

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

Banking, Commerce and Insurance Committee
January 30, 2017

[LB137 LB231 LB239 LB241]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, January 30, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB137, LB231, LB241, and LB239. Senators present: Brett Lindstrom, Chairperson; Matt Williams, Vice Chairperson; Roy Baker; Tom Brewer; Joni Craighead; Mark Kolterman; John McCollister; and Paul Schumacher. Senators absent: None.

SENATOR LINDSTROM: All right, we'll go ahead and get started here. Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Brett Lindstrom, I am from Omaha and represent District 18 in northwest Omaha. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The 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 this committee, just part of the process. To better facilitate today's proceeding, I ask that you abide by the following procedures. The information is posted on the chart to your left. Please silence or turn off your cell phones. Move to the front of the row when you're ready to testify. The order of testimony will go introducer, proponents, opponents, neutral, and closing. Testifiers, please sign in, hand your pink sheet to the committee clerk when you come to testify. Spell your name for the record before you testify. Please be concise. It is my request that you limit your testimony to five minutes. We will use the light system, which means at four minutes it will be the green light, with one minute to go it will be the yellow light, and when your time is up you will see the red light. If you will not be testifying at the microphone but want to go on record as having a position on a bill heard today, there are white tablets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We will need ten copies. If you have written testimony but do not have ten copies, please raise your hand now so the page can make copies for you. To my immediate right is the committee counsel, Bill Marienau. To my far left is committee clerk, Jan Foster. And we will start on the far right, Senator Schumacher is presenting a bill as we speak and will come later. And we'll start with Senator Kolterman.

SENATOR KOLTERMAN: Senator Mark Kolterman from 24th District, Seward, York, and Polk Counties.

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

Banking, Commerce and Insurance Committee
January 30, 2017

SENATOR BREWER: Senator Tom Brewer from the 43rd District, 13 counties of northwest Nebraska.

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

SENATOR BAKER: Senator Roy Baker, District 30, all of Gage County, part of southern Lancaster County, and a little bit of Lincoln.

SENATOR McCOLLISTER: Senator John McCollister, District 20, central Omaha.

SENATOR LINDSTROM: And Senator Craighead is also introducing a bill and will be here soon. Our page today is Phillip Levos from Columbus. Thank you, Phillip. The committee will take up the bills today in the order that was posted outside the door. And I will turn the committee over to Senator Williams because I have the first bill.

SENATOR WILLIAMS: Thank you, Chairman Lindstrom. And Chairman Lindstrom, would you like to introduce LB137? [LB137]

SENATOR LINDSTROM: Thank you, Vice Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Senator Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, representing District 18 in northwest Omaha. Today I bring before the committee LB137, which I introduce on behalf of the Director of Insurance, Bruce Ramage. The legislation would adopt the Unclaimed Life Insurance Benefits Act, a model law adopted in over 20 states. LB137 requires life insurers to perform a comparison of its insured, in-force policies and retained asset accounts against the Death Master File of the United States Social Security Administration or similar database to identify potential matches. The legislation also places duties on the life insurers to investigate potential matches to confirm death, determine whether or not benefits are due, and if benefits are due complete a good faith effort to locate the beneficiary. Finally, LB137 provides some flexibility to the director in unusual situations where an insurer may have difficulty complying with this new law. Failure to comply would be an unfair trade practice in the business of insurance and would subject the insurer to administrative penalties levied by the Department of Insurance. Director Ramage from the Department of Insurance is going to testify next and I am certain he will provide a fuller explanation of LB137. Thank you for your time. [LB137]

SENATOR WILLIAMS: Questions for Senator Lindstrom? Seeing no questions, we would invite Director Ramage to testify next. [LB137]

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

Banking, Commerce and Insurance Committee
January 30, 2017

BRUCE RAMGE: (Exhibit 1) Good afternoon, 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 am the Director of Insurance for the State of Nebraska. I am here today to testify in support of LB137. And I would first like to thank Chairman Lindstrom for introducing LB137 on the Department of Insurance's behalf. As Senator Lindstrom has already stated, LB137 would adopt the Unclaimed Life Insurance Benefits Act. This is a model act from the National Conference of Insurance Legislators, commonly referred to as NCOIL. NCOIL is a national group of state legislators interested in insurance. Occasionally, NCOIL passes model legislation in an issue area where the National Association of Insurance Commissioners or NAIC has not acted. Unclaimed life benefits is one of those areas. Unclaimed life benefits have become an issue of national awareness. In the past few years, life insurers have come under scrutiny from both state insurance regulators and unclaimed property administrators on the use of something called the Death Master File of the United States Social Security Administration. Audits and market conduct examinations of the insurers found that some insurers were utilizing the Death Master File for some products, but not for others. As a result, most life insurers entered into agreements to utilize the Death Master File to compare its insureds' policies, such as life insurance policies, annuities, and retained asset accounts, against the database to find potential matches. While these agreements cover much of the life insurance industry, the agreements do not at this time include all insurers. I believe it is time for all life insurers doing business in Nebraska to utilize the Death Master File to search for potential matches. This is why I asked Senator Lindstrom to introduce LB137. The nuts and bolts of LB137 are simple. The legislation requires insurers, semi-annually, to compare its in-force policies against the Death Master File for potential matches. And I stress potential matches because while I know it may be a shock to the committee, the federal government's database is not always entirely accurate. If a potential match is found, LB137 requires the insurer to complete a good faith and documented effort to confirm the death, determine whether or not benefits are due, and if benefits are due to attempt to contact the beneficiary and provide the beneficiary with necessary forms and instructions. The legislation does not limit the ability of the insurer to request a valid death certificate. LB137 requires the insurer to implement procedures related to the search of the Death Master File to account for inexact personal identifiers. This is important because, again, information in the Death Master File or in the insurer records may not be entirely accurate. When the Department of Insurance conducts examinations of insurers, the examiners will be on the lookout for these procedures to help the insurer conduct the best comparison possible. If an insurer determines that benefits are due to a beneficiary, the benefits are payable to the designated beneficiary with applicable interest. If a beneficiary cannot be found the insurer is to comply with section 69-1303, which relates to unclaimed funds held by a life insurer, and once the funds are presumed abandoned the insurer notify the State Treasurer that a beneficiary has not submitted a claim and that the insurer complied with the provisions of LB137. The language in LB137 in no way limits the current authority of the State Treasurer to conduct or authorize unclaimed property Death Master File audit searches pursuant to the Treasurer's authority in section 69-1322. LB137 does allow the

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

Banking, Commerce and Insurance Committee
January 30, 2017

Director of Insurance the flexibility to order that an insurer limits its comparisons to electronic files, exempt or limit an insurer from a comparison because of demonstration of hardship, or phasing in compliance. This flexibility provides the department the ability to utilize a common-sense approach of regulation during the implementation of LB137. In particular, I am concerned that without this flexibility some blocks of life insurance would become essentially nontransferable between companies, thereby impeding an important solvency tool the department utilizes to keep companies out of receivership. LB137 fits in well with the department's overall regulation of life insurer's conduct and claims handling. To that end, failure of an insurer to comply with the provisions of LB137 shall be an unfair trade practice in the business of insurance subject to the Unfair Insurance Trade Practices Act, which subject the insurer to administrative penalties, including fines levied by the Department of Insurance. In drafting this legislation, the department has had considerable conversations with multiple interested parties. I want to express my appreciation to both the life insurance industry and the State Treasurer for their work with the department on LB137. I appreciate the committee's patience on this lengthy explanation of LB137. I would gladly answer any questions the committee might have at this time. Thank you. [LB137]

SENATOR WILLIAMS: Thank you, Director Ramge. We'll start with Senator McCollister. [LB137]

SENATOR McCOLLISTER: Thank you, Senator Williams. Let's talk about the Death Master File for a minute. [LB137]

BRUCE RAMGE: Yes. [LB137]

SENATOR McCOLLISTER: How accurate is the Death Master File? [LB137]

BRUCE RAMGE: We hear those occasional stories that someone gets tagged as being deceased when they are not and that they have to work with the federal government to get those records corrected. And also, there are occasions where maybe someone uses a name that's different than their birth name, like a Robert or a Bob or a Charles or a Chuck or things like that, and that's why the proposed bill doesn't require that the claim be immediately paid if they find a match. It's just that it requires that they open an investigation and determine that the person is, in fact, deceased and reach out to the beneficiaries. [LB137]

SENATOR McCOLLISTER: That name goes on a list, I would presume, when someone goes to claim the death benefit from Social Security? Is that... [LB137]

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

Banking, Commerce and Insurance Committee
January 30, 2017

BRUCE RAMGE: That is probably the case, yes. Then they use that then also in terms of administering the monthly Social Security checks. So I imagine they could get a notification from a relative, a spouse, a bank, a number of different ways. [LB137]

SENATOR McCOLLISTER: Okay. Are there any state sources of information that you use for the same purpose? [LB137]

BRUCE RAMGE: There probably are. However, because of the mobility of our society it would be much easier to have a central location. I believe there are vendor services out there that could be used as well that make use of maybe not only the Social Security Death Master, but other sources as well. And maybe if there's someone here from one of the trade associations they could elaborate on that, because I'm not as familiar. [LB137]

SENATOR McCOLLISTER: Well, you're using, I presume, the Social Security numbers as the reference point? [LB137]

BRUCE RAMGE: That is the primary basis, Social Security numbers and names, because on some of the older blocks of business companies did not even collect the Social Security numbers or the records could be wrong. Someone may have transposed a number. So again, that's why there is a requirement to do these name matches to try to determine if the (inaudible). [LB137]

SENATOR McCOLLISTER: And generally the insurance companies have the Social Security numbers, too? [LB137]

BRUCE RAMGE: Generally, they do, yes. [LB137]

SENATOR McCOLLISTER: Okay. Wouldn't the Nebraska Revenue Committee...Department have the Social Security numbers you could look up? [LB137]

BRUCE RAMGE: That...I don't know. I'd have to get back to you. [LB137]

SENATOR McCOLLISTER: Okay. [LB137]

BRUCE RAMGE: I would guess that's correct. [LB137]

SENATOR McCOLLISTER: Thank you. [LB137]

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

Banking, Commerce and Insurance Committee
January 30, 2017

BRUCE RAMGE: You're welcome. [LB137]

SENATOR WILLIAMS: Senator Baker. [LB137]

SENATOR BAKER: Thank you, Senator Williams. I understand the intent of LB137 and agree to its desirability. And you indicate some insurance companies already do this. [LB137]

BRUCE RAMGE: Yes. [LB137]

SENATOR BAKER: So I assume there's some software program that you could take this list of deaths against the client list and somehow look for matches? [LB137]

BRUCE RAMGE: Yes. It would be done by use of a computer program. And whether the company develops their own or whether they go out and purchase software, I would think that there are tools available. [LB137]

SENATOR BAKER: You know there are tools available? [LB137]

BRUCE RAMGE: Yes, because so many of the large insurers now have already implemented the procedures. [LB137]

SENATOR BAKER: Thank you. [LB137]

BRUCE RAMGE: Yes. [LB137]

SENATOR WILLIAMS: Senator Kolterman. [LB137]

SENATOR KOLTERMAN: Thank you, Senator. Director Ramge, I understand what you're trying to do here. I have a question about the part that excludes certain policies. [LB137]

BRUCE RAMGE: Okay. [LB137]

SENATOR KOLTERMAN: So we're looking at employee benefit plans that are ERISA. We're looking at funeral...pre-need funeral contracts, group master policyholders, and then employment-based retirement plans that use an annuity to fund them. Why is it we're excluding those items from this? First, what does it really cover, the individual policies? [LB137]

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

Banking, Commerce and Insurance Committee
January 30, 2017

BRUCE RAMGE: It mostly it...primarily individual policies. I believe the reason for excluding some of those group policies is maybe some of those had been traditionally written on a blanket basis where the data would reside back with the employer, rather than at the insurance company. And it would just be unwieldy for them to try to match that up without getting all the information from the employer. [LB137]

SENATOR KOLTERMAN: Well, and again one of the concerns I have about excluding all of those is, I've had a little bit of experience working with unclaimed property. And a lot of times somebody quits their employment and moves out of state or just moves away and nobody has a clue where to reach them. They might die and never make a claim against the policy. If we exclude them, will there ever be an opportunity or...and maybe I can ask the director coming up about that. [LB137]

BRUCE RAMGE: Yes. It's probably not a perfect situation, but I think it goes a long way to improve the current situation and to get more companies now doing what is rapidly becoming the expected norm. [LB137]

SENATOR KOLTERMAN: Okay, thank you. [LB137]

BRUCE RAMGE: You're welcome. Thank you. [LB137]

SENATOR WILLIAMS: Can you give us an idea of how many are doing this now compared to how many aren't? [LB137]

BRUCE RAMGE: I would guess that in terms of market share, probably 60 percent to 65 percent of the market share is being handled by a review process of some sort or another. It may not be done on a uniform basis in terms of the timing of when they look and what the requirements are for the matching. But I believe that over the past four to five years companies have realized that this is a normal part of doing business and are implementing the procedures. And much to the compliment that the state treasurers have really taken a look at this and have really raised this as an awareness issue. [LB137]

SENATOR WILLIAMS: Thank you. Any further questions? Yes, Senator Kolterman. [LB137]

SENATOR KOLTERMAN: Thank you, Senator Williams. One last question. I don't know if it really pertains to this bill or not, but having filed a lot of claims, some companies require a certified death certificate and some don't. Some just say, we'll take a copy. Can you tell me, is that statute or is that just a requested requirement? [LB137]

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

Banking, Commerce and Insurance Committee
January 30, 2017

BRUCE RAMGE: I don't believe so. The statute now under...by the nonforfeiture provisions requiring proof of death. [LB137]

SENATOR KOLTERMAN: Okay. [LB137]

BRUCE RAMGE: And so the companies then interpret that in different manners. [LB137]

SENATOR KOLTERMAN: Okay, thank you. [LB137]

BRUCE RAMGE: You're welcome. [LB137]

SENATOR WILLIAMS: Senator McCollister. [LB137]

SENATOR McCOLLISTER: Back to the list again. [LB137]

BRUCE RAMGE: Yes. [LB137]

SENATOR McCOLLISTER: Could that be considered sufficient proof of death? [LB137]

BRUCE RAMGE: Just being listed on the Social Security roster would not be a sufficient proof of death. I think that I would very much doubt that any company would consider that proof without having either a certified copy or a photocopy or something of a death certificate, because that would be the more definitive proof. Is it usual that companies get all tangled up in these procedures so you can't prove that somebody is dead, but...does that sometimes take a long time to establish? In my experience generally not, because oftentimes the death claims are...the filing of a death claim is often assisted by even the local funeral directors. They will put all the information together for the relatives of the deceased and that helps things move along. And agents...insurance agents who service the accounts, they're often right there to help as well. And that's one of the great services they provide at those difficult times. [LB137]

SENATOR McCOLLISTER: Thank you, Director. Thank you. [LB137]

BRUCE RAMGE: You bet. [LB137]

SENATOR WILLIAMS: Thank you, Director Ramge. [LB137]

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

Banking, Commerce and Insurance Committee
January 30, 2017

BRUCE RAMGE: Thank you. [LB137]

SENATOR WILLIAMS: We now invite State Treasurer Stenberg to testify. [LB137]

DON STENBERG: Good afternoon, Mr.--I guess--Vice Chairman and the members of the committee. For the record, my name is Don Stenberg, D-o-n S-t-e-n-b-e-r-g, Nebraska State Treasurer. After carefully reviewing LB137 and based on my discussions with the Director of Insurance and his statements that he's made here today I'm here in support of LB137. I'd like to give the committee a little historical background concerning life insurance as unclaimed property. About seven or eight years ago, unclaimed property auditors for a number of states, including Nebraska, learned that some life insurance companies would do Death Master File searches against their annuity policies so that they could stop paying on those policies, but the same companies would not do a Death Master File search against their life insurance companies. Apparently, they did not want to know that their insured had passed away. This discovery seven or eight years ago led to more audits of more life insurance companies in which state unclaimed property auditors ran Death Master File searches against both in-force and lapsed life insurance policies. As a result of these audits, many of them made nation's life insurance companies, as the director indicated, entered into settlement agreements with many states, including the state of Nebraska, in which they did agree to do Death Master File searches to attempt to locate the beneficiaries when a Death Master File search was found and confirmed, and to turn life insurance proceeds over to the state when a beneficiary could not be located by the insurance company. As a result of those settlements which included approximately 80 percent by premium volume of all life insurance companies in the United States--at least that's the statistics from the National Association of Unclaimed Property Administrators--Nebraska has thus far received \$12.8 million from 22 life insurance companies in unclaimed property. Today the treasurer's office has been able to return \$4.6 million dollars of those settlements to the beneficiaries. LB137 is another step forward in making sure that when someone passes away the life insurance company will take affirmative steps to determine whether a death has occurred to locate the beneficiaries. It places an affirmative duty on insurance companies to do Death Master File searches, a legal requirement that does not presently exist. So I'd like to commend the Director of Insurance and also those insurance...life insurance industry groups that support this legislation for bringing this bill forward. Upon initially reviewing LB137 I had some concerns because the Death Master File search required by LB137 is limited to in-force policies. However, after carefully studying the bill and meeting with the Insurance Commissioner, I'm satisfied that the bill is not intended to and does not restrict in any way the legal authority of the State Treasurer to conduct unclaimed property audits of life insurance companies. As referenced in his testimony by the Director of Insurance here today, the Death Master File search of every insurer must include things such as nicknames, maiden names, transposition of month and date of birth, or an incomplete Social Security number, and other things as more specifically provided in LB137. As the director stated, failure to do these so-called fuzzy matches would be an unfair trade practice

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

Banking, Commerce and Insurance Committee
January 30, 2017

under the bill. So with those understandings, I would encourage the committee to approve LB137 for consideration by the full Legislature. [LB137]

SENATOR WILLIAMS: Thank you, Mr. Stenberg, for being here. One question I would have to start this off, because of your audit function and what you do, can you explain to us how difficult it is or how not difficult it is for an insurance company to go through this matching process, and the software and the equipment available? [LB137]

DON STENBERG: I'm not familiar with all the details, but most of these Death Master File matches in the early days at the time of these settlements was actually done by the unclaimed property administrators. And it's basically...if you've got electronic records, which most insurance companies do--today I think all the major ones have all this computerized and it goes back different number of years for different companies, depending on when they got more technologically automated--but basically, it's just a very simple matching procedure. The computer pretty much does it all, compares the Death Master File information, Social Security number, date of birth, whatever they have against the book of business of the insurance company. So there's not somebody there with a green eyeshade doing it manually, it's all done (inaudible). [LB137]

SENATOR WILLIAMS: So in your judgment, it would not be an undue burden on a company to do this? [LB137]

DON STENBERG: It should not. Our auditors...the auditors that we use, in the case of most states, are outside auditors that we employ; it's not done in-house. They say the cost for them to do it, it's about \$400 to run a Death Master File search against a book of business. [LB137]

SENATOR WILLIAMS: Questions for the Treasurer? Senator Kolterman. [LB137]

SENATOR KOLTERMAN: Thank you, Senator Williams. Treasurer Stenberg, thanks for coming. My question deals with, when does this money get to you? If we do this master search and the insurance company uncovers the beneficiaries and they can deal with it then it doesn't ever get to you. But at what point do the insurance companies have to send the money to unclaimed property? Is it after an extensive search has been attempted? Where do you fit in? [LB137]

DON STENBERG: Under current law, basically it's five years after they're unable to...well, it's basically five years after they determine that a death has occurred and they've been unable to find a beneficiary. We've got a bill later that Senator Williams is sponsoring that's basically a rewrite

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

Banking, Commerce and Insurance Committee
January 30, 2017

of the Uniform Unclaimed Property Act that would reduce that to three years if the Legislature were to adopt that bill. [LB137]

SENATOR KOLTERMAN: And what kind of luck are you having in paying those things out? I know you said you've paid out \$4 million. What percentage of...how much do you have sitting there in life insurance proceeds? [LB137]

DON STENBERG: Well, as I said, as a result of these...of the audits we've received \$12.8 million and paid out \$4.6 million. What those numbers don't have and we don't have the exact numbers is, before that money was paid over to the State Treasurer, the life insurance companies first attempted to locate the beneficiaries and did so in many cases. Probably, at least in the case of Nebraska, probably at least \$12 million or \$13 million and probably more than that was returned directly by the life insurance companies to the beneficiaries and we never received it, which is fine because the point is to get the money to the proper beneficiary. So under all the settlements that we've entered into, life insurance companies first attempt to find the beneficiaries themselves and only turn it over to the state if they're unable to do so. So we've been able to recover a little over a third or return a little over a third, which I think is pretty good considering the insurance companies couldn't find any of those people. [LB137]

SENATOR KOLTERMAN: And my last question...well, second to the last question is, how long do you sit on that money before it goes somewhere else? Does it come to the State Treasurer at any point in time? [LB137]

DON STENBERG: Under state law--and this is true not only of the life insurance, it's any unclaimed property that we have--under state law and the state constitution any amount that's not returned to the proper owners, a part of it gets used to finance the operation of the Unclaimed Property Division of the State Treasurer's Office and the Legislature appropriates whatever amount they determine appropriate for the operation of that. The rest of it goes to the perpetual school fund and the earnings on that perpetual school fund go to K-12 education in the state of Nebraska. And that's provided in the state Constitution. However, there's no time limit on when someone can come and recover their unclaimed property, whether it's life insurance proceeds or bank accounts or whatever it may be. If you come...if we get the property 20 years ago and you come today to claim your property, you will receive it. [LB137]

SENATOR KOLTERMAN: Even though it might have been paid out? [LB137]

DON STENBERG: Well, there's always more coming in, so it's a cash flow type situation. Last year we returned \$16.3 million, which was a record year in Unclaimed Property. So we're returning well over 50 percent of all the money that we receive each year now, and part of that's

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

Banking, Commerce and Insurance Committee
January 30, 2017

technology has improved so much that it's all computerized. You're got professional databases, Lexis, Nexis, and so where you can do searches for beneficiaries. And so we're returning over half of all the unclaimed property that we receive. [LB137]

SENATOR KOLTERMAN: And my last question is, I asked about the excluded policies that we aren't covering here. Do you get some of that money from those policies at any point in time that you're aware of? [LB137]

DON STENBERG: Not that I'm aware of. [LB137]

SENATOR KOLTERMAN: Is unclaimed property not going through this? [LB137]

DON STENBERG: Yeah, they're not excluded from unclaimed property definition. I don't know all the history. NCOIL is a group of state legislatures from around the country and I think involve maybe some life insurance representatives. I'm not sure of all the details of how that was done, and so this bill is based on the NCOIL model. And that was, at some point, subject to negotiation between the industry and various representatives of state legislatures around the country, and so I think that was a compromise. I don't know the exact reasons those were excluded. I have no unhappiness if you'd like to include them, some in the life insurance industry might. But the answer to your question, it was a negotiation between state legislators around the country (inaudible). [LB137]

SENATOR KOLTERMAN: I'm just mostly inquisitive. [LB137]

DON STENBERG: Pardon me? [LB137]

SENATOR KOLTERMAN: I'm just mostly inquisitive. [LB137]

DON STENBERG: Okay. Well, that's all I know about it. [LB137]

SENATOR KOLTERMAN: Thank you. [LB137]

DON STENBERG: You bet. [LB137]

SENATOR WILLIAMS: Any other questions? Thank you, Treasurer Stenberg. [LB137]

DON STENBERG: Thank you. [LB137]

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

Banking, Commerce and Insurance Committee
January 30, 2017

SENATOR WILLIAMS: We would now invite any other proponents to testify on LB137.
[LB137]

JIM HALL: Mr. Chairman, members of the committee, my name is Jim Hall, J-i-m H-a-l-l. I'm a regional vice president for the American Council of Life Insurers. The ACLI is a national trade association that represents the life insurance industry. We have 290 member companies and those companies hold over 90 percent of the life insurance in force in America today. We have 248 companies that are licensed to do business here in Nebraska and they hold over 93 percent of the life insurance in force here. We're here in support of the bill. We supported the NCOIL bill when NCOIL enacted it. We have staff members that worked with NCOIL to produce the bill and we have supported it in the 22 states that have already enacted the bill. And that's why we are here to support the insurance department with their bill today. The basic idea here is that with Nebraska enacting it and hopefully other states, we want to get a uniform system across the entire United States that is the same in every state so that no matter where a beneficiary might live, he or she will have the same opportunities and access to reach those life insurance unclaimed benefits. And so with that, I won't take any further of your time and urge your favorable consideration of the bill. [LB137]

SENATOR WILLIAMS: Questions for Mr. Hall? Seeing none, thank you for your testimony.
[LB137]

JIM HALL: Thank you. [LB137]

SENATOR WILLIAMS: Next proponent. [LB137]

GALEN ULLSTROM: Good afternoon, Vice Chairman Williams, members of the Banking, Commerce and Insurance Committee. My name is Galen Ullstrom, G-a-l-e-n U-l-l-s-t-r-o-m, I'm senior vice president and registered lobbyist for Mutual of Omaha Insurance Company. I'm also appearing today as legislative chairman of the Nebraska Insurance Federation, which is a group of companies that are basically domesticated here in Nebraska, in support of LB137. A lot of the background and facts have been given. We are a company that does business in 50 states, plus the District of Columbia. We appreciate the director bringing the NCOIL model, because it is the bill of choice in the states. Twenty-two states have enacted it. It is pending in other states now. It provides a uniformity that we can use to keep our costs down, frankly, and still provide the policyholders a benefit. So we again are supportive of this, as are the Federation, and would hope the committee would feel free to advance this to General File. [LB137]

SENATOR WILLIAMS: Questions for Mr. Ullstrom. Thank you for your testimony. [LB137]

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

Banking, Commerce and Insurance Committee
January 30, 2017

GALEN ULLSTROM: Thank you, appreciate it. [LB137]

SENATOR WILLIAMS: Next proponent. Seeing no other proponents, are there any opponents? Seeing none, anyone to testify in the neutral capacity? Seeing none, Chairman Lindstrom waives closing. That will close the hearing on LB137. Thank you all for coming. [LB137]

SENATOR LINDSTROM: We will now open the hearing on LB231. Senator Kolterman, whenever you're ready. [LB231]

SENATOR KOLTERMAN: Good afternoon, Chairman Lindstrom and fellow members of the Banking, Commerce and Insurance Committee. I'm Senator Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, and I represent the 24th District in the Nebraska Legislature. Director Bruce Ramage asked that I introduce this LB231 on his behalf. It's a simple bill to require nonresident insurance producers who are insurance agents and brokers licensed in Nebraska who live in another state to maintain their home-state license in good standing. Right now, out-of-state producers must be in good standing in their home state to receive a license, but are not required to stay in good standing. This bill cleans up that oversight by allowing the Department of Insurance to discipline out-of-state agents who fall out of good standing in their home state. As an insurance producer myself, I know how important it is to stay in good standing with the home state and I would expect the same from those who live out state of Nebraska, but sell insurance here. I know Director Ramage will testify behind me to provide more explanation. I'd be glad to try and answer any questions you have, but they'd be better for Director Ramage. [LB231]

SENATOR LINDSTROM: Thank you, Senator Kolterman. Any questions from the committee? Seeing none, thank you. We'll now have proponents. [LB231]

BRUCE RAMGE: (Exhibit 1) Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee, my name is Bruce Ramage spelled B-r-u-c-e R-a-m-g-e, and I am the Director of Insurance for the State of Nebraska. I am here today to testify in support of LB231 and would like to first express my thanks to Senator Kolterman for introducing LB231. LB231 is a relatively simple bill that fixes a slight oversight made in the Insurance Producers Licensing Act when originally enacted in 2001. The act provides for nonresident insurance producer licenses. These licenses allow a person who does not reside in Nebraska to sell insurance to Nebraskans. One of the qualifications to become a nonresident licensee is that the person has a license in good standing in their home state. Having a license in good standing in your home state is important because the home state is very much the lead regulator for that person. Home states take the lead in regulating producers including tracking continuing education requirements. Additionally, home states are in a far better position to be aware of any issues that arise for a producer, such as a violation by the producer of other actionable items that are

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

Banking, Commerce and Insurance Committee
January 30, 2017

prohibited by the Insurance Producer's Licensing Act. While current law requires a nonresident insurance producer to be in good standing to receive their license, no requirement exists to maintain their home state license in good standing. LB231 corrects this flaw by adding the following to the list of causes for disciplinary action: failure to maintain in good standing a resident license in the insurance producer's home state. Right now, the department has about 400 nonresident insurance producers who are not in good standing with their home state. I suspect that nearly all of these producers had merely failed to renew their home state license. Should LB231 pass, the intent of the department is to communicate with these producers asking them to regain good standing in their home state before the department either takes an administrative action or denies the renewal of their license. I would be happy to answer any questions the committee might have on LB231. Thank you for your time. [LB231]

SENATOR LINDSTROM: Thank you, Director. Any questions? Senator Williams. [LB231]

SENATOR WILLIAMS: Thank you, Senator Lindstrom. Thank you, Director Ramge. It seems like a big number to me, that there would be 400 of these. Can you give us an example of why that might be? [LB231]

BRUCE RAMGE: We have...because the licensing processes over the last 15 years have been streamlined, it is very easy for a nonresident now to get their license in Nebraska. So we have roughly, I'd say, 90,000 individuals licensed here, where only probably 16,000 to 18,000 of those are resident Nebraskans. And I think that it's a matter of the fee is relatively low and it's just a matter of checking the box that they want their license also in Nebraska. So the numbers are large to begin with and that's why there's 400. [LB231]

SENATOR WILLIAMS: Okay. Thank you. [LB231]

BRUCE RAMGE: You're welcome. [LB231]

SENATOR LINDSTROM: Any other questions? I just have a couple of questions. The fee is 50 bucks, \$50? [LB231]

BRUCE RAMGE: Yes. [LB231]

SENATOR LINDSTROM: Okay. And when...the other, say you're out of state and you're trying to get a license, do all the other states have in place a two-year continuing ed or continuing education to receive their license? [LB231]

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

Banking, Commerce and Insurance Committee
January 30, 2017

BRUCE RAMGE: Yes. [LB231]

SENATOR LINDSTROM: Every state has two years? [LB231]

BRUCE RAMGE: Yes. Continuing education is fairly uniform across the states. Prelicensing is not. Either the states have it in the uniform manner or they don't have it, it's one way or the other. [LB231]

SENATOR LINDSTROM: And 24 hours, 21 hours, whatever, your life health. [LB231]

BRUCE RAMGE: Yes. [LB231]

SENATOR LINDSTROM: And then three hours ethics credit. [LB231]

BRUCE RAMGE: Correct, yes. [LB231]

SENATOR LINDSTROM: Okay. Any other questions for the director? Seeing none, thank you very much. Oh, I'm sorry. [LB231]

SENATOR WILLIAMS: Could we clarify those numbers again? [LB231]

BRUCE RAMGE: Sure. [LB231]

SENATOR WILLIAMS: Senator Brewer and I talking about those. You said there were 90,000 licenses? [LB231]

BRUCE RAMGE: Total licenses, yes. And of those, about 16,000 to 18,000 are Nebraska residents. [LB231]

SENATOR WILLIAMS: So we have that many that are licensed? [LB231]

BRUCE RAMGE: Yes. [LB231]

SENATOR BREWER: And of the... [LB231]

SENATOR WILLIAMS: Go ahead. [LB231]

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

Banking, Commerce and Insurance Committee
January 30, 2017

SENATOR BREWER: Of the 90,000 and 400, in the vicinity of, are in the category of having not had their license in the home state current? [LB231]

BRUCE RAMGE: Yes. Yes. And on some of those, it may be a timing...maybe it's a delay. Maybe they're just like 30 days delinquent. And our intention isn't to go after those folks, it's to basically to remove the licenses for those who have clearly gotten out of the business or who have not complied with their CE or who have done something that garnered their license to be taken away. [LB231]

SENATOR LINDSTROM: Thank you. [LB231]

BRUCE RAMGE: Thank you. [LB231]

SENATOR LINDSTROM: Next proponent. [LB231]

JIM DOBLER: Senator Lindstrom, members of the committee, my name is Jim Dobler, that's J-i-m D-o-b-l-e-r. I am a registered lobbyist and I appear today on behalf of the Professional Insurance Agents of Nebraska in support of LB231. We were not aware of this flaw in the agents' licensing act. It came as a surprise to us, but we think it's a very good idea to clear it up. We think it will help assure that we have qualified and professional insurance agents for the citizens of Nebraska. And so with that, we support the bill and encourage the committee to vote the bill out to the floor. Be happy to answer any questions. [LB231]

SENATOR LINDSTROM: Thank you, Mr. Dobler. Any questions from the committee? Seeing none, thank you very much. [LB231]

JIM DOBLER: Thank you. [LB231]

JAMES CAVANAUGH: Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee, my name is James Cavanaugh, I'm a registered lobbyist representing the Independent Insurance Agents of Nebraska. I appear on their behalf here today in favor of LB231. We commend Senator Kolterman for bringing this important piece of legislation to your attention. Obviously, as a group of agents we are interested in maintaining the highest level of professionalism and ethics in our licensed profession. We are happy that matters relating to insurance are governed at the state rather than the federal level. We think that the state generally does things better than the federal government in terms of regulation. And we think that this measure will fill an important need relative to maintaining the highest standard of

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

Banking, Commerce and Insurance Committee
January 30, 2017

professionalism and ethics in our profession. So with that, we would urge you to act favorably upon this legislation. And we'd be happy to answer any questions you may have. [LB231]

SENATOR LINDSTROM: Thank you. Any questions? Seeing none, thank you very much. [LB231]

JAMES CAVANAUGH: Thanks. [LB231]

SENATOR LINDSTROM: Other proponents? Seeing none, any opponents? Seeing not any, testifying in the neutral capacity? Seeing none, Senator Kolterman. Senator Kolterman waives closing. And that will end the hearing on LB231. We will now move to Senator Craighead's bill, LB241. [LB231 LB241]

SENATOR CRAIGHEAD: Good afternoon, Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee. My name is Joni Craighead, J-o-n-i C-r-a-i-g-h-e-a-d, I represent Legislative District 6 in Omaha in Douglas County. I am introducing LB241 on behalf of the Nebraska Department of Insurance. LB241 creates an exception to the requirement on licensees of the department to provide annual privacy notices to consumers if a licensee only provides nonpublic personal information to third parties as authorized in law and if it has not changed policies or practices with regard to disclosing nonpublic personal information since the last disclosure. This legislation is a reaction by the department of recent Congressional action that relaxed the annual privacy disclosure statement. The intent is to match the federal law and to provide some relief for both consumers who have received these unneeded notices in the mail and to the insurers who will have significant savings on mailings. The Department of Insurance is here to provide more detail and explanation. Thank you for your consideration on LB241. And I'll take any questions that you have. [LB241]

SENATOR LINDSTROM: Thank you, Senator Craighead. Any questions from the committee? Seeing none, thank you. We'll now have proponents. [LB241]

BRUCE RAMGE: (Exhibit 1) Chairman Lindstrom 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 am the Director of Insurance for the State of Nebraska. I'm here today to testify in support of LB241. Thank you to Senator Craighead for introducing LB241 on the department's behalf. LB241 relaxes the annual privacy notice to consumers requirement for licensees of the Nebraska Department of Insurance. The Privacy of Insurance Consumer Information Act was adopted in Nebraska in 2001. This model legislation from the National Association of Insurance Commissioners was a reaction to passage at the federal level of the Gramm-Leach-Bliley Act. Part of Gramm-Leach-Bliley Act were rules for disclosure of nonpublic personal information,

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

Banking, Commerce and Insurance Committee
January 30, 2017

commonly referred to as the federal privacy rule. This federal privacy rule sets a floor for states, meaning states were able to enact stricter privacy requirements on insurance licensees, but were preempted from enforcing less strict standards. In Nebraska, the 2001 Privacy of Insurance Consumer Information Act was intended to match the federal floor. Fast forward to December of 2015 when Congress enacted the federal Fixing America's Surface Transportation--or FAST--Act. The FAST Act became effective immediately. One paragraph of this 491-page surface transportation law was an amendment to the Gramm-Leach-Bliley which provides an exception to the annual notice requirement if a licensee shared personal information with nonaffiliated third parties only as outlined in law and has not changed its policies and practices that were disclosed in the most recent disclosure to the consumer. This federal law change essentially lowered the disclosure floor. However, Nebraska law still requires licensees of the department, both companies and some producers, to provide an annual disclosure. LB241 amends section 44-905 to provide the option to licensees of the department not to provide an annual disclosure if the company fits within the new exception to the annual notice requirement included in the FAST Act. Annual notices from insurers, agents, banks, and other financial institutions are becoming increasingly burdensome for consumers. In particular, I have...am concerned that consumers will miss important information from an insurer because the consumer has become conditioned to throwing away unnecessary mail. An additional benefit of the legislation are the obvious savings the industry will save on mailings. I need to thank the American Insurance Association who caught a typographical error in the draft this weekend. Attached is an amendment that fixes the error. For these reasons, I respectfully request your support of LB241. Again, let me express my gratitude to Senator Craighead for the bill's introduction. I would be happy to answer any questions. Thank you. [LB241]

SENATOR LINDSTROM: Thank you, Director. Any questions? Senator Brewer. [LB241]

SENATOR BREWER: Thank you, Chairman. All right, unlike my counterparts here that are bankers and lawyers and professors, sometimes I have to put things in common-man terms. So if we wrapped this into a simple paragraph, if your insurance company shares data about you with someone else, they need to tell you about it. [LB241]

BRUCE RAMGE: Yes. [LB241]

SENATOR BREWER: Fair enough. Thank you. [LB241]

BRUCE RAMGE: You're welcome. [LB241]

SENATOR LINDSTROM: Any questions? Senator Schumacher. [LB241]

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

Banking, Commerce and Insurance Committee
January 30, 2017

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. Thank you for your testimony. Probably, most likely, those notices that are mailed hit the circular file cabinet really quickly. [LB241]

BRUCE RAMGE: Yes. [LB241]

SENATOR SCHUMACHER: But suppose somebody at some point wants to know what the policy is. Is there...outside of this law or as part of it, does the company if you call and ask or e-mail and ask have to tell you what their policy is? And how does one go about doing that? [LB241]

BRUCE RAMGE: Senator, that is a good question. I would be happy to research that and get back to you. Unfortunately, I don't know the answer off the top of my head. We might be able to figure it out yet this afternoon, but I will certainly get back to you. [LB241]

SENATOR SCHUMACHER: Thank you. [LB241]

SENATOR LINDSTROM: Any questions? Seeing none, thank you. [LB241]

BRUCE RAMGE: Thank you. [LB241]

SENATOR LINDSTROM: Other proponents? Good afternoon. [LB241]

COLEEN NIELSEN: Good afternoon, Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee. My name is Coleen Nielsen, that's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm here as a registered lobbyist for the Nebraska Insurance Information Service in support of this legislation. In answer to your question, Senator Schumacher, it's my understanding that a privacy notice is issued with any new policy. If the person loses that privacy notice then they can get it at the request of the company. And I'd be happy to answer any questions. [LB241]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Seeing none, thank you very much. Other proponents? [LB241]

TAD FRAIZER: (Exhibit 2) Good afternoon, Chairman Lindstrom, members of the committee, my name is Tad Fraizer, that's T-a-d F-r-a-i-z-e-r, representing the American Insurance Association, a national trade association of property and casualty insurers. I'm distributing to you

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

Banking, Commerce and Insurance Committee
January 30, 2017

a brief statement from AIA in support of LB241 that kind of traces the history of Gramm-Leach-Bliley and the amendments. But I'll basically simply echo those who have gone before. We think this will reduce redundant notices that cause consumers to have their eyes glaze over and cause additional expenses that are not needed for insurance companies. We do appreciate the Department of Insurance taking into account our comment about the internal references and their making the correction into the bill. And we'd simply say we support the bill and hope you act on it favorably, and I'd try to answer any questions you might have. [LB241]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Seeing none, thank you. Other proponents? [LB241]

KORBY GILBERTSON: Good afternoon, Chairman Lindstrom, members of the committee. For the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Property Casualty Insurers Association of America. And same song, third verse now. I just wanted...Senator Schumacher, I did...I texted my client and asked them your question and, yes, they do have to provide access to them. She said the vast majority of companies do have them already posted if you want them, anytime you want to look at them on-line. So with that, I'd be happy to try to answer any other questions. [LB241]

SENATOR LINDSTROM: Thank you. Any questions? Seeing none, thank you. [LB241]

KORBY GILBERTSON: Okay. Thank you. [LB241]

JAN MCKENZIE: Senator Lindstrom, members of the committee, for the record, my name is Jan McKenzie, spelled J-a-n M-c-K-e-n-z-i-e, representing the Nebraska Insurance Federation as registered lobbyist and executive director. And welcome, Senator Kolterman, Senator Brewer, Senator McCollister, and Senator Baker to our fine committee. Happy to be here in front of you. For those of you who do not know, the Nebraska Insurance Federation is a group of Nebraska domestic companies, along with a few companies who have significant regional presence here, such as State Farm and Farm Bureau, for example. But these are your Nebraska companies who employ many, many Nebraska people and are very well respected companies across the country. We have property, life, health, and title, and we did have a work comp company, but we have...they have been purchased up recently, so I do not have that anymore on my list of groups to work with. We are a very diverse group and the only state in the country that has a federation that allows all companies, regardless of lines of business, to work together as a group to support the industry and to support our department and to make sure the state stays a good place for Nebraska insurance to do business. We are in support of LB241 and we think it's a common-

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

Banking, Commerce and Insurance Committee
January 30, 2017

sense step in reducing excess requirements for companies providing notice. And I would answer any questions you might have. Thank you. [LB241]

SENATOR LINDSTROM: Seeing none, thank you. [LB241]

JAN MCKENZIE: Thank you. [LB241]

SENATOR LINDSTROM: Any other proponents? Seeing none, any opponents? Seeing none, any neutral testifiers? Seeing none, Senator Craighead. Senator Craighead waives closing and that will end the hearing on LB241. We will now...LB239. Senator Baker. [LB241]

SENATOR BAKER: Chairman Lindstrom, fellow members of the committee, my name is Senator Roy Baker, R-o-y B-a-k-e-r. I introduced LB239 at the request of the Director of Insurance, Bruce Ramage, who spread the wealth among us to introduce bills. First thing, LB239 is to provide protection for customers who purchase pre-need funeral products from a pre-need seller by ensuring that cost-of-living adjustments are provided before excess income is distributed from the master trust that holds the proceeds of the sale of these products. As described to me by the department, the proceeds of the sale of products can be placed in a master trust by a seller. As interest accumulates in the trust the seller can take a distribution of any excess income after providing a cost-of-living adjustment. The problem is, there is no requirement to make up losses or missing costs-of-(living) adjustments when the trust underperforms. LB239 fixes this issue, requiring all cost-of-living adjustments be provided before any distribution of excess income to the seller. I know the director will testify after me to provide the details on this proposal. Thank you for your time. [LB239]

SENATOR LINDSTROM: Thank you, Senator Baker. Any questions? Seeing none, we'll now have proponents. [LB239]

BRUCE RAMGE: (Exhibit 1) Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee, my name is Bruce Ramage, spelled B-r-u-c-e R-a-m-g-e, and I am the Director of Insurance for the state of Nebraska. I am here today to testify in support of LB239 and I would like to express my gratitude to Senator Baker for introducing LB239 on the Department of Insurance's behalf. LB239 amends provisions of the Burial Pre-Need Sale Act. For those that may be unaware, pre-need products provide an alternative to life insurance that allow individuals to pre-finance burial or funeral merchandise or services. The Department of Insurance regulates pre-need sellers and products. Proceeds from the sale of these products are either placed in individual trusts in the purchaser's name or placed in a master trust. LB239 specifically addresses the distribution of excess income in a master trust. Current law provides for an annual distribution of income from the trust. If the trust earns income, a cost-of-living

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

Banking, Commerce and Insurance Committee
January 30, 2017

adjustment--otherwise known as a COLA--is retained in trust and any income in excess of the COLA is distributed to the seller. If the trust incurs a loss during the year and in subsequent years makes income, no duty exists for the trust to first make up any missed COLA distributions before making a distribution to the seller. LB239 fixes this flaw in the law. It eliminates the annual income distribution and instead allows income to be distributed at any point, as long as all annual COLA are provided for in a cumulative manner before a distribution is made to the seller. This legislation will provide an important consumer protection to those who purchase a pre-need product. This flaw in the law was noticed not only by the department's pre-need examiners, but also by the sellers themselves. And I would be remiss not to thank pre-sellers and the Nebraska Funeral Directors Association for their assistance on the legislation. I'd be happy to answer any questions the committee might have on LB239. Thank you for your time. [LB239]

SENATOR LINDSTROM: Thank you, Director. Senator McCollister. [LB239]

SENATOR McCOLLISTER: Yeah, thank you, Chairman Lindstrom. The owner of the trust is really the seller, is that correct? [LB239]

BRUCE RAMGE: On the master trust, yes. They have the direct control, but and then it's placed in the trust for the benefit of those who have purchased the pre-need arrangement. [LB239]

SENATOR McCOLLISTER: For the benefit of the buyer of...is there ever a condition where the buyer gets any money back? [LB239]

BRUCE RAMGE: I don't believe so, unless perchance at the time of the funeral the services actually came in at a lower price than what the trust would have accumulated. But I don't believe we see that occurring. [LB239]

SENATOR McCOLLISTER: Can you define COLA in this bill? [LB239]

BRUCE RAMGE: I believe it is defined in there. And I'd have to...I might have to look to one of our counsel behind me to help point out the definition. [LB239]

SENATOR McCOLLISTER: Is that defined by the Bureau of Labor Statistics or something? [LB239]

BRUCE RAMGE: I'm sorry, I'll have to get back to you on that question. Okay. Senator, it's actually (section) 12-1114(1). It says, "To offset increases in the cost of living as the same may affect the trust accounts the pre-need seller shall compute each year the total amount of the trust

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

Banking, Commerce and Insurance Committee
January 30, 2017

principal of each trust account determined as of December 31 of the immediate preceding year, and then multiply such amount by the percentage increase in the National Consumer Price Index for such year." And I believe that may be the Department of Labor, U.S. Department of Labor that publishes that. [LB239]

SENATOR McCOLLISTER: That's sufficient. Thank you, Director. [LB239]

BRUCE RAMGE: Yes. [LB239]

SENATOR LINDSTROM: Thank you. Any other question or...Senator Kolterman. [LB239]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. Director Ramge, can you give me...who's licensed to sell these? Is this just...not insurance agents, but morticians? [LB239]

BRUCE RAMGE: No, it would be funeral directors, yes, and some cemetery. [LB239]

SENATOR KOLTERMAN: Okay. And then how often...they fall under your department. [LB239]

BRUCE RAMGE: Yes. [LB239]

SENATOR KOLTERMAN: How often do you audit their books on these trusts? [LB239]

BRUCE RAMGE: I believe that we audit...we get an annual report that we review on an annual basis. And then I believe they try to do an audit about every five years. [LB239]

SENATOR KOLTERMAN: And where does the bulk of the money go? Does it go into a bank account...when they talked about master trust here? [LB239]

BRUCE RAMGE: The trusts are usually administered by a local bank and they hold the funds. And it could be invested in a variety of ways, depending on the agreement between the seller and the bank. [LB239]

SENATOR KOLTERMAN: And who guarantees the trust? Is it the bank or is it the funeral director? [LB239]

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

Banking, Commerce and Insurance Committee
January 30, 2017

BRUCE RAMGE: It would be the funeral director. If the money were held in a account that were federally guaranteed funds, then there would be that guaranty. But I believe that there's not a restriction on the investment. [LB239]

SENATOR KOLTERMAN: Thank you. [LB239]

SENATOR LINDSTROM: Senator Schumacher. [LB239]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. Thank you for your testimony today. In the bill there's references to trusts and trustees and then to the seller. Now the...who...in a traditional trust you have the trustor, that's the guy who puts the money into the pot with some instructions; and the trustee, and that's the person who technically owns the trust and administers it according to the regulations or whatever instructions they have; and the beneficiary, that's the person who gets the benefit of the trust; and then you have the instructions or the rules by which a trust is given. So the funeral home director, what hat is he wearing here? [LB239]

BRUCE RAMGE: I would...I believe he would be the trustor, the one who basically...he or she would not be holding the money, but giving that duty to a bank. But then... [LB239]

SENATOR SCHUMACHER: Whose money is it? Is it the funeral home's money? [LB239]

BRUCE RAMGE: It would be the funeral home's money that is held on behalf of those who they've entered into agreements with to perform funeral services. [LB239]

SENATOR SCHUMACHER: So the person that's going to be buried. [LB239]

BRUCE RAMGE: Yes. [LB239]

SENATOR SCHUMACHER: Okay. That person just makes a deposit with the funeral home. [LB239]

BRUCE RAMGE: Yes. [LB239]

SENATOR SCHUMACHER: The funeral home then has the money and says, oh, my goodness, I am going to put it in a trust. [LB239]

BRUCE RAMGE: Correct. [LB239]

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

Banking, Commerce and Insurance Committee
January 30, 2017

SENATOR SCHUMACHER: And the trust provisions say that I'm going to bury this person and according...this is the kind of funeral, I presume, that the person wants. And then this trust earns money. But even though it's the money of the beneficiary, the funeral home gets to keep the excess. [LB239]

BRUCE RAMGE: Excess, that's correct. [LB239]

SENATOR SCHUMACHER: And so basically, the funeral home is using other people's money to get some interest. [LB239]

BRUCE RAMGE: That could happen, yes. [LB239]

SENATOR SCHUMACHER: Okay. Thank you. [LB239]

SENATOR LINDSTROM: Senator McCollister. [LB239]

SENATOR McCOLLISTER: Let's track this calculation in the COLA (inaudible). Okay. Reading the bill itself the funeral home multiplies the trust amount, the balance in the trust, by the cost of living. Right? [LB239]

BRUCE RAMGE: Yes. Yes. [LB239]

SENATOR McCOLLISTER: And I would guess, then that reduces the amount of money in the trust by the amount you deducted for the cost of living, right? [LB239]

BRUCE RAMGE: Well, it would increase the amount in the trust. So for...let's take \$1,000 and let's say that after a year the cost-of-living increase was 2 percent, but they earned 8 percent. [LB239]

SENATOR McCOLLISTER: I would try to be realistic on the amount earned here. [LB239]

BRUCE RAMGE: Okay. All right, let's say that they earned 3 percent. [LB239]

SENATOR WILLIAMS: Now, let's try to be realistic. No. [LB239]

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

Banking, Commerce and Insurance Committee
January 30, 2017

BRUCE RAMGE: So the funeral director of the seller would be able to take out \$100 and the trust then would be adjusted upwards to \$1,020. My math is... [LB239]

SENATOR McCOLLISTER: And then you subtract out the COLA? Income added, COLA deducted? [LB239]

BRUCE RAMGE: The COLA would be added in first to the amount that needs to be held in trust and then the excess would be... [LB239]

SENATOR McCOLLISTER: But the COLA would be a deduction, wouldn't it? [LB239]

BRUCE RAMGE: It would be...no. It would be added on. Your underlying contractual amount would grow by the amount of the COLA. [LB239]

SENATOR McCOLLISTER: I see. [LB239]

BRUCE RAMGE: And then what this does is allow that amount to be calculated in a cumulative fashion in case there was a year where the earnings did not...were less than the COLA. [LB239]

SENATOR McCOLLISTER: Under the trust agreements, if that amount in the trust falls below a certain amount is the...what happens to the obligation to bury somebody? [LB239]

BRUCE RAMGE: I believe that obligation would still be there and just born by the funeral home. [LB239]

SENATOR McCOLLISTER: And is the funeral home obligated to invest the money in a certain way? [LB239]

BRUCE RAMGE: It just simply states that it needs to be put into a trust. [LB239]

SENATOR McCOLLISTER: Okay. Thank you, Director. [LB239]

BRUCE RAMGE: You're welcome. [LB239]

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

Banking, Commerce and Insurance Committee
January 30, 2017

SENATOR WILLIAMS: Can I ask if there's a witness from the funeral home industry that's going to be testifying? Thank you. Other questions for Director Ramge? Thank you, Director. [LB239]

BRUCE RAMGE: Thank you. [LB239]

SENATOR WILLIAMS: We invite the next proponent. He's just dying to come up here. I didn't say that. [LB239]

BILL DUGAN: Good afternoon, Senators. Thank you for allowing us to testify. I'm Bill Dugan, B-i-l-l D-u-g-a-n, of Fremont, Nebraska, and I represent a coalition of funeral directors and cemeterians. I was involved in the original construction of the original statute. I was five years old, but...and that was during the rose-glassed '80s when who would have ever thought trusts would have declined in value. So the consideration of the recouping of the CPI was never even thought of at that time. We are very much in favor of both of the primary changes in this legislation, for one, the consumer protection that's offered by the recapture of the CPI. And the other, allowing the trust to basically accumulate and without being forced to withdraw the overages as the interpretation now stands by the department. I might note that in the trust the trustor is the buyer of the funeral plan. The trustee obviously is the banker trust department, which is required to maintain a prudent manner when investing. And the beneficiary is the funeral home. So none of those funds are the funeral home's until the time of death. Most of the time the funerals are guaranteed in value, so if someone comes in and purchases x casket, x vault, x services, it's written up as such. If today the value of that is \$2,000, they give us \$2,000. They can also contribute in items which are over and above our control, i.e., a cemetery opening and closing, arranged to administer flowers, that type of thing, but we do not guaranty those services. So at the time of death, the funeral is guaranteed regardless if that trust has gained or lost money as...since 2008 I can show you where it has. But the interest that's accrued on the other items is given to the family to help pay for those items or they can take them, whichever they'd like. It would probably be most beneficial to answer questions at this point. Again, we are very much in favor (inaudible). [LB239]

SENATOR WILLIAMS: Questions. Senator Kolterman. [LB239]

SENATOR KOLTERMAN: Thank you, Senator Williams. Mr. Dugan, how much are these...how often are these utilized anymore? [LB239]

BILL DUGAN: Today...at one time a trust was the primary instrument for prepaying a funeral. Today, I don't know what the...the department would know better than I. I don't know what the breakdown is, but the funeral homes that use trusts use them extensively. Those that use

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

Banking, Commerce and Insurance Committee
January 30, 2017

insurance use insurance extensively. The obvious benefit to using trusts is the fact that the money stays in the state. It's invested in a local institution and is controlled in a local institution. The benefit to insurance is it's an easier management product for the funeral home. It's basically gone out of their hands at that point and the recapture is submission of a claim form. [LB239]

SENATOR KOLTERMAN: Okay. Thank you. [LB239]

SENATOR WILLIAMS: Senator Schumacher. [LB239]

SENATOR SCHUMACHER: Thank you, Senator Williams. And thank you for your testimony. What would be the advantages or the reasons someone would want to do this instead of just opening a CD at the local bank, drawing a terrific .000 percent interest--is that on the high side?--and joint tenancy with the funeral home and squaring up after the game is over? [LB239]

BILL DUGAN: Primarily, the guaranty is important to a lot of people. By doing it this way they can guaranty that they're going to get that service and those items for what they paid today. The other advantages are management for the funeral home. It's easier for them to guaranty that service at that point because they, again, can watch a trust and it's going to gain more money than the .001 percent CD that it's going into. I have not been involved directly in CDs. With the master trust reporting and the reporting forms in our dealings with the department, we're familiar with that. The CDs, I think we have to do an individual filing for each CD, so it's easier that way. [LB239]

SENATOR SCHUMACHER: Thank you. [LB239]

SENATOR WILLIAMS: Isn't it also a potential benefit that the person...this is a qualified expense that a person can use to still qualify for other types of benefits if you... [LB239]

BILL DUGAN: SSI requirement. [LB239]

SENATOR WILLIAMS: ...parked enough money into this to qualify. Senator McCollister. [LB239]

SENATOR MCCOLLISTER: Thank you, Senator Williams. This is a one-time transaction? There's no installment kind of proposition here, correct? [LB239]

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

Banking, Commerce and Insurance Committee
January 30, 2017

BILL DUGAN: No. We can take installment payments. We can take a payment plan type thing and occasionally we do. However, if somebody is in that situation or they need to pay over an installment period where they don't have the cash, we usually encourage insurance at that point. Insurance is going to cost them more money, but the benefit...100 percent of the benefit is available immediately, where in a trust it isn't. We only allow them what they put in plus the CPI adjustment that is accrued. [LB239]

SENATOR McCOLLISTER: What insurance company do you typically go to, to buy that service? [LB239]

BILL DUGAN: Heritage in Des Moines is one of the major ones. [LB239]

SENATOR McCOLLISTER: And they specialize in that kind of insurance? [LB239]

BILL DUGAN: Yeah. It's basically a low face value, high premium life insurance policy, is what it is. [LB239]

SENATOR McCOLLISTER: It's offered by the funeral home? [LB239]

BILL DUGAN: Yes, many funeral homes are. Matter of fact, they just changed the licensure statute to allow funeral homes to more readily sell insurance for the licensure, because they don't deal in big volume products. [LB239]

SENATOR McCOLLISTER: What percentage of your business is done on the installment sale versus that one-time transaction? [LB239]

BILL DUGAN: In the trust? Oh, 1 percent, 2 percent. Yeah, I can't speak for everyone, but that's kind of been our philosophy, Senator. [LB239]

SENATOR McCOLLISTER: Okay. Thank you for your testimony. [LB239]

SENATOR WILLIAMS: Other questions for the witness? Seeing none, thank you for your testimony. Next proponent. Seeing none, are there any opponents? Seeing none, anyone to testify in the neutral? Seeing none, Senator Baker waives closing. That will close the hearing on LB239. And that was our final bill that we'll be hearing today. Senator Lindstrom asked me to tell the other senators that he would hope to exec tomorrow when we are finished. [LB239]