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Banking, Commerce and Insurance Committee
January 31, 2017

[LB148 LB187 LB306 LB486]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, January 31, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB148, LB187, LB306, and LB486. Senators present: Brett Lindstrom, Chairperson; Matt Williams, Vice Chairperson; Roy Baker; Tom Brewer; Joni Craighead; Mark Kolterman; and Paul Schumacher. Senators absent: John McCollister.

SENATOR LINDSTROM: All right. We'll go ahead and get started. Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Brett Lindstrom, I am from Omaha and represent District 18 in northwest Omaha 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 we are not interested in the bill being heard in this committee, just part of the process. To better facilitate today's proceedings, I ask that you abide by the following procedures. The information is posted on the chart to your left. Please silence or turn off your cell phones. Move to the front of the row when you're ready to testify. The order of testimony will go: introducer, proponents, opponents, neutral, and closing. Testifiers, please sign in; hand your pink sheet to the committee clerk when you come up to testify. Please spell your name for the record before you testify. Please be concise. It is my request that you limit your testimony to five minutes. We will be using the light system, which means for four minutes you will see the green light; with one minute left, that is your warning, you will see a yellow light; and the red light will go off at five minutes. Because of the bill today, LB148, like we did with LB140, because of the vastness of the bill, we will have the director...we won't put a time limit on the director today. If you will not be testifying at the microphone but want to go on record as having a position on the bill being heard today, there are white tablets at each of the entrances 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. Please hand them to the page for distribution to the committee and staff when you come up to testify. We will need ten copies. If you have written testimony but do not have ten copies, please raise your hand now so the page can make copies for you. To my immediate right is committee counsel, Bill Marienau. To my far left is committee clerk, Jan Foster. And we will start with introductions to my right of the senators.

SENATOR SCHUMACHER: Paul Schumacher, District 22, that's Platte, parts of Colfax, and Stanton Counties.

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

Banking, Commerce and Insurance Committee
January 31, 2017

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

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

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

SENATOR CRAIGHEAD: Joni Craighead, District 6, Omaha.

SENATOR BAKER: Roy Baker, District 30, part of the south edge of Lincoln, southern Lancaster County, all of Gage County.

SENATOR LINDSTROM: And Senator McCollister, I believe, will be here later. Like I said, we introduce bills in other committees, so I'm sure that's what he's doing. And our page today is Phillip Levos from Columbus. Thanks for being here, Phillip. And we'll take up today's order in the agenda that we listed on the front door: LB148, LB187, LB306 and LB486. So we will now open on LB148, Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature, and I'm here today to introduce LB148 which was proposed on behalf of the Nebraska Department of...banking and securities department. This follows up a legislative resolution, a study group, LR431, which conducted its work over the summer in trying to address modernization of our securities laws. It had been some time since there had been a general overview and modernization and a committee involving some of you was assembled and carefully went through it. And on those items that seemed like they deserved to be updated, recommendations were made and are in this bill. Director Quandahl is the expert on this bill and is its "behind the scenes...behind the curtain operator" and rather than me confuse you anymore, I would take any questions so that we get on to Director Quandahl. [LB148]

SENATOR LINDSTROM: Thank you, Senator Schumacher. Any questions for the senator? Seeing none, thank you. [LB148]

SENATOR SCHUMACHER: Thank you. [LB148]

SENATOR LINDSTROM: We will now have proponents. Director. [LB148]

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

Banking, Commerce and Insurance Committee
January 31, 2017

MARK QUANDAHL: (Exhibit 1) Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee, my name is Mark Quandahl, it's Q-u-a-n-d-a-h-l, Director of the Nebraska Department of Banking and Finance. I'm here appearing here today in support of LB148 which was introduced at the request of the department. The bill as introduced encompasses 79 pages, 20 sections, consisting of a combination of one new section and amendments of existing sections of the Nebraska securities act (Securities Act of Nebraska). No sections of the act are outright repealed. LB148 has no fiscal impact to the department or the state of Nebraska. The securities act governs the offer and sale of securities in Nebraska by providing for the registration of securities, broker-dealers, agents, investment advisers and their representatives. The act contains exemptions from registration, anti-fraud provisions, as well as administrative and criminal penalties for violations of the act. The Department of Banking and Finance is charged with enforcing the act and carrying out the act's mandate of investor protection. LB148 would update the definitions in section 8-1101. Specifically, the definition of broker-dealer would be amended to exclude certain entities that make sales to credit unions and certain Canadian broker-dealers. Section 1 of LB148 also proposes to add a definition of "department" to the act and would update the cross-reference to federal statutes as they existed on January 1, 2017. Section 2 provides a cross-reference to federal regulations adopted under the Investment Advisers Act of 1940, the Securities Act of 1933 as those regulations existed on January 1, 2017, with one exception--the exception of Rule 147 and Rule 147A adopted under the Securities Act of 1933. That section references the date those rules were published in the Federal Register, November 21, 2016. Section 8-1103(9)(a) would be amended to clarify that an enforcement action can be initiated against a registered entity for failure to cooperate with an examination and to add a new subdivision to provide that the director may determine that a violation of any provision of fair practices or ethical rules, standards adopted by the SEC or FINRA constitutes a dishonest or unethical practice. A new subsection 8-1103(10)(b) would be added which would authorize the issuance of a notice of abandonment if an applicant for registration fails to respond to a notice or notices from the department to correct deficiencies within 120 days. LB148 proposes to amend section 8-1107 by requiring issuers seeking to register securities by qualification to clarify prospectus information by submitting signed consents from any person named in the registration statement as having prepared or certified any report or valuation. This would include, for example, an accountant, engineer, or appraiser. LB148 proposes a number of amendments to make it easier for issuers seeking to raise capital to do so without having to register their securities with the department while preserving the important investor protections contained in the act. Section 12 of LB148 updates the exchange exemption in section 8-1110(5) to provide an exemption for any security that is a federal covered security under the Securities Act of 1933. Section 8-1111(8) would be amended to add certain entities to the definition of "accredited investors," including corporations, business trusts, partnerships, and trusts with assets over \$5 million. In addition, sales to an entity in which all of the equity owners are individual accredited investors would be exempt from registration. Section 8-1111(17) would be amended to clarify the scope of the exemption for securities issued in

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

Banking, Commerce and Insurance Committee
January 31, 2017

connection with employee benefit plans. Nebraska's exemption would be aligned with the federal exemption contained in SEC Rule 701. Section 8-1111(23) would be amended to increase the maximum amount that can be raised pursuant to this intrastate exemption from \$250,000 to \$750,000. Section 8-1111(24) would be amended to authorize issuers conducting an intrastate crowdfunding offering to rely upon a new SEC Rule 147A which loosens restrictions on the advertising of an intrastate offering. LB148 proposes to amend section 8-1120 to clarify that the director may appoint a deputy director, update staff position titles, and to clarify that staff are subject to the state's nepotism law. LB148 would authorize filings with the department to be by electronic means or other method designed by the director. Finally, obsolete provisions governing fund transfers would be repealed. And so, with that I thank Senator Schumacher for introducing LB148. I'd be happy to answer any questions that you might have. [LB148]

SENATOR LINDSTROM: Thank you, Director. Senator Williams. [LB148]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom; and thank you, Director Quandahl, for being here; and thank you for your work on this significant update. For the record, would you track through just a little bit and tell us about how you went through the process of doing the update. [LB148]

MARK QUANDAHL: Certainly, yeah, this is the product of a legislative resolution study committee, LR431, from last year. And it was pretty much the same procedure that we went through with the banking act in which we convened a number of individuals, not only legislators, but then also people from the industry and the department to go section by section through the Securities Act of Nebraska. We had monthly meetings in which we talked; and, basically, the agreement was is that if a change or an update was agreed to by the industry, by the Legislature, and by the department it would be included in the bill. So I guess one thing that I would like to do is get on the record too that the members of the study committee that did the yeoman's work of putting this together from the Legislature--Senator Williams, you were a part of the committee, as well as Chairman Lindstrom, Speaker Jim Scheer, and then Bill Marienau and Jan Foster also helped us with our efforts in this regard. From the Banking and Finance...from our department--Claire McHenry who is the deputy director; general counsel, Patty Herstein; Mike Cameron; Morgan Lorenzen; Terri Behl; and then you'll also be hearing from Jack Herstein, the former assistant director of the securities bureau, too; who...he retired last summer, but he helped us with the update to the act, too. So we're grateful for that. From the industry we had Bart Dillashaw; Jeff Schaffart; Todd Richardson; and Mike Pallesen. And I believe Mr. Dillashaw and Jeff Schaffart will be behind me, too, to explain some of the work that they went through. So thanks for the question. [LB148]

SENATOR WILLIAMS: Thank you. [LB148]

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

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR LINDSTROM: Thank you. Any other questions for the director? Senator Kolterman. [LB148]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. Director, this is an ever-changing industry. And having held a securities license for many, many years, in the last 12 months there were changes that were proposed by the federal government that weren't, necessarily, implemented; now some of them are being drawn back. How's that going to impact what we're doing here? [LB148]

MARK QUANDAHL: Right, I mean, in particular, you might be talking about a rule from the Department of Labor that's out there, that's floating around that hasn't been fully implemented at this time. It wouldn't directly impact anything that's in the Securities Act of Nebraska. And so all we can do is do our best to keep up with some of the federal regulations that do impact us here. And this is one that I think you see in there with respect to crowdfunding, there's a recent rule that just went into play last year, and so we had to update the reference to November 21, 2016. So we're trying to keep up as best we can, but it's going to take two...this is a sort of thing that requires an update, probably, on an annual basis or quite frequently in order to maintain abreast of the changes. [LB148]

SENATOR KOLTERMAN: Thank you. [LB148]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you very much. [LB148]

MARK QUANDAHL: Thanks. [LB148]

SENATOR LINDSTROM: We'll now have other proponents. Good afternoon. [LB148]

JACK HERSTEIN: (Exhibit 2) Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee, I am Jack Herstein, J-a-c-k H-e-r-s-t-e-i-n. Before retiring last June, I had spent the last 39 years working with the Nebraska Department of Banking and Finance, Bureau of Securities. I am appearing today in support of LB148. The responsibility of the securities bureau has always been to regulate the sale of securities and the securities industry in Nebraska. The purpose of the securities bureau, which is a division of the Department of Banking, is to administer and enforce Nebraska's securities laws for the protection of the investing public and to encourage confidence in the investment banking industry by providing regulation of a responsible marketplace in which legitimate businesses may generate capital. The policy of the bureau has always been to maximize the effectiveness of regulation, minimize interference with

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

Banking, Commerce and Insurance Committee
January 31, 2017

the business of capital formation, reduce cost and paperwork to diminish the burden of raising investment capital to both business and government, and to enforce Nebraska's securities laws. The goal during the drafting process of LB148 was to ensure an adequate level of protection for Nebraska investors, as well as to help legitimate businesses generate capital, and minimizing the interference of capital formation. I believe LB148 achieves all of the above. I would like to thank Director Quandahl, his staff, and other members of the LR431 study committee for allowing me to participate in this worthwhile project. Thank you for the opportunity to comment today on LB148. I would be happy to answer any questions you may have. [LB148]

SENATOR LINDSTROM: Thank you very much. Any questions from the committee? Seeing none, thank you. Other proponents. [LB148]

BART DILLASHAW: (Exhibit 3) Good afternoon, Senator Lindstrom, members of the committee. My name is Bart Dillashaw, that's D-i-l-l-a-s-h-a-w, and I am an attorney at Dillashaw, LLC; a corporate and securities boutique law firm that specializes in private securities transactions. I'm also the current chairman of the Securities Law Section of the Nebraska State Bar Association, and I was a member of the LR431 study group. I would like to start by thanking Senator Schumacher for introducing this bill, as I believe it is a valuable and needed update to our state's securities act. In addition, I think the proposal reflects thoughtful process by the LR431 study group, which was led ably by Director Quandahl and his team, including participants from industry and other governmental and legislative offices. In my legal practice, I work with businesses and investors in financing transactions that almost always involve the sale of securities, and as such, I have extensive experience in working with the federal and state securities laws. The changes proposed by LB148 will reduce excess paperwork and filing fees on many of these transactions and eliminate the potential for some technical missteps where our act did not dovetail very well with federal exemptions. As such, I'm excited for these changes to happen. Many of the other changes noted in LB148 are technical or grammatical in nature and reflect updates to cross references and to account for changes in federal statutes and in the underlying nature of some of the trading platforms, for example--the move by Nasdaq to become a registered exchange that occurred in 2006. These are needed updates to the statutes so that it reflects the current status of the broader regulatory environment, and I want to applaud Director Quandahl and his team for diligently working throughout the year at many of the LR431 study group sessions to identify, prioritize, and then draft appropriate amendments to the securities act. I believe the end product strikes a great balance of adopting technical amendments, but still providing significant value through updating statutes like (section) 8-1111, which is the limited securities offering exemption, to more closely mirror definitions provided in federal exemptions. By way of example, the update to (section) 8-1111(17) clears up some confusion over the treatment of employee equity incentive grants, that now makes it clear that companies may issue stock options or other equity-based securities to employees and consultants. This provides a powerful tool to employers to align the interests of employees with those of the business owners

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

Banking, Commerce and Insurance Committee
January 31, 2017

and is of particular importance to high-growth, start-up businesses. It is for these reasons and others I'm also happy to report that the Nebraska State Bar Association has endorsed the passage of LB148. I thank you again for the opportunity to speak. And if you have any questions, I'd be happy to answer any. [LB148]

SENATOR LINDSTROM: Thank you, Mr. Dillashaw. Senator Williams. [LB148]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom. Thank you for being here. A question--many of us had the opportunity to work in fairly highly regulated industries and this is certainly one of them. And lawmakers and policymakers are always torn between balancing what is...creates a safe and sound business environment, yet not overburdening the businesses that are trying to raise capital that you're talking about. Do you feel we have struck that balance with this legislation? [LB148]

BART DILLASHAW: Yeah, absolutely. And is an example, a lot of what this is doing is really dovetailing with federal exemptions. So pretty much everything that this permits, we could do before; but it eliminates areas for kind of foot faults; if you don't make the appropriate filing at the federal level and someone wants to come back in and try to do an instate offering that all of a sudden comes foreclosed if you didn't do it right sort of the first time. So it's not really increasing the exposure, but I would say to the lay public, all the protections for the public are still there and this is really just eliminating the area for foot faults and excess filings. So I think it keeps the balance much where it is which is a great balance and will, ultimately, make things easier for capital raising and for getting transactions done. [LB148]

SENATOR WILLIAMS: So from your standpoint, we have not created an undue regulatory environment to do business in. [LB148]

BART DILLASHAW: Correct. [LB148]

SENATOR WILLIAMS: Thank you. [LB148]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you very much. Other proponents? [LB148]

JEFFREY SCHAFFART: (Exhibit 4) Good afternoon, Senator Lindstrom and members of the Banking, Commerce and Insurance Committee. For the record, my name is Jeffrey R. Schaffart, S-c-h-a-f-f-a-r-t. I'm grateful for the opportunity to testify this afternoon in support of LB148. I'm testifying on my own behalf and on behalf of the Nebraska State Bar Association, which has

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

Banking, Commerce and Insurance Committee
January 31, 2017

formally endorsed LB148. By way of background, I have been a practicing attorney at the Koley Jessen law firm in Omaha, Nebraska, since 2001. During my years in practice, I have represented many clients in securities transactions, including registered public offerings and exempt private offerings. I have advised clients regarding compliance with the Nebraska securities act throughout my legal career. I am also a former chairman of the securities law section of the Nebraska State Bar Association. In addition, I served on the LR431 study group. This study group, which was led by Senator Jim Scheer and the Nebraska Department of Banking and Finance Director, Mark Quandahl, included members of the Nebraska Department of Banking and Finance's staff and members of the securities bar. The LR431 study group carefully reviewed the Nebraska securities act in its entirety. LB148 is supported by the study group as a means to modernize and update the Nebraska securities act. LB148 would, if adopted, make a number of technical changes to the Nebraska securities act. These technical changes are necessitated by the significant changes in technology and securities trading and regulation, and the increasingly interstate and even international aspects of securities transactions that have occurred since the last time the Nebraska securities act was last updated. These changes would also further align the Nebraska securities act with current federal securities laws. I would now like to comment on three specific securities registration exemptions contained in LB148 which would, if adopted, help facilitate capital formation by allowing Nebraska-based companies to access needed growth capital, while continuing to provide needed investor protections. First, if enacted, LB148 would revise the registration exemption provided for section 8-1111(8) to more closely align this exemption with the accredited investors registration exemption provided by federal law. Specifically, proposed section 8-1111(8) would, among other things, add entities with total assets in excess of \$5 million to the list of investors that may invest in a securities offering designed to be exempt under section 8-1111(8). This change would allow Nebraska-based companies that are relying on the section 8-1111(8) exemption to seek capital from entities with total assets in excess of \$5 million and, moreover, allow Nebraska-based companies with total assets in excess of \$5 million to invest in these type of offerings. I represent an entity client, which is an operating company instead of a financial company, with an excess of \$50 million of assets that was unable to invest in a private securities offering by a California-based company in its industry as the section 8-1111(8) exemption was not broad enough to cover this client, even though it is a sophisticated company with a large amount of assets. Revised section 8-1111(8) would correct this result. Second, if enacted, LB148 would amend section 8-1111(17) to more closely mirror the securities registration exemption provided by Federal Rule 701. Amended section 8-1111(17) would allow Nebraska-based companies to more easily issue securities to their employees and service providers. Having employees own equity in their employers has been a strong wealth creation tool of employees and a motivational tool for employers over the years. Finally, if enacted, LB148 would amend section 8-1111(23) to increase the amount of capital that Nebraska-based issuers can raise pursuant to this Nebraska residents exemption from \$250,000 to \$750,000. This increase will make the section 8-1111(23) exemption more useful in Nebraska-based companies and I believe will lead to an increased number of Nebraska-based

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

Banking, Commerce and Insurance Committee
January 31, 2017

companies relying on this exemption to raise needed growth capital. That concludes my prepared remarks. Thank you again for providing me the opportunity to testify about this important legislative bill. I would be pleased to entertain any questions that the committee may have. [LB148]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Seeing none, thank you very much. Other proponents? Seeing none, any opponents? Any neutral testifiers? Seeing none, Senator Schumacher, would you like to close? Senator Schumacher waives closing. That will end the hearing on LB148. We will now move on to the hearing on LB187, also by Senator Schumacher. [LB148]

SENATOR SCHUMACHER: (Exhibit 1) Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee, I'm Paul Schumacher, S-c-h-u-m-a-c-h-e-r, for the record; and I'm here today to introduce LB187. LB187 is kind of a project of mine. I think it was introduced the first time I was on this committee. And it hasn't worked quite right, but it should work, theoretically. When I was back at Georgetown Law School in the early '70s, the professor who taught the securities law class was a guy who had been general counsel for the Securities and Exchange Commission; bright old boy as they usually are, who leans on the podium. And we were going through the federal securities law and I was getting quite frustrated with it because it seemed like it was generally standing in the way of capital formation and organizing money. Now, of course, I'm seeing this through the eyes of somebody from rural Nebraska and not with so many zeros before the decimal. But...and he, of course, was seeing it from the other perspective of General Motors and the big, big, companies. But I was dumb enough to raise my hand and I says, well, you know, it seems to me that with so many pitfalls and so many requirements that what this is really doing is just creating a lot of work for lawyers. And he leans over the podium and he says--and what's so wrong with that, son? (Laughter) Basically, what I did get out of that class, besides that story, was that there's two ways that you raise money for businesses. One is debt: you go borrow it from a financial institution or a large investment firm of some description and you usually, particularly if they're bankers, require security--your house, your kids, your horse, your dog, anything that you have, and anything your relatives will be willing to co-sign with, and you pay back the debt with some form of interest. The other way you finance a business, in the good ol' days before the government got in the middle of everything, is you sell stock, some type of participation in the business, usually in the form of stock. Okay? And that's how the capital markets worked and that's how capitalism was supposed to churn out entrepreneurs and make everybody rich and great again. So I kind of thought it was a pretty good idea. And the securities laws were supposed to facilitate that by maintaining an honest market so that you couldn't go find somebody who was a little bit slow upstairs, but had a big pocketbook and sell them a bill of goods and left them holding the bag while you vacationed in the Bahamas as an executive of a defunct company. And they developed a...they really got their takeback in 1933 and '34 with the securities act, the federal government and the Exchange

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

Banking, Commerce and Insurance Committee
January 31, 2017

Act in 1934 with the federal government. And those things had various registration and filing provisions and also have what they call an anti-fraud provision that if you sold a security, a stock by use of an untrue statement, you could be held liable. Well, back about the time that I was at Georgetown, people bring a lot of money off those provisions because it was very, very easy to stumble and they had talked the courts into what was called a negligence standard. And the negligence standard was such that even if you didn't lie in the preparation of your offering or your reports that you had to make to the SEC, if they were negligently written, if you didn't prove that you had exercised all due care you could be held liable. And accounting firms, large ones, were held liable, for example, because they had the wrong policy in how they sorted their mail. And had their mail been sorted differently, the right people in the right way would have gotten the notice and would have put that into the disclosure statement. And people were getting hooked for a lot of money. And when you...the law required there also be attorney fees assessed and lawyers were making a lot of money off of it. Well, over the years, the federal government backed off, largely requiring that you have a dirty mind as part of the liability under this. Nebraska has not backed off, did not back off, still in this modernization hasn't backed off, and it incorporates the negligence standard that if you should have known, or in the exercise of due diligent would have learned, you are still liable and you have to pay attorney fees. Tremendous disincentive in our law, different from the federal law. But I decided, you know, this equity selling would be a good thing to help business entrepreneurs in the state. In a couple of businesses that I've done, they've been a hundred percent equity sold. Nice way of making...of getting capital organized, even though it's more expensive than debt if it's a successful business. So this particular bill originated with the idea that we had an exception to the Nebraska securities act, which upon filing the proper papers put you back into a fraud standard, but you had to have a dirty mind and you wouldn't...for a small offering. And at that time, the Department of Banking suggested that the offering limit be \$500,000. I said, well, let's put it to the water a little bit and do just \$250,000. And so that's what the law presently said. And that is suggested that it be up to \$750,000 in the previous bill that we talked about. It also is suggested in this bill. This bill is different from the previous bill because it tries to address what I think is another major obstacle to us using equity financing for entrepreneurs. And that obstacle...I guess before I get to that, I handed out an amendment in the first part where this bill suggests the \$750,000, it has a line "or such greater amount as would be designated by the director." Legal counsel pointed out to me that that should be tied to some standard, otherwise it's probably unconstitutional and therefore I had drafted this one that clearly shows that it's meant to keep up with inflation. And so I think we've overcome that object. But when you...and this is a case of most smaller law firms, certainly outstate law firms, and probably accountants also in Nebraska, you buy malpractice insurance. And in case you screw up and your client gets hurt that they have a source of funds besides your own pocketbook. And on the malpractice insurance application, you go down through a whole list of questions: Do you commit this sin? Do you commit that sin? And it goes through the whole list for the insurance company. And one of the sins they ask you if you commit is--do you mess around with securities? And if you check yes on that box, grab your

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

Banking, Commerce and Insurance Committee
January 31, 2017

pocketbook because your malpractice premium will go through the roof. From the insurance company's point of view, well, you're taking on a lot of risk; it looks like you may be taking on a big, big offering with millions and millions of dollars and if you screw up, you're just really hanging out there. And they have a big exposure and thus they jack up the premiums. And as a result, there aren't a whole lot of law firms in this state that pay those premiums. And as a result of that, when a small entrepreneur comes into your office, you basically, don't tell them about the opportunities that there are with...to raise capital through the sale of stock, even if it's a smaller business, because you don't want to have to check that box or lie to your insurance company. And I guess you tell them if they say--is there any other way, well, you got to drive a hundred miles into Omaha and find a big law firm who might have checked that box and has enough business volume in the bigger stuff to afford the insurance. I think that's a major impediment. It's why I won't even use...the law that I helped pass and wrote because I don't want to have to check that box. And we've minimized with this section of the law exposure so that it is probably far less realistic exposure for your malpractice carrier than writing a will involving a farm, for example of \$5 million, \$10 million worth. So we have minimum exposure designed into this exemption of the securities law and it is still feeling the barrier of professionals not encouraging young entrepreneurs, or maybe even old entrepreneurs, to use this what would be \$750,000 exemption because they don't want to have to take on the additional overhead. And they may only have one of these kind of cases in a year; not worth the malpractice insurance premium. So this adds in that for purposes of the word "securities" so to speak, do you mess with securities, on that malpractice insurance thing, doing it under this exemption is not something that should be taxed extra...or extra premium for. And I think it will help encourage people to use this. Without it, we get in the mess we're in right now. I mean, if I had to tell a young person how to try to finance a business right now, I'd tell them, well, the first thing you do is hire a lobbyist to see if you can get the Legislature to give you a special deal. But you go to DED and the SBA and see if you qualify for this program, or maybe USDA, it's like the government in the middle of it. That's not the way the capital system is supposed to work. And I think the good...if you can get some businesses off the ground using the combination of debt and equity with this particular vehicle, if we can make it work, they may very well grow up into the larger businesses that will need securities financing at a higher level. And thus, not only will the legal business but also the insurance business make money from that additional economic activity. So that's the story behind this bill. It basically mimics the increase from \$250,000 to \$750,000 and the previous bill adds an inflation cause into that so they don't have to keep coming back here and asking for it to be jacked up every few years to keep up with inflation and says, look, in the real world, this isn't the kind of risk for which premiums are justified that you normally take on for the...when you're practicing securities laws. I think it's good for everybody. I've got my fingers crossed here that I don't get arrows in the back from the insurance industry that they have a little mercy on this idea, because in the end, I think it's good for all of us. And I'll be happy to take any questions.

[LB187]

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

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR LINDSTROM: Thank you, Senator. Senator Kolterman. [LB187]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. Senator Schumacher, \$750,000--is there a magical number that you just picked up or... [LB187]

SENATOR SCHUMACHER: No, the \$250,000 number... [LB187]

SENATOR KOLTERMAN: That's not enough. [LB187]

SENATOR SCHUMACHER: ...that I settled, that was kind of magical; it was based on my own experiences where...actually, the loan businesses I started out it didn't need \$250,000. But I figured that was enough. It...and I should have listened to the Department of Banking at that time, they said, oh, maybe you want half a million, but didn't. And as a result, there hasn't been much utilization of the thing at all; like three or four, maybe, applicants the last five or six years. Seven hundred fifty thousand, I tried to talk the director into a million, but couldn't get him to go a million so that's where we settled out at. [LB187]

SENATOR KOLTERMAN: Then the other...the flip side of that is the malpractice, the protection that you're building into this. How tested would that be? I mean, is this statute going to be enough to protect the people that are trying to do what they want to do? [LB187]

SENATOR SCHUMACHER: Well, I hope that it's enough though by saying that if you do it under this narrow \$750,000 exemption, it shouldn't count against you. It may...I think that the other obstacle there is out there...and I don't know how to overcome it, is I don't think our law schools, accounting schools, business schools, do a good job at educating people in the utilization of securities. We're a debt-minded society, that's how our society kind of organized from when the folks came over from Europe they weren't sophisticated people and they went down to the local bank and found a loan and life went on. And that's how we finance most of our things. But in the world of entrepreneurs, if you're a smart young entrepreneur, you'd really like to keep your house if your business fails. And usually there's some old boys and gals around who have a little extra cash in their pocket wouldn't mind gambling with some (inaudible) here, if something, investing in a young person pays off for them. So I think this opens the door to accessing some of that capital. [LB187]

SENATOR KOLTERMAN: Okay, thank you. [LB187]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? Senator Williams. [LB187]

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Transcriber's Office

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR WILLIAMS: Thank you, Chairman Lindstrom; and thank you, Senator Schumacher. I have some additional questions and they may be answered by those that are going to follow you. Will you be available at closing to answer questions? [LB187]

SENATOR SCHUMACHER: I will. I'll be honest with you, I haven't lined up anybody to follow me, so you may want to...just reserve... [LB187]

SENATOR WILLIAMS: Mark is sitting here. [LB187]

SENATOR SCHUMACHER: He looks like one of those neutral folks. (Laughter) But he may know the answers. I'm hoping he's one of those neutral folks. [LB187]

SENATOR WILLIAMS: I'll hold my questions. [LB187]

SENATOR LINDSTROM: Okay, any other questions from the committee? [LB187]

SENATOR BREWER: I'm going to wait, too. [LB187]

SENATOR LINDSTROM: You're okay. Okay. Seeing none, thank you very much. [LB187]

SENATOR SCHUMACHER: Thank you. [LB187]

SENATOR LINDSTROM: We'll now have proponents. Seeing none, any opponents? Also seeing none, and we're going to have neutral testifiers. (Laughter) [LB187]

MARK QUANDAHL: (Exhibit 2) I'll take that call. Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee, Mark Quandahl, Q-u-a-n-d-a-h-l, Director of the Nebraska Department of Banking and Finance. The department is responsible for the administration of the Securities Act of Nebraska, and I'm appearing here today in a neutral capacity with regard to LB187. LB187 proposes three amendments to the section 8-1111(23) transactional exemption from the registration provisions of the securities act, and I will comment specifically on each amendment. First, LB187 would increase the maximum amount of proceeds which a Nebraska issuer could raise in the intrastate offering from \$250,000 to \$750,000. The department supports this proposed increase. Earlier today, I testified in support of LB148. Section 13 of LB148 proposes an identical increase. Second, LB187 would give the department the authority to increase by rule and regulation the \$750,000 maximum amount of proceeds. While it would be the department's preference to have future legislatures authorize additional

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

Banking, Commerce and Insurance Committee
January 31, 2017

increases, we're willing to accept the authorization to do so administratively. And I did talk with Senator Schumacher this morning. He did tell me about the amendment and I think we probably have the same comment to that is that we prefer that you set the maximum amount, but we'd be willing to take that responsibility if you proposed to do it that way, too. Third, LB187 would provide, within subsection (g) of section 8-1111(23) that a security issued as a part of section 8-1111(23) transaction would not be considered a security for purposes of determining professional malpractice insurance premiums. While the department takes no positions on the merits of this proposal, I'd respectfully submit to the committee that this provision does not belong in the Securities Act of Nebraska. The department has no regulatory authority over any aspect of insurance, and this amendment would only create confusion in our administration of the act. So with that I'd be happy to answer any questions that the committee may have. [LB187]

SENATOR LINDSTROM: Thank you, Director. Any questions from the committee? Senator Williams. [LB187]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom; and thank you, Director. So I will...I want to just be clear on your testimony then. [LB187]

MARK QUANDAHL: Sure. [LB187]

SENATOR WILLIAMS: The first two provisional changes that match up, in essence, at least the first one, to LB148, you're fine with? [LB187]

MARK QUANDAHL: We're all for it. [LB187]

SENATOR WILLIAMS: And it is only the last one that deals with the limitation on the malpractice portion that you have questions about? [LB187]

MARK QUANDAHL: Correct. [LB187]

SENATOR WILLIAMS: Okay. If that portion were fixed, would I assume that you would be here testifying in a supporting capacity? [LB187]

MARK QUANDAHL: I can't say for certain, but it sure sounds like that's what we would do. [LB187]

SENATOR WILLIAMS: Okay. [LB187]

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

Banking, Commerce and Insurance Committee
January 31, 2017

MARK QUANDAHL: As a matter of fact, the first section it's in, it's in LB148, so it's something that...the increase in the dollar amount of the exemption we support. [LB187]

SENATOR WILLIAMS: Okay, thank you. [LB187]

MARK QUANDAHL: Sure. [LB187]

SENATOR LINDSTROM: Thank you. Any...Senator Kolterman. [LB187]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. But even at that, Director, you're still only in a neutral position, correct? [LB187]

MARK QUANDAHL: Well,... [LB187]

SENATOR KOLTERMAN: I mean, you...it sounds like you oppose that section, but you're here in a neutral capacity. [LB187]

MARK QUANDAHL: We're here in a neutral capacity. I guess if I could paraphrase, and I'd probably shouldn't do that, but I will, is that we just quite don't know what to do with that provision. [LB187]

SENATOR KOLTERMAN: So, okay. [LB187]

SENATOR LINDSTROM: Any other questions from the committee? [LB187]

SENATOR BREWER: I'll give it a try. [LB187]

SENATOR LINDSTROM: Senator Brewer. [LB187]

SENATOR BREWER: All right, thank you, Chairman. All right, I understand part of what you're getting to do here is take someone who isn't from Georgetown law (laughter) and try and help them to understand some of this. And I will tell you that the 28 pages of (LB)187 were a whole lot more interesting than the 79 pages of (LB)148, although they do work very well at night to help put one to sleep. Anyway, if I have this right, the whole thing is really...it's language that's lowering the threshold for reporting activity. We talked about the change from \$250,000 to \$750,000 and then it seems to cut through some red tape to simplify things, is that the gist of it? [LB187]

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

Banking, Commerce and Insurance Committee
January 31, 2017

MARK QUANDAHL: You could probably characterize that. It's...I think what...and I can't speak for Senator Schumacher, but I'll try to paraphrase again. [LB187]

SENATOR BREWER: Go ahead. [LB187]

MARK QUANDAHL: He wanted some sort of a mechanism in there where, basically, because of inflation or because of just the utility of the exemption that it could be adjusted to make the most sense for Nebraska to allow those entrepreneurs to take advantage of the exemption, at the same time maintaining the investor protections of the act. [LB187]

SENATOR BREWER: Well, I think you should be paid more money for what you do with this, okay. [LB187]

MARK QUANDAHL: I'm okay with that, too. (Laughter) [LB187]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you very much. [LB187]

MARK QUANDAHL: Thanks. [LB187]

SENATOR LINDSTROM: Other neutral testifiers? Seeing none, Senator Schumacher, you're welcome to close. [LB187]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. It's fortunate this is a Banking, Commerce and Insurance Committee because if that section is more properly fitted into some other section or standing by itself, I think we probably have the range to accommodate that and that the objection we heard...or the issue raised by the department is more one of form than substance as to where that particular provision is placed. And that's certainly something that I think that we can work out in order to make this particular bill work. I was really, really pleased there was no substantive objections to this. And I think it's genuinely a good idea. If you have any other questions, I'd be more than happy to try and answer them. [LB187]

SENATOR LINDSTROM: Thank you, Senator. Any final questions? Senator Williams. [LB187]

SENATOR WILLIAMS: Thank you, Senator Lindstrom. And thank you, Senator Schumacher. And philosophically I agree with this, even though there's nothing wrong with sending these people to the bank; at least if it's a rural community bank. (Laughter) [LB187]

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

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR SCHUMACHER: In Dawson County? [LB187]

SENATOR WILLIAMS: In Dawson County. Are you concerned from a legal perspective...well, let me ask the question this way to start with, if the portion concerning the malpractice change were eliminated from this legislation, if it were eliminated, what would happen? [LB187]

SENATOR SCHUMACHER: This would be in substance, the bill was introduced earlier, with the exception of the inflation clause which could be put into that if the committee wanted to. The meat of this one is addressing what I think is the reason why this thing has not been used very much is because you just...lawyers just stay away from it rather than pay that premium. [LB187]

SENATOR WILLIAMS: Are you concerned that even with a provision like you have in this that we could still not be in a position of controlling what the insurance companies actually charge based on an application they receive? [LB187]

SENATOR SCHUMACHER: We probably can't control it. But we probably can say that if you're not lying, if your securities work is confined to this one little exemption and you check the box--no, I don't mess with securities; or don't say I...check it the other way--yes, I do mess with securities. [LB187]

SENATOR WILLIAMS: Right. In your opening statement, you used the term "this tries to address these issues." How confident are you that it does address these issues? [LB187]

SENATOR SCHUMACHER: I think it addresses them; whether it's 100 percent fix, I...who knows the future. I think we have a lot of education to do in the bar and in the accounting industry and in the folks that advise people's finance that this kind of tool is open to young entrepreneur or somebody seeking to raise capital and building up a kitty with which they can go to the bank and borrow money against. [LB187]

SENATOR WILLIAMS: Are there any questions the "Professor" would like to ask himself? (Laughter) [LB187]

SENATOR SCHUMACHER: What am I doing here? [LB187]

SENATOR LINDSTROM: Any other questions from the committee? Seeing none, thank you very much. [LB187]

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

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR SCHUMACHER: Thank you. [LB187]

SENATOR LINDSTROM: And that will close the hearing on LB187. I'll now turn the committee over to Vice Chairman Williams and introduce the next bill. [LB187]

SENATOR WILLIAMS: All right. We will now open the hearing on LB306. So if you are a testifier, if you would please move up to the front seats as Senator Lindstrom prepares to introduce. Go ahead, Senator Lindstrom. [LB306]

SENATOR LINDSTROM: Thank you, Vice Chairman Williams. My name is Senator Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m and I represent District 18 in northwest Omaha. Today, I bring to you LB306, the Portable Electronic Insurance Act is the regulator frame work for the offering and sale of insurance covering portable and electronic devices such a cell phone, smartphones, tablets, and other portable devices. Coverage available under this type of insurance protects against loss, theft, mechanical failure, damage, or other applicable perils. The law does not apply to service contracts or manufacturers' warranties. The act requires vendors who offer to sell portable electronic insurance to obtain limited lines of producer license and provides for coverage notices and other consumer protection measures in the form of required disclosures to purchasers regarding insurance coverage, as well as training for individual sales persons. The insurance plans are generally sold as cellular phone retail outlets, authorized dealers, and certified repair centers. Since the original passage of the Portable Electronic Insurance Act, both technology and the marketplace have changed enough to merit updating the act to reflect these changes to further standardize a definition, as well as terms and conditions across the states. In this regard, LB306 updates and broadens the definition of portable electronics in order to avoid revisiting the definition as technology changes. Many states already have a broader definition of portable electronics than Nebraska in order to accommodate the expanding availability of devices and their accessory products. While Nebraska does not have a problematic definition, in order to keep up with the regulation and pace with technology changes, a broader definition would be an improvement. The proposed definition is consistent with both National Institute of Standards and Technology and Federal Aviation Administration definitions of portable electronic equipment. The bill also standardizes provisions relating to notices for nonpayment of premiums, changes in terms and conditions, and the ability to provide subsequent e-notices of coverage to a uniform 30-day period. The insurance practice is that portable electronic insurance premiums are payable on a monthly basis in conjunction with a consumer's telephone or data plans. At times, when a consumer fails to make a monthly payment, the cell phone company will continue service, perhaps over a month, two months, or more, with the hope of keeping the customer on the plan. Under current Nebraska law, a 60-day notice is required before the insurance may be canceled for nonpayment of premium. In order to reasonably limit the risk of claims after a period of nonpayment and to keep costs of insurance down for all consumers, LB306 provides for a 30-day notice to an enrolled customer before cancellation for nonpayment

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

Banking, Commerce and Insurance Committee
January 31, 2017

of premium. Finally, LB306 provides clarity in regard to the ability to send e-notices to an enrolled customer and address a current discrepancy in the act. Giving notice of e-notices by utilizing the customer's e-mail address must be sent within 30 days of enrollment. So with that I will take any questions you have; however, there will be testifiers to follow that should be able to address any technical or marketplace questions. Thank you. [LB306]

SENATOR WILLIAMS: Questions for Chairman Lindstrom? Seeing none, thank you. First proponent? [LB306]

PAUL FASSBENDER: Good afternoon, Vice Chairman and members of the committee, my name is Paul Fassbender, F-a-s-s-b-e-n-d-e-r. Thank you for letting me speak today, and thank you to the Chairman for introducing this legislation. I'm here on behalf of Asurion; we're a company based in Nashville, Tennessee. We operate in the state of Nebraska, as well as worldwide, and our business is portable electronics. And to give you kind of a context for what I'm talking about, the simplest example is when you go and purchase a phone from a cell phone carrier and you get your phone and you get the amount of text and your minute plan and they ask if you'd like protection on the phone. Nine times out of ten, that's generally a portable electronics insurance policy. It can be a service contract, service warranty policy, but I'm simply talking about the insurance policy which gives you kind of a context for what we're talking about and what this statutory section does. This bill I'm here in support of today, LB306, does three things to update Nebraska's law and reflect changes in the marketplace and modernization. The first it modernizes the definition, as the chairman stated, to mirror federal standards. We've worked with the department on this definition and it was the department's preference that we look to the federal standards for a template. It also cuts a notice period, especially for changes, in terms of conditions from 60 to 30 days to reflect the marketplace nationwide, and which will also keep costs down with the notice. And importantly, also makes it easier to e-notify the customer. Granted, this is a customer's choice to being notified, but it will clear up a discrepancy in Nebraska's law and at the customer's option will make it easier to e-notify the customers. I'd like to respectfully ask the committee to advance this bill to General File. And I'd be happy to ask any questions...or answer any questions you all have. [LB306]

SENATOR WILLIAMS: Questions? Senator Baker. [LB306]

SENATOR BAKER: Thank you. Thank you, Mr. Fassbender...did I get the name... [LB306]

PAUL FASSBENDER: Fassbender. It's a hard one. [LB306]

SENATOR BAKER: So, you know, when I went and got my smartphone, I said--yeah, I'd like insurance on that. Would that have been your company? [LB306]

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Transcriber's Office

Banking, Commerce and Insurance Committee
January 31, 2017

PAUL FASSBENDER: It depends what carrier you're using. [LB306]

SENATOR BAKER: All right. [LB306]

PAUL FASSBENDER: It might have been our company. [LB306]

SENATOR BAKER: It if wasn't, would that company have likely had limited lines producer license? I mean, would that then...necessarily true? [LB306]

PAUL FASSBENDER: Yes, sir. Under the underlying statute, it's a limited lines product. [LB306]

SENATOR BAKER: So no one could be selling insurance unless they had that license? [LB306]

PAUL FASSBENDER: Yes, sir. It's an entity license that you apply for through the Department of Insurance in Nebraska. Our company is an insurance provider. So under Nebraska's law, we would...I'm just speaking for our business model, we would come in under the supervising entity clause in which we would run the program for our clients. The entity, which is the cell phone carrier, would hold the license and the product is underwritten by, generally, a major insurer or insurance company. [LB306]

SENATOR BAKER: Okay. I understand what you do. What...what...what I'm not clear, whether this does change something. It says the act requires vendors who offer to sell portable electronic insurance obtaining limited lines producer license. So, apparently there's some now who don't? If they already do, then this doesn't change anything in that particular section. [LB306]

PAUL FASSBENDER: I don't think this bill touches the licensing section. Can I see which...what page are you... [LB306]

SENATOR BAKER: I'm looking at the...Senator Lindstrom's cover statement. It says: "The act requires vendors who offer to sell portable"... [LB306]

PAUL FASSBENDER: I think he was referring to the underlying act that was passed in 2011. [LB306]

SENATOR BAKER: Okay. So that's not a change then. [LB306]

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Transcriber's Office

Banking, Commerce and Insurance Committee
January 31, 2017

PAUL FASSBENDER: No, sir. [LB306]

SENATOR BAKER: Thank you. That's all I needed. [LB306]

SENATOR WILLIAMS: Other questions? Thank you. [LB306]

PAUL FASSBENDER: Thank you. [LB306]

SENATOR WILLIAMS: Further proponents? Anybody testifying in opposition? Anybody testifying in a neutral capacity? If not, Chairman Lindstrom...waives closing. That will close the hearing on LB306. [LB306]

SENATOR LINDSTROM: Okay. We will now open on the last bill of the day, LB486, Senator Kolterman. Senator Kolterman, whenever you're ready. [LB486]

SENATOR KOLTERMAN: Good afternoon, Chairman Lindstrom, fellow members of the Banking, Commerce and Insurance Committee. I'm Senator Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, and I represent the 24th District in the Nebraska Legislature. In Nebraska, financial advisors and insurance producers of life, accident, and health or sickness, property, casualty, and personal lines of insurance must be licensed by the Department of Insurance. Criteria for license requires that a license must be a natural person; licensee must be a resident insurance producer or consultant; licensee must complete 24 hours of continuing education every two years and that CE requirement is 21 hours of general continuing education and 3 hours of ethics in continuing education. This bill would provide up to 6 hours of general continuing education credit to paid members of an approved insurance association who actively participate in these professional associations. Examples of professional insurance associations include: National Association of Insurance and Financial Advisors, known as NAIFA; Independent Insurance Agents and Brokers of America, known to many as the Big I; National Association of Health Underwriters, NeAHU; the National Association of Professional Insurance Agents, the PIA. These associations promote high standards of ethical conduct among their members. They also provide many educational programs and professional development opportunities to association members. The director of insurance would approve associations and require that they meet requirements of the department. The director may also establish requirements that define active participation by producers. Thank you, and I would urge you to advance LB486 and would be glad to answer any questions you might have. [LB486]

SENATOR LINDSTROM: Thank you, Senator Kolterman. Any questions from the committee? Seeing none, thank you very much. We'll now have proponents. Welcome. [LB486]

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

Banking, Commerce and Insurance Committee
January 31, 2017

DANIEL J. SCHOLZ: My name is Daniel J. Scholz, S-c-h-o-l-z. Been a member...born and raised in Omaha, Nebraska; been District 39; been 41 years in the insurance industry and a member of the National Association of Insurance and Financial Advisors. Here to testify of the advantage of allowing for the credit that this bill offers. The ability to be part of your professional organization and being active in it produces numerous opportunities for ethical conduct, education. I've served on my local association in Omaha; I've been president in the association for the state of Nebraska. I've served on a national association for the entire nation. In all those opportunities of being an active participant in those associations have benefited me greatly. And in terms of the education requirements in the state of Nebraska for your license, this would be a positive for the association. Currently, NAIFA has approximately 900 members in the state. I'd be happy to answer any questions. [LB486]

SENATOR LINDSTROM: Thank you very much. Any questions from the committee? Senator Williams. [LB486]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom; and thank you for your testimony. The bill, as I understand it, reduces by six hours the education requirement if you actively participate in any of these forms that are listed in the bill. And I am a huge advocate of association work and doing that and recognizing the importance of that. I want to go through a couple of these because I'm concerned about how deeply we get into this. Number C...and all of these are either...so it's an "or" in here, "participation in industry, regulatory, or legislative meetings held by or on behalf of a professional insurance association." So if you just simply go to a meeting, you get six hours? [LB486]

DANIEL J. SCHOLZ: Currently the director has the ability to determine what active participation is. So currently being on a board or actively participating in the association that would be required by the association to report to the state Department of Insurance. So in answer to your question, if you're actively participating in the association meetings and the legislative issues, that would be... [LB486]

SENATOR WILLIAMS: That would qualify you. [LB486]

DANIEL J. SCHOLZ: Yeah, qualify. [LB486]

SENATOR WILLIAMS: Okay, I'm going to leave it there for now. [LB486]

DANIEL J. SCHOLZ: Okay. [LB486]

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Transcriber's Office

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR LINDSTROM: Any other questions? Just one quick question--how often are these CE...would they be held monthly (inaudible)? [LB486]

DANIEL J. SCHOLZ: Currently we're required to have 24 hours of CE in a two-year period. [LB486]

SENATOR LINDSTROM: How often would these be offered? Is it, say, a class or an association meeting to gain the six hours of credit? [LB486]

DANIEL J. SCHOLZ: Well, what it's saying is, is by being a member of a professional organization... [LB486]

SENATOR LINDSTROM: Automatically it's six... [LB486]

DANIEL J. SCHOLZ: ...you'd be able to have received six hours of credit. I would still have to get my remaining 18; I would have to do my ethics; I'd have to do the continuing education requirements. By being a member...or active member of my association, I would get credit for six hours. [LB486]

SENATOR LINDSTROM: Is that an annual... [LB486]

DANIEL J. SCHOLZ: That's a two year... [LB486]

SENATOR LINDSTROM: No, I'm saying, being a part of the association is that an annual participation or do you...is it just a lifetime deal where you're part of these associations... [LB486]

DANIEL J. SCHOLZ: I can't answer that. Okay. [LB486]

SENATOR WILLIAMS: Chairman. [LB486]

SENATOR LINDSTROM: Yes, sir. Senator Williams. [LB486]

SENATOR WILLIAMS: Thank you. I want to be sure. So you're saying the bill says as long as you're a member of your association, you qualify for the six hours. [LB486]

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

Banking, Commerce and Insurance Committee
January 31, 2017

DANIEL J. SCHOLZ: Your actively participation in your association, not just a member. So the requirement would be to attend association meetings, association educational...and that would then need to be reported to the Department of Insurance. [LB486]

SENATOR WILLIAMS: Okay. We're going to have some discussions on what the bill says. I'll pass on it for now. Thank you. [LB486]

DANIEL J. SCHOLZ: Okay. [LB486]

SENATOR LINDSTROM: Any other questions? Seeing none, thank you. [LB486]

DANIEL J. SCHOLZ: Thank you. [LB486]

SENATOR LINDSTROM: Other proponents? Good afternoon. [LB486]

JJ GREEN: My name is JJ Green from Grand Island, District 35. Thank you, Senator Lindstrom and members of the committee. I'm here representing, as state president, of the Nebraska Association of Health Underwriters; I'm also a member of Dan's association, he was here from NAIFA, so I'm a dual member. What we believe and support as a proponent of this legislation is because our state board unanimously approved what we do as an association and support this as well. Our association's mission statement is to provide professional development and deliver resources to promote excellence amongst our members. National Association of Health Underwriters and Nebraska association also requires members to adhere to a higher standard of ethical conduct. We believe active membership of our professional association ultimately help our fellow Nebraskans and qualified and trained advisors. As an active member, we have access to programs, and this kind of goes into some of the things you're acting like. We have Affordable Care Act training right now in order to be able to help our people with Obamacare enrollments and things. We have legislation and advocacy committees set up for things like we're doing today. We also have compliance and due diligence programs that we have the ability to take part of. And we also do things like professional development. And all those things come together for continued education requirements as well. So to go back to your comment, Chairman, it's an annual membership due. So you pay your dues to belong to the association on an annual basis. Regarding the association and can you just show up? No. Because I believe you'll see in the bill, there are descriptions that the director has the ability to actually finalize what the definition of an active participant in our professional association would be. So we...our association, would like (to thank) Senator Kolterman, for introducing this bill. And I'd answer any further questions. [LB486]

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

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR LINDSTROM: Any questions from the committee? Seeing none, thank you. [LB486]

JJ GREEN: Thank you. [LB486]

SENATOR LINDSTROM: Other proponents? [LB486]

MICK MINES: Good afternoon, Mr. Chairman, members of the committee, my name is Mick Mines, M-i-c-k M-i-n-e-s; I'm a registered lobbyist for the National Association of Insurance and Financial Advisors of Nebraska. I'm here testifying today in response, I think, to Senator Williams' question. You went right to the one issue that I think we need to address and that is what qualifies for active participation. And certainly one meeting does not qualify as active participation. If...later in the bill, it does identify that the director of insurance does have the ability to change those qualifications. But our intent is that a member must participate in meetings of...a number of meetings, but also engage in committees on the associations and the board of directors of associations, legislative involvement, and I think that's a tool that needs to be, maybe, revised by the director and this committee. But I know it says "meeting" and that was not our intent is one meeting does not qualify, in our view, as active participation. So if there are questions, I'd be glad to answer them. [LB486]

SENATOR LINDSTROM: Senator Baker. [LB486]

SENATOR BAKER: Thank you. Mr. Mines, just out of curiosity, if a person, say, attended a ADA update meeting, it was an all-day meeting, 8 hours, would that count as part of the 21? [LB486]

MICK MINES: It would count toward their qualification of the six hours credit. So we're really talking about...you've got 21 hours of C&E, three of those hours are ethics and those can't be...you can't use these credits for those three hours. The remainder...your performance over the...annually over the...over involvement in the association counts towards those six C&E credits. The association annually would report your progress to the department and theirs would be determined whether they're qualified or not to receive those six hours of credit. [LB486]

SENATOR BAKER: So there's three hours required every two-year period for ethics. Is that what you said? [LB486]

MICK MINES: Yes, that's correct. [LB486]

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

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR BAKER: In what ways is that delivered. Is it Webinars? [LB486]

MICK MINES: Yes, in person, and I don't take the test, but I know that, yes, you do have to participate in person; I assume there's Webinars as well. Have you ever taken C&E class? [LB486]

SENATOR BAKER: I've... [LB486]

MICK MINES: Nor have I, but I understand that they're not...sometimes it's just an hour out of your day that you work on something else. Yeah. [LB486]

SENATOR BAKER: Thank you. [LB486]

SENATOR LINDSTROM: Thank you. Any other questions? I just want to...so I do, actually, take those tests. [LB486]

MICK MINES: There you are. [LB486]

SENATOR LINDSTROM: I can tell you all about it; they're real fun. And they do provide...it's gotten a lot better over the last couple of years... [LB486]

MICK MINES: Okay. [LB486]

SENATOR LINDSTROM: ...as far as accessing them via the Internet, and there's a lot of providers out there. So in person, you go to an association meeting, I'm just trying to put myself in a...so I go over, say, the lunch hour, local place, say VFW, they're having a deal, speaker comes in, I go there for an hour, I sign in...sign-in sheet, that may count, say, as an hour towards my six hours. [LB486]

MICK MINES: Well, it's not...your participation isn't identified by hours. It's six hours. Just your participation, whether it's in...an involvement in the association. So, yes, you go to that, and that's certainly a qualifier, but I would believe that all the associations that you're hearing from intend that you really are engaged more than a meeting or two. [LB486]

SENATOR LINDSTROM: It's not time related, per se... [LB486]

MICK MINES: Not time related, no. [LB486]

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

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR LINDSTROM: ...or it's...involvement in the association. [LB486]

MICK MINES: Exactly right. [LB486]

SENATOR LINDSTROM: On an annual basis. [LB486]

MICK MINES: Exactly right. Yeah. [LB486]

SENATOR LINDSTROM: Okay, gotcha. Okay. Senator Williams. [LB486]

SENATOR WILLIAMS: Thank you, and thank you, Mr. Mines, for being here. I keep hearing the director is going to approve these things and I'm not finding that in this definition of active participation. And I, again, I want everybody to know I'm very supportive of this concept, but if attendance at a formal meeting of a professional insurance association where a formal business program is presented, that program could be on something that had nothing to do with any educational requirements that would be required. [LB486]

MICK MINES: That's true. Correct. [LB486]

SENATOR WILLIAMS: And yet, if I'm reading this correctly, that would qualify a person for six hours credit. [LB486]

MICK MINES: That would be a qualifier, yes. [LB486]

SENATOR WILLIAMS: Am I reading where the "ands" and "ors" are wrong? [LB486]

MICK MINES: Maybe. Maybe. And I think... [LB486]

SENATOR WILLIAMS: Okay. I'll have to look at that deeper, because I'm looking at that...it says, "participation means either" and that's the first of the "either" ...I'll read it further. [LB486]

MICK MINES: Thank you. You know, the intent of the credits is not...it's to get involved in an association; by that association, you connect with and communicate and learn with other people in your field of business. And I think you gain...not I think...we propose that members gain more information and more knowledge about their business just by interacting and becoming involved. And I think that needs to be cleaned...that language might need to be cleaned up a bit. But, Senator Williams, at the very...at the end of the bill, and I wish I had it with me... [LB486]

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

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR WILLIAMS: Counsel is showing it to me here. [LB486]

MICK MINES: Okay, good. So the director does have the ability to make changes to what qualifies as participation. [LB486]

SENATOR LINDSTROM: Senator Schumacher. [LB486]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. Thank you, Mr. Mines, for your testimony today. In reading through the language of what active participation means, one of the things is "or (c) participation in industry regulatory...industry, regulatory, or legislative meetings held by or on behalf of a professional insurance association." Would today's hearing be such a meeting? [LB486]

MICK MINES: Absolutely. [LB486]

SENATOR SCHUMACHER: So if someone would come here and sit and watch us, they could get credit toward this? [LB486]

MICK MINES: As crazy as that sounds...no sir. (Laughter) Yes, I mean, this is an educational experience for our members, and engaging in the process of what they do. They're advocates for the industry and this is where we go. [LB486]

SENATOR SCHUMACHER: And so if Chairman Lindstrom sits through a number of these meetings, is he...kind of comes out ahead on this (inaudible). [LB486]

MICK MINES: By de facto, yes, he does. [LB486]

SENATOR LINDSTROM: Except I'm not part of an association as (inaudible), no, I don't get... [LB486]

MICK MINES: Maybe you should join an association. [LB486]

SENATOR SCHUMACHER: Thank you. [LB486]

SENATOR LINDSTROM: Though (inaudible) in this capacity, so maybe that's a conflict of interest, probably shouldn't do that. Any other questions from the committee? [LB486]

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

Banking, Commerce and Insurance Committee
January 31, 2017

MICK MINES: Thank you so much. [LB486]

SENATOR LINDSTROM: Thank you. Other proponents? [LB486]

PERRE NEILAN: Mr. Chairman, members of the committee, my name is Perre Neilan, P-e-r-r-e N-e-i-l-a-n. I appear before you today as a registered lobbyist on behalf of the Independent Insurance Agents of Nebraska to offer our support for LB486 for the reasons already stated. In the Chairman's interest to be concise, that would conclude my testimony. [LB486]

SENATOR LINDSTROM: (Exhibit 1) Thank you. Any questions? Seeing none, thank you very much. Other proponents? I do have a letter here in support from the Director of the Department of Insurance. We'll move on to opponents. Any opponents? Seeing none, any neutral testifiers? Seeing none, Senator Kolterman, would you like to close? [LB486]

SENATOR KOLTERMAN: Thank you, Chairman Lindstrom. The questions are good questions; same questions I asked. When I was asked to bring this bill, deliver this bill, I've got...out of the four association I've been a member of each one of them in various capacities over my career as an insurance agent. One of the challenges that insurance agents face, just like a realtor or everybody else, when you join an association, you're spending quite a few dollars to join that association. So there's two aspects to this bill, the reason I agreed to carry it. Number one, my experience over the last 40 years has been that when you join an association, by going to meetings, whether...and for me the past six years I've been actively involved in the government relations aspect of this, so that group of people would sit down and study the laws that are being presented, make recommendations to their group as a whole, and then in turn they come and testify in support or against a bill that gets carried here. The same things happen with malpractice insurance; same things happen with just involvement. And so, when asked could we reduce continuing education by six hours or up to six hours, it does say "up to" over a two-year period, I thought this made sense because active involvement does lead to be more educated person as a member of the insurance industry. Now, the question is, what's "active involvement?" And so as we met with...we actually brought the director of insurance and two of his people in, his legal counsel, and asked them--would you be willing to help us determine through the rule-making process what is active involvement. And that's why I think you see that they're supportive of the bill and testified...they were going to be here today, but they couldn't be here because of conflicts. But they're very supportive of what we're trying to do here. And they've also...originally it was brought to me by one of the associations and we decided to include all the associations in this. There are things that are not covered by continuing education. All education...continuing education has to be approved by the Department of Insurance and it's all regulated on a very concise basis. So when you go to a seminar, as an example, where you're going to pay for continuing ed, at that seminar you have to sign in when you got there and you

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

Banking, Commerce and Insurance Committee
January 31, 2017

have to sign out when you leave. And then the syllabus for that is on record at the Department of Insurance and they decide how many credit hours you might get. It is 21 hours of general every two years and three hours of ethics. So what we would be doing is reducing that 21 hours down a little bit for those that are actively involved. What that does in many regards, it also saves the agents some extra money because they don't have to pay for that six hours of continuing education. In an industry that's having their commissions cut on a regular basis, and to some point even getting zero for selling products anymore, I just felt that this was a way we could help the people that...keep the businesses strong. They're paying for their dues in their association; they're also paying for continuing ed. And I don't believe that they're losing out. In fact, I think many of them will continue to get the 24 hours plus be involved. But for those that choose to be really actively involved, they might get three hours for sitting on the board of directors of that organization. So that's where it came from. As far as the detail of the bill, I think it says towards the end of the...that the director will have some oversight on that, but I will have to double check that, Senator Williams. So that's where we're at in the rationale for the bill. [LB486]

SENATOR LINDSTROM: Very good. Final questions? Senator Williams. [LB486]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom; thank you, Senator Kolterman. So you...if I am reading this correctly, you would envision that at the time a licensed agent is required to have met their qualifications to maintain that license, the educational requirement, they could submit something to the director in lieu of having completed some course that would say I'm an active member of the PIA... [LB486]

SENATOR KOLTERMAN: Correct. [LB486]

SENATOR WILLIAMS: ...and I am an active member and I've been these things and that would...the director could review that and then determine, yep, I'll approve six hours? Is that how... [LB486]

SENATOR KOLTERMAN: Absolutely that...and to be quite honest with you, I think the director and the associations are going to try and work out what the criteria are ahead of time so that they don't have to be subjective on every one of these that come in. And the director and his department has said we're willing to help you do that. [LB486]

SENATOR WILLIAMS: Thank you. [LB486]

SENATOR KOLTERMAN: Yeah. Does that answer your question? [LB486]

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

Banking, Commerce and Insurance Committee
January 31, 2017

SENATOR LINDSTROM: Senator Baker. [LB486]

SENATOR BAKER: Senator Kolterman, can professional organizations be the provider of continuing education? [LB486]

SENATOR KOLTERMAN: Yes, they can. And in fact, quite a few...like as an example, NAIFA-Nebraska, if you're a member, they offer enough classes on a regular basis over a two-year period that you could meet the criteria just by going to their classes as part of their dues. But let's say you get down to the end of the two-year period and you're short and you don't want to be forced to go take something real fast, if you've been actively involved, this is another alternative way of picking up, possibly, six hours. [LB486]

SENATOR BAKER: Thank you. [LB486]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? Seeing none... [LB486]

SENATOR KOLTERMAN: Thank you. [LB486]

SENATOR LINDSTROM: Thank you. And that will close the hearing on LB486. Thank you all for coming. [LB486]