

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

Banking, Commerce and Insurance Committee
March 13, 2017

[LB292 LB551 LB594]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, March 13, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB292, LB551, and LB594. 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: Welcome to the Banking, Commerce and Insurance Committee. My name is Brett Lindstrom, I am from Omaha and represent District 18. 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 row when you're ready to testify. The order of testimony will go introducer, proponents, opponents, neutral, and closing. Testifiers, please sign in and hand your pink sign-in sheet to the committee clerk when you come up to testify. Please spell your name for the record before you testify. We ask that you please be concise. We do use the light system in this committee, which means at four minutes you will...you will see the green light for four minutes. With one minute to go, the yellow light will come on. And at five minutes the red light will turn on, which means your time is up. If you will not be testifying at the microphone but want to go on record as having a position on a bill being 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 and we'll have a page come and make copies for you. To my immediate right is committee counsel, Bill Marineau. To my far left is committee clerk, Jan Foster. And the senators will introduce themselves today, starting with my far right. Senator Schumacher I believe will be joining us later and then we'll start with Senator Kolterman.

SENATOR KOLTERMAN: Senator Mark Kolterman, Seward, District 24.

SENATOR BREWER: Tom Brewer, District 43, 13 counties of western Nebraska.

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

Banking, Commerce and Insurance Committee
March 13, 2017

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

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

SENATOR BAKER: Roy Baker, District 30.

SENATOR McCOLLISTER: John McCollister, District 20.

SENATOR LINDSTROM: And our pages today are Phillip Levos from Columbus and Jade Krivanek from Omaha. Thanks for joining us today. The order on the agenda is LB292, LB551, LB594. We'll now start and open the hearing on LB292, introduced by Senator Larson. [LB292]

SENATOR LARSON: Thank you, Chairman Lindstrom and members of the Banking Committee. My name is Tyson Larson, T-y-s-o-n L-a-r-s-o-n, representing District 40, and I am here today to introduce LB292. LB292 would allow limited liability companies to create series limited liability companies under the Nebraska Uniform Limited Liability Company Act. Under (LB)292, an LLC would be able to subdivide itself into separate LLCs, known as a series. If properly established, a series LLC would be treated as a separate entity with its own debts, liabilities, and obligations separate from those of the parent LLC and other series LLCs. Those debts, liabilities, and obligations of the series would only be enforceable against that series and not against any other series or against the parent LLC. Additionally, each series would have its own members, managers, interests, assets, and business purposes separate from the other series and the parent LLC. Series LLCs provides the ability for a business owner to effectively separate and protect assets that allows business owners with both high-risk and low-risk assets to spread out those risks among series and align creditors with those assets, while at the same time affording protections to the assets of another series of a parent LLC as a whole. This kind of business structure not only provides additional managerial flexibilities, it also encourages creative business investment practices. The series LLC model is particularly beneficial to those individuals with extensive real estate investments, franchise businesses, or even those in the agricultural industry. A farmer, for example, could put his land, equipment, and livestock interests into separate series under one parent LLC and protect each of those assets separately from the others in a single, organized, and efficient business entity. While the LLC model has been a popular option for business owners since its creation in the 1970s, the series LLC is a relatively novel concept in the business world. Delaware was the first state to adopt a series LLC statute in 1996 and several other states have added series LLC provisions to their LLC laws since that time. LB292 was modeled after Iowa's recent series LLC statute, like Nebraska, had adopted the Revised Uniform Limited Liability Company Act. Since the introduction of LB292 it has been brought to my attention by a member of the Nebraska Uniform Law Commission that the

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

Banking, Commerce and Insurance Committee
March 13, 2017

ULC has been working on this measure as well, which will be made available to the states yet this year. Instead of outlining additional specifics of this particular legislation, I offer my willingness to consider the upcoming model bill and stress the importance of enacting this concept. The series LLC business model will give business owners more options and more creativity when it comes to structuring their options. More importantly, it would encourage businesses who benefit from the series LLC model to organize in Nebraska and generate additional business and economic benefits in our state. I strongly encourage the committee's support and consideration of the series LLC legislation next year and I am happy to work with the committee as they see best fit moving forward. Thank you for your time today and I would be happy to answer any questions. [LB292]

SENATOR LINDSTROM: Thank you, Senator Larson. Any questions from the committee? Senator McCollister. [LB292]

SENATOR McCOLLISTER: Thank you, Chairman Lindstrom. Welcome, Senator Larson. What are the tax implications of the bill that you're offering today? [LB292]

SENATOR LARSON: I don't think there would be necessarily any tax implications, because an LLC oftentimes are pass-through taxation, depending on how many members and whatnot. And each LLC still could have its own membership. It could be a single-member LLC. So each one would just be taxed like a normal LLC, depending on how many members are in it. [LB292]

SENATOR McCOLLISTER: You know using your example of a farmer dividing up his assets, what exactly would be the management benefits of such a move? [LB292]

SENATOR LARSON: Essentially, whether it's a farmer or a real estate professional that has multiple rental houses, right now you'd have to create a...how do I want to say this? A farmer could do that now but at a higher cost, because you can still create an LLC to separate each business or each rental house or however you want to do it to protect your assets. The beauty of a series LLC--and that's why I didn't quite get into it in LB292 because the ULC is coming with model legislation next year is--instead of having to go through the whole legal process and registering a new business for \$100-some plus legal fees, it only takes an amendment to the articles of incorporation, is my understanding. So it's a \$10 amendment with SOS to create a new LLC versus the whole, big, long process of legal fees and a new business. So essentially, it's a cost-cutting measure for businesses. [LB292]

SENATOR McCOLLISTER: Could an owner of property do the activity you suggest and thereby eliminate any possibility or could make it easier to go on Medicaid and not have a clawback situation occur? [LB292]

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

Banking, Commerce and Insurance Committee
March 13, 2017

SENATOR LARSON: I mean, Senator Schumacher is obviously the one that does a lot more of the Medicaid clawback stuff. I don't think it would make any difference, because these are still...they operate just like a normal LLC. So if they can do it with a...I don't know the specifics of the clawbacks law, but each one is just its own LLC. So with the creation...it's just a creation with an amendment to the articles of organization versus just going through and creating a new LLC. So it wouldn't change any of that concept, so I can't answer the clawback side, specifically. It's just easier to create an LLC. [LB292]

SENATOR McCOLLISTER: Thank you, Senator. [LB292]

SENATOR LINDSTROM: Senator Craighead. [LB292]

SENATOR CRAIGHEAD: Thank you, Mr. Chairman. Thank you, Senator Larson. If...let's say a person has five or six LLCs. Okay, can they then go to one and basically have an umbrella? It's an umbrella. [LB292]

SENATOR LARSON: This is what that would allow for. It creates one parent and it allows for that one parent to more easily create LLCs under it. Kind of like a C-corp can create corporations or LLCs under the C-corp, the series LLC allows LLCs to do the same. [LB292]

SENATOR CRAIGHEAD: Thank you. [LB292]

SENATOR LINDSTROM: Senator Baker. [LB292]

SENATOR BAKER: Thank you. Senator Larson, what implications would this have for tax filing? [LB292]

SENATOR LARSON: As Senator McCollister asked, I don't think it has implications. You still file, just like you do with normal LLCs. [LB292]

SENATOR BAKER: So each one would be filed separately? [LB292]

SENATOR LARSON: Each one is filed separately still. [LB292]

SENATOR LINDSTROM: Senator Kolterman. [LB292]

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

Banking, Commerce and Insurance Committee
March 13, 2017

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. Senator Larson, can you...are you bringing this for anybody in particular or is it just... [LB292]

SENATOR LARSON: It's a very unique concept that I like. It's good...what I would consider a good tool for business. It helps small business owners, as I said, whether it's to protect their assets or...you can create multiple LLCs now. That's doesn't change, it's just the process of which they're created is cheaper and easier, which I think is good for business in the state of Nebraska. [LB292]

SENATOR KOLTERMAN: Okay. Thank you. [LB292]

SENATOR LINDSTROM: Any other questions? Senator Schumacher. [LB292]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. Thank you, Senator Larson. So could you use this mechanism in order to securitize different tranches of debt for sale and sell them off a level of the better debt under one LLC and inferior grade of debt under another LLC and... [LB292]

SENATOR LARSON: Anything you can do with an LLC now you could do with the series LLC. If you can do that with an LLC now, then you could do that with these. [LB292]

SENATOR SCHUMACHER: But you could do this without...fairly easily setting up these tranches and insulating each tranche from another. [LB292]

SENATOR LARSON: You can do that now with LLCs. Whatever you can do with an LLC now, Senator Schumacher, you can do these. This is literally a faster, easier way to--as Senator Craighead hit the nail on the head--you have a parent and you just create LLCs underneath it instead of right now when you create an LLC they go lateral, you have each one individually moving laterally, this creates just one parent. Even when you do the lateral creation you can move different debt or whatever you want into a lateral LLC. That changes none of that. [LB292]

SENATOR SCHUMACHER: But it's your intention that this bill be basically replaced next year by a uniform piece of legislation? [LB292]

SENATOR LARSON: Yeah, it's my understanding we received a letter after the introduction that the Uniform Law Commission is finishing...putting its finishing touches on a larger...I think the letter said a more comprehensive version of LB292. And I'm more than happy if they have a more comprehensive version that they've worked on with everybody involved, whether it's the

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

Banking, Commerce and Insurance Committee
March 13, 2017

bankers and the insurance and everybody. And I think they're probably going to do that and so I hope whether that's me bringing it or Senator Lindstrom, as Chairman of the Banking Committee, series LLCs go next year after the Uniform Law Commission recommends it. [LB292]

SENATOR SCHUMACHER: Thank you, Senator Larson. [LB292]

SENATOR LINDSTROM: Thank you. Any final questions? Seeing none, thank you, Senator Larson. [LB292]

SENATOR LARSON: Thank you. [LB292]

SENATOR LINDSTROM: We now move to proponents. Seeing none, we'll now move to opponents. Also seeing none, we'll now move to neutral testimony. Good afternoon. [LB292]

STEVE WILLBORN: (Exhibit 1) Mr. Chairman, members of the committee, my name is Steven Willborn. I am testifying in a neutral capacity. I am a faculty member at... [LB292]

SENATOR LINDSTROM: I'm sorry, can you spell your name? [LB292]

STEVEN WILLBORN: Oh, I'm sorry. I'm sorry. W-i-l-l-b-o-r-n. I'm a faculty member at the University of Nebraska College of Law. Senator Larson has stolen my thunder, because my only purpose in coming was to tell you that the Uniform Law Commission is working on a bill like this, has been working on it in fact since 2013. Some of you may remember, although most of you probably don't, that I did testify in the same capacity when Senator Larson introduced a bill, then LB168. It's taken us a long time to deal with the issue because there are lots of complicated issues involved with series LLCs. Just as an aside, the LLC concept itself is relatively new. It began in Wyoming in 1977. It swept the country. The Uniform Law Commission then started working on a uniform LLC law. By the time the Uniform Law Commission got its uniform LLC law in place, every state had its own LLC law and they were very varied. Since that time, the Uniform Law Commission's LLC law...let me say modestly, it's a superior product and it's become the dominant product. Nebraska has enacted it, Wyoming has adopted it. And so that's what's happened here, too. As Senator Larson said, a number of states have already enacted series LLC laws, 13 states, at least. People are in process of thinking about it, like you, so there may be an additional one or two. This kind of evolution is common, I would say. An unavoidable conflict between the slow pace that the Uniform Law Commission works on to try to get things exactly right and the rapid speed with which legal developments go through the legal system these days. So I'm sorry that's the case, that we're so slow and that we're not quite ready now, but

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

Banking, Commerce and Insurance Committee
March 13, 2017

we...I think there are very, very high odds it will be finished this summer, the uniform law, and it will be available to you then. I have two handouts there. One is an article by Dan Kleinberger that explains some of the complications of the LLC concept. The other one is sort of an introductory piece that was presented to the Uniform Law Commission last summer. I would direct your attention really to pages 2-8 on that handout that talk about 21 key issues that the series LLC concept raises. The current bill is similar to the other state laws there and it doesn't address all of them and the uniform act will address all of them. So we're neutral on LB292. This is an important topic. Lots of states have proceeded with it. If you want to proceed with it, it would be understandable if you'd want to act promptly. On the other hand, I'm here to let you know that the Uniform Law Commission is working on this and I'll have a product for you this summer. [LB292]

SENATOR LINDSTROM: Thank you. Thank you very much. Senator Schumacher. [LB292]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. And thank you for your testimony. Are these series LLCs, are they taxed as corporations or as partnerships or as sub-S's? [LB292]

STEVE WILLBORN: I'm a labor lawyer, so you probably know more about this than I am, but these are pass-through organizations so I think they go through to the individual. [LB292]

SENATOR SCHUMACHER: So if I owned mothership LLC and mothership had a bunch of baby LLCs then...and the baby LLCs made money, it would go up to the mother LLC and then turn up on my tax return? [LB292]

STEVE WILLBORN: I'm hesitant to answer, Senator. I just don't know. I think that's the case, but I'm just not sure. Sorry. [LB292]

SENATOR SCHUMACHER: Okay. Is basically the only reason for this to save on some filing fees and some legal work? [LB292]

STEVE WILLBORN: I think that's the main reason, as Senator Larson explained. I mean, these are common, as the Kleinberger article mentions, in the insurance industry, which is trying to keep separate tranches of risk separate, and they're common with investment companies, which again are trying to keep separate investment funds...certain investment funds separate. [LB292]

SENATOR SCHUMACHER: But neither one of them are hard up for filing fees and lawyers. [LB292]

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

Banking, Commerce and Insurance Committee
March 13, 2017

STEVE WILLBORN: That's true. [LB292]

SENATOR SCHUMACHER: I mean, why would they care? [LB292]

STEVE WILLBORN: Yeah. It is...yeah. Sorry, Senator, good questions. [LB292]

SENATOR SCHUMACHER: Okay, thank you. [LB292]

STEVE WILLBORN: Too good for me. [LB292]

SENATOR LINDSTROM: Any other questions from the committee? Seeing none, thank you. [LB292]

STEVE WILLBORN: Thank you, Senator. [LB292]

SENATOR LINDSTROM: Next neutral testifier. And Senator Larson waives closing. That will end the hearing on LB292. And we will hang on here to open on the next bill. Senator Walz is next. Whenever you're ready. That's fine. We kind of got through that one pretty quick. Take your time. [LB292]

SENATOR WALZ: Okay. All right, thank you. Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee, my name is Lynne Walz, L-y-n-n-e W-a-l-z, and I proudly represent the 15th Legislative District. LB551 would change the requirements to be a credentialed real property appraiser. As a realtor, I know firsthand the shortage of property appraisers, especially in rural Nebraska. Many times I have waited for weeks for an appraisal, which was the only thing stopping me from selling the property or closing on the property. The intent of the bill is to clarify and reduce the requirements needed to become a real property appraiser so that businesses and homes can be sold more efficiently. I bring forward this bill knowing that there are basic guidelines that the federal government or board of appraisers sets. We thought the new regulations would have already happened to accomplish similar goals to what we are trying to accomplish in Nebraska. I introduced this bill knowing that this bill would need amendments to mirror the new standards set forth at the federal level, but I wanted to introduce this bill so we did not have to wait an entire year if it was passed early on. I ask the committee to hold the bill at this time to see what happens at the federal level. I'd be happy to answer any questions you may have. Thank you. [LB551]

SENATOR LINDSTROM: Thank you, Senator Walz. Any questions from the committee? Seeing none, thank you very much. We'll now move to proponents. Afternoon. [LB551]

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

Banking, Commerce and Insurance Committee
March 13, 2017

CHRIS LANGEMEIER: Good afternoon. My name is Chris Langemeier, C-h-r-i-s L-a-n-g-e-m-e-i-e-r, kind of a roller coaster there. Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee, I thank you for the opportunity to testify here today on behalf of LB551. It's been a long time since I've been on this side. It's kind of fun. I would like to first thank Senator Walz for introducing LB551. Professional licensing is a big topic in the Nebraska Legislature. There's been a number of bills to talk about that introduced. This isn't one of them. I am a certified general appraiser in Nebraska, been there since 2000 and make a living doing that. The Nebraska appraisal industry is governed by the Nebraska Appraiser Board and consists of a board of five members appointed by the Governor. They also do licensing, the same board. However, the requirements for licensing of an appraiser are set by the Appraisal Foundation in Washington, D.C., then put into state statutes to mirror those federal regulations. You say, why do we do that? It's fairly simple. If we don't mirror those regulations or have stronger requirements to become an appraiser, we can't do federally related transactions in Nebraska. Pretty simple. We need to follow what they offer us. Earlier this year, the Appraisal Foundation had offered up a draft amendment to change the requirements. In 2008, we had a pretty significant change in how to become an appraiser. But in 2015, with Dodd-Frank and after the 2008 crisis in the home lending industry, we got even stricter requirements adopted in 2015 and handed down to us. And one of those requirements is to be an appraiser you have to have your bachelor's degree, as well as 300 hours of continuous education, as well as 3,000 hours of experience. So, for example, I got a call today from a young gal that wants to get into the appraisal industry in Broken Bow, Nebraska, and she can't find anybody to train her. So she's just going to graduate from the University of Nebraska this May, she's looking for somebody to train her, she's got basically a whole other career to develop to become an appraiser. And so it stops transactions in western Nebraska unless I'm willing to drive out there. And so that really becomes an issue. So what was proposed earlier this year was to take those requirements back to what they were in 2008. Still had to have significant college experience--didn't have to have a degree, but you had to have a real qualified associate's degree, as well as the appraisal education, plus the required hours. And so with that, we introduced LB551 because I think that makes a lot of sense to go back to that level in 2008. And I didn't want to have us be a year behind if those requirements got adopted and so we had this bill introduced. However, with what's going on in Washington and what else is going on, talked about Dodd-Frank, they haven't made a ruling on these draft proposals so we sit in a quandary. So I agree and I appreciate Senator Walz's introducing this is, just hold onto this bill and if they do adopt this later in the year we can maybe get it out first part of next year so we don't have to be as far behind as we potentially could be. So with that, I want to thank you for your time and appreciate the opportunity to come speak to you. [LB551]

SENATOR LINDSTROM: Thank you. Thank you for your testimony. Senator Williams.
[LB551]

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

Banking, Commerce and Insurance Committee
March 13, 2017

SENATOR WILLIAMS: Thank you, Chairman Lindstrom. And thank you, Senator Langemeier, for being here. Since you've been in this a fairly lengthy period of time and were in it in the pre-Dodd-Frank days and then the post-Dodd-Frank days when higher restrictions were put on it, do you think the appraisal product has improved during that time or as a financial institution should I be able to rely on the product before Dodd-Frank as much as the product following that?
[LB551]

CHRIS LANGEMEIER: I don't think the appraisal product has improved due to Dodd-Frank. The appraisal product has improved due to technology. It is so much easier to get records. It is so much easier on the lender side to verify what's in an appraisal report is correct, because it's all on-line now. So I think everything has gotten better. We got rid of registered appraisers and registered appraisers was kind of the entry level, so now you have a work force of appraisers that's much more skilled. And with the use of technology I think all our reports are better.
[LB551]

SENATOR WILLIAMS: I understand the situation in those communities. Broken Bow happens to be in my legislative district. And in addition to the qualifications, we now continue to run into the situation where if you continue to use the same appraiser for the same kind of thing you're criticized for that, too. [LB551]

CHRIS LANGEMEIER: Correct. [LB551]

SENATOR WILLIAMS: Even though there may only be one or two people that you can have do commercial property, one or two that can do residential, one or two that can do leasehold kind of property. So will any of those things or will all of those things improve with legislation like Senator Walz is producing? [LB551]

CHRIS LANGEMEIER: No, that's within Dodd-Frank. And when they created that wall, as you talk about...as an appraiser I get on a panel. And as a banker requests an appraisal, it goes through that, they go down the list in order. And so what it's done is...I understand the point of it. It was to get rid of collusion. If you had an appraiser that really did good deals for you and that's what you wanted. [LB551]

SENATOR WILLIAMS: Right. [LB551]

CHRIS LANGEMEIER: But it really took away your ability to get good appraisers and allow you to continuously use people you think are doing a good job, because you're in that random assortment. And you've got to put as many appraisers on there as you can or FDIC gets on your

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

Banking, Commerce and Insurance Committee
March 13, 2017

case if you only have two on there. And so that's within Dodd-Frank and unfortunately we can't adjust that. [LB551]

SENATOR WILLIAMS: (Inaudible.) Thank you. [LB551]

SENATOR LINDSTROM: Thank you. Senator Craighead. [LB551]

SENATOR CRAIGHEAD: Thank you, Senator Lindstrom. Thank you for being here today. Refresh my memory. In 2007, people had to have an associate's degree. And then what were the other qualifications? [LB551]

CHRIS LANGEMEIER: In 2008--and I can provide you a list--basically, in 2008 was the same as what your bill is before you, what it reduces it to. So what it required is, an associate's degree within still 300 hours of appraisal-related classes and then the time requirements. So what they did was, they upped that up to a bachelor's degree. And so to get into the appraiser business, you've got to get a bachelor's degree, you've got to get 300 hours of continuing ed, and then you've got to find somebody that's willing to train you for 3,000 hours. And so it's just really hard to do in a very independent business. [LB551]

SENATOR CRAIGHEAD: Thank you. [LB551]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? Seeing none, thank you very much. [LB551]

CHRIS LANGEMEIER: You bet. And I will e-mail you a breakdown list. [LB551]

SENATOR CRAIGHEAD: Thank you. [LB551]

CHRIS LANGEMEIER: Thank you. [LB551]

SENATOR LINDSTROM: Next proponent. Afternoon. [LB551]

JERRY STILMOCK: (Exhibit 1) Mr. Chairman, members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska Bankers Association, in qualified support. Qualified only in the sense of what Senator Walz had said is with the Appraisal Qualification Board still yet to finalize their proposal so that we mirror, rather than a step ahead what we're doing in Nebraska. Former Senator Langemeier, Senator Walz, said

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

Banking, Commerce and Insurance Committee
March 13, 2017

exactly what's happening. The low number of entry level appraisers is affecting the business world in the appraising. Why can't those training...those in training obtain their credentials because of the problem of Broken Bow to Schuyler? The difference in what's happening in the struggle in trying to find a supervisor for the trainee. What happened with Dodd-Frank and the laying back on of additional requirements has done nothing but set the business world back in obtaining appraisals. So we're glad to see the legislation entered, understand the ramifications of why it was introduced by Senator Walz. It was a great idea to be there ready to jump in case the feds did get their act together, the Foundation that is. They haven't, so we're ready to go. We're ready to go when the Foundation finalizes their final rule. And for those reasons, we join in the support of the legislation. And I can close now that I found my testimony to give out by the pages, please. Senators, thank you. That will teach me for bringing up too many items. Thank you all. [LB551]

SENATOR LINDSTROM: Thank you, Mr. Stilmock. Thank you very much. Any questions? [LB551]

JERRY STILMOCK: My pleasure. [LB551]

SENATOR LINDSTROM: Seeing none, thank you. [LB551]

JERRY STILMOCK: Thank you. [LB551]

SENATOR LINDSTROM: Next proponent. Seeing none, we'll move to opponents. Seeing none, we'll now move to neutral testifiers. Afternoon. [LB551]

TYLER KOHTZ: (Exhibit 2) Good afternoon. 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'm just going to give you a little more detail in depth on the requirements and why they are. I'd like to begin by thanking Chairperson Lindstrom and the committee members for this opportunity to represent the Real Property Appraiser Board concerning LB551. Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 requires each state to prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions. In addition, real estate appraisals are to be performed in accordance with generally accepted uniform standards and are to be performed by an individual whose competency has been demonstrated and whose professional conduct is subject to effective state supervision. The Real Property Appraiser Board was established in 1991 as the Real Estate Appraiser Board to carry out the requirements of Title XI and the Federal Financial Institutions Examination Council Appraisal Subcommittee, also known as just the Appraisal Subcommittee. The Real Property Appraiser Act consists of qualifications for credentialing, as well as standards for appraisal

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

Banking, Commerce and Insurance Committee
March 13, 2017

practice and appraiser conduct. The board's primary functions related to the Real Property Appraiser Act are to issue and renew appraiser 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 program is primarily funded by appraiser credentialing fees and no taxpayer money is involved. The Appraisal Subcommittee monitors the requirements established by each state or territory and the District of Columbia and their appraiser regulatory agencies for the certification and licensing of appraisers, and reviews each state's compliance with the requirement of Title XI. The ASC is authorized by Title XI to take action against noncomplying state appraiser regulatory program if the policies, practices, and procedures in place are inconsistent with the requirements of Title XI. The Appraisal Subcommittee is also charged with monitoring and reviewing the practices, procedures and activities and organizational structure of The Appraisal Foundation, which develops the Real Property Appraiser Qualification Criteria through its Appraiser Qualifications Board. The Appraisal Foundation issued its Second Exposure Draft of the Proposed Changes of the Real Property Appraiser Qualifications Criteria on September 15, 2016. LB551 updates the Real Property Appraiser Act with the changes proposed by the Foundation in this exposure draft. The Appraisal Foundation intends to issue its Third Exposure Draft of Proposed Changes to the Real Property Appraiser Qualifications Criteria in mid-March and the next public hearing concerning the proposed changes for the criteria is scheduled for April 7, 2017. The changes to the Real Property Appraiser Criteria may be adopted by the Foundation any time after this April 7 hearing. Because the Foundation has not yet adopted changes to the criteria, but will do so in the future, the board as with the proponents would like to request that the committee allow time for the board to work with Senator Walz's office on an amendment to LB551, if needed, to address any changes between the Foundation's second and third exposure draft. After the board confirms that LB551, with or without any needed amendments, is compliant with the Real Property Appraiser Criteria as adopted and promulgated by The Appraisal Foundation, the board would submit a letter or some sort of notice to the committee that it supports LB551. Thank you for your time. And if you have any questions, please feel free. [LB551]

SENATOR LINDSTROM: Thank you, Mr. Kohtz. Any questions from the committee? Seeing none, thank you very much. [LB551]

TYLER KOHTZ: Okay. Thank you. [LB551]

SENATOR LINDSTROM: Next neutral testifier. Seeing none. Senator Walz waives closing. And that will end the hearing on LB551. We will now move to our last bill on the agenda, LB594, introduced by Senator Groene. Good afternoon, Senator. [LB551 LB594]

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

Banking, Commerce and Insurance Committee
March 13, 2017

SENATOR GROENE: Thank you, Chairman Lindstrom and members of the Banking Committee. LB594 would...prior to seeking benefits under a tax credit, tax abatement, or incentive plan offered under the laws of this state, LB594 would require a limited liability company, LLC, to file an amended certificate of organization. The amended certificate of organization must list the name, the date of the filing, and the names of the members of the LLC. Transparency and accountability are in the best interests of the public. Citizens should know for certain that local government officials elected, appointed, or employed, do not have a conflict of interest when approving tax incentives for an LLC. If a local official has the potential of benefiting from approval of an economic tax incentive, the public should know in advance and expect that such official recuse themselves from the decision process. I had...my staff came up with the idea; they went through all the TIFs of 828. At least 221 of them are LLCs. Lancaster County does not, when they report to the property tax assessment division, does not put if they're LLC, so we don't know how many of theirs are LLCs. An LLC is a good business practice. I've got nothing against LLCs. You're in business, all you got to do is register with the Secretary of State your agent. For competitive reasons, you don't want your neighbor to know what business you're involved in. But when it comes to government, in my own hometown, North Platte, we've had an instance or two where on housing I put a stop to it because I demanded, and they would not tell us who the members of the LLC were so people dropped off. I had to call some business people. When you brought that up I decided not to be part of the LLC because they had conflicts. On our community redevelopment authority, we have real estate interests. We have real estate speculators, we have bankers. The problem is, they can invest in an LLC and apply for a tax TIF, LB840, and vote for personal profit for themselves and the public doesn't know that they are a member of the business that will profit from that tax entity. This is just plain and simple accountability. If you want secrecy don't apply for tax dollars. That is the emphasis here. It's called transparency. It's called accountability. If you don't want to let people know what you're invested in then don't apply for a tax break. That's what the bill, (LB)595's intent is, transparency. If an individual does it, applies with their business for a TIF, for example, we all know. When Walmart did it, we knew it was Walmart Corporation. When a local insurance agent, printing company, the lady did it, we knew who was applying for it, it was in the paper. When an LLC pops up I have no idea who will benefit from that tax incentive. It's just for that purpose that I introduce this bill. So thank you. [LB594]

SENATOR LINDSTROM: Thank you, Senator Groene. Any questions? Senator Schumacher. [LB594]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. Thank you, Senator Groene, for this bill. We just heard actually moments ago a bill in which a mama LLC could have baby LLCs and those baby LLCs could have baby LLCs and we have a whole pyramid conceivably of LLCs. This...I gather that your intention is to trace the LLC to its flesh and blood owners. And so if we have a situation of such pyramiding LLCs, we would probably have to amend this to say, if an

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

Banking, Commerce and Insurance Committee
March 13, 2017

LLC is owned by an LLC owned by an LLC, we want to know who the flesh and blood person is. Is that your intent? [LB594]

SENATOR GROENE: Yes. Who the major stockholders are. If that's just hundreds of them, I guess that's hundreds of them. But people need to know that their elected official or a...we had an instance where a doctor was a member of an LLC and he also was the chief medical officer at the city for the fire department and stuff. We need to know that, that somebody is enriching themselves by their actions, by their vote on a community redevelopment authority or even a city council. Right now the mayor of a city could be a leading owner of an LLC and approve a tax increment financing or an LB840 project and the citizens would not know it. [LB594]

SENATOR SCHUMACHER: Well, this kind of relies on voluntarily...I mean, it says that they shall, but who's to enforce the shall, reporting themselves and making this indication? Would it not be just as effective to say as part of a TIF or LB840 application, you must sign an affidavit or a certificate or something that nobody in the governmental chain of command has got an interest, direct or indirect, in the business? [LB594]

SENATOR GROENE: How do you prove that? [LB594]

SENATOR SCHUMACHER: How do you prove this? [LB594]

SENATOR GROENE: Well, you have to apply. Anything you apply for with the government you'd expect you to be honest. I mean, if we're to the point in society everybody is lying about everything, Senator Schumacher, we're in trouble. But they have to report it to the Secretary of State, refile and then the community redevelopment authority or the city council, the city manager does an LB840 check to see or the public can check to see who are the owners of that LLC. [LB594]

SENATOR SCHUMACHER: But what if one of the reasons...you weren't a public official, but you didn't want anybody to know that you were involved in the LLC--for whatever reason--and you were deserving or qualified for one of these tax perks and this filing would dissuade you from applying for the tax perk and all the wonderful economic development that goes with it, just because you have to disclose your identity and you weren't an official. If this is just about officials, should we try to narrow it down? Or do you want a broad brush? [LB594]

SENATOR GROENE: Well, you need to...also the employees at the city management office, the economic development department in our city; mid-size cities have those. You want to make sure that those individuals aren't owners in a business, in an LLC, and then enriching themselves by

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

Banking, Commerce and Insurance Committee
March 13, 2017

their actions. I talked to Frank Daley at the Accountability and Disclosure and he said by assumption any elected official should disclose and recuse themselves if they do, but there's no law that says they have to. [LB594]

SENATOR SCHUMACHER: What if we were to require all LLCs to uncloak and disclose their members? [LB594]

SENATOR GROENE: I don't think we need to do that. If you want to work in the free enterprise world where you're not involved with forceful taking of individual tax dollars, I see no reason why you need to disclose your private business. This is only trying to get tax dollars. [LB594]

SENATOR SCHUMACHER: Thank you, Senator. [LB594]

SENATOR LINDSTROM: Senator Kolterman. [LB594]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. Senator Groene, does this mean they can't get it or you just want to know who's trying to get it? [LB594]

SENATOR GROENE: They can apply for it once they amend their... [LB594]

SENATOR KOLTERMAN: Once they divulge. [LB594]

SENATOR GROENE: Yeah. It's called transparency. [LB594]

SENATOR KOLTERMAN: Okay. So you're not trying to stop them, you're just asking them to... [LB594]

SENATOR GROENE: Yeah, divulge. [LB594]

SENATOR KOLTERMAN: Okay. Let's say I sit on the (LB)840 board and an LLC that I have coming, they want to get some (LB)840 monies so they apply. What...would people know automatically? [LB594]

SENATOR GROENE: What would happen is you should recuse yourself. [LB594]

SENATOR KOLTERMAN: Yeah, wouldn't you automatically do that? [LB594]

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

Banking, Commerce and Insurance Committee
March 13, 2017

SENATOR GROENE: It's not happening. I know some instances that I know and it did not happen. [LB594]

SENATOR KOLTERMAN: Well, we have to...as an example here, we have to file the report if there's a conflict of interest. That's really what we're talking about here. [LB594]

SENATOR GROENE: Yes. But how do I, as the public, have a feeling that this individual is involved, but I can't confirm it. And how do I make a complaint to Accountability and Disclosure Commission that this individual did not recuse themselves if I don't have any factual basis to do it? [LB594]

SENATOR KOLTERMAN: Okay. Thank you. [LB594]

SENATOR GROENE: I mean, just to clarify. They...transparency, they tell who owns it. They still can apply. The individual should recuse themselves from the...or an employee would not. But then the public can have a public opinion and go to an elected official and say, we don't believe this is correct that this public official or this public employee is going to profit from them and has...it's called debate of the public in a democracy, but you can't have that debate unless you have the facts. [LB594]

SENATOR LINDSTROM: Any other questions for Senator Groene? Seeing none, thank you, Senator. [LB594]

SENATOR GROENE: Okay. I'll stay around. [LB594]

SENATOR LINDSTROM: Okay, sounds good. Thank you. We'll move to proponents. Seeing none, we'll now move to opponents of LB594. Seeing none, we'll now move to neutral testifiers. And we'll invite Senator Groene back for closing. [LB594]

SENATOR GROENE: It's hard to be against transparency. Looks like I got a consent calendar bill here. So I'd like to...it's just common sense. And it's really, really a big thing in small communities because usually it's that business...people who want to do good for the community are on these boards. But for their own...to stop rumors. I've heard of rumors in North Platte where somebody wasn't ever involved, but it was never disproved. In fact, I had to defend one of my...Mike a couple of times because...he was an opponent of mine in debate...friendly opponent. But I had to defend him a few times because rumors were out there that he was profiting on certain issues and he wasn't. This would clear that up, too. So thank you. [LB594]

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

Banking, Commerce and Insurance Committee
March 13, 2017

SENATOR LINDSTROM: Thank you, Senator. Senator Kolterman. [LB594]

SENATOR KOLTERMAN: Senator Groene, if this bill would get consent, are you intending to amend your horse massage bill onto this? [LB594]

SENATOR GROENE: I might just do that. [LB594]

SENATOR KOLTERMAN: Thanks. [LB594]

SENATOR LINDSTROM: Any further questions? Seeing none...oh, I'm sorry. Excuse me. Senator Williams. [LB594]

SENATOR WILLIAMS: I do have one. Thank you, Chairman Lindstrom. And I agree with your concept here, Senator Groene, about transparency. What do you do with a situation that Senator Schumacher brought up, where you have the limited partner who wants to remain very silent and is not in a situation where they're voting on something or they're not a member of those kind of things and yet for other reasons, whatever they might be, they would like to remain, is there a way to protect that? [LB594]

SENATOR GROENE: The reality is this: If you are taking...I can go on a Website and I can-- there isn't a single farmer on this committee--I can find out every dollar a farmer got from a federal program. It's not just that elected official. A citizen should know who is profiting, really, from a government...beneficiary from a government action or a government program. Why should I not know? I mean, really. If you're going to take government money, you lost your privacy. [LB594]

SENATOR WILLIAMS: Thank you. [LB594]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you, Senator. [LB594]

SENATOR GROENE: Thank you. [LB594]

SENATOR LINDSTROM: And that will end the hearing on LB594. And that will end the hearings for today and for the year. [LB594]