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Banking, Commerce and Insurance Committee
February 22, 2016

[LB873 LB1025 LB1050]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, February 22, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB873, LB1025, and LB1050. Senators present: Jim Scheer, Chairperson; Matt Williams, Vice Chairperson; Kathy Campbell; Nicole Fox; Mike Gloor; Brett Lindstrom; and Paul Schumacher. Senators absent: Joni Craighead.

SENATOR SCHEER: Good afternoon and welcome to the Banking, Commerce and Insurance Committee hearing. My name is Jim Scheer and I'm from Norfolk, representing the 19th District and I'll serve as the Chair this year. The committee will take up the bills in the order that they're posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. Committee members may be coming and going during the hearing. We have to introduce bills at other committees and are called away. It's not an indication if we're not interested in the bill, simply that's part of our process that we have to conform to. To better facilitate today's proceedings, I would ask you to abide by a few items. Please check your phone to make sure you're on silence or off or vibrate. If you're going to be testifying, if you could move up towards the front chairs to help expedite things along. The order of testimony this afternoon will be the introducing senator, proponents, opponents, and then those in a neutral capacity, and then the introducing senator will have the ability to close if he wishes. Testifiers need to sign in. There are yellow sheets in the back, like this. Please make sure you sign one out and hand it to Jan, the committee clerk, to your far right, before you testify. When you do testify, if you'll do us a favor of, please, pronouncing and spelling your name so that the transcribers have that upstairs as they do their work. Would ask you to be concise, your testimony is limited to five minutes. We have lights in front of you; green light is on for four minutes, the yellow light is on for one minute, red light means your time is up and if you haven't noticed it, I will bring it to your attention. If you're going to be testifying, please speak directly into the microphone so that at least it will be picked up so that everything is heard. I would mention the same to the committee members. There are sign-in sheets in the back, if you would like to choose not to testify, but show your concern in relationship to a bill either supportive or not. You can check and sign your name in the back and it will be part of the record as well. If you're going to have anything that would be passed out during your testimony, we will need ten copies. If you do not have ten copies, the two aides to your far right will be glad to make those for you, just please get their attention early enough so that you have it while you are testifying. It will help with us in relationship to having questions while you're still testifying. To my immediate right is the committee counsel, Bill Marienau; he's been with us for 38 sessions. And to my left, your far right again, is Jan Foster, who has been the committee clerk for 34 sessions. I would ask the rest of the senators to introduce themselves. We'll start with Senator Schumacher.

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

SENATOR FOX: Nicole Fox, District 7, downtown, south Omaha.

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

SENATOR CAMPBELL: Kathy Campbell, District 25, east Lincoln.

SENATOR GLOOR: Mike Gloor, District 35, Grand Island.

SENATOR SCHEER: Senator Lindstrom is introducing a bill in Transportation as we speak. And Senator Craighead will not be with us this afternoon; she had something else she had to attend to. Our pages today are Kaylee Hartman from Douglas and Jake Kawamoto from Omaha. And because this is our last committee hearing that will be public, I do want to take this opportunity to thank both Bill Marienau and Jan Foster for the work that they've done for the committee. It makes our committee work so much smoother. They are a wealth of information; probably, we run as well as we do simply because of them, not because of us. And so I want to thank both of you very much for all the work that you do and, as well, the pages, they make sure that everything gets put in the right spot and we have what we need when we're making our discussion and it really is a needed part of the process, so I want to thank both of you publicly as well for everything that you have done for the committee. Having said that, we will go ahead and take the bills in order that they're published. And with that, Senator Murante, you're welcome to open.

SENATOR MURANTE: Thank you, Chairman Scheer. For the record, my name is John Murante, J-o-h-n M-u-r-a-n-t-e, and I represent the 49th Legislative District which includes Gretna and northwest Sarpy County. I'm here today to introduce LB873 which was done at the request of State Treasurer, Don Stenberg. Over the years, thousands of Nebraskans have purchased U.S. Savings Bonds and for various reasons a significant number of these bonds were lost or forgotten about. It is estimated that the U.S. Treasury may be holding as much as \$95 million in matured U.S. Savings Bonds belonging to Nebraskans, former Nebraskans, or their heirs. The U.S. Treasury makes no effort whatsoever to locate these individuals to repay them the money which they loaned to the U.S. Government. LB873 provides a mechanism for the state of Nebraska to take title to these bonds so that we can receive the funds and, so far as possible, return them to their rightful owners here in Nebraska. This legislation is based on Kansas legislation which was enacted several years ago. And to date, 18 states have passed legislation similar to LB873. In my discussions with Treasurer Stenberg, I have learned that there are quite a

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bit of legal complexities involved in this legislation, as well as quite a bit of case law. I would submit to you that asking those questions to the former Attorney General was litigated before the Supreme Court would probably be a better way to direct your questions to get them answered rather than this humble pizza maker. The bottom line is that going as far back as the 1930s and 1940s, Nebraskans have loaned the government of the United States money in good faith. The U.S. Government has made no effort whatsoever to locate those persons and repay those loans. This legislation is intended to collect those funds from the U.S. Treasury so that the state of Nebraska can return them to their rightful owners. I'd be happy to answer any questions that you may have. [LB873]

SENATOR SCHEER: Any questions? Senator Schumacher. [LB873]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you, Senator Murante, for bringing this bill. Now, the word in the bill is "escheat" which means the state gets to keep. So what procedure do you envision if somebody, either themselves has a lost savings bond or their deceased grandparents did, of them having notice that this procedure is going on so they can step in and say give me mine? [LB873]

SENATOR MURANTE: I believe that the intention of the State Treasurer is to have it treated as any other unclaimed property. And the State Treasurer's Office is very active in returning that unclaimed property to the people of Nebraska--county fairs, public...they work with the media to publicly relay that information. That's my understanding, Senator Schumacher. [LB873]

SENATOR SCHUMACHER: Well, Senator, will Treasurer Stenberg be testifying today? Okay, I'll ask him. [LB873]

SENATOR MURANTE: Okay. [LB873]

SENATOR SCHEER: Any other questions? Seeing none, are you sticking around or... [LB873]

SENATOR MURANTE: I'll stick around for a few minutes. [LB873]

SENATOR SCHEER: Okay. Now welcome the first proponent. I was going to say the only proponent, but I don't know that. Welcome, Mr. Treasurer. [LB873]

DON STENBERG: (Exhibit 1) Our fellow Nebraskans are here in spirit because they'd like to get their money back, Senator. For the record, my name is Don Stenberg, D-o-n S-t-e-n-b-e-r-g, am Nebraska State Treasurer and I'm here in support of LB873. I'd like to thank Senator Murante

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for bringing this bill. Since 1969, it's been the responsibility of the Nebraska State Treasurer to receive unclaimed property being held by businesses, banks, trustees, and others, and is in the further duty of the State Treasurer to attempt to locate the rightful owners of that property and return it to them. In 2015, the State Treasurer's office received \$21.7 million in unclaimed property; and we returned over \$11.8 million in unclaimed property to over 15,000 Nebraskans and former Nebraskans last year. One type of unclaimed property is corporate and municipal bonds. The dollar value of those bonds required to be turned over to the State Treasurer's office five years after they mature, if the rightful owner cannot be located. However, under current Nebraska law, unclaimed U.S. Savings Bonds are being held by the United States Treasury and not being turned over to the state of Nebraska. It's estimated that there are more than \$17 billion worth of U.S. Savings Bonds that are matured and are unclaimed. It's further estimated that approximately \$95 million of those bonds belong to Nebraskans and former Nebraskans. Since 1952, the position of the U.S. Treasury Department is that the department of the treasury will recognize claims by states for payment of U.S. securities where states have succeeded to the title and ownership of the securities pursuant to a valid state court escheat proceeding. Current Nebraska law does not contain a provision for such a state court proceeding. LB873 provides that procedure for the State Treasurer to file an escheat proceeding in the District Court of Lancaster County for determination that the U.S. Savings Bonds will escheat to the state. Once that proceeding has been concluded, the state of Nebraska will be the owner of the matured U.S. Savings Bonds issued to Nebraskans and former Nebraskans and we will make a claim on the U.S. Treasury for those funds. Upon receiving those funds, we will make diligent effort to locate the rightful owner of those bonds. To the extent we're unable to locate the rightful owners of some of those bonds, the money will be transferred to the Perpetual School Fund for the support of Nebraska schools as is required by the Nebraska Constitution. LB873, as Senator Murante said, is patterned on a Kansas statute. And in order to minimize possible court arguments, I tried to make it, in drafting it, as precisely the same as Kansas as we could so that we don't create any additional issues that might need to be litigated concerning that. Eighteen states, at least, and perhaps more during this current legislative session, have passed legislation substantially similar to LB873. The U.S. government is currently resisting turning over U.S. Savings Bonds proceeds to the state of Nebraska and others. However, last August, the state of Kansas obtained a favorable ruling in the United States Court of Federal Claims. While that litigation is not yet concluded, the preliminary decision is very favorable to the state's position. And I've handed out copies of that decision; I'd like to enter one copy of that in the record of the committee. Unlike the state of Nebraska, the U.S. government makes no effort to locate rightful owners of U.S. Savings Bonds that have matured. This legislation will, in my opinion, result in several million dollars, hopefully tens of millions of dollars being returned to Nebraskans who purchased U.S. Savings Bonds many years ago or to their heirs. I'd be happy to take your questions. [LB873]

SENATOR SCHEER: Thank you, Mr. Treasurer. Any questions? Senator Schumacher. [LB873]

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SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you, Treasurer Stenberg. I guess, in reading through this, it appears that there is this court proceeding and that you can file a claim at and then it refers back that a person making such a claim...I assume this is at the court proceeding, and you would make your claim if you had a lost bond? [LB873]

DON STENBERG: Well, there's...I guess there's two...just be clear in your question, the court proceeding is necessary to put title in the name of the state of Nebraska. And in order to have due process, you would have to provide notice. We hold a relatively small number, a little over a thousand, savings bonds that we have that came in safety deposit boxes. And those persons...well, we will...would, as part of due process, I'm sure the court would require us to mail to each of the last known addresses for those, as to the most of the other \$95 million, I assume the court would provide for some kind of notice of publication a certain number of times in the state newspapers since we do not have those names, the U.S. Treasury Department has the names of those \$95 million worth of bondholders. So we would publish notice, but in answer to your question to Senator Murante... [LB873]

SENATOR SCHUMACHER: And you'd list out those names? [LB873]

DON STENBERG: Pardon me. [LB873]

SENATOR SCHUMACHER: And when you published notice, you'd list out those names? [LB873]

DON STENBERG: No, we would publish notice generally to persons who have matured, unclaimed saving bonds. [LB873]

SENATOR SCHUMACHER: And so it would be a very short notice, so how would one know? [LB873]

DON STENBERG: Well, the...that gets us to part two is once we have recovered those funds, lines 25 through 30 of the bill, basically provide that any person...well, any person who has a claim may file that claim with the State Treasurer and we will pay that just as we do in the case of any unclaimed...any other unclaimed property. The difference would be, is that in addition to getting the money, we would get the names and at least the address of the original owners from the U.S. Treasury as part of that. [LB873]

SENATOR SCHUMACHER: Then would you publish those (inaudible)? [LB873]

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DON STENBERG: They would be public, yeah. Those would be published in the publication we do once a year by law. And also, they would be on our website. You can go to the treasurer.nebraska.gov and on our home page type in your name and see if we hold any unclaimed property for you. Once we have the money and the names, they would be added to that database so that anybody that had a question could just go to the treasurer's website, type in the name and see if we have any unclaimed property for them. [LB873]

SENATOR SCHUMACHER: What I see missing in the bill, I mean, escheat I think means the state takes title. And it takes absolute title. [LB873]

DON STENBERG: Yes. [LB873]

SENATOR SCHUMACHER: I don't see, in the bill, any language that would suggest that the state takes this title as some type of a trust title or revocable title that would...where it would be authorized then to give it back to somebody making a claim. [LB873]

DON STENBERG: Well, that's what lines 25 through 30 on page 2... [LB873]

SENATOR SCHUMACHER: I don't think it says that. [LB873]

DON STENBERG: Well, it's what is intended. And like I said, we traced the Kansas statute, but... [LB873]

SENATOR SCHUMACHER: Because once it belongs to you, this...I mean, you can make a claim and you could read this that the claim has got to be the same claim as it...line 16. But even if it's a subsequent claim against the state, where does the state get authorization to pay that claim if...out of this property that it now officially owns because of the escheating? [LB873]

DON STENBERG: Well, it says right here, beginning on line 28, page 2: "Upon providing sufficient proof of the validity of such person's claim, the State Treasurer shall pay such claim in accordance with the act." [LB873]

SENATOR SCHUMACHER: I guess my concern comes in: in 1969, I won an American Legion speech contest and I got a \$25 bond and I lost that bond and I figured it's in a box someplace. And when I was old and gray, I'd dig through that box and I'd find that bond. Now, how does this affect me when I find my bond? Or will I be able to learn where that is and put in my claim for my \$25. [LB873]

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DON STENBERG: Well, what would happen if this...when the process is fully complete, which is the state of Nebraska has obtained title, we've gotten the money, and we've gotten the address information...name and address information from the U.S. Treasury. If you'll read that decision I handed out, the...basically, title has passed and so the U.S. Treasury would say, well, we've already paid that bond to the state of Nebraska; you can make a claim against the state of Nebraska. At which point, you would make a claim with the Treasurer's office and it will be returned to you. But you make...there's an important distinction. The reason we need this legislation...generally, when the state receives unclaimed property from a business, we are the custodian; we do not take legal title. We have custody of that property and we return as much as we can, and under statute and the state constitution the remainder is placed in the Perpetual School Fund and the earnings on that fund are used to support public schools in Nebraska. But the U.S. Treasurer Department has said we will not pay on U.S. Savings Bonds if all you have is custody. You have to be the title owner. And as you'll see, if you want to dig into this deeply and read that court decision I handed out, for 60 years, the U.S. Treasury Department has basically said if an entity...if the state has title, we will pay it. Well, now that they're losing the litigation, they're trying to change their position and say that we will only pay if you have possession of the bond itself. The federal court acclaims and that decision rejects that argument and says we're not going to let the Treasury Department change its position now as part of this litigation to avoid this legal obligation when they've had a different interpretation of their own law and regulations for the last 60 years. That litigation is not yet completed, and the state of Kansas is the plaintiff in that case, but however that case comes out, basically, will be applicable to every state that wants to pursue this. And I don't know how long that litigation might continue yet. And I think it's possible, if the Treasury Department...well, I think it's possible the U.S. Supreme Court may wind up hearing that case because it does involve the U.S. Treasury and about \$17 billion. And so we may...it may be in the Supreme Court before all the dust shakes out. But this is a process that's going to take a considerable period of time; it's been going on a while. For the last couple of years, I've been aware of this. I didn't ask any senator to bring litigation because I wanted to see how the state of Kansas was going to fair in their efforts with the federal government. But I'm very encouraged by the decision that they got; it was on a motion to dismiss and, basically, so all the key legal issues were brought up in the motion to dismiss and were decided in the state's favor. So I think it's a very positive development that we'll get a Court Claims Opinion that says they do have to pay the state once the state has title. [LB873]

SENATOR SCHUMACHER: So it's your position then that once the state gets title, it gets it as custodian of this money. [LB873]

DON STENBERG: No, you legally take title; you have to legally take title, but we specifically provide in here that anyone who has...who was the owner of the bond can make a claim to the State Treasurer and be paid the proceeds of the bond. So the key to winning the case against the

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U.S. Treasury Department is the state has to have title, otherwise they won't pay the money. [LB873]

SENATOR SCHUMACHER: So there would be a list on your web page or in the newspaper sometime of the record holders of all these bonds. [LB873]

DON STENBERG: Once we have it, yes. [LB873]

SENATOR SCHUMACHER: And your interpretation of this particular language is that the people on that list would have a claim for the proceeds of those bonds against the state. [LB873]

DON STENBERG: Yes. [LB873]

SENATOR SCHUMACHER: Without anything more than the language that's here. [LB873]

DON STENBERG: Correct. [LB873]

SENATOR SCHUMACHER: Okay, thank you. [LB873]

SENATOR SCHEER: Senator Williams. [LB873]

SENATOR WILLIAMS: Thanks, Senator Scheer. And thank you, Treasurer. Quick question: it appears from what I'm reading in here that if and when you would file the lawsuit, that would be only for those bonds that were determined to be outstanding and available at that point, and then you would have to file an additional lawsuit down the road when it accumulates. It's not fixed. [LB873]

DON STENBERG: Right, and necessarily so because the only bonds that we would be taking title to would be those that are matured. And of course, there are new maturities literally every day, but you can only take title once the bond has matured. [LB873]

SENATOR WILLIAMS: But as drafted... [LB873]

DON STENBERG: So it's...you're exactly right, maybe if this is successful, maybe once every year, maybe once every two or three years a state treasurer will come forward and do another escheat proceeding. [LB873]

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SENATOR WILLIAMS: Okay, I just wanted to make sure I understood that... [LB873]

DON STENBERG: And it's somewhat cumbersome, but it's legally unavoidable. But you're exactly right, that's how it would work. [LB873]

SENATOR WILLIAMS: Thank you. [LB873]

SENATOR SCHEER: Other questions? Senator Schumacher. [LB873]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Now, let's suppose...I'm having a little problem with who gets...how the state gets jurisdiction to make this claim based upon an ancient address. I mean, suppose the person moved to Florida and resides in Florida and how is it that the state, because they lived in Nebraska 30 years ago, has the ability to make a claim against something merely because it once upon a time there was an address associated with Nebraska? [LB873]

DON STENBERG: Well, that's...there's been U.S. Supreme Court cases on which state has a claim to unclaimed property. And to take a somewhat complicated situation and simplify it a little, basically, if the last known address is in, in this case, in Nebraska, Nebraska would be the proper recipient of those funds. We have...we receive claims from other states all the time. Not only...as I mentioned in my initial testimony, we return property to Nebraskans and former Nebraskans. And so if let's say someone had a bank account in Nebraska they forgot about, they moved to Florida, the bank turns the property over to us, we put it on our website. If they find it on their website, we pay it out because they're the rightful owner. But in answer to your question, the reason Nebraska would get the money that we're talking about, would be because in the records of the U.S. Treasury, the last known address of the bondholder was Nebraska. [LB873]

SENATOR SCHUMACHER: Okay. Thank you. [LB873]

SENATOR SCHEER: Mr. Treasurer, just clarification for the committee, the bill is not prioritized so what are you hoping comes from this? Are you wanting to be on consent calendar? [LB873]

DON STENBERG: Well, I'm hopeful that this would be a consent calendar item. I don't anticipate any opposition as I think I mentioned one or two senators the only opposition I could imagine would be the U.S. Treasury. I don't think they're going to be here today, and they'll have their chance in the federal Court of Claims in their Kansas lawsuit that's currently pending. [LB873]

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SENATOR SCHEER: So the solution is you're actually...we're looking toward a consent agenda. [LB873]

DON STENBERG: I would hope that it would be a consent calendar item. It will help us...there's no question in my mind we would be able to return several million dollars, hopefully tens of millions of dollars to Nebraskans once we have the money and the names and addresses. [LB873]

SENATOR SCHEER: Okay. Any last questions? Thank you, Mr. Treasurer. [LB873]

DON STENBERG: Okay, thank you. [LB873]

SENATOR SCHEER: Any other proponents for LB873? Any opponents to (LB)873? Any wishing to speak in a neutral capacity? Seeing none, Senator Murante waives closing so that will conclude the hearing for LB873. Next item is LB1025, Senator Morfeld, welcome to (inaudible). [LB873]

SENATOR MORFELD: Good afternoon, Senator Seiler (sic)...Seiler, gee, look at that... [LB1025]

SENATOR SCHEER: Whoa, whoa. [LB1025]

SENATOR MORFELD: My first time before the committee... [LB1025]

SENATOR SCHEER: That's okay, it's, you know...he's from District... [LB1025]

SENATOR WILLIAMS: Sorry, (inaudible), there goes the bill. [LB1025]

SENATOR SCHEER: He's originally from... [LB1025]

SENATOR MORFELD: Judiciary, yeah, this is my first time. Well, in any case, let me start over. Chairman Scheer, members of the Banking, Commerce and Insurance Committee, for the record my name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, representing the "Fighting 46 Legislative District" here today to introduce LB1025 at the request of the Auditor of Public Accounts, Charlie Janssen. LB1025 is a very simple bill involving only one word, "government." State statute lays out the number of years of accounting experience required by the Board of Accountancy in order to be granted a certified public accountant's license. Two years of

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experience is required if a person works as an accountant in a private business, firm, proprietorship, partnership, corporation, LLC, or other business entity. The person must be under the supervision of an active certified public accountant or the equivalent. Three years of experience is required for an accountant working in government. Nebraska also reciprocates with other states on accepting CPA licenses, but not all states have the same three-year threshold for government accountants including some surrounding states. LB1025 would move government accountants from the three-year threshold to two years. I do not know why we would put government at a disadvantage to hire the best and brightest and most ambitious. Passing the CPA test is no easy task and not all accountants want to go through all the work to get their license. Why wouldn't we want government to be on the level playing field to attract these people who didn't want to get it? I'd seen a flier recently from Accenture, particular, for a seminar on recruiting and retaining talent. Their research shows that 64 percent of public service leaders...excuse me, 64 percent of public service leaders report that it is difficult to attract and retain talent. They also state that nearly half of those who are employed or have been employed in the public sector say it is an attractive place to work, but among those with no experience in government work only 20 percent say they would find work in the public sector attractive. Competition for talent is growing every day. Young people coming out of college with accounting degrees have many options for work and most private businesses and accounting firms have a higher starting wage, at least comparable benefits, and a quicker path to becoming a CPA. LB1025 does not give government an advantage, but simply levels the playing field. There are people behind me from the auditor's office here to testify, but I'd be happy to answer any questions that I can and would urge your support. Thank you. [LB1025]

SENATOR SCHEER: Thank you, Senator Morfeld. And it's not like you don't know me, we sit right next to each other. [LB1025]

SENATOR MORFELD: Yeah, we sit right next to each other, yep. I'll hear about it for the rest of the session. [LB1025]

SENATOR SCHEER: Fair enough, fair enough. Any questions for Senator Morfeld? Senator Gloor. [LB1025]

SENATOR GLOOR: Thank you, Chairman Scheer. And, welcome, Senator Morfeld. I'm just curious, you may not know, but maybe somebody who is going to speak next knows. This has a very familiar ring to it. I'm just wondering have we not headed down this path before and it just didn't make its way to actual legislation, do you know? [LB1025]

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SENATOR MORFELD: Well, Russ Karpisek may have a better idea of what the legislative history is. I know in 2013, we did make a change to add in education and some other related fields. [LB1025]

SENATOR GLOOR: Maybe that's what it was. It may well be what it is. Thank you. [LB1025]

SENATOR SCHEER: Any other questions? Seeing none, are you going to stick around? [LB1025]

SENATOR MORFELD: Yes, I will. Thank you, Senator Scheer. [LB1025]

SENATOR SCHEER: All right. First proponent for LB1025. Welcome. [LB1025]

RUSS KARPISEK: Thank you, Senator Scheer, and members of the committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I am the legislative liaison for the Auditor of Public Accounts, Auditor Janssen. I would like to thank Senator Morfeld for introducing LB1025. As Senator Morfeld said, it's a very simple bill, actually one word, but it could really help the Auditor's office. Starting salary for an accountant in the Auditor's office is \$40,000. In some cases, we're competing against companies that pay \$50,000 or more for a starting accountant. So we're at a disadvantage right away. We are glad we got more money last year in our budget, so we were able to hire more auditors, and I think we've seen the results of that. We've found more things, so we appreciate that, but we still can't...we just can't compete with those companies. Some of those out of state which don't help our brain drain at all because whoever is chasing the money might be the smartest, maybe not. If you add to the fact that a starting CPA in Nebraska pays somewhere between \$45,000 and \$70,000, people are anxious to get their CPAs. One extra year doesn't seem like long to us as we get older, but to young people it seems like a long time. The Auditor's office does give a \$5,000 salary increase for obtaining the CPA license. That's a big help to anyone, especially a young person two years removed from college. Another disadvantage that our office has is that our auditors, especially the new ones, have to do quite a bit of travel auditing all over the state. We had some people stranded out in Hastings during the snow storm, and we recently lost an employee because of the travel that was taking her away from a young family. Auditors in many businesses don't usually have to do that much travel, another disadvantage. We always want to know what other states are doing. I've looked at all surrounding states; looked on the website CPA this way (sic-[thiswaytocpa](#)) to see what neighboring states have for experience requirements. Iowa has one year of experience in more than one employment situation including internships in government, industry, academia, or public accounting. They do have two years of experience for attestation CPA which includes one year of attest and one year of general experience. South Dakota is one year experience gained through employment in government, industry, academia, or public practice. Kansas--one year of

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accounting experience in government, industry, academia, or public practice. Colorado--one year of employment as an employee of a CPA which may be gained through public accounting, industry, government, or academia. Missouri--one year of experience in industry, government, academia, or public practice. Wyoming--one year of experience in public accounting; all public accounting experience shall be gained through the employment in government, industry, academia, or the practice of public accounting. I'm pretty sure that's every state that borders us, and I'm very sure that it's all one year. As Senator Morfeld said, Nebraska reciprocates with these other states on CPA licenses, and now with LB853 introduced by Senator Stinner and sailing...or sailed through the legislative process, the board will now accept two years of experience in private business from other countries. So now we will accept two years of experience from outside the U.S., but not two years of experience for our own people working in the Capitol. I see that the CPAs testified in favor of that bill, but plan to testify in opposition to this bill. That makes absolutely no sense to me, but I'm sure that we will hear why. I think we will hear something about a bill in 2013, as Senator Morfeld said, had nothing to do with the government experience. Again, (LB)1025 does not give government an advantage, but levels the playing field a little bit. This is a workforce issue, and I urge you to support it. Thank you. And I will try to answer any questions. [LB1025]

SENATOR SCHEER: Thank you. Questions? Certainly, auditing department wouldn't...division is not the only one that would benefit from the bill. I'm looking at banking or insurance or any of the others, probably, have the same problems that you're... [LB1025]

RUSS KARPISEK: Revenue. Looking back in older legislation, it talked about the Auditor of Public Accounts and Department of Revenue. It was changed to "government" a few years back. I only looked to 1979 because that's what I could pull up on bills on the Internet, and it was the auditor in Revenue; and it's always been the three years. I don't know why. I think it's crazy. Senator Gloor, I do remember that we had something going on. I don't know if it was two years and if it was from the auditor, but that 2013 did add some education and some different things. [LB1025]

SENATOR SCHEER: Senator Schumacher. [LB1025]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you, Russ. Good to see you again. [LB1025]

RUSS KARPISEK: You're welcome, Senator. [LB1025]

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SENATOR SCHUMACHER: It says "in government"...as an accountant in government. Somebody works as...the bookkeeping department of a small town, is that an accountant in government? [LB1025]

RUSS KARPISEK: If, as I understand it, if they were under the employ of a CPA. And I'm not sure, Senator, why it's changed to "government" from, like I say, used to say APA and the revenue. I don't know why that was changed years back. [LB1025]

SENATOR SCHUMACHER: Would it work better if it was "in state government?" I'm just looking at... [LB1025]

RUSS KARPISEK: Yeah. It could, I guess. I didn't know why it changed back. Gosh, I...somebody else could probably say when and why. I guess for our office that would be fine. I didn't want to try to change that...or we didn't want to change that around to try to throw the...everybody else off the bus that's now on the bus. [LB1025]

SENATOR SCHUMACHER: Okay. Thank you. [LB1025]

RUSS KARPISEK: Thank you. [LB1025]

SENATOR SCHEER: Any other questions? Seeing none, thank you. [LB1025]

RUSS KARPISEK: Thank you. [LB1025]

SENATOR SCHEER: Next proponent. Seeing none, first opponent. Welcome, Mr. Brady. [LB1025]

JUSTIN BRADY: (Exhibit 1) Senator Scheer and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Society of CPAs in opposition to LB1025. Just let me take a step back and as has been...some of the proponents have mentioned, in 2013, prior to 2013, what the law said was if you worked for a CPA firm, you had two years requirement before you could get your license. Or if you work for the Auditor and the Department of Revenue, you could get your license after three years. Then what happened were there were a number of these...you know, whether it's in city government or other employers, say if the Department of Banking auditing banks or doing some of that same...what about the rest of us. There was a task force created that brought members of the CPAs, the education world, the government world, other business world together and said, okay, what can we do to accommodate all these people that are operating under CPAs, but aren't

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operating under a CPA firm? And that's the bill that you had in 2013 that said we will allow, if you're in government, education, or other business, not...aka, not a CPA firm, then you need three years' experience under a licensed CPA. If you're in a CPA firm, then you need two. And so I guess what the CPAs objection to this is not so much the concept, but it's the timing and the issue that it was just a couple of years ago you put in this three-year requirement for a lot of these individuals, and let's see how that process works. They aren't opposed to sitting down with this committee, Senator Morfeld, Charlie Janssen, whoever and talk about what do we need to be going forward, but just to pull a piece of it, government, out and say let's change it for us when there was a whole task force that looked at all of these things a little premature. And with that, try to answer any questions if you have. [LB1025]

SENATOR SCHEER: Any questions? Seeing none, thank you very much. [LB1025]

JUSTIN BRADY: Thank you. [LB1025]

SENATOR SCHEER: Next opponent. Anyone in the neutral capacity? Good afternoon. Welcome. [LB1025]

DAN SWEETWOOD: Good afternoon, Senators. Senator Scheer and the committee, my name is Dan Sweetwood, D-a-n S-w-e-e-t-w-o-o-d. And I am the executive director of the Nebraska State Board of Public Accountancy. I've been fortunate to be in that position for 13 years. Just as my goal here, as I've discussed with my executive committee, is just to, number one, maybe give you some background. And then allow you, of course, to answer some questions if I could do that. Simply, the board, again, made up of six CPAs, two from each congressional district, and two public members, that makes up the Nebraska State Board of Public Accountancy. As indicated, around 2010, we were approached by the...some folks from ConAgra and their financial team concerned about the experience requirement in Nebraska, excluding the ability for those in business, to come and be approved for a CPA license in Nebraska. As indicated, you've heard in your testimony there are other states we call, probably, more in line with what we call the Uniform Accountancy Act. And that is basically one year pretty much in anything. Over the years, I can say that my board has been concerned with that flexibility and felt, obviously, as you can see in the legislation, strongly not to adopt that, I guess you would say, maybe lenient attitude towards the experience requirement. That experience work group or task force, as mentioned, was made up of 12 individuals, again, from the state board, Nebraska Society of Leadership, some government folks, and also from the private/public business sector. They met over the course of about two years. They had four or five meetings; those are all in minutes. And they discussed various things. They looked at research; they looked at other states; they looked at the Uniform Accountancy Act. And, quite frankly, when they proposed a 2013 legislation they did expand the scope of government. It got away from, as indicated before, the three areas that

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were allowed before. Now all government forms could count. Now when I say count, it still needs to be approved by the board; the board looks at it. There's a form that they fill out for those categories. Now simply, someone that's getting their experience in a certified public accounting firm, the board has concluded that, I guess, prima facie, pretty much clear that they are under the tutelage within a CPA firm. But they felt that if it's going to be in these other forms, it should still be under a licensed U.S. CPA, to sign off on that experience and give the idea that this person has gained some knowledge and experience that should allow them to carry the CPA tag. We've had about 11 applications come through since 2013. Again, we monitor those. They've got to come through a checklist mentality. Some of them have met with the committee and some of them come before the board to answer questions. So they are well vetted out. Probably the only other thing I would say, this is the first we've, basically, heard of this until the board was contacted by the Nebraska Society and indicated this was coming forth. So again, LB1025 has not been discussed with your state board. We're willing to listen. We were willing to listen in 2010 when the members of the financial team from ConAgra came forward; they came to the board. They asked for change. The board listened. They formed the work group. They listened to their work group and they did make change based on those recommendations. Our offer changes to you to make those recommendations. Simply, we followed a process. We're willing to listen. It's as simple as that. I'll answer any questions. [LB1025]

SENATOR SCHEER: Thank you. Any questions? Questions? On your advisory group, or whatever it is, are there any CPAs from public entities that are members...that are your directors? [LB1025]

DAN SWEETWOOD: Yes, there were...I believe there were three members from the... [LB1025]

SENATOR SCHEER: No, I'm talking about, right now, your current board of directors. You said there is two from each... [LB1025]

DAN SWEETWOOD: Oh, there were none. I'm thinking off the top of my head, I don't believe there's any current that were on that work group that are current members now. [LB1025]

SENATOR SCHEER: Okay. And I'm not an accountant... [LB1025]

DAN SWEETWOOD: Off the top of my...let me check here real quick. I'm sorry, there is one. Our current chair was on that work group. [LB1025]

SENATOR SCHEER: Okay, but other than work...I'm not talking about the work group, I'm talking about your board. [LB1025]

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DAN SWEETWOOD: Okay. Correct. [LB1025]

SENATOR SCHEER: Or your commissioners or whatever you call them, there are six of them; two from each district, correct? [LB1025]

DAN SWEETWOOD: Right. [LB1025]

SENATOR SCHEER: Are any of those six a public employee? [LB1025]

DAN SWEETWOOD: A current CPA? [LB1025]

SENATOR SCHEER: Um-hum. [LB1025]

DAN SWEETWOOD: Yes. There were... [LB1025]

SENATOR SCHEER: Of those six, there's one of those six is a public employee? [LB1025]

DAN SWEETWOOD: Oh, you mean a governmental employee? [LB1025]

SENATOR SCHEER: Yes. [LB1025]

DAN SWEETWOOD: I'm sorry, no. Sorry. [LB1025]

SENATOR SCHEER: Okay. And to understand the process, I can graduate from UNL-Kearney, whatever, with an accounting degree. [LB1025]

DAN SWEETWOOD: Um-hum. [LB1025]

SENATOR SCHEER: I can get a job and for either the state of Kansas or for Deloitte down in Kansas City, Kansas, work for one year, sit for the exam, and I'm now a recognized CPA, correct? [LB1025]

DAN SWEETWOOD: Two years, if you're working for Deloitte, it would be two years. [LB1025]

SENATOR SCHEER: Well, Kansas. Kansas. [LB1025]

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DAN SWEETWOOD: In Kansas, correct. [LB1025]

SENATOR SCHEER: Kansas is one year. [LB1025]

DAN SWEETWOOD: Yes. [LB1025]

SENATOR SCHEER: So I graduated, I've worked for one year, I sat for the test. Two months later I get transferred to Omaha. I'm now in Deloitte's office in Omaha. Am I still a CPA? [LB1025]

DAN SWEETWOOD: Not in Nebraska. [LB1025]

SENATOR SCHEER: So there's...they don't (inaudible). [LB1025]

DAN SWEETWOOD: You would have to complete another year of experience. [LB1025]

SENATOR SCHEER: There's no reciprocity between the... [LB1025]

DAN SWEETWOOD: Correct. [LB1025]

SENATOR SCHEER: Do you find it hard to attract people into the state then? I mean, it looks to me like we're forcing people out within the industry, especially young people. And we're trying to keep people to stay here. And I'm not picking on you, I mean, I'm picking on the rules, but... [LB1025]

DAN SWEETWOOD: Oh, I understand. [LB1025]

SENATOR SCHEER: But with every other state around us having one year and we're the outlier, and I realize this is the Nebraska way, I hear that a lot, but having said that, everyone else is at one so are we not losing the best and the brightest to other areas because I don't care if it's in the Omaha office of Deloitte or Kansas City, they're like any other type of government, when you get your CPA, you're going to get a bump and probably a sizable bump. So if I've got my druthers, I'm going to go someplace, but not in Nebraska. I mean, I just...it seems to me we're forcing young people, young adults out of the state that have the best and brightest minds in accountancy. [LB1025]

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DAN SWEETWOOD: The only comment I can make on that, Senator, I think is that there was debated within the work group and at the board level, there was concern expressed with that. There was just a thought that for the profession in Nebraska, they thought that that, I guess, maybe for lack of better terminology, a higher standard. Maybe not looking just at Nebraska, but the profession itself. [LB1025]

SENATOR SCHEER: Then along with that, how...and if you don't know, you don't know, but we've got five states, or whatever, around us that are all at one year. If we look at nationally, how are the states divided? Are those five around us the only outliers nationally or what is the norm? [LB1025]

DAN SWEETWOOD: No, I would say we would probably be the outlier. We're probably...there's a few, probably five or six somewhat like us. Most are (inaudible). [LB1025]

SENATOR SCHEER: But 35 or 40 are going to be one year. [LB1025]

DAN SWEETWOOD: Correct. [LB1025]

SENATOR SCHEER: Are those states... [LB1025]

DAN SWEETWOOD: There's different...you know, there's different... [LB1025]

SENATOR SCHEER: Nuances, I know. [LB1025]

DAN SWEETWOOD: You know, there's always nuances and stuff like that. [LB1025]

SENATOR SCHEER: Are other states having more problems with their CPAs than we are because we have a higher level? Or is there any distinguishable difference between...and do you take care of the complaints that (inaudible)? [LB1025]

DAN SWEETWOOD: Correct. [LB1025]

SENATOR SCHEER: All right. As a state, do we have a higher or a lower percentage of complaints that we can attribute to the fact that we have another year required before they are awarded the ability to sit for a CPA? [LB1025]

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DAN SWEETWOOD: Of course, I'm not aware of any researcher's study that might show that. But we're fortunate in Nebraska that we have...I would consider a low amount of complaints for our state. [LB1025]

SENATOR SCHEER: Well, I just was curious. I mean, if it's working, you know, that's great. But if there's no distinguishable difference, then I'm wondering...you know, it seems to me we're just being arbitrary type deal, too, so. And you don't make those, I understand. [LB1025]

DAN SWEETWOOD: I understand. [LB1025]

SENATOR SCHEER: Senator Schumacher. [LB1025]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you for your testimony today. The CPA market, we have an abundance of CPAs; a need for more CPAs? Is this contributing one way or the other toward that market? [LB1025]

DAN SWEETWOOD: I can't say that, obviously, that maybe it's a contributing factor. But I know that...yeah, there is a need for CPAs that...especially in the western part of the state in areas. We hear in our office at various times that they're having hard time recruiting CPAs. And so we do hear that. The society probably might be a better gauge of that. But we do...I do hear that in our office also. [LB1025]

SENATOR SCHUMACHER: So that would almost lend at least a little credence to the notion that we may be running off some people, or least this isn't helping matters. [LB1025]

DAN SWEETWOOD: Could be a fair statement. [LB1025]

SENATOR SCHUMACHER: Thank you. [LB1025]

SENATOR SCHEER: Thank you, Senator Schumacher. Any other questions? Seeing none, thank you very much for your testimony. [LB1025]

DAN SWEETWOOD: Thank you. [LB1025]

SENATOR SCHEER: Any others in a neutral capacity? Seeing none, Senator Morfeld to close. [LB1025]

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SENATOR MORFELD: Thank you, Senator Scheer. I'll be fairly brief. I guess, you know, from my perspective today I haven't really heard any compelling reason or rationale of why we would keep it at three years, particularly when states around us have it at a much lower amount of experience required. And I'll tell you that just as somebody who knows a lot of young people that looked at jobs in different states, they go, generally, to where the path of least resistance to take their expertise. And once they've moved to that state, they may get that three years. But they've already been a CPA for however long, they're not going to generally move back because they'll meet somebody or buy a house or do whatever, set roots in that community. So I think anything that we can do, number one, to help our government agencies to be competitive with the private agencies, which is tough enough with the salary level. And then number two, anything that we can do to make it so that Nebraska is more attractive for keeping younger CPAs or maybe even older CPAs that decide to get that and keep them here. With that I'd be happy to answer any questions. [LB1025]

SENATOR SCHEER: I'll ask you the same thing, Senator Morfeld, as the Treasurer. And if you can't speak to it, then that's fine too. But the bill wasn't prioritized, so were you looking at...is it prioritized? [LB1025]

SENATOR MORFELD: It's not prioritized. [LB1025]

SENATOR SCHEER: So were you looking trying to get more of a consent agenda, because we've got negative testimony so I'm wondering where you...give us some direction what you might be looking at. [LB1025]

SENATOR MORFELD: Well, I'd like to get it out of committee and so if we can find a vehicle for it that would be germane and be able to attach it onto that, I'd like to be able to do that. [LB1025]

SENATOR SCHEER: Okay. Any other questions? Oh, I'm sorry, Senator Campbell. [LB1025]

SENATOR CAMPBELL: Thank you, Senator Scheer. Senator Morfeld, in your research in the other states, did any state give some special dispensation to a veteran or someone in the military? [LB1025]

SENATOR MORFELD: Actually, didn't look into that aspect, no, but I did have a bill last year that was my priority bill that actually provided reciprocity for that type of military experience. [LB1025]

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SENATOR CAMPBELL: All right. Just for my colleagues' benefit, in the Health and Human Services Committee, we're paying special attention to licensing and accreditation and so forth for our military families that come into Nebraska, and the wife is in the military, but the husband is a nurse practitioner. And they're having a difficult time because Nebraska takes such a long time until you can be licensed. And so we've been looking at that and asking the department to re-look at all of that because of the military people that come to our state. And that's why I asked the question whether we need to be paying attention to how long it takes somebody who comes into the state because the response was--well, even if you're licensed in another state, but that's only under one year, you're going to have to have another year, which leads to your question. Maybe you could look at that. [LB1025]

SENATOR MORFELD: No, I...yeah, yeah. Well, and you actually bring up a good point, Senator. I mean, there's...we only dealt with...in that bill, we only dealt with the experience of the actual military member. The other...the unfinished business in that bill is the fact...and I come from a military family, so I understand this, you know, generally you have another spouse that's moving along. So say somebody comes to Offutt Air Force Base, their husband or wife is a CPA and has one year of experience in South Carolina, or whatever the case may be, and they're a CPA there. They come here and want to work for the government, too bad. Or you just simply won't be recognized as a CPA for that amount of years. [LB1025]

SENATOR CAMPBELL: Thank you. [LB1025]

SENATOR SCHEER: Any other questions? Oh, Senator Gloor. [LB1025]

SENATOR GLOOR: Thank you, Senator Scheer. I guess, so that you know what some of my concerns are about the bill, misgivings, is that we made significant changes in the legislation just a couple of years ago and accommodations and some dialogue. We only had really two years with this being in statute and now we're making that change; we haven't consulted with the same people who...the state board, who have not consulted with the same people who were involved in the dialogues that got us to that accommodation in the first place. So that's my unsettledness about this bill. Don't know whether it's just the two years or the fact that the society hasn't been involved in the discussion or both. But those are my concerns about the bill at this point in time. [LB1025]

SENATOR MORFELD: Well, Senator, can I respond? [LB1025]

SENATOR GLOOR: Sure, of course. [LB1025]

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SENATOR MORFELD: I've seen the letter from the CPAs and it appears to me from the letter, unless I'm missing something, Senator, that those changes two years ago, or three years ago now, were generally centered around changing the transfer or reciprocity of the educational folks. This government requirement has been in place since 1979 and wasn't changed by that. Granted, so there were some changes three years ago, but to me it sounds like they didn't...it wasn't for the purpose of changing government requirement, they just decided to keep the status quo and they thought the status quo was fine, which a lot of people think the status quo is fine. And so I get what you're saying and understand what you're saying, but I would just...I would note that I don't think that the purpose of that change was to change the government. [LB1025]

SENATOR GLOOR: Okay. Fair enough. Thank you. [LB1025]

SENATOR SCHEER: Senator Lindstrom. [LB1025]

SENATOR LINDSTROM: Just a quick question regarding the CPA. Are you familiar with how often a CPA has to have continuing education or CE? [LB1025]

SENATOR MORFELD: My stepfather is a CPA, so I wish I knew. I was thinking about that now. No, I don't actually. [LB1025]

SENATOR LINDSTROM: I thought about it when you brought that scenario is if someone, say, came from South Carolina, had only been a CPA for one year, not being able to practice in Nebraska would their CPA designation lapse because they were not able to do the continuing education? I just...I made...I don't know if you can answer that (inaudible). [LB1025]

SENATOR MORFELD: I, yeah, I don't. I actually don't know the answer to that; but I'm sure we can find out afterwards. That's a good question. And, you know, it's just...even a CPA coming into town that has five or ten years of experience and that experience was in South Carolina, they're going to have to do a little bit of due diligence and studying to make sure that they're in compliance with all the laws here in Nebraska. [LB1025]

SENATOR LINDSTROM: Sure. (Inaudible) [LB1025]

SENATOR MORFELD: That's a good question. I'll look into that and get back to you, Senator. [LB1025]

SENATOR SCHEER: Any other questions? Seeing none, thank you, Senator. [LB1025]

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SENATOR MORFELD: Thank you, Senator. [LB1025]

SENATOR SCHEER: And that closes LB1025. Next bill would be LB1050. Welcome, Senator Harr. [LB1050]

SENATOR HARR: (Exhibit 1) Thank you, Chairman Scheer, members of the Banking, Commerce and Insurance Committee. Thank you for having me back; I almost feel like a member. I am here on LB1050 which authorizes conversion of domestic partnerships and domestic limited liability partnerships into domestic limited liability companies and foreign limited liability companies. Limited liability companies, or LLCs, have become an increasingly common and popular form of business entity. They offer ease and flexibility for business owners. Like corporations, they offer a limited liability, personal liabilities for the owners or members. But they offer more flexible management and payment structures than corporations and less legal regulation which may be appropriate for the size of the entities which are often smaller businesses. In Nebraska, LLCs are governed by the Nebraska Uniform Limited Liability Company Act found in chapter 21, section 101 to 197. The Uniform Limited Liability Corporation (sic-Company) Act permits entities to convert to LLCs if the governing...the formation of these other entities allows for conversion, among some other requirements, but that's the key to this legislation. Currently, the statute governing partnerships and limited liability partnerships do not provide for such conversion. LB1050 provides such conversion and aligns the partnership and limited liability partnership laws with the Uniform Limited Liability Company Act. The bill would provide default provisions for domestic partnerships and domestic limited liability partnerships to convert to LLCs. With the amendments, please circulate to the committee, the bill provides that unless otherwise provided in a partnership organizational document, a partnership may convert to an LLC with the approval of the controlling share of partners in the word of the amendment, partners who own the aggregate more than 50 percent interest in the profits of such partnership. Importantly, the Uniform Limited Liability Corporation (sic-Company) Act states that a converted organization is the same entity that existed before the conversion. Therefore, the conversion does not alter the rights and responsibility, it simply allows an organization to restructure without having to dissolve and reform formally. Property remains vested in that organization; debts, obligation, and other liabilities stay with the converted organization. This bill was brought to me by the Nebraska Bar Association, and Chris Heinrich will be following me to provide greater detail. But I'd be more than willing to entertain any questions you may have. [LB1050]

SENATOR SCHEER: Senator Williams. [LB1050]

SENATOR WILLIAMS: Thank you, Senator Scheer, and thank you, Senator Harr. And if this question is for you or whoever will follow, if you have that domestic partnership right now and

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the group wants to become a limited liability corporation, is there a method for them to accomplish that? [LB1050]

SENATOR HARR: Currently, the only way to do that, as I understand it, and I've done this, is that you have to dissolve the partnership and then reform as an LLC. [LB1050]

SENATOR WILLIAMS: This would allow that to happen... [LB1050]

SENATOR HARR: Seamlessly. [LB1050]

SENATOR WILLIAMS: ...but to dissolve, what percentage of voting would it take to dissolve the partnership? [LB1050]

SENATOR HARR: Some of that depends on the partnership agreement, so it's more specific. [LB1050]

SENATOR WILLIAMS: Okay. [LB1050]

SENATOR HARR: But generally it's 50 percent. [LB1050]

SENATOR WILLIAMS: So generally it would be the same as what you're suggesting here that it would be 50 percent. [LB1050]

SENATOR HARR: Yeah. As I understand. [LB1050]

SENATOR WILLIAMS: And I'll follow up with whoever is going to testify. [LB1050]

SENATOR HARR: Great, thank you. [LB1050]

SENATOR WILLIAMS: Thank you. [LB1050]

SENATOR SCHEER: Senator Schumacher. [LB1050]

SENATOR SCHUMACHER: Thank you, Senator Scheer, and thank you, Senator Harr. Are the tax consequences different from a rollover, so to speak, that you're contemplating here than a dissolution and re-creation? [LB1050]

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SENATOR HARR: I would have you consult your tax attorney. I don't know the answer to that. I will get back...that's a good question. I assume you would...if you dissolve the partnership if there were assets you would have to claim the capital gains on it and then put it in the new one with the new higher basis, but I don't know the answer to that. That's a good question. I don't know. [LB1050]

SENATOR SCHEER: I'm looking over your shoulder and maybe somebody might know the answer to that. [LB1050]

SENATOR HARR: That sounds great; if you'd let me off the hook that would be wonderful. (Laughter) [LB1050]

SENATOR SCHEER: Any other questions? [LB1050]

SENATOR WILLIAMS: This is the last bill, isn't it? [LB1050]

SENATOR SCHEER: It is the last one. [LB1050]

SENATOR WILLIAMS: So, I mean... [LB1050]

SENATOR HARR: On "no question Monday." [LB1050]

SENATOR SCHEER: Okay. Thank you, Senator Harr. [LB1050]

SENATOR HARR: Thank you. [LB1050]

SENATOR SCHEER: Entertain the first proponent. Good afternoon and welcome. [LB1050]

CHRIS HEINRICH: Good afternoon. Chairman Scheer, members of the committee, my name is Chris Heinrich, C-h-r-i-s H-e-i-n-r-i-c-h. I am from Lincoln, Nebraska; from the law firm of O'Neill and Heinrich. I am a member of the legislation committee of the Nebraska Bar Association, a volunteer on that committee, and I am here in that capacity in support of LB1050. I'm just going to go off-script because I think a lot of this is pretty dry and can get a little mundane. (Laughter) Limited liability...I represent business clients, and limited liability companies are the most common form of business entity here in Nebraska. They are very flexible. They provide a way for owners to distribute profits that are not proportionate to ownership share. So if I own 50 percent of a company and my partner owns 50 percent of the

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company, but we want to distribute profits in maybe 70/30, we can do that in a limited liability company; we can't do that in a corporation. In a corporation we have to distribute profits in accordance with ownership percentages. Another advantage of limited liability companies is we can choose how we want to be taxed. We can be taxed as a partnership or we can be taxed as a corporation when we're an LLC. So it provides a lot of flexibility in terms of taxation as well. There are other advantages to forming a limited liability company as well. Those are a couple of them. There are...when the Uniform Limited Liability Company Act was passed a couple of years ago, what it said is that entities can convert into a limited liability company as long as this statute that created the original entity allows them to convert to a limited liability company. And so, if we're a general partnership that's trying to convert into a limited liability company, the Limited Liability Company Act says we can convert, but we also need the general partnership act...or the Uniform Partnership Act to also permit us to convert into a limited liability company. That's where the disconnect is, and that's why we're here with this bill today. Limited partnerships can already convert. We already had the language in that statute to allow that. A general partnership, we cannot convert at this point. A limited liability partnership we cannot convert at this point. The question came up earlier, what happens if we want to convert a general partnership into an LLC? Actually, there is a two-step process and we're doing that right now. We convert the general partnership into a limited partnership, and then we convert a limited partnership into an LLC. So it's a work around. We can get there, but it's a two-step process. What happens if we have to actually dissolve the entity? If I have a limited liability partnership and I want to convert that into an LLC and my only choice is to dissolve it and form a new entity, a new LLC, there are tax consequences for doing that. I've dissolved it; I now have to take the capital gains, and now I'm forming a new entity at that point. It's a big disadvantage for my client. It would be much cleaner and easier if we could simply just convert like we are able to do right now for our limited partnership, like we can for a corporation, and so that's what the intent of the bill is here. I'd be happy to answer any...that's what the general purpose of it is. I'd be happy to answer any questions that people may have. [LB1050]

SENATOR SCHEER: So in other words, you can do what this bill will allow you to do, it just takes you more than one step which is, for you folks, more hours, so I mean you're billing more time, but it actually costs the net consumer more dollars to accomplish the same thing if we would have the bill part of the statutes now than it would be a one-step process. Am I correct? [LB1050]

CHRIS HEINRICH: That's correct. Generally correct, yes. [LB1050]

SENATOR SCHEER: Generally is good enough for me. [LB1050]

CHRIS HEINRICH: Yep. [LB1050]

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SENATOR SCHEER: All right. Senator Schumacher. [LB1050]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Thank you for your testimony. Internally within these entities, is there any shift of power or shift of rights by doing this mechanism? In other words, if a partnership agreement says that it takes two-thirds of the partners to do something, and that's the rules that life was lived under. And then, lo and behold, this come rolling along. And we say here that, well, you can roll into this kind of plan with 50 percent. Haven't we cheated the guys who are relying on there having to be a two-thirds vote to move out of their rights? [LB1050]

CHRIS HEINRICH: The partnership...whatever the partnership agreement provides...if the partnership agreement provides for a higher standard, the partnership agreement should control regardless of what the statute provides. So if the partnership agreement says two-thirds are required, or unanimous consent is required, the statute is a fall-back provision, as it is in almost all situations. So in the event that the partnership agreement doesn't say anything, then you fall back to what the statutory requirement says. [LB1050]

SENATOR SCHUMACHER: And you don't feel that's necessary to say that this is a fall-back provision in the statute? [LB1050]

CHRIS HEINRICH: None of the statutes say that and that's what...that's how we operate in the business world, but I'm not aware of any other statute that says anything to the contrary. [LB1050]

SENATOR SCHUMACHER: So from best you can tell, we aren't writing some rules that will benefit some players after the fact to what they then agreed to to begin with. [LB1050]

CHRIS HEINRICH: Believe me, I would be very concerned about that if that were the case, because I have clients that like to write agreements that provide stricter requirements. But this provides the floor that you have to have at least 50 percent, and if I have a client that wants to impose a higher requirement, they certainly can; they're not prohibited. [LB1050]

SENATOR SCHUMACHER: And so from what you can tell, by going through this process or...that nobody loses any rights... [LB1050]

CHRIS HEINRICH: Nobody loses any rights. [LB1050]

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SENATOR SCHUMACHER: ...like equity interest or any interests or a share in their partnership. [LB1050]

CHRIS HEINRICH: That's correct. [LB1050]

SENATOR SCHUMACHER: Thank you. [LB1050]

CHRIS HEINRICH: Um-hum. [LB1050]

SENATOR SCHEER: Any other questions? Seeing none, thank you very much. [LB1050]

CHRIS HEINRICH: Thank you. [LB1050]

SENATOR SCHEER: Are there any other proponents for LB1050? Are there any opponents? Are there any wishing to speak in a neutral capacity? Senator Harr. [LB1050]

SENATOR HARR: Since I'm the only thing that stands between you...(he waves). [LB1050]

SENATOR SCHEER: What a way to end the season; a wave good-bye. [LB1050]

SENATOR HARR: Exactly. [LB1050]

SENATOR SCHEER: Thank you, Senator Harr. [LB1050]

SENATOR HARR: Thank you. [LB1050]

SENATOR SCHEER: And that will end the hearing on LB1050. [LB1050]