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Banking, Commerce and Insurance Committee
February 06, 2018

[LB987 LB1121]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, February 6, 2018, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB979 and LB1121. Senators present: Brett Lindstrom, Chairperson; Matt Williams, Vice Chairperson; Roy Baker; Tom Brewer; Burke Harr; Mark Kolterman; John McCollister; and Paul Schumacher. Senators absent: None.

SENATOR LINDSTROM: Okay, we'll go ahead and get started here. Welcome to the Banking, Commerce, and Insurance Committee hearing. My name is Brett Lindstrom. I am from Omaha and represent District 18. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members will come and go during the hearing. We have to introduce bills in other committees and are called away. It is not an indication we are not interested in the bill being heard in this committee, just part of the process. To better facilitate today's 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 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 sign-in sheet to the committee clerk when you come up to testify. Please spell your name for the record before you testify. We ask that you please be concise. It is my request that you limit your testimony to five minutes. 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 the committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We will need ten copies. If you have written testimony but do not have ten copies, please raise your hand now so the page can make copies for you. I will now introduce the staff. To my immediate right is committee counsel Bill Marienau and to my far left is committee clerk Jan Foster. And I will point out today is our last hearing in Banking for this session and it will be Jan's last hearing ever. So Jan has been fantastic to work with in the four years I've been here. Jan started in the Legislature in 1983, so she's been here for 35 years which is rare in any organization and certainly rare here in the body and we're going to miss her. She became clerk of this committee in 1991. And she has two twin daughters, one in North Carolina and one in Colorado, and then has seven grandkids, six being in Colorado and one in North Carolina. So she's been fantastic to work with not only from my standpoint as being the Chair, but also just coming into work every day and always having a smile on her face and just a pleasure to be around. So before we get into the hearings, I would just like to open it up. If a few folks would

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take a point of personal privilege, maybe if they have a few things they would like to say about Jan Foster.

SENATOR WILLIAMS: Mr. Chairman.

SENATOR LINDSTROM: Yes, sir, Mr. Vice Chairman.

SENATOR WILLIAMS: Well, those of us that work in the Legislature are, you know, just pleasantly blessed by the people that we have...that have been staff people here for a long time to work with. And I've had the opportunity to know Jan for a number of years when I used to come here as a banker and testify in front of this committee and the professionalism that comes with that. But each one of us comes in here with some background but very little experience in the process. And it takes people like Jan to step up and help each one of us with that process. So a special thank you, Jan, from me. [LB987]

SENATOR LINDSTROM: Senator McCollister.

SENATOR MCCOLLISTER: Yeah, thank you, Mr. Chairman. We do come in here knowing very little about the history of the body. So the institutional memory of that oftentimes stays with the staff. And so I know in my own case, staff that I've worked with have kept me out of a lot of trouble. So thank you for your service.

SENATOR LINDSTROM: Director Quandahl. We'll get it on the record. (Laugh)

MARK QUANDAHL: I mean I'm more than happy to go on record for this. Mark Quandahl. And I don't know if you recall, Jan, but my first day as Chairman of this committee succeeded Dave Landis as Chairman. And he was a committee Chair for years and years and years. Well, I was so nervous I could barely talk right and I could barely read. But Jan helped me through that and even though I had I think of mispronounced your name, (laughter) it was a pleasure working with you and many times for you actually. (Laughter) And so it's...but it is true, you're one of those rare people and so good luck. It's kind of bittersweet and I'm sure the people around the table here feel that way, too, that we're sad for losing you at the committee, but we're happy that you're moving on to a well-deserved retirement. So, yeah, thank you for your service.

SENATOR LINDSTROM: Thank you, Director. Senator Kolterman.

SENATOR KOLTERMAN: Yeah, I'd like to set the record straight here. This just isn't the Banking, this is also an Insurance Committee. And I got to know Jan when I was working on...in

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the association, her and Bill both. And they've always done a professional job. And now I've been here, this is my second year and I've enjoyed it very much. So thank you very much.

SENATOR LINDSTROM: Thank you. Senator Schumacher.

SENATOR SCHUMACHER: Thank you, Senator Lindstrom. For the last few years it's my pleasure to just sit right across from Jan. (Laughter) (Inaudible) And she's always got this smile on her face. She has always been just really terrific to work with. Congratulations. Have great fun.

SENATOR LINDSTROM: Anyone else? Well, fortunately I get to see Jan for several more months coming into the office, but for the hearings this will be the last one. So, Jan, we appreciate everything that you've done over the last 35 years and for us. And so I think I speak for everybody that's ever been in this hearing room or anybody that's crossed paths with you, you're just a lovely, great person and when we congratulate you on all the hard work and all the future endeavors that you will pursue. So thank you, Jan.

SENATOR WILLIAMS: Now spell everybody's name right. (Laughter)

SENATOR LINDSTROM: And now we'll begin and we'll start with the senators introducing themselves starting with my far right.

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

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 portions of Buffalo Counties.

SENATOR HARR: Burke Harr, Legislative District 8 representing a small portion of Douglas County.

SENATOR BAKER: Roy Baker, my District 30 lies in Lancaster and Gage Counties.

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

SENATOR LINDSTROM: And our page today is Alyssa Lund from Woodbury, Minnesota. We will now begin in the order of the bills posted and we'll open the hearing on LB987. Senator Schumacher, whenever you're ready. Good afternoon.

SENATOR SCHUMACHER: Good afternoon. Senator Lindstrom, Chairman Lindstrom and 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 if you ever have the urge to get even with me for the questions I've asked you (laughter) that you didn't know the answer to about one of your bills, today is your day. I'm introducing LB987 today which deals with virtual currency, Bitcoin, blockchains, and things that we are only beginning to have in our consciousness. And I spent a couple of days this last summer trying to figure out, well, what is a blockchain, what is a Bitcoin, how does the thing work, what are these things called miners, wallets, how do you store a nothing in a make-believe wallet that's somewhere on the Internet that you have no idea where it's at, and why would anybody pay anything for something like this, much less old savings or anything of value? But somehow it is out there. And what is a blockchain? And they talk about a distributed record of a particular Bitcoin or transaction that dates back to its creation, as if there were a creator creating these things, and then every step along the way is recorded. And I think to myself, gee, what a humongous database that must be if you were going to do real business with it and how are they verified and how does it work? And after about two days of looking into it, for a fleeting moment I thought I understood. The moment was really fleeting. And it got more and more curious as we approached December and all of a sudden these animals which were in June were selling for \$3,000 were selling for close to \$20,000. In fact, at that point I got interested enough to download an app where you could buy Bitcoins and I chickened out when it asked for the credit card number. But other than that, it truly is something that we've got to learn about, particularly those of you who are going to be here in the future in banking and commerce. Apparently in the Bitcoin world, 21 million of the things, and most of them, the puzzles have been figured out and therefore they are viable Bitcoins and there's a few left and they figure in the next few years they will be figured out, too, and once the puzzle is figured out with the private code to finish off the puzzle, you have yourself a Bitcoin and there will be no more than 21 million of them. So incredibly interesting kind of things and I just held that in the back of my mind. And Larry Ruth with the Uniform Law Commission approached me like three days before the end of the session...end of the time to introduce bills and asked me to carry this particular bill. And I'm always wary of someone approaching you near the end of the time to introduce bills and asking you to walk their dog. But I was fascinated by it and Larry assured me that he had the good case to make for the Uniform Law Commission and that could provide the committee with some expertise and some introduction to the subject matter. So I introduced the bill and he, true to his word, is here today with two folks who look like they might be experts. Now I did meet with them last week and my

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interest was heightened somewhat, because to the extent there may be real commerce involved here and to the extent the Nebraska Unicameral is able to handle material quickly and pass laws that have merit quickly and in a streamlined fashion and to the extent it's maybe good to be first in the market on something. I mean our insurance business is very good in this state because we have developed an insurance framework that is very accommodating to the industry and it also works very well. And so while my initial reaction toward this bill was let's just learn from it and maybe even after the hearing have some educational sessions on it, it is now just a tad bit more because maybe it's an opportunity for the state to get a regulatory framework that nobody else has yet and if the...one of these Bitcoin fires takes off or virtual currency or blockchain, we may be the only regulated environment. And now whether or not that's good or bad, I think we'll learn. Whether or not the Feds can do a better job of coordinating or why the state should get involved, I think we're going to learn. But it is a fascinating subject and just maybe an opportunity for the state to be at the leading edge rather than where we usually are and that's at the tail's end. So I will be happy to answer any questions, either that or you can listen to somebody who knows what they're talking about. [LB987]

SENATOR LINDSTROM: Thank you, Senator Schumacher. Any questions from the committee? Senator Brewer. [LB987]

SENATOR BREWER: Thank you, Mr. Chairman. Okay, now I'm not slow roasting you here or anything, just general questions. How long has Bitcoin existed? [LB987]

SENATOR SCHUMACHER: Gosh, I think it's been, I want to say, right around the time of the Great Recession, about 2007, 2008. It kind of appeared mysteriously. There's a guy with an oriental sounding name, published a Web page that said he had this new approach to the transfer of wealth which would be divisible. You could take a Bitcoin and you could sell a teeny weeny fraction of it. And so there's almost an infinite number of transactions you can do with a Bitcoin that you can...it would be independent of government and government regulations. And that's what it dates from. [LB987]

SENATOR BREWER: And there's 21...the idea is that there's 21 million and that's all there is and that's all there is going to be and the value adjusts accordingly to whatever the market is. [LB987]

SENATOR SCHUMACHER: It's kind of the theory of gold. There's only so much gold. You can't make anymore. Or if you do, it's very...not much more you can mine. And I think that's where the word "mining" came from: when you dig it out for the first time and solve the puzzle. And that's why it has value. Now where that gets a little confusing for me is you can subdivide the things and you can have...one Bitcoin theoretically being subdivided probably, you know,

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however many times you can divide a number. And so what does that do to the world? But those are questions that I think we can all learn answers to. [LB987]

SENATOR BREWER: Just so I have a better understanding, too, from the start to where it is now, how much has it varied in value? [LB987]

SENATOR SCHUMACHER: It never ran for very much. I had the chart out. But it was pretty low in the, in the fifty hundred dollar range for a long, long time. And this tremendous expansion, I think June it was like \$2,500 to \$3,000, then it went up to almost \$20,000, now it's down I think now to \$7,000-something today. But the big climb has been just in the last 18 months or so. [LB987]

SENATOR BREWER: And had you went ahead pushed send on that message when you were looking at the price, what would you have bought it at? [LB987]

SENATOR SCHUMACHER: I would have bought it at \$17,000 and I would have been crying today. (Laughter) [LB987]

SENATOR BREWER: What is it today? [LB987]

SENATOR SCHUMACHER: \$7,000. High volatility. They're trading it, now some legitimacy has been given to it. They're trading it on the exchanges. They're ETFs involving it. Goldman Sachs is messing around with it. It's a proper subject for a Banking, Commerce and Insurance Committee to have the foggiest notion of what it's about. [LB987]

SENATOR BREWER: Thank you, sir. [LB987]

SENATOR LINDSTROM: Any other questions from the committee? Yes, Senator Harr. [LB987]

SENATOR HARR: Thank you, Mr. Chairman. So I have a question because your answer to the last question said part of beauty of it is it's free of government and government regulation and yet this bill would seem to take away some of the beauty of it by adding government and government regulation. [LB987]

SENATOR SCHUMACHER: And that's true. But let's suppose that you were a lawyer and you had Bitcoin in your trust account because somebody wanted to do a Bitcoin transaction. And if there were some rules as to how you as a lawyer handled the on-ramp and the off-ramp to the

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Bitcoin system, it may give you guidance and also your clients some sense of satisfaction that it was apart from the volatility that might occur in the Bitcoin world itself that it was handled internally in the state in an orderly fashion and somebody knew what the rules were. And also for your own...if you had your business staked on Bitcoin and all of a sudden the thing became worthless, what impact would that have on you and your customers? And so those questions have not even begun to be answered yet. [LB987]

SENATOR HARR: But by regulating it, aren't you taking away some of the beauty of it, if you will? [LB987]

SENATOR SCHUMACHER: I think we will hear that we're not regulating...this bill does not regulate the Bitcoin and the blockchain and the ways that they transmit this between the miners and the verifiers and whoever else is out there playing, but the on- and the off-ramp and where the businesses who use this and who employ it, how they're governed. And so I think this gives legitimacy to a business wanting to use it and to access it from a confidence perspective. [LB987]

SENATOR HARR: And I saw where the Nebraska Bar Association allowed lawyers to collect fees in Bitcoin. Have you? [LB987]

SENATOR SCHUMACHER: No. [LB987]

SENATOR HARR: Would you? [LB987]

SENATOR SCHUMACHER: Here's the problem that I see with Bitcoin right now. Bitcoin is a capital asset of some kind. So if I take a dollar bill and buy an apple from you, I don't have to...and the dollar bill has been inflated or deflated, I don't have to report a capital gain or capital loss. But if I buy a Bitcoin at \$7,000 and you've got \$7,000 apples, I can buy an apple from you. If Bitcoin doubles in price, I can buy two apples. That trade, particularly under the...for my Bitcoin, \$14,000 Bitcoin for your two apples, that Bitcoin has appreciated, doubled in value. And under the new tax law there's no such thing even as like kind exchanges that are permissible for tax free. So I've got to declare the value of...I've got to do a tax calculation based upon whether or not Bitcoin appreciated or depreciated in value over the time that I held it. And I don't know where that nightmare leads you, but it's certainly complicated. [LB987]

SENATOR HARR: If we ran our whole system not on Bitcoin, but on this blockchain technology and we had the government run it, couldn't the government then know what we spent

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everything on everywhere, and at the end of the year just send us a receipt for what we owe? We wouldn't even have to fill out that one page tax return. [LB987]

SENATOR SCHUMACHER: We probably could just ask the NSA and get that answer. [LB987]

SENATOR HARR: All right, yeah. Interesting. I just worry, you know, we say this is take Big Brother out and my fear is we're actually making Big Brother...giving them more tools. [LB987]

SENATOR SCHUMACHER: Well, the curious thing is that the blockchain reflects account numbers, not individuals. But if you subpoena somebody and get them to cough up their account number not through a technical method but just a good, old-fashioned subpoena, you suddenly...and you can access that blockchain for that particular Bitcoin, you know every account that they've dealt with up the ladder. And it's just an interesting kind of thing. And even though it's supposed to be anonymous, we may learn that it's not so anonymous. [LB987]

SENATOR HARR: Just the opposite, yeah. Interesting. Well, I look forward to learning more about this. Thanks for the bill. [LB987]

SENATOR LINDSTROM: Senator McCollister. [LB987]

SENATOR McCOLLISTER: Yeah, thank you, Mr. Chairman. Is there an options market for this product? [LB987]

SENATOR SCHUMACHER: I think so. I think that developed right when it was going through the roof probably in December. And Goldman Sachs I think was involved in part of it. A couple of the big houses are involved. [LB987]

SENATOR McCOLLISTER: So unlike the American currency, is there a guaranteed price for this product? Is it not backed up like gold used to be? [LB987]

SENATOR SCHUMACHER: It's guaranteed to be above zero. [LB987]

SENATOR McCOLLISTER: Oh. [LB987]

SENATOR LINDSTROM: Any other questions from the committee? [LB987]

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SENATOR SCHUMACHER: I'm going to have to pick up my wife from the airport so I'm at one point going to leave here and waive closing. [LB987]

SENATOR LINDSTROM: Okay. Thank you, Senator Schumacher. We'll now have proponents. [LB987]

LARRY RUTH: (Exhibit 1) Please give this to Jan for the last time. Senator Lindstrom and members of the committee, my name is Larry Ruth, spelled L-a-r-r-y R-u-t-h. I appear today as a Nebraska Uniform Law Commissioner in support of LB987. I asked Senator Lindstrom if I could take just a minute or two to tell you what the Uniform Law Commission is because it might help to understand where this comes from. The Uniform Law Commission is a commission of state government, Nebraska state government. We are appointed by the Governor, the members of the commission are over a period of years. And we are to consider areas of the law where uniformity may be beneficial. We've done that for 60 or 70 years. The Uniform Law Commission as a whole has done it for 130 years. If you want to give an example of something that we've worked on over the years, this is volume six of your state statutes. It contains a Uniform Commercial Code. Uniform Commercial Code is a product of the Uniform Law Commission and the different states that have the same commission. We all get together and we decide what would be an appropriate subject to study and to draft on and then we are tasked with the...tasked with the requirement to come back to our states and submit it to the states for possible adoption. In addition to the Uniform Commercial Code, over the years, some recent bills that you may have known about at the time was a uniform act to give access to digital assets by person representatives. They were having trouble getting into the digital assets of someone who had died. That was something that we passed...that we drafted and brought to this committee. Also child support, a variety of different subjects and we looked at the area of virtual currency and the possible regulation of it as something that would be of benefit to the states that are sponsoring our investigation. Members of the commission are probably headed by somebody you know really well: Joanne Pepperl. Joanne is a member of this commission and has been a longtime life member. She is quite active in it. And the various acts that we have, have gone through a study committee that she's on and she has taken quite an active participation role. Another member is Circuit Court of Appeals, federal Circuit Court of Appeals Arlen Beam is a member. Chancellor Harvey Perlman has been a member. He's a two time dean of the law school and chancellor. Current...rather immediate past...pardon me, two back, deans of the law school Steve Willborn is a member. James O'Connor is a member and he's here to speak with you today about this because we each take these bills as they come along and kind of nurture them along to see if it's something that Legislature would be interested in. Another professor, John Lenich, and then myself. When virtual currency was considered, it went through a study committee for a year or so to see whether it should be studied, to see whether it had enough information or enough interest to be studied. It is decided that it should so then there was a study committee that worked on the draft for two or three years, brought it back to our larger group every summer at our

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annual meeting. We approved it, and then we eventually brought it forward to you. We just approved this this last year. I have a kind of a handout I'd like to give to you. I think there's nine there and I'll give one more when I get done testifying. The handout is a little primer on the act. There's a piece in it that talks about why Nebraska should consider adopting the Uniform Regulation of Virtual-Currency Businesses Act. I might make a point here. We've been talking about Bitcoin. This is an act to regulate virtual-currency businesses. A virtual currency is Bitcoin. There are about 1,500 or more, more or less, virtual currencies. So we tend to talking about Kleenex as tissue paper. You know, give me a Kleenex. Well, this is the same way we're talking about Bitcoin. But this is the regulation of all virtual-currency businesses with some exceptions. I also have a summary of the act. There's a letter in here from of the Coin Center which is a trade association that is in support of it. And I'm sure there are folks within the industry who may be here today talking about it too. If you look to see on the map where this law has been adopted you would see a white map with...or introduced you'd see a white map with one state in the middle where it's been introduced. That's the state of Nebraska. You are the first. We are the first state that is considering this and that's because this was just adopted by the Uniform Law Commission this last summer. It may get other states yet this session. We're bringing it to you not expecting that you're going to pass it this year, but thinking that you're really going to want to be over the years ahead look at the ramifications of Bitcoin and the possible need to regulate it. And I've been thinking...well, one, I'll just leave you with this thought. I'm really interested in seeing what it does to the tax systems of the state because right now we know what on-line purchases are doing to the tax system of the state and not knowing what purchases have been made, what's it going to do to our state sales tax when we are having more and more purchases being done by something which is basically anonymous? I have a red light. I have no more to say. If you have any questions, let me know. [LB987]

SENATOR LINDSTROM: Thank you. Thank you for your testimony. Any questions from the committee? Oh, I'm sorry, we do have a question. Senator Williams. [LB987]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom, and thank you, Larry, for being here. And I think all of us of have worked with you and other members of the commission on things. One of the questions I've never asked and just happened to think of is how was the Uniformed Law Commission funded? And is it funded by states or...? [LB987]

LARRY RUTH: It's funded two ways...well, actually there are two ways. The Nebraska Legislature has, over the years, appropriated approximately \$30,000 a year for our Uniform Law Commission, the Nebraska Uniform Law Commission, to be members of the national. So I think it's \$33,000 this year. In addition, when we have a meeting we get reimbursed for our expenses to go to that and that's about \$9,000 for the commissioners that get money reimbursed from that standpoint. So there is partial state funding. There are also different contributions to the

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foundation and the foundation supports the activities of the commission. Sometimes private, other...but by and large it's done by the contributions from the different states. [LB987]

SENATOR WILLIAMS: Thank you. [LB987]

LARRY RUTH: Yes. [LB987]

SENATOR LINDSTROM: Thank you. Any other questions from the committee? [LB987]

LARRY RUTH: And this is incidentally nonpartisan. I think all of us are different political parties and it's pretty active. Thank you. [LB987]

SENATOR LINDSTROM: Thank you for your testimony. Thank you. Next proponent. Good afternoon. [LB987]

JAMES O'CONNOR: (Exhibit 2) Good afternoon. Senator Lindstrom and members of the Banking, Commerce, and Insurance Committee, my name is James O'Connor, O-'-C-o-n-n-o-r. I'm a partner with the Baird Holm law firm in Omaha, Nebraska. I'm also an adjunct professor teaching the law of e-commerce at Creighton Law School. And as Larry mentioned, I'm also a member of the Nebraska Uniform Law Commission. So I appear today on behalf of Uniform Law Commission in support of LB987. I think to start off it's very important to underscore that this act does not regulate virtual currency itself. It does not regulate the miners of virtual currency or the underlying technology. Rather, what this act regulates is our businesses that conduct what's called virtual currency business activity. And the goal of the act is to eliminate the existing gray areas in the laws with regard to virtual currency business activity so that both of the regulatory...regulators in the states as well as the people who conduct those business activities know what the state of regulation is and provide some legitimacy to the process. Now as Larry mentioned, also the draft was enacted over several years. It was drafted after a study committee studied it that involved observers from the industry itself. So the act that we're proposing today does have leaders of virtual currency businesses, banking, business, and government supporting it. So what does the act do? There are four main goals of the act. First, the act provides a clear but limited scope of regulation. So, Senator Harr, you were asking about is this going to stifle innovation? We believe it won't and I'll talk to that point a little bit later. And it only it regulates those companies that are engaged in virtual currency business activity. In essence, that means companies that can...that assume control of their customers' virtual currency. The act defines control as the power to unilaterally execute or prevent a transaction involving virtual currency. So I'll give you an example. Senator Schumacher talked about the fact that he downloaded an app onto his phone and he began the registration process and he chickened out when he got to giving his credit card number. If he had given his credit card number or a our

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bank account number then he could have instructed that app to go out and to buy virtual currency on his behalf. Because that app exercises that control to buy that virtual currency or to sell that virtual currency at his direction, that would be considered to be control and bring the owner...the purveyor of that app under the control of the act because it's conducting virtual currency business activity. Second, the act includes a regulatory on-ramp and that's where the on-ramp, we believe, encourages startup companies to operate without license or regulation until their virtual currency business hits \$5,000 within a state. Once the threshold of \$5,000 is crossed by a business then the business has to register under the act. Once that business activity hits \$35,000 they have to go into...have full licensure under the act which requires...which has a lot more requirements. So this way starting businesses can get going. They can innovate and they don't have to go through for licensure until they get to \$35,000. Third, the act includes reciprocal licensing between states similar to what has been enacted in other states in other acts. So it does allow a business that's licensed in one act to have reciprocal licensing in a state that has the act enacted also. And finally the act contains numerous consumer protections that are largely absent from today's marketplace. The act is designed to assure companies of the safety and security of the virtual currency and to pass that safety and security onto their consumers. It requires disclosures to potential customers to inform them about product fees, consumers' rights to resolve errors with their account, and insurance coverages and so forth. In addition, all virtual currency businesses regulated by the act must establish specific policies and compliance programs to guard against fraud, cyberthreats, and terrorist activity. So my colleague Eli Rosenberg will address the consumer protections in more detail along with other critical provisions of the act. I'm happy to answer any questions the committee might have. [LB987]

SENATOR LINDSTROM: Thank you very much for your testimony. Any questions from the committee? You have some questions here for us. (Laughter) Would you like to address a few of those if you have that in front of you. [LB987]

JAMES O'CONNOR: Sure. I do. Probably the one that may take a little bit of time but that...when we talk about virtual currency a lot of people want to know what is virtual currency? How does it really work? And what I would like to propose is a hypothetical. Let's say that Senator Lindstrom, I want to send one Bitcoin to Senator Lindstrom. The way that I would do it is...and let's say all the rest of you senators are miners of the blockchain which means that you all have copies of the blockchain and you all are involved in making sure that this transaction gets recorded. So what would happen at a high level--this is not down into the detail weeds, but at a high conceptual level--what would happen is that I would send a notice to the blockchain that I'm transferring on Bitcoin to Senator Lindstrom. All of you as miners would check to make sure, number one, that that Bitcoin belongs to me and that I haven't transferred to somebody else. So that's the first step that you would do as a miner. The second step that you would do is we take all these transactions, we record them in a ledger which is called a block in the blockchain. So you would record that transaction into a block in the blockchain. And when that block fills

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up, all of you would engage in a competition. And the competition is to solve a cryptographic puzzle that was mentioned earlier. Basically think of it as looking for a combination that when you hit the right combination, by choosing random numbers, you lock down that block. You put a seal on it says do not tamper. If you were the first person to solve that puzzle by doing that, and that puzzle takes into account all of the transactions which are in that block, it's a cryptological function, but if you're the first to solve it, you can put that do not tamper seal on that block and then you get awarded 12.5 Bitcoins for doing that. And those Bitcoins are given to you. That's how you mine. That's what's called mining for the Bitcoins. If any transaction is changed within that block, it breaks that seal and you can tell that that block has been invalidated. If any transaction in a prior block has been changed, it breaks all the seals from that prior block forward. So that's how we know that the transactions don't get changed in the block that's in the blockchain itself. And then you would as...as a successful miner you would transmit that block out to the rest of the miners and all the rest of the miners would add that block on to the blockchain. So that conceptually is how it works. Did I explain it okay? Does it make some sense? [LB987]

SENATOR LINDSTROM: Clear as mud. (Laughter) I think it's going to take some time to... [LB987]

JAMES O'CONNOR: Okay. And we certainly could come back and actually...we actually have a demonstration which actually shows you the blockchain itself, how the blockchain works so it makes more sense. But I had to kind of come up with a hypothetical to kind of explain it at a high level. Today, there are about 500,000 blocks in the blockchain and each block contains about 300-400 transactions, to give you an idea of where we are. [LB987]

SENATOR LINDSTROM: Very good. Senator Williams. [LB987]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom, and thank you for being here. What are people actually using this for then in the line of commerce? [LB987]

JAMES O'CONNOR: That's a very good question, Senator Williams. Really, any merchant can set up and establish and accept Bitcoins for payment. And that's primarily what's being used...I guess basically for three things. For transactions and for payment and the advantage to using the Bitcoin process is that the transaction fees tend to be smaller than using credit cards, so it gives you an advantage to have those types of transactions. People also use it for a store of value where they can store their money in the Bitcoins. And finally a lot of it has been used for speculation, people believing that the Bitcoin is going to go up and up and higher so they speculate in it. So those three things: transactions, store of value, and speculation. [LB987]

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SENATOR LINDSTROM: How about...there are Bitcoin machines, how many are in, say, where you can convert, say, cash? [LB987]

JAMES O'CONNOR: There's one I'm aware of that I think was in an ice cream shop here in Omaha, I believe, Senator. [LB987]

SENATOR HARR: Jones Bros. [LB987]

SENATOR LINDSTROM: We do? Okay? So there's just that's the only one? [LB987]

JAMES O'CONNOR: That's the only one that I'm personally aware of. Most people do it through their wallets, as Senator Schumacher... [LB987]

SENATOR LINDSTROM: Just on the...and then you can transfer it to their... [LB987]

JAMES O'CONNOR: Yes. [LB987]

SENATOR LINDSTROM: And the banks recognize that? I mean if you... [LB987]

JAMES O'CONNOR: Well, what happens is when you link your...let's say you link your checking account to the wallet that you have, then the...Coinbase is the wallet that I use. It actually will pull the money from my checking account, put it into the wallet and buy the Bitcoin or the virtual currency on my behalf and store it in the wallet. When you sell it, the reverse process occurs. [LB987]

SENATOR LINDSTROM: Okay. Is there an escrow type account that...? [LB987]

JAMES O'CONNOR: That's a very good question and that's...what this act really provides is some of the safety and security for storing it in that wallet. That's the whole purpose of this act is to regulate the companies that offer those wallets because they're conducting virtual currency business activity. [LB987]

SENATOR LINDSTROM: Okay. Any other questions? I'm sure we'll have more later. Thank you. [LB987]

JAMES O'CONNOR: Thank you. [LB987]

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SENATOR LINDSTROM: Appreciate it. Next proponent. Good afternoon. [LB987]

ELI ROSENBERG: (Exhibit 3) Good afternoon. Senator Lindstrom, members of the committee, my name is Eli Rosenberg; it's R-o-s-e-n-b-e-r-g. I'm an attorney with the Baird Holm Law Firm in Omaha, Nebraska and I specialize in payment systems. I help banks, nonbank financial services companies, and startups with product development and regulatory compliance. I appreciate the opportunity to make this presentation today on behalf of the Uniform Law Commission in support of LB987. The act fills an important role that is largely absent from today's regulatory landscape. And that's where I want to start with what is our current regulatory landscape for virtual currency activity today. Currently, at the state level the treatment of virtual currency and virtual currency businesses is remarkably disparate. A few states have taken the position that virtual currency businesses are covered under their existing acts to regulate money transmission. These are acts that were originally drafted to regulate traditional money services companies like a Western Union. As you can imagine, the definitions, the coverage, the requirements aren't tailored to the sorts of virtual currency businesses that are in practice today. And this instability has led to other states taking the position that virtual currency businesses do not require a license under their respective money transmission acts. Still other states like New York have attempted to implement their own licensing statutes for virtual currency businesses but without significant industry input or support. So the result is at the moment a real patchwork of regulations at the state level. And it makes compliance for companies that want to operate on a nationwide basis extremely challenging and it means that the protections that are afforded to consumers are either scant or at the very best nonuniform. At the federal level we do have some clear guidance with respect to what a virtual currency business's obligations are regarding anti-money laundering and anti-terrorist financing, but we still have nothing that speaks to what if any consumer protections are afforded to the users of those virtual currency services. As my colleague Jim O'Connor noted, the act is designed to address these issues by providing uniform compliance requirements that are tailored to virtual currency businesses. And this starts with the definition of virtual currency itself which is broadly defined as a digital representation of value that is used as a medium of exchange, unit of account, or store of value and it's not itself legal tender. This is a technology neutral definition and encompasses many types of virtual currency but would exclude things like a merchant's rewards program or equivalent types of values on on-line game platforms. Noteworthy, the act also includes exemptions for government agencies, banks, entities providing processing and clearing services for a transaction and that aren't taking actual possession of a virtual currency and persons using virtual currency on their own behalf for their own personal use. So although the act has a pretty broad definition of what constitutes virtual currency, the requirement to obtain a license is limited to those persons and companies that control the exchange, storage, or transfer of virtual currencies as a customer-facing intermediary and as such, the act is a lot more meticulously drawn than either the current money transmission statutes or laws like New York's bit license law. The act is also unique from money transmission laws in that it offers a three tiered structure of licensing and registration. Mr.

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O'Connor mentioned this as well, that if you're engaging a virtual currency business under \$5,000 U.S. dollars a year, there is no requirement to get a license. There's an on-ramp to regulation for startups in the first two years of operation or until they hit \$35,000 until they have to receive a full license under the act. And it's really unique to this act. I know that the states have talked about doing something similar for their money transmission statutes for quite some time but haven't been able to get anything off the ground and it's a regulatory sandbox that would, we believe, help spur innovation and actually help entrepreneurs in this industry. In terms of the consumer protections afforded by the act, it requires licensees to provide disclosures that are similar to what you would see if you were opening a bank account today: a schedule fees; what error resolution rights you have, if any; whether the product is covered by insurance. In addition, it includes certain safeguards to ensure that in the event a virtual currency business becomes insolvent, customer funds that are being held by that business aren't going to be subject to the creditors of the licensee because the licensee is required to, for example, hold that virtual currency in a trust account for the benefit of its customers. In terms of enforcement, the act provides enforcement actions similar to those in other state money services laws such as actions for material violations of the act's provisions and permitting state action against people who engage in unsafe or unsound practices or unfair or deceptive acts and practices, provided that these acts and practices are material in nature. So with that, I thank you for your time and I'm happy to answer any questions that you might have with respect to the act. [LB987]

SENATOR LINDSTROM: Thank you for your testimony. I do have a question, a little bit off the subject, but I think it's to this. With the dark web, some of the seedier side of what goes on, human trafficking, is there anything in this act that would provide us the ability to, say, monitor those transactions. I'm sure that the bad people find a way to use this in an inappropriate way. Does this provide any way that we can monitor that type of interaction? [LB987]

ELI ROSENBERG: Yes. So the act, in addition to the consumer protections, it requires licensees to maintain a number of different policies for compliance with state and federal law including anti-money laundering and anti-terrorist financing policies. And I think any company that would be licensed under this act would also be required, just in nature of the business they were doing, to register with the Financial Crimes Enforcement Network; that's a Department of the Treasury that's in charge of Bank Secrecy Act, anti-money laundering supervision as a money service business. And as part of that, they're subject to the same kinds of monitoring and reporting obligations that banks and other financial institutions are. So the companies wouldn't just have to maintain those policies on the state level and could be examined by that by the state, but they would still have obligations on the federal level just like other financial institutions... [LB987]

SENATOR LINDSTROM: Patriot Act and... [LB987]

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ELI ROSENBERG: Exactly, exactly. They would have to comply with the Patriot Act and make those suspicious activity reports, conduct, you know, know your customer CIP on their users as well. [LB987]

SENATOR LINDSTROM: Okay. Thank you. Senator Harr. [LB987]

SENATOR HARR: Thank you, Mr. Chairman. On page 3 you state: The registration tier function acts as a regulatory sandbox, allowing companies to focus on innovation and experimentation while they are in the early stages of business development. What business development do you see as a result of this, whatever this is? [LB987]

ELI ROSENBERG: Sure, yeah. So if I can give you an example of the way things might work today if, for example, I was in a state that took the position that we were going to license this activity under my money transmission laws. Then at dollar one of doing business you would have to have full compliance with that state's licensing obligations, or you'd have to find a bank partner to help you. Either one of those is usually a pretty big impediment to businesses getting into the financial services market, particularly the consumer financial services market. By giving companies that want to get involved in essentially consumer financial services but in the vein of virtual currency the ability to operate for a period of time and prove up their business under certain thresholds until they can ramp up a little bit more, I think you'd help those businesses in those early stages where they don't have to have for compliance with the act from day one and can have a little bit of time to build up the business, maybe get a bank partner to help them with compliance and a little more time to get the products sound and get a proof of concept together before they have to fully comply with all the requirements. [LB987]

SENATOR HARR: Okay. Thank you. [LB987]

SENATOR LINDSTROM: Any other questions from the committee? Seeing none, thank you very much. [LB987]

ELI ROSENBERG: Thank you. [LB987]

SENATOR LINDSTROM: Next proponent. Seeing none, we'll now move to opponents. Good afternoon. [LB987]

KYLE TAUTENHAN: (Exhibit 4) Chairman Lindstrom, members of the banking committee, for the record, my name is Kyle Tautenhan, K-y-l-e T-a-u-t-e-n-h-a-n, and I am the founder of BlockEra, a company that provides blockchain consultation services and builds blockchain

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applications in the financial and agricultural sectors. I am here today in opposition to LB987. I have traveled nationally and internationally to compete in blockchain hackathon competitions and attend blockchain conferences to understand this technology at a deeper level. My experiences around blockchain technology include consulting for large financial companies in Omaha, co-organizing a 250 member blockchain development group, and meeting with farmers, lawyers, and ag lenders at the Cozy Inn in Holdrege, Nebraska, to educate them on blockchain. We have even partnered with a farmer in Gothenburg, Nebraska, to build an ag token or virtual currency and use it in a smart contract system to facilitate crop production contracts between farmer and buyer using this technology. A question frequently asked of me is why I'm willing to meet with anyone, anywhere to talk blockchain. The answer is that I believe we are in a race to educate, not legislate, about the technology to have an advantage over other states and communities. At this point, it's a level playing field. Every person I can build a relationship with strengthens our ability as a state to capitalize on blockchain technology. However, without education, our business community and political leaders won't have the ability to make the correct decisions about blockchain when they need to, such as now. That is why I'm sitting here today, to help educate as much as possible on what blockchain is and where it is going. I oppose this bill because we are too early in blockchain technology's life cycle to be creating laws and defining technical terms. We are currently in 1994 of the Internet for blockchain technology. We don't know where blockchain will go and proposing any bill today would be similar to proposing bills back in 1994 defining that all Internet communications would only come in the form of e-mail. As it pertains to LB987, this is a Uniform Law Commission bill heavily influenced by the nonprofit blockchain and virtual currency lobbyist group, Coin Center, who I trust and believe has my interest in mind. Additionally, it is endorsed by a number of Big Crypto companies that I don't think have my interests in mind. This is the only distributed ledger technology, smart contract, or virtual currency bill being proposed in the Nebraska Legislature that was written by experts in the field. This is also the only bill that wouldn't significantly hurt me if passed. However, this bill clearly defines who is and who isn't regulated, what control means, and narrowly defines that regulated parties are hosted wallet providers and custodial exchanges. As for why I oppose it, LB987, this bill is about unilateral control of private keys. We do not know the extent with which consumers will want businesses to control their private keys in the future. This bill takes a strong stance that unilateral control of private keys should be licensed. This is a strong stance and we do not know the potential implications of this definition moving forward. Given the fast-moving nature of virtual currencies and blockchain technologies, bills like LB987 have shown a propensity to quickly become dated. Finally, this bill doesn't provide any significant advantages to Nebraskan entrepreneurs or startups. It was written by Big Crypto for Big Crypto, and Big Crypto's companies like Coinbase. Nebraska would be smart to consider including a larger startup on-ramp provision where businesses engaged in digital currency transmission shall be exempt from regulation and licensing if their outstanding obligations are under \$5 million, as \$5,000 or \$35,000 essentially means nothing for a startup, while limiting consumer risk with disclosures and protections. This provision would allow our entrepreneurs

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and startups to freely innovate with blockchain technology without significant licensing and reporting barriers. And such provisions would give Nebraska's innovators a low barrier way to innovate while providing significant advantages over other states. Thank you for allowing me to testify today. I would be happy to answer any questions. [LB987]

SENATOR LINDSTROM: Thank you for your testimony. Senator Williams. [LB987]

SENATOR WILLIAMS: Thank you, Chairman Lindstrom, and thank you for being here today. Do you...with your knowledge which is far greater than mine certain, do you see a legislative opportunity for Nebraska here maybe different than what the Uniform Law Commission has proposed, but some form of legislation that would provide some consumer protections but also provide the business environment that would allow people like yourself and others to grow? [LB987]

KYLE TAUTENHAN: I believe that there could be opportunities. I don't think we have the people here to write those bills and I'm not talking about you guys necessarily. But even me, I don't know where this technology is going and that's the thing that concerns me the most about it. Like I said, we are trying to regulate the 1994 Internet. And when that happens we could, even if we have good intentions right now of regulating this technology, we might accidentally box ourselves in in the future because we defined a technical term such as blockchain or virtual currency or smart contracts that has a negative effect in the future. And that's one of the things I'm most worried about. [LB987]

SENATOR WILLIAMS: Thank you. [LB987]

SENATOR LINDSTROM: Senator Baker. [LB987]

SENATOR BAKER: Thank you, Chairman Lindstrom. Mr. Tautenhan, did I get that right? [LB987]

KYLE TAUTENHAN: Tautenhan, yep. [LB987]

SENATOR BAKER: All right. Talk to me about BlockEra. When did you found that? How long ago was that? [LB987]

KYLE TAUTENHAN: Yeah, so I quit my job where I used to work in a tech startup in Omaha in April. And I haven't taken a paycheck since because, if you can believe it, there's not that many people that want to pay for it. I should say I actually got a contract last Monday. But so for ten

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months I have been running around trying to build a community, trying to get people to understand what this technology actually is before coming back around and hopefully building applications for them. Go ahead. [LB987]

SENATOR BAKER: Where did you first learn about blockchain and virtual currency? [LB987]

KYLE TAUTENHAN: Yep, so I originally bought a Bitcoin in 2015 and then I put money into Ethereum which is the second largest blockchain in crypto currency out there. And I figured I should probably understand what the technology underneath it is if I'm putting my money into it, which I don't think a lot of people in the space do right now. But that's another conversation. And I basically was going through YouTube self-teaching myself about the technology. And then as I said, I attended hackathons in New York which we won, St. Louis, Nashville, Waterloo which is outside of Toronto, and then also went down to Mexico for one of the largest Ethereum blockchain conferences. [LB987]

SENATOR BAKER: So you bought your first Bitcoin because you were just intrigued by it, didn't necessarily know that much about it. [LB987]

KYLE TAUTENHAN: Yep. Yep, so the natural progression for me was I used a Robinhood app and I was investing in stocks. And it was a very easy switch to start using Coinbase and start using Bitcoin, and I decided to get into it. I was also in the tech space at the time as a college student and people had talked about this Bitcoin and I didn't really know what it was. I figured the best way to learn about it was putting money into it just to see how everything operated. [LB987]

SENATOR BAKER: Thank you. [LB987]

KYLE TAUTENHAN: Yep. [LB987]

SENATOR LINDSTROM: Senator Harr. [LB987]

SENATOR HARR: Thank you, Mr. Chairman. What have you purchased with your Bitcoin? [LB987]

KYLE TAUTENHAN: What have I purchased? [LB987]

SENATOR HARR: Yeah. [LB987]

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KYLE TAUTENHAN: I mean I've paid for contractors with it, just like a 1099. We are working on a deal to buy a cow with it. You can create a smart contract that operates as an escrow system and I can facilitate the buying and selling of a cow with it. You can buy anything you want to buy as long as the person on the other end takes it. [LB987]

SENATOR HARR: And since you studied this, who founded Bitcoin, do you know? [LB987]

KYLE TAUTENHAN: Nobody really knows. There's a name, Satoshi Nakamoto. But we don't really know. [LB987]

SENATOR HARR: So how do we know there are only 21 million shares? [LB987]

KYLE TAUTENHAN: It's coded into the blockchain. [LB987]

SENATOR HARR: But someone could...whoever came up with this could change the code and... [LB987]

KYLE TAUTENHAN: No, because...so it's an open-source project so everybody that develops on top of it has the choice whether or not they would want to change that. And it would not be down to one person. It's actually down to all those miners that exist out there. They vote on how to change the code of a blockchain. [LB987]

SENATOR HARR: And there's no backdoor. [LB987]

KYLE TAUTENHAN: Not that any of us are aware of, no. [LB987]

SENATOR HARR: Okay. Thank you. [LB987]

SENATOR LINDSTROM: Senator Brewer. [LB987]

SENATOR BREWER: Thank you, Mr. Chairman. Are you a lawyer? [LB987]

KYLE TAUTENHAN: I am not. [LB987]

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SENATOR BREWER: Good. (Laughter) Well, I mean I understand what you've written and you're actually explaining things in a way I understand. So I appreciate that. Talk to me about this hackathon. [LB987]

KYLE TAUTENHAN: So hackathons are just events. So I'm originally a businessperson. I went to school for business. I needed to understand the technology so hackathons are events where software developers go and they're locked in a room for 24 hours or 36 hours and you just build blockchain applications. And we were basically, you know, pushing the boundaries of what blockchain technology is actually capable of. And that's where I can form my opinion of it's only 1994 of the Internet and we don't know where it's going to go yet. [LB987]

SENATOR BREWER: So when you go to, say, the Cozy Inn in Holdrege and you're trying to convince folks to get their arms around all this, aren't they a little bit worried you're a snake oil salesman and that there's a lot of hidden things that might come back to bite them if they were to invest in it? [LB987]

KYLE TAUTENHAN: I mean they're very self-educated on what blockchain technology is. They are not necessarily for Bitcoin or crypto currencies like that, but they do see the advantages of blockchain technology and smart contracts. And what blockchain technology can do beyond just virtual currencies is providence. So for cattle you could track that calf from when it's born all the way down to the end consumer and guarantee every piece of data that was associated with it. Or in my corn contract example, we have the corn, you attach what varieties are there, what pesticides and fertilizers were associated with that little grid or 160 acres or whatever it is, and then that can go up again all the way down to the end consumer who can check back and see that it was this corn and it came from these ten farms in central Nebraska. [LB987]

SENATOR BREWER: But isn't inevitably your problem is in order to have that data that you have to input that data and isn't that time consuming and... [LB987]

KYLE TAUTENHAN: Yep, so the way it works right now for the farmer in Gothenburg is at the end of the year he gets a sheet from whoever is buying it and he says that, yes, this is what I did to my field. That's, you know, not as efficient as it could be. And there are hard problems right now. I call that the old world or the legacy world of how do you transfer data in the real world to the blockchain. There are still issues around that, but that's what we intend to solve. [LB987]

SENATOR BREWER: So if you were left \$100,000, you would seriously consider investing it in Bitcoin? [LB987]

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KYLE TAUTENHAN: No, I do not make any comments about crypto currencies or investing in it. I focus mainly on the technology because I believe that's what's going to ultimately win no matter what the price of Bitcoin or any of the other virtual currencies are. [LB987]

SENATOR BREWER: Well said. Thank you. [LB987]

SENATOR LINDSTROM: Thank you. Any other questions? Can you talk about the voting process that was touched on... [LB987]

KYLE TAUTENHAN: The voting process of blockchains? [LB987]

SENATOR LINDSTROM: Yeah. [LB987]

KYLE TAUTENHAN: Yeah, so it kind of depends on what blockchain you're using and there are public blockchains versus private blockchains which is a very important point. Private blockchains could be owned completely by...so J.P. Morgan has their own private blockchain that they're messing around with. That is not the same as public blockchains like Bitcoin or Ethereum. But the way they vote is basically they all signal which direction they're going to go and then you have what's called forks off of the main chain. And in an instance in Bitcoin is there's Bitcoin and there's Bitcoin Cash. And those are actually forks of the technology where people have disagreements about where the technology should go. And that's basically voting on what you believe the technology should be. Moving forward, there's probably going to be some consolidation in the space. We have hundreds if not thousands of blockchains out there right now. We need to probably consolidate and there's going to be one main blockchain or maybe a couple blockchains that are all basically kind of like the Internet, right. Public blockchains I like to say are the Internet, private blockchains are like Intranets, and those eventually go away because they figured out the Internet was probably more important than corporate Intranets. [LB987]

SENATOR LINDSTROM: So as it forks, the voting, is it unanimous type of situation (inaudible)? [LB987]

KYLE TAUTENHAN: Nope. So you can run parallel chains at the same time. Eventually the chain that's going to win is the one more people use, right. You kind of just let the market figure out is that better technology or whatever they're trying to achieve on certain chains. It's whoever has the most people using that blockchain. [LB987]

SENATOR LINDSTROM: Okay. Senator Baker. [LB987]

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SENATOR BAKER: Thank you. You probably said at the beginning, but I'm more ready now. What exactly, in two or three sentences, is your objection to this proposed legislation? [LB987]

KYLE TAUTENHAN: Yeah, so I believe that any time you start setting basically technical terms and defining what is or is not going to happen in the future is dangerous. Right now we need to let this technology develop a little bit more before saying that anybody that has unilateral control of private keys is under this bill. And the reason for that is you know there might be farmers in central Nebraska that don't want to manage their private keys. And I don't necessarily know if they want to use basically a money transmitter to do that. There are provisions in this bill that say friends and family can do it. But, you know, crypto currencies and virtual currencies can represent any asset. It doesn't have to be money. And so if you have a blockchain that's not money and it's representing some sort of asset, should they be regulated if you have their private keys as a money transmitter or however they classified it in this bill? My other one is that the startup on-ramps that they mentioned in the bill are only \$5,000 and \$35,000. That's not enough for me to innovate in the space. I literally have access to the globe. So anybody can transact on my smart contract that's built on a blockchain; \$5,000 isn't going to help me at all. So I would like to raise that. I propose \$5 million. That really allows you to innovate, see what works, see what doesn't work. And then you know you obviously have those times to move over to being licensed and registered. [LB987]

SENATOR BAKER: Thank you. [LB987]

SENATOR LINDSTROM: Senator McCollister. [LB987]

SENATOR MCCOLLISTER: Yeah, thank you for your testimony and thank you, Mr. Chairman. You indicated there's public blockchains and private. Are you still using the same fixed number of units, 21 million? [LB987]

KYLE TAUTENHAN: No, so that depends on the chain and some chains don't even have tokens really. So it gets pretty complex and there's much more of a world out there than just what the Bitcoin example was used, right. So Bitcoin is 21 million. I believe Ethereum has 89 million tokens. And some of them can be deflationary, some of them can be inflationary, some of them can just be 21 million only. It just depends on who designed the chain and what they were trying to achieve. [LB987]

SENATOR MCCOLLISTER: And so every time you establish a chain it establishes a new value? [LB987]

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KYLE TAUTENHAN: You could. If people invest in it, right. It starts at zero dollars. And if nobody uses it it's not going to increase in value at all. Ethereum and Bitcoin have increased in value because people are using them and find value in whatever services they provide. [LB987]

SENATOR McCOLLISTER: So what you're saying is, if I understand, you can use Bitcoin to purchase goods and services. [LB987]

KYLE TAUTENHAN: Yep. [LB987]

SENATOR McCOLLISTER: But there's also a speculative nature of the thing that that value could change every day and would either help or hurt your ability to pay, correct? [LB987]

KYLE TAUTENHAN: Yes, so as a company that's trying to build the future of basically commerce on the blockchain, stability tokens is a huge issue in the space, right. So if a coin goes down 20 percent in a day that doesn't help me as a business to transact. We need to create mechanisms that create stability where we have stable tokens. One easy way to do that is you could actually create a token that is linked to the U.S. dollar one to one and you could transact that way, right. You could link it to corn or commodities. Or one of my abstract things I like to talk about is we could create a token that is this table and for two chair tokens I could purchase this table and you don't even need really a currency. You're just kind of almost going back to bartering. [LB987]

SENATOR McCOLLISTER: Yeah, but those values vary as well over time, don't they? [LB987]

KYLE TAUTENHAN: Correct, they do. And the U.S. dollar has, you know, varied. There's variations in all assets. Right now we do have a little bit of an issue of there is speculation, but over time that will work itself out. [LB987]

SENATOR McCOLLISTER: So don't put my grandson's education in Bitcoin, correct? [LB987]

KYLE TAUTENHAN: Again, I don't talk about crypto currencies and what to invest in. [LB987]

SENATOR McCOLLISTER: Okay, thank you. [LB987]

SENATOR LINDSTROM: Any other questions? Seeing none, thank you very much for your time. [LB987]

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KYLE TAUTENHAN: Great. Thank you. [LB987]

SENATOR LINDSTROM: Next opponent. [LB987]

MATTHEW McKEEVER: Proponent or opponent? [LB987]

SENATOR LINDSTROM: Opponent. [LB987]

MATTHEW McKEEVER: (Exhibit 5) I thought you said proponent. I apologize. I'm Matthew McKeever. Good afternoon. [LB987]

SENATOR LINDSTROM: You said you're against the bill? [LB987]

MATTHEW McKEEVER: I'm against the bill, yes. [LB987]

SENATOR LINDSTROM: Okay. If you can, just sit down first so we can get it on record into the mike. [LB987]

MATTHEW McKEEVER: Yes. M-a-t-t-h-e-w M-c-K-e-e-v-e-r. And full initial disclosure, especially you, Senator Brewer, I am a lawyer. So, yes. For...some of you I know, some of you I don't, but just for a brief introduction, I'm an attorney with Copple, Rockey, McKeever, and Schlecht. I have 20 years of practice experience. I'm licensed in Nebraska and in New York. And I have five years of experience in the practice of digital currencies regulation and giving advice to various clients regarding the regulation of digital currencies. And, yes, I am here to oppose LB987. We're here today in the Silicon Prairie. That's been our area that's been dubbed by the industry worldwide. Omaha and Lincoln is a hub for financial technology and financial startups. I have managed and been fortunate enough to plug into that industry to some extent where I've given advice to a number of these industry startups. It's more than just PayPal and First Data which of course are the heavy hitters when it comes to financial transactions. But we have other very substantial startups that have made a very big impact, sometimes a worldwide impact, in the digital currency and specifically Bitcoin community. Those include Exodus Movement, Incorporated which is based here in Lincoln and does a very good business worldwide and is known worldwide for its product. Alpha Bitcoin is in Lincoln and Omaha and has ATMs that sell Bitcoin both in the Haymarket and Aksarben. Embermine is dealing with the music industry. Ink is a startup that is dealing with printing. And there are a number of others and this includes other large companies, large cap companies such as IBM and Kodak and even our local Mutual of Omaha which are experimenting with their own blockchains and have made announcements to that effect. Specifically regarding LB987, I'm here to oppose it because I like that industry, I like

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the Silicon Prairie, and I don't want to see it go away as I did in the other state where I have a license, New York. Already crypto currencies are regulated to a great degree both by the IRS, by FinCEN, by the Securities Exchange Commission, and the CFTC. There is already guidance, for example, for attorneys to accept Bitcoin and to accept them in trust. There is that on-ramp that Senator Harr mentioned before. In fact, it was my firm that requested that of the Nebraska lawyers advisory council and we obtained an opinion last fall that outlined the specific tasks and requirements that we need to have in order to receive Bitcoin both in trust and escrow and as payments for our services. For the prohibitions that we're looking at here with this uniform act that's been created, they're quite broad and perhaps broader than intended. They restrict the transfer, exchange, or storing of any virtual currency. And virtual currency is also very broad. It does, in fact...the general definition even in the act encompasses even frequent flyer miles and reward points and things like that, although it does carve out an exception for those later and other exemptions included for exceptions for mining Bitcoin and for transactions over a year that's under \$5,000. But generally we are talking about virtual currencies. That includes tokens such as the ones that perhaps Embermine here in Lincoln is developing or Ink in Omaha is developing. Those would all be covered by this act and prohibited unless the participants applied for a license. And from experience in New York there is a substantial cost for licensing and getting that application. It has been estimated at least \$50,000-\$100,000 to apply, to go through the registration and compliance process. And I did hand out some flyers here, the one-page flyer that does outline that and does cite the source from Fortune magazine. Just an example, the industries that were struggling to remain in business in New York encountered...in fact, this act says that the cost of the investigation by the Department of Banking and Finance will be paid by the applicant and that's not something a startup can realistically do. There are also rather heavy ongoing compliance costs, a long list of eight standard policies and procedures that must be developed. Realistically, at least one full-time compliance officer who presumably is versed both in the law and in digital currencies which I have to admit is quite rare right now. So what we would be seeing as a practical effect, I've outlined the prohibitions that this act proposes, the actual effect can be seen in New York: what is known as the great New York Bitcoin exodus. It is well documented. You can find news sources including the Fortune magazine article from year 2015. And I as a New York practitioner experienced it first hand. As I was giving advice to companies who decided to leave New York and I've given advice to companies to just simply not do business with New York because the compliance requirements are so high to do business with New York residents. That would be effectively the case here. Effectively with all this extra regulation, the extra cost to be basically a step up from a money transmitter, these startups would effectively end. There would be very little to no financial technology development. Nebraska, like New York, might be a great place to study financial technology, but ultimately there would be very few practitioners. For example, New York, there were hundreds, then there was just one at the end of the New York BitLicense application process. That was itBit. It was a \$50 million charter bank developed specifically around the regulations that were developing. Now there are only five and there are all large cap. There were 22 applicants that failed and no others are

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presently in the hopper as it were. And so what effectively happens here not only do we end development which stops innovation here, Nebraska would be effectively preventing innovation from coming in. No one or very few would do business. For example, even if you were mining Bitcoin or another currency, you couldn't sell it to anyone if you were mining it. You would have to be registered under the act to sell to anyone if you're doing more than \$5,000 of business. And you would need to find a registered money transmitter according to this act to sell it to. So we would be ending development here. We would be keeping innovation from coming in and effectively companies would be going elsewhere as they did in New York. They would be looking at Wyoming which is exploring counter legislation to accept digital currencies and New Hampshire which has outright rejected the uniform act and passed legislation saying crypto currency specifically are not subject to money transmitter rules. So that is why I'm here. I'm here to protect the native Nebraska industry for financial technology. I again appreciate the time that you've taken to listen to my statement. And I'm here to answer any questions you might have. [LB987]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Senator Brewer. [LB987]

SENATOR BREWER: Thank you, Mr. Chairman. All right, so if I heard you right there's such a thing as a Bitcoin ATM. [LB987]

MATTHEW McKEEVER: There is. There are two of them. They have been developed here in Nebraska by someone sitting to my left behind me, by Alpha Bitcoin is the name of the company. It has been operating for a number of years. I think three years, I believe I saw it opened out of the crate when it came out. It was first installed at Jones Brothers Cupcakes in Aksarben and there is another one now in the Haymarket and I believe Mr. Weniger will probably be testifying and probably can answer more questions specifically about those. Yeah, they've been in operation at least I believe two and a half to three years here in Nebraska. [LB987]

SENATOR BREWER: All right, thank you. And this sheet here, it's clear. It's easy to understand. It does not give me a headache. I owe you an apology. Well done. (Laughter) [LB987]

MATTHEW McKEEVER: Thank you, Senator. Glad to be of service. [LB987]

SENATOR LINDSTROM: Senator Williams. [LB987]

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SENATOR WILLIAMS: Thank you, Chairman Lindstrom. You're including all lawyers in that apology, right? I asked the last testifier the same question and I would appreciate your response. We are doing everything I believe that we can try to grow our state, not have impediments to business. Your comments about the Silicon Prairie are well received by this group and others. Is there legislation that would be beneficial at this stage of the game with the development of this technology that you would suggest? [LB987]

MATTHEW McKEEVER: Aside from legislation that might, at least for the time being, exempt certain digital currencies from money transmission requirements, I don't know that any exists and perhaps they could be crafted. I know just for this bill in particular and with due respect to Senator Schumacher, I know this bill did not have any industry input from here in Nebraska. No one was consulted. We found out about it when it popped up three weeks ago and have struggled to react effectively. So I don't know that there is legislation in existence. Some has been proposed. For example, I believe the previous speaker and others might mention that there was input from the national industry perhaps. I know for example the Digital Chamber of Commerce was involved and they suggested somewhat similar legislation, but that there should be very large carveouts and exemptions including \$1 million per quarter exemption to allow startups to get going. There may be something to do here. I'm honestly not sure what that would be today. It is a very new and developing industry. I've been in it for five years. They are still learning about the industry to this day and I'm not sure that there is one piece of legislation I can point to and say this is a good model for us. [LB987]

SENATOR WILLIAMS: Thank you. [LB987]

SENATOR LINDSTROM: Any other questions from the committee? Senator Harr. [LB987]

SENATOR HARR: Thanks. So what is the ultimate purpose of this crypto technology? Is it decentralization? Is it speed? Is it deregulation? Is it...what is the purpose of this? [LB987]

MATTHEW McKEEVER: I'm not sure that there is an official stated purpose except for what is stated in the Bitcoin white paper. That was a document that was generated by the anonymous or pseudonymous creator of Bitcoin, Satoshi Nakamoto, and just said this is a payment system. This is a system for payments over the Internet that perhaps an economist like Milton Friedman had envisioned where cash transactions, where effectively cash transactions could be made effectively and securely and without anyone having to worry about the transaction not going through...it's sometimes been called a trustless transaction and there not be a need for someone in the middle basically to affect the transaction. [LB987]

SENATOR HARR: So what's the difference between a payment system and currency? [LB987]

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MATTHEW McKEEVER: There are a number of differences. I'm an attorney...well, I do have an economics degree. I was about to say I'm an attorney, not an economist. But a payment system would probably involve not only the currency itself, but also the infrastructure around it. And that's what some of these companies in Nebraska are developing. But a currency could be used for payment and a payment system could be a number of things. I think Bitcoin is specifically intended to be part of a payment system and specifically, like I said, a way to securely transact. So to transfer a value from one place to another place, anywhere in the world instantly and securely. So I'm not sure that there's any other underlying purpose. There might be some other motivations involved or people might have motivations who use it. But as to an underlying purpose aside from the stated one in the white paper, I'm not aware of any. I'm not sure if I answered your question. [LB987]

SENATOR HARR: Well, I'm not sure either. And I still...so how do we regulate to make sure, to follow up on Senator Lindstrom's question, that the use of Bitcoin is used in a proper manner, not as a dark web version of currency or payment systems? [LB987]

MATTHEW McKEEVER: That would be very difficult. And like I said, I'm not sure that there is a way. How do you prevent the United States dollar from being used in illicit transactions? You might have to go to the specific transactions themselves and not necessarily the method of payment. So I'm not sure other than perhaps regulating who gets to participate in the system and at what level and identifying perhaps anti-money laundering and know-your-client procedures which are already in effect from the federal government, they identify who got Bitcoin. And from there on the blockchain you can trace where things go. So the blockchain is not anonymous and you'll see that even on the dark web, the criminals are figuring out it's not a very effective method of payment because it is traceable. Every transaction is publicly available to anyone running the program. [LB987]

SENATOR HARR: But do all the same laws that restrict currency transactions apply to these payment system transactions? [LB987]

MATTHEW McKEEVER: Not necessarily. There are differences between using fiat currency and using a system such as Bitcoin. There are fundamental differences in those two and how they're used. [LB987]

SENATOR HARR: And has that led to exploitation? [LB987]

MATTHEW McKEEVER: It could, theoretically. [LB987]

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SENATOR HARR: Okay. [LB987]

MATTHEW McKEEVER: But how do you prevent, whether it be in a standard currency or something like Bitcoin which is effectively just a distributed ledger book. It might be more effective to go after the actual criminals and the criminal acts, whereas the payment system might not make too much of a difference. [LB987]

SENATOR HARR: Except that if I recall, that's how we got Capone. [LB987]

MATTHEW McKEEVER: How we Capone from... [LB987]

SENATOR HARR: Capone, went after his acts and not the criminal. [LB987]

MATTHEW McKEEVER: That's right, he was... [LB987]

SENATOR HARR: And so that's where RICO... [LB987]

MATTHEW McKEEVER: We went after him for his tax evasion as opposed to the actual acts which were proven. [LB987]

SENATOR HARR: I mean that goes the very essence of the RICO statute. [LB987]

MATTHEW McKEEVER: And Bitcoin lends itself to effective prosecution, in fact. A lot of ways it prevents criminal activity or deters it because again we're looking at a public ledger of all the transactions. All you need to find is identify one part or one act, one participant on the blockchain and theoretically you can trace that back. And just recently the FBI did say that at least 90 percent of the time they can effectively track a transaction and they can probably get even more. And people such as the Silk Road operator thought that he was secure using Bitcoin and of course he was tracked down. [LB987]

SENATOR HARR: So the 10 percent you can't track, right, anyone can track my Internet because I don't care if anyone sees where I look on the Internet. But if I did, is the 10 percent they can't track the people that care, or is it just a random 10 percent they can't track? [LB987]

MATTHEW McKEEVER: It seemed like they were developing on how to get that next 10 percent and thought that they would if I remember the article correctly. [LB987]

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SENATOR HARR: But the 10 percent they cannot get, are those people who are intentionally trying not to be caught? [LB987]

MATTHEW McKEEVER: That is unknown. I don't recall that from the article one way or the other. [LB987]

SENATOR HARR: So how come they can track 90 percent but not 10 percent? [LB987]

MATTHEW McKEEVER: There might be differences in who first got the Bitcoin, when they got it, under what circumstances they got it, for example. But they did say that it was rapidly becoming more effective and 100 percent is realistic, again, since we're dealing with a published ledger and a blockchain. We're also dealing with transactions over the Internet and those are timed and oftentimes recorded as well. So as a means for illicit payments it does not lend itself as well as the criminals might think. [LB987]

SENATOR HARR: So how would you...what recommendations would you make to improve this industry? [LB987]

MATTHEW McKEEVER: Well, if...we already have a number of regulations already that should, if they're used like they're supposed to, should work very well. We have to know your client. If someone who's dealing in Bitcoin knows who their client is, where they're coming from, and is...they're already held accountable for that. That would be the first step in tracing. [LB987]

SENATOR HARR: But we have the ATM where you automatically don't know your client. [LB987]

MATTHEW McKEEVER: No, in fact, that ATM is very compliant. In fact, being one of the people who first engaged the ATM, I don't think I've done a transaction on it, at least recently, but it scans in your driver's license and takes other information as well. And perhaps Mr. Weniger can describe that. But an ATM is also compliant with AML and KYC regulations. [LB987]

SENATOR HARR: This is all above my head. [LB987]

MATTHEW McKEEVER: I've been (inaudible) five years and there's still elements that are still above. I haven't coded anything for a number of years, since the '80s. So it's... [LB987]

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SENATOR HARR: I think there has to be an education out there so that people understand if we really want to use it. Thank you. Thanks for coming down. [LB987]

MATTHEW McKEEVER: Thank you. [LB987]

SENATOR LINDSTROM: Senator McCollister. [LB987]

SENATOR McCOLLISTER: Yeah, thank you, Chairman Lindstrom. Just to be sure I understand, there is no transaction fee associated with this system, correct? [LB987]

MATTHEW McKEEVER: That is correct. Protocol does not require it, but effectively and recently there have been fees. When I was first discovering this and then later presenting, I was telling people that there are no transaction fees associated with Bitcoin. But now to have your transactions processed, there effectively is. You basically add a fee to your transaction and that allows the miners more incentive to process that transaction. There's been a lot of congestion on the Bitcoin network recently. And that has led to a need to do sometimes basically add a tip to have it better considered. And there are some other speakers today that could probably address that in more detail, but that's my level of understanding. [LB987]

SENATOR McCOLLISTER: If I choose to do a transaction as such, I purchase that unit of measure and it goes into a log and that's maintained by all the users of that blockchain, is that correct? [LB987]

MATTHEW McKEEVER: That is correct. That's my understanding. [LB987]

SENATOR McCOLLISTER: So my involvement early on and everybody that comes later is automatically updated to my computer? Or do I have to go to a Web site to see the transactions that occurred after my investment or transaction? [LB987]

MATTHEW McKEEVER: Generally, unless you're running a node which is part of being a miner, you would go to a number of Web sites that are available called blockchain explorers and you can see your transaction entered, you can see it confirmed, and you can see it confirmed and becoming part of the blockchain. So that's generally the process. The last time I did a transaction was over a month ago and it took about nine hours for my transaction to be confirmed. It was immediately shown on the network and I looked at a blockchain explorer program to use that since I do not run a node or I'm not a miner. So I was able to see my transaction come on the network instantly. So effectively the value was transferred immediately. But it needs to be confirmed on the network to be accepted by all the computers running the Bitcoin program. That

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took about nine hours in that instance and I did not add any fees, so that was a transfer without any fees at all. But I had to wait nine hours and sometimes people wait even longer. If I had added a fee it might have been picked up by one of the miners a little faster, incorporated into a block and be made part of the blockchain which is the series of transactions on the ledger. [LB987]

SENATOR McCOLLISTER: Who did you pay the fee to if a fee were to exist? [LB987]

MATTHEW McKEEVER: Sometimes, it depends on like a wallet provider. I don't know that many wallet providers do that, but you can add a fee to your transaction. So, for example, and I don't know that Coinbase allows this, but if I was transacting out of Coinbase which is an exchange very well established in San Francisco, I would add, voluntarily add a fee to my transaction, say, 25 cents' worth or \$1. And that would make it more appetizing for the miners to make sure that's incorporated into the next block and they would process that block. But again, my understanding is not quite as much as perhaps one of the subsequent speakers we'll have. I think there will be more technical knowledge about that. [LB987]

SENATOR McCOLLISTER: Fascinating. Thank you. [LB987]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you very much for your testimony. [LB987]

MATTHEW McKEEVER: Thank you again for the opportunity. [LB987]

SENATOR LINDSTROM: Next opponent. [LB987]

ANSEL LINDNER: (Exhibit 6) Hello, Senators. My name is Ansel Lindner, that's spelled A-n-s-e-l L-i-n-d-n-e-r. I'm probably the hard-core "Bitcoiner" that you'll get here today. I was born and raised in Nebraska, now live in Omaha. I have a degree in economics from Iowa State University and an MBA from Oklahoma City University. I was able to recognize Bitcoin's potential early and I've been studying it since 2012. I'm the organizer of the Omaha Bitcoin Meetup, with over 400 members, whom of course I don't speak for. This year I was on a list of the 100 Most Influential People in Cryptocurrency, probably due to my podcasts that I run. And to round out my credentials, I'm a disabled veteran with ten years of service. With all of that in mind, I'll openly admit that I'm not an expert. There are no experts yet in Bitcoin or blockchain or smart contracts. Some people may be technical experts in their small field, but in Bitcoin and cryptocurrency there are new theories being formulated and tested daily in a vast range of fields. Many people, like me, have dedicated their lives to studying this new technology, but are just

starting to understand its technologic, sociologic, and economic meaning. Please don't assume you know the facts or consequences well enough to make wise regulations on Bitcoin at this time. Bitcoin is the most disruptive technology in 500 years, and when added to the Internet it creates a situation similar in scale to the advent of the printing press. It's much larger than the state of Nebraska or the United States of America. The economic prosperity Bitcoin will bring to friendly jurisdictions is mind-boggling. Bitcoin's ecosystem touched a value of \$800 billion in 2017, just shy of a trillion, and its phenomenal growth rate over its nine-year history is approximately 0.5 percent per day. If this trend continues, the Bitcoin ecosystem could be valued at upwards of \$10 trillion by 2020. Over the past two years Bitcoin has gone from a successful experiment to a true player on the worldwide geopolitical stage--a big enough deal to be the main topic at the last two consecutive international banking meetings in Davos, Switzerland. The next two years will be just as exciting and we'll find out some of the big winners and losers in this technological revolution. Don't sentence Nebraska to obscurity through regulation. It's true Bitcoin is the Wild West. The code, the technology, and its applications move very quickly. Logically, a few scams are to be expected, but they aren't caused by lack of regulation, quite the opposite. There's pent-up demand for financial innovation which has been held back for decades by a regulatory prison of red tape. Also, people have not felt the need to educate themselves in evaluating and spotting scams because of a nanny state mentality. Try as you might, there is no way for regulations to stop scams without harming the market for honest businesses in which those scams are found. Education is needed, not licensing. This bill will serve to harm, not protect, the consumer. It will also drain economic activity from Nebraska. Bitcoin is a global technology. Bitcoin businesses are, by definition, on-line services which can be located anywhere in the world. Even custodial services that hold and protect your Bitcoin can be located anywhere on the planet. In fact, they are more secure if located in a different jurisdiction to mitigate regulatory risk. "Regulatory arbitrage" is a term we in Bitcoin often use to describe this process. It means headquartering a business in the friendliest jurisdiction while still serving customers, legally or illegally, anywhere on the globe. Regulation is simple to avoid by nimble start-ups. An example you may be familiar with is the New York BitLicense, as Matt McKeever talked about, similar to the one in question here today. The immediate result of this regulation was an exodus from New York by Bitcoin-related business and New York residents being cut off from popular services. A more recent example is China. They have added new restrictions to Bitcoin exchanges and mining operations, and again, companies have left or are leaving China in droves to Hong Kong, South Korea, Japan, and now Canada. This is not an academic exercise. Friendly jurisdictions...this is not just some academic exercise. Friendly jurisdictions are right next door. Wyoming and Kansas have made it clear they welcome the new booming industry of cryptocurrency. It's a competitive national and international landscape right now today, and as you sit here trying to figure out the best way to make Nebraska unattractive to these businesses, other states are trying to figure out the best way to attract them, and the start-ups themselves are watching it all closely. Licensing is the gateway drug of regulation and savvy Internet entrepreneurs are well aware of it. It's a slippery slope. Do not go down the road of prohibiting

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services or limiting free-market experimentation with technology within your borders. Lastly, as a veteran, I'm extremely sensitive to violations of rights I fought to protect. I'm not a lawyer, but cryptography is protected under the First and Fifth Amendments to the Constitution of the United States, as confirmed several times in U.S. District Court. Regulating cryptocurrency is therefore a question of freedom of speech and proposed legislation should be offered with that understanding. This bill could appear to violate people's rights to use and distribute information via cryptographic means. New legal battles are likely coming to New York, and maybe to Nebraska, brought by a new, well-capitalized Bitcoin constituency on these very grounds. I have three quick proposals to replace this bill that I have...that I think would have more favorable results because this wouldn't be constructive criticism if I didn't offer corrective action. One, spend the money creating a voluntary certification process with public standards and ratings, while giving tax benefits for businesses that participate. Spend the money on education. Make the residents of Nebraska the most highly educated population in the world when it comes to this new technology. And three, do nothing and allow the new industry to develop for a few more years. Thank you. [LB987]

SENATOR LINDSTROM: Thank you, Mr. Lindner, and thank you for your service. Any questions from the committee? Senator Brewer. [LB987]

SENATOR BREWER: Thank you, Mr. Chairman. All right, still trying to get my brain wrapped around this whole concept. Now what branch of service did you serve in? [LB987]

ANSEL LINDNER: Air Force. [LB987]

SENATOR BREWER: Okay. It's okay, I guess. (Laughter) It would explain why you're into technology and why you're making my Army brain hurt. (Laughter) All right. So there's this mythical \$21 million Bitcoin somewhere and you're going to invest in this Bitcoin, but it's kind of like...it's all digital. It's all kind of mythical, isn't it? There is...you can't physically grab hold and walk away with a Bitcoin, or can you? [LB987]

ANSEL LINDNER: There is...there are products on the market right now. One is called Opendime. And what it does is it creates a private key that's on a USB stick and that's the only place that private key can ever exist until you break a seal on the chip, on the USB stick, and then you can access your Bitcoin. So if you're walking around with that unbroken flash drive, you're walking around with physical Bitcoin. [LB987]

SENATOR BREWER: So Bitcoin is a brand of cryptocurrency. [LB987]

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ANSEL LINDNER: Yes, sir. [LB987]

SENATOR BREWER: And is this something you personally invest in? You have confidence that this is not something that is mythical? [LB987]

ANSEL LINDNER: Yes. The code has been reviewed by thousands and thousands of people. And the best cryptographers, the best, you know, cutting-edge mathematicians in the world are working on Bitcoin specifically, and some on other currencies, but mainly Bitcoin. [LB987]

SENATOR BREWER: And just as there's that many people working on it because it's digital, because someone with a 500-pound brain can figure out how to make this stuff magically move and change, it doesn't concern you that we can box it in a way so that it can't be lost in never-never land as it's being manipulated or used? [LB987]

ANSEL LINDNER: Well, I came to Bitcoin via being a gold bug and you can say the same thing about gold coins. You know, if you bury them somewhere or, you know, you could lose that gold coin and it would never be found again, so Bitcoin teaches financial responsibility, I think. But it is a case where I always tell people don't invest more money than you're willing to lose because it's still an experiment. [LB987]

SENATOR BREWER: I think that would be very good advice. Thank you. [LB987]

SENATOR LINDSTROM: Thank you. Any questions? Senator McCollister. [LB987]

SENATOR McCOLLISTER: Yeah. If you lose the documentation that was created when you invest or use Bitcoin, you are like losing that gold coin, correct? [LB987]

ANSEL LINDNER: Yes, sir. You can make backups of your private key and they've actually made it easier over maybe the last four or five years now. You can write down a set of 24 words, English words, and that serves as your private key. And you can back that up as many times as you want to. You can put it in a safety deposit box or whatever. There's also a technology called "multisig," multisignature, where you can tie an amount of Bitcoin to multiple keys. So say you have three people in this kind of group and two of them have to sign the transaction to make it valid. That's a little bit more secure because one of the people can lose their keys. And that can go up to 15 signers actually at this time and there's stuff coming out now that it can be infinite amount of signers. [LB987]

SENATOR McCOLLISTER: Thank you. [LB987]

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SENATOR LINDSTROM: Any other questions? Seeing none, thank you very much for your testimony. [LB987]

ANSEL LINDNER: Thank you, gentlemen. [LB987]

SENATOR LINDSTROM: Next opponent. Good afternoon. [LB987]

EDWARD WENIGER: Good afternoon. Thank you for having us. My name is Edward Weniger, and it's E-d-w-a-r-d W-e-n-i-g-e-r. I'm with company Alpha BTC, and we're based in Omaha, Nebraska. We've been around for four years providing digital currency and Bitcoin services to folks in the area. So I believe it was Ronald Reagan who satirized, "If it moves, tax it. If it keeps moving, regulate it." And if he were here today he might add, if we don't understand it, regulate it. To start, I want to say proponents will say it is not like New York, but it is a BitLicense. It is onerous and overreaching and most beneficial to large, out-of-state firms represented by experts on the proponent side. Our state doesn't have the budget to hire six new full-time employees and spend half a million dollars, while at the same time driving out-of-state at least that much in our...in companies operating here. I'd like to respond to the question posed to Eli earlier. This will not limit dark web activity or illegal activity and it will not do much to combat crime. In that regard, the federal government is already spearheading these efforts and there are money services business regulations for this purpose. This morning, incidentally, the CFTC and the SEC were meeting on this exact subject and so maybe, I'm sure, there will be plenty of headlines after we get out of here today. I also want to add that the carve out for gift cards and rewards, reward points, which is not only found in this bill, but also in the money transmitter licensing in the Department of Banking statutes, is also a...; it gives me pause. And when you start to try to figure out or understand what Bitcoin is, it seems like that those categories should also be regulated or fall under the same types of rules that Bitcoin and digital currency do. And finally, in I believe it was section 1, line (sic--subsection) (14), the...of this particular bill there's...it reads "Registration means the ability under section 11 of this act to conduct virtual-currency business activity." I would posit that we could replace the word "virtual-currency business activity" with "cash" as well and achieve the same effect: Registration means the ability under section 11 of this act to conduct business activity using cash. If the goal is to provide some sort of protection or traceability to business activity, then cash would fall under that category as well. In a recent GovTech article focused on all state digital currency bills that are up this year, including Nebraska, where we were compared to 11 other states, ours was essentially the only one that was negative. Almost every other state on that list was trying to green light or encourage digital currency and blockchain activity. These include Arizona, Colorado, Florida, Hawaii, Illinois, New York, Tennessee, Vermont, Virginia, and Wyoming. And as Senator Schumacher said in his opening statement, if one of these products--referring to digital currencies or blockchain companies--takes off, we will be the only regulated state. I would argue that successful companies will not take off from Nebraska because we will not...because of this regulation. And

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lastly, I would like to call your attention to the age disparity between the proponents and the opponents of this bill and the industry as a whole and ask that you not pass or consider this bill this year or in future years, as a detrimental impact we feel heaviest on future generations of Nebraska citizens. Thank you for allowing me to testify. I'm willing to answer any questions. [LB987]

SENATOR LINDSTROM: Thank you. Thank you for your testimony. And you operate the machine that has been talked about. [LB987]

EDWARD WENIGER: There are two of them, yes, soon to be three. [LB987]

SENATOR LINDSTROM: Okay. And those two reside in Nebraska. Can you...are you looking at expanding outside of Nebraska? [LB987]

EDWARD WENIGER: Yes, we are. [LB987]

SENATOR LINDSTROM: Okay. And without...I know you probably don't want to give too much information, transactional fee, is that how you would make money off of this particular...having this unit, these two units or how...can you explain to me a little bit about that? [LB987]

EDWARD WENIGER: Yeah, sure. So the different exchanges when you're buying Bitcoin or digital currencies, the market is...market sets the price. In our case, we provide Bitcoin at the market price and then also add a markup, and that's where our revenue comes in. [LB987]

SENATOR LINDSTROM: Okay, so you take a little spread. [LB987]

EDWARD WENIGER: Yep. [LB987]

SENATOR LINDSTROM: Okay. Senator. [LB987]

SENATOR BREWER: I just as well jump in the fight. [LB987]

SENATOR LINDSTROM: Senator Brewer. [LB987]

SENATOR BREWER: Yes, sir. Thank you. All right. I agree with you on government regulation. Not a big government regulation guy. I'm still just trying to get my understanding of this whole

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Bitcoin because, if I understand it correctly, if I had...say I owned a roofing company and I accepted projects and was using Bitcoin, between November and now the difference would be what, \$18,000 to \$7,000? [LB987]

EDWARD WENIGER: Yes. [LB987]

SENATOR BREWER: Well, doesn't that seem like that is pretty risky as a businessperson using that currency? [LB987]

EDWARD WENIGER: Sure. So that's the beauty of blockchain and digital currency and Bitcoin, is that it is a platform. There are not any real...other than what's programmed into the code that everybody across the world has the same access to and ability to use, there are not any stipulations necessarily on how that's used, meaning that if...that plenty of companies have written software. And in your case what I would recommend or encourage that company to do would be to choose from any number of services that instantaneously convert the Bitcoin to U.S. dollars at the time of purchase. So instead of accepting and choosing to hold Bitcoin, which they certainly could do, they could accept Bitcoin from that customer and using this...an app on the phone, there's a third-party vendor that instantaneously converts it to U.S. dollars. So the same would go...can I give you a different example? Say I'm in Nebraska, for example, say we are exporting or importing into or from Japan. If I have a vendor that I want to send money to or receive money from, I could, in a matter of ten minutes or so, maybe an hour, I could almost near instantaneously receive that payment from that Japanese vendor and I could...and at the same time it would be converted into U.S. dollars. So these are just the rails that are used to transmit value that says that company in Japan no longer has that amount of Bitcoin and me, here in Nebraska, now has that amount of Bitcoin. And what I do with it, whether I hold it and risk the volatility or choose to convert to U.S. dollars nearly instantaneously, is up to me. [LB987]

SENATOR BREWER: Okay. I kind of understand the route you took to get there. So this is the option I have rather than handing them dollars, would be to take this other roundabout way. [LB987]

EDWARD WENIGER: Yes, but I don't...I'm not forced to hold Bitcoin. I can...I could just convert it. You know, I'm just saying there is an easy way to convert it to dollars at the time of transaction if you, as a company, do not want to hold Bitcoin. Nobody is forcing you to hold Bitcoin at \$17,000 and ride it down to \$7,000. [LB987]

SENATOR BREWER: Okay. Well, I appreciate your explanation. [LB987]

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SENATOR LINDSTROM: Any other questions from the committee? Seeing none, thank you very much for testifying. [LB987]

EDWARD WENIGER: Thank you. [LB987]

SENATOR LINDSTROM: Next opponent. Seeing...one more. Good afternoon. [LB987]

ANDY GONZALEZ: (Exhibit 7) Good afternoon. Hail from Texas. Mr. Chairman Lindstrom, members of the banking committee, for the record my name is Andy Gonzalez, A-n-d-y G-o-n-z-a-l-e-z. I'm a recent law school graduate from the University of St. Mary's Law School in San Antonio, Texas. I've been learning about the technology behind Bitcoin and educating those around me about it since 2013. Truth be told, I should be studying and preparing for the Bar at the moment, but to shirk this opportunity address you, the committee, regarding this bill, known as LB987, introduced by Senator Schumacher, would be a misstep in my future career as an attorney who has become very fascinated and intrigued by the technology behind Bitcoin and related cryptocurrencies. I come before you with a respectful suggestion for more careful consideration of LB987's contents, which as my testimony below states would bring the problematic effect of a considerably stifled technology that otherwise could bestow economic benefits to my fellow Americans beyond the state of Nebraska, as well as those within it. Small business is the backbone of Nebraska. In approving the Uniform Law Commission's act in its current form, small businesses would be discouraged from participating in the inclusive financial innovation arising out of Bitcoin, cryptocurrencies, and the technology by which they are underpinned. The proposed statute is itself modeled after the virtual currency regulation passed in New York by the New York Department of Financial Services, also known as BitLicense. Since BitLicense's promulgation, small businesses in the financial technology, known as FinTech industry, in New York have been driven out by their own admission due to the licenses' onerous and complex requirements for compliance. Adopting a model act with the characteristics of the New York regulation is sure to threaten the existence of a blooming FinTech industry nationwide. Just as the FinTech industry's use of cryptocurrency was stifled in New York, it is highly likely that this proposed model act will have a similar negative impact in our state if we adopt this approach. Any business seeking to innovate will feel harsh pressure to migrate to more welcoming jurisdictions and, thus, weaken Nebraska's ability to compete in the emerging field of FinTech. Maybe the next Bill Gates or Steve Jobs of Bitcoin will originate out of a Nebraskan garage. Llew Claasen, executive director of the Bitcoin Foundation in 2017, has noted that within the Uniform Law Commission's proposed bill notes exists a concession that it may be premature to regulate cryptocurrencies. I concur with the Bitcoin Foundation on this point and I pray that you will too. Cryptocurrencies are not all created equally. Some cryptocurrencies display characteristics that make them promising candidates for use as a digital commodity to serve as a store of value, while others have characteristics that suggest they are more likely to be widely adopted as a medium of exchange. It is not desirable to classify virtual currency businesses as an

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equivalent to money transmission businesses while also refraining from classifying virtual currencies as money. And yet, the time may not be right to classify cryptocurrencies as money, as per the court's conclusion in Florida v. Espinoza. As a future lawyer, my trade prefers legal clarification; however, I cannot condone a bill that would drive away potential legal work to a more welcoming state, such as New Hampshire, where businesses operating in Bitcoin and other virtual currencies have more breathing room to innovate and thrive. Thank you very much for your time. Happy to take any questions. [LB987]

SENATOR LINDSTROM: Thank you for your testimony. Senator Baker. [LB987]

SENATOR BAKER: Thank you, Chairman Lindstrom. So, Mr. Gonzales, why do you suppose, would you care to speculate, why New York hasn't reversed their regulations if they see the impact that it's had? [LB987]

ANDY GONZALEZ: Yes, sir. Well, it seems to me like those that are interested in deregulation and those that are harmed by it have no choice but to leave. And so maybe perhaps the regulators don't see much of an issue but maybe those on the ground floor that are trying to innovate and bring this technology from the ground up, they feel the pain. So they leave. And unfortunately, the regulators just...maybe they hear crickets but... [LB987]

SENATOR BAKER: We've got a few of those around too. (Laughter) [LB987]

SENATOR LINDSTROM: Okay. Any other questions from the committee? Seeing none, thank you for your testimony. [LB987]

ANDY GONZALEZ: Thank you very much. [LB987]

SENATOR LINDSTROM: Any more opponents? Seeing none, we'll now move to neutral testifiers. Good afternoon, Director. [LB987]

MARK QUANDAHL: (Exhibit 8) Good afternoon, Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee. I'm Mark Quandahl. I'm director of the Nebraska Department of Banking and Finance, and I'm appearing here today in a neutral capacity with regard to LB987. And I'm not going to read my testimony but for the fact that I would direct you to the last paragraphs of that. It's the department's understanding that LB987 is proposed to lay a groundwork for enacting virtual currency business legislation in a future session. And we'd acknowledge that it's a balancing act and it's a tough balancing act, too, trying to foster innovation and trying to encourage innovation in the financial services space, while at the same

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time endeavoring to protect consumers. The department is willing to work with Senator Schumacher and others, representatives of the industry, and the Uniform Commission in furtherance of that endeavor. At the same time, it's important that the committee know that at this early stage the appropriations bill that would be needed for the department to carry out the mandates of this or a similar bill. The department submitted a comprehensive fiscal note for this bill to pay for additional staff and training. I think every single one of the previous testifiers indicated that expertise in this particular field is elusive, and that's true with respect to the Department of Banking and Finance also. So we have a lot of smart and capable people at the department, but we'd need to add more in order to try to get our arms around this new and emerging technology and area. So the dynamics and complexity of this new technology make staffing and training a requirement from day one. And so it's estimated that there's approximately 1,400 virtual currencies in circulation at this time. I believe Mr. Ruth said 1,500, so it's probably going up on a daily basis. And the duties imposed on the department by LB987 simply cannot be absorbed by current staff or with current resources. And so with that, I'd be happy to answer any questions that you might have. [LB987]

SENATOR LINDSTROM: Thank you, Director. Any questions from the committee? Senator Harr. [LB987]

SENATOR HARR: Thank you, Mr. Chairman. And thank you for coming. So it is possible to understand this? (Laughter) [LB987]

MARK QUANDAHL: Apparently. [LB987]

SENATOR HARR: Okay. [LB987]

MARK QUANDAHL: There are folks that...and I think you heard from some of the previous testifiers, too, that there are experts in certain pockets, right? [LB987]

SENATOR HARR: Okay. [LB987]

MARK QUANDAHL: And so... [LB987]

SENATOR HARR: Thank you. [LB987]

MARK QUANDAHL: Yeah. [LB987]

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SENATOR LINDSTROM: Thank you. Any other questions for the director? Seeing none, thank you very much. [LB987]

MARK QUANDAHL: Yep. Thank you. [LB987]

SENATOR LINDSTROM: Any other neutral testifiers? Seeing none, and Senator Schumacher waived closing, so that will end the hearing on LB987. We will now move to LB1121. Senator Larson, welcome to open when you're ready. [LB987]

SENATOR LARSON: Thank you, Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee. My name is Tyson Larson, L-a-r-s-o-n, representing District 40, and I'm here today to introduce LB1121. LB1121 would adopt the Uniform Protected Series Act, or the UPSA, which is a uniform law promulgated by the Uniform Law Commission, ULC. The UPSA was promulgated in response to the growing popularity of series limited liability companies in the United States. The UPSA was drafted as a module to be inserted into an enacting state's existing LLC act. Consequently, section 1 of the LB1121 clarifies that this act is part of the Nebraska Uniform Limited Liability Company Act. Section 2 through (A) of LB1121 contains general provisions such as definitions, a description of the nature of a protected LLC as well as the power, purpose, and duration, how the protected series is governed by the operating agreement of the LLC, and rules applying to certain provisions of Nebraska's existing LLC act to a protected series. The act uses the term protected series to highlight the internal liability shields which are a defining characteristic of the act, and to avoid confusion with the term series which is often refers to classes of interest in business entities that do not affect liabilities to third parties. If the requirements of the UPSA are satisfied, then assets of one of the protected series are not available to satisfy claims of creditors of an LLC or other protected series of an LLC. Sections 9 through 15 explain how to establish a protected series as a default matter. All the members must consent to establish a protected series. Furthermore, an LLC must deliver a protected series designation to the Secretary of State signed by the company. These sections also provide name, registered agent, service process provisions, as well as methods to obtain certificate of good standing. Section 16 through 20 include the recordkeeping requirements that must be satisfied for an asset to qualify as an associated asset under the act. Unless provided otherwise in the operating agreement, the owner of an asset is responsible for meeting the recordkeeping requirements for the asset. These provisions are designed to provide transparency of protected series transactions. These sections also provide rules for associating members with protected series and addresses, protected series transferable interest management, nonassociated member rights and information. Sections 21 through 24 cover limitations on liability and enforcement claims. The act provides two different types of liability shields, vertical and horizontal. The traditional vertical shield protects equity holders and managers from status-based liability for an organization's obligations. The horizontal shield protects a protected series of a series LLC and its associated assets from liabilities for the debts, obligations, or other

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liabilities of the company or other protected series of the company. These sections contain provisions for claims seeking to disregard limitation of liability, protected series-level charging orders in judgment creditors, and enforcement of judgments against certain assets of the company. A creditor may enforce a judgment against another protected series of a series LLC by pursuing assets owned by the company or another protected series of the company if the act's requirements are not satisfied for these assets. With respect to foreign LLCs, this act follows the common law approach and applies Nebraska's jurisprudence piercing and affiliate liability companies and foreign protected series is carefully and narrowly delineated circumstances. Under sections 25 to 27, they address the grounds for dissolution and provisions for winding up. Under the act, dissolution of a series of LLCs immediately dissolves every protected series of the company. Reinstatement of an administratively dissolved protected series or rescinding of a voluntary dissolved company has the same retroactive effect at the protected series level. Sections 28 through 35 contain restrictions on mergers and other entity transactions involving LLCs and protected series. The sections provide an additional definitions and also provide that a protected series may not be party to an entity transaction. A series LLC may be a party of a merger if each other party to the merger is an LLC and surviving company is not created in a merger. Furthermore, the sections include provisions dealing with plans, statements that must be filed with the appropriate authorities, and effects mergers. They also provide a creditors' right to existed...that existed immediately before the merger and may be enforced after the merger. Sections 36 through 39 address the form protected series. The law of jurisdiction formation of foreign LLCs governs certain aspects of the foreign protected series. The sections also provide guidelines for determining whether they're foreign series LLC or a foreign protected series of a company is doing business in the state. The sections provide registration requirements for foreign protected series and disclosure requirements in cases where a foreign LLC or foreign protected series is party to the proceeding in Nebraska. Sections 40 through 45 contain miscellaneous provisions as well as transition rules for pre-existing series limited liability companies and protected series. Section 46 repeals the original section. I would like to know at the time and oversight of the bill as it pertains to the effective date versus the operative date on page 35. AM1594 has been circulated to committee members will address this concern. In an effort to refresh the committee's memory with a brief history, I introduced LB168 in 2015, LB292 in 2017. Both bills presented innovative business concepts of series of LLCs in Nebraska. Just prior to the LB292 hearing, it was brought to my attention that the Uniform Law Commission was in the process of developing model legislation to be finalized later in 2017. At such time, I encouraged the committee's support of the concept and consideration of the measure to be introduced during the 2018 legislative session pursuant to the recommendations of the ULC, which I am presenting today. The series LLC is a relatively novel concept in the business world. As such, I greatly appreciate the work of the commission in their efforts in creating extensive framework to provide uniformity across the states. The implementation of series LLCs in Nebraska would provide business owners with an efficient and effective means of structuring multiple business entities under one LLC. The LLC has, as well as each protected series, would

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be treated as a separate entity with its own debts, liabilities, and obligations. The debts, liabilities, and obligations of each series would be enforceable against that particular series and not against other series or against the main LLC. Additionally, each series would have its own members, managers, interests, assets and business purpose separate from the LLC and other series. Series LLCs provides the ability for a business owner to effectively separate and protect assets. Business owners with both high-risk and low-risk assets are able to spread out those risks among series and align creditors with those assets while at the same time affording protections in assets of the other series in the LLC as a whole. This kind of business structure not only provides additional managerial flexibilities, it also encourages a creative business investment practices. The series LLC model is particularly beneficial to those individuals with extensive real estate investments, franchise businesses, or even those in the agricultural industry. The series LLC model would provide business owners with the opportunity to utilize the streamlined and organized business structure. It would save time and money while providing creative options for business owners throughout our state. Furthermore, the implementation of the legislation would encourage businesses who benefit from the series LLC model to organize in the state of Nebraska, thereby generating additional business and economic growth to our state. There will be a member of the Uniform Law Commission, who helped write the model act, following in the neutral capacity that can better answer a lot of the questions, but I'm happy to take any questions the committee may have. [LB1121]

SENATOR LINDSTROM: Thank you. Senator Kolterman. [LB1121]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. Thank you, Senator Larson, for bringing this. Can you tell me, and I know you've been working on this for a while, how many other states are utilizing this series LLC at the present time, and has it been successful in those states? [LB1121]

SENATOR LARSON: So, we'd be the first one to adopt the Uniform Law Commission's because these just came out, but I think there's...I'd have to double-check. I know there's 15, 15 states that have done it. Illinois has posted data on how many...they have 27,000 of them. Obviously, we're not near the size of Illinois but, and we don't know how many would be occurring in Nebraska. But, yeah, this is a model that I think a lot of small businesses in the state of Nebraska, like I said, it's obviously very popular in real estate, but the agricultural industry would really use this model as well, and it would be a big benefit to help save costs. And also no offense to the lawyers of the world, but legal work as well. [LB1121]

SENATOR KOLTERMAN: Thank you. [LB1121]

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SENATOR LINDSTROM: Any other questions from the committee? Seeing none, thank you, Senator Larson. [LB1121]

SENATOR LARSON: Sorry for the long opening, but. [LB1121]

SENATOR LINDSTROM: Will you be around for closing? [LB1121]

SENATOR LARSON: Sure. [LB1121]

SENATOR LINDSTROM: Okay. Thank you, Senator. We will now move to proponents to the bill. [LB1121]

LARRY RUTH: (Exhibits 1-3) Senator Lindstrom and members of the committee, my name is Larry Ruth, R-u-t-h, and one of the advantages of having a long opening is you don't have to have nearly as much testimony in support of it. This is my testimony in favor of the bill and these are some little packets that you might look at, at your leisure, which support the reasoning for the Uniform Law Act that we're presenting to you in LB1121. I explained the Nebraska Uniform Law Commission in a hearing on LB987 which was held just prior to this hearing. I will not bore you again. In fact, I'm acutely aware of the fact that there's nobody behind me practically, and this is late in the day. I'm going to refer you to my testimony and kind of cherry-pick a few of the points that I would like to pick out there. We believe that the LB1121, the series LLC act, would be a significant tool. It could be used by lawyers and business people in the state of Nebraska and more importantly, perhaps, or as importantly, passing of the act would provide some protections for those of Nebraskans who are creditors and others in the public who are being put in the position of dealing with series LLCs in other states coming into Nebraska. So, for those two reasons, we support the act. Senator Larson gave...did not give examples of when you might be able to use a series LLC, but his testimony and some of these surrounding information gives examples. And I might just say one that I think has some value. The ownership of separate properties like farms or real property where exposure to loss of claims exist or is complicated, for example, in the environmental claims. When an LLC is prepared and there are assets in the LLC, the owners of the LLC may want to set up separate cells. I'm going to use the word cells as opposed to series because I think series is sometimes misleading, the word is. And have within that cell, assets associated with the cell which are then liable for the debts of that activity. An entity may have several cells. In fact, it may have a number of them each separately named, but they're all within the limited liability company. They are not limited liability companies, these cells, they are unincorporated, but they can be sued and they can enter into contracts. So it gives flexibility to people who want to use methods for limiting the liability of their activities to particular assets that are related to what they're doing. I would encourage you to look at some of the material that has been submitted in my little pamphlet there, but I want to come back to the

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notion that it's good to have these additional flexible...this additional flexible business organization available, not only so that it can be used, but in the case of Nebraska, so we can use it with some safeguards. Now, the safeguards that we would have in this bill are set forth in one of the handouts there, and I would just bring this to your attention, page 2 of the document that is in your packet, sets forth the many ways in which our act is compared to Delaware, Illinois, and Texas, and how it provides safeguards through the filing and through definitions, ways in which we can give our creditors some support when they deal with the series LLCs. Without that, if you have a series LLC coming in from an out-of-state source, then you are tied to the laws of that state where it was originated and there are ways in which there may be mistaken representations or other activities which put Nebraska creditors at a loss...at a disadvantage. The front page of this handout, I think is pretty important. The question was asked, how many states have this? No state has this uniform act. However, there are 15 states which have their own limited liability series law and that is what I'm pointing out to you there. These 15 states have a variety of provisions, but none of them have the amount of protection for Nebraska citizens that are for both of those. One of the major things is that if an out-of-state LLC series comes in, and it has to register as such under this act, and then if it doesn't maintain and meet the requirements for recordkeeping and keeping assets economically separated, then it doesn't have the protection that it is seeking in terms of the liability shield. So it has to come in and submit itself to our requirements in order to have those liability protections. I am sort of summarizing this a little bit, but I think it's good to recognize that this act is in a new area and because of that, it is incomplete in terms of having a complete review by all the stakeholders. I have submitted the act to the drafters of the uniform act and we have gotten a reply back from them as to some of the things that they've asked that we have further review of. And I have that right here and I'm going to ask the page to send it around. This was reviewed by the chair of the drafting committee and by the reporter of the drafting committee and by other folks who were looking at how well the uniform act that we're looking at today would be integrated into our limited liability company. And my, they did a marvelous job of reviewing it and have come up with a number of issues in bold on the right-hand column that they suggest that you further review of. If you look at, oh, for example, pages 3 and 4 and 5, suggest that there are additional things that we might want to put in this act in terms of how to get well-integrated. And it's particular they suggested that we do a little more work with the Secretary of State and I don't know that the Secretary of State is here today, but certainly the Secretary of State has a major, major role in function with any of our business organizations. So it is with our...it is our opinion that we want to support the act, but we need to be neutral at this time until those additional changes are made. And we will stand, obviously, ready to do some work in that area, but this is still a matter in process.

SENATOR WILLIAMS: Thank you, Mr. Ruth. I have one question and then I'll open it up for other questions. I want to be certain that you are testifying in a neutral capacity then, and shouldn't we list you as that? [LB1121]

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LARRY RUTH: Yes, I apologize for that. I think I probably showed in support. We do like the act, but we want to have a little more work done on it. [LB1121]

SENATOR WILLIAMS: All right. Are there questions? Senator McCollister. [LB1121]

SENATOR McCOLLISTER: Yeah, thank you, Senator Williams. You indicated that the current draft of the bill doesn't have all that you would like it to have, is that correct? [LB1121]

LARRY RUTH: The current draft of the bill after having further review over the last week actually, since it was introduced, we would have some additional thoughts that we should have, yes. [LB1121]

SENATOR McCOLLISTER: Thank you. [LB1121]

SENATOR WILLIAMS: Senator Baker. Senator Harr. [LB1121]

SENATOR HARR: Thank you, and thank you for coming, Mr. Ruth. And this is an area of law that I know a little bit about, not a lot, and there are those that I trust in the field who know a lot more than I do. Do you know, has the Nebraska Bar Association taken a stand on this bill? [LB1121]

LARRY RUTH: One of the things we also wanted to do with this additional time was to not only look at the additional thoughts we had here, but to make sure it got a broad sweep of review by the stakeholders, including the Secretary of State's Office, the Nebraska Bankers Association, and Nebraska State Bar Association. I have not heard back from them. My assumption is that they're still looking at it if they're not here, but would...so I can't respond to that. [LB1121]

SENATOR HARR: Okay. Thank you. [LB1121]

SENATOR WILLIAMS: Additional questions? Senator Brewer. [LB1121]

SENATOR BREWER: All right, I apologize, because I'm not a brilliant lawyer like Senator Harr, so I'm kind of struggling to understand exactly why we're doing all this. We're trying to protect, or help protect companies, LLCs that are coming into Nebraska to try and have more...more companies coming here, is that the general concept? [LB1121]

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LARRY RUTH: That's part of it. Part of this is to give an additional tool to business people in how they want to organize their business. And that is to set up a limited liability company, but allow for series within that limited liability company. The series here is a different term than you might think. It's not a series of things, but it's a protected series that is a little cell where you could assign assets, and you could say that cell is liable for the activities that are there, but not liable for the other assets of the limited liability company. That's good, that's good, but it is also something that the public should know about. You should be able to go somewhere and know that this is being set up and that's why part of what we do here is, of course, have a filing required with the Secretary of State's Office. And then like I said, a number of things that are added protections for the people of Nebraska who are getting...who are dealing with limited liability companies that have series, protect the series. There's those two things. One is to be able to have protected series LLCs, and then the other one is to make sure that when you have them, other states LLCs...series LLCs that come in, have to comply with ours. [LB1121]

SENATOR BREWER: All right. So let's just put this in a way that it's easier for just the average Joe to understand. If I am ABC, LLC out of Minnesota and I want to come to Nebraska and build a large hog confinement facility, the issue with that normally is the run-off and contamination of the water with nitrates and all. Is this bill going to help Nebraskans or hurt them, because I don't want to protect the guy from Minnesota that's coming here to do that. I'd like to make sure that he does it right and that we have some way of making sure that if he doesn't, we have a way to hammer him. [LB1121]

LARRY RUTH: Are you talking now about contract that maybe entering into? [LB1121]

SENATOR BREWER: Well, if what this is going to do helps those here in Nebraska, who we're trying to have oversight of those kind of things so that they don't end up with nitrates in their water, when you start talking about how you're going to section off or compartmentalize different things, the concern is that you do that in a way so if the community comes back and says, hey, you've just ruined our water, they can say, hey, tough, we've got a special set-aside here where you can't affect us as this is LCC that came in from somewhere else. Am I off-base with that? I mean, is that not something to worry about? [LB1121]

LARRY RUTH: Well, I think you're going in the right direction and that is making sure that an out-of-state company that comes in, that's a limited liability company, a series limited liability and attempts to limit its liability with series under the state law, we'll say, of Iowa, or Illinois, let's pick up Illinois or Texas. We want to make sure that the people in our...in the state that are dealing with them know it's a limited liability series, know what assets would be available in the case they had to foreclose on those assets, and that's what this would do. This would do that, yes. [LB1121]

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SENATOR BREWER: You've answered my question. Thank you, sir. [LB1121]

SENATOR WILLIAMS: Additional questions? I have one. Just generally about the Uniform Law Commission and Nebraska has worked hard, you and your commission have worked very hard, yet somebody has got to be first at some point in time, and the concept of a uniform law when it's one state that adopts it doesn't quite become uniform yet, I think Bill Marienau mentioned that there are 15 states that currently have legislation on series LLCs. This is not meant to be kind of a loaded question, but would those be somewhat similar to the uniform laws that yours is better because it's yours? [LB1121]

LARRY RUTH: Yeah, well, it would be somewhat similar in that they would authorize the creation of series LLCs, but... [LB1121]

SENATOR WILLIAMS: And they're recognizing the importance of creating a system for the allowance of series LLCs. [LB1121]

LARRY RUTH: Yes, but they fall far short of the protections. Now, I just want again refer you to page 2 of this handout and if you look at those lists of safeguards of our act compared to the current series acts of...I mean, current series acts of other states, this is a significant value. [LB1121]

SENATOR WILLIAMS: But it's your testimony that until we expand this based on your list and the input from the other associations basically that you talked to, that we may be premature at this time? [LB1121]

LARRY RUTH: Well, I think that has to be done first before we could support its adoption. Now, whether that takes place this session or another session is another matter. [LB1121]

SENATOR WILLIAMS: Right. Thank you. Any further questions? Thank you for your testimony. [LB1121]

LARRY RUTH: Thank you. [LB1121]

SENATOR WILLIAMS: We'll again open it up for, are there any proponents? Seeing none, are there any opponents? Seeing none, anyone else to testify in the neutral capacity? We have one. Thank you for being here. [LB1121]

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COLLEEN BYELICK: Thank you. Senator Williams and members of the committee, for the record, my name is Colleen Byelick, it's C-o-l-l-e-e-n B-y-e-l-i-c-k, and I'm the chief deputy and general counsel for the Secretary of State's Office here on behalf of Secretary of State, John Gale, in the neutral capacity on this bill. As you know, our office files a variety of business registration documents including documents to form LLCs and foreign LLCs to provide them authority to transact business in the state. This bill introduces a new type of LLC, the series LLC that enables an LLC to form a protected series under the umbrella of the parent LLC. The series is granted vertical limited liability protection for members and managers of the protected series and horizontal limited liability protection from other designated series under that same apparent umbrella LLC. Our office is presently in the process of implementing a new filing system. We are replacing our legacy filing system that dates back to the late '90s. Our target implementation date for that is June of this year with our warranty and transition period continuing through September of this year. So one of our concerns with this bill, or one of our requests with it, if you continue to work on this bill that we look at a further delayed operative date. We would ask for January 1st of 2020, as opposed to the operative date of January 1, 2019, that's currently in the bill. We don't think, given this massive system implementation that we're undergoing currently, that we can meet that January 1, 2019 date. We also wanted to just provide a little bit of information on our fiscal impact. We asked our current vendor for their best estimate regarding what it would take to incorporate this law into our new filing system and they indicated that they had implemented series LLCs in three other states and that those implementations cost between \$150,000 to \$350,000 depending on the complexity required by the state. Based upon the requirements in the bill, and looking at our system complexity, they estimated on the higher end for us. Just wanted to give you some more information about how we came up with that number. Also we did note in our fiscal note some loss in General Fund revenue. And essentially what we did is we looked at the fee that it would take to file a protected series as opposed to the fee it takes to file a new LLC. So the series requires a protected series designation which is the \$15 filing fee. To form a new LLC would be the traditional mechanism to give you this liability shield. That's \$105 filing fee. So there's a \$90 difference. So for each series that's created as opposed to a new LLC, we're looking at a \$90 loss of revenue as this is currently drafted. And we based our fiscal note on, if a 100 of these series were created in the first fiscal year, and 200 were created in the second fiscal year. For reference, in calendar year 2017, we filed 9,550 certificates of organization. Those are the formation documents for LLCs. So 300 is about 3 percent of that number. That's how we came at our...arrived at our fiscal note. Most states don't have the cell series, if we're going to call them that. They don't have them filed with the states. There's not a lot of data out there currently about how many series LLCs are really in existence. That was one of our challenges in trying to put together a fiscal note. Illinois is one of the only states that does and we did find some information from them. They said they currently have 32,000 protected series and they currently have about 270,000 regular LLCs. Compare that to Nebraska, we currently have about 66,000 LLCs. There was some technical questions that we had with respect to the bill. We had some concerns about the transition provisions. Since

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Nebraska currently doesn't have series LLCs defined in our statutes, we weren't sure that there needed to be a transition period from the operative date to when this would be fully implemented and effective. So that's just something that if there is a working group that gets together and looks more in-depth at these provisions that we would want them to specifically focus on that. The other more technical aspect that we questioned was the name standards. So the name standard reference in this act references the name standard for all LLCs which is deceptively similar. That the name standard also requires that all of these LLCs contain the name of the parent or umbrella master LLC. And so we suggest that you may want to look at a distinguished pull upon the record name standard for the standard for the protected series. We're happy to work with whatever interested groups to further review the bill. It is a very large and all-encompassing bill and so we're happy to work with whoever is interested in that. I want to thank you for your time and I'm happy to try and answer any questions that you may have. [LB1121]

SENATOR WILLIAMS: Thank you, Ms. Byelick for your comments and your input. And I'm assuming that Mr. Ruth back there is taking those all into consideration and would like you sitting at that table with them when they do those kind of things. Questions for...Senator McCollister. [LB1121]

SENATOR McCOLLISTER: Yeah, thank you, Senator Williams, and thank you for your testimony. There's a \$350,000 fiscal note as you mentioned. Is it coming from a specific cash fund? [LB1121]

COLLEEN BYELICK: Yes. There is a corporate cash fund. [LB1121]

SENATOR McCOLLISTER: And that will easily support the...the expenditure? [LB1121]

COLLEEN BYELICK: That at this point in time, it appears to support the cost of this bill. [LB1121]

SENATOR McCOLLISTER: Thank you. [LB1121]

SENATOR WILLIAMS: One final question from me, and listening over here, recognizing the benefits of the series to those LLC owners and the comment that you made about the \$15 versus the \$105, I think, would, I guess, propose that there could be some kind of use of that for the person that's really getting the benefit of that using that, I think could be in that conversation also, so that the fiscal note changes... [LB1121]

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COLLEEN BYELICK: Yeah, we haven't looked at every state, but it did appear Illinois which seems to be similar to the Uniform Law Commission approach, they did have a higher fee to form a series LLC and then they did also have a higher fee to designate the protected series under that parent series, so that maybe how they, you know, dealt with that adjustment. [LB1121]

SENATOR WILLIAMS: Cover some of those. [LB1121]

COLLEEN BYELICK: Yeah, but it's definitely something that we can look at. [LB1121]

SENATOR WILLIAMS: Thank you. Any final questions? If not, thank you for your testimony. Any further neutral testimony? Jan, do we have any letters? We do not. Ask Senator Larson if he'd like to close. [LB1121]

SENATOR LARSON: Yes, real quick just to touch on a few things. As Mr. Ruth mentioned, the ULC brought me changes after the introduction or else we would have included them. We have many of those changes and will continue, hopefully, to work on them very quickly to move this through. To touch on Senator Brewer's, this actually offers more protections because right now a series LLCs from Illinois wouldn't have to necessarily register. This is actually better for a lot of that because you could create your own so, but it also offers both business and individuals that are going after the assets protections. As Senator McCollister touched on, the cash fund that the \$350,000 comes from, I've already talked to fiscal. It is bringing in more money in a year than it actually spends. It can sustain that \$350,000 so that's not an issue. A couple of things on the fiscal note. Actually that, I think we should consider, if we were to move the operating date back to 2020, that fiscal note actually essentially goes away, the first \$9,000 loss, or it would be \$6,000 to General Funds, so that goes away. And if you moved it back to 2020, that puts us into even a new fiscal biennium. And if a January 1 operating date, that means you only have six months of the fiscal year which means left, which the Secretary of State's Office estimated 100 new ones, but since you're only having half, that would actually only be 50. If they're estimating 50...or 100 in their first year, because the fiscal years run July to July, so I would say that it would be the end of the '19-20 fiscal year which would only be six months which would only be 50. So you're looking at a...what would that be, half of...a \$3,000 fiscal note. And that doesn't even go to this biennium with the moving of the operating date. So the fiscal note questions are fixed. Thank you. [LB1121]

SENATOR WILLIAMS: Any final questions? Senator Harr. [LB1121]

SENATOR HARR: Thank you, Mr. Vice Chairman. And less a question than a comment as this is the last hearing in Banking, Commerce and Insurance, this is your last chance to be in front of this committee. Thank you for your bills you brought here and... [LB1121]

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SENATOR LARSON: This one, three times. [LB1121]

SENATOR HARR: Three times, wow. [LB1121]

SENATOR LARSON: So this is the year you kick it out for us. [LB1121]

SENATOR HARR: And I want to thank all members...this is my last chance on the committee as well. I only had one long, short, but very illustrious year here and I want to thank Janice, and obviously, Bill Marienau, and the Chair for their allowing me on this committee and holding my hands through this year, so thank you. [LB1121]

SENATOR LARSON: Thank you. [LB1121]

SENATOR WILLIAMS: All righty, that will end the hearing. [LB1121]