

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee January 22, 2019

**WILLIAMS:** Good afternoon, everyone. If you're here for the Banking, Commerce and Insurance meetings this afternoon, you're in the right place. Welcome to the committee. My name is Matt Williams. I'm from Gothenburg and represent Legislative District 36 and I serve as Chair of the 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 that we are not interested in the bill that you are bringing before us. It's 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. The chart is not here today but that's all right. Please silence or turn off your cell phones, move to the front when you are ready to testify. The order of testimony will be the introducer first, proponents, opponents, neutral, and then a closing. Testifiers, please sign in, hand your pink sheet, the sign-in sheet, to the committee clerk when you come up to testify. Spell your name for the record before you testify and please be concise. We will be using the five-minute clock today. And so green for four minutes, yellow for one minute, and then the red sign will come on and that's when I will stop you. 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 the staff when you come up to testify. We 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 committee counsel, Bill Marienau. He is starting his thirty-third session as committee counsel. To my left at the end of the table is committee clerk, Natalie Schunk, and all of our committee is with us today; and I'll have them introduce themselves starting with Senator McCollister.

**McCOLLISTER:** Senator John McCollister from District 20, central Omaha.

**KOLTERMAN:** Senator Mark Kolterman, District 24, Seward, York, and Polk Counties.

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**QUICK:** Dan Quick, District 35, Grand Island.

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

**La GRONE:** Andrew La Grone, District 49, northwest Sarpy County and Gretna.

**HOWARD:** Sara Howard, I represent District 9 in midtown Omaha.

**GRAGERT:** Tim Gragert, District 40 in northeast Nebraska.

**WILLIAMS:** And our two pages with us today are Tsehaynesh and Nedhal. So if you need anything from them, they will be happy to help you with those things. Our committee will take up the bills in the order posted, and we are starting with bill number LB26 introduced by Senator Kolterman.

**KOLTERMAN:** Good afternoon, Chairman Williams and fellow members of the Banking, Commerce and Insurance Committee. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, and I represent Legislative District 24. Today, I'm introducing LB26. LB26 creates an exemption to the definition of legal expense insurance to update our laws allowing for plans that are a, a different business model than those established in the late 1970s when the current statute was put into law. The current statutory definition describes a business model that provides as a reimbursement for legal expenses in such a manner that the total costs incurred by assuming the obligation is to be spread directly or indirectly among a group of persons. Originally, the goal of this 1979 statute was to help assure that all Nebraskans have an opportunity to afford le-- quality legal services. The Legislature sought to provide for the information of legal expense insurance companies that would assume the risk and obligation of legal expenses and then spread that risk amongst the insureds. Although legal expense plans that reimburse for legal expenses still do exist, this bill seeks to exempt modern-day plans that do not assume the risk of legal expenses. Rather members pay a monthly fee for a referral to a Provider, Provider Law Firm established in this state. The Provider Law Firm provides consultations and limited service to the members like advice on how to handle a speeding ticket, etcetera. Attorneys are paid an administrative fee by the plan. Members receive no reimbursement or indemnification for these services under this plan. This business model eliminates a claims risk that traditional insurance companies experience and that this law anticipated when it was passed. LB26 simply clarifies the definition of legal expense insurance to allow

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for modern-day plans that pay an administrative fee to an attorney so that it is not considered payment or reimbursement for specified legal services. The bill also adds an exemption to the statute excluding from regulation plans that do not include the assumption of risk or obligation to pay or reimburse for specified legal services or specified legal expenses. So in essence, this bill has our regulators focusing on plans that function like insurance companies versus reviewing and over-- overseeing plans that are not insurance companies. I'd like to try and answer any questions you might have, and we have the company with us that is bringing the bill to testify as well.

**WILLIAMS:** Thank you, Senator Kolterman. Are there questions for the Senator? Senator McCollister.

**McCOLLISTER:** Thank you, Senator Williams. Senator Kolterman, I would guess this bill came from the Department of Insurance?

**KOLTERMAN:** Actually, it came from a company Legal Shield that, that does sell market this program, but the Department of Insurance has had an opportunity to look at it.

**McCOLLISTER:** Oh, I, I see it comes with an \$8,200 revenue credit. Why is that?

**KOLTERMAN:** Well because if they're not an insurance company, they're not paying premium taxes any longer. So this is not an insurance company, but they'll, they'll address the revenue stream when they come because they, they think they'll more than, more than outpace that revenue stream.

**McCOLLISTER:** So pretty limited the scope of the bill, is there not?

**KOLTERMAN:** Yes.

**McCOLLISTER:** Thank you, Senator Kolterman.

**KOLTERMAN:** It's the way that the industry is going.

**WILLIAMS:** Additional questions? Seeing none and I'm assuming you'll stay with us--

**KOLTERMAN:** I will.

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**WILLIAMS:** --for closing. I would invite the first proponent. If you would introduce yourself and spell your name for us.

**MARK NELMS:** Mark Nelms, M-a-r-k N-e-l-m-s, in my role, I'm assistant general counsel with LegalShield in Ada, Oklahoma. And first of all, thank you for your time today to the committee; and I appreciate Senator Kolterman introducing the bill. I wanted to say, first of all, we are-- our plans are offered here in Nebraska under Pre-Paid Casualty Incorporated doing business as LegalShield so you may hear of that company. For a long time, it was known as Pre-Paid. It's interesting the history of the bill actually goes back to 1979. And one thing that really struck me in closing in my remarks was really the goal was access to legal help. And what we're finding in, in doing research for Nebraska, most states like Oklahoma now have Access to Justice Commission and those commissions like in Nebraska was put together by the Nebraska Supreme Court. And what was amazing was actually Nebraska's was just put together in 2017. But what states have found over time is many citizens on a daily basis don't have access to legal help, and it's not necessarily in the criminal realm as we think about. It's, it's everyday civil needs. And so what I appreciate about our plans and prior to coming to the home office assistant general counsel, I was actually with a Provider Law Firm in Oklahoma for most of my career. So I appreciate very much what we get to do for the members. But for a monthly membership subscription fee basically of \$25 or less for individuals and families, we do have small business plans as well-- they get access to call a Provider Law Firm like the Provider Law Firm in Nebraska. And a, and Dave Watermeier from the firm came today as well; and I appreciate Morrow, Poppy, Watermeier and Lonowski and they're the provider in Nebraska. They've been providing since 2000. But how the membership works is if a member has a need they call the law firm and, of course, there's certain specified benefits they receive. And if there's something beyond that they need help with, then they get an additional discounted benefit that they can get a referral for. But back to the Access to Justice, we know we can't be the answer or the sole answer; but we are a large answer to a lot of individuals, families, and businesses who without that plan, without that membership would not have access to a law firm like Mr. Watermeier's law firm. So I wanted to bring that up because I, I think in the end it's going to be a win-win for everyone. We didn't have a good meeting, I think, with the department. We are not insurance. I think at one point, you know, memberships like ours were maybe more akin to insurance at the time years ago. But we do not indemnify. We do not assume risk. We don't

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pay claims. We do pay a per capita rate per member to the law firm provider. But if there is anything beyond that that's not covered by the membership, it'd be up to the member to retain the firm or retain a referral attorney. We don't provide the services directly ourselves. And so we're not insurance and the majority of states we're not regulated in. And so that's really the purpose of the bill is just to clarify, make clear that we are not insurance. There's many, there's other companies in the market that have similar products to ours, they're not insurance, who aren't regulated currently. So this will also, I think, help level the playing field, so to speak, with those companies. There'll still be some companies that are insurance and that doesn't change that if they are insurance they'll still be regulated. The other thing I would bring up in our meeting with the department, our company now is over 45 years strong. And so I appreciate the corporate citizen that we've been in Nebraska and our relationship with the department and the state that we've had. Certainly it's not an adversarial circumstance. It's not a negative circumstance at all. But I really believe that with this deregulation that we are going to be able to help more Nebraska citizens which is going to help everyone. I really believe that and that's come true in the states where we're not regulated. So I look forward to the change and what we can do to help more and more citizens as we all serve them together. And, and a, and I appreciate what you do. The economic question came up. I want to just address that briefly if I could. Even though there won't be necessarily the, the premium tax, and to give you a number in 2018, we'll pay approximately \$21,500 in premium tax. But we do like most states where there's premium tax, there's also state taxes. Now I know I don't have a number for you today and I'm not going to say it's dollar for dollar, but obviously the state tax will go up as the premium tax goes away. The other thing I would say is this, we have a lot of individuals who sell memberships. They're independent sales associates and through the deregulation that will allow more individuals to sell our plans. And for most people who sell our plans, it's extra income for them. So I think it will also help raise revenue for individuals and families who can then sell our products easier in the state of Nebraska. So with that I'd be glad to entertain any questions you have, and I certainly appreciate your time today.

**WILLIAMS:** Questions, Senators? Could you tell us approximately how many states you're currently doing business in?

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**MARK NELMS:** Yes, sir. We actually have Provider Law Firms in and provide services in all 50 states and four provinces in Canada and we're also now in the UK.

**WILLIAMS:** And you mentioned your marketing efforts. Could you describe a little in just a little more detail how you do--

**MARK NELMS:** Um-hum.

**WILLIAMS:** --market your product?

**MARK NELMS:** Yes, sir. Basically there's multiple ways, obviously, with Internet and with an individual or family or businessperson could go on the Internet and just buy directly on-line. We do have independent sales associates through the networking side. And we've had that since the beginning and so there are independent contractors but they can sell our products to friends, family. They can go to a company employer. So we do have those that sell in the group market to employers as well. We do have a, a more of a-- now more of a broker side that does sell to larger companies now in that space. But for the most part, especially in the history of Nebraska, it would be the face-to-face individual selling the plans and of course some on-line. But that's the majority of who would be selling in this state.

**WILLIAMS:** Thank you. Any additional questions? Thank you for your-- whoop. Senator McCollister.

**McCOLLISTER:** Sorry. Thank you, Mr. Chairman. You really cover the waterfront when it comes to marketing. You can buy this product on-line. You have a sales agents and then you have a wholesale division. Tell me how that works out. How do you keep those, those channels separate?

**MARK NELMS:** Keep them separate, sir?

**McCOLLISTER:** Well, I mean how do you, how do you compensate, for example, from a sales agent when you--

**MARK NELMS:** Right. Yes, sir.

**McCOLLISTER:** --yet, you can buy this product on-line?

**MARK NELMS:** Absolutely. Well, if, if I'm the independent sales associate who sells you a membership then I would get a share of that membership, as long as it's on the books as the person who sold that.

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If someone sold it on-line, we do try to track that. For example, if, if I hadn't spoke with my brother and, you know, he went on-line and, and we do try to honor that, of course, with technology. But I think we've done a pretty good job with that. And then on the broker side, of course, the larger companies, you know, those that sell to that they have to, of course, be trained, etcetera, and have those relationships. But that's-- I don't know if that answers your direct question, sir, as far as keeping it separate. But back to basically how it works is that membership would be on the books under the person who sold it as long as they remain a member.

**McCOLLISTER:** And the way the institutions are paid they can get a discount for that product and then resell it at a higher price?

**MARK NELMS:** The membership itself, sir?

**McCOLLISTER:** Yeah.

**MARK NELMS:** No. As far as, make sure I'm clear.

**McCOLLISTER:** How do you incentivize the institutions to sell your product?

**MARK NELMS:** When you say an institution like--

**McCOLLISTER:** I'm talking about the brokers.

**MARK NELMS:** Oh, I see.

**McCOLLISTER:** Yeah.

**MARK NELMS:** They would be similar to an individual sales associate. They would get a share of whatever was sold. The difference being if I come into a company or employer, for example, today I signed this company up. It may be five of you enrolled in the membership. It's just a larger volume. But, but it's, it's still the same as far as, as far as the payment if that makes sense. As far as how they're paid and memberships stay on the books.

**McCOLLISTER:** Thank you very much.

**MARK NELMS:** Absolutely.

**WILLIAMS:** Thank you for your testimony.

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**MARK NELMS:** Thank you.

**WILLIAMS:** Invite the next proponent. Seeing no one, are there any opponents? Seeing no one, is there anyone here to testify in the neutral capacity? Seeing none, Senator Kolterman waives closing. That will end the public hearing on LB26. And we will move on to LB77.

**LINDSTROM:** Good afternoon, Senator Williams. Whenever you're ready, you're welcome to open on LB77.

**WILLIAMS:** Thank you, Vice Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s, and I'm here today introducing LB77. LB77 was introduced at the request of the Nebraska Real Property Appraiser Board. I would amend, I would-- it would amend the Nebraska Real Property Appraiser Act to reduce barriers to entry into real property appraiser profession. The bill was put together over the summer and fall by staff of the board and staff of this committee pursuant to interim study resolution LR352. The bill would implement the Real Property Appraiser Qualifications Criteria adopted by the Appraisal Foundation's Appraiser Qualification Board on May 1, 2018, and would maintain compliance with Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Title XI requires each state to prescribe appropriate standards for the performance of real estate appraisals in connection with federally-related transactions. Real estate appraisers are to be performed in accordance with generally accepted uniform appraisal standards and those that are professional conduct is subject to effective state supervision. There are four qualifications or classifications of credentials issued by Real Property Appraisers by the board: trainee real property appraiser, licensed residential real property appraiser, certified residential real property appraiser, and certified general real property appraiser. Among the highlights, the bill would reduce the number of hours of experience required for licensed residential and certified residential classifications. The bill would remove the postsecondary education requirements for the licensed residential classification and would allow for alternative postsecondary education options for the certified residential class. The bill would allow all qualifying education to be completed on-line. In the many areas of cleanup, the bill would update an internal reference to federal law and would reorganize the definitions in the Nebraska Appraisal Management Company Registration Act so they will appear in alphabetical order. The main impetus of this bill is if the

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state of Nebraska's laws are found not to be in compliance with Title XI by the Appraisers Subcommittee of the Federal Financial Institutions Examination Council, the Appraisal Subcommittee may remove all Nebraska credentialed appraisers from the federal registry resulting in no appraisers being qualified to appraise real property in connection with federally-related transactions and approximately 80 percent of all mortgage loan activity would be affected. Therefore, that's why we are here today introducing LB77. I would be happy to try to answer any questions, but there are members of the Appraisal Board that will follow me for testimony. Thank you.

**LINDSTROM:** Very good. Thank you, Senator Williams. Any questions from the committee?

**McCOLLISTER:** I'll ask one.

**LINDSTROM:** Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Senator Lindstrom. If memory serves, Senator Williams, aren't there a lack of appraisers in this state and this, this bill is an effort to produce more appraisers? [INAUDIBLE]

**WILLIAMS:** That's certainly one of the things, I think, Senator McCollister, that could happen with this. The main impetus of the bill itself is to align the requirements of our state law with the federal requirements that we have. But you are certainly right. As a, as a banker in our state that uses appraisers especially in rural areas, we do have a shortage; and I would hope that an outcome would be that there would be more appraisers hired.

**McCOLLISTER:** Well, it's a great bill. Thank you for bringing it.

**LINDSTROM:** Thank you. Any other questions from the committee? Seeing none, thank you, Senator Williams. We'll now move to proponents of LB77. Good afternoon.

**TYLER KOHTZ:** You ready? 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'd like to begin by thanking Senator Williams for introducing this bill and also all the members of the committee for giving me the opportunity to speak on behalf of the Real Property Appraiser Board concerning LB77. Just some background, the Real Property Appraiser Board was established in 1991 to carry out the requirements of Title XI of the Federal Financial Institutions Reform Recovery and

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Enforcement Act of 1989. Title XI requires that real estate appraisals are performed by individuals whose competency has been demonstrated and whose professional conduct is subject to effective state supervision. That supervision comes from the Appraisal Subcommittee also known as the ASC. They're the ones that monitor all state credentialing programs for compliance with the requirements of Title XI. The Real Property Appraiser Act consists of the qualifications for credentialing as well as standards for appraisal practice and appraiser conduct. The board's functions related to the Real Property Appraiser Act are to issue and renew appraiser credentials, develop and implement standards for appraiser credentialing, approve appraiser education, investigate and adjudicate grievances, and disseminate relevant information as needed. The board's program is primarily funded by appraiser fees and there's no taxpayer money that is used to support this program. The primary purpose of LB77, I think Senator Williams covered the, the, the, the summary very well so I'm going to go into more of the specifics of it. The, the time reduced for appraisal experience that may be obtained is from 12 months to 6 months for the licensed residential classification and from 24 months to 12 months for the certified residential classification and 30 months to 18 months for the certified general classification. The number of experienced hours required for certified residential will be reduced from 2,500 to 1,500. The licensed residential classification is reduced from 2,000 to 1,000. The postsecondary education requirements for licensed residential classification is reduced to holding a high school diploma, a certificate of high school equivalency, or having education acceptable to the board. LB77 also allows for a fast track upgrade from the licensed residential classification to the certified residential classification for those that hold a credential for a minimum of five years and have not been subject to any previous disciplinary action by the board or any other jurisdiction. LB77 amends the postsecondary education requirements for the certified residential real property appraiser credential to add options for qualification in lieu of a bachelor's degree. This also includes an associate's degree, the successful completion of 30 semester hours of college level education, College Level Examination Program also, also known as CLEP hours, or any successful combination of semester hours at the college level or CLEP courses, just as long as all the topics are, are met to meet the requirements. LB77 removes the seven-hour minimum requirement for the supervisory appraiser training course and removes the requirement that the supervisory appraiser and training course must be completed within two years of submitting an application by a potential supervisory appraiser. It

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also eases the Appraiser Qualification board's degree approval requirements to include the equivalent as determined by the Appraiser Qualifications Board; allows for all qualifying education to be completed on-line for applicants; changes the Nebraska Real Property of board, Appraiser Board's makeup to remove that the requirement that the broker representative holds a credential as a license or certified real property appraiser and defines the quorum as including at least two real property appraiser members. Finally, LB77 includes minor changes to clean up the language and to address the administration of the Act. I've included a, a, a document called LB77 summary and more details on the specifics of the cleanup and even the things that I brought attention to during my testimony can be found in that document. In closing, LB77 updates the Real Property Appraiser Act to reduce barriers to entry into the real property appraiser profession, implement the Real Property Appraiser Qualification criteria adopted on May 1, 2018, maintain compliance with Title XI and the policy statements of the ASC. And if the state is found to be noncompliant with Title XI by the ASC, all credential holders may be removed from the federal registry resulting in no appraisers qualified to appraise real property in connection with federally-related transactions in Nebraska. The board, Nebraska Real Property Appraiser Board supports LB77. If you have any questions, I'd be more than happy to answer.

**LINDSTROM:** Thank you, Mr. Kohtz. Any questions from the committee? Seeing none, thank you for your testimony.

**TYLER KOHTZ:** Thank you.

**LINDSTROM:** Next proponent.

**ROBERT HALLSTROM:** Vice Chairman Lindstrom, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB77. I think that Senator Williams and Director Kohtz have adequately and accurately reflected the substantive provisions of the bill. So I'll try not to be repetitive in that regard. Director Kohtz has also indicated the significance of not maintaining compliance with the federal requirements with regard to the continuation of our appraisers on the registry. What the NBA has always been interested in in this area of the law is the issue of the shortage of appraisers that, that exists and has existed for some time. We have from the beginning and consistently thereafter supported efforts to have registered appraisers as a category which was somewhat unique to Nebraska and a later appraiser trainees. And it's in recognition of

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the fact that when we have a shortage of appraisers that affects the timeliness of appraisals and impedes credit availability and delays closings for many borrowers. More recently Congress with the passage of Senate 2155 has acknowledged that a shortage of real property appraiser exists particularly in the rural areas of the country. There is a provision in Senate 2155 that basically says if you can't find a licensed or certified appraiser in a timely fashion that you can have the appraisal requirements waived. In my testimony, I also have the provisions of the licensed and certified appraisers. There was a reference to federally-related transactions. If you have a loan transaction of 250,000 or more initially back when the law was passed in 1989, you were required to have an appraisal. In June of 2018 for commercial transactions that threshold was raised to 500,000. There is a pending proposal to raise the threshold to 400,000 for residential transactions. I think those changes were both in recognition of, number one, there hadn't been a change in the threshold for 30 years with the passage of time but also the fact that there is a shortage of appraisers, appraisers throughout the country. With that I would again reiterate the NBA support for LB77 and encourage the committee to move the bill to General File and be happy to address any questions that the committee may have.

**LINDSTROM:** Thank you, Mr. Hallstrom. Any questions from the committee? Seeing none, thank you.

**ROBERT HALLSTROM:** Thank you.

**LINDSTROM:** Next proponent.

**WALT RADCLIFFE:** Mr. Chairman, members of the committee, my name's Walt Radcliffe W-a-l-t R-a-d-c-l-i-f-f-e. I'm appearing before you today as a registered lobbyist on behalf of the Nebraska Realtors Association in support of LB77. I'd echo what Mr. Hallstrom says the thing that's appealing to this for the realtors is the addressing and hopefully getting some more appraisers. I'd only be redundant if I said anything else so that's it.

**LINDSTROM:** Appreciate it. Thank you, Mr. Radcliffe.

**WALT RADCLIFFE:** Thank you.

**LINDSTROM:** Any other questions? Seeing none, thank you. Next proponent.

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**NICOLE FOX:** Good afternoon, members of the Banking Committee. My name is Nicole Fox, N-i-c-o-l-e F-o-x, and I'm director of government relations for the Platte Institute. Thank you for this opportunity to discuss occupational licensing in our state. And thank you, Senator Williams, for introducing LB77. LB77 makes adjustments to the state's real estate appraiser license in a positive direction for less burdensome work requirements in our state. This bill is a great example of the governing board of an occupation taking initiative to update their laws to reduce barriers to entry and to make it easier for people to work and join their profession. And so to those of you from the boards, particularly Tyler, I say thank you for being proactive. The board has already forecast that they will see an increase in applicants in the upcoming years which is supporting evidence that they are moving in the right direction and addressing our state's shortage. Due to time, I will not be repetitive as far as talking about the requirements lowered. This bill will also help the appraiser license have a less burdensome review process when they are studied under the Occupational Board Reform Act, LB299 that was passed last year, within the next five years. The Platte Institute strongly supports occupational licensing reforms as a means of lessening burdens to those who are trying to enter the state's work force. So I ask committee members that you advance LB77 out of committee. And with that, I'm happy to take any questions.

**LINDSTROM:** Thank you, Ms. Fox. Any questions from the committee? Seeing none, thank you. Next proponent. Seeing none, we will now move to opponents. Seeing none, we will now invite neutral testifiers. Also seeing none, Senator Williams you're to welcome to close on LB77.

**WILLIAMS:** Thank you, and I very quickly, I wanted to address one thing that was not addressed. You will notice there is a very small fiscal note that it is attached to LB77. That is a result of what is expected to be some additional people applying for these licenses and the time that it will take to administer that. It's a very small number and something I think that could be handled. With that, I would encourage the committee to advance LB77. Thank you.

**LINDSTROM:** Thank you, Senator Williams. Any final questions from the committee? Seeing none, thank you. And that will close the hearing on LB77.

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**WILLIAMS:** Thank you, Senator Lindstrom, and Senator Stinner has arrived. We will now open the public hearing on LB49. You're welcome to begin your opening, Senator Stinner.

**STINNER:** Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. For the record, my name is John Stinner spelled J-o-h-n S-t-i-n-n-e-r and I represent District 48, all of Scotts Bluff County. I'm presenting this bill on behalf of the Nebraska Society of CPAs of which I am a retired CPA. LB49 authorizes the ownership of public accounting firms by an employee stock option plan. In addition, LB49 stipulates that noncertified public accountant natural persons shall not exceed 49 percent of the total equity interest. Under current statute, the ownership of public accounting firms must be a person or a corporation, LLC, partnership-- or partnership and licensed as a public accounting firm. To accomplish this, LB49 clarifies how the law shall identify owners which shall be natural persons, sole proprietorship if you will, tax qualified retirement plans called an ESOP plan, partnerships, LLCs, and corporations. Also under the current law the term persons is not clearly identified for the purpose of ownership, so LB49 also adds some clarifying language as it relates to natural persons. LB49 also clarifies that partnerships, LLCs, and corporations must be registered and hold a permit as provided under the Public Accountancy Act. Just to give you an idea how this bill would affect accounting firm ownership in Nebraska, 65 percent of the total noncorporate firms cannot sponsor an ESOP under the current law. You should have received an article that outlines some of the benefits of authorizing an ESOP to maintain an equity interest in public accounting firms. And I think if you understand employee stock option programs it allows everybody to participate in ownership which I think everybody would like to have a piece of ownership from time to time depending on where you're working. It's also a good tool to attract and retain individuals when you're competing for that talent pool in public accounting. It's good to have that competitive advantage that you could offer. It's a good buyout tool for senior partners and people that are retiring. It's a source of liquidity. It's a, it, you can have another retirement program on top of this so there's a lot of benefits to the ESOP program. However, many firms choose to avoid the complexities of ESOPs which is why the bill attempts to address those concerns as well as clarifying the definition of persons. I've also got an amendment here which should close the loophole under the current language. As, as currently written, LB49 would allot-- would allow those who are non-CPA nonactive participants to have an ownership interest in a

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public accounting firm. The amendment would clarify that only active participants, employees, managers, and ESOP beneficiaries would be allowed an ownership interest. I appreciate your consideration for LB49 and would be happy to answer any questions, although there's a lot of smart people behind me that could probably answer them a little bit better than I can.

**WILLIAMS:** Questions for Senator Stinner? Seeing none, we will invite the first proponent.

**STINNER:** I will waive closing.

**WILLIAMS:** OK, thank you.

**JONI SUNDQUIST:** Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. For the record, my name is Joni Sundquist, J-o-n-i S-u-n-d-q-u-i-s-t, and I'm the president and executive director of the Nebraska Society of Certified Public Accountants. We represent nearly 2,600 member CPAs. I'm here today to express the society's support of LB49 which would allow a CPA firm to be owned by an employee stock ownership plan or ESOP. The society has worked very closely with the Nebraska State Board of Public Accountancy including former state board member Jim Titus who is a partner in Morr-- Morris & Titus Law Firm in Lincoln along with Joan Cannon who's an ESOP legal expert and shareholder with McGrath North Law Firm in Omaha in drafting this legislation. We also appreciate the assistance of Senator John Stinner and his office on this measure as well as the guidance of Banking Committee legal counsel Bill Marienau and State Board executive director Dan Sweetwood. An ESOP is a type of retirement plan that may be used as a vehicle for succession planning. It provides a company the flexibility to buy out its existing owners either gradually or all at once while allowing employees to own the stock in the organization. By offering employee ownership, ESOPs can help businesses attract and retain good employees. Just like a person might build equity in a house, an ESOP allows an employee to build equity in their job. Employee ownership can create a team approach to running a business which can improve a firm's performance by increasing staff motivation, commitment, and productivity. It also allows employees to retire with more dollars than they otherwise may have. With CPA firm leaders and the baby boomer generation retiring at higher rates, mergers seem to be the way that firms are handling succession challenges; but an ESOP is an alternative to a merger that can keep a firm intact and maintain a culture that is favor-- favorable to both clients and employees. It is for these reasons that

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the Nebraska Society of CPAs recommends the advancement of LB49 as amended. Thanks for your time and consid-- consideration and I'd be happy to answer any questions that you may have.

**WILLIAMS:** Thanks, Ms. Sundquist. Are there questions? Senator McCollister.

**McCOLLISTER:** Thank you, Senator Williams. Thank you for your testimony.

**JONI SUNDQUIST:** Um-hum.

**McCOLLISTER:** Is an ESOP a very frequent tax structure for accounting companies?

**JONI SUNDQUIST:** Well, in Nebraska it doesn't exist right now. And so this would be a totally new form of ownership structure. I would not anticipate, you know, a huge incoming amount.

**McCOLLISTER:** So in other states it's, it's a structure that's permitted and encouraged.

**JONI SUNDQUIST:** That's what we'd like to do with this bill is permit that structure to exist in an ESOP. Um-hum.

**McCOLLISTER:** I looked at the fiscal note and there is no fiscal note. Just curious, when you create an ESOP don't you get a federal tax exemption for that?

**JONI SUNDQUIST:** I'd probably have to defer to Jim Titus on that. I'm not sure what the answer is and he's up next. So, unfortunately, Joan Cannon who, who assisted us with this measure is, was unable to attend. But--

**McCOLLISTER:** Snow?

**JONI SUNDQUIST:** Yeah.

**McCOLLISTER:** OK. Thank you.

**JONI SUNDQUIST:** OK. Um-hum.

**WILLIAMS:** Additional questions?

**JONI SUNDQUIST:** Oops, sorry.

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**WILLIAMS:** Seeing none, thank you for your testimony.

**JONI SUNDQUIST:** Thank you.

**WILLIAMS:** Invite the next proponent. Are there any opponents? Seeing none, is there anyone here to testify in the neutral capacity?

**JIM TITUS:** Mr. Chairperson and Senators, appreciate the opportunity to be here today. I'm Jim Titus. I'm counsel for the Nebraska Board of Public Accountancy.

**WILLIAMS:** Would you spell your name for the record, please.

**JIM TITUS:** Yes, it's Jim, J-i-m, T-i-t-u-s. Excuse me. The board was asked about ESOP ownership early last winter by Joan Cannon for a firm that she represents and I was asked to look at the law because they, is the first request they have had, they had had for one. So to answer your question it is not, you know, they do not exist in Nebraska though we have found that there may be one firm in Nebraska that does have ESOP ownership and their application was a little confusing on that point. So this will help them not be in violation of our law. The-- because the current law does not allow for ESOP ownership and because a trust is not among the permitted entities and an ESOP is, is a trust under Internal Revenue Service laws. And so we worked with Joan Cannon of McGrath North and she took an attempt to drafting a bill and did a very good job and we worked back and forth with coming up with a bill that would allow for ESOP ownership and still provide protection for the public interest because that's our interest is public safety, public protection. And yet we do not want to restrict useful business tools like this would be for succession planning and for retirement benefits for employees through a CPA firm. So I think with the current bill with the amendment and we would, you know, our neutral position would be, would depend upon the amendment to this bill. We think it does protect the public and yet allows another tool for succession planning and for hopefully retaining, you know, small firms as well as larger firms. Senator McCollister had asked about, you know, is this widespread. I understand from reading some of the materials that were presented to me last winter that it is growing in around the country. Now it's not going to be, you know, it is not a majority but there are about, I think, about 15, 20 states that have now permitted it and more states are looking at it. So it is becoming something that's a, it's a trend. You know, it's a tool that they can use for buying out senior partners and yet providing benefits to their employees. But with those amendments the Board of Public Accountancy,

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I mean, does not support or oppose but takes a neutral position on the bill.

**WILLIAMS:** Thank you, Mr. Titus. Are there questions? Senator Kolterman.

**KOLTERMAN:** Thank you, Senator Williams. Thank you, Mr. Titus, for testifying today. Do you have any history as to why CPAs would have been excluded from the start? I know architectural firms and some of those others already allowed to form ESOPs.

**JIM TITUS:** When I was on the board, and I would not know the early history,--

**KOLTERMAN:** OK.

**JIM TITUS:** --you know, other than it wasn't a popular form of ownership any more than it's a popular ownership form in law firms or, or other professional or some the other service firms like that. I know when I was on the board we did have a very large firm come to us and ask us for allowing a different, you know, like parent structure of CPA firms so they could have management subsidiaries and other subsidiaries that were not licensed firms but we just, it just hasn't come up. It just hasn't been presented to the board and there could be other entity maybe forms that would be of interest, you know, to the industry. But if there is, we asked the society if they, if they were doing this bill or there other, other entities that the industry might like and there just wasn't, you know, a hue and cry for other entities. So it just, it just coming from the public front, you know, that they are now apparently looking at ESOPs as a form of succession planning and I don't-- they didn't get the impression it's been a long term trend in the industry. But we're certainly willing to look at [INAUDIBLE] laws that could be structured to protect the public.

**KOLTERMAN:** Thank you.

**WILLIAMS:** Additional questions? Seeing none, thank you for your testimony. Is there additional neutral testimony? Seeing none, Senator Stinner waived closing so that will close the public hearing on LB49. And I would invite Senator Blood to come forward. Senator Blood is here to introduce LB12. So we will open the public hearing on LB12 with Senator Blood.

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**BLOOD:** Well, thank you, Mr. Chairman and members of the Banking, Commerce and Insurance Committee. My name is Senator Carol Blood, that's spelled C-a-r-o-l B, as in boy, l-o-o-d, as in dog, and I represent District 3 which encompasses parts of western Bellevue and southeastern Papillion. I'd like to thank you for the opportunity to present LB12 this afternoon. So LB12 is similar to other bills that I've brought in my first two years in the Legislature. The bill is designed to remove the unnecessary hurdles that surround licensing in the state when it comes to military spouses and active duty members who move into Nebraska already licensed,-- I can't talk this afternoon; this is my third bill today so-- already licensed in their chosen profession. As you learned over the last two years, up to 90 percent of military spouses are either unemployed or underemployed and that creates multiple problems. That means our state is not collecting taxes on those individuals. Those families have less disposable income to spend in our state. And when a serviceman or woman is ready to retire and they have an unhappy spouse, they may not stay here in Nebraska because the spouse is unable to find appropriate employment. And worst of all, we miss out on employing a well-educated demographic. Nebraska is consistently looking for bodies to fill jobs, and removing these hurdles is one more small bite out of that elephant. In this case LB12 would allow active-duty members of the spouse, or the spouses of active military members that are assigned to a permanent duty station in Nebraska and are also licensed, licensed realtors in another state to practice their profession in Nebraska with greater ease by exempting them from the payment of the license fee for the first year. Not only will active-duty members or their spouses be able to be licensed without having to pay the licensing fee in Nebraska as long as they are licensed, licensed in another state, they will be, also be able to forgo the fee if they have already been licensed in Nebraska within a three-year window of time. Specifically, if the realtor had been licensed in the state of Nebraska in the last three years but have allowed their license to lapse because they were ordered outside of the state, they will not have to pay the licensing fee when they are ordered to return with their military member and family. I'm thrilled to say that the realtors in Nebraska have embraced this bill as well. They understand the importance that the influx of military families moving in and out of Nebraska has with their industry as well as the benefits of experienced realtors coming into our state to join their community of experts. The fact of the matter is that the state of Nebraska can and should do more to help our military families. This is an ongoing mission for my office, and I will continue to do this on behalf of our military because I've a fire

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in my belly to get these issues resolved. The people that work in and around Offutt are more than our friends and neighbors. They are people who keep a massive economic driver going in the state with a new round of BRAC, base realignment and closings, Nebraska could easily be on the chopping block in the future. It would be prudent of our state to always push forward this type of legislation and to stay in front of the issue. We need to do everything we can in order to show the federal government and the Pentagon that Nebraska is military friendly. This is more than just a phrase to be thrown around. This is an actual designation making it that much easier for spouses of military members to get jobs and work in the professions of choice is part of getting Nebraska that designation. Because of that, I'm happy to take any questions you might have but I ask that you please advance the bill out of the committee and onto the floor to be debated by the full Legislature in hopes of adding one more amenity for incoming military families. This is a great bipartisan bill that we can all get behind, and I'd like to see it make it out of queue for debate this year. Thank you for your time today and I'd like to tell you that we had a lot of people lined up to come and testify, but gosh darn it the weather has kept them home. But we do have a gentleman who represents the DOD who travelled ten hours to be here to testify on this bill.

**WILLIAMS:** Thank you, Senator Blood. Questions for the Senator. Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Senator Williams. You're simply asking to, to waive the fee isn't that correct? [INAUDIBLE]

**BLOOD:** That's it.

**McCOLLISTER:** And so those people applying for a license will have to take the test?

**BLOOD:** So that's a good question, I can't remember anymore. This is a bill from last year, I don't know if it looks familiar to you.

**McCOLLISTER:** I understand.

**BLOOD:** Yeah. So if they're already qualified to work in Nebraska and I think we do have somebody from, there's supposed to be somebody from the realtors coming today but because of the weather they may not be here to address that. I know for a fact that we're going to be waiving

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it. And if it's a comparable-- what they have to do is comparable then they don't have to jump through any more hoops. I do know that. So--

**McCOLLISTER:** So if you have a license in another state--

**BLOOD:** You're licensed here.

**McCOLLISTER:** --then that will qualify you--

**BLOOD:** Yes.

**McCOLLISTER:** --to practice in Nebraska.

**BLOOD:** Yes, sir.

**McCOLLISTER:** My military friends are always anxious to tell me how many other states have certain privileges for the military. Is this common in, in many other states?

**BLOOD:** As far as the realtors?

**McCOLLISTER:** Yes.

**BLOOD:** We're actually in the forefront for realtors. That's one that's been harder for some states to get through based on the realtors in their state but Nebraska has embraced it. Our state realtor's board and our realtors lobbyist group there, they embrace this bill because they understand. I mean think about just Offutt Air Force Base area alone and you figure at least 1,100 people a year are transferring in and out of that area. So if you are a realtor that's a, that's a boon for you, right?

**McCOLLISTER:** Well, thank you, Senator Blood, for bringing this bill.

**BLOOD:** My pleasure.

**WILLIAMS:** Additional questions?

**GRAGERT:** Yes, Senator Williams.

**WILLIAMS:** Senator Gragert.

**GRAGERT:** Just looking in here and this is a permanent duty station. So they're coming here permanently, which-- how long is that? Is that for one year, two years?

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**BLOOD:** On average, most military move every two to three years. And they don't really get the choice of where they're going to move.

**GRAGERT:** Right.

**BLOOD:** I think I should point out, too, that there are quite a few realtors that are actually active duty which I was not aware of actually before I dropped this bill. So it's not just the spouses. It's also the active duty. They are just trying to provide for their families and bring in a little extra cash.

**GRAGERT:** So this wouldn't qualify somebody here on a temporary duty station as far as that being maybe one year or less?

**BLOOD:** Basically, exactly how it is phrased is exactly how it will be followed.

**GRAGERT:** OK, thanks.

**WILLIAMS:** Seeing no other questions, thank you, Senator Blood.

**BLOOD:** Thank you, Mr. Chairman.

**WILLIAMS:** And I'm assuming you will be staying for closing.

**BLOOD:** Yes, sir.

**WILLIAMS:** Invite the first proponent.

**MARTIN DEMPSEY:** Chairman Williams, committee members, good morning. My name, good afternoon, my name is Martin Dempsey. I'm the regional liaison from the Department of Defense. I work for the Under Secretary of Defense for Military Community and Family Policy. It's a pleasure to be here today and we'd like to thank, Senator Blood, for introducing this bill.

**WILLIAMS:** And could you spell your name for us. Thank you.

**MARTIN DEMPSEY:** I'm sorry. Yes, sir. M-a-r-t-i-n D-e-m-p-s-e-y. Thank you, Mr. Chair. This is the number one issue coming out of D.C. right now. The secretary thinks licensing is that important. He's listened to the spouses, the spouses made their, their needs known, and he would like to make sure that we can try and take care of them at any opportunity we can. I'm happy to tell you Nebraska has done that the past two years. You have done a great job. In fact, we've put you on

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the watch list for states to watch that are making things happen for military families. And we thank you for that. The efforts primarily by Senator Blood and Senator Crawford had just been realized at the highest level and they think right now in Nebraska is one the top states for military families and then improving their quality of life. We've changed our, our mentality from 10, 20 years ago where we enlisted soldiers, sailor, and airmen, and Marine to we reenlist a family. We realize that if a family is not happy we're not going to retain that active duty member. This goes a long ways to ensuring that the family has mobility, portability which is the society we live in today. We live in a mobile society. We're no longer looking at the people that our fathers and mothers were, where they, they work the same job for 35 years, 40 years in the same hometown that they started. We realize that it's important to maintain their two-income level and that oftentimes if they can't do that, then that active duty individual says goodbye to us which we feel is a lose-lose for everybody-- the millions of dollars of education training out the window and we're starting all over again. Maybe as many as 10, 12, 14 years of experience walking away. So we like this bill. We hope you like this bill. But, we hope you'll see this to fruition and I don't know if Senator Blood said it or not, but this completes the secretary's list. All 10 issues that we've had over the past 12 years have been addressed by this state and this will close it out and you'll be one of three states that has done all, all 10 of the secretary's issues. We thank you for that. We think that's big stuff. And as Nebraska being one of my states, I think it's great stuff. With that, Mr. Chair, I stand ready for questions.

**WILLIAMS:** Thank you, Mr. Dempsey. Are there questions? Seeing none, thank you very much for coming and--

**MARTIN DEMPSEY:** Thank you, Mr. Chair.

**WILLIAMS:** --this weather is to keep you here just a little longer.

**MARTIN DEMPSEY:** So I, I think I was going to say after Senator Blood's introduction I was the only one who wasn't smart enough to stay home. So--

**WILLIAMS:** Thank you, Mr. Dempsey. Next proponent.

**NICOLE FOX:** Good afternoon again, members of the Banking Committee. Nicole Fox, director of government relations for the Platte Institute, N-i-c-o-l-e F-o-x. And thank you for the opportunity to discuss

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occupational licensing once again. Through our research, we found that occupational licensing greatly impacts military families. According to the Obama administration's 2015 occupational licensing report, 35 percent of military families or military spouses, excuse me, in the work, in the labor force work in professions that are regulated and they are ten times more likely to have moved across state lines in the last year than their civilian counterparts. Military spouses have difficulty requiring a new license each time they move. Given the fact that Nebraska is home to Offutt Air Force Base, we need to assure that our occupational licensing requirements allow military spouses and veterans to readily enter our state's work force. The reciprocity component that allows active-duty military and their spouses to continue working if they were previously licensed in another state as well as the fee waiver is good policy. Hopefully, with policies like this it will help make Nebraska a more friendly place for military families and help keep them here after they return to civilian life, ultimately growing our state. I want to thank, Senator Blood, for sponsoring this bill and working to lessen barriers for our military families. I'd also like to thank the Department of Defense for your support and also just another anecdote, Platte, we had meetings, I had meetings in December with the Department of Labor and I know that their secretary also would very much favor moving forward a bill like this. So I ask that you advance LB12 out of committee. And with that, I'll take any questions.

**WILLIAMS:** Thank you, Ms. Fox. Are there questions? Seeing none, thank you for your testimony. Invite the next proponent.

**KIM ZWIENER:** Hello, I am Kim Zwiener, K-i-m Z-w-i-e-n-e-r, with as-- I am the governmental affairs chair for the Nebraska Realtors Association. As a point of clarification before I begin the rest of my testimony, there is a difference between a licensee and a realtor so what we're actually talking about is a licensee, not a realtor. A realtor is a copyrighted trademark used for someone who joins the Realtors Association. So we are talking about all licensees who apply for their license at our Nebraska Real Estate Commission. So it doesn't really have anything to do with realtors other than you have to be a licensee to be a realtor, just as a point of clarification. We would like to express our support for Senator Blood's bill, LB12. While we acknowledge this situation does not come up very often, when it does it is a nice gesture of goodwill and a way for our state and our real estate community to honor those who have served our country. Selling real estate is a nice option for military personnel because

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real estate business is conducted similarly by agents throughout the country. Therefore, once you have a base understanding and successful business, restarting your career in a new location is a matter of similar activities elsewhere, but moving to a new market has its challenges. The first challenge is completing additional licensee requirements for each state depending on how Nebraska reciprocates with the state the licensee is coming from. Additionally, there is a significant time and money involved with a start-up again in a new location. Building new relationships and creating new marketing campaigns, etcetera, are very time intensive. New licensees can expect to wait several months or more before resur-- receiving their first check after months of work. Waiving the licensing fee would ease the burden and help members of our armed forces adjust better to their new home. The Nebraska Realtors Association supports LB12.

**WILLIAMS:** Thank you. Are there any questions for Ms. Sweeney [SIC]? I have one.

**KIM ZWIENER:** Yes.

**WILLIAMS:** See if I can phrase this in a way-- your, your testimony then would be that the current fees and licensing requirement do pose a barrier to entry into this for the military?

**KIM ZWIENER:** For anyone who gets involved it's a barrier so I would say, yes. I mean, there's expenses with moving that sometimes are covered but it's just an additional barrier that doesn't need to be there. I think it's more a gesture of goodwill.

**WILLIAMS:** I'm asking, I'm asking that question specifically because of a letter that we have received in opposition to the bill that does not believe there are any barriers to entry and you're suggesting there certainly are barriers to entry.

**KIM ZWIENER:** Yes, it's expensive.

**WILLIAMS:** Any additional questions? Seeing none, thank you for your testimony. Invite the next proponent. Seeing none, are there any here to testify in opposition? Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Blood, would you like to close?

**BLOOD:** I would. Again, unfortunately, many of our veterans that wanted to be here and people from the base that weren't used to driving on

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the ice unfortunately could not be here because the weather was so inclement. I just want to say about these bills that I continue to bring forward, we know from speaking with these military families that these fees do create a hurdle. And we know that when you, when you serve the family, when you protect the family you protect the mission and you're going to hear me say this over and over again, but the families also serve. Can you think of anything more stressful than moving every two to three years? That's in the top five most stressful things you can do in your life. And these families are doing it over and over and over again, new jobs, new schools, new church, new doctor. That's a lot of stress. One of the statistics we didn't talk about today is up to 90 percent of military spouses are underemployed or unemployed especially in the licensure field because they have so many hoops to jump through. And by the time they are able to work, it's time to move on. That's wrong. We don't treat the, the citizens of Nebraska like that. Why are we treating people that come in from out of the state to serve us and to go into harm's way on our behalf, why are we not treating them better? So I just, I plead that you please vote this out of committee and let us have full debate on the floor. As you heard from the DOD, it's one less tick on our list and onward and upward.

**WILLIAMS:** Questions for the Senator? Senator, we heard from Mr. Dempsey that this is number ten of ten.

**BLOOD:** Yeah.

**WILLIAMS:** What are you going to do for the next couple of years?

**BLOOD:** I already talked to him about that today.

**WILLIAMS:** That what, I'll withdraw that question.

**BLOOD:** So anticipate four more that we're gonna do outside of that list to get the head start on the other states.

**WILLIAMS:** Thank you, Senator Blood.

**BLOOD:** It's my pleasure. Thank you, sir.

**WILLIAMS:** We do have some letters for the record from your people that could not get here today. We have proponents: Dean Kenkel; Duane Safarik; Rusty Hike; David Brown, from the Omaha Chamber of Commerce;

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Shannon Manion; and Gina Ogle, who's a realtor. And we do have one letter in opposition from Catherine Kottwitz of Lincoln.

**BLOOD:** Sir, may I add something?

**WILLIAMS:** Yes, you may.

**BLOOD:** Thank you. It is your meeting. I would like to point out that Rusty Hike is the Mayor of Bellevue and that Shannon Manion is the Fifty-Fifth Wing Commander's wife.

**WILLIAMS:** Thank you for that additional information. Seeing no other questions, that will close the public hearing on LB12 and that closes all of our hearings for today. I would ask the committee if they would please stay so the--