[LB688 LB700 LB715 LB755 LB799]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, January 28, 2014, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB755, LB700, LB715, LB688, and LB799. Senators present: Mike Gloor, Chairperson; Mark Christensen, Vice Chairperson; Kathy Campbell; Tom Carlson; Tommy Garrett; Sara Howard; Pete Pirsch; and Paul Schumacher. Senators absent: None.

SENATOR GLOOR: Good afternoon. Welcome to the Banking, Commerce and Insurance Committee. I'm Mike Gloor, I'm the Chair of the Committee, I'm from District 35 which is primarily Grand Island. The committee will take up the bills that were in the order posted outside the door. We've got some rules of the road over there on your left, but let me run through the more important ones. The first one is, avoid embarrassment to yourself and make sure your phone is either in an off or a vibrate position. And by the way, if you have an old-style phone and it's on vibrate, there is a possibility these mikes may pick that up. And so we'll all know you're having a call coming in just in case you get a little startled when you hear feedback on your vibrating phone. We found that idiosyncrasy within the system. I would ask, if you're giving testimony in one way or the other, be sure and move to the front of the room so that we're not spending a lot of time going back and forth. This is also one of the committees that, although we have a light system we could use, we try not to. Given the technical nature of a lot of the bills, sometimes it takes a lot longer than five minutes. However, if it isn't extremely technical, we would ask people to please be cognizant of the fact that we have a lot of bills today--we have five--and try and keep your comments to five minutes or less. We will take testimony in the order of the introducer introducing the bill, proponents, opponents, those in a neutral capacity, and then closing comments by the introducer. Please be sure and sign up one of the orange sheets, that you'll see over there, if you're planning to give testimony, and give it to the clerk. If you have copies, we would also ask that ten copies of any handouts be made available so that we have one for all members and for the record. If you don't have ten copies, put your hand up and one of the pages will be glad to run down and try and get copies made for you. When you do sit down to provide testimony, please be sure and spell out your name--not for us, we want to be able to pronounce it, but not necessarily spell it--but that's for the transcribers so that they know exactly how to spell your name when they're taking the transcription. If you're not providing testimony but would like to make your thoughts known, there is a sign-in sheet. You're welcome to sign in and make your thoughts known out there. To my immediate right is Bill Marienau, he's counsel for the committee. And at the end of the table is Jan Foster, she is clerk for the committee. And I'm going to ask the members of the committee to go ahead and introduce themselves starting with Senator Garrett.

SENATOR GARRETT: Senator Garrett from District 3.

SENATOR SCHUMACHER: Senator Schumacher, District 22.

SENATOR PIRSCH: Senator Pete Pirsch from District 4.

SENATOR CAMPBELL: I'm Kathy Campbell and I represent 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: Senator Sara Howard, I represent District 9 in midtown Omaha.

SENATOR GLOOR: And our pages are Emily Schiltz who is from Sioux Falls and she's running an errand right now, and Steven Schubert who's from right here in Lincoln. And again, the pages will be glad to help you if you need help or assistance with anything. We'll start today with LB755. I'm the introducer and so I'll turn it over to Senator Christensen as Vice Chair. [LB755]

SENATOR CHRISTENSEN: Go ahead. [LB755]

SENATOR GLOOR: Thank you, Senator Christensen and committee members. I'm Mike Gloor, G-l-o-o-r. I'm bringing before you LB755. I brought this bill at the request of the Director of Insurance to update provisions and adopt new standards for setting reserves for life insurance and eventually health insurance products. Insurance is regulated, primarily, at the state level. This bill is the product of work done by the National Association of Insurance Commissioners, NAIC, which is the U.S. standard-setting and regulatory-support organization created and governed by the directors and commissioners of insurance departments from the 50 states, the District of Columbia, the five U.S. territories. Although the NAIC...through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight of the insurance industry. The NAIC works through what they call letter committees. Those committees assign charges down through various working groups and task forces so that when an issue in any area of insurance is identified as needing study, development, or enhancement, the work typically begins at a task force or working group level which allows regulators, the industry, trade associations, consumer advocates, and others to participate. From there, it moves up as it develops to be reviewed through the parent company and then, ultimately, to the executive and plenary committees in which each director or commissioner has a vote on the final product. Through this process, there are a number of times in which comments are heard from the participants and changes are made. The principle-based reserving approach to setting the reserves has been through this process, under study and development NAIC, for approximately ten years. It's a decade. Not only state insurance regulators and their actuaries, but the actuaries in the insurance industry and with the American Academy of Actuaries have been involved in the development of these changes leading to the bill that you have before you today. The purpose of this legislation is to allow a change in the reserving methodology from a formulaic one-size-fits-all approach which can lead to life insurance policies that are not as appropriately reserved as they ought to be to a methodology which will allow insurers to better take into account the type of product, specific experience of the product, and other factors in their assumptions, which will right-size reserves while preserving the long-standing principle of statutory requiring conservative reserve levels for life insurance. Director Ramge from the Department of Insurance, his actuary, and industry representatives are here, some of whom have come from quite a ways and will offer testimony which will explain further the changes proposed in this legislation. And by the way, I would add that this bill has been considered, is being considered, or will be considered in all states and territories. That should be a flag of the importance of this particular piece of legislation. Thank you for your consideration of LB755. [LB755]

SENATOR CHRISTENSEN: Thank you, Senator Gloor. Is there any questions for Senator Gloor? Seeing none, thank you. [LB755]

SENATOR GLOOR: Thank you. [LB755]

SENATOR CHRISTENSEN: We'll take the first proponent. [LB755]

BRUCE RAMGE: (Exhibit 1) Good afternoon. Good afternoon, Senator Gloor and members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge, for the record that's spelled B-r-u-c-e R-a-m-g-e. I'm the Director of Insurance and I'm here to testify in support of LB755, which Senator Gloor was kind enough to introduce at the department's request. LB755 will adopt new standards for setting reserves for life and, eventually, health insurance products. Insurers set aside capital, called reserves, to ensure that they will be able to pay for the promises they have made in their insurance policies. Monitoring these reserves and taking action if a company's reserve levels jeopardize policyholders' interests is a central responsibility given to the department. Under the existing standard valuation law in Nebraska, codified as Nebraska Revised Statute 44-404, life insurers use standard actuarial principles, methods, and mortality tables, and interest rates to establish reserves to back the insurance products they sell. The method is referred to as formulaic reserving. These existing standards have been shown to yield crude one-size-fits-all companies' reserves, leading to life insurance policies that are not as appropriately reserved as they should be. In some cases, it results in life insurance policies that are more expensive than they need to be and so insureds may carry less insurance than they actually need, given their responsibilities. Under a principle-based reserving approach, insurers will be required to compare a formulaic reserve calculation with a calculation based on actual experience such as mortality, behavior, and expenses and then hold the amount of the higher of the two. These assumptions would then be annually updated. We believe that the principle-based reserve calculations will be more accurate and reflect insurer risks while still maintaining the appropriate level of conservatism necessary to safeguard the interests of the policyholders. In some cases, under this mechanism, reserves for certain products would have to be increased and some reserves decreased. Reserves would differ by insurer based on the quality of the investments underlying the reserves and the insurers' own risk management practices. Improving the reserving mechanism will reward those insurers with quality investments. Actuarial research has shown that more up-to-date standards for setting reserves would yield more appropriate reserves and allow insurers to establish reserves using methods and assumptions that are tailored to the business written by the particular insurer rather than a one-size-fits-all approach as currently used. The National Association of Insurance Commissioners or NAIC has worked for many years considering these changes and has worked with the American Academy of Actuaries and others to determine that a change to a principle-based reserving standard would allow more appropriate reserves to be established. The new standard valuation law, while running to 28 pages in the NAIC model, will incorporate manuals with even more detailed information and requirements for insurers to use and follow. These standards, adopted on a state-by-state basis, will apply to Nebraska domestic insurers doing business across the country. These reserving standards will apply on a domestic insurer basis and Nebraska insurers will be impacted heavily by this change. Nebraska consumers will see the benefit of more precise rates as other states also adopt these standards. Insurers will be given three years after the law is fully effective to comply with the requirements. Those insurers who choose to set reserves using the current formulaic methods will continue to be able to do so. Only new business issued after the operative date of the valuation manual will be subject to principle-based reserves. In-force business will continue to be reserved under the formulaic methodologies and assumptions. Therefore, the impact on company surplus will be gradual as new business is written. The Nebraska insurance industry is heavily involved in life insurance. The most up-to-date standards are, therefore, of interest to the insurance department. Nebraska's attractiveness as an insurance domicile is based, in large measure, on the Nebraska Legislature's historic proactive nature in adopting up-to-date regulatory standards. But more importantly, adoption of these standards on a national basis will allow insureds access to more accurately priced and reserved life insurance products. Nebraska's quick adoption of the revised standard valuation law will help encourage other states to take the same step and thereby, hopefully, facilitate more reasonable life insurance rates for Nebraska insureds that purchase from domestic and nondomestic insurers. The department believes that the proposal will require increased actuarial resources to be devoted to the department, which we estimate at two additional actuary FTE and 50 percent increase in the amount of actuarial resources for which we contract. However, under all circumstances, the costs are paid by insurers in the form of billing for specific examination services. LB755 represents a significant step forward for establishing the reserves for insurance products. Please advance this bill. I'll be happy to answer any of the questions you may have. [LB755]

SENATOR CHRISTENSEN: Thank you, Director. Does anyone have questions for the Director? Senator Carlson. [LB755]

SENATOR CARLSON: Thank you, Senator Christensen. Director, on the...I guess it's second page. [LB755]

BRUCE RAMGE: Okay. [LB755]

SENATOR CARLSON: It is second page. In that third line, "In some cases under this mechanism, reserves for certain products would have to be increased and some reserves decreased." The insinuation is that...I understand how some would have to be increased. But is it mandatory that reserves be decreased because it sounds like by that statement, they may have to increase and they may have to decrease? Or is it an option to decrease? [LB755]

BRUCE RAMGE: I believe that the company will have the option to select a formulaic approach or, you know, principle-based reserves. And the outcome, then, will...if they choose to use the principle-based reserves, it may result in decreased reserves if the tests, you know, show that that is appropriate. [LB755]

SENATOR CARLSON: Okay. All right, thank you. [LB755]

BRUCE RAMGE: You bet. [LB755]

SENATOR CHRISTENSEN: Are there any other questions? Pete or Senator Pirsch. [LB755]

SENATOR PIRSCH: Just in terms of comparative of the other states, where...I think Senator Gloor's opening was that this was under consideration in all 50 states... [LB755]

BRUCE RAMGE: Yes. [LB755]

SENATOR PIRSCH: ...and territories. Has this been...where it is in effect? [LB755]

BRUCE RAMGE: In terms of the specific states that have already adopted, I'm not certain yet. I believe one of the actuaries who is going to be testifying today may know. [LB755]

SENATOR PIRSCH: Oh, okay. I'll defer that question. [LB755]

BRUCE RAMGE: But it's about three or four states, I believe, have already adopted and several more are moving forward. [LB755]

SENATOR PIRSCH: Excellent, thanks. [LB755]

BRUCE RAMGE: You bet. [LB755]

SENATOR CHRISTENSEN: Thank you, Senator Pirsch. Anyone else? Senator Schumacher. [LB755]

SENATOR SCHUMACHER: Thank you, Senator Christensen. Thank you for your testimony, Director. [LB755]

BRUCE RAMGE: You bet. [LB755]

SENATOR SCHUMACHER: We're basically talking life insurance here, is that correct? [LB755]

BRUCE RAMGE: Primarily, life insurance. It also has an impact on health insurers as the valuation manual might be changed in the future. [LB755]

SENATOR SCHUMACHER: The health insurance--just a little aside now--how does that impact occur? [LB755]

BRUCE RAMGE: I believe that the primary focus here of this bill would be life insurance because of the complexities of the products and the changes that have developed over the years. And in terms of the actuarial impact on health insurers, again, I may have to defer to one of the actuaries that will be following. [LB755]

SENATOR SCHUMACHER: Okay. So what...basically, when they sell a life insurance policy they take into account the probability that the person will die. [LB755]

BRUCE RAMGE: Correct. [LB755]

SENATOR SCHUMACHER: And the number of people they would expect to die and based upon age and maybe other criteria, smoking or things like that. [LB755]

BRUCE RAMGE: Yes. [LB755]

SENATOR SCHUMACHER: And then just in case they're wrong, they have to have a reserve in case a whole bunch of people die unexpectedly. Is that... [LB755]

BRUCE RAMGE: That would be a part of the reserve. But a good part of the reserve would look at the age of their existing population and their expected mortality. And it's a timing issue to make certain that when each year comes along that they have an appropriate amount set aside for the expected number of individuals who would pass away that year. And then a part of the reserves would also cover unexpected consequences in case mortality rates were higher than what would be expected. [LB755]

SENATOR SCHUMACHER: Now in addition to the reserves then, do they have backup insurance with other carriers or with other sources just in case the reserves fizzle? [LB755]

BRUCE RAMGE: Yes. They purchase reinsurance to, basically, help spread the risk so that, for example, if one company has a large amount of business in one area, let's say Nebraska, if they purchase reinsurance, that makes their risks more...the reinsurers have a broader spectrum of risk so that if there were an epidemic in Nebraska and it had a bad impact on that particular insurance company, the reinsurance company would step in and it would level out. [LB755]

SENATOR SCHUMACHER: So in simpler terms, what is the difference in calculating how much should be in that backup pool, that reserve pool, between what is being proposed here and the way we've always done it? [LB755]

BRUCE RAMGE: The premiums charged by the reinsurance companies would also be impacted because they would use reserving methods themselves. And it would depend on the percentage of the risk that they assumed and the risk corridors, that type of thing. [LB755]

SENATOR SCHUMACHER: But as I get it, this is two different ways of calculating what should be in the reserve basket. [LB755]

BRUCE RAMGE: Yes. [LB755]

SENATOR SCHUMACHER: Okay. In simple terms--because I just ate lunch and my mind isn't fully in gear yet--in simple terms, what is the difference between the two different ways of calculating it? [LB755]

BRUCE RAMGE: Ways? Yeah, the current method is very, what I refer to as, formulaic. They would say, okay, we'll use these tables or charts and we'll set the reserves according to these basic assumptions and that's it. You know, there would not be any further deviation from that. With the principle-based reserve, they would look at that methodology and they would also look at other assumptions like, perhaps, the company had marketed to high-risk individuals. So perhaps their actual rates of mortality are higher and they would want to set higher reserves. So this allows a right-sizing of those reserves as opposed to being just stuck to that old formulaic approach. [LB755]

SENATOR SCHUMACHER: Is that a decision, then, resting in the company or do they have to get...do the regulators get involved and scratch their heads on that, too? [LB755]

BRUCE RAMGE: Actuaries...companies would be using either internal actuaries or consulting actuaries. And then the department's actuary would value that once a year and make certain that the assumptions and the pricing assumptions that they are used for setting these reserves are appropriate for the circumstances and for that particular company. [LB755]

SENATOR SCHUMACHER: Okay. Thank you, Director. [LB755]

BRUCE RAMGE: You're welcome. [LB755]

SENATOR CHRISTENSEN: Thank you, Senator Schumacher. Any other questions? Thank you, Director. [LB755]

BRUCE RAMGE: Thank you, Senator. [LB755]

SENATOR CHRISTENSEN: Next proponent? [LB755]

THOMAS MAYS: Mr. Chairman and members of the committee, thank you for allowing us to testify today. I am Thomas Mays, M-a-y-s, vice president of government relations for Pacific Life Insurance Company. And testifying after me will be our chief actuary, Gary Falde, F-a-l-d-e, who will be able to answer some of the questions that you've just brought up. We are here in support of LB755 that will implement new methods and requirements for life insurers to calculate and report reserves held to pay future claims on life insurance. Our company, along with many others in the life insurance business, have been working with state regulators over the last ten years to develop a new approach to calculating reserves, called principles-based reserving. PBR will more accurately reflect the risks assumed by life insurers for today's modern products. Currently, life insurance reserves are calculated based on a fixed formula that has existed for over a century. This impedes regulators' ability to update reserve rules as modern new products are introduced. The current system fails to recognize certain assumptions needed to more realistically assess the appropriate reserve levels and doesn't allow companies flexibility to adjust reserves over time. Because of this, Pacific Life is required to hold higher reserves than necessary to pay future claims on some products. This unnecessary deployment of capital results in higher costs for Pacific Life that is ultimately passed on to consumers. Higher costs due to excess reserves may also lead to fewer products available to consumers and fewer job opportunities at the company. LB755 will allow life insurance reserve levels to more accurately reflect the reserves assumed by life insurers and at the same time, continue to protect policyholders to provide them with products that they need. At this time, I can either answer more questions or have Gary Falde, our chief actuary, come up and answer some of the more technical questions. Senator Pirsch's question regarding how many states currently have this, is seven states. It's going to be introduced in probably at least 20 or 25 states this year and the rest of the states the following year. Some states meet every other year, so. Any questions? [LB755]

SENATOR CHRISTENSEN: Senator Schumacher. [LB755]

SENATOR SCHUMACHER: Thank you, Senator Christensen. Thank you for your testimony today. First of all, is Pac Life a publicly traded company? [LB755]

THOMAS MAYS: No, we're are not. We're a mutual company. [LB755]

SENATOR SCHUMACHER: A mutual company? Okay. When...right now, as I gather, part of the purpose of this exercise is because you feel that you're holding too much in reserves and that's resulting in higher priced product? [LB755]

THOMAS MAYS: On some of our products, correct. [LB755]

SENATOR SCHUMACHER: Okay. The excess reserve, what happens to it? Where is it invested at? [LB755]

THOMAS MAYS: Well, Gary can answer that, but it's usually held in reserve and then our investment officers invest it in bonds or that type of things over time. [LB755]

SENATOR SCHUMACHER: And then when those bonds draw interest or returns, does that inure to the benefit of your mutual policyholders? [LB755]

THOMAS MAYS: That's correct. Because we're a mutual company, all the benefits go to the policyholders. [LB755]

SENATOR SCHUMACHER: So then the...what we would...your policyholders would be foregoing, by reducing the reserves, is basically they also would be foregoing the interest on and proceeds from these investments wherever they are. [LB755]

THOMAS MAYS: Well, the cost of the product would go down. And so we would also be able to provide the product as well. [LB755]

SENATOR SCHUMACHER: Right. But you would also, because you'd have less reserves, less income from those reserves... from those investment reserves. [LB755]

THOMAS MAYS: Right. But we'd have more operating income to do...to run the company and to do...expand the company where we need to. [LB755]

SENATOR SCHUMACHER: And when you say run the company or expand the company, what...describe some of the expansion investments that you might consider. [LB755]

THOMAS MAYS: Well, we'd be looking at new types of products, new areas that where the company can get involved in, possibly purchasing other companies, for example. [LB755]

SENATOR SCHUMACHER: Okay. So what we're doing is freeing up cash that is there already. You're not...so that instead of being held in reserve for the...some eventuality that might be bad, some epidemic or something, we are freeing that up for mergers and acquisitions, we're freeing it up for executive compensation, things like that? [LB755]

THOMAS MAYS: Well, not necessarily. Executive compensation is based on company performance and a lot of other factors. But it's...like... [LB755]

SENATOR SCHUMACHER: But it's possible, though. [LB755]

THOMAS MAYS: It's always possible, of course. [LB755]

SENATOR SCHUMACHER: Thank you for your testimony. [LB755]

THOMAS MAYS: Okay. [LB755]

SENATOR CHRISTENSEN: Are there any other questions? Next. Go ahead. [LB755]

GARY FALDE: Thank you, Mr. Chair and members. I'm Gary Falde, and that's G-a-r-y F-a-l-d-e. I'm vice president and chief actuary for Pacific Life. And I'd just like to add, briefly, to Tom's testimony in support of LB755 and focusing on the merits of the principle-based reserving framework and really speaking from my deep involvement over the last ten years with the development of PBR and working with the actuarial profession and with regulators. And I will say, Director Ramge outlined the new framework extremely well, so you know, it's not a lot that I need to add from that perspective. PBR is a more dynamic, a more comprehensive, more realistic and, therefore, more accurate approach to setting reserves for future life insurance benefits. Unlike the fixed formulas that Tom was mentioning, PBR does also readily apply to today's more complex products and product designs and it will adapt more readily to new types of products and features that get added in the future. Further, reserves under PBR keep up with the current environment. They're not set in stone forever in a fixed formula. They keep up with the current environment and reflect on an ongoing basis updated information about the company's emerging experience under its life insurance policies as well as changes in the economic environment. And yet, PBR still requires explicit margins for adverse experience to be added to the reserves to protect policyholders. So all in all, it is simply a better system to move the life insurance business forward. It has been well vetted by regulators, the actuarial profession, and industry over the last ten years. And so I just want to echo our support from Pacific Life for the bill. And I am here to entertain questions. [LB755]

SENATOR CHRISTENSEN: Thank you, Mr. Falde. Are there any questions? Senator Pirsch. [LB755]

SENATOR PIRSCH: Thanks for coming here today and lending your expertise to the conversation. With respect to...so PBRs really kind of showed up ten years ago. Is that when some of the states began? [LB755]

GARY FALDE: The work started. It took a few years for the actuarial profession to come up with a basic methodology that, then, regulators could start to look at and start to vet. And there was a lot of back and forth over the next few years between industry, the profession, and regulatory task forces. [LB755]

SENATOR PIRSCH: Was it devised, generally, in this country or was it utilized in other (inaudible)? [LB755]

GARY FALDE: Well, it took off quite a bit from the system that has been in place in Canada for quite a number of years. It had already been in place in Canada for over a decade before we started working on it here. [LB755]

SENATOR PIRSCH: Yeah. And so there's seven states that now utilize this. [LB755]

GARY FALDE: Right. [LB755]

SENATOR PIRSCH: How long...some of the first states who implemented it, how long...who are those and how long has it been a fact that... [LB755]

GARY FALDE: Well, they have just...they would have just gone through their legislative process in the last year. [LB755]

SENATOR PIRSCH: Okay. [LB755]

GARY FALDE: It was really not even ready to go to legislatures until 2013. And then even in those states, it won't be effective until there's a three-fourths majority of the jurisdictions that have enacted a similar law, so. [LB755]

SENATOR PIRSCH: And so in general terms, you talk about moving from this fixed formula that's the historical, traditional way and moving into this principle-based which has the capacity to be more dynamic. Can you talk about some of the methods or formulas...fixed formula we understand mortality (recorder malfunction) but in more detailed terms--and I'm not asking for a lot--but in more detail can you kind of talk about how that...how this new system has more dynamism? [LB755]

GARY FALDE: Well, it looks more at the company-specific risks of the products that they sell. The fixed formulas are very generic for sort of every...characteristics of every companies' product. But in real life, products have a lot of nuances and different features and they are not exactly the same across companies. And the insured...the underwriting practices between companies are different. And so the types of insureds that are attracted to, you know, buy policies in different companies are different. So companies have different mortality experience one to the other. Fixed formulas tend to use a very conservative industry table with a lot of margin added to sort of be able to encompass the mortality of, you know, 80 percent of companies. Whereas, we know that our policyholders have gone through Pacific Life's underwriting process and that our mortality experience will be far better than that. And so this will allow us to directly reflect that better mortality experience, to the extent it's credible, into our reserves. They take into account our underwriting practices. They take into account other things that we know about our policyholders in terms of how long they keep their policies, the way in which they use some of the flexible features of the policies, how they pay their premiums. Much more specific to the company's own circumstances with a policy. And yet, there are pieces that are still standardized where no company has a better read than any other on what's going to happen. For instance, what level of future interest rates needs to be tested in this system. Well, that's something that is set by the regulators because we don't know any more than anybody else, so. [LB755]

SENATOR PIRSCH: That's been very helpful. Yeah, that is. [LB755]

GARY FALDE: Does that help? [LB755]

SENATOR PIRSCH: Yep. Appreciate it. [LB755]

SENATOR CHRISTENSEN: Senator Carlson. [LB755]

SENATOR CARLSON: Thank you, Senator Christensen. Does Pacific Life sell term insurance? [LB755]

GARY FALDE: We do. [LB755]

SENATOR CARLSON: Yeah, term insurance would have to have a reserve, too, for early deaths. [LB755]

GARY FALDE: Yes. [LB755]

SENATOR CARLSON: Correct? [LB755]

GARY FALDE: It has a reserve. In fact, it's often funded with premiums that are level over time and deaths go up over time. So it's sort of an overfunded policy, too, where you need to set aside those reserves because the claims are probably going to come, you know, more actually in the future. [LB755]

SENATOR CARLSON: Well, it would seem like reserve for term insurance doesn't have a whole lot to do with the economy and interest rates and so forth. It has more to do with expected deaths. [LB755]

GARY FALDE: Well, and there are elements of the PBR process that are more appropriate to different types of products. And term insurance, for instance, will not have to go through as much testing under lots of different economic scenarios. It can have more of a single scenario because you're right, the primary risk is more around the mortality and, again, how long people keep their policies because not everybody keeps their term insurance policies either. So I think it's tailored so that it focuses on the right types of variables for the right types of policies. [LB755]

SENATOR CARLSON: And I know that you have cash-value insurance. And for the reserve to be able to be lower...I don't really understand this...I'm not doubting it because it's a good thing you want to be more competitive. I'm all for that. But certainly interest rates haven't been helpful on reserves in the last ten years. Is it because we're living longer that...and cash-value policies, the reserve doesn't have to be as high? [LB755]

GARY FALDE: Cash-value policies that are really bought for that savings element as much as the insurance element are not affected as much under principle-based reserving as some of the more pure protection products where there's long-term guaranties. So, you know, on cash-value products, to a large extent, the investment return of the company is passed on to the policyholder through their cash value if interest rates are high or they get a higher return than the cash value. If the company is earning lower on their investments, they will usually credit less interest to the cash value. So this...so that's sort of a risk sharing that's built into most cash-value policies. The principle-based reserving affects more of the situations where there's some additional long-term guarantee that no matter what happens to the cash value of the product, you're going to at least have a death benefit for a given amount of time if you've paid a certain amount of premium, so. [LB755]

SENATOR CARLSON: As the reserve is able to be lower and a lot of us buy insurance so that we want it in protection for a certain period of time. We're not just interested in this year. [LB755]

GARY FALDE: Right. [LB755]

SENATOR CARLSON: Does the lower reserve enable lower premiums to keep a policy in force, say, 30 years on a guarantee? [LB755]

GARY FALDE: A lower reserve reduces the company's cost of capital. We don't have to set aside that capital and it can be used...and we can get back to your other question. It can be used to invest in the business and earn higher returns elsewhere than sitting in a reserve bucket. And so by holding less reserves, a company has somewhat less costs and that can be shared in lower costs in our policies. And we can actually price at lower rates. [LB755]

SENATOR CARLSON: And Pacific Life is a mutual company? [LB755]

GARY FALDE: Yes. [LB755]

SENATOR CARLSON: So you pay dividends? [LB755]

GARY FALDE: We pay...most of our policies are not directly a traditional dividend-paying, participating policy. They're more of a .universal life contract, but our philosophy is very similar to a dividend-paying type of policy where we share the, you know, the experience that we get on our business so that investment returns. There's some... [LB755]

SENATOR CARLSON: Well, that would affect a cash-value policy, I think, by if it was guaranteed for 30 years because of better than expected investment results, it may project out to 40 or 50 years. Would that be true, of protection? That's the way it would affect the universal life policy. [LB755]

GARY FALDE: Yes, if the investments turn out better than...yeah, it might result in a longer period of coverage. That's correct. [LB755]

SENATOR CARLSON: Or maybe even the possibility of lowering the premium. [LB755]

GARY FALDE: Right. [LB755]

SENATOR CARLSON: Okay. All right, thank you. [LB755]

GARY FALDE: Right. Overall, it creates more value in some way. [LB755]

SENATOR CARLSON: Uh-huh. [LB755]

GARY FALDE: A longer death benefit, lower premium. Yes. [LB755]

SENATOR CARLSON: Okay. Thank you. [LB755]

SENATOR CHRISTENSEN: Senator Schumacher. [LB755]

SENATOR SCHUMACHER: Thank you, Senator Christensen. Thank you for your testimony. It seems to me, and correct me where I'm wrong because I'm sure I'm wrong on some of this, that the underlying purpose is to make sure that you don't have too much reserves, an excess reserve. And freeing up that capital, which is now captured by a fairly uniform set of rules that apply to all companies, freeing up that capital that is in that reserve now for mergers and acquisitions, new types of product offerings, executive compensation, and reduced rates to policyholders. And you do this by saying, okay, we start out with a standard set of rules, but then, since we know our customers, since we have a particular history on our particular policy of X nature, we can adjust these rules. And likewise, while you're doing that, other companies are doing that, too. And supposedly, since the incentive here...since all the good things flow from a reduction in the reserve, supposedly what's to keep this from making these compounding assumptions to reduce the reserve too low is a little army of regulators that we're going to hire two new people to be new regulators and actuaries. How can they possibly keep on top of this game with all these people making all these calculations on all these particular individual assumptions? And it started out with a simple set of rules that you could go by and now we're making their life really miserable. How does this work? [LB755]

GARY FALDE: Well, you're certainly not the first to bring up this issue or the first state to raise this issue. It is one of the foremost issues that the NAIC has been charged to address. They have put out an extensive implementation plan where they are setting up...hiring resources to set up review processes to sort of forge the way on how should states examine these principle-based valuations? How should they look at them in between examinations? So there are processes that are getting in place to be able to guide the states in their processes and perhaps some centralized resources that will be a support. There's been surveys out to the states on the resources that they will each need in their individual departments. I think you heard Director Ramge talk about what the expectation is here for Nebraska. The...it's a lot to cover. And it's resources for the company, too. But there's more...the law puts in protections around, you know, you have to have clear documentation of what you're doing. Internal controls is a theme that's actually in the bill of, you know, the actuary talking to his board every year and providing a certification to the director that the internal controls are in place to make sure that the company isn't missing major risks in its valuation, that it's, you know, covering all the risks that are supposed to be covered in a principle-based valuation. So as in any complicated situation like this, whether you're an auditor of a public company doing their general purpose reporting or whether you're an examiner in a regulatory situation, there are certain things you need to put in place to rely on in terms of controls in a process that you can kind of not necessarily have to get into the fine details as long as the job is being done at each successive level, documentation, controls, and that sort of thing, so. [LB755]

SENATOR SCHUMACHER: Well, would it be fair to say, then, that we are complicating the process somewhat? [LB755]

GARY FALDE: We are complicating the process somewhat. I think the question is, is it worth it? You know, after more than 100 years of the same reserve system, but the products have changed dramatically in, you know, even the last 10-15 years. And we've...it's been very, very difficult to keep that system going, keep it meaningful, you know, for new product development. So I think on a go-forward basis, we have to, you know, have a more modern, more dynamic system that can capture the risks of the newer products. And too, this isn't going to...I guess another important point is, this is changing the reserving method for business going...business written in the future. Business on the books already today is still going to be under the current system. So there's no immediate windfall for companies or anything by going to this method. What's there stays the same and incrementally, over time as new business is written, then reserving on that business will be more right-sized to the level that it should be. [LB755]

SENATOR SCHUMACHER: But, you know, in the last 10-15 years...well, somewhat in the insurance sector, but also in the banking sector, we saw modern, new products, new derivatives, new swaps, new...all kinds of exciting things because things were getting exciting and you had to be keeping up with the Joneses and the competitors and it got us in a real mess in 2008. Is our two guys that we're hiring over in the insurance department...what chance do they stand of keeping on top of this? Are we, by going away from the old method, kind of what we call the gold standard to a floating basket of currencies or whatever here, are we jeopardizing something? What are the...if this fails, how good is the backup, your cross insurance, your other people who would come in and rescue the policyholder? [LB755]

GARY FALDE: Okay. There's several questions there. [LB755]

SENATOR SCHUMACHER: Yeah, there's supposed to be. [LB755]

GARY FALDE: There are...and the department also uses, in doing exams...as we're going through our insurance exam right now. And they do also hire and have access to outside actuarial experts to augment the work that the department does that have seen these kinds of valuations in, you know, a variety of companies. And I think that practice will probably continue so that knowledge gained in examining one company will carry over, you know, throughout the industry. And you'll have experts to go to that are expert in analyzing these kinds of valuations. The public accounting world is, for insurance, has been going the same way where it's already based on...or GAP accounting is already based on models that are just as sophisticated, to me, as these. And the auditing firms have been, you know, getting expertise in, you know, evaluating these types of models. So I think it is doable. It is certainly a, you know, a new era in terms of resources that are needed, but I think it can be done. Another question, which going back to something you asked earlier, reserves is not the only backstop for life insurance companies. That's the first layer of backstop. The second is actual surplus. Surplus is what's left over after you set up your reserves. And surplus has to be held to incorporate what...and you've probably heard in other bills that have come up to the committee...risk-based capital. So out of your surplus, you actually identify how much of that you need as a second layer of protection beyond reserves. It's called risk-based capital. And most companies hold surplus that is maybe four or five or six times that risk-based capital amount. So even if experience is poor enough to eat through all the reserves, there's generally still a substantial layer of surplus behind that as well. And then, as you said earlier, there are also risk-sharing mechanisms. Companies usually use reinsurers and hedging and so forth in a prudent way to manage their overall risks, so. [LB755]

SENATOR SCHUMACHER: Thank you for your testimony. [LB755]

GARY FALDE: Yeah, help. [LB755]

SENATOR CHRISTENSEN: Are there any other questions? Thank you, Mr. Falde. [LB755]

GARY FALDE: All right. Thank you very much. [LB755]

RHONDA AHRENS: Good afternoon. My name is Rhonda Ahrens, R-h-o-n-d-a A-h-r-e-n-s, and I'm up here to supplement the testimony of the director. I'm the actuary for the Nebraska Department of Insurance. I think Gary took care of a few of the things that we wanted to clarify already. One was just to make sure a couple of the questions that were asked, essentially made it sound like there was a misunderstanding that the new regulation would not apply to old business. The in-force business reserves are not going to go down for anything that's been issued prior to the time that this method becomes effective. Also, one of the other points that I thought we needed to make with your question, Senator Schumacher, was that when companies release reserves, especially a mutual company, that doesn't mean that they're just not going to invest it or make that investment income that you were talking about on that money. That money still stays in the company to...for the benefit of those policyholders, and so mergers and acquisitions would potentially happen, you know, for the benefit of those policyholders, too, at potentially a, you know, risk-adjusted return that could be higher than what they can hold for investments in their reserves account because the state has higher restrictions on the assets that they have to invest for reserves. They have to be in safer mechanisms that tend to earn less. And then just to clarify, the principles-based reserving mechanism that's being introduced in this bill is not a freewill approach for companies to reserving. There is a guidance manual that is going to be...that's actually part of the law through the bill called the valuation manual. And that will be changed at the...as new products are developed. There will be work at the NAIC level to update the valuation manual on an annual basis, if necessary, for any kind of new innovative products. And it's a mechanism to make sure that there are standards in place for these new kind of product ideas. And that will help set standards for some of the experience that will be used as the assumptions, like, for example, for mortality. Mortality assumptions that are used by one company or another on one product versus another product won't just be random. They'll have to be backed by experience. And they'll also be supplemented by industry experience that is reported to the regulators on a regular basis. And then going in sync with one of the things that Gary mentioned is that this all goes along with when we examine a company, as Gary mentioned, we...if we don't have the expertise in the department to evaluate a certain company, we will bring in other actuarial resources that have more experience in that particular product possibly or the way that their experience is developing. And that helps us, as regulators, to be able to handle this, but also, along with that, come lots of higher controls at the company level where the board of directors has to understand what's going on. And the actuaries that are producing the principles-based reserve have to show more documentation. They have to prove their credibility of their own experience. They...we aren't just going to be regulators that are like, well, you know, I don't know this...I don't know how to come up with this assumption and I don't have any tools to do it. We'll be given their experience and they'll be asked to show us, you know, how do you support these assumptions. So if I could answer any questions, I would be glad to. [LB755]

SENATOR CHRISTENSEN: Are there any other questions? Senator Schumacher. [LB755]

SENATOR SCHUMACHER: Thank you, Senator Christensen. Thank you for your testimony. How many insurance companies would you anticipate be engaged in this new product development, this new process? [LB755]

RHONDA AHRENS: We...as the director said earlier, Nebraska is a pretty...has a lot of life insurance companies. So most of our domestics will be, you know, involved in this type of reserving mechanism. And probably out of the...I'll just give some information based on my workload currently is I have, you know, around 30 insurance companies that I look at each year. Some have hardly anything interesting to look at, but there's probably seven companies that would be doing things that I will, you know, have to, you know, to keep up with, so. [LB755]

SENATOR SCHUMACHER: That's in your share of the pie but... [LB755]

RHONDA AHRENS: Uh-huh. [LB755]

SENATOR SCHUMACHER: ...company...how many people... [LB755]

RHONDA AHRENS: Oh, companies who... [LB755]

SENATOR SCHUMACHER: ...how many other pies are there besides yours? [LB755]

RHONDA AHRENS: In Nebraska domestics was what I was talking about? [LB755]

SENATOR SCHUMACHER: Well, yeah. How many insurance companies are going to be out there doing this process? [LB755]

RHONDA AHRENS: Oh. I think that we're hoping that all insurance companies would... [LB755]

SENATOR SCHUMACHER: Is that 100, is it 50, is it 500? [LB755]

RHONDA AHRENS: There's thousands of life insurance companies in the United States, so. [LB755]

SENATOR SCHUMACHER: Okay. [LB755]

RHONDA AHRENS: For us, okay, there are 13 companies in Nebraska who wrote $60 billion in premiums globally. So...and I know that you asked me for more than just my share of the pie. [LB755]

SENATOR SCHUMACHER: Right. [LB755]

RHONDA AHRENS: Well, I don't know. [LB755]

SENATOR SCHUMACHER: It's okay. So I mean, let's...whatever there is, is more than a dozen. [LB755]

RHONDA AHRENS: Yes. [LB755]

SENATOR SCHUMACHER: And probably quite a few more than a dozen. [LB755]

RHONDA AHRENS: Yep. [LB755]

SENATOR SCHUMACHER: And how many new products would they be doing this analysis on in each of these? I mean, is it just going to be one new creative product? Is it going to be bunches of them? [LB755]

RHONDA AHRENS: Well, I think that it's possible that we have no...I mean, we have no idea what people...things people can come up with, but I'll try to go back over, you know, in my own experience over the last ten years what might have started the discussion, you know, ten years ago. There's probably four or five...four types of insurance that sort of makes this more necessary. One would be universal life with secondary guaranties. So it's a type of product that you need to be able to project the future of an equity market and you also need to be able to say how likely it is that the equity market is going to do really poorly. And so you need higher reserves because you have guaranties in the product. So in that case, you know, we kind of go back to one of the examples where you might actually have higher reserves than we right now...you know, than we would be holding today. That's one product. Another product would be variable annuities with guaranties so the same idea. Instead of a life insurance product it's an annuity product and there are these guaranties that are on a fixed interest rate assumption, but the other benefits in the contract could be so much higher than those guaranties that those guaranties don't even come into play. Therefore, you would have lower reserves. [LB755]

SENATOR SCHUMACHER: This is a little bit of a loaded question. These insurance companies have all the policies and forms and types and nice, big, tall office buildings and highly educated actuaries and lawyers and accountants and they're all churning away hoping to make money--as we all want to do, nothing wrong with that--coming up with these creative ideas that are coming into our insurance department and laying them on your desk. Do you feel that you're...we're in a position to stay on top of it? [LB755]

RHONDA AHRENS: Yeah, I do. I feel that with the work that will go on at the NAIC with the new valuation manual and behind the legislation, behind the law, and the development that we'll be able to do on a more...in the moment, we'll be able to develop the valuation manual and update it more quickly than having to go through the legislative process every time for every new product. That will actually improve the process and speed it up. And then it will also make...I think it will make regulators more aware and...of what's going on and be able to think through, you know, what the appropriate reserve is for each of those products rather than just retrofitting, you know, a formula or a current method to each new product that comes out. [LB755]

SENATOR SCHUMACHER: I seem to detect some future tense. A lot of this is not necessarily in place and very much under development. What risk are we taking on by being in the avant-garde and in the first tier of the states that are thinking about adopting it. Tell me, what's your thoughts on that? [LB755]

RHONDA AHRENS: I don't think...I think because of the structure of how this will be implemented, we aren't in the front tier or avant-garde because, as Gary started to mention, the group has...basically, there's an agreement or an implementation plan that nobody will force this upon companies until at least 75 percent of the premium in force has been approved. So of the writing base for premiums throughout the country, 75 percent of the reserves will have to be covered by PBR before it's implemented. [LB755]

SENATOR SCHUMACHER: Thank you. [LB755]

SENATOR CHRISTENSEN: Are there any other questions? Seeing none, thank you. Next proponent? [LB755]

JIM HALL: (Exhibit 2) Good morning, Mr. Chairman, members of the committee. My name is Jim Hall, J-i-m H-a-l-l. I'm a regional vice president with the American Council of Life Insurers. The ACLI is a national trade association that represents the life insurance industry. ACLI has over 300 member companies and these member companies hold over 90 percent of the life insurance in force in America today. We're here to very much support the insurance department's LB755. Now Director Ramge and Mr. Mays and Mr. Falde and Ms. Ahrens have all covered most of the points that I was going to make. So I'm not going to take up the committee's time to remake those. I would, however, add some supplementary comments. First, principles-based reserving is not a new concept. The property and casualty industry has been using their form of principle-based reserving for some years now. It's a different type, but the principle is the same; hence the name. Also, as was mentioned earlier, this is a life insurance-type of reserving that's been in use in...for life insurers in other countries for some time. You heard Canada was where it started. It's also in use in Australia, United Kingdom, the European Union, etcetera. And so this bill would simply allow...be one of the bills across the United States that would allow life insurers in the United States to use the same methods that are being used elsewhere. As far as the number of states, as you heard, seven states have already enacted it last year. And as Tom Mays mentioned, we...currently, my folks in Washington tell me, between 16 and 20 states have committed to introducing bills this year for a national basis and 8 of those states, including Nebraska, have already introduced their bills. I know, for example, to the south, Kansas, I spoke with them. They had other priorities this year, but they're planning on looking at it next year. I would also mention, Senator Schumacher, I get the impression that you're concerned, and understandably so, about whether or not adoption of this new method might throw open the doors to a slippery slope toward insolvency. And I would say that the life insurance industry itself, and certainly not the insurance regulators, would support a system that would place life insurers at risk. Particularly, the industry wouldn't support that because, as I'm sure you're aware, in the life insurance business, when one life insurer fails, it is the obligation of its competitors to pick up its financial obligations as being part of the guarantee association that is in place in every state in the United States. And in order to do business in this state, a life insurer must join the Nebraska Life and Health Guaranty Association. And if a company goes down, that means the other companies become financially responsible as a part of the Guaranty Association. So as a bottom line thing, the industry wouldn't support a system that would enhance the risk that they, themselves, would then become responsible for other companies' failures of solvency. I would also point out that when we had our crash in 2008, the life insurance industry was one of the least affected in the sense that, because of the type of financial solvency regulations that were already in place, the life insurance industry stayed solvent. And the regulators have set up these standards since 1992 and have strengthened them on an ongoing basis, and every state, in order to remain accredited with the NAIC, must have these solvency regulation standards in place. And so it's a very firm system and the companies, themselves, don't want the system opened up that would cause greater risk. They'd want to keep things, certainly, competitive within limits, but they want the limits, to still be there. I'm happy to answer any questions. [LB755]

SENATOR CHRISTENSEN: Are there any questions? Senator Schumacher. [LB755]

SENATOR SCHUMACHER: Thank you, Senator Christensen. Was AIG a life insurance company? [LB755]

JIM HALL: The part of AIG that had made all the headlines was not a life insurance company. It was part of an AIG conglomerate, but the part that made headlines was not a life insurance company. AIG Life did just fine. And the New York department is happy to point that out. [LB755]

SENATOR SCHUMACHER: Thank you for your testimony. [LB755]

JIM HALL: Sure. [LB755]

SENATOR CHRISTENSEN: Are there any other questions? Seeing none, thank you. [LB755]

JIM HALL: Thank you. [LB755]

SENATOR CHRISTENSEN: Next proponent? [LB755]

WILLIAM McCARTNEY: Mr. Chairman, members, my name is Bill McCartney, M-c-C-a-r-t-n-e-y. I am senior vice president and associate general counsel of United Services Automobile Association in San Antonio, Texas. USAAis the provider of choice to the military community. We provide a full range of highly competitive financial products. And probably we are the most fully integrated financial services company in the United States. We are the fifth largest writer of homeowners insurance, the seventh largest writer of personal automobile insurance. We have about 50 no-load mutual funds under management, a bank that has assets approaching $60 billion, and a life insurance company. And for USAA, this is a very important bill. And I'm here to testify on another bill that you'll be hearing subsequently, but I couldn't help myself. I felt like I needed to talk about this. The current reserves for insurance companies, particularly term life insurance, are not just a little bit redundant. They are seriously redundant. As the provider of choice to the military community, most of the products that USAA Life writes are term products. As far as I know, we're the only life insurance company that will write a life insurance policy to an active duty service member who's in a war zone who's been deployed. We want to be able to provide those products as inexpensively as possible. The current reserving provisions, the term products, in particular, are subject to...require reserving at a multiple of what the economic reserve should be, two times, three times. And as a result of that, the amount of capital that has to be set aside means that the premiums that we have to charge are more than they need to be, and so our interest in this bill is pure. We want it passed so that we rationalize the reserving system in this country for life insurance policies, terms in particular, so that our products can be more competitive to the military community. Thank you. [LB755]

SENATOR CHRISTENSEN: Are there any questions? Thank you. Any more proponents? [LB755]

RON SEDLACEK: Thank you, Senator Christensen and members of the Banking, Commerce and Insurance Committee. For the record, my name is Ron Sedlacek, S-e-d-l-a-c-e-k. I'm here on behalf of the Nebraska Chamber of Commerce and Industry. A number of our domestic insurance members discussed this legislation with us, explained what it's about, and why they believe it is a positive move for Nebraska. They asked us to review it and to take a position on the legislation in favor, and that's what I'm here to do. But, essentially, not so much in regard to what has been talked about before and that would be the methodology of insurance reserves, but rather from the point of view of keeping Nebraska's insurance legal and regulatory environment up to date. We did review and were assured about the fact that there needs to be a number of other states, of course, that implement this similar type of environment before it's actually implemented. And with that, just wanted it to be on record that our association would support this legislation. [LB755]

SENATOR CHRISTENSEN: Thank you, Ron. Is there any questions? Seeing none, thank you. [LB755]

RON SEDLACEK: Thank you. [LB755]

TAD FRAIZER: Good afternoon, Senators. My name is Tad Fraizer, T-a-d F-r-a-i-z-e-r. I'm here representing the Mutual of Omaha Companies. Mr. Galen Ullstrom, who generally testifies on behalf of Mutual, was unexpectedly prevented from attending today. But he did wish me to convey to the committee that Mutual has had an opportunity to work with the NAIC over the years to have input on the bill, the underlying model act, and is fully supportive of the model act and appreciates the Nebraska

Department of Insurance bringing this bill to you and would encourage its advancement. I'd try to answer any questions you might have. [LB755]

SENATOR CHRISTENSEN: Are there any questions for Mr. Fraizer? Seeing none, thank you. [LB755]

TAD FRAIZER: Thank you. [LB755]

SENATOR CHRISTENSEN: Welcome. [LB755]

JANIS McKENZIE: Thank you. Good afternoon, Senator, members of the committee. For the record, my name is Jan McKenzie, spelled M-c-K-e-n-z-i-e. I'm here as executive director and registered lobbyist for the Nebraska Insurance Federation in support of LB755. I want to thank Senator Gloor, in particular, for introducing the bill, but also for the wonderful explanation he provided you in the opening about how this process works. Some of these processes and changes and modernization efforts in the world of insurance take decades to get in place. And partly because, in this case, it's something that has to be actuarially based and sound. My member companies, as I remind you every year, are the Nebraska domestics. We are the people who employ Nebraskans and have brick and mortar in our cities, metropolitan in particular, but also other parts of the state. The Insurance Federation is comprised of a number of larger life insurers, but also some smaller ones. And our legislative committee met last week and conveyed their support for LB755 and recognize the importance of its passage this session, if possible...more than likely, if possible. I'd answer any questions. [LB755]

SENATOR CHRISTENSEN: Are there any questions? Jan, I'll ask one. [LB755]

JANIS McKENZIE: Okay. [LB755]

SENATOR CHRISTENSEN: Has there ever been a life insurance company in Nebraska go broke? We were told how they are handled. I thought that was interesting. [LB755]

JANIS McKENZIE: You know, Senator, in the 15 years that I've been involved in the insurance business, no one that I know has gone broke. I know that there have been some companies that have had problems and had to go into receivership and be rehabilitated, but I think that would be a question you would need to ask the Director. But to my knowledge, no one has gone broke. But we do have a guaranty fund, as Mr. Hall stated, that a lot of people aren't aware of, unlike other financial groups like banks, we are responsible for each other if someone goes belly up. [LB755]

SENATOR CHRISTENSEN: Appreciate that. Seeing no other questions, thank you. [LB755]

JANIS McKENZIE: Thank you. [LB755]

SENATOR CHRISTENSEN: Any more proponents? Seeing none, are there any opponents? Anybody who'd like to testify in the neutral? Seeing none, Senator Gloor, would you like to close? He waives. That will end the hearing on LB755. We'll let Senator Schumacher open on LB700. [LB755]

SENATOR SCHUMACHER: Senator Gloor and members of the committee, I'm Paul Schumacher, I represent District 22 in the Legislature, S-c-h-u-m-a-c-h-e-r. And I'm here today to introduce LB700. You know, I was originally told that this was a boring committee. All you had to do is vote "yes." But actually, it could be a little bit exciting because the bill today reflects our role in a very dynamic process that has become ever so much more important since 2008 when we found out that this was a very dynamic process that could go awry. And in that particular environment, we found that we didn't understand all the interrelationships that the creative, new financial and insurance markets could develop. Office buildings upon office buildings of very bright people creating very creative interrelationships between companies, subsidiaries, affiliates, holding companies, between each other using such instruments as derivatives, credit default swaps, counterparty and counteragency agreements. About anything any wise kid on Wall Street could dream up became possible. And when the impossible began to happen and big companies like AIG started to have their integrity questioned and even within those companies, innocent divisions who were not parties to not-so-innocent conduct began to bring them all down, it was scary. The regulators did not know where the buck stopped. Would an AIG going down because of misbehavior in the London office bring down a Mutual of Omaha? What kind of side deals do they have? Were there any side deals? These things didn't even appear on the books because they weren't really liabilities. They were just kind of undocumented, signed deals that were unregulated by anybody and unbeknownst to the regulators. And that contributed a lot to the inability to make decisions, to know what kind of risk we were dealing with, to identify the systemic risk in the system. Well, since then, not only the Congress but the various states, international agencies, and people who are involved legitimately in the business said, we have to know where the risks lie. We have to know what kind of deals and commitments have been made. Otherwise, should there be a problem, we may not know where the ultimate consequence of the problem will be. And efforts emerged to try to get a handle on the inside workings of the animal. Naturally, when you get a handle on the inside workings of an animal, if you expect that animal to be honest with you, there is certain confidentiality that has to be maintained so that you don't have the game disrupted by the fact that a regulator or regulatory mechanism knows your business. And so the various insurance commissioners in various states, along with international agencies, began to work together to try to come up with the framework of how that information can be assembled and reported so that there is a knowledge by some regulatory scheme of what is really going on and where risk might be hidden and where people, because of greed or competitiveness, might have taken an undue risk with our system. And that is the essence of LB700. And I'm not going to get down to the weeds of it because Director Ramge is much more competent than I am to get down to the weeds of exactly how this mechanism is going to work. But that's how what we're doing here today fits into the big picture of the financial mess that we got ourselves into in 2008 by being a little bit too much inclined to reduce reserves, to deal on leverage, to become fancy. And we tripped. So this is an effort so that if we come close to tripping again, we have a general idea of where we're going to fall. And I'd take any questions from the committee as to the general nature of this bill and invite testimony that follows. [LB700]

SENATOR GLOOR: Any...Senator Carlson. [LB700]

SENATOR CARLSON: Thank you, Senator Gloor. Senator Schumacher, following the lead of a distinguished member of the Legislature, did you write this bill? [LB700]

SENATOR SCHUMACHER: No, I did not. [LB700]

SENATOR CARLSON: And did the department bring the bill to you? [LB700]

SENATOR SCHUMACHER: They did. [LB700]

SENATOR CARLSON: Okay, thank you. [LB700]

SENATOR GLOOR: Other questions? Seeing none, thank you, Senator Schumacher. [LB700]

SENATOR SCHUMACHER: Thank you, Senator Gloor. [LB700]

SENATOR GLOOR: We will now move to proponents. [LB700]

BRUCE RAMGE: (Exhibit 1) Good afternoon. Good afternoon, Senator Gloor and members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge, for the record. That's spelled B-r-u-c-e R-a-m-g-e. I'm the Director of Insurance and I'm here to testify in support of LB700 which Senator Schumacher was kind enough to introduce at the department's request. LB700 will provide the department an important new regulatory tool in evaluating the solvency of large domestic insurers and insurance groups. It would adopt the Risk Management and Own Risk and Solvency Assessment Act which will provide requirements for maintaining a risk management framework and completing an own risk and solvency assessment and to provide guidance and instructions for filing an own risk and solvency assessment summary report with the Director of Insurance. The act is a National Association of Insurance Commissioners' model act and will become an accreditation standard. It is expected to be an important tool that United States insurance regulators can point to when assuring our international counterparts that the department has tools available to evaluate solvency. An own risk and solvency assessment or ORSA, is defined as a confidential internal assessment appropriate to the nature, scale, and complexity of an insurer or insurance group, conducted by that insurer or insurance group, of the material and relevant risks associated with the insurer or insurance group's current business plan and the sufficiency of capital resources to support those risks. The act would require Nebraska domestic insurers with an annual direct premium of more than $500 million or an insurance group with premium of more than $1 billion to make a self-assessment of the capital available to support their business risks. Because the information submitted under the act would be extremely sensitive competitive information, the bill has significant provisions related to confidentiality found in section 10. The bill requires insurers to complete an own risk and solvency assessment for each statutory entity as well as the insurance group level and submit the results to state regulators. The results should demonstrate that each entity's capital, both regulatory and economic, is sufficient to cover the risks inherent in the entity's business plan. Regulators will use this information to better understand the prospective risks to each insurer's plan and judge the adequacy of capital for the risks identified. This will assist the regulator with risk-focused analysis and examinations and help regulators evaluate the insurer's ability to withstand stresses. The bill imposes three core requirements on a state's domestic insurers: maintain a risk management framework; complete an own risk and solvency assessment; and file an ORSA summary report with the insurance director. Their proposal would affect 49 of our domestic insurers. Development of these new standards is one of the steps identified by insurance regulators to address some of the regulatory weaknesses which became apparent in 2008 or 2009. In addition, this is an important tool for international regulators who will be reviewing the laws of this state for purposes of regulatory cooperation. This act will be critical to U.S. regulators meeting the requirements of the International Monetary Fund's Financial Sector Assessment Program which reviews the sufficiency of regulatory supervision of financial markets across the world. LB700 represents a significant step forward for the regulatory tools available to the state in evaluating the solvency of our domestic insurers. Please advance the bill and I'd be happy to answer any questions you might have. [LB700]

SENATOR GLOOR: Thank you, Director Ramge. Are there any questions? Senator Christensen. [LB700]

SENATOR CHRISTENSEN: Yes. Thank you, Senator Gloor. Bruce, you're saying there's only going to affect 49 companies. [LB700]

BRUCE RAMGE: Yes. [LB700]

SENATOR CHRISTENSEN: Is there only 49 in that...there's 491 life insurance companies so I assume it's not affecting them? [LB700]

BRUCE RAMGE: No. The impact are domestics. That would be how many of our domestic companies that it would impact. And because of the premium volume size, it would not impact every single company. [LB700]

SENATOR CHRISTENSEN: So it's just the larger ones? [LB700]

BRUCE RAMGE: The large ones, yes. [LB700]

SENATOR CHRISTENSEN: We're not worried about the insolvency of the others? [LB700]

BRUCE RAMGE: Well, we are, but we'd use the traditional methods. In addition, you know, these reports will help us in our knowledge and evaluation of all companies because, you know, as a large company might point out that there's a specific type of risk and we'll say, oh, that's something we should be watching for in all companies. So it's a good tool all around, I think, to help us beef up our solvency surveillance. [LB700]

SENATOR CHRISTENSEN: That was my question, if they're only doing the top or what because... [LB700]

BRUCE RAMGE: Uh-huh. [LB700]

SENATOR CHRISTENSEN: ...I see you have no fiscal note and no additional costs to be put on. [LB700]

BRUCE RAMGE: Yes. You know, the department already has a division...our Financial Examination Division basically has analysts and examiners. The examiners go out to the companies and review those. The analysts really work in-house and look at the materials that are submitted to us. So this report would supplement the information that our analysts already receive and it would help us to focus our efforts in the whole financial solvency work. [LB700]

SENATOR CHRISTENSEN: Okay. Thank you. [LB700]

SENATOR GLOOR: Other questions? Senator Carlson. [LB700]

SENATOR CARLSON: Thank you, Senator Gloor. Director Ramge, did the model for LB700 come from NAIC? [LB700]

BRUCE RAMGE: Yes. Yes, it was developed at the National Association of Insurance Commissioners. [LB700]

SENATOR CARLSON: Okay. And I know you're fully capable of writing the bill if you wanted to, but you got guidance on this bill from NAIC and their model. [LB700]

BRUCE RAMGE: Absolutely. I think it is pretty much verbatim, yep. [LB700]

SENATOR CARLSON: Okay. All right, thank you. [LB700]

BRUCE RAMGE: You bet. [LB700]

SENATOR GLOOR: Questions? Senator Pirsch. [LB700]

SENATOR PIRSCH: What do you see as the greatest, I guess, risks with...obviously... [LB700]

BRUCE RAMGE: Oh. [LB700]

SENATOR PIRSCH: ...this was designed... [LB700]

BRUCE RAMGE: Yep. [LB700]

SENATOR PIRSCH: ...because of what's happened in recent years. [LB700]

BRUCE RAMGE: Absolutely. [LB700]

SENATOR PIRSCH: And we do have a different kind of set up here in the state with respect to our insurance. [LB700]

BRUCE RAMGE: I don't think there's any one...Senator Pirsch, I don't think there's any one particular risk. But I just sat down earlier this morning and just jotted down some of the things that I think are important. And if you don't mind, I'll go through those. [LB700]

SENATOR PIRSCH: Sure. [LB700]

BRUCE RAMGE: Intercompany agreements are an important risk that we, as regulators, need to be aware of. Also, concentration of business in areas that could have...suddenly found to have increased risk exposure. An example in the past was asbestos. No one saw that coming, and that impacted the solvency of many insurance companies. Well now, everyone knows that asbestos creates a risk, but there are new things out there like nanoparticles that could suddenly crop up and cause liability concerns. There could be investments in parts of the economy that suddenly deteriorate. An example would be a heavy concentration in European bonds. You know, there was Euro risk that was a concern a few years ago. Cyber liability is an enormous risk for all companies, not just insurance companies. Competition would increase at an alarming rate when a company is overly concentrated in a particular business type.

Frequent severe weather losses that create both frequency and severity. Potential risks from other countries that may have had a regime change or political instability. Counterparty risk involving hedging transactions. Reputational risks when a product is poorly designed or administered. Replacement of key products with a government sponsored program and terrorism exposures. And those are just some of the things that came to my mind. And I'm sure that we could probably all sit here all afternoon and come up with these types of risks that should all be taken into consideration. [LB700]

SENATOR PIRSCH: And the framework for this assessment would encompass all of these potential risks? [LB700]

BRUCE RAMGE: Yes. It would require the risk management division of each company and their upper management to evaluate those risks, evaluate how their capital is structured to assume those risks, and report those to the department. [LB700]

SENATOR PIRSCH: Thank you. [LB700]

BRUCE RAMGE: You bet. [LB700]

SENATOR GLOOR: Senator Campbell. [LB700]

SENATOR CAMPBELL: Thank you, Senator Gloor. About how many companies would be filing their report, just approximately. [LB700]

BRUCE RAMGE: Basically, I believe we identified 49 companies. [LB700]

SENATOR CAMPBELL: Oh. [LB700]

BRUCE RAMGE: There are 104 total companies domiciled here in Nebraska right now. [LB700]

SENATOR CAMPBELL: And at this point, is that a pretty standard fine of $1,000 if they don't comply? [LB700]

BRUCE RAMGE: Yes. Across the states, yes. [LB700]

SENATOR CAMPBELL: Okay. And will we or will the NAIC develop the form to be...for them to report? [LB700]

BRUCE RAMGE: There is a reporting manual that they will use... [LB700]

SENATOR CAMPBELL: Oh, okay. [LB700]

BRUCE RAMGE: ...to report. [LB700]

SENATOR CAMPBELL: So it will be, across the country, the same? [LB700]

BRUCE RAMGE: Pretty much. It gives...for companies that have holding companies that have multiple companies, it gives them flexibility on how they will report. You know, for example, if you have a company that has four life insurance companies and a title insurance company, they might do two reports, one that encompasses all their life, one that encompasses their title. And so we will work with each company to permit flexibility in how they structure their risk management. [LB700]

SENATOR CAMPBELL: And so this will be on an annualized basis? [LB700]

BRUCE RAMGE: Yes. [LB700]

SENATOR CAMPBELL: If the form doesn't change, can they just write in, same as last year? Or do they have to redo the whole form? [LB700]

BRUCE RAMGE: I don't think that...you know, that thought hadn't crossed my mind. I doubt that our financial examiners would find that acceptable. [LB700]

SENATOR CAMPBELL: Acceptable. I doubt you would either, Director. Thank you. [LB700]

BRUCE RAMGE: You bet. [LB700]

SENATOR GLOOR: Senator Howard. [LB700]

SENATOR HOWARD: Thank you, Chairman Gloor. And thank you for your testimony. [LB700]

BRUCE RAMGE: You're welcome. [LB700]

SENATOR HOWARD: You had mentioned in your response to Senator Christensen that this would replace traditional methods of assessing solvency? [LB700]

BRUCE RAMGE: It enhances it. [LB700]

SENATOR HOWARD: It enhances them. [LB700]

BRUCE RAMGE: It won't replace. Correct. [LB700]

SENATOR HOWARD: It doesn't replace them. Okay, that was just what I was worried about. Thank you. [LB700]

BRUCE RAMGE: Right. [LB700]

SENATOR GLOOR: This is a question by way of making sure I understand the component. The deals with security... [LB700]

BRUCE RAMGE: Yes. [LB700]

SENATOR GLOOR: ...and secrecy. To me, it's somewhat of a flashback to my days in healthcare... [LB700]

BRUCE RAMGE: Uh-huh. [LB700]

SENATOR GLOOR: ...where risk management departments, quality assurance departments would convene meetings where certain patients were reviewed, instances were reviewed with the opportunity for practitioners to, basically, challenge and question each other as they went through the review... [LB700]

BRUCE RAMGE: Uh-huh. [LB700]

SENATOR GLOOR: ...of the decisions that were made... [LB700]

BRUCE RAMGE: Yes. [LB700]

SENATOR GLOOR: ...and outcomes for better or for worse. Usually worse were the ones that found their way there. [LB700]

BRUCE RAMGE: Sure. [LB700]

SENATOR GLOOR: But none of that was discoverable... [LB700]

BRUCE RAMGE: Yeah. [LB700]

SENATOR GLOOR: ...because nobody would open up, nobody would share, you didn't end up with the educational exchange that was necessary if this information were discoverable. Are we talking about the same general approach here, although some of it has to do with competitive advantages as opposed to discoverability in courts? [LB700]

BRUCE RAMGE: Yeah, that's exactly right. You know, with healthcare, there's the added component of, you know, the HIPAA privacy and patient confidentiality. But this is more like trade secret. You wouldn't want a competitor to spot your weaknesses and then bad-mouth you so that they could get a better position in the business. Also, if your weakness was security risks, you wouldn't want hackers or whoever to know that, oh, my gosh, our computers are weak. So it's a dual reason for having this be very highly confidential. [LB700]

SENATOR GLOOR: Okay. Thank you. Other questions? Senator Carlson. [LB700]

SENATOR CARLSON: Thank you, Senator Gloor. I know a little bit about the concept of reinsurance, but I don't know a lot about it. [LB700]

BRUCE RAMGE: Uh-huh. [LB700]

SENATOR CARLSON: Are there reinsurance companies that do nothing but reinsurance or are there companies that have a full line of business that decide to reinsure another company's risk because they feel that would be a proper thing to do? [LB700]

BRUCE RAMGE: It's a little of both. Most insurance is traditional, that's their only line of business. But there are large companies that will assume other companies' blocks of business on a reinsurance basis as well. But traditionally, I think of it as a company being a specific reinsurer. [LB700]

SENATOR CARLSON: Does LB700 cover reinsurance companies? [LB700]

BRUCE RAMGE: It would if they were domiciled in our state as a domestic. [LB700]

SENATOR CARLSON: Do we have any? [LB700]

BRUCE RAMGE: We have...I believe we have one, is that...we have one, yes. [LB700]

SENATOR CARLSON: Okay. All right, thank you. [LB700]

BRUCE RAMGE: Yes. [LB700]

SENATOR GLOOR: Seeing no further questions, thank you, Director. [LB700]

BRUCE RAMGE: Thank you. [LB700]

SENATOR GLOOR: We'll now move to other proponents for the bill. [LB700]

TAD FRAIZER: Good afternoon, Senator Gloor and members of the committee. My name is Tad, T-a-d, Fraizer, F-r-a-i-z-e-r. In this case, I am local counsel for the American Insurance Association, a national trade association of over 300 property and casualty firms. And just very briefly, we wanted to put in our good word for this bill. We think it's an appropriate bill to move risk assessment forward in modern times. Again, it's an NAIC developed bill in which the various companies have had input over the years in which the model was developed. And we appreciate the Department of Insurance bringing this bill before you and hope you will act favorably on it and advance it to the full Legislature. And I'd be happy to try to answer any questions you might have. [LB700]

SENATOR GLOOR: Thank you, Mr. Fraizer. Any questions? Seeing none... [LB700]

SENATOR CARLSON: Yes. [LB700]

SENATOR GLOOR: Senator Carlson. [LB700]

SENATOR CARLSON: Senator Gloor, thank you. You mentioned something that kind of sparks a question because we get a little bit used to, in the Legislature, thinking that bills that are brought forward were put together in the month before the session started. I'm guessing this was developed over a pretty good period of time. [LB700]

TAD FRAIZER: I believe so, Senator, although I can't quote you the exact time frame. [LB700]

SENATOR CARLSON: Okay. Okay, thank you. [LB700]

SENATOR GLOOR: Seeing no further questions, thank you. [LB700]

JANIS McKENZIE: Senator Gloor, members of the committee, for the record, my name is Jan McKenzie, M-c-K-e-n-z-i-e, executive director and registered lobbyist for the Nebraska Insurance Federation in support of LB700. We appreciate, as the industry that is being regulated, as the domestic industry, we always appreciate the department's efforts to keep us modernized and uniform across the states with other...along with other competitive states such as Iowa. We like to make sure that we are in the same playing field as our competitor states in keeping our domestic industry as strong and secure and up to date as possible. And just to clarify, this bill only affects the Nebraska domestics regulated by our department. While, I believe, in the other bill testimony, you heard there were 491 life insurers licensed to do business in Nebraska, only 49 of those may be domestic companies that, then, would fall under this regulation. The department regulates those companies that are actually domiciled here. So I appreciate your time and would answer any questions if you have any. [LB700]

SENATOR GLOOR: Any questions for Ms. McKenzie? Seeing none, thank you. [LB700]

JANIS McKENZIE: Thank you. [LB700]

THOMAS MAYS: I'm Thomas Mays, M-a-y-s, Pacific Life Insurance. As a Nebraska domestic, we are in full support of LB700. And without reiterating the testimony, we're in complete support. Thank you. [LB700]

SENATOR GLOOR: Thank you. Any questions for Mr. Mays? Yeah, we've just heard a comment that this may be the best testimony we've heard so far. Thank you. Other testimony as proponents? We don't want to intimidate anybody. Seeing none, any opponents of this bill? Anyone in a neutral capacity? Senator Schumacher waives. And with that, we will move to LB715 and I will again turn the gavel over to Senator Christensen. And for the audience and for senators, after this bill, we'll take about a 10-minute break before we move on to LB688. [LB700]

SENATOR CHRISTENSEN: Welcome, Senator Gloor. [LB715]

SENATOR GLOOR: Thank you, Senator Christensen, fellow committee members. I'm Mike Gloor, G-l-o-o-r. We have LB715 before you for hearing. I brought this bill at the request of the Department of Insurance, the Director of Insurance, to update provisions related to risk retention groups to require the Producer-Controlled Property and Casualty Insurer Act to apply to risk retention groups. A risk retention group is an insurance company owned and operated by its members who is authorized under federal law to help those members who struggle to get liability insurance through traditional insurance companies. A risk retention group is a creature of federal law, but must be chartered as an insurer in one state before doing business. That state is responsible for the financial solvency regulation of the risk retention group. The contents of this bill will be an accreditation standard or the--here it comes again--the National Association of Insurance Commissioners and their financial regulation standards and accreditation program otherwise known as the NAIC accreditation program. Accreditation is a certification given to a state insurance department once it has demonstrated it has met and continues to meet an assortment of legal, financial, and organizational standards determined by a committee of its peers. The concept of accreditation for state insurance departments began in 1988 as a response to several large insurers becoming insolvent. The program has evolved over time. It requires regulators to have adequate statutory and administrative authority to regulate an insurers' corporate financial affairs with the necessary resources to carry out that authority, of course. Each state department of insurance is up for formal accreditation review every five years, but there is an interim review performed during the five years to provide guidance to the department. For Nebraska's domestic industry, it is imperative that the department maintain accreditation. It allows for interstate cooperation and reduces regulatory redundancies by allowing other states in which the Nebraska insurer is licensed to rely on the domestic accreditation state to monitor the financial solvency of the insurer. This ultimately saves states and insurers millions of dollars in examination costs. This bill will provide the director with additional information regarding the operation of a risk retention group, including an independent actuarial opinion and will subject risk retention groups to risk-based capital rules. This will give the director additional solvency tools for regulating the domestic risk retention groups. In addition to risk retention groups, this bill also provides for a change in the risk-based capital trend test. Initially, the level was set at 2.5, but over time regulators learned that an increase to 3.0 is appropriate--and, by the way, that increase is more stringent--is appropriate and will require an insurer to maintain a higher amount of capital, thereby strengthening the capital position. This 3.0 will be applicable to property, casualty, life, and health insurers. This will be an NAIC accreditation standard. Generally speaking, risk-based capital is the minimum amount of capital required to support the insurer's overall business considering the size of its business and the risk profile. I'd ask for your consideration on LB715. And as you might suppose, there will be other testifiers after me who will go into further explanation on this bill. Thank you. [LB715]

SENATOR CHRISTENSEN: Are there any questions for Senator Gloor? Senator Carlson. [LB715]

SENATOR CARLSON: Thank you, Senator Christensen. Senator Gloor, it looks to me like this bill is really lines 17 through 22 on page 5. Is that correct? [LB715]

SENATOR GLOOR: I think there will be other proponents. That's certainly part of it. This relates just to health organizations. But I think it's...well, no. You're right, it is, at least for that component of it. However, I think you shouldn't minimize the importance of what's on page 3, lines 7, 8, and 9. [LB715]

SENATOR CARLSON: Okay. [LB715]

SENATOR GLOOR: I'm sure the director will rectify any error I've made in my explanation. [LB715]

SENATOR CARLSON: Okay, thank you. [LB715]

SENATOR CHRISTENSEN: Are there any other questions for Senator Gloor? Seeing none, thank you. [LB715]

SENATOR GLOOR: Thank you. [LB715]

SENATOR CHRISTENSEN: Proponents? [LB715]

BRUCE RAMGE: (Exhibit 1) Good afternoon. Good afternoon, Senator Gloor and members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge. For the record, that's spelled B-r-u-c-e R-a-m-g-e. I'm the Director of Insurance and I'm here to testify in support of LB715, which Senator Gloor was kind enough to introduce at the department's request. In section 1, we are asking that the rules that apply to producer-controlled property and casualty insurers also apply to risk retention groups. Risk retention groups, while specialized, are risk-bearing entities and regulators need appropriate tools to regulate them. The Producer-Controlled Property and Casualty Insurer Act regulates the relationship between insurers and insurance producers who produce so much business for insurers that the normal negotiation position between producer and insurer is reversed. And the potential exists that the insurer may not act in its own solvency interest. The act requires that the relationship be set out in a written contract specifying the responsibilities of each party, requires meetings of an audit committee, and file an independent actuary opinion. Risk retention groups are currently exempted from the act. We're asking that to change. This change will be a National Association of Insurance Commissioner or NAIC accreditation standard for the department. On a more technical subject, in sections 2 and 3, we are asking you to amend the Insurers and Health Organizations Risk-Based Capital Act to adopt recent amendments to the NAIC Model Act on this subject. Risk-based capital analysis is a tool used by insurance regulators to assess financial health of insurers. The risk-based capital trend test was originally developed for life insurers and the trigger was set at 2.5 and that's basically a multiplier. Regulators developed greater expertise and when the level was set for property and casualty insurers, increased experience showed that setting the level at 3.0 would be more appropriate for property and casualty companies and an increase to the level was adopted for life insurers as well. This new level will soon be an accreditation standard. In addition, a trend test is added that would trigger a company action level event for health organizations, as already applies to life and health insurance and property and casualty insurers. Last, in the area of risk-based capital, the bill would extend risk-based capital rules to apply to risk retention groups. Risk retention groups are the alternative risk transfer entity created by the federal Liability Risk Retention Act, LRRA, to fund liability insurance risk. The members of the risk retention group are also its owners, and membership must be limited to persons engaged in similar businesses or activities, thus being exposed to the same types of liability. Application of the risk-based capital rules is appropriate as these are risk-bearing entities and regulators need appropriate tools to regulate them. All of these items will bring Nebraska's risk-based capital rules into conformity with the NAIC Model Act changes. I ask that you move this bill to General File. And I'm happy to answer any questions you may have. [LB715]

SENATOR CHRISTENSEN: Thank you, Director Ramge. Are there any questions from the senators? Senator Schumacher. [LB715]

SENATOR SCHUMACHER: Thank you, Senator Christensen. In paging through the bill, there's very, very little language change. [LB715]

BRUCE RAMGE: Yes. [LB715]

SENATOR SCHUMACHER: Where does all that you explained...how is all that triggered because it just... [LB715]

BRUCE RAMGE: Its modification of existing bills so really the only changes are those that are underlined. On page 3, this is basically the portion that would bring the risk retention groups into compliance with the producer-controlled business model act. And that model is article 57 of the insurance code. If you move on to page 5, this is where the risk-based capital level of 3.0 would apply to health organizations and also to life insurance companies. Section 2 changes the life companies from 2.5 to 3.0 and section 4 adds the health organizations. And just as a clarification, some health insurers file under a life insurance blank; they're considered life insurers. Others are...file under a health blank. So this would make those requirements the same for both, whether the company was filing under a life insurance statutory blank or the health. [LB715]

SENATOR SCHUMACHER: When it refers to in page 5, that company action level event means any of the following events: the filing of a risk-based capital report... [LB715]

BRUCE RAMGE: Uh-huh. [LB715]

SENATOR SCHUMACHER: ...and then on 5, if a health organization has a total adjusted capital, which is greater than a formula...by health organization, is that a health insurance organization? [LB715]

BRUCE RAMGE: Yes, that would be... [LB715]

SENATOR SCHUMACHER: We're not talking a hospital or a doctor's office or... [LB715]

BRUCE RAMGE: Correct. An example would be Blue Cross Blue Shield of Nebraska. They're a health organization under the terms of the insurance law. [LB715]

SENATOR SCHUMACHER: So somewhere else in the books there's a definition for a health organization? [LB715]

BRUCE RAMGE: I believe so, yes. Under the financial examination act, I believe that defines the entity. [LB715]

SENATOR SCHUMACHER: And so the guts of this is taking these risk-retention groups under an existing statutory framework... [LB715]

BRUCE RAMGE: Yes, yes. [LB715]

SENATOR SCHUMACHER: ...and taking away their exemption or exclusion or something from that framework. [LB715]

BRUCE RAMGE: Correct, correct. [LB715]

SENATOR SCHUMACHER: Okay. All right. Thank you. [LB715]

BRUCE RAMGE: But that's right. [LB715]

SENATOR CHRISTENSEN: Senator Campbell. [LB715]

SENATOR CAMPBELL: Thank you, Senator Christensen. Director, how long do we have to comply with the model act? Is that on a yearly basis we update this? [LB715]

BRUCE RAMGE: The National Association of Insurance Commissioners usually gives us a couple of years to get our... [LB715]

SENATOR CAMPBELL: Okay. [LB715]

BRUCE RAMGE: ...models up to speed because they realize some states, the legislature doesn't meet every year and others they do. So it's...we're usually given a little bit of advance time. And I don't have that information for this specific provision, but I could get that for you. [LB715]

SENATOR CAMPBELL: No, that's okay. I just wanted some general framework there. [LB715]

BRUCE RAMGE: Sure. [LB715]

SENATOR CAMPBELL: And what happens if a state doesn't comply then? [LB715]

BRUCE RAMGE: Then we could lose our accreditation. And if we lose our accreditation, that means other states don't have to accept our financial reports and examinations. And so a domestic company could actually be audited by everyone else. [LB715]

SENATOR CAMPBELL: And I think that's important for all of us to stress to our colleagues. [LB715]

BRUCE RAMGE: Okay. [LB715]

SENATOR CAMPBELL: Thank you. [LB715]

BRUCE RAMGE: You bet. [LB715]

SENATOR CHRISTENSEN: Are there any other questions? Senator Carlson. [LB715]

SENATOR CARLSON: Thank you, Senator Christensen. How many states are you aware of that aren't accredited? [LB715]

BRUCE RAMGE: Right now they are all accredited. [LB715]

SENATOR CARLSON: Okay. [LB715]

BRUCE RAMGE: For a while, I think there was one large state that was not because they could not get some laws enacted. But I think currently everyone is accredited. It is a pretty rigorous process. Our accreditation was accomplished in 2012, I believe. And it was a great relief to our financial division to have it done. And we'll be evaluated again in a five-year cycle. [LB715]

SENATOR CARLSON: Okay, thank you. [LB715]

BRUCE RAMGE: You bet. [LB715]

SENATOR CHRISTENSEN: Are there any other questions? Seeing none, thank you, Director. [LB715]

BRUCE RAMGE: Thank you. [LB715]

SENATOR CHRISTENSEN: Next proponent? [LB715]

JANIS McKENZIE: Senator Christensen, members of the committee, for the record my name is Jan McKenzie, M-c-K-e-n-z-i-e, here in testimony in support of LB715 as executive director and registered lobbyist for the Nebraska Insurance Federation. The federation supports efforts to keep our accreditation and to keep our statutes, as I said before, up to modern standards and uniformity with the other states. And I'd answer any questions. [LB715]

SENATOR CHRISTENSEN: Are there any questions from the committee? Seeing none, thank you. [LB715]

JANIS McKENZIE: Thank you. [LB715]

SENATOR CHRISTENSEN: Any other proponents? Are there any opponents? Anybody like to testify in the neutral? Senator Gloor, like to close? He waives. That will close the bill hearing on LB715. And I believe Senator Gloor wanted to take a 15- or 10-minute break. [LB715]

SENATOR GLOOR: Thank you all. We'll now move to LB688. Welcome, Senator Christensen, and thanks for your help chairing today. [LB688]

SENATOR CHRISTENSEN: Thank you, Chairman Gloor and members of the Banking, Commerce and Insurance Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n, I represent the 44th Legislative District. LB688 was brought to me by Department of Insurance to change requirements for the Motor Vehicle Service Contract Reimbursement Insurance Act related to cease and desist orders or hearings, sorry. Currently, the act requires the director to hold an administrative hearing when a cease and desist order is issued even if no one, including the service contract provider, is asking for a hearing. This would amend section 44-3524 to state that an administrative hearing is required only if the subject of the cease and desist order requests a hearing within ten business days of receipt of the order. This is a legal process followed...this is the same legal process followed when the department issues cease and desist orders to other types of entities in regulation. This amendment will eliminate the need to hold unnecessary administrative hearings for uncontested orders. Thank you for your consideration of LB688. And I ask you to advance it to the floor. [LB688]

SENATOR GLOOR: Thank you, Senator Christensen. Are there any questions? Seeing none, thank you. We'll now move to proponents. [LB688]

BRUCE RAMGE: (Exhibit 1) Good afternoon, Senator Gloor and members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge, for the record, that's spelled B-r-u-c-e R-a-m-g-e. I'm the Director of Insurance and I'm here to testify in support of LB688, which Senator Christensen was kind enough to introduce at the department's request. Generally, motor vehicle service contracts are offered to purchasers of motor vehicles offering coverage above and beyond the manufacturer's warranty. The bill would simplify the department procedure for issuing a cease and desist order for motor vehicle service contract providers under the act and require an administrative hearing only if the entity subject to the order requests the hearing. Currently, the hearing is automatic, even if no one disagrees with the order. The department typically issues less than one of these orders every five years. In other statutes where the department has cease and desist authority, the subject of the order must request the hearing. This change brings this act in line with the provisions of other cease and desist procedures administered by the department. I ask that you move this bill to General File and I am happy to answer any questions you may have. [LB688]

SENATOR GLOOR: Thank you, Mr. Ramge. I want to make sure I understand. This relates only to motor vehicle service contract organizations? [LB688]

BRUCE RAMGE: Correct. [LB688]

SENATOR GLOOR: But they're not insurers, are they? [LB688]

BRUCE RAMGE: They are...it's complicated. [LB688]

SENATOR GLOOR: What are they? [LB688]

BRUCE RAMGE: They...a motor vehicle service contract provider is not an insurance company, but they must obtain a reimbursement policy in Nebraska from an authorized insurer. We regulate both entities, the insurers and the provider. [LB688]

SENATOR GLOOR: And is this a problem because sometimes they don't do that? Is this...when you...give me some examples of why you would issue a cease and desist? [LB688]

BRUCE RAMGE: This came up recently when the motor vehicle service contract provider went out of business, and I believe that there were still entities selling these contacts. [LB688]

SENATOR GLOOR: Okay. [LB688]

BRUCE RAMGE: And so we had to issue a cease and desist and they like, oh, we're not going to disagree with this. We're going out of business and we have to have a hearing anyway. And as it turned out, I think we had a hearing in an empty room with the court reporter and the attorney going through the motions. And it was just a little odd. [LB688]

SENATOR GLOOR: Are these the same entities that regularly send me, and I'm sure others at the table, something in the mail that says your mileage is wound up and you can buy some extended warranty protection? [LB688]

BRUCE RAMGE: Exactly, yes. [LB688]

SENATOR GLOOR: Okay. That's the very same type of organization we're talking about here. [LB688]

BRUCE RAMGE: Yes. Yes. [LB688]

SENATOR GLOOR: That's what I thought. Okay. Questions? Other questions? Senator Schumacher. [LB688]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Director Ramge, the new language says that within ten days after receipt of the order, they can request this hearing. [LB688]

BRUCE RAMGE: Yeah, okay. [LB688]

SENATOR SCHUMACHER: How are those ordered mailed out? Are they certified mail or are they... [LB688]

BRUCE RAMGE: I believe they are sent certified mail. Yes, okay. [LB688]

SENATOR SCHUMACHER: Okay. Thank you. I would just raise that issue because ordinary mail has gotten somewhat questionable at times recently. So thank you. [LB688]

BRUCE RAMGE: Sure. You're welcome. [LB688]

SENATOR GLOOR: Senator Carlson. [LB688]

SENATOR CARLSON: Thank you, Senator Gloor. I can see, in a sense, this is kind of an insurance-type contract because you buy one, you expect service... [LB688]

BRUCE RAMGE: Yes. [LB688]

SENATOR CARLSON: ...and you expect reaction, and you expect reimbursement... [LB688]

BRUCE RAMGE: Uh-huh. [LB688]

SENATOR CARLSON: ...when something happens. So...but there are--how do I refer to them--mainline automobile services and companies that offer the same thing, aren't there? [LB688]

BRUCE RAMGE: Yes, there are. There are some specialized insurance companies that offer the vehicle extended warranties. But most typically, what you will find is that it will be through a motor vehicle service contract and administered by an administrator and then the insurer almost acts as though it's like a reinsurance company. And in Nebraska, because we had a bad situation maybe about 15 years ago, we made that be very strict so that they cover first-dollar amounts rather than allowing for a large deductible. [LB688]

SENATOR CARLSON: Well, when your warranty is about to run out on your vehicle and you get a notice, I think I'm used to getting it from the company I bought the car from. [LB688]

BRUCE RAMGE: Okay. That's a good point. A manufacturer that makes the car, they're not subject to this. So if you have a, let's say pick a car, a Ford or a GM, if your extended warranty is through the manufacturer, that doesn't apply at all here. [LB688]

SENATOR CARLSON: Do those that want to get your business make their letter look like it's coming from the company you bought the car from? [LB688]

BRUCE RAMGE: It wouldn't surprise me. I mean, I think marketing techniques sometimes are something that we try to watch. But because these entities are not insurance companies, it's a little harder to regulate their advertising. [LB688]

SENATOR CARLSON: But it would be...it would seem pretty apparent why you'd need a cease and desist ability. [LB688]

BRUCE RAMGE: Yes. Yes. [LB688]

SENATOR CARLSON: Thank you. [LB688]

BRUCE RAMGE: You bet. [LB688]

SENATOR GLOOR: Other questions? Seeing none, thank you. [LB688]

BRUCE RAMGE: Thank you. [LB688]

SENATOR GLOOR: And thank you for the example. [LB688]

BRUCE RAMGE: You bet. [LB688]

SENATOR GLOOR: Other proponents? Any opponents? Anyone in a neutral capacity? Senator Christensen waives. And we'll close the hearing on LB688 and move to LB799. Senator Carlson, you are in the batter's box versus the penalty box. [LB688]

SENATOR CARLSON: (Exhibit 1) Senator Gloor and members of the Banking, Commerce and Insurance Committee, I am Tom Carlson, T-o-m C-a-r-l-s-o-n, representing the 38th District. And I'm here today to introduce LB799. First off, there is an amendment to the bill that will become the bill and you're being handed that right now. I understand the committee counsel has the amendment and it's being passed out to you. LB799 deals with a section of the Nebraska statutes that governs insurance companies. And, specifically, LB799 amends a section of the insurance statute that I'm told has been in law for nearly 100 years. The law when enacted required that insurance companies report the salaries of their executives and officers. The goal of the law was to give the insurance commissioner the ability to see how companies were being run and where profits were going, in essence, to protect the purchasers of insurance. Several decades later, Nebraska passed what are referred to as sunshine laws, and these laws made all records held by the state public unless there's a specific exemption. Nebraska's public records law, section 84-712.01, made the officers' and executives' salaries of insurance companies that were being collected by the department for regulatory purposes public. There is no public policy to making public the salaries of private insurance companies' executives. Rather than repealing the requirement to submit the information to the director, the bill states that the salary information provided to the director will be used only by the department and otherwise will remain confidential unless ordered by a court or agreed to by the company. In this way, the department can continue to regulate and use the information if it desires. When considering introducing the bill, I thought about the fact this is the only place in our statutes where the state of Nebraska makes private companies' salaries public. We don't make executive salaries of other regulated businesses public: not banks, which we regulate through the Department of Banking; not telephone companies, which we regulate through the Public Service Commission; not hospitals, which we grant not-for-profit status; not businesses that we give tax incentives to under the Nebraska Advantage Act. It is this lone section of statute that treats private business information as if it were public information. Because this is the only place we make private salaries public, I'm asking that we utilize the information for regulatory purposes only. Let me point out that this bill only impacts private companies. Public companies are subject to the Securities and Exchange Commission. Under the SEC, public companies are required to file certain information that is valuable to investors to determine the risk involved in investing in those companies. Public companies will still be required to make public the salaries and benefits of the top six executives. I am not aware of any opposition to the bill. Following me to give testimony and answer any questions that you have is Bill McCartney. Bill is a native Nebraskan who has moved to Texas. He is the former director of the Department of Insurance under both Governors Orr and Nelson. He also served as the president of the National Association of Insurance Commissioners during that time. I would ask you to adopt the amendment that is before you and advance the bill from committee. Thank you for letting me open. Are there any questions? [LB799]

SENATOR GLOOR: Any questions? Senator Schumacher. [LB799]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Senator Carlson, do you know, does this particular company reveal to its policyholders or its owners what it is paying in salary to its executives? [LB799]

SENATOR CARLSON: I don't know that. I would doubt it, but I would ask the next testifier. That's a good question. [LB799]

SENATOR SCHUMACHER: Thank you, Senator Carlson. [LB799]

SENATOR GLOOR: Other questions? Seeing none, I would, by way of clarification, say that the top...under IRS rules, the top either five or ten paid positions in not-for-profit organizations like hospitals, that information has to be provided and made available by name. Yep, not by position, by name, just for purposes of your... [LB799]

SENATOR CARLSON: Okay. I would have a question in return, but I'm not able to ask it from here, so I'll wait. Okay. [LB799]

SENATOR GLOOR: Thank you. [LB799]

SENATOR CARLSON: Thank you. [LB799]

SENATOR GLOOR: We'll now move to proponents. [LB799]

WILLIAM McCARTNEY: Mr. Chairman, members, my name is William McCartney, M-c-C-a-r-t-n-e-y. I am senior vice president and associate general counsel of United Services Automobile Association in San Antonio, Texas. As I mentioned earlier, USAA is probably the most integrated financial services company in the United States. We are the fifth largest writer of homeowners insurance, the seventh largest writer of automobile...personal automobile insurance, we have a bank whose assets are approaching $60 billion, over 50 mutual funds, no-load mutual funds under management, and a life insurance company. Most people haven't heard of USAA if you haven't been affiliated with the military. Our goal is to be the provider of choice to the military community. And we have a full range of highly competitive financial products in order to do that. Senator Carlson was very kind. I am a native Nebraskan, and from 1987 to 1994 I was Director of Insurance in Nebraska; I was Bruce Ramge. And one of the great constants of dealing with the Banking Committee is Bill Marienau is still here. He and I did a lot of damage together during those seven years. I'm here testifying in favor of this bill. This bill goes back to the turn of the century, and not the turn of the last century, but the turn of the century before that. It's a bill that is anachronistic, it's outdated, and really it is completely out of character with the laws of the other states. Domestic insurance companies are required to file compensation information with their home-state regulator. That's a requirement in the NAIC, the annual statement instructions and it's filed as an exhibit, as an appendix, to the annual statement. It's required of domestic companies in every state. And seven states also require it of foreign companies, companies that are domiciled in other states that are doing business in those states. In every case, that information is confidential; it's used for regulatory purposes only. The Nebraska compensation statements have been made public for a number of years. Actually, I happened to chair the NAIC Financial Condition Committee, which is the parent committee of all the NAIC committees that do annual statements and financial analysis and all of those things. And in 1993, the NAIC adopted that exhibit, the appendix, to the financial statements requiring the filing of compensation information. And there was discussion at the time, should that be public or should it be private? Should it be held confidential? And I testified at the hearing and was successful in getting that to be confidential. I never saw the public purpose in making this information on private companies public. And as Senator Carlson indicated in his opening, insurance companies are the only regulated company--really the only company--that are required to do this. And it really dates back to a law that's 120 years old. And all we're asking is for Nebraska to join the other states for this to be harmonized so that this information is kept confidential here in the same manner it is in the other states. Thank you. [LB799]

SENATOR GLOOR: Are there questions for Mr. McCartney? Senator Schumacher. [LB799]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you for your testimony today. What's the nature of USAA? Is that a corporation, is it a...what's its structure? [LB799]

WILLIAM McCARTNEY: I'm glad you asked that question because I love to tell this story. USAA was formed by a group of 25 Army officers in 1922. Those Army officers' major asset was their automobile. And in 1922 they couldn't get automobile insurance from the traditional carriers because the large insurance companies looked at their frequent moves, always at the invitation of Uncle Sam, as a sign of instability. And so in order to be able to protect their largest asset, they met in a hotel in San Antonio--they were all stationed at Fort Sam Houston in San Antonio--and decided the only way we're going to be able to do this is to join together and pool our risks. So USAA is a reciprocal inter-insurance exchange where, in effect, the members insure each other. Now there are a number of stock companies in there, you know, the bank and the life insurance companies. But the main parent company is a reciprocal inter-insurance exchange. [LB799]

SENATOR SCHUMACHER: So the members own the company? [LB799]

WILLIAM McCARTNEY: Yes. [LB799]

SENATOR SCHUMACHER: Do the members have access to salary and compensation information? [LB799]

WILLIAM McCARTNEY: Not directly. [LB799]

SENATOR SCHUMACHER: I would...if I were a member and if I were an owner of this company, how would I know how much of my premium is being allocated to executive salaries? [LB799]

WILLIAM McCARTNEY: Being the owner of a mutual or of a reciprocal is not the same as being the owner of another kind of company. Let me expand on that. So the only incidents of ownership that you have as a policyholder of a mutual or of a reciprocal is that you (a) have the right to elect directors, and (b) you have the right to the proceeds. Anything that's left over when the company is wound up, when the operations are wound up, all the bills are paid, whatever is left, whoever is a member at the time has a right to a portion of that. But as a member, unlike a share of stock in a company, you don't have anything that you can pass along to your children. You don't have any incidents of ownership. You can't sell your ownership interest to somebody else. You can't will it to your children. So it's not the same. And unlike a public company where, you know, you may go to a public company and buy insurance, that doesn't give you an ownership right. If you want an ownership right, you also have to make an investment. The amount of money that you are--I don't even want to use this word--investing, the amount of money that you send to your insurance company is the premium for your coverage. The two incidents of ownership just happen to come along with that in mutual and reciprocal companies. [LB799]

SENATOR SCHUMACHER: Now you indicated that, as in your organization, you have nothing to pass on to your descedants if you're a policyholder. [LB799]

WILLIAM McCARTNEY: That's right. [LB799]

SENATOR SCHUMACHER: Could you describe to the committee the ad that you are running on the cable channels and how that infers that you have something to pass on? [LB799]

WILLIAM McCARTNEY: Well, you do. So United Services Automobile insurance (Association), for you to qualify for property and casualty insurance, you have to have had a connection to the military. So you had to be in the reserves, you had to be on active duty, but you...somebody had to have a connection to the military. [LB799]

SENATOR SCHUMACHER: Your grandfather? [LB799]

WILLIAM McCARTNEY: Your grandfather, your father, your mother. [LB799]

SENATOR SCHUMACHER: In fact, your ad says that this is something that is passed on from generation to generation, does it not? [LB799]

WILLIAM McCARTNEY: The thing that's passed on is your ability to get insurance, to qualify for insurance. It's no incidents of ownership, it's the right to apply for insurance. [LB799]

SENATOR SCHUMACHER: And as a practical matter, in this country, everybody has got some relative somewhere that was in the military. [LB799]

WILLIAM McCARTNEY: Well, it's got to be in the direct line. It can't be somebody's aunt. It can't be somebody...it can't be your son or your daughter. It has to be in the direct line from somebody who honorably served. [LB799]

SENATOR SCHUMACHER: So basically, these salaries are known only to who? [LB799]

WILLIAM McCARTNEY: To the board of directors. [LB799]

SENATOR SCHUMACHER: And how does one get to be on the board of directors? [LB799]

WILLIAM McCARTNEY: They're elected by the membership. [LB799]

SENATOR SCHUMACHER: And the membership elects them without having any idea of what their salaries or what the salaries of the executives are? [LB799]

WILLIAM McCARTNEY: I think...my sense is that our members are much more concerned with getting competitive products, competitive...and it goes beyond financially competitive, it goes to the services that we provide--and are much more concerned about the company performing on the promises it makes. United Services Automobile Association is the last property and casualty company to have the highest possible financial ratings from all the national statistical rating organizations. When I joined USAA 15 years ago, there were six companies that had the highest possible ratings. Over the last 15 years, those companies lost those ratings. The last one was Berkshire Hathaway. I think our members are much more concerned about the financial condition of the company, the products that are sold, and less about how much executives are paid. Running a company of the size of USAA, you have to compete for talent. [LB799]

SENATOR SCHUMACHER: And, in fact, the salaries we're talking about are in excess of $5 million a year? [LB799]

WILLIAM McCARTNEY: I don't know that for sure. [LB799]

SENATOR SCHUMACHER: You must have reviewed these filings with the Department of Insurance. [LB799]

WILLIAM McCARTNEY: I actually don't have anything to do with the filings. They're done in the treasurer's office. [LB799]

SENATOR SCHUMACHER: You mentioned that the telephone companies do not have to disclose their information. [LB799]

WILLIAM McCARTNEY: Senator Carlson mentioned that. [LB799]

SENATOR SCHUMACHER: Okay. To your knowledge, is that accurate? [LB799]

WILLIAM McCARTNEY: I don't know. [LB799]

SENATOR SCHUMACHER: So, basically, what we have is multimillion-dollar salaries that the members of the company have no idea are being paid in that quantity except for this one, obscure filing in the state of Nebraska. And that probably has, when it gets into the hands of other insurance companies, some disadvantage. Is that the reason for this concern? [LB799]

WILLIAM McCARTNEY: No. The reason for the concern is that, to me, it has never made any sense. And it seemed...I plan to retire later this year. And it seemed to me that one of the last things I could do before I retire is try to get this rationalized. You don't know how much your plumber makes. You don't know how much your doctor makes. You don't know how much your banker makes. Why should you know how much the head of underwriting of your insurance company makes? [LB799]

SENATOR SCHUMACHER: But we know what the officers and directors of every publicly oriented company make because they've got to file with the SEC. [LB799]

WILLIAM McCARTNEY: They do, but it's different. People have actually invested money in those companies. And you can make an argument that they have a right to know everything that could affect their investment. Our members aren't making investments in our company. The only thing they're doing is paying a premium and along with that, they get the right to elect boards of directors. [LB799]

SENATOR SCHUMACHER: But we heard earlier today from an insurance company, I think it was a mutual insurance company, that said it's really important to release the reserves because that would trickle down to the membership and they would have more economical premiums as a result of that. And wouldn't the same be true if the compensation was excessive and the market then forced a reduction in that compensation? [LB799]

WILLIAM McCARTNEY: Well, you know, this is a philosophical debate. But from my perspective, if you have a company that has the lowest...among the lowest priced products in the marketplace and has the highest possible financial ratings, what does it matter what they're paying their executives? They're apparently doing something right. [LB799]

SENATOR SCHUMACHER: I have no further questions. [LB799]

SENATOR GLOOR: Senator Campbell. [LB799]

SENATOR CAMPBELL: Thank you, Senator Gloor. Mr. McCartney, in the time that you've been involved and was the Director of Insurance or to your knowledge, has such a bill ever been brought forward to take care of this? [LB799]

WILLIAM McCARTNEY: There were a number of occasions where the insurance industry, the domestic industry talked about doing that and either ran into some resistance from the Department of Insurance or somebody who happened to be on the Banking Committee at the time. I think that the department no longer objects to this. In fact, we talked to the department about this. And the department said, you know, I don't know why we're even collecting this, we don't look at it. But...so one way to attack this would be to say, if they're not going to look at it, why even collect it? But we'll concede, for the purpose of this discussion, that there might be some regulatory interest in that. So let's continue to have the department collect it, even though they rarely look at it, but let's treat it as confidential, proprietary business information. [LB799]

SENATOR CAMPBELL: And in the conversation that you and I had earlier about this, one of the questions I did ask was, does the department keep track of who asks for the information? [LB799]

WILLIAM McCARTNEY: Yes. It's my understanding they do. [LB799]

SENATOR CAMPBELL: So if I'm "John Q. Citizen" from Fairbury, Nebraska, and I want to know who's been asking for the information, the department would give me that? [LB799]

WILLIAM McCARTNEY: I believe so. You know, I think a lot of the people who look at it are competitors who want to see how much their competitors are paying their executives. [LB799]

SENATOR CAMPBELL: I would imagine. Thank you. [LB799]

SENATOR GLOOR: Other questions? Seeing none, thank you, Mr. McCartney. [LB799]

WILLIAM McCARTNEY: Thank you, Senators. It's nice to be home. [LB799]

SENATOR GLOOR: And I would tell you, we are very pleased that Mr. Marienau continues to sit in that chair. And, in fact, I've had a discussion with him that should he leave, at least any time in the near future, I will hold hostage his wife and child. And then he asked me if I'd read Ransom of Red Chief and I reneged. [LB799]

WILLIAM McCARTNEY: I'm amazed though at how...now that he's gotten older, he looks so much like Garrison Keillor. [LB799]

SENATOR GLOOR: I don't believe he's Norwegian. Any other proponents? [LB799]

JANIS McKENZIE: Senator Gloor, members of the committee, for the record, my name is Jan McKenzie, spelled M-c-K-e-n-z-i-e. I'm here as executive director and lobbyist for the Nebraska Insurance Federation in support of LB799 as amended. We are in favor of keeping the information confidential. And, in fact, from a number of my members I guess the other story that I've heard is that as one of...and maybe only the only state that makes this information public for all private and mutual and publicly traded companies, we become the place that everybody who's looking for any information comes to search for that for whatever purpose they may want to use it for. And in many cases, it's been used in op-eds or newsletters or other things. And I think as businesses, they're somewhat concerned about that from their perspective, therefore, it seemed reasonable to support the effort to keep the information collected by the department, but to have it be confidential. [LB799]

SENATOR GLOOR: Questions? Senator Campbell. [LB799]

SENATOR CAMPBELL: Thank you, Senator Gloor. Ms. McKenzie, has anybody from your organization, to your knowledge, requested the information? Has the federation requested it? [LB799]

JANIS McKENZIE: I understand that a number, number, number, number of years ago, the CEO of Mutual of Omaha was quite interested in having the bill changed. There was a discussion about it. This was before my time. But I don't believe that they ever went ahead and introduced a bill. If Galen were here today instead of incapacitated, he could probably answer that question. But I think it's been a discussion that's been tossed around for a number of years. And not so much concern over collecting the data by the department, but just the fact that we are now sitting alone as the only state that requires the department to make it public on all companies, domestic, foreign, private, mutual, publicly traded, so. [LB799]

SENATOR CAMPBELL: Thank you. [LB799]

SENATOR GLOOR: Senator Schumacher. [LB799]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you for your testimony today. What harm has come from our present policy? [LB799]

JANIS McKENZIE: Other than what I think people believe is time dedicated for someone at the department to have to make that available to whomever might show up and ask for it or call for it, I don't believe there's been any monetary harm or...maybe just someone's attempt to create an image or a bias that something is improper. But I can point to nothing as a concrete example. [LB799]

SENATOR SCHUMACHER: Okay. And because we have this mechanism, information flows to the consuming public about the conservative or liberalness of executive compensation. And also the industry, itself, can judge the fairness of the...and adequacy of the compensation it's paying its executives. So it would seem there's some good that's flowing from this policy not only here in the state, but nationally. [LB799]

JANIS McKENZIE: That could be an argument. I can't disagree. [LB799]

SENATOR SCHUMACHER: Thank you. [LB799]

SENATOR GLOOR: Seeing no further questions, thank you, Jan. [LB799]

JANIS McKENZIE: Thank you. [LB799]

SENATOR GLOOR: Other proponents? Opponents to this bill? Anyone in a neutral capacity? Senator Carlson. [LB799]

SENATOR CARLSON: Thank you, Chairman Gloor and committee. I left out a phrase in the introduction that I gave going through. We don't make executive salaries of other regulated businesses public. I get down to, "and it's not hospitals which we grant for not-for-profit status." And the bill only impacts private companies. Public companies are already subject to SEC requirements that this information must be provided. I'm a little bit nervous about a bill that I voted for a few days ago on the floor that required salary to be public. And I think there's a discrepancy in maybe how we approach that bill. We're asking that the head of a group have that salary published because it's paid for by public tax dollars. So are all of the other employees of that particular group, but we're not asking for them...for their salaries to be public. And I get to thinking that this is a little bit of, perhaps, an unnecessary overstep of regulation. And a lot of us say that we're against unnecessary regulation. And I think that may have hit in that direction more so than even this. So I think that...I think the bill is reasonable, the request is reasonable. And when it puts us in the same position as other states, I don't think that's necessarily a bad thing. And I start to push back when I feel like perhaps we're overregulated. And this has been in place for a long time, so we've survived it, but I think this is a bill that deserves attention and discussion and appreciate your listening to it. And if you have any other questions of me, I'd try to respond. [LB799]

SENATOR GLOOR: Senator Schumacher. [LB799]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you, Senator Carlson.

Senator Carlson, do you know any other private business where the owners, the members, do not know the compensation they're paying their executives? [LB799]

SENATOR CARLSON: Say that again. Do I know any private business... [LB799]

SENATOR SCHUMACHER: Any other private business where the members, the owners, do not know what they--and probably cannot get--information as to what they're paying their executives. [LB799]

SENATOR CARLSON: I think there's a little difference in what you perhaps mean in owners of a private company that have more--not responsibility isn't a good--more privilege, I guess, than the owner of a policy of an insurance company. [LB799]

SENATOR SCHUMACHER: But they, in fact, are the only people that are owners in this thing. They get the results of it after the company dissolves, it has no other source of equity financing, nobody bought stock, they have the power to elect directors. I mean, I'm grappling for any other private business where the people in that role do not know, cannot find out, the compensation that they are paying their executives. [LB799]

SENATOR CARLSON: This company is fairly close to a mutual insurance company. And I worked for a mutual insurance company; then it became a public company. But while it was a mutual company, I always said that the policyowners own the company. Policyholders didn't have access, in the company I worked for, to this kind of information. They couldn't demand it. [LB799]

SENATOR SCHUMACHER: So who should have access to the information of executive compensation of these--from what we've heard--rather large corporations? [LB799]

SENATOR CARLSON: Certainly, I would think the board of directors, and I don't know how those rules work. But I don't think it's a real strong argument that if this information is not available, it's a bad procedure. If it's a bad procedure, then all other companies that operate under this ought to change what they're doing. Maybe they should, but they don't. And this is the only area in Nebraska where this, to this point, is required. The others don't. And so I just...I think it's a reasonable request. I'm not arguing with your point because it's a pretty good point. But anybody that owns a private company and does business with the public and sells them something, a person that buys that product doesn't have a right to know what the owner of that company makes. [LB799]

SENATOR SCHUMACHER: But these aren't the owners. We were told that the owners are the members. [LB799]

SENATOR CARLSON: It's a little bit like a customer buying a product. They're buying a product. I think it's a technical argument. They're buying a product. And with that purchase, they have a little more freedom than somebody else because they get to share in the profits when there's money left over. And they get paid a dividend or they get money added to their contract. That's what they have. That's all that they have. They don't have anything else in the operation of running the business. [LB799]

SENATOR SCHUMACHER: Thank you, Senator Carlson. [LB799]

SENATOR CARLSON: Okay. [LB799]

SENATOR GLOOR: Senator Carlson, just to make sure I understand. The original bill would have required in the annual statement a list of salaries and compensation for the top executives. What the bill...what the amendment does that replaces the bill still includes that information, but has it kept private for the purposes of the Department of Insurance to look at, doesn't make it public. Is that what the amendment does... [LB799]

SENATOR CARLSON: Yes, I believe it is. [LB799]

SENATOR GLOOR: ...versus the bill that would have just stricken it completely? [LB799]

SENATOR CARLSON: The director has access to that. Then the Director of Insurance would make a decision as to who that should be released to unless it has something to do with a court judgment. [LB799]

SENATOR GLOOR: Sure. Okay. Thank you. Other questions? Seeing none, thank you for your closing. And that completes the hearing on LB799. And that completes today's agenda. [LB799]