[LB38 LB170 LB283 LB616]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, February 5, 2013, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB170, LB616, LB38, and LB283. Senators present: Mike Gloor, Chairperson; Mark Christensen, Vice Chairperson; Kathy Campbell; Tom Carlson; Sue Crawford; Sara Howard; Pete Pirsch; and Paul Schumacher. Senators absent: None.

SENATOR GLOOR: (Recorder malfunction)...District 35 which is Grand Island, Nebraska. I'd like to welcome you to the Banking, Commerce and Insurance Committee meeting today. We'll take the bills up in the order they were listed on the agenda posted just outside. To better facilitate today's meetings, we have some procedures. They are listed up there on the board to your left, but let me run through them again just briefly. I know you know that you turned off your cell phone, but would you please check just to make sure that it's either on buzz, a silent ring, or turned off. The order of testimony will be the introducer, proponents, opponents, those in a neutral capacity, and then the introducing senator will have the opportunity to close. We would ask testifiers to please sign in and then have your sign-in sheet ready to hand to the clerk when you provide your testimony. If you would not be testifying at the microphone, but would like to let your position be known, there is a sign-in sheet by the front and you're welcome to leave your name and pertinent information there. Please when you provide your testimony, state your name and then spell it for us so that we can have that spelling for the record. We have a clock system. We don't use it, or at least we haven't so far this year, and I would ask you to try and, nonetheless, keep your comments as brief and succinct as possible; five minutes or less please. Written materials need to be distributed to the committee members. Do that when you're providing your testimony. We need ten copies to do this correctly, and if you don't have ten copies let the clerk...let the pages know now so that they can be sure and run those ten copies for you. To my immediate right is committee counsel, Bill Marienau, and down at the end of the table the committee clerk is Jan Foster. And those are the two people, as most of the folks who pay attention to what happens within committee structures know, who keep us afloat on a regular basis. Treat them nicely. I'll let the committee members introduce themselves, and I'll start on my far right with Senator Crawford.

SENATOR CRAWFORD: Thank you. Senator Sue Crawford from Legislative District 45, and that's Bellevue, Offutt, and eastern Sarpy County.

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

SENATOR PIRSCH: Pete Pirsch, District 4, Boys Town, parts of Douglas County, and Omaha.

SENATOR CAMPBELL: Kathy Campbell, District 25, east Lincoln and eastern Lancaster County.

SENATOR CHRISTENSEN: Mark Christensen, District 44, Imperial.

SENATOR CARLSON: Tom Carlson, District 38. I live in Holdrege.

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

SENATOR GLOOR: And our two pages are Will and Nathan who can help us keep things running. And with that, we'll start off today with LB170, which is my bill. And as the introducer, I'll pass the gavel over to Senator Christensen to conduct this hearing.

SENATOR CHRISTENSEN: Go ahead.

SENATOR GLOOR: (Exhibit 1) Good afternoon, committee members. I'm Mike Gloor, G-l-o-o-r. The bill before us today is LB170, a small bill, but can be important to healthcare, social services, and bond financing in communities across Nebraska. Let me give you a little background. In the mid-1980s the Legislature created the Nebraska Investment Finance Authority, NIFA, which serves a number of purposes, but focuses on providing low-cost financing for housing and home ownership. The Legislature has expanded NIFA's authority over time, and most recently in 2006, the Legislature expanded NIFA's authority to provide financing for public safety communications projects. And I'm guessing all the members have heard of NIFA. LB170 is about a companion entity that probably is new to you and that you haven't heard of. It's the Nebraska Educational Finance Authority. It's likely that none of you have heard of NEFA. I know it was an entity that I, myself, was unfamiliar with until I was approached with this potential bill. NEFA was created about the same time as NIFA in the mid-1980s to assist Nebraska's private higher education communities in obtaining low-income bond financing. NEFA is governed by a board appointed by the Governor, receives no state General Funds, and operates entirely with user fees. NEFA has served as an important source of low-income financing for 40 years to institutions such as Creighton, Wesleyan, and Hastings College. Nearly every state has some sort of entity like NEFA. A large number of states, like Missouri and South Dakota, combine educational finance with healthcare finance in their authorities. Other states, like Colorado, combine educational finance and cultural finance. The natural connection between educational finance and healthcare finance makes sense when you think that colleges and universities have medical schools and nursing schools. Even the name of the trade association for this group, the National Association of Health and Educational Facilities Finance Authorities, demonstrates the connection between higher education finance and educational finance. What LB170 does is expand NEFA's financing authority to include healthcare and social service financing so NEFA would be able to issue bonds for organizations such as Alegent or Goodwill Industries if LB170 passes. It's also important to note what LB170 does not do. This bill does not require any entity to use NEFA to issue tax-exempt bonds. Instead, LB170 merely gives an additional financing option for healthcare and social service organizations to use if they choose. LB170 does not give any entity the authority to bond that doesn't already have that statutory authority. If you couldn't bond before this bill, if it passes you won't be able to bond just because this bill passes. If you can bond now, this bill will give you one additional option when you're choosing financing vehicles. I have an amendment that we passed out to you. Bond counsel has recommended, based upon concerns they have with statutory language, of the necessary or precise nature of that language. It's a good thing they are because the language that we adopt will be the language that's used when they draft bond documents and enforce financing obligations. The amendment adds clarifying language requested by bond counsel and financing organizations that have reviewed the bill to make sure the intent is clear, and there will be a testifier that speaks specifically to that. There will be additional testifiers who will further describe why this expansion of authority is being sought, the problem that will be solved by extending NEFA's authority, and in more detail, exactly what the bill does. To summarize, just as we have from time to time expanded NIFA's authority to modernize its statutory mandate, LB170 expands NEFA's authority and modernizes its statutory mandate. I believe the bill is beneficial to our healthcare and social service industry in Nebraska, and has the opportunity to save money and time for a number of organizations. I'd be happy to answer questions, but as I've said, there are a number of testifiers behind me that will speak with a greater degree of specificity than I have. Thank you. [LB170]

SENATOR CHRISTENSEN: Thank you, Senator Gloor. Is there any questions? Senator Campbell. [LB170]

SENATOR CAMPBELL: Thank you, Senator Christensen. Senator Gloor, when you say if you're not eligible to bond this won't make you eligible. I'm making the assumption, and I want to know if that's a correct one, that meaning that if you aren't tax exempt now, you're not going to make somebody tax exempt or if you don't have the financial... [LB170]

SENATOR GLOOR: Well...authority to be able to... [LB170]

SENATOR CAMPBELL: ...authority of stability? [LB170]

SENATOR GLOOR: That is, in fact, the latter rather than the former, is my intent. [LB170]

SENATOR CAMPBELL: Okay. [LB170]

SENATOR CHRISTENSEN: Senator Pirsch. [LB170]

SENATOR PIRSCH: Is there a specific outlay of entities and you are preexisting, you said if you're not eligible now, you won't be eligible after this. Is there a specific...and I haven't looked at the particular language, but it's a recitation of those type of institutions or organizations that would be eligible to use the bonding authority? [LB170]

SENATOR GLOOR: Well, I can think of a few, but I think, Senator Pirsch, rather than take a stab at it... [LB170]

SENATOR PIRSCH: Yes. [LB170]

SENATOR GLOOR: ...I think I'll make one of the testifiers behind me to make note of your question who can, in fact, be a little all inclusive in terms of giving you some examples of organizations. [LB170]

SENATOR PIRSCH: Wonderful. Thank you. [LB170]

SENATOR GLOOR: Thank you. [LB170]

SENATOR CHRISTENSEN: Senator Crawford. [LB170]

SENATOR CRAWFORD: Actually, I was just going to ask about how that was documented because I just wasn't seeing anything about that in terms of laying out the organizations, unless it's underneath some other criteria that's laid out. One question I would have is if there are any boundaries in terms of a 501(c)(3) so this...in terms of what would qualify and not qualify. [LB170]

SENATOR GLOOR: I think that...good questions, both. First of all, this issue of bonding really goes back to, you know, entities that have the statutory authority for bonding purposes and covered under individual statutes, a variety of statutes. Again, I'm sure somebody will address that. [LB170]

SENATOR CRAWFORD: Okay. [LB170]

SENATOR GLOOR: And I think once you're designated a 501(c)(3), I think that in and of itself as a designation within the IRS probably is how that's defined. But I may be off base on that, in which case somebody will clean up for me afterwards. [LB170]

SENATOR CRAWFORD: Okay. [LB170]

SENATOR CHRISTENSEN: Are there any other questions for Senator Gloor? Thank you. [LB170]

SENATOR GLOOR: Thank you. [LB170]

SENATOR CHRISTENSEN: Proponents? [LB170]

LINDA BEAVER: (Exhibit 2) Good afternoon, ladies and gentlemen, and Senator Christensen, thank you so much for your time today. My name is Linda Beaver, B-e-a-v-e-r, and I am the executive director of the Nebraska Educational Finance Authority. And what we would like to ask of you today is to consider an amendment to our statute that would allow us to issue bonds for the hospitals and the social service agencies in the state as we currently do for the private colleges. To date, we have issued bonds for every single private, not-for-profit college in the state of Nebraska. And to get to your point, Senator Pirsch, about eligible institutions, under sections 7 and 8 of the statute it does list the eligible institutions. When we say that it would not allow anyone who isn't currently having access to the market, what it means is they have already been granted, through the state, the ability to access tax-exempt financing; be it the hospitals have the option of either using an appointed hospital authority, the city, or the county. And what we would do is merely be adding another option for them. And that would be beneficial, we believe, because of the fact that we are a statewide issuer. We literally have instances where hospitals, for instance, have had to do multiple financing transactions in order to accomplish the expansion that they have needed because of the fact that...of the geographic boundaries of the hospital authorities and/or the city or the county. As you go forward, you see a lot of expansion happening as far as mergers with health-service agencies, and when that happens they are oftentimes crossing those geographic lines. And so a statewide issuer will bring to them the efficiency of being able to do these transactions in one financing. Let's see. I'd also say that we were last before this committee two years ago in 2011, and that was for the purpose of just cleaning up some technical clarification in our statute. So although that was a while ago, it was very minimal. So I'm sure that anybody who, if you were on this committee then, you probably don't remember us from then. And that's okay. Let's see. And as far...like I said, this would not allow anybody access to the market who cannot today have access to it, be it a social service agency such as a Goodwill, a Salvation Army, all of those types of places who currently have--through the last constitutional amendment in the last year a bill that was passed--to allow them access. And they have the same issues that the hospitals and the colleges do. You know, colleges have satellite campuses. And through a statewide issuer, they're able to do that through one financing. So why shouldn't these other entities have that same advantage? There was literally the instance of Methodist Hospital in Omaha. When they built their Women's Hospital--that's out like, I don't know, way out in west Omaha, almost Elkhorn--they were also doing some facility work at the main hospital. It just so happens that Dodge is the dividing line for the hospital authorities there, and literally one project was north of Dodge and the other project was south of Dodge. And because of that, they had to use multiple authorities in order to do that financing. So that would help them in that instance. I know there has been some questions raised as far as the banks whether or not this would be an issue for them. And we have worked in partnership with the local banks here in Nebraska for a number of years. And I can tell you, in the last four years every single transaction we have done has been done through what we call private placement bonds and/or notes, and it was with banks that we did these transactions. Specifically, American National, Omaha State, and Union Bank are all three banks that we have done these things with, so we do work in partnership with them whenever possible. The decision on whether or not an entity will use tax-exempt financing in order to procure the funds that they need for a project is made well before they ever come to me. Oftentimes that is a decision that's made for a number of reasons. Normally it's a matter of cost and because so often the tax exempt-market, of course, is a more effective cost ratio for them when you consider the interest rates that are available. And having to do multiple issues not only creates more paperwork, more labor intensity, but also additional cost for them. We also believe that LB170 will bring us in line with other states by allowing us to do these types of financings. It, as Senator Gloor had mentioned, it's very common across the country for these types of entities to have one statewide issuer doing both types of financings. And I'd be happy to answer any questions you might have. [LB170]

SENATOR CHRISTENSEN: Are there any questions for Ms. Beaver. Go ahead, Senator Schumacher. [LB170]

SENATOR SCHUMACHER: Thank you, Chairman Christensen. And thank you for your testimony today. Just to educate me a little bit on it, how does the thing work? Let's say I'm a hospital, I want to build a big, pretty new building, and I need $100 million. I come to you--is that step one--and say, issue some bonds in my name or issue some bonds in your name to get the $100 million? [LB170]

LINDA BEAVER: There will be a number of things they'll do. They'll often, before they come to me...they could come to me first. You know, that could be their procedure. And they could ask me to assist them in writing an RFP that they would then send out to banks. They could send it to banks, they could send it to underwriting houses, whatever they wanted to do is where they would send that RFP then. Oftentimes, though, when they come to me, they've already selected the avenue by which they want to access the markets, be it a tax-exempt financing through an underwriter or a regular transaction through a bank. [LB170]

SENATOR SCHUMACHER: But let's say I want to use you and I want to use your tax-exempt quasi-government status. [LB170]

LINDA BEAVER: Uh-huh. [LB170]

SENATOR SCHUMACHER: You're not government, right? [LB170]

LINDA BEAVER: No. We're considered a quasi-state agency in that we receive no funds from the state. [LB170]

SENATOR SCHUMACHER: And you don't pledge the credit of any government agency? [LB170]

LINDA BEAVER: No. [LB170]

SENATOR SCHUMACHER: Okay. [LB170]

LINDA BEAVER: The bonds are a complete faith in credit of the borrower. The state of Nebraska nor the authority itself has any financial or moral obligation to these bonds. [LB170]

SENATOR SCHUMACHER: So if I'm XYZ hospital, are the bonds issued to--and I'm selling it to a purchaser--are they issued as obligations of XYZ hospital or of NEFA? [LB170]

LINDA BEAVER: The offering document and all of the documents would refer to the...whatever the new name is that we end out with. [LB170]

SENATOR SCHUMACHER: Do you have some? [LB170]

LINDA BEAVER: But today...you always try to come up with something that you can pronounce and make a word out of, but this one didn't work. You...they will come to us, the board will meet and have a discussion about the issuance, they pass an authorizing resolution. We have a...what's called a TEFRA hearing. It's a public hearing where members of the public are allowed to come and voice and ask questions of us. And after that, then we will work with them to issue the bonds. The documents will read that it is, right now, the Nebraska Educational Finance Authority. In the case of some that we've done for Creighton, then it says Creighton University Project. And so... [LB170]

SENATOR SCHUMACHER: But you're the issuer of those bonds? [LB170]

LINDA BEAVER: We are the issuers. We are a conduit issuer by which they access it. [LB170]

SENATOR SCHUMACHER: And then you issue the bonds, people give you money, you have a pile of money. And then does the hospital or the whoever is the real borrower, do they then take out a loan from you or how do they make their payments to you so that you can pay off the bondholders? [LB170]

LINDA BEAVER: It will go through a trustee, and that's why we have an indenture of trust or in the case of a private placement with a bank, the bank holds those funds. NEFA does not ever have custody of those funds. They are either with the trustee or, in the case of a private placement with a bank, with the bank. [LB170]

SENATOR SCHUMACHER: How come? [LB170]

LINDA BEAVER: And then they loan them out and they are paid back through the trustee or directly to the bank. [LB170]

SENATOR SCHUMACHER: But you're still the issuer? [LB170]

LINDA BEAVER: We are still the issuer. [LB170]

SENATOR SCHUMACHER: Now a couple of years ago we saw this, I think, in connection with some government authorized things that were changed by a constitutional amendment. There is a provision of the Nebraska Securities Act which puts some real heavy duties on the issuer not to...to make absolutely full disclosure and stand liable for a lack of full disclosure in the event that there's any misleading statements or failures to clarify things in the disclosure. And I think there was some concern in that particular bill, if I remember right when it went through, that there were some special exemptions that were needed so that folks like you would not be held to that standard of omission and negligence in the context of that. And where it strikes me is if you're the issuer under this expanded authority when you're bringing in hospitals and other things where, conceivably, something could go wrong... [LB170]

LINDA BEAVER: Uh-huh. [LB170]

SENATOR SCHUMACHER: ...that you would want to be exempt from exposure as an organization if something went wrong and those bonds went belly up. [LB170]

LINDA BEAVER: I'm not familiar with the bill that you're talking about. I would refer that on to bond counsel who will follow. But I will say that as far as disclosure goes, there are a number of disclosure regulations that are required by the IRS that we have to adhere to. [LB170]

SENATOR SCHUMACHER: Okay. Thank you. I'll take it up with bond counsel then. [LB170]

LINDA BEAVER: And so...okay. [LB170]

SENATOR SCHUMACHER: Thank you. [LB170]

SENATOR CHRISTENSEN: Senator Carlson. [LB170]

SENATOR CARLSON: Thank you, Senator Christensen. The question I'm going to ask may show my lack of understanding, but I'll ask it anyway. LB170 would allow a nonprofit to have the option to authorize one bond issuance instead of several. And let me give you an example. Let's say a hospital in Lincoln was going to build a facility in Holdrege. And under existing law if there was bonding in Lincoln, there would also need to be bonding based on what was built in Holdrege, if I understand correctly. But LB170 would allow the hospital in Lincoln not to do that. Now I'm always sensitive to a financial impact that there might be on a rural area. Would that...if that instance occurred and so the bonding is done by the hospital in Lincoln and nothing really in Holdrege, is there any negative financial impact to the rural community, the smaller community? [LB170]

LINDA BEAVER: Not to my knowledge. [LB170]

SENATOR CARLSON: If there...if it's issued for the facility in Holdrege, is there any financial gain for Holdrege to have it done that way? [LB170]

LINDA BEAVER: In the instance I think you're talking about--and correct me if I'm wrong--the hospital...and what we're seeing is the hospital would have a project in both locales, one in Lincoln and one in Holdrege. Under the current way of issuing the bonds, they would have to do two different transactions. This would allow them to do one to cover both projects. But neither one should be impacted one way or another because the bondholders are still looking at the credit of the...not the issuer, the borrower in this case, be it XYZ hospital. Did that answer your question? [LB170]

SENATOR CARLSON: Well, it probably does because in your opinion then whether the bond was issued specifically to cover a facility in Holdrege or in Lincoln or one for both, there really is no financial advantage to the rural community either way. And it's kind of a technical question and I may ask it again. But as far as you are concerned, you don't see any advantage or disadvantage for the smaller community? [LB170]

LINDA BEAVER: I have a banker who will be testifying... [LB170]

SENATOR CARLSON: Okay. [LB170]

LINDA BEAVER: ...also and as far as my expertise is, I would say they're going to be looking at just the plain corporate entity and that it shouldn't make a difference. But I will let Nate answer that. [LB170]

SENATOR CARLSON: Okay. Thank you. [LB170]

SENATOR CHRISTENSEN: Senator Campbell. [LB170]

SENATOR CAMPBELL: Thank you, Senator Christensen. My question has to do with if you're not crossing boundaries, but you're self contained in the community, and we'll take the example of a long-term care facility who wishes to do this in Lincoln and Lancaster County. Would there be any advantage or disadvantage if they chose to go through you rather than the hospital authority? [LB170]

LINDA BEAVER: Not necessarily, no. And then that's completely their choice as to who they want to use. [LB170]

SENATOR CAMPBELL: Okay. Thank you. [LB170]

LINDA BEAVER: Uh-huh. [LB170]

SENATOR CHRISTENSEN: Senator Pirsch. [LB170]

SENATOR PIRSCH: I appreciate your testimony here. So with respect to how you're operating now with the narrower scope than you hope for... [LB170]

LINDA BEAVER: Uh-huh. [LB170]

SENATOR PIRSCH: ...is there a board that helps guide you in your mission or... [LB170]

LINDA BEAVER: The Governor appoints our board of directors of seven people. And at those board meetings they are required to have expertise in certain areas, and that has been of a great importance to us. I have the chairman of my board who will be testifying, and he will be talking about the areas and whatnot and how that fills in. But, yes. [LB170]

SENATOR PIRSCH: Wonderful. And those are set out in statute, the particular background or experience or requirements, whatever of the individuals? [LB170]

LINDA BEAVER: Correct. Correct. It is in our statute. [LB170]

SENATOR PIRSCH: Given the expanded mission if this were passed, would that require a different composition of board? [LB170]

LINDA BEAVER: Yes, and we have it in there. I don't know the section number off the top of my head. I'm sorry. But, yes, it does actually add somebody from healthcare and somebody from social services as, not an add in number of people, but an add in the number of the expertise areas. [LB170]

SENATOR PIRSCH: Okay. And the two new categories that are being added to higher education, healthcare institution, and private social services, these are...this paradigm of having these three used in other states is pretty common? [LB170]

LINDA BEAVER: Uh-huh. [LB170]

SENATOR PIRSCH: Would you...how many other states, do you know, are using this? [LB170]

LINDA BEAVER: To my recollection of our trade association that we belong to, we've got 35 states as members represented in that. And like, oh, off the top of my head so please don't hold me to this... [LB170]

SENATOR PIRSCH: Oh, sure. Well, if you don't know, I'm fine with that. But... [LB170]

LINDA BEAVER: But, I mean, well over...I'd say at least 60, 65 percent of them are dual issuers. [LB170]

SENATOR PIRSCH: Okay. Over 65 percent of the... [LB170]

LINDA BEAVER: Yes. I would say 60...at least 60 percent, 65 percent, and this is countrywide, nationwide... [LB170]

SENATOR PIRSCH: Of the... [LB170]

LINDA BEAVER: ...of the issuers in the association that we belong to. [LB170]

SENATOR PIRSCH: Okay. So you would assume a number of other states are doing it this way too. [LB170]

LINDA BEAVER: Yes. And I do know that also Nate Eckloff, who will be testifying later, will address that also. [LB170]

SENATOR PIRSCH: Okay. And what type of activities does the board do when they do meet--the seven-member board? Like what types of input or types of activities to they do when...I assume... [LB170]

LINDA BEAVER: In relation to the financings or everything? [LB170]

SENATOR PIRSCH: I'm sorry. In relation to these...your already existing ability to do bonding with respect to health...I'm sorry, higher education. [LB170]

LINDA BEAVER: Well, the board now, of course, other than the regular administrative stuff of the authority, you know, approving budgets and that sort of thing, they do authorizing resolutions for the transactions that we do issue, hold the hearings for it. When we do an issue or propose an issue for a borrower, we ask that they come and present the project to the board of directors and they will hear that. [LB170]

SENATOR PIRSCH: And then does the board have to vote to authorize such? [LB170]

LINDA BEAVER: Yes. Yes. [LB170]

SENATOR PIRSCH: Has there been instances--I'm sure everything is pretty cut and clear and usually authorized--is that... [LB170]

LINDA BEAVER: By the time they make it to the board meeting, yeah, they're pretty...it's pretty cut and clear. [LB170]

SENATOR PIRSCH: Okay. Thank you. [LB170]

SENATOR CHRISTENSEN: Senator Crawford. [LB170]

SENATOR CRAWFORD: Thank you, Senator Christensen. Could you speak to the impact of broadening your authority on your original higher education people that you serve? So can you speak to the extent to which you are confident that there is adequate staff, adequate credit, adequate resources to expand your scope and still serve your higher education members as well? [LB170]

LINDA BEAVER: Yes. The staffing...we can handle the additional work of that. As far as...are you referring to availability of cash for it? It's...they're merely a matter of the bond being sold on the market so it's what the market can bear. And there always seems to be a market for tax-exempt finance. [LB170]

SENATOR CRAWFORD: Thank you. [LB170]

SENATOR CHRISTENSEN: Are there any other questions? Thank you, Ms. Beaver. [LB170]

LINDA BEAVER: Thank you so much for your time. [LB170]

GREG DIETRICH: Good afternoon, Senator Christensen and members of the committee. My name is Greg Dietrich, that's G-r-e-g D-i-e-t-r-i-c-h. I'm an attorney with Kutak Rock in Omaha, and we've been bond counsel to NEFA for a number of years. And a number of things, through the questions that I was going to cover, have kind of been brought up. But I think I'll just go through what I had prepared if only because I think it might answer a few of the questions that kind of remain standing out there. My task was kind of to describe, generally, the process that NEFA follows when it issues bonds. And, Senator Schumacher, I think you were asking questions about that. As Linda has kind of touched on, NEFA's really historical purpose has been to be the sole statewide issuer of tax-exempt bonds for nonprofit, private, higher education institutions within the state. LB170 would expand that by just really allowing NEFA to do the same thing it's always done, but adding the two categories we've already discussed. There are, as we've already discussed, a number of other issuers that can already do this, but what NEFA really brings to the table is they are the only ones that can do it on a statewide basis. So that's really allowed them to focus on and develop a lot of expertise in the issues that the educational institutions and, hopefully, the social services institutions find important. A couple of examples are Linda and NEFA have been able to develop expertise in continuing disclosure and compliance with the securities laws, as well as arbitrage and rebate requirements under the tax code, and also monitoring investments while bond proceeds are still on hand prior to being expended for a construction project. In terms of the process that they use in issuing bonds, a private institution would identify a capital project that they're interesting in securing financing for. They'd work with their financial advisor and NEFA to try to figure out whether that project itself qualifies for tax-exempt financing under the statute and to try to structure it in a way that would be financially suitable or beneficial to the private institution. To the extent NEFA does issue the bonds, as Linda mentioned, NEFA is a conduit, meaning they issue the bonds, take the proceeds, and typically just loan the money to Creighton University or whomever pursuant to a loan agreement, and then pledge the receipts that it gets under the loan agreement as security for the payment of the bonds. The loan agreement then contains certain restrictive covenants on the borrowing institution. For example, there might be financial covenants where that institution has to maintain certain financial ratios, they have to maintain the tax exemption on the bonds, they are prevented from certain divestitures of assets, prevented from taking on additional debt unless they comply with the restrictions. Then assuming they can come upon a transaction that is to everybody's liking, typically NEFA's board of directors would review and adopt a resolution approving the project, approving the issuance of the bonds, and approving all the documents that are going to be put in place and govern the bonds while they remain outstanding, including a disclosure document probably. Then the bonds are issued, sold to investors either in a private or direct placement to a bank or in a public offering, take the proceeds, loan them to the private institution. So that same process would be followed for...if NEFA issues bonds for healthcare institutions or social services institutions. And none of these amendments being made are in any way unique to those financings. Also, as has been mentioned, the LB170 would modernize the statute just by making some fairly minor or clarifying amendments. And a good example is it would make the statute consistent in saying that one type of project that is financeable is capital equipment acquisitions. That's really...those are the end of my prepared remarks. If you would like, I've written a few notes that I might address some of the questions that I thought remained outstanding. I, like Linda, am not familiar with the bill I think you were describing, Senator Schumacher, that might provide some sort of securities exemption for NEFA when they issue bonds. I'm not aware of that either, but NEFA is...there's really no way they can get around it, particularly, in a public offering. They have to come up with an official statement like a prospectus that describes all material facts that are necessary to make an investment decision and don't omit a material fact to make them...that would make an official statement misleading. So they already have to do that; there's really no way around that. They also have to file annual statements on each bond issuance outstanding and report, under an electronic disclosure system, any material event that might affect the bond. So, for example, if two years after issuance bonds are downgraded, they have to file a material event notice with--it's called AMA--but it's a national filing so anybody looking up the bonds can see that they've been downgraded. I think she also touched on in sections 8 and 10 of LB170 that describe the new entities that can be issued for, and one of them is the private healthcare. And it relies on its...Nebraska provides statute section 71-413. It says any of the entities that can take advantage of this is an entity that is licensed under the Health Care Facility Licensure Act, and they have to be nonprofit and a private institution. And then also, I do think one of the advantages, and I don't recall who asked the question, of NEFA issuing bonds in this way even if it was a local issuance that only one issuer. I believe, Senator Campbell, you might have asked that question. I do actually think there is some benefit. And I don't want to pick on anybody here, but for example, some of the local hospital authorities, their real sole function is to issue bonds. And they might only meet once every ten years when a new bond issuance is going to go out. They don't really deal with ongoing compliance or provide any expertise to that entity that wants to do a financing. Whereas NEFA, because she's involved and they're involved in so many financings and have an ongoing day-to-day operation, they are able to provide something and provide services after closing which, you know, even if it's just a single jurisdiction, I think they add that. With that, I'd conclude and ask if there are any questions. And thank you for allowing me to appear. [LB170]

SENATOR CHRISTENSEN: Senator Pirsch. [LB170]

SENATOR PIRSCH: Thanks for coming by today and offering your expertise. With respect to the NEFA board, right, and we're talking about theoretical not...which, you know, obviously this would expand the scope. But to what extent is...the NEFA board would have to go ahead and authorize the proposal whether it's a hospital or educational or social services? Or is it, mandatorily if you meet the requirements, we must? [LB170]

GREG DIETRICH: I--with apologies--I'm not the Kutak Rock attorney who's the day-to-day counsel for NEFA. And I've worked with them before, but I'm not intimately familiar with their day-to-day operations. [LB170]

SENATOR PIRSCH Uh-huh. [LB170]

GREG DIETRICH: As a practical matter, I think the answer is yes, they have to approve everything. But the board does delegate a lot of authority to its executive director to negotiate the final details on a transaction. So NEFA has models of what they've done, you know, on prior transactions, the type of restrictions they are going to require on a borrowing institution, the financial ratio covenants I've described, and that sort of thing. So the executive director and staff know what type of project, number one, qualifies under the statute, but also the board is going to be willing to approve. So they, I would think, do a pretty good job of whittling out those projects that we're not interested in doing those. Beyond that, yes, I think the board has to approve and/or delegate whatever authority to...they have to approve all their issuances. They are the issuer. [LB170]

SENATOR PIRSCH: They must approve all their issuances but--that's true--but I'm just saying with every proposal, whether it's a higher educational institution or hospital or social services entity that approaches you and meets the financial requirements, is there any other type of discretion or is that it? As long as you meet the metrics set forth for being able to repay the bonds or whatnot... [LB170]

GREG DIETRICH: Oh, no. I mean... [LB170]

SENATOR PIRSCH: ...there's no additional...go ahead. [LB170]

GREG DIETRICH: Excuse me, I'm sorry. Perhaps I didn't appreciate the question. NEFA is only going to issue those bonds that its board of directors approves. It's not required to issue bonds. There's no checklist that says if somebody shows up you have to issue these. [LB170]

SENATOR PIRSCH: Okay. So there's total discretion, then... [LB170]

GREG DIETRICH: Yes. [LB170]

SENATOR PIRSCH: ...in terms...okay. That's all I wanted to establish. And then with respect to who might actually use this...obviously, with the example that was given by the first testifier where...and it seems kind of, you know, commonsensical. There's one...you know, Methodist is one block south of Dodge Street at 84th and then out by my neck of the woods it's one block north of Dodge Street. And so two blocks, you know, variance in terms of north and south, but that Dodge Street barrier forms...but is that going to be the only...is this going to be just utilized in urban settings where there is this or is it where, you know, other than in Douglas County, will this be utilized greatly? [LB170]

GREG DIETRICH: I don't know the answer. I would think...I personally think that it...the clearest, easiest example is more of an urban setting like a Douglas County or because it's close to Sarpy County there, you know, still in the metro area. [LB170]

SENATOR PIRSCH: Uh-huh. [LB170]

GREG DIETRICH: I would think Lancaster County, probably there is some spillover as well where one hospital or social services might spillover into a...so that's the best example. But I would also think that in some of the smaller, less populated counties they still have a demand for these sorts of things, and their issuers are just less experienced. You know, it's kind of a unique thing so it is more difficult, I think, for them to issue bonds, to get a grip on it and issue those bonds. NEFA can help with that. [LB170]

SENATOR PIRSCH: So the issuing cost may be lower using this NEFA than perhaps the city or county hospital type of authority? [LB170]

GREG DIETRICH: Yeah. I don't know the answer to that. I think the question...there might be two different parts to that question, meaning the issuance costs of the professionals and NEFA putting the deal together versus what the market might require of that issuer? For example, I don't know if the market is familiar with a county in western Nebraska issuing hospital revenue bonds. And there is a price to pay. Sometimes the market likes familiar names in the bond market. [LB170]

SENATOR PIRSCH: I see. [LB170]

GREG DIETRICH: So...but I...perhaps Nate Eckloff, who will follow me here, can provide some gloss on that as well. [LB170]

SENATOR PIRSCH: Yeah. Well, that's helpful. You're saying maybe there's two different factors of that in terms of being able to perform the issuing duties at a lower cost, but also the market may not be...might make...may require additional discounts or whatnot if you're a obscure issuer. [LB170]

GREG DIETRICH: I would think that's right. I'm not really the person to answer that. [LB170]

SENATOR PIRSCH: Okay. [LB170]

GREG DIETRICH: I certainly know, just from my position, that different issuers that have a history, people are familiar with that and more trust that, right? So they're willing to take less return. But... [LB170]

SENATOR PIRSCH: Okay. Fair enough. Thanks. [LB170]

SENATOR CHRISTENSEN: Senator Campbell. [LB170]

SENATOR CAMPBELL: Thank you, Senator Christensen. And just as a note for the record. Prior to the Legislature and when I was a private citizen, I served on the Lincoln/Lancaster hospital authority. And one of the big differences, at that point, was that the public hearing and all of the documents had to go through the county board because it was that level of government. So the hospital authority here did all the things that you're talking about, but that hearing and the final documentation was at the county board level. It's probably about the only difference. And I don't know if there's a hospital authority in every county or multiple counties. To answer Senator Pirsch's question about rural Nebraska, I should think this would be a help. This bill would be a help in those situations. [LB170]

GREG DIETRICH: I would agree. I have some experience with a smaller county, the healthcare authority, the hospital authority issuing. They were all very happy to do so. It's an honor to those folks to get together and help their own community. But it's a steep learning curve because they just don't do it very often. So... [LB170]

SENATOR CAMPBELL: Right. [LB170]

SENATOR CHRISTENSEN: Senator Carlson. [LB170]

SENATOR CARLSON: Thank you, Senator Christensen. I'll ask you the same question, maybe in a little different way than I asked Linda. But...so we have a hospital in Lincoln that's going to have a satellite facility in Holdrege, 165 miles away. In your estimation, whether it's one bond or two, is there any advantage to the smaller community that there be two bonds rather than one? [LB170]

GREG DIETRICH: Linda Beaver struggled with the answer to that. I was listening and was struggling to think of an answer myself. I...Linda's response saying it's still the same borrower of the money--I think in your hypothetical--the same institution borrowing the money. They're just taking two loans out rather than one. It doesn't seem to me that the risks are any different on those two loans. It's the same borrower. [LB170]

SENATOR CARLSON: All right. So the source of the money would probably be the same for both bonds--the source of the loan. Who would tend to sell those bonds if it was in Lincoln? Now who would those bonds be sold to? [LB170]

GREG DIETRICH: As I had mentioned in my comments, I mean, NEFA can issue bonds on a private placement basis to a bank or just a...where it's not...well, it can do a public offering which we're all familiar with. A prospectus or official statement where somebody like Mr. Eckloff from RBC would sell them across the country to the public or NEFA can do private placements where it finds one very, very...you know, financial institution or that sort of thing that is willing to just purchase all of the bonds themselves. [LB170]

SENATOR CARLSON: And if that happened and the bank in Lincoln purchases...handles all those bonds, they're going to be sold in Lincoln and probably not have people in the community of Holdrege with an opportunity to purchase them? [LB170]

GREG DIETRICH: That's correct, although the...it could be a bank in Holdrege that buys the bonds as well. If a bank in Lincoln buys them, they won't be able to resell them to anybody else. If it's a private placement there are restrictions on later sales of those bonds. If it's a private placement, the idea would be that bank or whoever buys them, buys them and holds them for 30 years. [LB170]

SENATOR CARLSON: And if it's not a private placement, it...they would be sold out to the public? [LB170]

GREG DIETRICH: Correct. [LB170]

SENATOR CARLSON: And if they're sold out of Lincoln the chances are rather slim that they would have buyers in Holdrege. I don't know, but that could be a disadvantage to investment for the smaller community if they're not offered. And maybe in a case like that, those that are wanting to sell the bonds to try and make sure that some of them are offered in the smaller community. But if it wasn't, that would be a possible disadvantage I think. [LB170]

GREG DIETRICH: Perhaps. And Mr. Eckloff, whose job it is to publicly offer bonds, might be able to provide some more input better than I on that. [LB170]

SENATOR CARLSON: Okay. Thank you. [LB170]

SENATOR CHRISTENSEN: Senator Schumacher. [LB170]

SENATOR SCHUMACHER: Thank you, Senator Carlson (sic--Christensen). Thank you for your testimony today. You're bond counsel for NEFA, is that your role? [LB170]

GREG DIETRICH: Correct. Kutak Rock. [LB170]

SENATOR SCHUMACHER: And the bonds that are issued are securities? [LB170]

GREG DIETRICH: Correct. [LB170]

SENATOR SCHUMACHER: And are they issued pursuant to any exemption from the Nebraska Securities Act? [LB170]

GREG DIETRICH: I don't know the blue sky law. Yes. The answer is yes. And they're exempt under federal securities laws as well. But they're not exempt from federal disclosure requirements, that (SEC Rule) 10b-5 which you've heard of, that requires them to have an offering document that describes every material fact, and not omit a material fact, that would make the offering documents materially misleading as to the investment that's being sold. [LB170]

SENATOR SCHUMACHER: And they're not exempt from the corresponding provisions of the Nebraska Securities Act. [LB170]

GREG DIETRICH: I would think that is correct. [LB170]

SENATOR SCHUMACHER: Okay. That being the case, could you tell me the difference between the standard of disclosure and burden of proof in the federal act as opposed to the Nebraska act? [LB170]

GREG DIETRICH: I cannot. I'm not...I can get you an answer. I'm not... [LB170]

SENATOR SCHUMACHER: If the Nebraska...if the federal act requires scienter, actual mean thoughts when getting somebody's money, and the Nebraska act is only a negligence standard and places the burden of proof on the issuer and those who are advising the issuer, if that's the case, and then makes the issuer responsible for attorney fees and repayment of the money, do you see that when we expand out the authority of NEFA from a fairly stable situation of not-for-profit institutions of higher education, which is a...they're probably going to be around. I think we've had one fail in the last few years, but they're probably going to be around for a while, and then expand out the ability for NEFA to put its label on a bond and go out into the marketplace, and it wanting to finance social services things that are largely probably dependent on government revenue streams which might be cut as budget things are dealt with, do you see any unnecessary exposure there for NEFA by letting these kind of secondary and maybe weak entities use its label and exposing NEFA, NEFA's other assets, NEFA's directors and officers to something that it...to having to defend these lawsuits? [LB170]

GREG DIETRICH: Well, that's a good question. As you described that, I mean, those same securities laws would apply to whomever in Nebraska were to issue those bonds so they would...that issuer... [LB170]

SENATOR SCHUMACHER: But in this case, they're carrying NEFA's trademark. [LB170]

GREG DIETRICH: Sure. Fair enough. Right. But the nature of the risk would be the same no matter who's issuing it. [LB170]

SENATOR SCHUMACHER: Except that if somebody else did it, it wouldn't be your client. [LB170]

GREG DIETRICH: Yes. But having said that, I mean, NEFA is extremely careful. And a lot of time is spent doing diligence with the underwriter of the bonds to make sure that the official statement is very thick and describes every material fact about those...about the investment, about the social services entity that's going to be on the hook so that the investor is making an informed decision that they are investing in that social services entity's ability to repay under the loan agreement. Yeah, I mean, there's nothing to prevent somebody from saying, after the fact if a transaction goes bad, that you should have disclosed something else but... [LB170]

SENATOR SCHUMACHER: Would it be better, safer, more protecting the integrity of NEFA...is it a part of this if we do advance this bill, we exempt NEFA from those provisions of the Nebraska Securities Act? [LB170]

GREG DIETRICH: Again, without being familiar with those provisions particularly, I would have to say yes. I mean, it would be beneficial to NEFA. Again though, I do think that whether...well, it would be because it would eliminate a cause of action perhaps. But it would not change NEFA's disclosure procedures or what they disclose at all. [LB170]

SENATOR SCHUMACHER: Thank you. [LB170]

SENATOR CHRISTENSEN: Any other questions? Thank you, Mr. Dietrich. [LB170]

GREG DIETRICH: Thank you. [LB170]

SENATOR CHRISTENSEN: Next proponent? [LB170]

LOWELL BERG: (Exhibit 3) My name is Lowell Berg, L-o-w-e-l-l B-e-r-g. Senator Christensen, thank you. And thank you, members of the committee. I'm the current chair of NEFA. And Senator Gloor mentioned that we're volunteers that are appointed by the Governor and we represent different disciplines. I'm an architect. Our vice chair, Jane Erdenberger, is a retired tax bond attorney who now teaches at Omaha North; Paul Powers is a member from Hastings, he's a CPA; Cori Sampson-Vokoun is from Lincoln and represents construction; Rick Spalding is a banker from Fremont; and Maryanne Stevens from Omaha is the president of the College of Saint Mary; and Jim Watts, our last member, is also a CPA from Omaha. So these are the disciplines that are represented in our volunteer board. And I'm an architect so I'm there for a specific purpose. So please don't ask me too technical questions about any of the financing. But we're going to...if the bill passes, we're going to expand, as has been mentioned, two more people, and they would represent then healthcare and social services. So we would have that expertise on board as well. I did bring with me--someone mentioned someone who would use this--I brought a letter of support from Goodwill Industries that I will hand out. And they, in particular, are people who would like a statewide authority for all the work they do around the state. As mentioned before, too, I think there are over 40 states, in fact--even that are maybe not members of our trade association--over 40 states have coauthorities. So this is something that's very common throughout the United States to combine health and higher education. That's all I'd like to say. I just wanted to update you and let you know what kind of board we have and open it up for any questions that you might have of me. [LB170]

SENATOR CHRISTENSEN: Are there any questions for Mr. Berg? Seeing none, thank you. [LB170]

LOWELL BERG: Thank you very much. [LB170]

SENATOR CHRISTENSEN: Next proponent? [LB170]

NATE ECKLOFF: (Exhibit 4) I'm bringing water because I have a cold, not because I think I'll be here for a long time speaking. Senator Christensen and other senators on the committee, my name is Nate Eckloff. I'm managing director with RBC Capitol Markets in Denver, Colorado. [LB170]

SENATOR CHRISTENSEN: Could you spell that for us, please? [LB170]

NATE ECKLOFF: Okay, excuse me. Nate is N-a-t-e and Eckloff is E-c-k-l-o-f-f. In our firm, RBC Capital Markets, RBC was formerly known as Dain Rauscher. You might know that name here in Lincoln. We have offices here in Omaha...in Omaha, I should say, as well as here in Lincoln. By way of background, I was born in Holdrege, Nebraska, raised in Minden, and I still have deep roots in Kearney County in a farm north of Minden. Graduated from University of Nebraska in agriculture and was president of the Alumni Association from 2006 to 2008. RBC Capital Markets, again by way of background, is the fifth-ranked underwriter in the United States. We're part of the Royal Bank of Canada which is a major U.S., Canadian, and global institution, and we have both investment banking, underwriting, as well as purchase of bonds. We're similarly situated with other institutions, other banking institutions, like Wells Fargo, U.S. Bank, J.P. Morgan, and First National Bank of Omaha who also both underwrite bonds as well as purchase bonds. So that's a little bit about the background of the firm. My experience is 30 years in public finance and I have underwritten... been involved in 750 financings, a little over $10 billion. It includes both higher education and healthcare finance. As investment bankers, what we do is we work with bond counsel such as Greg Dietrich from Kutak Rock and with issuers and borrowers to sell tax-exempt and taxable bonds to fund projects and refinance debt when it's advantageous. So that's just a little bit about what we do. When I heard about this bill when I was talking to Linda Beaver, I volunteered to testify on behalf of the measure because I think it's good for healthcare and social service issuers in Nebraska. Clearly, this bill improves the ability of Nebraska healthcare and social service entities to access the markets on a tax-exempt basis. The bill allows for the issuance to occur, multi-jurisdictional entities to issue bonds, and streamlines the process into one agency. The bill helps potential Nebraska borrowers and our clients. And to get to your question, Senator Carlson, the benefit in a local community, first, from these projects it would be an entity--I think you said was Lincoln and Holdrege would be a combination--the real benefit is in the construction of the project itself because that's where a lot of the money goes into a local community. So you'd have the construction dollars going there, but as to the purchase of the bonds what's important to realize is that if the bonds are publicly offered, has a firm with brokerage offices in the state, if it's publicly offered, we set up what are called local priorities. And the first people we call are the people in the local communities where the project is being funded. It just makes sense. If you know a project is being funded in Holdrege, you're going to call people in the Holdrege community because they know the project and they're more likely to buy the bonds. So from our perspective as brokers, we want to make sure those bonds are offered both to local individual investors as well as local banks. And they'll usually buy it more aggressively than people who don't know the community. As to private placements, which Greg had also mentioned in his comments, likewise we'll look at local banking institutions to purchase those bonds because the local banks on a private placement basis very much know the entities locally. And so they'll be involved with that purchase as well. So you have the advantage of both construction occurring in the community, which would happen regardless I suppose, but then also you have us in the financial industry looking to sell bonds into your community because you're the most likely people to buy the bonds; the local folks. Senator Pirsch had asked about the number of entities around the country, and I have a list here. I have copies of this...I could hand this to you, if you don't mind. As was mentioned, there are at least 40 other states in the United States...wow. I don't know what I said. Well, it was either really good or really bad, I'm not certain. There are at least 40 other states who have similar authorizing entities. That could be either healthcare related, higher education related, or combined, or in some instances, for example, Iowa, you'd see they have a finance authority that issues for both as well. So hopefully that's helpful in your deliberations. Another question that was asked that I think I'll address is the cost of issuance, because streamlining the bond issuance into one entity will save in the way of costs. I know, for example, I wasn't involved directly with our firm, but we were involved with the financing for Immanuel health care systems in the Douglas County and Sarpy County area. And I know there we had to use three separate issuers to get that transaction done. Now that would suggest there were maybe three separate costs of issuance costs that were involved in that transaction. So by streamlining it into one entity, you'd likely have lower cost of issuance because you'd only have one bond counsel fee, you'd only have one trustee fee, issuance fees, those types of things. So there are cost effective...there is a cost-effective measure to this. Another thing that Greg Dietrich had talked about that I think is important to emphasize is the compliance size of this, which is important to us as underwriters. More and more you hear in the news about compliance, about all the things that went on, and there are more and more federal regulations now involved in our business. NEFA helps local healthcare...or will help local healthcare and social science...social service borrowers, excuse me, in a couple of ways. First, they'll help with arbitrage compliance, which is very important. You have to comply with arbitrage regulations or you may lose your tax-exempt status for the bonds. Second, they'll offer continuing disclosure guidance which is very important in today's market. Big consternation after 2008 with some issuers perhaps not providing full disclosure of what was going on. The Municipal Securities Rulemaking Board stood up and had more serious regulations put in place for continuing disclosure. And so through the FCC and the Municipal Securities Rulemaking Board they have regs that have to be followed by local issuers any time there is a material event, and NEFA provides guidance to local issuers, to higher education facilities, and to...will provide guidance to healthcare and social service entities, as well, about keeping up with continuing disclosure. So it is an added benefit that NEFA adds. To conclude, LB170 benefits Nebraskans by helping multi-jurisdictional healthcare and social service entities access the tax-exempt market on a cost-effective basis. So I see this as being very positive for the state of Nebraska, for Nebraskans, and for the healthcare institutions and social service enterprises in the state. I see no downside from the underwriting or investment banking or banking side of this transaction...this bill, I should say. Are there any questions? [LB170]

SENATOR CHRISTENSEN: Senator Carlson. [LB170]

SENATOR CARLSON: Thank you, Senator Christensen. Mr. Eckloff, you know, I spotted you early and I thought there's something special about this guy. [LB170]

NATE ECKLOFF: Uh-oh. We're not related, are we? [LB170]

SENATOR CARLSON: Well, it had to be that you grew up...that you were born in Holdrege. And Eckloff, you must be at least 50 percent Swede? [LB170]

NATE ECKLOFF: Yah. [LB170]

SENATOR CARLSON: Du talar svenska? (Do you speak Swedish?) [LB170]

NATE ECKLOFF: Yah. [LB170]

SENATOR CARLSON: Yah. Well good, I don't. But thank you for being here, and you kind of helped clear up the question that I had. [LB170]

NATE ECKLOFF: Well, good. Thank you. [LB170]

SENATOR CHRISTENSEN: Senator Schumacher. [LB170]

SENATOR SCHUMACHER: Thank you, Senator Carlson (sic--Christensen). And thank you for your testimony today. The social services organizations that might be using NEFA as a vehicle to borrow money from the public, what is the basis of their income stream? Is most of that relying on federal government monies? [LB170]

NATE ECKLOFF: It would be federal or either federal grants, state grants. There would be some revenue paid in depending upon the type of agency. I think it's all across the board. You'd have to look at each one, in particular, and look at their revenue stream. But clearly some have more--for example, Medicare or Medicaid--impacts than others do, for example. And some have more private pay, so it would be all over the board on the various types of revenue streams you'll see, depending upon the nature of that social service enterprise. [LB170]

SENATOR SCHUMACHER: So if you're betting on a...let me back up a bit. Is...when the bond is issued for XYZ social agency, is that relying only upon the resources of XYZ social agency to fund that bond or is all of NEFA's resources... [LB170]

NATE ECKLOFF: It would just be on that social service agency only. [LB170]

SENATOR SCHUMACHER: Okay. [LB170]

NATE ECKLOFF: And so we, as underwriters, will look to that credit and evaluate that credit and our determination as to whether or not we felt, from a financial perspective, that bond would be marketable. And if it's a weak credit stream then, in all likelihood, it may not be saleable in the public markets. [LB170]

SENATOR SCHUMACHER: And so basically, what the investor is betting on is that the federal government will continue to fund this or that social program. [LB170]

NATE ECKLOFF: If that, in fact, is a major source of their revenue, yes. [LB170]

SENATOR SCHUMACHER: Okay. Does NEFA get its operating revenue from the spread between what it pays the bondholders and what it charges the agency? [LB170]

NATE ECKLOFF: They get a small fee. They get a fee up front when the bonds are issued, and then they assess each of their borrowers a small amount each year that helps pay their operating fees. So it keeps them off...from receiving any state dollars whatsoever. [LB170]

SENATOR SCHUMACHER: So there's no interest spread between what they... [LB170]

NATE ECKLOFF: There's no interest spread per se, I don't believe. That's how I would call it. They are charged basis points based on how many bonds they have outstanding. [LB170]

SENATOR SCHUMACHER: And that's kind of a membership or some kind of... [LB170]

NATE ECKLOFF: You could look at it that way. That would be one way of saying it, yeah. [LB170]

SENATOR SCHUMACHER: Thank you. [LB170]

NATE ECKLOFF: You're welcome. [LB170]

SENATOR CHRISTENSEN: Are there any other questions? Thank you, Mr. Ekloff. [LB170]

NATE ECKLOFF: Thank you very much. [LB170]

SENATOR CHRISTENSEN: Next proponent? [LB170]

TIMOREE KLINGLER: (Exhibit 5, 6, and 7) Good afternoon, Senator Christensen, members of the committee. My name is Timoree Klingler, that is spelled T-i-m-o-r-e-e K-l-i-n-g-l-e-r, and I am here on behalf of the Nebraska Hospital Association today. We are in support of LB170. With the ever-increasing need to expand and accommodate healthcare facilities and services, the Nebraska Hospital Association contends that this legislation would expand much-needed funding opportunities for healthcare construction projects. Through this legislation, private, not-for-profit hospitals would have assistance with acquisition, construction improvement, and renovation projects. Facilities that are in need of current expansion might be able to begin these projects sooner than will be possible without this legislation. The Nebraska Hospital Association fully supports LB170 and would ask that the committee advance the bill to General File by discussion by the body. I can't speak today, sorry. I also have a couple of letters of support from two of our member hospitals that I will distribute, Methodist Health System and Immanuel. Be happy to answer any questions. [LB170]

SENATOR CHRISTENSEN: Are there any questions? Thank you. [LB170]

TIMOREE KLINGLER: Thank you. [LB170]

SENATOR CHRISTENSEN: Next proponent? [LB170]

THOMAS O'NEILL: Senator Christensen, members of the Banking Committee, my name is Thomas O'Neill, that's spelled T-h-o-m-a-s O-N-e-i-l-l. I am the president of the

Association of Independent Colleges and Universities of Nebraska. The Association of Independent Colleges and Universities is a consortium of 14 privately controlled, nonprofit colleges and universities which are located here in the state. And you might ask, why are we willing to share NEFA with healthcare entities and social service entities? And I guess the answer to that--and we are here in support of LB170--and I guess the answer to that is because they are, like us, entities that serve the greater public interests. And we think that this bill, which allows them to have access, which they already have access to...to bond financing makes a lot of sense because we have great confidence in the NEFA board and the people who...and Linda Beaver and her staff that administer NEFA. They do a great job. They do a great job for us, and we think they'll do a great job for any legitimate hospital entity or social service entity that comes to them with a project that is deserving of getting an issuance. And we have confidence in the bond counsel, Kutak Rock. I've never been accused of being smart enough to be a bond counsel, by the way, even though I'm kind of an attorney. But the underwriters who work with NEFA, the bond counsel, they're a great group. And we think that it will help NEFA thrive into the future by having an additional book of business for them to work with. And so we support the bill and we hope you advance it. I'd be happy to answer any of your questions. [LB170]

SENATOR CHRISTENSEN: Are there any questions? Senator Schumacher. [LB170]

SENATOR SCHUMACHER: Thank you, Senator Christensen. It kind of appears that up to this point you've got a good thing going. You've got a vehicle for borrowing money from the public under NEFA's trademark. [LB170]

THOMAS O'NEILL: Right. [LB170]

SENATOR SCHUMACHER: By adding to the mix with these social service agencies--which are highly dependent upon what might be volatile federal sources of funding--when an investor buys that NEFA bond, it'll have the same trademark on the outside as when they buy a bond of a private institution. And if somebody looses money on those weaker source funding bonds, are you at all concerned that that may reflect back on your ability to borrow money using the NEFA trademark? [LB170]

THOMAS O'NEILL: Well, no, because again, the bonds are issued under the name of not only NEFA, but the entity that borrowed...that actually got the borrowing because NEFA issues the bonds. It says Creighton University NEFA. You know, or... [LB170]

SENATOR SCHUMACHER: But that's a Creighton University issue, but Creighton University is not the issuer. Under the... [LB170]

THOMAS O'NEILL: No. NEFA is the issuer, but it has Creighton University...you'll also have XYZ social service entity on the separate bond that's issued by NEFA. [LB170]

SENATOR SCHUMACHER: But that's kind of what I've been saying, that since NEFA is legally the character in charge, it's like saying, well, that was issued on green paper and that one is on orange paper. [LB170]

THOMAS O'NEILL: Well, but there were Dana College bonds issued on NEFA paper and it hasn't weakened any of the subsequent bonds that have been issued by NEFA. [LB170]

SENATOR SCHUMACHER: Did those bondholders get burned? [LB170]

THOMAS O'NEILL: I'm not in a position to answer that at this point because I don't know the answer to that, but I know that Dana College had bonds that were issued by NEFA. [LB170]

SENATOR SCHUMACHER: Okay. Thank you. [LB170]

THOMAS O'NEILL: Uh-huh. [LB170]

SENATOR CHRISTENSEN: Are there any other questions? Seeing none, thank you. [LB170]

THOMAS O'NEILL: Thank you. [LB170]

SENATOR CHRISTENSEN: Next supporter? How about any opponents? [LB170]

ROBERT HALLSTROM: Vice Chairman Christensen, members of the committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association, in opposition to LB170. Before I get started with my somewhat prepared remarks, I would like to set the record straight so Mr. Eckloff doesn't feel badly about his return to Nebraska and the departure of half of the audience. That was the NBA leadership group that's in town. Unfortunately, I was asked by the leader just before they left when I was going to testify and I said, very soon. So you can form your own conclusions as to why they left. A lot of times troubles begin when you have an interest in both sides of an issue. With regard to the banking industry, we have interest on all three sides of this issue. Banks are interested in making direct loans to some of the entities that would be covered under this legislation. We also are involved, on occasion, in the private placement of these bonds as bankers, and we also buy many of these bonds in the local communities where they're issued. I think that historically, and Mr. Kenny from NIFA can probably attest to this as well, we have traditionally scrutinized any expansion or mission creep by the agencies NEFA, NIFA, or others that are looking to expand the scope of eligible entities for low-bond financing. And we've done no differently here. We do have some concerns with regard to the expansions to the hospital districts and the social service agencies. I do understand--I have not seen the amendment--but there was some indication that perhaps it's been expanded even beyond hospital districts to long-term care facilities so, with concerns about expansion, that may be going in the wrong direction. We would also note for the committee, whether it's right or wrong, there's also not only expansion in terms of the eligible entities, but there's new language in the bill that would also expand the permissible projects for improvements and equipment which was not in the initial NEFA financing. I think in closing, Ms. Robak has shared some information with us since our government relations committee met on this issue. We do, fortunately, have the ability to have our board of directors meet this coming Friday. And based on that information, we will certainly take the issue back to the board for further review and discussion. So I may be coming to the committee if there's a possibility that the board of directors of the NBA takes a different posture this Friday, and will certainly pledge to let the committee know if there's a change in our position on this legislation. Be happy to address any questions. [LB170]

SENATOR CHRISTENSEN: Thank you, Mr. Hallstrom. Senator Schumacher. [LB170]

SENATOR SCHUMACHER: Just one question. The amendment...proposed amendment to (LB) 170 talks in terms of eligible swap termination payments. I should have probably asked somebody other than you, but do you know what that is? [LB170]

ROBERT HALLSTROM: You were correct in your first assumption that you should have asked somebody other than me. [LB170]

SENATOR SCHUMACHER: I don't have any further questions. [LB170]

ROBERT HALLSTROM: There shall be no swapping in this chair. Senator Carlson, I did want to...I don't know if it'll balance the supporters and the opponents, I'm not born in Holdrege, but I am 50 percent Swede so if that makes any difference. [LB170]

SENATOR CHRISTENSEN: Mr. Hallstrom, if the equipment part of that stuff was out, would that remove the bankers' objections or... [LB170]

ROBERT HALLSTROM: Senator, I don't know that that's a major... [LB170]

SENATOR CHRISTENSEN: Aware about it. [LB170]

ROBERT HALLSTROM: ...that it was not only expanding the entities that are eligible, the green copy, and then as I understand, perhaps even further under the amendment. That would be, the primary nature is not necessarily with the improvement and equipment. I wanted to draw that to the committee's attention. It's more with regard to the expansion. And I think to expound on that and maybe to cover or address a little bit of Senator Carlson's question, I think there are some impacts that can occur in the smaller communities. Obviously, the committee needs to balance the issue of whether or not having a statewide issuer is a good thing so that you have one issue instead of two. At the same time, if there is a requirement to have two issuers, I think one of the earlier witnesses said that these are not as commonly understood or appreciated in the rural areas, so there perhaps would be an issue, number one, where a direct loan would be made to that hospital project as opposed to a bond placement. Or, even if it was done in a bond placement where the local community had to be involved, it's probably more likely that the local bank will be involved in that direct placement as opposed to something that's a combination Lincoln/Holdrege project where it's going to source out of Lincoln and probably be involved with one of the larger issuers that's testified today. [LB170]

SENATOR CHRISTENSEN: To follow up with that a little bit, when they're issuing bonds couldn't the local banks or any of them participate in it? [LB170]

ROBERT HALLSTROM: Well, the local banks, depending upon how they are issued. I think one of the witnesses said something, that I didn't necessarily know would be the case, in Senator Carlson's example of the Lincoln hospital having a satellite in Holdrege and if they're doing projects in both places so that they qualify for this statewide issuer, my assumption would be most of that would be operated out of Lincoln. Now the earlier witness said that those bonds, in fact, would be marketed, because there is a portion of the project that's related to Holdrege, it would be marketed in the local community of Holdrege, which would be a positive thing because banks do get involved in buying those bond issuances that have an impact on their local community. [LB170]

SENATOR CHRISTENSEN: Thank you. Any other questions? Senator Carlson. [LB170]

SENATOR CARLSON: Thank you, Senator Christensen. And you did not attempt to answer what swap termination payment is, correct? [LB170]

ROBERT HALLSTROM: I would not even attempt that, Senator. [LB170]

SENATOR CARLSON: Okay. And just as a question, I'd be interested in what that does mean, so if somebody afterward can tell me, I'd appreciate that. [LB170]

SENATOR CHRISTENSEN: Senator Pirsch. [LB170]

SENATOR PIRSCH: And again, I apologize. I was presenting at another committee. But I just...maybe you can add to the conversation of this or at least I can impart it on the audience, and maybe I can have this answered later. But with respect to the existing language of who this...who can take advantage of me for bonding, it...obviously right now institutions of higher education which I would assume are--given the definition on page 8 of the bill which has been in effect--relatively few in number in the state--not too many--and the...with respect to the healthcare institution, as it's defined in the bill--and this is new language on page 7--insofar as they must be "licensed under the Health Care Facility Licensure Act," it seems like those would not be too numerous. I guess my question is, with respect to the other, the private social services bonding that may take place, have you had a chance to look at that section that deals with.. [LB170]

ROBERT HALLSTROM: I'm aware of it, Senator. I think with regard to the licensed healthcare facilities, the way the bill--and I may have misread it--the way the bill was explained to me by the supporters that it was talked about hospital districts. And now there's some suggestion that either I misread the bill or didn't understand that the green copy applied to long-term care facilities in addition to hospitals or perhaps there's an amendment that's going to do that. One way or the other, it's my understanding that both hospital districts and long-term care facilities would now be covered as eligible to take advantage of this type of financing. And I'm not sure how broad the social service agencies are. [LB170]

SENATOR PIRSCH: Well, and that was my question is I'm trying to get an understanding in terms of will the majority of projects...I would assume that just in terms of raw numbers, private social service institutions are more numerous, much more numerous. And I just wonder the implications that that would be in terms of the average deal that...bonding deal that NEFA engages in and... [LB170]

ROBERT HALLSTROM: Well, Senator, I think there would be more in number, whether or not the need is there, quite frankly. I think one of the witnesses--I jotted down--from Kutak Rock said, hopefully the social services agencies will find this beneficial. One would think that perhaps the social services agencies and hospital districts had affirmatively sought out this beneficial aspect, but I'm rather imagining that it came from NEFA in expanding its base and the interest therein. But there could be benefits to both segments. [LB170]

SENATOR PIRSCH: Yeah. So I'm just...I'm kind of sending up a signal to all that, you know, I'd be interested in finding out more information as to what types, you know, numbers, what types...I would assume there's a certain, you know, a large cost that would go into these type of bonding threshold costs such that not every type of, you know, that only certain social service institutions for certain projects would it be worthwhile. But I'd be interested in fleshing out just exactly, with respect to that category, what is likely to transpire under that. So... [LB170]

ROBERT HALLSTROM: I would imagine, Senator, the senators....the supporters of the bill would probably suggest that by having a statewide issuer they could perhaps lower those costs. But that's their business, obviously. [LB170]

SENATOR PIRSCH: Sure. Okay. Thank you. [LB170]

SENATOR CHRISTENSEN: Senator Crawford. [LB170]

SENATOR CRAWFORD: Thank you, Senator Christensen. Thank you. I was...you had mentioned you were testifying in opposition, and in general principle you're concerned about expansions like this. [LB170]

ROBERT HALLSTROM: Uh-huh. [LB170]

SENATOR CRAWFORD: So I wondered just for the record if you'd clarify the concern. Is it primarily a concern in terms of risk, primarily a concern in terms of competition, or you have concerns on both fronts? Like, what is...could you clarify for the record your primary expansion concerns? [LB170]

ROBERT HALLSTROM: Yeah. Senator, I think...yeah, not so much on the risk. I think Senator Schumacher has pointed out some potential issues there, but that's not what brings us to the table. And obviously, we're a little bit torn since we're on all three sides of the issue, as I suggested. But I think the primary motivator, from the initial comments that we got from our banks, is that in any number of arenas, whether it's a government-sponsored enterprise, whether it's a quasi-governmental agency, there's always the competitive factor of are those loans and are those healthcare providers...for example, one of the issues that I tried to clarify with our bankers when they said, we make loans to healthcare providers, is that--at least in the green copy--healthcare providers was specifically defined notwithstanding the term to apply to hospital districts, as I understood it. Now it may also apply to long-term care facilities, but it doesn't apply to individual healthcare providers that are in the medical community that banks might be making loans to. So we've clarified that so there's no misunderstanding with our bankers in that respect. [LB170]

SENATOR CRAWFORD: Thank you. [LB170]

SENATOR CHRISTENSEN: Senator Campbell. [LB170]

SENATOR CAMPBELL: Mr. Hallstrom, I'm going to make a comment more than a question, just so that I want people to realize some of the thoughts here. And that is, if I step back and sit as the chair of the Health and Human Services Committee, one of the major issues facing us in the future here and the human services--I'm not even going to deal with the health, I'm going to human services--and social service agencies, is that time and again we know that we're going to have to move to more community-based services. And in the rural nature of Nebraska, they are clamoring for some of those services. And it may be such a case that a bill like this may be able to help some of those agencies establish themselves in very needed parts of the state. So I just want to keep in mind that having been in an agency that looked at funding--but because we didn't have the statutory authority--but we went through the whole process, we couldn't have been examined more thoroughly finance wise as to whether we could pay this back and all. I mean, we went through such a rigorous test of that. They were not any less tough on us than they would on a hospital or a business in terms of whether we could repay those bonds. So, boy, I don't know. The scrutiny was there, that's for sure. [LB170]

ROBERT HALLSTROM: Yes. And Senator, I believe that would definitely be the case with regard to the underwriting. I think Senator Schumacher's questions went to the issue of disclosures, and are there some potential exposures from disclosures or should we make an exemption for them which might go to a different issue in terms of liability for the issuer. [LB170]

SENATOR CAMPBELL: Right. [LB170]

ROBERT HALLSTROM: But I think those credit underwriting decisions would be made no differently. [LB170]

SENATOR CAMPBELL: Exactly. [LB170]

SENATOR CHRISTENSEN: Senator Schumacher. [LB170]

SENATOR SCHUMACHER: Thank you, Senator Christensen. Thank you for your testimony today, Mr. Hallstrom. When a bank would make a loan to one of these organizations that would be covered under this act, and how would that interest rate generally compare to what they'd have to pay under a bond issued through here? [LB170]

ROBERT HALLSTROM: I would assume generally the bond issuance is going to have favorable rates for the hospital district or whatever entity would be involved. They inevitably are going to have a competitive advantage in terms of the interest rate that can be provided. [LB170]

SENATOR SCHUMACHER: Any estimate on how many basis points? [LB170]

ROBERT HALLSTROM: I don't know what the basis-point differential would be. [LB170]

SENATOR SCHUMACHER: Thank you. [LB170]

SENATOR CHRISTENSEN: Are there any other questions? [LB170]

ROBERT HALLSTROM: Thank you. [LB170]

SENATOR CHRISTENSEN: Thank you, Mr. Hallstrom. Anybody else in opposition? Anyone in the neutral? Senator Gloor. And he waives. That will close the hearing on LB170. Next we'll have LB616. Senator Schumacher. And I'll turn it back over to the Chairman. [LB170]

SENATOR GLOOR: Thanks. Good afternoon, Senator Schumacher. [LB616]

SENATOR SCHUMACHER: Thank you, Senator Gloor, members of the committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r. I represent District 22 in the Legislature, and I'm here today to introduce LB616. Just to put everyone's mind in the right focus, think of this as the regulation of Western Union on steroids. This bill is being introduced on behalf of the Nebraska Department of Banking to modernize regulation of the industry which is engaged in the transmission of money. The proposed act is based upon model legislation drafted by the Money Transmission (sic--Transmitter) Regulators Association which is a group of state regulators. It would replace our current law that's called the Sale of Checks and Funds Transmission Act that is currently on the books. The bill clearly defines the products and services that are intended to be covered by it. It sets out licensing standards and continuing duties for licensee, and it proposes to transition the licensing process to a thing called the National Mortgage Licensing System and Registry. It divines a system that would regulate the conduct of the authorized delegates, which are basically the sites at which you purchase these money transmission vehicles, and it provides for administrative and criminal sanctions in the event somebody violates the act. There are some very competent people to explain what appear to be technical provisions of this act and which really aren't that difficult, I think, once they're adequately explained. So I would encourage you to ask them questions, but in case you want to, I'm available for questions now. [LB616]

SENATOR GLOOR: Thank you, Senator Schumacher. Are there any questions for Senator Schumacher at this point? Seeing none, are you going to close, Senator Schumacher, do you think? [LB616]

SENATOR SCHUMACHER: If it will be, it'll be really short. [LB616]

SENATOR GLOOR: Okay. Could I see a show of hands of those who would like to testify on this specific bill, please? I just see a couple of hands. Okay, thank you. We'll start with proponents. Director Munn. Please. [LB616]

JOHN MUNN: (Exhibit 1) Chairman Gloor, members of the Banking, Commerce and Insurance Committee, my name is John Munn, M-u-n-n. I'm director of the Nebraska Department of Banking and Finance. I am appearing today in support of LB616, which was introduced at the request of the department. And I'm going to paraphrase my testimony in order to respect your schedules, so when you see me turn a page that will be a cue that I'm moving on. LB616 proposes the adoption of the Nebraska Money Transmitters Act and the concurrent repeal of the Nebraska Sale of Checks and Funds Transmission Act. This legislation will enhance and modernize regulation of money transmitters in Nebraska. A money transmitter is an entity in the business of accepting funds from one person and paying those funds to another person. The medium of transmission may be a money order, a prepaid card, a wire transfer, or an internet-based money transfer. The companies we license share one common feature. They have control over the funds that are being transferred from one person to another. Nebraska has regulated this industry since the passage of the Sale of Checks Act in 1965. The act has been amended a number of times since that time, including 2001 revisions that renamed the act to clarify that it applies to electronic funds transmissions. The money transmission industry has changed radically since 1965. The number of our licensees has grown from fewer than 5 at the time of enactment to 61 today. These licensees offer services from approximately 2,200 Nebraska locations. The increase in licensed entities has been driven largely by technology. In 1965 most of the instruments that were issued were paper instruments such as money orders. Today there are licensees which only offer their services over the internet allowing customers to send money via their computers and mobile devices. The growth of this industry and the changes in technology warrant modernizing the statutes which govern it. During the 1990s, the Money Transmitter Regulators Association, a group of state regulators, prepared a model legislative outline for states to use in updating their laws regulating money transmitters. Over 30 states have updated their laws based upon principles in that outline. LB616 is modeled after recently adopted statutes in those states. LB616 will enhance the supervision of money transmitters in Nebraska in a number of ways, incorporating uniform definitions, updating the list of exemptions, and enhancing consumer protections against the insolvency of a money transmitter. It also outlines the documentation for initial and renewal license applications and clarifies the responsibilities of authorized delegates and the department's enforcement authority related to licensees, authorized delegates, and unlicensed persons. One of LB616's exemptions is gift cards redeemable by the issuer or an affiliate for goods and services such as restaurant gift cards. They do not constitute money transmission; therefore, no license is required. LB616 also clarifies the law regarding authorized delegates, the people who enter into a relationship with a licensed money transmitter to conduct money transmission business on behalf of that licensee. For example, many grocery stores offer a money transmission service through Western Union. Western Union is the licensee, the individual grocery store is the authorized delegate. LB616 provides that licensees and authorized delegates must enter into written contracts and outline the authorized delegates' responsibilities. Under current law if an authorized delegate were to embezzle customer funds, the department does not have the ability to take any enforcement action against that delegate. LB616 gives the department enforcement authority over authorized delegates which violate the law. LB616 would allow the department to use the Nationwide Mortgage Licensing System and Registry, the NMLSR, to process license applications. Nebraska joined the NMLSR in 2008, and we currently use it to license mortgage bankers, mortgage loan originators, and installment loan companies. As it has done with these industries, using NMLSR to license money transmitters will bring efficiencies to the licensed companies and to the department. Before closing, I want to clarify that the amount of licensing fees, the minimum net worth requirement, and the surety bond amounts required will remain the same under LB616 as under current law. The licensees will pay an annual fee of $100 to the NMLSR, however. I'd like to thank Senator Schumacher for introducing LB616, would welcome any questions you have. [LB616]

SENATOR GLOOR: Thank you, Director Munn. Are there any questions? Senator Pirsch. [LB616]

SENATOR PIRSCH: And I'm referencing the second page of your testimony at the bottom... [LB616]

JOHN MUNN: Uh-huh. [LB616]

SENATOR PIRSCH: ...with respect to licensees and authorized delegates, Western Union in, say, a grocery store. So under current law if the authorized delegate were to embezzle, the department doesn't have the ability and this would give the department authority to...over those authorized delegate groceries stores... [LB616]

JOHN MUNN: Exactly. [LB616]

SENATOR PIRSCH: ...in this hypothetical. With respect to the licensee, who in this hypothetical just so happens to be Western Union, is that something in which you've always had regulatory oversight? [LB616]

JOHN MUNN: Yes. And would have the ability to go against the bond of a licensee in that event. [LB616]

SENATOR PIRSCH: Okay. So this just adds another actor. [LB616]

JOHN MUNN: Exactly. [LB616]

SENATOR PIRSCH: Okay. Thank you. [LB616]

SENATOR GLOOR: Senator Crawford. [LB616]

SENATOR CRAWFORD: Thank you, Senator Gloor. You mentioned the licensing fees, minimum net worth, and surety bonds remain the same as under current law. Two questions. One, how does that compare to the model statute? Does the model statute speak to fees and net worth requirement and surety bonds? And the second question is, if we make this more efficient and we're doing these things electronically, would that create the possibility to lower fees? [LB616]

JOHN MUNN: The fees generally vary on a state-to-state basis regardless whether they've adopted the uniform act. I was kind of intrigued. Where we currently...under our current statute, we charge $1,000 for somebody to apply to be a money transmitter. Colorado charges $7,500 and their annual renewal fee is $7,500 where our annual renewal fee is $250. [LB616]

SENATOR CRAWFORD: Interesting. [LB616]

JOHN MUNN: So the fees aren't tied to the model statute. [LB616]

SENATOR GLOOR: I've got a question for my education, I guess. We just went through Select File or had a bill that went through Select File today on remittance transfers. [LB616]

JOHN MUNN: On? [LB616]

SENATOR GLOOR: Remittance transfers. [LB616]

JOHN MUNN: Oh. Uh-huh. [LB616]

SENATOR GLOOR: And I think those are covered under the Electronic Funds Transfer Act or something along those lines. [LB616]

JOHN MUNN: Uh-huh. [LB616]

SENATOR GLOOR: In what way are those different than what we're talking about here? [LB616]

JOHN MUNN: I really can't comment to that. My basic understanding is the remittance transfer is more done an institutional basis... [LB616]

SENATOR GLOOR: Okay. [LB616]

JOHN MUNN: ...you know, rather than on a consumer basis. [LB616]

SENATOR GLOOR: Okay. That would actually seemed to answer that question pretty nicely for me though. Other questions? Thank you. [LB616]

JOHN MUNN: Thank you. [LB616]

SENATOR GLOOR: Next proponent. Good afternoon. [LB616]

EZRA LEVINE: (Exhibit 2) Good afternoon, Mr. Chairman, members of the committee. My name is Ezra Levine, E-z-r-a. I decided I had to spell my first name. Levine, L-e-v-i-n-e. I come from Washington, D.C., I'm with the law firm of Morrison and Foerster. When I testified in Idaho, the commissioner said to me, whatever you do when you're out here, make sure when you say you're from Washington you say you're not from the federal government. So I am not from the federal government. I am the counsel to The Money Services Round Table. The Money Services Round Table is the organization which represents the large, nonbank, money transmitters. The names are in my prepared testimony which I will not read; it's way too boring. But it is American Express, Western Union, MoneyGram, RIA, Sigue, and the Integrated Payment division of First Data Corporation. All of those companies issue, in one form or another, either money orders, travelers checks, nonbank-stored value, in the case of American Express, or money transmission. Now the director, I think, did a great job because I think his testimony really gave you, at least in my view, sort of a very fair soup to nuts sort of outline of this statute. I wouldn't disagree with anything, and since he regulates my clients I have to be nice to him down the road. But, in fact, this is model legislation developed by the states. It has worked very, very well in those states that have adopted it. And I think the first state that adopted it, as I said, Idaho--Idaho and Tennessee back in about 1990, 1991--and yes, Nebraska...Senator Crawford, Nebraska is a business-friendly state. The user fees, the amount of the bond are relatively on the low side. Some states, my clients would say, are a ripoff. But some states are very, very high; these are low. There is no model number in the model. It's for each state to decide based on the unique economic circumstances of that state and the way its regulatory authority is funded. Years ago--I was telling the director at lunch today that--years ago I testified in a state and one senator or assemblyman in the state--you know, normally there are two bodies--and said to me, well, Mr. Levine, why, why, oh, why do we need a statute like this? And so I took my legal pad and I wrote "money order" and held it up and I said, would you buy this? And they said...oh, they laughed. And I said, but that's all a money order or in the case of a money transmission really is. You get a receipt, you get a piece of paper. And in the case of the Internet, you get something you can print out. And it's all based on trust just like putting your money in a bank. And so the idea is that you need regulators using reasonable regulation to make sure that these entities are, in fact, who they say they are. We all know about Western Union, they're huge on the radar screen so everybody knows. It's like Hershey bar or IBM or Frigidaire. You know, it's a commonly known Xerox, commonly known name. But there are lots of others, whether they're big companies or small companies, that consumers don't necessarily know. And so this is one way of ensuring to the max or assuring to the maximum extent practicable that, in fact, there are adequate assets at the company at all times equal to the amount of outstanding obligations on a dollar-for-dollar basis. It's a very good thing. And there's a statutory trust involved in the case of potential bankruptcy. It's a good bill. Again, as I say, it's worked out very, very well. I don't know any state in the United States that has adopted this--there are almost 30 now--where it's been a problem...where there have been any problems. It's kind of a living document in the sense that from time to time, they're updated. I'll comment on NMLS only because it is the biggest, new...it's sort of the idea of the moment, flavor of the month I think is the expression. And it's very, very good. Right now as many people who...there's an influx of foreign companies from the UK and Canada who want to get licensed, too. It's a great market. One, because of immigrants. One, because of the fact that banks are pulling back from doing certain types of transactions. So it's a great market for various kinds of nonbanks. But they look at the United States. And I've spoken in Europe on this and people kind of...you know, their eyes roll, the idea that states still regulate this business. Because if you're a new company and you want to do business in every state, you're talking about 48 state applications. There are two states that have no law, Montana and South Carolina--I'll say nothing, no comment--and then you have the D.C., Puerto Rico, and the U.S. Virgin Islands. So you really have 51 jurisdictions currently where you have to get licensed. One of the great stupidities, if you will, of the current system which, you know, the director addressed, and it really makes sense, is that under NMLS, for example, now there are about 20 states that require fingerprints. Under current laws in most states, the only way you submit fingerprints if you're officers and directors, is on paper. But in multiple states...New York requires four copies. Maryland, where I used to live, requires two copies. And it must be on their piece of paper. The chairman is smiling. But yes, Mr. Chairman, New York has a blue one, an orange one, and a yellow one, and you must use their copies. It's idiot time. So the way to get around this, the way you make this efficient so that it's better for the regulators, but certainly better for the regulated entities, and eases new entries--because that's what you want, you want competition so that rates go down--and the way to do that is NMLS. You file one set of fingerprints, it's electronically distributed to every state in which you want to become licensed. So same thing with your financials, same thing with your background reports. But maybe I ought to be quiet and listen to what you might want to ask me because there are things, you know, that you might find pertinent that I'm not going to cover. [LB616]

SENATOR GLOOR: Thank you, Mr. Levine. [LB616]

EZRA LEVINE: You're welcome. [LB616]

SENATOR GLOOR: Are there questions? Senator Pirsch. [LB616]

SENATOR PIRSCH: And I appreciate that you...I think your testimony was there a few large players or that's just who is represented in your association? [LB616]

EZRA LEVINE: Well, you know, the...in the association, it's the large players, Senator. And what I have found that's unfortunate over the years because of the large players that foot the bill--and I guess I'm expensive--but they always say to me, you know, Ezra, we really need to get all the small players in the group. And the problem is the small players are largely--although they may be terribly honest, and I really mean that, and they're often sector players, they just do the Philippines or something or Mexico--are often relatively small and they just don't want to spend the money. And their theory is, well, the big companies have so much at risk, in this case, they're going to pay Levine to go out there and go to Nebraska. And so, yes, I represent the large companies. [LB616]

SENATOR PIRSCH: Is it particularly a very capital-intensive type of industry to enter? [LB616]

EZRA LEVINE: No, it is not. It is not that capital intensive and if you look at trends that if you go back to the--I want to say '80s, '70s, '80s, '90s--if you look at trends, there was MoneyGram--which was then owned by American Express--MoneyGram, Western Union, a couple of smaller ones, and that was it. And as a result, there was very little competition and, you know, you had to go to one of those four or five. Now, in most states--and I think in the director's testimony there is a number...was the number of licensees--you see a geometric increase in the number of licensees nationwide, not just in Nebraska. And that's because there are really no effective barriers to entry if you get licensed. Licensing isn't that hard. And if you get licensed...you know, I always tell new clients when they come in the door, it's like getting a franchise. And so to answer your question, no, there aren't any real capital requirements other than, in most state statutes like this one assuming you pass it, there is a, you know, there's a net worth requirement. But here it's relatively low. [LB616]

SENATOR GLOOR: With the geometric increase in licensees, has there been a geometric increase in problems, complaints? [LB616]

EZRA LEVINE: No. Almost none, as a matter of fact. California, which you might think--which I happen to know the numbers--California, which you might assume is--because California is a hotbed of people suing and people complaining about many, many things--and I was with people, senior people, the new commissioner of California DFI and on their hot line and on their Internet complaint, they had almost none. And California probably has more licensees, because of their ethnic diversity and immigration patterns, than any other state. There have been almost no failures that I'm aware of, certainly in the last 10 or 15 years. Nobody has lost money and there were almost no complaints. So it really...it works pretty well. Part of it is the competition. Part of it is you have to deliver because in this world word of mouth and the iPad, iPhone, and everything else, people will quickly hear. And what happens is, many of the people who use these services are lower-income people. And they use these services by going on their iPad and iPhone and checking three or four or five vendors every day. If they can get a tenth of a cent better on the foreign exchange spread or slightly less fee, they're going to go if it's an honest broker, if it's somebody who's going to deliver the money. If they hear there's a problem, they won't go even if it's cheaper. They work too hard for this. So in some ways, it's self-policing, but in other ways, yes, you need to have the oversight of a good regulator. [LB616]

SENATOR GLOOR: Thank you. [LB616]

EZRA LEVINE: Thank you. [LB616]

SENATOR GLOOR: Other questions? Senator Carlson. [LB616]

SENATOR CARLSON: Thank you, Senator Gloor. I may ask something that could have been covered. I was out in the hall talking to previous testifiers on the other bill. But thank you for coming the long distance to Nebraska, and hopefully you're here long enough to understand and realize there is no place like Nebraska. But in your testimony, you indicate that 45 states have adopted legislation, and then you list 13 plus Washington, D.C., has similar legislation. And I don't know how much Mr. Marienau had to do with this; he always does really good work. But have you actually read the bill? [LB616]

EZRA LEVINE: Yes. [LB616]

SENATOR CARLSON: Okay. And is...what does similar mean? [LB616]

EZRA LEVINE: Similar means it's almost identical. [LB616]

SENATOR CARLSON: Okay. So it is practically word for word of these 13 states that have adopted it. [LB616]

EZRA LEVINE: Yes. Yes. It is the model, and I've testified in every single one of those states plus more, including ones that weren't the model and...like California, for example. And so I know what they say generally, and this one is true to the model. It's a good bill. [LB616]

SENATOR CARLSON: Okay. Thank you. [LB616]

EZRA LEVINE: Thank you. [LB616]

SENATOR GLOOR: Other questions? Thank you very much... [LB616]

EZRA LEVINE: Thank you. [LB616]

SENATOR GLOOR: ...you can carry a message back. We, in fact, are glad to have people from the federal government in Washington come to visit us. [LB616]

EZRA LEVINE: All right. [LB616]

SENATOR GLOOR: We just prefer they be from the Department of Agriculture, as usual. [LB616]

EZRA LEVINE: Thank you, Mr. Chair. [LB616]

SENATOR GLOOR: Thank you very much. [LB616]

EZRA LEVINE: Thank you. [LB616]

SENATOR GLOOR: Other testifiers as proponents? Opponents? In a neutral capacity? Seeing none, Senator Schumacher. Senator Schumacher waves at us, and thus will close the hearing on LB616. We'll now move to LB38. We'd welcome Senator Wightman. Senator Wightman, glad to have you here. [LB616]

SENATOR WIGHTMAN: Thank you. [LB38]

SENATOR GLOOR: Whenever you're ready, Senator Wightman. [LB38]

SENATOR WIGHTMAN: Okay. Good afternoon, Senator Gloor and members of the Banking, Commerce & Insurance Committee. For the record my name is John Wightman, spelled W-i-g-h-t-m-a-n, and I represent District 36. This committee has jurisdiction over laws governing trusts. The Uniform Law Commissioners Uniform Trust Code was heard by this committee. Now LB38 is intended to conform this uniform act to Nebraska's Probate Code. In order to help understand what LB38 does, some basics of trust law are required and you may already know a lot of this. You all probably know that when a person transfers property to another person in trust, for beneficiaries or a legally acknowledged beneficial purpose, a trust is created. The recipient of the property is called a trustee who has the fiduciary duty to manage the trust and the assets of the trust. Trusts, by their design, can be very flexible to deal with changes in circumstances in the future. LB38 amends the law concerning a feature of a trust law that you may not have heard of before called a power of appointment. I'm sure some of you have heard that. A power of appointment can be granted by the person who created the trust to a holder who may be the creator of the trust or another individual. The holder of a power of appointment can be granted complete or partial control over the ultimate disposition of assets of a trust and who the beneficiaries will be. LB38 makes changes to the current law on powers of the holder of a power of appointment. By its nature this is either the creator of the trust him or herself or someone who the creator of the trust has great confidence in their actions. The purpose of LB38 is to amend the Uniform Trust Code to: one, allow any holder of a power of appointment to represent and bind persons subject to that power as it relates to the trust; and two, state that during the period that the rights of a beneficiary may be terminated by a power of appointment or other power, the duties of the trustee are owed exclusive to the power holder to the extent of the property in the trust and subject to the power. The changes made by this bill are intended to provide uniformity and consistency between the Nebraska Probate Code and the Nebraska Uniform Trust Code. The Probate Code, section 30-3823 has been changed to eliminate conflict of interest language. The same change should be made to the Trust Code so that the holder of a power of appointment, who may be the creator of the trust or a person the creator of the trust trusts, can do what the creator of the trust would want done with the assets of the trust. I would ask you to advance LB38. I will be followed by a representative of the Nebraska State Bar Association who can provide examples better than I of what this change will do to simplify the administration of trusts and further the interests of the person who created the trust. I think most important is that it be the language changed so it would reflect that of the Probate Code at the present time. Any questions? I would try to answer them, but you'll probably have better luck...while we do a lot of trust business in our office or a fairly substantial amount, probably not nearly to the extent that many people that you would hear from later would be doing. So... [LB38]

SENATOR GLOOR: Thank you, Senator Wightman. Are there any questions for Senator Wightman? Senator Carlson. [LB38]

SENATOR CARLSON: Thank you, Senator Gloor. I didn't want you to get away without a question. [LB38]

SENATOR WIGHTMAN: Good thought. [LB38]

SENATOR CARLSON: And I used to know this, but I've forgotten. What's the maximum length that an irrevocable trust can be in power? [LB38]

SENATOR WIGHTMAN: Well, under the...21. Normally, 21 years plus a life in being is what you would hear from a trustee or from Probate Code. [LB38]

SENATOR CARLSON: Twenty-one years plus what did you say? [LB38]

SENATOR WIGHTMAN: A life in being... [LB38]

SENATOR CARLSON: Yes, okay. [LB38]

SENATOR WIGHTMAN: ...which could be a long period of time. [LB38]

SENATOR CARLSON: Yes. It's not a great-grandchild that's not been born yet. [LB38]

SENATOR WIGHTMAN: Well, it could be 21 years after the last one was born. It might end up being a longer period than that, I suppose. But not 21 years beyond the life of that child. [LB38]

SENATOR CARLSON: But life in being is someone who is alive? [LB38]

SENATOR WIGHTMAN: Alive at the time. [LB38]

SENATOR CARLSON: So as long as might be, it's not nearly as long as a perpetual, permanent easement, is it? [LB38]

SENATOR WIGHTMAN: Well, that would be correct. [LB38]

SENATOR CARLSON: Okay. All right, thank you. [LB38]

SENATOR GLOOR: Other questions? Seeing none, thank you, Senator Wightman. Will you stay to close? [LB38]

SENATOR WIGHTMAN: I'll listen for a little while. I don't know that I will, but... [LB38]

SENATOR GLOOR: All right. We'll wait and see then. Thank you. Can I see a show of hands of who else would like to...we have two hands. Good, thank you. We'll start with proponents. [LB38]

KATIE ZULKOSKI: (Exhibit 1) Good afternoon, Chairman Gloor, members of the Banking Committee. Katie Zulkoski, Z-u-l-k-o-s-k-i. I think Senator Wightman's testimony used to say there was a legal expert following him and then he changed to a representative of the Nebraska State Bar Association, which is probably a more accurate statement. And we do want to thank Senator Wightman and Roger for working with us. This is the second year...those of you who have been on this committee, you will recognize this bill. This is the second year we have introduced this bill, and we think there has been a deletion of about six words. And we think that while it does not necessarily change the intent of the bill, it does make clearer what we are doing. And in order to make clear what we're doing, I want to do two things. I've handed out a memo from Doug Deitchler who is the attorney that you heard from last year and an attorney that has been pushing this legislation for quite some time within the Bar Association. So there's a written explanation there of what we're doing and what Doug Deitchler's intentions are. He is a trust officer here in Lincoln and has been working in the area for quite some time. I do want to take you through...the bill is approximately one page, and if we can just walk through what it's doing specifically, I think it will be...while these are very clear and understandable words on their own, when they get jumbled together you can tend to glaze your eyes over. So the bill does two specific things. In the first section it says that a "holder of a power of appointment," so someone that within the trust has the power to appoint, literally, where those things in the trust are going. "Or other power," so those...that phrase right there, "or other power," does expand what (section)

30-3823 originally does. It adds power of appointment or other power. That can be the power to amend, the power to revoke something. Any holder of a power can represent and bind persons whose interests are subject to that power. And so to understand that, I want to point you to...I brought an actual statute book which I've never done before. But in section 30-3822--it's not included in this bill, but it's the section right above what we're amending in section 1--that is what sets forth what representation actually is. So section 1 of the bill says who can represent someone. Section 30-3822 is what representation actually is, and that says that a person can represent and bind another person. So, in effect, if you're giving notice to me, if I'm holding the power of appointment, that notice is representative and binding on the person subject to my power. The other thing I can do is give consent to something, and that would be representative and binding on another person that was subject to my power. So that's what representation is and that's what we're doing in section 1. It does strike language that says "To the extent there is no conflict of interest," and conflict of interest is something we generally take very seriously. And so I do want to point that out. In this case, the Bar Association thinks and Doug Deitchler, I think, points to this in his memo, that in this case, this is the terms of a trust that someone...when you're the...you create a trust and you create those terms of the trust, you choose who has the power of appointment and that is generally something you have really thought through. In a lot of cases, the person holding a power of appointment is a spouse. Your wife or your husband has the power of appointment over those assets. And generally, they do have a conflict of interest because a power of appointment in some cases would say you get all of these assets unless you appoint them to someone else, which in itself is a conflict of interest. And so what this section does, this is a mandatory rule. And so where it says...in current law it says if there is a conflict of interest, you can't represent that person. Now it would say you can, but you could draft around that. If I'm concerned about that, if I'm concerned that if I give my brother the power of appointment and I'm concerned, though, that he may start representing my nieces and nephews in a way that would really be conflicting to what I would want, then I can say in this instance, Taylor cannot--Taylor, my brother--cannot represent and bind those persons. I can draft around that. But the way the current law is would not allow for drafting around that. That's section 1 and that is a not-brief description of a very brief section of statute. Section 2 is longer in paper, but is a shorter explanation. Subsections (a) and (b), as you can see, are current law. Subsection (a) says "While a trust is revocable," so while you can still change the trust, the rights of the beneficiary and the duties "are subject to the control of, and the duties of the trustee are owed...to, the settlor." That's current law. What happens in (b) is when the trust is irrevocable. You can't change the trust. It's set, it's there, it's set how it's going to be. During that period if there is a power of withdrawal, the holder of that power has the rights of the settlor of the trust "under this section." So only the rights under (section) 30-3855. And then we added the language "and the duties of the trustee are owed exclusively to the holder of the power." In that section, that language was added just to mirror (a). So (a) and (b) more mirror each other in those instances. Then we go on to section (c) which is all new language, and this is the intent of where we're going with section 2. Again, this has to do when a trust is irrevocable, you can't change the trust, and during a period that an interest of a beneficiary that does not have a present interest. So you don't currently have rights to what's in the trust. During the time that that nonpresent interest can be terminated by an "exercise of a power of appointment...the duties of the trustee are owed exclusively to the holder of the power." So what we're really getting at--and it's broader than this--but what we're getting at in this is the duty to inform and report. And that's found in section 30-3878. That's where we list the...that's where the duty to inform and report is. And that...how we get to (section) 30-3855 is (section) 30-3878 says it's subject to (section) 30-3855. And what...so what we're trying to do here is if you're a potential beneficiary, if I say in my trust that it's all going to my brother unless there's something left over when he turns 35, it goes to the Methodist church. In this instance, before this language is in here, the Methodist church gets the information and reports on my trust, which I may not want them to know. I may not want them to know how much money is in my trust. And so what this would say is those...the duties of the trustee that include the duty to report, goes only to the holder of the power. That I'm...and the other duties are listed in statute in...around (section) 30-3878, there's the duty of impartiality, the duty of prudent administration. And so by nature of the language in (section) 30-3855, those duties, too, are owed exclusively to the holder of the power. And that is the longest explanation I have ever given to a bill in banking. And with that, I'd take any questions. [LB38]

SENATOR GLOOR: Well, even then, it was brief. So thank you. Are there questions for Ms. Zulkoski? I think Senator Pirsch has one. [LB38]

SENATOR PIRSCH: And you just said, if you don't like it that you just change the status quo, I mean the default. [LB38]

KATIE ZULKOSKI: Absolutely. These would be... [LB38]

SENATOR PIRSCH: And if you don't like it, you can contract around it... [LB38]

KATIE ZULKOSKI: Absolutely. These are the... [LB38]

SENATOR PIRSCH: ...or draft around it. [LB38]

KATIE ZULKOSKI: Uh-huh. This...you could...you'd draft around this in your trust. [LB38]

SENATOR GLOOR: Senator Schumacher. [LB38]

SENATOR SCHUMACHER: Thank you, Senator Gloor. So are you going to give this to the bar examiners as a quiz on the bar exam? [LB38]

KATIE ZULKOSKI: I don't have the think about the bar exam anymore, so I'm not going to make it worse for someone else. [LB38]

SENATOR GLOOR: If I were ever to take the bar, this would give me nightmares; getting preparation, I think. Other questions? Thank you very much. [LB38]

KATIE ZULKOSKI: Thank you, Senators. [LB38]

SENATOR GLOOR: Other proponents? [LB38]

ROBERT HALLSTROM: (Exhibit 2) Chairman Gloor and members of the committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB38. There's only so many ways that you can say the things that Ms. Zulkoski presented to the committee so I won't belabor the point. But I will say that I had shared Mr. Deitchler's memorandum with a number of bank trust officers asking them to make sure that this was something that the trust departments of banks would be interested and supportive of, and the feedback that I got was certainly yes, so we are here in support. Without making this hearing unduly complicated, I think Senator Wightman accurately described what we refer to as the rule against perpetuities in terms of 21 years after life in being. However, we have overridden the rule against perpetuities in Nebraska by adopting what's called a dynasty trust, which has been adopted in Nebraska, South Dakota. I used to be able to spout eloquently, like Ms. Zulkoski did immediately before me, on dynasty trusts, but it's been so long, I wouldn't want any questions on it. So with that, I'll encourage the committee to advance the bill. [LB38]

SENATOR GLOOR: Are there any questions, dynasty trust or otherwise? Seeing none, thank you, Mr. Hallstrom. Any other testifiers as proponents? Any in opposition? Any in a neutral capacity? Seeing none, Senator Wightman waives closing. And we close the hearing on LB38. We move to and welcome back Senator Conrad with LB283. [LB38]

ROBERT HALLSTROM: Thank you. [LB38]

SENATOR GLOOR: Any other testifiers as proponents? Any in opposition? Any in a neutral capacity? Seeing none, Senator Wightman waives closing. And we close the hearing on LB38. We move to and welcome back Senator Conrad with LB283. [LB38]

SENATOR CONRAD: Two in two days. [LB283]

SENATOR GLOOR: Another tech...simply...simple, technical bill, I'm sure. [LB283]

SENATOR CONRAD: Good afternoon. My name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, I represent the "Fightin' 46th" Legislative District of north Lincoln.

I'm here today to introduce LB283. This bill is strictly housekeeping. The bill does no more than remove from statutes a terminated act and references to it found elsewhere in the statute. The bill is the equivalent of pruning a dead branch from a tree. The bill does nothing to the old LLC Act other than clear it away. The new LLC Act provides in section 21-196 that it does not affect an action commenced, proceedings brought, or right accrued before the operative date January 1, 2011. The bill will remove about 30 pages of print from the statute book, so somewhere a tree will thank us. Section 21-197 of the new LLC Act provides that on and after January 1, 2013, the new act governs all LLCs. I'd be happy to answer any questions. [LB283]

SENATOR GLOOR: Are there any questions for Senator Conrad? Senator Pirsch. [LB283]

SENATOR PIRSCH: If I can just say...so this was just left in because it had a future operative date and then that future operative date...I mean, it had relevance until that point, that date has come and gone, it no longer holds relevance, so let's get rid of it for clarity's sake? [LB283]

SENATOR CONRAD: Well put, Senator Pirsch. [LB283]

SENATOR PIRSCH: All right. Well, you've got my support. [LB283]

SENATOR CONRAD: There's one. [LB283]

SENATOR PIRSCH: All right. [LB283]

SENATOR GLOOR: Other questions? Thank you, Senator Conrad. [LB283]

SENATOR CONRAD: Thank you. [LB283]

SENATOR GLOOR: Are you going to stay to close? [LB283]

SENATOR CONRAD: No. I will snap closing. [LB283]

SENATOR GLOOR: I figured. Anyone who would like to speak as a proponent? No...the statute book comes forward. [LB283]

KATIE ZULKOSKI: I'm not even going to use it. I just didn't have time to put it down. Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying in support of Senator Conrad's bill. And the Bar Association wants to thank committee counsel and Senator Conrad for their work in adopting LB888, which adopted the new Uniform...Nebraska Uniform Limited Liability Company Act. And because of that adoption, we support the removal of this. [LB283]

SENATOR GLOOR: Any questions? Seeing none, thank you. And thank you, Mr. Marienau, for your work. Any other proponents? Any opponents to this bill? Anybody in a neutral capacity? This may be the fastest bill I've ever been part of for a Banking, Commerce and Insurance Committee. Thank you. We will close the hearing on LB283. Thank you. [LB283]