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Health and Human Services Committee
January 20, 2016

[LB786 LB791 LB898]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, January 20, 2016, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB786, LB791, and LB898. Senators present: Sara Howard, Vice Chairperson; Roy Baker; Sue Crawford; Nicole Fox; Mark Kolterman; and Merv Riepe. Senators absent: Kathy Campbell, Chairperson.

SENATOR HOWARD: I am Vice Chair. I am Senator Sara Howard. Welcome to the Health and Human Services Committee. As per usual, we start with introductions. So we'll start on my far right.

SENATOR FOX: Senator Fox, District 7; south Omaha and downtown.

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

SENATOR BAKER: Senator Roy Baker, District 30; Gage County, part of southern Lancaster County.

JOSELYN LUEDTKE: Joselyn Luedtke, committee counsel.

SENATOR RIEPE: I'm Merv Riepe. I represent Millard, Omaha/Millard, and Ralston.

ELICE HUBBERT: I am Elice Hubbert; I am committee clerk.

SENATOR HOWARD: Would you guys like to introduce yourselves?

JAY LINTON: I am Jay Linton. I am an ag/econ major at UNL from Dalton, Nebraska.

ASHLEE FISH: I am Ashlee Fish. I am a business administration major at UNL, and I am from Seward, Nebraska.

SENATOR HOWARD: Thank you. Senator Campbell is not with us today, so I will be covering for her, as Vice Chair. We ask that you turn off your cell phones. And although handouts are not required, if you decide to bring any, we ask that you have 15 copies. As a rule, we will not make copies for you. If you will be testifying, we ask that you fill out an orange sheet and turn it in to Elice. And please give the clerk your orange sheet at the beginning of your testimony. We do use

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the light system in this committee. Each testifier has five minutes. Green indicates that you can start; you'll have four minutes. Amber indicates that you have one minute left. And red...I will start waving my arms and ask you to stop. We ask that you begin your testimony by stating your name clearly into the microphone and then spelling both your first and last name. We do that for the transcribers. With that, we'll open up the hearing for LB786, Senator Larson's bill to change requirements for completion of death certificates and cremation permits. Senator Larson?

SENATOR LARSON: (Exhibit 1) Thank you, Madam Vice Chair Howard and members of the Health and Human Services Committee. For the record, my name is Tyson Larson, T-y-s-o-n L-a-r-s-o-n, and I represent Legislative District 40. I come before you today to introduce LB786, which changes signature requirements relating to the completion of death certificates and cremation permits by moving from an optional electronic signing system to a required electronic signing system. LB786 was initially presented to me by the owners of Aspen Cremation Service, Barb and Jon Lee. Barb has provided written testimony for the members of the committee, which she would like to have included in the record, and Jon will be following me with his testimony and personal experience as a funeral director. LB786 provides simple changes to law by striking the language pertaining to hand-written signatures, thereby focusing on an efficient, electronic means for purposes of expediting the death certificate in cremation permit process. The state began the implementation of this process in 2006 in an effort to better serve the public and take full advantage of the evolving technology. This system has been widely utilized across the state, and the electronic registration of death records has proven to decrease the time and effort taken to register and then release the certified death certificates to the families of the deceased. However, an ongoing inconsistency exists, as death records are currently being registered electronically, manually, and partially electronically, which can provide a varying effect on the amount of time required to fulfill such obligations. It is noted by the Department of Health and Human Services that this inconsistency has the potential to affect more than 16,000 Nebraska families annually. In a time of emotional duress, families should face the least amount of resistance and delay possible when dealing with business obligations resulting from the loss of a loved one. The passage of LB786 would provide a consistent and efficient means by which death certificates and cremation permits are completed and processed. The bill reduces the record-keeping methods for office staff, saves time and effort for funeral directors and medical certifiers, and eliminates a large margin of error in execution. Most importantly, LB786 would provide a small peace of mind for Nebraska families as they endure a most difficult time. I strongly urge your support and would welcome any questions. [LB786]

SENATOR HOWARD: Are there questions for Senator Larson? Senator Riepe. [LB786]

SENATOR RIEPE: Thank you, Senator Howard. Senator Larson, thank you for being here. One of the questions that I have is, are there any counties out there that do not have the means to do

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electronic? You know, I mean, are we going to be imposing an unfunded mandate on them?
[LB786]

SENATOR LARSON: It's not my understanding that they do right now. I was actually talking to a funeral director in my district about this bill, and he said that, you know...and I represent a lot of rural Nebraska, and he said no. Most of the counties, the county attorneys for the cremation process, it's my understanding that county attorneys have to sign off, or one of their representatives have to sign off, as well. And they all have access to it. And there won't be a hardship, by any means, to... [LB786]

SENATOR RIEPE: So it's not some very highly sophisticated, special program. [LB786]

SENATOR LARSON: No. It's not my...no. And it's...I think it's within Department of Health and Human Services Web site now. They just go in, they log in and... [LB786]

SENATOR RIEPE: Yeah. Okay. Okay, thank you. [LB786]

SENATOR HOWARD: Other questions for Senator Larson? Do you have a feeling for how many individuals are still using the hand-delivery or the fax system? [LB786]

SENATOR LARSON: I don't have a number on how many there are. Actually, no. [LB786]

SENATOR HOWARD: Okay. Thank you. [LB786]

SENATOR LARSON: Thank you. [LB786]

SENATOR HOWARD: Are you going to stay to close? [LB786]

SENATOR LARSON: I'll stay. I might, depending...if I close or not will depend on the testimony, I'm sure. [LB786]

SENATOR HOWARD: All right. Thank you, Senator Larson. We'll now open up the floor for any proponent testifiers. Good afternoon. [LB786]

JONATHAN LEE: (Exhibit 2) Good afternoon. She's just handing out a page of testimony here, so you can follow along. [LB786]

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SENATOR HOWARD: Whenever you're ready. [LB786]

JONATHAN LEE: Okay. Can you hear me all right? [LB786]

SENATOR HOWARD: Yeah. [LB786]

JONATHAN LEE: Okay. [LB786]

SENATOR HOWARD: Be sure to state your name and spell it for the record. [LB786]

JONATHAN LEE: Sure, yeah. My name is Jonathan Lee, J-o-n-a-t-h-a-n L-e-e, funeral director and owner of Aspen Aftercare here in Lincoln. And, has everybody got a copy there? Okay. I'd just like to say good afternoon, Senators. I thank you for this opportunity to speak to you regarding LB786. In the state of Nebraska, a death certificate is required to be filled out with each death that occurs. These death certificates are filled out by funeral directors who have been entrusted with the care of that individual. Traditionally, the funeral home then hand-delivers the death certificate to be signed to the medical professional, who can include a physician, physician's assistant, nurse practitioner, or a county attorney. The death certificate is then taken to the county for registration, along with a permit for cremation for any cremation cases. Finally, the funeral director either mails or takes the registered death certificate to the department of Vital Records for obtaining certified copies for the family. In the past, these certificates were always filled out by hand or typewritten. Unfortunately today, over half of the death certificates that become certified continue to be hand-delivered by the funeral home. The hand-delivery process can take a period of approximately four to five working days after the death to obtain the certified copies. Sometimes mistakes are made by medical professionals filling out these required portions of the death certificate. This can result in multiple return trips by the funeral home to resolve the problem. Now many medical professionals move from facility to facility, both in and out of town, seeing patients. It has been difficult to set a time and place for both funeral home and medical professional to meet to get these certificates signed. When death occurs outside the funeral home's county, the funeral director may have to travel many miles, in some cases hundreds, to get the certified copy signed and medical professionals and the permit for the cremation signed by the county attorney. These are just a few complications that result in significant delays for a family needing to receive the certified copies of the death certificate and the cremains of their loved one. In January of 2006, a program was placed on-line by the state of Nebraska Vital Records office. This program is known as the Electronic Death Registration System. It was formed to significantly reduce the time and effort it takes to register deaths and obtain certified copies of the death certificate. This system allows funeral directors, medical professionals, and county attorneys instant access to complete their portions of the death certificate, no matter where they're located. In the case of cremation, this system will

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automatically generate a permit on-line for the county attorney or deputy registrar to sign. This system will not allow anyone to leave their required areas blank or to enter information in the wrong places. The electronic system virtually eliminates most, if not all, mistakes. It will immediately notify the Social Security Administration, allowing us to verify the deceased's Social Security number. And for the medical professionals who do not wish to do their required portion on-line, the system provides a simple faxing alternative. Certified copies of the death certificate quickly make way for a family to settle a loved one's estate. Certified copies are required when applying for life insurance benefits. They help to open frozen bank accounts, which a family may depend on for living expenses. They are also needed for many other situations. Nebraska relies heavily on, Nebraska families rely heavily on these death certificates. I believe the key to providing these death certificates quickly is using the Electronic Death Registry System. Senators, thank you very much for your time and consideration of passing LB786. [LB786]

SENATOR HOWARD: Thank you, Mr. Lee. Senator Baker? [LB786]

SENATOR BAKER: Thank you. Mr. Lee, I am referring to your next-to-last paragraph there. Does there still have to be paper copies of death certificates printed out? [LB786]

JONATHAN LEE: To date there is, yes. [LB786]

SENATOR BAKER: Okay, because there's no electronic version that would suffice for the purposes of people who need death certificates? [LB786]

JONATHAN LEE: The death registry system, do you mean, that's in place today? [LB786]

SENATOR BAKER: Right. You know, if...you know, in your example of bank accounts. [LB786]

JONATHAN LEE: Yes. [LB786]

SENATOR DAVIS: Will they take an electronic version? Is that to be it? [LB786]

JONATHAN LEE: Oh, no. When a bank accounts...what that is, is...I'm saying that the families actually need those registered copies or certified copies so that I don't (inaudible)... [LB786]

SENATOR BAKER: So they'll walk away with something in their hand. [LB786]

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JONATHAN LEE: To hand in. Got to have something. [LB786]

SENATOR BAKER: Got you. Thank you. [LB786]

JONATHAN LEE: Yeah, you're welcome. [LB786]

SENATOR HOWARD: Senator Kolterman? [LB786]

SENATOR KOLTERMAN: Thank you, Senator. Mr. Lee, thank you for testifying. And also, I'd like to thank Senator Larson for bringing this bill. I work a lot with certified death certificates in my business, and it's a nightmare what you go through to get them. And you're absolutely correct. When you're working on estates, there are people that some...a husband dies and sometimes the bank accounts are locked up. The spouse can't get to them. [LB786]

JONATHAN LEE: That's right. [LB786]

SENATOR KOLTERMAN: So I really appreciate you bringing this. The next thing we need to work on is the cost. They charge \$16 apiece for a certified death certificate. [LB786]

JONATHAN LEE: That's correct. [LB786]

SENATOR KOLTERMAN: And you can't even change a stock account without a certified death certificate. Copies don't do it. [LB786]

JONATHAN LEE: Right. [LB786]

SENATOR KOLTERMAN: So I really appreciate this, and you'll have my support. [LB786]

JONATHAN LEE: Oh, thank you, Senator. [LB786]

SENATOR KOLTERMAN: Thank you, Senator Larson. [LB786]

JONATHAN LEE: Yeah, thank you very much. [LB786]

SENATOR HOWARD: Senator Riepe? [LB786]

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SENATOR RIEPE: Thank you, Senator Howard. Does this result in new fees for families?
[LB786]

JONATHAN LEE: I'm sorry, new result? [LB786]

SENATOR RIEPE: Does it result in a new fee for families, or is this built into your total cost?
[LB786]

JONATHAN LEE: Oh, so the \$16, are you saying? [LB786]

SENATOR RIEPE: If that's the number. [LB786]

JONATHAN LEE: Yeah, it's to the family. Yes. [LB786]

SENATOR RIEPE: Okay. The other question I have is, can this address the needs to notify the public, because I know attorneys have to turn around and notify the public so that people can file claims for a period of time, if it's not in a trust. [LB786]

JONATHAN LEE: Yes, it would speed that up. It would speed that up drastically. Yeah. [LB786]

SENATOR RIEPE: The other...my experience is, too, is that on death certificates, oftentimes the attorney...they want to feel the embossment of the thing. And it like...how do you get around that? [LB786]

JONATHAN LEE: That is still there, because at the very end of this, that you still have that certified copy; that paper copy comes from Vital Records. So you'll have those to distribute, at \$16 a copy. [LB786]

SENATOR RIEPE: Okay. [LB786]

JONATHAN LEE: Yeah. Those are all right. So the electronic system...we do everything on-line, either e-mail or by fax. It ends up down in the vital records, and that's where they actually produce the paper copies with the raised seal. And all of this gets that down to that point.
[LB786]

SENATOR RIEPE: Okay. The other, if I may... [LB786]

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SENATOR HOWARD: Sure. [LB786]

SENATOR RIEPE: The other question is, why now? Why in 2016, Second Session? Why not last year? Why not next year? [LB786]

JONATHAN LEE: Well, it wasn't introduced last year or anything like that. [LB786]

SENATOR RIEPE: Did you pursue having the bill introduced? [LB786]

JONATHAN LEE: We did talk to people. We didn't know any senators, or anything like that, to get that going through and all. So... [LB786]

SENATOR RIEPE: Okay. I think we have a couple of documents here. They seem to be both from the same owners. The Aspen? [LB786]

JONATHAN LEE: Yes, correct. That's right. [LB786]

SENATOR RIEPE: So is this your association's or just your individual funeral home that's (inaudible)? [LB786]

JONATHAN LEE: No, that's mine. That's my funeral home. [LB786]

SENATOR RIEPE: All right. [LB786]

JONATHAN LEE: Yeah. [LB786]

SENATOR RIEPE: So your association of funeral directors, are they endorsing this, as well? [LB786]

JONATHAN LEE: Yeah. [LB786]

SENATOR RIEPE: Okay. [LB786]

JONATHAN LEE: You bet. Yeah, absolutely. [LB786]

SENATOR RIEPE: Okay, thank you. Thank you. [LB786]

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SENATOR HOWARD: Other questions for Mr. Lee? Seeing none, thank you for your testimony today. [LB786]

JONATHAN LEE: Okay, thank you for your time today, Senators. [LB786]

SENATOR HOWARD: Other proponents for LB786? Good afternoon. [LB786]

WILLIAM LAUBER: Good afternoon. My name is William Lauber, that's William Lauber, L-a-u-b-e-r. I operate funeral homes in Milford and Friend, Nebraska, and I'm the legislative chairman for the Nebraska Funeral Directors Association. The...I talked to Stan Cooper, director of Vital Records, about what he thinks his position would be on this bill. And also, we've talked to funeral directors over the years about the implementation of the electronic death certificate system. Nebraska, like Jonathan said, I think it was in 2006 when they started the electronic death certificate system here in Nebraska. It's kind of a long process to get from 0 to 100 percent people filing death certificates electronically. It is a process. You have to train the certifiers, the medical profession. You have to train the funeral directors. And now we have nurse-practitioners and physician's assistants and things like that, too. So it was a process. And other states have also gone to electronic death certificates, because they were very successful in doing that with birth certificates. The death certificates...about 80 percent of the funeral directors in our state are trained to file electronically. Right now, we're almost at 50 percent of all the certifiers, or the medical profession implemented or trained to do so. We know that the medical profession wants to go electronic. We know that our profession and the funeral industry wants to do that. We know it's the most efficient way to file death certificates. But we've got to make sure that we, if we get this bill to favorable passage, that we give Stan Cooper some time, you know. If Governor signs it, for example, and this should pass, and it's June 1 or July 1 or September 1, for implementation of 100 percent, I don't think the Vital Records office could do it that quickly, to train that other 50 percent of the certifiers. So I would suggest that if we do proceed with this bill, that we give Vital Records like, say, June 1 of 2017, give them time to make this possible. Another thing that I would suggest, too, and that is, in this bill it does not say what happens if we have some worst-case scenarios. For example, if we have a winter blizzard storm in south central Nebraska, and it wipes out the electrical grid for five counties, and it takes three weeks to get electricity back, does that mean that, since we have forgone paper filing of death certificates, and we have to be forced to do it electronically, that getting those certified death certificates to these families is going to grossly delay that process? So I would suggest that we make an amendment that we, in emergency situations such as someone hacks into the vital records system, or if we have a natural disaster, that we can fall back on the paper process in these unlikely, rare occasions. And other than that, I think that's the only concerns I had when we looked at this. Iowa went 100 percent electronic, and...but they went too fast. And the funeral directors I talked to over there said it was really tough to implement that, because the governor signed it, and then it went into effect, and everyone was scrambling. And it was kind of a difficult time for the medical profession, the

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county attorneys, and the funeral directors to get involved. They wish they had more time to implement it. Any questions? [LB786]

SENATOR HOWARD: Questions for Mr. Lauber? Senator Kolterman. [LB786]

WILLIAM LAUBER: Yes, Mark. [LB786]

SENATOR KOLTERMAN: Thank you, Bill. Appreciate your testimony. [LB786]

WILLIAM LAUBER: You're welcome. [LB786]

SENATOR KOLTERMAN: How did you get time off? You got a lot of funerals right now. [LB786]

WILLIAM LAUBER: Yeah. Well, you know, it's the nature of the business. [LB786]

SENATOR KOLTERMAN: Yeah. [LB786]

WILLIAM LAUBER: But luckily, we're just 15 miles away. [LB786]

SENATOR KOLTERMAN: Yeah. [LB786]

WILLIAM LAUBER: And that's why, I think, the association puts me down as the Legislature, because I'm too close to the Unicameral. [LB786]

SENATOR KOLTERMAN: So here's my...correct me if I'm wrong. All we're really trying to do is speed up the process. We're not changing the death certificates. [LB786]

WILLIAM LAUBER: Right. [LB786]

SENATOR KOLTERMAN: If you want to get a certified death certificate with an embossed seal... [LB786]

WILLIAM LAUBER: Yeah. [LB786]

SENATOR KOLTERMAN: ...most of your banks will accept just a copy. [LB786]

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WILLIAM LAUBER: Yeah. [LB786]

SENATOR KOLTERMAN: But your...anything like that's dealing with the New York Stock Exchange or a security... [LB786]

WILLIAM LAUBER: Right. [LB786]

SENATOR KOLTERMAN: ...or an insurance policy, they all want their own embossed seal. [LB786]

WILLIAM LAUBER: Yeah. [LB786]

SENATOR KOLTERMAN: Is that not correct? [LB786]

WILLIAM LAUBER: That is correct. They require that certified seal. [LB786]

SENATOR KOLTERMAN: So we're not changing any of that. [LB786]

WILLIAM LAUBER: No. They're doing the... [LB786]

SENATOR KOLTERMAN: All we're doing is speeding up the process. [LB786]

WILLIAM LAUBER: Right. And also, keep in mind, too, that when you do go electronic, it eliminates the error process, not only by the doctor, because if they make an error in a entry block of that death certificate, it won't be able to be closed out. If the funeral director makes a mistake in item 5 of the death certificate, the electronic death certificate will kick it back to him and say you've got an error on block 5. So the errors will be eliminated. And also, Stan Cooper says that, you know, right now we have three different ways to complete and file a death certificate: electronic, fax attestation, and paper drop. They would like to just go to one system of filing, and that's, of course, electronic. But they realize it just takes a long time to get people to be trained. It's like John said, it's not difficult...or Senator Tyson said, it's not difficult to get trained to file a death certificate, whether you're a doctor or a funeral director. But it's just telling your staff at the medical clinic, if you're a doctor, or the staff at the funeral home, get trained, let's do it. But, you know, certain counties, certain county attorneys, certain...you know, they're just in that old-school mind-set, you know. But if we force them to do it, like other states have done...I think there's only about 20 states that go 100 percent electronic right now. And there's a

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movement toward it. But if you do that with this bill, it will force the doctors to say: okay, I guess we need to do it. And then, you know, no more dillydallying. So... [LB786]

SENATOR HOWARD: Senator Riepe? [LB786]

SENATOR RIEPE: Thank you, Senator. First of all, doctors don't make mistakes (laughter). [LB786]

WILLIAM LAUBER: I beg to differ, but they probably make less mistakes than we do. I'll tell you that. [LB786]

SENATOR RIEPE: Oh. I wanted to have a little fun there. One of the questions that I had...you had mentioned, correct me where I'm wrong here, I think you talked about having some backup, based on paper. That caught me a little bit, because my inclination is, I do agree totally with a backup. I just...I'm not sure about putting it on paper, because then you haven't saved a whole lot. It seems to me like the backup would go to a disk, and just store it separately. But...is that...can you help me? [LB786]

WILLIAM LAUBER: Well, yeah. If, in those scenarios where we have no electronic system in place because of a breakdown or whatever, the only way to really certify a death certificate is to take a death certificate. We used to put these on a typewriter and, you know, go through the typewriter to type them up, take them to the doctor. [LB786]

SENATOR RIEPE: I'm too young for that, but go ahead. [LB786]

WILLIAM LAUBER: But we would complete it and take it to the clinic. They, the doctor would get out his pen and put down what he believes, he or she, was the cause of death. Okay? And then we take that paper, and we take it to the Vital Records Office, where they keep it on file forever and ever and ever. And then they take that paper death certificate and issue a certified copy. And then we give those to the families, and they file claims from whatever they have to file claims for. In those disasters, or where the system is down for whatever reason, and it's down for lengthy period of time...I'm not saying if it's just down for a couple days, but if it's down for a couple weeks, or if there's some counties where there is electrical grid out, and our system for that is down, we need a fallback scenario to where we could do that. [LB786]

SENATOR RIEPE: To back up... [LB786]

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WILLIAM LAUBER: And it's just a temporary thing, you know. But we need something in that language to tell us that we could that, because right now I think it just reads that it's electronic or nothing else. And if we have those little scenarios, especially, you know, we have this large geographic state. And if there's something happens out west, and there is power lines down, and there's going to be weeks before they get restored, are we going to delay those families in filing those claims for whatever they need to do? [LB786]

SENATOR HOWARD: Mr. Lauber. [LB786]

WILLIAM LAUBER: Yes. [LB786]

SENATOR HOWARD: I just wanted to clarify, are you testifying as a proponent? [LB786]

WILLIAM LAUBER: Proponent, yes. We are in favor of it. It's just that I just have a couple of suggestions to make those amendments so that...we just have a couple of concerns. But otherwise yes, we are for it. And I think also the Vital Records Office is for it. He just wanted to make sure that...when I talked to him, he just wanted to...I wanted to make sure I...he was for it. If it sounded like he was a proponent for it, as well. [LB786]

SENATOR HOWARD: We thank you. [LB786]

WILLIAM LAUBER: Yeah. [LB786]

SENATOR HOWARD: Any other questions for Mr. Lauber? Seeing none, thank you for your testimony today. [LB786]

WILLIAM LAUBER: Yep, thank you. [LB786]

SENATOR HOWARD: Is there anyone else wishing to testify as a proponent for LB786? Seeing none, anyone wishing to testify in opposition? Anyone wishing to testify in a neutral capacity? Senator Larson, you are welcome to close. [LB786]

SENATOR LARSON: Thank you, Madam Vice Chair and committee members. Just a few things that I wanted to point out real quick, that would make...the electronic certificates will eliminate errors and speed up time, as Senator Kolterman has brought up. And the previous testifier talked about how this takes time. Well, we've been at this for ten years, and we're, you know...we have taken the time. And if the committee wants to put a later effective date without any clause, that's

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understandable. But they've been at this, and the training has been happening, and the training is free. So it's not that big of a deal in terms of the time. Senator Riepe, I know you were kind of looking at, or asked if there was an added fee or whatnot. This is just kind of speeding up to the point to get that registered death certificate. So there's no added fee. This is...and it has nothing to do with the actual death certificate. It's just the information that needs to be produced to get that certificate. And in terms of like the worst-case scenario like concept, if our electrical grid is down for like that long, we're going to have a lot bigger challenges in our society today, in terms of like the...like considering, you know, as we sit here. I'm not sure government will be functioning at all, actually, if...to process the death certificates, because of how much our government, state government, functions in the cloud and everything else. So we'll have bigger fish to fry, I think. So I understand the concerns, but I do think this is something that it will eliminate errors and help families. And I appreciate the committee's support. [LB786]

SENATOR HOWARD: Thank you. Senator Baker? [LB786]

SENATOR BAKER: Thank you. Senator Larson, I think you have a winner here. [LB786]

SENATOR LARSON: I appreciate that. Thanks, Senator Baker. [LB786]

SENATOR BAKER: Thanks for bringing this to us. [LB786]

SENATOR HOWARD: Any other questions for Senator Larson? Seeing none, thank you for visiting us today. [LB786]

SENATOR LARSON: Appreciate it. [LB786]

SENATOR HOWARD: This will...are there items for the record? [LB786]

SENATOR LARSON: This is my only time in HHS this year. [LB786]

SENATOR HOWARD: Well, we enjoyed seeing you. [LB786]

SENATOR LARSON: I'm glad I was the first one that...to go. [LB786]

SENATOR HOWARD: There you go. No items, wonderful. That will close the hearing for LB786, And we will open the hearing for LB791, Senator Ebke's bill to change grounds for

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discipline under the Funeral Directing and Embalming Act. Senator Ebke, whenever you're ready. [LB786]

SENATOR EBKE: Thank you, Vice Chair Howard and members of the committee. For the record, my name is Senator Laura Ebke, L-a-u-r-a E-b-k-e, and I represent the 32nd legislative district. And this is my first time before this committee. [LB791]

SENATOR HOWARD: Welcome. [LB791]

SENATOR EBKE: I have had an unexpected number of people ask me about LB791 and its motivation (laughter). And I will get to that momentarily. As you have noticed, LB791 amends the Funeral Directing and Embalming Practice Act by striking eight words which eliminate specific grounds for refusal of license or discipline under the act. The specific grounds which are eliminated are the using of indecent, profane, or obscene language, and this is the part that's eliminated, "in the presence of a dead human body." Cause for discipline remains, should one use indecent, profane, or obscene language within the immediate presence or hearing of the family, relatives, or friends of the deceased. So where does this come from? First, let me say that it does not come from the funeral directors. Indeed, I'm told that there was a bit of puzzlement in that profession when this bill was introduced. This was not my intention. Second, the bill is not a result of any sense that profanity in the presence of the dead is in any way a problem or a practice by those in that profession. Every funeral director who I know exhibits the utmost of respect for both the deceased and those who are mourning. This bill quite simply grows out of a call for ideas that I made to my constituents during the interim. We had, at one point during the last session, in my office, stumbled upon some lists of what I would call unusual or outdated laws around the country, and I wondered whether my constituents had run into any of those in Nebraska statute. So I included that inquiry in one of my e-mail newsletters, and I got several responses. This one, particularly, submitted by someone who, to the best of my knowledge, has no connection to the funeral home profession, struck a bit of a chord with me. Certainly, I thought, respect for the dead should be part of a professional ethics statement, but ultimately, it seems to me, that this particular portion of the law was problematic, both from a reporting and enforcement standard. Of course, public indecent language or profanity, by its definition, would be something that would be reportable. And, while I suspect licensing consequences could be based on some sort of a sliding scale in terms of serious language offenses, I think that merely removing the words "in the presence of a dead body" adequately addresses my concerns with respect to reporting and enforcement. I hope that you will see this bill in the spirit in which it was intended, as a minor revision of a law which, as written, would seemingly be difficult to report or enforce. I would be happy to answer any of your questions. [LB791]

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SENATOR HOWARD: Are there questions for Senator Ebke? Seeing none, will you be staying to close? [LB791]

SENATOR EBKE: I will hang out, yeah. [LB791]

SENATOR HOWARD: Okay. Is there anyone wishing to testify as a proponent for LB791? Welcome back. [LB791]

WILLIAM LAUBER: Oh, yes. William Lauber, L-a-u-b-e-r, licensed funeral director, Milford and Friend, Nebraska. Thank you, Senator, for finding out this old statute. Yes, we, too, were perplexed when we learned about the state laws and how we need to make sure we abide by them when we become a licensed funeral director. I think, I will get out of the profession if the dead human body starts saying profane language to me, then I'm getting out of it. That's the time I'm going to get out of the profession, when they start talking back to me. However, this is...certainly it must have been a bill way back in the turn of the century, where, you know, our society was a lot different than it is today. And so I, we are certainly in favor of the passage of this bill. It's unnecessary; it is a silly bill. And it is not really enforceable. Only a few select people are allowed in our preparation rooms anyway. The public is not allowed in there when we have a dead human body in there. You have to be qualified to proceed into that room. And we do truly, when we decide to take upon this business, is that we want to make sure that we do give the decedent the utmost respect it deserves. It's someone's loved one; it's someone's mother, someone's father. And so we want to make sure that we do give them the respect that they deserve. And so, you know, to our knowledge, it's never...there's never been a time where a court took up this situation or what have you. So I appreciate your time. If you have any questions, on my end of the spectrum, I'll try to answer them for you. [LB791]

SENATOR HOWARD: Are there any questions for Mr. Lauber? [LB791]

WILLIAM LAUBER: All right, thank you. [LB791]

SENATOR HOWARD: Seeing none, thank you for your testimony today. Is there anyone else wishing to testify as a proponent for LB791? Is there anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral capacity? Senator Ebke, would you like to close? [LB791]

SENATOR EBKE: This might be a good time to leave. [LB791]

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SENATOR HOWARD: Senator Ebke waives closing. Are there items for the record, Elice?
[LB791]

ELICE HUBBERT: No items. [LB791]

SENATOR HOWARD: Fabulous. That will close the hearing for LB791, and we will open the hearing for LB898, Senator Fox's first bill in committee, to exempt persons solely engaged in natural hair braiding from credentialing requirements under the Uniform Credentialing Act.
[LB791]

SENATOR FOX: (Exhibit 1) All right. Well, thank you, Vice Chairwoman and members of the HHS Committee. I am Senator Nicole Fox, N-i-c-o-l-e F-o-x. I represent District 7. LB898 is a fairly straightforward bill. It removes one of the hurdles facing entrepreneurs in some of the poorest areas of our state. Natural hair braiding is just as it sounds...braiding hair as naturally as possible. It uses no harmful dyes or chemicals, no cutting and styling of hair, and it is safe for braiders to perform and safe for people getting their hair braided. It is a time-tested, safe practice that is deeply rooted in African cultural heritage and carries with it significant historical importance. But just to braid hair, a Nebraskan has to get 2100 hours of cosmetology training, most of which is completely unrelated to hair braiding. This means Nebraska braiding entrepreneurs and workers have to spend hundreds of hours of their valuable time to get irrelevant training. Nebraska shouldn't license something as safe and common as braiding hair. 15 states do not require any license for braiders, including Colorado and Kansas. There is no evidence that there is any public health or safety problems with braiders in these states. Iowa and Missouri currently have braiding licensing laws, just like Nebraska; and both are being sued currently because of these laws. Multiple courts have ruled that states cannot require braiders to get a cosmetologist's license. And many additional states have changed their laws rather than lose in court. I am not at all opposed to occupational licensing laws, but some, like those governing hair braiding, create artificial barriers to entry for entrepreneurs seeking to take their first step. That's especially true for occupations that traditionally cater to people just starting their professional careers. Shortly before I agreed to carry this legislation, my staff attended an anti-violence meeting in Omaha. While there, one of the community leaders expressed dismay at the hurdles facing entrepreneurs in north and south Omaha, espousing the opinion that more jobs would equal less crime. And I have to agree. Reform of occupational licensing laws to free workers from burdensome regulations is an economic issue. My staff has worked with DHHS with regards to this bill. And my amendment before you addresses their issues. This bill is a good first step in allowing hard-working Nebraskans the ability to earn an honest living, free from unreasonable government regulations. I'd be happy to take any questions. [LB898]

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SENATOR HOWARD: Thank you, Senator Fox. Are there questions for Senator Fox? Senator Riepe. [LB898]

SENATOR RIEPE: Thank you, Senator. Senator Fox, thank you for being here. [LB898]

SENATOR FOX: Thank you. [LB898]

SENATOR RIEPE: Are there other occupational groups that could benefit by reduction of this type of regulation? [LB898]

SENATOR FOX: I'm sure there were. In fact, I would love to not have to worry. I mean there's a lot... [LB898]

SENATOR RIEPE: Could you provide us a list of those? [LB898]

SENATOR FOX: Huh? A list? It would be a very long list. How long do you have today? [LB898]

SENATOR RIEPE: Oh my. Okay, I'll take yes as an answer. Thank you. [LB898]

SENATOR FOX: Yes. [LB898]

SENATOR HOWARD: Senator Fox, would you want to walk us through the amendment and tell us what changes it makes, specifically? [LB898]

SENATOR FOX: Oops. (Inaudible) in just a second. So essentially, the amendment gets read, I mean...so it's, it allows us to insert "crochet hooks" and "blunt-tipped" in line 20, after agents, and to use that in conjunction with hair braiding. [LB898]

SENATOR HOWARD: And this may not be a question for you, but what do you mean by "blunt-tipped?" Is it sort of a... [LB898]

SENATOR FOX: This is language that was recommended, in working with DHHS. [LB898]

SENATOR HOWARD: Okay. Perfect, thank you. Any other questions for Senator Fox? Seeing none, I think you'll be staying to close then? [LB898]

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SENATOR FOX: Yes, yes. [LB898]

SENATOR HOWARD: Wonderful. All right. Then we would invite our first proponent up for LB898. Good afternoon. [LB898]

PAUL AVELAR: Good afternoon, members of the committee and Vice Chair Howard. My name is Paul Avelar, P-a-u-l, last name is A-v-e-l-a-r. I am a senior attorney with the Institute for Justice. I'd like to thank you all for your time today and thank Senator Fox and the numerous sponsors of this bill for your leadership on this issue. I guess I can respond to a couple of the questions that were asked. And one that usually gets asked of me, is well, why does a lawyer from Arizona care about Nebraska's braiding laws? I've had the distinct honor and privilege of representing braiders throughout the country, both in legislatures and also in courts. In fact, I am one of the lawyers currently suing both Missouri and Iowa over their braiding bills. And I am suing them because requiring braiders to get a cosmetology license, as Senator Fox said, requires them to jump through numerous costly hoops...the cost of cosmetology school, for example, here in Nebraska, can be as much as \$20,000, if not more. Every dollar that a Nebraskan spends on unnecessary job training is a dollar they don't have to spend on themselves and their family. Every hour they spend on unnecessary job training is an hour they can't spend working to support themselves and their families. There are numerous Nebraskans who will benefit from this bill in particular and also from, in terms of the larger issue, looking at occupational laws in general. The need to free workers from burdensome occupational laws, occupational licensing laws, has really become a bipartisan issue and an issue that has gained greater national prominence in recent years. Most recently, President Obama's White House released a very thorough report talking about the need for reform nationwide and what the various states can be doing to improve the situation for workers and for entrepreneurs. That report found that, although only one in twenty U.S. workers in the 1950s needed an occupational license, today that number is much higher. And in Nebraska specifically, it is one in four. 24.7 percent, give or take, of all Nebraskans require an occupational license before they go to work. Some of these occupational licenses make a lot of sense, others less so, such as braiding. And others just generally need to be looked at. For example, in talking about cosmetology in general, Nebraska has the most hours required of cosmetologists in the country. Iowa, Nebraska, and, I believe it's South Dakota, all require 2,100 hours, whereas New York is only 1,000 hours. Other states are 1,500 to 1,600 hours usually. Again, those are hours based on general national practice that probably aren't really necessary to protect the public health and safety, which is really the only purpose that licensing laws can serve. With that, I will...I am happy to take any questions about braiding in Nebraska or nationally. And, of course, we have with us a braider today who can tell you more about her specific practice and how this bill will help her and other braiders. Thank you. [LB898]

SENATOR HOWARD: Are there questions? Senator Crawford. [LB898]

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SENATOR CRAWFORD: Thank you, Chairwoman Howard. And thank you for your testimony today and for providing the broader perspective for multiple states in terms of the need for addressing this issue in professions. So you were talking about Nebraska has the most hours required for cosmetology. And I just missed the end of that statement. Compared to... [LB898]

PAUL AVELAR: Compared to the other states across the country, Nebraska, Iowa, and South Dakota all require 2,100 hours. But this number is an outlier, in terms of training required. New York, for example, requires 1,000 hours of training, of schooling. [LB898]

SENATOR CRAWFORD: Okay, thank you. [LB898]

PAUL AVELAR: And other states generally require 1,500 or 1,600 hours. [LB898]

SENATOR CRAWFORD: Thanks. [LB898]

SENATOR HOWARD: Any other questions? Do you have any idea of the history of why these educational requirements were initially put into statute? [LB898]

PAUL AVELAR: Not specifically in Nebraska. I can speak more towards a general, national perspective. And what we've found, and again, what the Obama White House report, amongst many other organizations...I mean, any time you can have the Obama administration favorably citing research done by the Institute for Justice and the Heritage Foundation and the Cato Institute, you know, you've sort of hit on a big bipartisan issue that deserves a deeper look. Oftentimes licensing laws are implemented at the request of regulated industry, because licensing laws is a wonderful way of increasing the costs to enter a profession. And increase cost means fewer competitors. Fewer competitors means more money for the insiders and basically a less, a worse deal for consumers. Competition breeds better services for consumers, breeds lower costs. We've seen that in any number of areas. And so occupational licensing laws serve oftentimes to blunt competition. I can't say that that's the case here in Nebraska; I have not done that specific research. But ordinarily that is what happens. In fact, for those of you who follow the Supreme Court closely (I'm maybe the only one geeky enough to do that here), the U.S. Supreme Court issued, just last term, a very interesting decision involving the North Carolina Board of Dental Examiners, where they found that the North Carolina Board of Dental Examiners, which regulated the practice of dentistry in North Carolina and was run primarily by licensed dentists in the state, was using the dental law, the Dental Practice Act, in order to horn out from competition people who were providing just the very basic, simple, over-the-counter teeth whitening kits. They said that that was the practice of dentistry, that you needed a dental license to provide those kits, and therefore, everyone who was providing those kits was violating North Carolina law. And what the Supreme Court said was, no, that is actually a violation; what

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the dental board did is a violation of the federal antitrust act. And it's maybe a new world for regulatory boards nationwide. And certainly for people who are in positions of elected power who are politically accountable to the people to know what the boards are doing and how they're doing it and to understand where areas of these regulations can be pared back without undue cost to public health and safety, but to better benefit competition. [LB898]

SENATOR HOWARD: Thank you. Any other questions for the testifier? Seeing none, thank you for your testimony today. [LB898]

PAUL AVELAR: Thank you. And I hope this committee and the Legislature, as a whole, supports the bill. Thank you. [LB898]

SENATOR HOWARD: Thank you. Our next proponent? Good afternoon. [LB898]

BRANDY McMORRIS: Good afternoon. Oh, excuse me. My name is Brandy Morris, and that's spelled M-c-M-o-r-r-i-s, and I, too, first want to thank Senator Fox for shedding light on such an important issue for me and a lot of other braiders in this state. I currently live in Omaha, Nebraska, where I have been for the last 14 years. And of a bulk of that, I've been braiding hair. And recently I started to make a living doing so, until I found out that it was against the law. So I stopped braiding and being compensated for it and decided to push this issue to change the law. I can answer the question as far as I think that these regulations were made when natural hair braiding wasn't as popular. Even though it has been a long practice, it's kind of morphed into a bigger industry. And so it's a lot of more, a lot more things added to it that were in place when these things were written. So I can tell you that I've never used any kind of chemicals braiding hair; I've never harmed anyone while braiding their hair. It's a simple practice. It doesn't involve me changing the structure of their hair in any kind of way. It's simply styling the hair with twisting and braiding, you know, their hair fibers or synthetic fibers added in, you know, doing that. So I think that this bill would benefit me, obviously, because I would like to be an entrepreneur and provide for my family and be able to be more in control of my schedule. I can be more flexible. I do have three children at home. So this will help me just, you know, make money and be, you know, a role model for my children, because, you know, I've never had anybody in my family who started their own business. And it's always been a dream of mine. So this is something that I would love to do, and this bill would assist me in doing so. And so, do you guys have any questions I can answer then? [LB898]

SENATOR HOWARD: Thank you. Are there any questions? How old are your kids? [LB898]

BRANDY McMORRIS: I have a two-year-old, a six-year-old, and an eight-year-old. [LB898]

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SENATOR HOWARD: Oh, my goodness. That's got to keep you busy. [LB898]

BRANDY McMORRIS: One of which is a girl, who is always doing her doll's hair, because she sees me doing hair. So... [LB898]

SENATOR HOWARD: Oh, that's wonderful. Well, thank you. Seeing no questions, thank you for your testimony today. [LB898]

BRANDY McMORRIS: You're welcome. [LB898]

SENATOR HOWARD: Is there anyone else wishing to testify as a proponent for LB898? [LB898]

JESSICA HERRMANN: Thank you. [LB898]

SENATOR HOWARD: Good afternoon. [LB898]

JESSICA HERRMANN: (Exhibit 2) Good afternoon. Members of the Health and Human Services Committee, my name is Jessica Herrmann, J-e-s-s-i-c-a H-e-r-r-m-a-n-n. I am the director of legislative outreach, testifying today on behalf of the Platte Institute for Economic Research. I wanted to speak today in support of LB898. Currently, Nebraska law requires persons solely engaged in natural hair braiding to not only graduate from a school of cosmetology in Nebraska, but also complete 2,100 hours of training mostly unrelated to natural hair braiding. To put it simply, this is ridiculous. Hair braiders must not only obtain permission from the government, but also spend thousands of dollars on course instruction. And I actually looked up some of the courses that Capitol School of Hair Styling and Esthetics in Omaha gives: home creative skills, skin and spa services, chemistry...which, I don't know about you all, but my high school chemistry experience...I would not be a very successful cosmetologist if I had to take chemistry...coloring, men and women's cutting, waxing. There are a whole slew of courses that, while are very relevant for some professions and probably a majority of cosmetologists, they are not relevant for a natural hair braider. I also looked up the cost of tuition at Capitol School of Hairstyling and Esthetics. And this blew me away. It's \$20,095 a year, \$20,095, basically to become a licensed cosmetologist. I had no idea it was that much money. And I was just astonished. Also, a little-known fact, although I'm sure most cosmetologists will tell you this, that students must first obtain a high school degree or a GED before they are even allowed to enroll. This is a major hurdle for those who are trying to begin a professional career without certain educational and socioeconomic advantages. More and more studies are recognizing that occupational licensing laws are irrational, burdensome, and stifle economic growth in local

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communities. Our Institute for Justice gentleman spoke on this, and we appreciate that 11 states have completely exempted braiders from these state credentialing requirements. Five states have created a separate licensing requirement for natural hair braiders with required coursework ranging from 6-35 hours, so not quite the 2,100 hours that Nebraska requires. These are common-sense legislative approaches that allow citizens to earn an honest living without unreasonable government interference. We strongly support these efforts, including LB898, and we ask you to advance this bill out of committee. Thank you for this opportunity to testify. I'm happy to answer any questions. [LB898]

SENATOR HOWARD: Thank you. Are there any questions for Ms. Herrmann? Seeing none, thank you for your testimony today. [LB898]

JESSICA HERRMANN: Thank you. [LB898]

SENATOR HOWARD: Is there anyone else in the room wishing to testify as a proponent for LB898? Anyone wishing to testify in opposition? Anyone wishing to testify in a neutral capacity? Seeing none, Senator Fox, you are welcome to close. [LB898]

SENATOR FOX: All right. And just briefly, I'd like to thank you all again for allowing this bill to be heard today, my first bill here in the Legislature. And I just, to reiterate some points that were brought about by some of the other testifiers today, yeah, \$20,000 is a lot for someone who wants to do something as simple as natural hair braiding. I think it's a large economic barrier to earning an income. I, too, looked into some of the coursework for attaining a cosmetology degree. And of those 2,100 hours, I looked at three of the schools here in the state. And one listed, kind of broke it down, not just the types of courses, but actually the hours. So of those 2,100 hours, 300 of them were dedicated to hair styling, which of natural hair braiding is only a portion of that. Also, too, I looked at the time line, the time frame, to obtain this. And it was...the minimum was, depending on the school, was 14 months up to 2 years. So again, especially like in Brandy's situation, when you're a mom at home with young children, I think that just getting the training is extremely burdensome when all you're trying to do is provide for your family. So again, I thank you for your time today. And I'll leave it at that. [LB898]

SENATOR HOWARD: Are there any questions for Senator Fox? Senator Riepe. [LB898]

SENATOR RIEPE: Thank you. Would it be fair to say, Senator Fox, that in addition to the \$20,095, you're dealing with lost opportunity? [LB898]

SENATOR FOX: Correct. I... [LB898]

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SENATOR RIEPE: So that... [LB898]

SENATOR FOX: Um-hum. [LB898]

SENATOR RIEPE: ...it easily could be \$40,000 by the time you really look at getting through the years of (inaudible). [LB898]

SENATOR FOX: Because yeah, you're losing. I mean because this...yeah, because a lot of these...I mean these are, looking at the hours of the training, I mean it's pretty much a full-time job. I mean this is a full-time training. So yes, it's lost income. [LB898]

SENATOR RIEPE: Um-hum. Okay. I was wondering. I wanted to make sure that \$20,000 was the school per se. [LB898]

SENATOR FOX: Yes, yes. [LB898]

SENATOR RIEPE: Okay, thank you. [LB898]

SENATOR HOWARD: Any other questions for Senator Fox? Seeing none, okay. Thank you very much. [LB898]

SENATOR FOX: Thank you. [LB898]

SENATOR HOWARD: Elice, are there items for the record? [LB898]

ELICE HUBBERT: (Exhibit 3) There's a letter of support from Americans for Prosperity-Nebraska. [LB898]

SENATOR HOWARD: Fabulous. And with that, we will close the hearing for LB898. Thank you for coming today. [LB898]