of an abstracter, but don't use technology to find them? [LB269]

DEBORAH SCOTT: No, I don't see that as a problem at all. [LB269]

SENATOR WILLIAMS: Any other questions? Thank you for your testimony. [LB269]

DEBORAH SCOTT: Thank you. [LB269]

SENATOR WILLIAMS: Other proponents? Are there any opponents? Anyone who would like to testify neutral? Senator Hughes, the floor is yours to close. You waive closing. [LB269]

SENATOR GLOOR: Oh, wait a minute. [LB269]

SENATOR WILLIAMS: It's not allowed. It's not allowed in the Banking Committee. [LB269]

SENATOR GLOOR: This is his only bill. We can't let him off the hook without closing. It's not 5:30 yet. [LB269]

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SENATOR HUGHES: I'll be happy to try and answer questions from the committee.  
[LB269]

SENATOR GLOOR: I don't have any questions. [LB269]

SENATOR WILLIAMS: I guess there's no questions. Yeah, Senator Schumacher.  
[LB269]

SENATOR SCHUMACHER: Thank you, Senator Williams. Could you at least keep us  
here till 5:30? [LB269]

SENATOR HUGHES: I don't believe that's within my power, Senator. [LB269]

SENATOR WILLIAMS: Thank you, Senator Hughes. That will close the hearing on  
LB269. [LB269]