

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

[LB27 LB337 LB426 LB628]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, February 4, 2013, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB27, LB337, LB426, and LB628. Senators present: Mike Gloor, Chairperson; Mark Christensen, Vice Chairperson; Kathy Campbell; Tom Carlson; Sue Crawford; Sara Howard; Pete Pirsch; and Paul Schumacher. Senators absent: None.

SENATOR GLOOR: Good afternoon. I'm Mike Gloor, I'm the senator from Grand Island, District 35. Like to welcome you to this afternoon's session of the Banking, Commerce and Insurance Committee. The committee will take up the bills in the order posted outside the door. To better facilitate your day's proceedings, we have some procedures that we'd like to follow, a copy of which are listed up to your left. Is that right? Yes. It's to your left. Been a long day, I haven't had my right and left squared away yet, but I'd ask this please, you may have thought you turned off your cell phone, but do a quick check to make sure you have. We will have this order of testimony: the introducer, those proponents, then opponents, those who'd like to testify in a neutral capacity, and then if the senator so wishes, he'll be able to close. We'd ask testifiers to sign in on the sheet and hand that sheet then over to the clerk, if you would, during your testimony. Please spell your name for the record before you begin your testimony. We have a light system that, looking at today's listing of bills, we're not going to use, but I'd ask you to be cognizant of the fact we'd like to keep your testimony to five minutes, if at all possible. If you're not going to testify, not going to be up at the microphone, but would still like to have a position made, there are sign-in sheets and you can sign in and let your position be known for the record. If you've got written materials, please hand them when you are testifying. We need ten copies, and if you don't have ten copies, now would be the good time to catch the eye of one of the pages so that they can make copies for you. To my immediate right is committee counsel, Bill Marienau, and to my left at the end of the table is the committee clerk, Jan Foster. Beginning down at the end with Senator Crawford, I'm going to have the senators introduce themselves to you.

SENATOR CRAWFORD: Thank you. Good afternoon. My name is Sue Crawford and I'm from Legislative District 45 which is Bellevue, Offutt, eastern Sarpy County.

SENATOR CAMPBELL: I'm Kathy Campbell and I represent District 25, east Lincoln and eastern Lancaster County.

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

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

SENATOR GLOOR: And our pages today are Will and Nathan, and they're there to help

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

you as is necessary. The committee will take up the bills in the order posted outside, and we'll start with LB27. Welcome, Senator Hadley, to the Banking, Commerce and Insurance Committee.

SENATOR HADLEY: I believe this is my maiden voyage before this committee, so please be gentle. My name is Galen Hadley, that's G-a-l-e-n H-a-d-l-e-y. I represent the 37th District which is Kearney and eastern Buffalo County. It's interesting, to become a CPA, certified public accountant, we talk about the three Es. And I say we because I was lucky enough sometime in my past history to get that done. The three Es are education, exam, and experience. And really I think they are interesting because the profession tries to do a good job of making sure people are ready when they go out and are trying to qualify themselves as a certified public accountant. The first one is education. We're not going to talk about it today, but just to let you know, Nebraska is one of the states that has the 150-hour requirement. It's beyond a bachelor's degree, a baccalaureate degree. You have to have a degree, and you must have at least 30 hours of accounting beyond Principles of Accounting. So you have to have the 150-hours degree, 30 hours beyond Principles of Accounting, and those hours can be specified. That's the education part of it. Next is the exam, and this is a national exam that you take. And we kiddingly say the magic number is 75 because that's what it takes to pass the exam in the parts. And I think that's still correct. Is 75 still the magic number? [LB27]

AUDIENCE: Yes. [LB27]

SENATOR HADLEY: It was when I took it, but that was so long ago I've probably forgotten. And no one ever asks you your grades, they just ask you if you passed or not. So they don't put your grades on the certificate you get. So that's the exam part. But I think the industry is interesting because--the profession--because it's a little bit like the medical type of training that you have to also go out and get the final E, which is experience. You can't just go get education, pass the exam, and go hang up your shingle, and start issuing opinions as a certified public accountant. You have to get the experience part of it. And that's why we're here today is to update the experience requirement for the state of Nebraska. LB27 is legislation that would amend the Nebraska Accountancy Act of 1957 to allow for the expansion and updating the experience requirements for persons holding a CPA certificate and wanting to apply for a CPA permit to practice in Nebraska. Just as a quick aside, Nebraska is a two-tiered state, meaning that you could actually get a CPA certificate by passing the exam, but you must have the experience in order to get a permit to practice. You have to have that experience requirement to actually practice. Currently, CPA certificate holders must have two years of accounting experience in a CPA firm to be able to apply for a permit to practice. LB27 would keep the two years of experience at a CPA firm, but would expand the opportunities for these young students and graduates. They would allow certificate holders with three years of accounting experience in business, government, or education, under the supervision of a CPE permit holder, to also be able to apply to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

the Nebraska Board of Public Accountancy for a permit to practice. The Board of Accountancy would follow up passage of this legislation with additional rules and regulations regarding the application for a CPA permit to practice in Nebraska. I think that's a very important part. We have the Board of Accountancy that would basically set the rules and regulations of what this experience would require. And I think that's important because we want experience that is effectively the equivalent of what you would get working for two years at a public accounting firm. The Nebraska Society of CPAs and the Nebraska Board of Public Accountancy both support this legislation. I have with me today members of both groups who will further explain this bill and answer any questions. I would also be willing to answer any questions that you might have at this point in time. [LB27]

SENATOR GLOOR: Thank you, Senator Hadley. Any questions for Senator Hadley at this point in time? Senator Carlson. [LB27]

SENATOR CARLSON: Thank you, Senator Gloor. So Senator Hadley, really in what's crossed out, it's crossed out the supervision of CPA and substituted: in employment as an accountant in a firm, and so forth. That's the one big difference, correct? [LB27]

SENATOR HADLEY: Correct. [LB27]

SENATOR CARLSON: And then there's new language on page 3. And again, I don't want to use the term watered down. I don't think that's what it is, but it's kind of changing with the times? [LB27]

SENATOR HADLEY: Yes. It's doing two things, Senator Carlson. One, is that it does change the time because it's two years with a CPA firm, but it's three years as an alternative. I like to think of it as an alternative career path for people. They can spend three years in industry in order to get the equivalent experience that they might get from the CPA firm. So it does two things. It allows them to get the experience outside of working for a CPA firm, but it requires them to have three years of that experience. [LB27]

SENATOR CARLSON: And the reason I use the term changing with the times, I suppose there's a lot more opportunities now and different situations that probably existed. And I don't know how long the original language had been in statute. I don't know if you know that either. [LB27]

SENATOR HADLEY: It's been...the two-year requirement has been around a very long time. It's a very common requirement across the states. [LB27]

SENATOR CARLSON: Okay. Thank you. [LB27]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR GLOOR: Senator Hadley, is part of what we're trying to do here level the playing field when it comes to trying to maintain or recruit young accountants to this state? [LB27]

SENATOR HADLEY: I think that's correct, Senator Gloor. I think it's...you know, let me pick a firm--Union Pacific. And I just picked that because it's a large national firm in Omaha. You know, they'll have a tax department. They'll have an internal audit department. They'll have a financial accounting department. They'll have a managerial accounting department. They'll have a cost accounting department. So they can rotate a person through all of these departments and give them experience in the types of things that they might be getting in a CPA firm, and that allows it to kind of expand where these students can go. [LB27]

SENATOR GLOOR: Okay. Any other questions for Senator Hadley? Seeing none, thank you. With your busy schedule, are you able to close? [LB27]

SENATOR HADLEY: I will wait and listen in and close, if necessary if I don't (inaudible). [LB27]

SENATOR GLOOR: Great. Thank you. And we have since been joined by Senator Christensen has joined us. Can I see a show of hands of those who would like to testify today in any capacity? About a half dozen people. Good. All right, first we'll start with proponents, those who would like to speak in favor. Please come on forward. Good afternoon. [LB27]

JULIE BAUMAN: (Exhibit 1) Good afternoon. I'm Julie Bauman. It's spelled J-u-l-i-e, and Bauman is spelled B-a-u-m-a-n. I'm from Falls City, Nebraska, and I'm a self-employed CPA. I have my own firm, Julie D. Bauman, CPA, P.C.; and I'm here this afternoon in support of the passage of LB27. It's legislation that would amend the experience requirements for persons wanting to apply for a CPA permit to practice in Nebraska. I currently serve as the immediate past chairman for the Nebraska Society of CPAs. LB27 will keep in Nebraska law the current requirement of the two years' experience in a CPA firm for persons with a CPA certificate wanting to apply for a permit to practice in Nebraska. However, this bill will amend and expand the Nebraska Accountancy Act of 1957 to allow for certificate holders with three years of experience in employment as an accountant in government, business, and education to be able to apply to the Accountancy Board for a permit to practice. That experience, whether in a CPA firm, business, educational institution, or government agency would have to be under the supervision of an active, licensed CPA and be satisfactory to the Nebraska Board of Public Accountancy. Currently, the only way for one person to earn their CPA experience requirement in Nebraska is to be in a public CPA firm for two years, or you can be with the Nebraska Department of Revenue, Nebraska Auditor of Public Accounts office, or the Internal Revenue Service for three or more years. Of the Nebraska

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

Society's membership--we have over 2,700 members--almost 55 percent are not in public practice as I am, but are employed with the Nebraska businesses and industries, government entities, and educational institutions. The Society's board of directors who endorsed this bill draft on August 24, 2012, at our meeting, believe it is a matter of fairness that all of its membership has this opportunity, if they meet the experience requirements, to be able to apply for a permit to practice. Numerous states adjacent to Nebraska have similar experience options in their accountancy laws as of today. We believe this change would help with recruiting for Nebraska businesses to be employed as a CPA in Nebraska. If LB27 was to become law, the Nebraska Board of Public Accountancy will then draft rules and application forms to be used by persons wanting to apply for a permit to practice. The final decision of granting of the permits to practice would not be automatic, but would remain with a vote of the eight-member Nebraska state board. The Nebraska Society intends to be an active participant in this rule-making process. I would respectfully request that the Banking Committee support and approve LB27 and that the committee vote it forward for the full Legislature for consideration and passage. And I'm open to any questions at this time. [LB27]

SENATOR GLOOR: Thank you. [LB27]

JULIE BAUMAN: Thank you. [LB27]

SENATOR GLOOR: Are there questions for Ms. Bauman? Senator Campbell. [LB27]

SENATOR CAMPBELL: Thank you, Senator Gloor. Ms. Bauman, when the supervision takes place, does it have to be on-site? [LB27]

JULIE BAUMAN: That's what we're expecting. And the Nebraska Board of Public Accountancy, what they're going to do--and Doug will talk about this later--they're going to review what the supervision requirements would be. But I think our expectation, it's a direct supervision. [LB27]

SENATOR CAMPBELL: Because I was just thinking, I have to hear...put a voice to some of the human service agencies in which you would have someone who might have a certificate, but they're practicing in a not-for-profit world and they may not have an on-site supervisor, and so I raise that question. And I'll wait for further testimony,... [LB27]

JULIE BAUMAN: Right. [LB27]

SENATOR CAMPBELL: ...but I appreciate that you would review that. [LB27]

JULIE BAUMAN: Right. We will review that. Thank you. [LB27]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR GLOOR: Thank you. Let me ask a quick question. Are you testifying on behalf of the Society or yourself? [LB27]

JULIE BAUMAN: Correct, on behalf of the Society. [LB27]

SENATOR GLOOR: You are testifying on behalf of the Society? [LB27]

JULIE BAUMAN: Uh-huh. [LB27]

SENATOR GLOOR: Thank you. Senator Crawford. [LB27]

SENATOR CRAWFORD: Thank you, Senator Gloor. And thank you for your testimony. Could you describe for us what you would see as distinctive about the firm experience compared to the new types of experience that the bill provides? [LB27]

JULIE BAUMAN: Being from public accounting as far as the firm experience, you're exposed to a public accounting firm the tax side, the audit side, the financial preparation. On the business side, you're going to be exposed to many various aspects of that, and it's still going to be on the accounting side. And I think the key thing is, with the business we're wanting to see that it's that active, licensed CPA that you're under, that you're learning from, that you're mentoring from, and learning the different aspects of the accounting functions and different accounting aspects. You may not be exposed to as much as what a public accounting firm is, but you're still exposed to the accounting processes and different functions of accounting. [LB27]

SENATOR CRAWFORD: And so the part of the application and review process will be to review the breadth of that experience in those other new options in terms of experience options. [LB27]

JULIE BAUMAN: And that's my understanding. And that's going to be I think maybe more of a direct question for the Nebraska state board. But that's...when we had numerous meetings and discussions, a lot was discussed about the applications and the form processes and the review to become this...to get your permit to practice. [LB27]

SENATOR CRAWFORD: Thank you. [LB27]

JULIE BAUMAN: Thank you. [LB27]

SENATOR GLOOR: Thank you. Yes. [LB27]

SENATOR CARLSON: Thank you, Senator Gloor. In our structure here we have proponents and then opponents and then neutral. Sometimes something might come up

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

and you're done testifying and you'd like to respond to it. Are you aware of any opposition to this bill? And what would it be if there was some? Excuse me. [LB27]

JULIE BAUMAN: Right now I'm aware of no opposition. We, as the Nebraska Society of CPAs, we've been working on getting the word out about this draft of this bill and have had it in our newsletter numerous times. Our executive board and our board of directors, I think, have done a really good job talking with other CPAs in public practice with their insights and their thoughts. And we've had a tremendous, great response. We've seen...I've seen, personally, no opposition--anyone direct to me opposing the bill. [LB27]

SENATOR CARLSON: Okay. Thank you. [LB27]

JULIE BAUMAN: Thank you. [LB27]

SENATOR GLOOR: And you will be pleased to know that I've had two constituents who are CPAs bend my ear on this bill. So and in support, by the way. We have since been joined by Senator Pirsch who is closest to me, and Senator Schumacher. Other questions? Seeing none, thank you very much for your testimony. [LB27]

JULIE BAUMAN: Thank you. [LB27]

SENATOR GLOOR: Next testifier as a proponent. [LB27]

ALLEN COOPER: (Exhibit 2) Good afternoon. My name is Allen Cooper, that's A-I-I-e-n C-o-o-p-e-r. I'm the vice president of internal audit at ConAgra Foods, headquartered in Omaha, Nebraska. And I'm here this afternoon in support of the passage of LB27, legislation that would amend the experience requirement section of the Nebraska Public Accountancy Act. Myself and several of my ConAgra Foods colleagues first met with the members of the Nebraska Board of Public Accountancy to discuss this matter in September of 2010. Our proposal to the board then was to consider a modification to the experience requirement section of the Nebraska Public Accountancy Act that would, among other things, allow for the qualifying experience also to include, at a minimum, that which was gained via industry, government, or academia. Our goal was to work collaboratively with the board to draft a change to the act that was beneficial to multiple constituencies. While there are benefits to a number of groups, including CPA candidates, Nebraska employers, and professional accounting organizations such as the Nebraska Board of Public Accountancy, modifying the existing experience requirements will also serve as an enticement to CPA candidates who otherwise would not be able to apply for a permit to practice in Nebraska. Hopefully, this would encourage them to remain in Nebraska. This is not about weakening the existing law. Rather, it's about recognizing the strong qualifications of those in industry, government, and academia, thereby strengthening the current base of CPAs in Nebraska. While I

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

spent six years in public accounting at one of the big four firms, Ernst and Young, I've spent a majority of my accounting and finance career, 19 years, in various accounting roles in industry. As such, I can speak to the type of accounting and finance experience gained in industry. Accounting and finance professionals in industry, for example, record financial transactions, generate and analyze financial statements, prepare financial disclosures for those inside and outside of the organization, operate and/or assess processes and the embedded internal controls, and prepare financial forecasts. Public accountants spend much of their time reviewing and assessing the work of these same individuals. As the saying goes, they are the same but different. The industry accountant prepares and the public accountant attests. However, they are building skills and knowledge around the same subject matter. In light of this, I would respectfully request that the Banking, Commerce and Insurance Committee support and approve of LB27 and that the committee vote to forward LB27 to the full Legislature for consideration and passage. Now I'll answer any questions. [LB27]

SENATOR GLOOR: Thank you, Mr. Cooper. Are there questions for Mr. Cooper?  
Senator Carlson. [LB27]

SENATOR CARLSON: Thank you, Senator Gloor. I don't want to sound like I'm looking for ways that this isn't good. But in the bill itself under section 1 and then (a)...no, wait a minute. Excuse me. Right under section 1 it says, "The board shall." And then on page 3 under point (2), it says, "The board shall issue." Are there circumstances where the board should be able to not issue if in their evaluation, regardless of what's been done experience-wise, this shouldn't be granted? I don't see it in this bill. [LB27]

ALLEN COOPER: Yes, I believe those were...that's part of the rules to be drafted, but clearly there is expected to be a vetting of the experience of the individual by the board. And with that vetting, there certainly is possibility that the answer could be, yes, approve, or no, do not approve. That would be my expectation. [LB27]

SENATOR CARLSON: Okay. I don't think that comes through here, but thank you.  
[LB27]

SENATOR GLOOR: Counsel and I were talking about under section 1(a), line 21 on page 2. "Two years of accounting experience satisfactory to the board," and that may be the phrase that you're looking forward to that they "shall issue a permit," but it has to be...you have to be able to present two years of accounting experience satisfactory to the board before they do it. [LB27]

SENATOR CARLSON: So that would leave...that's enough leeway in there that if there are factors other than simply the experience, they can make a decision other than "shall" grant the... [LB27]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR GLOOR: I would think that would be an option. [LB27]

SENATOR CARLSON: Permit. Okay, thank you. [LB27]

SENATOR GLOOR: Yes. Senator Schumacher. [LB27]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Along those lines, this refers to "The board shall issue a permit under subdivision (1)(a) of section 1-136," and this is amending law 1-136.02. So is...would there be something in the law that we don't see here, because this is just an amendment, that would answer Senator Carlson's question? [LB27]

ALLEN COOPER: I'll have to be totally honest and say I do not recall right off the top of my head, but my first response would be that the wording that Senator Gloor pointed out was the wording or is the wording that would allow the board latitude in terms of evaluating the quality of the experience and, therefore, granting or not granting. [LB27]

SENATOR SCHUMACHER: Thank you. [LB27]

SENATOR GLOOR: Other questions? Seeing none, thank you for your testimony. [LB27]

ALLEN COOPER: All right. [LB27]

SENATOR GLOOR: Next proponent, please. Go ahead, please. [LB27]

DOUGLAS SKILES: (Exhibit 3) Good afternoon. I'm Douglas Skiles, D-o-u-g-l-a-s S-k-i-l-e-s. I am the immediate past chair and the current legislative chair at the Nebraska Board of Public Accountancy. I also serve on the...as central regional director for the National Association of State Boards of Accountancy, NASBA, as well as a shareholder in an accounting firm in southwest Nebraska, McPherron, Skiles and Loop, and we have offices in five locations. I am here today speaking on behalf of both the Nebraska Board of Accountancy and the NASBA board of directors to support the passage of LB27 that would amend the experience requirements for persons applying for the CPA permit in the state of Nebraska. The Nebraska Board of Accountancy supports passage of this bill. After being approached by ConAgra leadership, the Board of Accountancy authorized the formation of an experience work group. And that was made up of professionals from the board's legislative committee, the Nebraska Society leadership, as well as accountants from private industry, government, academia, large and small public accounting firms. This diverse experience work group voted unanimously to support the provisions of a draft bill that has become LB27. Under LB27, Nebraska CPA permit applicants can achieve their accounting experience requirements by completing, in any state, two years of public accounting experience under any

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

business entity authorized to engage in the practice of public accountancy--in other words, a CPA firm--or by completing three years of accounting experience in government, business, or academia. Under each circumstance, the applicant must complete these experience requirements under a licensed CPA and must show the state board that their experience is satisfactory in meeting Nebraska's requirements. Now currently, the board reviews experience forms from certificate holders who have completed at least 4,000 hours of accounting experience in a period of not less than two years under the supervision of an active CPA permit to practice holder in a CPA firm. Over the years, the board has reviewed hundreds of such experience forms from applicants, and while few are rejected, some are returned with instruction to receive more hours of experience in certain aspects of accounting. We may have felt that something was short in those particular...their experience. So we've looked at that and we've decided that they need a few more hours. These application forms must be signed by the applicant's CPA supervisor and be notarized. As the state board already deals with experience forms on a case-by-case basis, the state board would continue to maintain the oversight of this requirement and will continue to be instrumental regarding the regulation and expertise of CPA permit applicants and holders from across all accounting sectors if LB27 should pass. Now after the financial scandals such as Enron and WorldCom, the accounting profession has been under scrutiny to increase accountants' competency. And with the passage of Sarbanes-Oxley, new and enhanced standards were made to regulate and oversee and inspect the profession on a federal level. It is important to understand that both the Nebraska Board of Accountancy and NASBA have a primary charge to protect the public. And by passing LB27, the Legislature gives the Nebraska Board of Accountancy more oversight over a growing accounting profession without becoming burdensome to businesses. Once licensed as a CPA practicing in industry or in government or in education, the CPA must have continuing professional education. This is not currently a requirement for those that have certificates but not permits, but once they get a permit, they are going to have to have education. This continuing education raises the competency of accountants in industry. With the passage of LB27, approximately two thirds of the 54 U.S. accounting jurisdictions that make up NASBA, including Nebraska, will have laws and regulations that allow CPA permit applicants to gain their experience requirements in private industry, government, and education. For this reason, NASBA supports the bill for its convergence with the progressive states across the nation. In addition to passing the CPA exam, a candidate, as Senator Hadley has told us, a candidate who wants to become a CPA must have the education and experience requirements. And Nebraska has consistently been a national leader in education performance. Three years ago, I think, we had the top in all of the jurisdictions of first-time pass rates. And this last year, we were number seven. So we're consistently at the top of that. However, we're finding ourselves somewhat out of step regarding the CPA experience requirements. And so passage of LB27 would keep Nebraska relevant on a national and international basis. I encourage the Banking, Commerce and Insurance Committee to approve and forward LB27. And I'd be happy to answer any questions at this point. [LB27]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR GLOOR: Thank you, Mr. Skiles. If you have, in fact, a permit, if I understood correctly, you must have continuing education credits or units. How many a year are you supposed to have or is it... [LB27]

DOUGLAS SKILES: It's...you are correct, that if you have a certificate you don't have that, but if you have a permit to practice, you are required to have continuing education. It's 80 hours over a 2-year period. [LB27]

SENATOR GLOOR: Okay. Other questions? Senator Pirsch. [LB27]

SENATOR PIRSCH: Well, thank you very much for your testimony here today. You said two thirds of the 54 accounting jurisdictions now have laws similar to LB27 here? [LB27]

DOUGLAS SKILES: Right. [LB27]

SENATOR PIRSCH: When did they...when did this movement...when did the first state start adopting that? Do you know roughly how long that's been? [LB27]

DOUGLAS SKILES: Well, there's 54 jurisdictions and there's 54 different education requirements, but some of them had that long before I even became aware. I'm sure we had the 150-hour education requirement to come in, and in that process a lot of them revamped their rules at that time. And so some of them started moving at that time which was in 19--I want to say 1998--that a lot of that implementation was...come about. [LB27]

SENATOR PIRSCH: Okay. Was it about that point in time that the focus was on expanding so that industry, government, and education, and accountants could reach that designation to seek... [LB27]

DOUGLAS SKILES: Yes, yes. So that two thirds that I talk about, that is specifically in regards to allowing people outside of public practice to gain CPA certificates or permits. [LB27]

SENATOR PIRSCH: Okay. And the experience has been over that time, no problems with ensuring independence of these individuals as they (inaudible) their CPA designations and make assurances? Yeah. [LB27]

DOUGLAS SKILES: Yes, to the best of my knowledge. I sit on various boards with NASBA for several years, and so we're in contact with those other states. We share information, and their...most of their litigation is coming out of areas related to those in practice, not...there is some, but it's not to the same degree. [LB27]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR PIRSCH: Doesn't suggest a wholesale... [LB27]

DOUGLAS SKILES: Yeah. [LB27]

SENATOR PIRSCH: Okay. Thank you. [LB27]

SENATOR GLOOR: Senator Campbell. [LB27]

SENATOR CAMPBELL: Thank you, Senator Gloor. I'm going to follow up and ask my question about whether the supervisor has to be on site. [LB27]

DOUGLAS SKILES: Yes, that's the intent as we discussed it, that the supervisor would have to be on site. So in other words, if you did not have a small business in industry that didn't already have someone licensed as a CPA there they wouldn't necessarily fit. They have to be on site and to be able to attest that they have done the work. [LB27]

SENATOR CAMPBELL: Okay. Thank you. [LB27]

SENATOR GLOOR: Other questions? Senator Howard. [LB27]

SENATOR HOWARD: Thank you for your testimony. I was wondering, just in attempting to explain this to my friends who are going through this process of becoming accountants right now, is it an either/or situation where you either spend two years or three years, or is there a possibility of spending one year in a firm and a year and a half in an in-house situation? [LB27]

DOUGLAS SKILES: I would anticipate that we're going to draft something that...we need to hit that 4,000 hours if they're in a firm. And if they picked up one year somewhere outside, that would probably come in. We haven't worked through all the details of that part yet, but that is something we have discussed within our board of what we do with that. And, obviously, we haven't written regulations yet for that part. [LB27]

SENATOR HOWARD: Okay. Thank you. [LB27]

DOUGLAS SKILES: Uh-huh. [LB27]

SENATOR GLOOR: Other questions? Yes, Senator Carlson. [LB27]

SENATOR CARLSON: Senator Gloor. It caught me when you said continuing ed. Eighty hours in two years? [LB27]

DOUGLAS SKILES: Yes. [LB27]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR CARLSON: That's a week a year, isn't it? [LB27]

DOUGLAS SKILES: That's a week a year of classroom time. Yes. [LB27]

SENATOR CARLSON: Okay. Thank you. [LB27]

SENATOR GLOOR: Senator Carlson is glad he's not an accountant, I think is what he's saying here. [LB27]

DOUGLAS SKILES: My wife sometimes wish I wasn't. So... [LB27]

SENATOR GLOOR: Other questions? Thank you for your testimony. [LB27]

DOUGLAS SKILES: Thank you. [LB27]

SENATOR GLOOR: Other proponents who wish to testify? We'll move to opponents. Anyone who would like to speak in opposition? Anyone who would like to speak in a neutral capacity? I was sure I saw more hands than that. No one in neutral capacity? Senator Hadley, would you like to close? [LB27]

SENATOR HADLEY: Thank you very much. I truly found the hearing enlightening because it's been a few years since I've been this in the details so much. I'd like to leave you with one thing. Quite often professions have a tendency to try and restrict numbers in their profession. You know, they probably don't do it now, but at one time I know in the medical profession, if you cut down on the places that people could go for internships then they couldn't get...graduate as many from medical schools and those kinds of things. And I think it's unique that you have both the Society and the state Board of Accountancy coming in and asking to expand the opportunities for people to get the experience to have this designation. So I think, that to me is a positive sign because, you know, we do need more people that have this training. And I can rest assured with our strong Board of Accountancy, they will make it rigorous. The three years will be something that's not just a pushover to get the three years' experience. I can guarantee you that they will be looking at that closely, because the onus is on them to make sure that this is...that that three years is really the equivalent of two years of working for the CPA firm. So I urge the committee to pass this out, and I hope that we can take it up on the floor. And I'd be happy to answer any other questions you might have. [LB27]

SENATOR GLOOR: Any final questions for Senator Hadley? Seeing none, thank you. [LB27]

SENATOR HADLEY: And I'm not going to tell you whether I got more than 75 on every part of the exam. [LB27]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR GLOOR: Then we may not tell you whether we advance the bill or not. (Laughter) Thank you, Senator Hadley. And that will close the hearing on LB27. We now move to LB337. Senator Schumacher. [LB27]

SENATOR SCHUMACHER: (Exhibit 1) Thank you, Senator Gloor and members of the committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r. I represent District 22 in the Legislature. I'm going to play President Obama today and actually read the intro rather than ad-libbing; don't have a teleprompter though. This is the second bill that's come before the committee regarding the Federal Home Loan Banks. As you learned, the Federal Home Loan Bank system was established after the Great Depression to promote the private home ownership and to provide a source of liquidity to thrift institutions. Federal Home Loan Banks are privately owned, federally chartered corporations. They're set up as cooperatives so that a system is actually owned by their financial institution members. To become a member, a financial institution or insurance company must purchase stock and in return it has access to very low-cost funding and also receives dividends from the Federal Home Loan Bank. The Federal Home Loan Bank of Topeka services the areas of Nebraska, Colorado, Kansas, and Oklahoma. There are 11 other banks in Atlanta, Boston, Chicago, Cincinnati, Dallas, Des Moines, Indianapolis, New York, Pittsburgh, San Francisco, and Seattle. Federal Home Loan Banks are governed today by an entity called the Federal Housing Finance Agency which was created by the Housing and Economic Recovery Act of 2008. Federal law now requires that all Federal Home Loan Bank loans be fully securitized. That means that the loan must have collateral pledged to the bank that is equal or greater than the amount of the loan that the bank made. Federal law makes it clear how banks are governed under the Federal Home Loan Bank system and with banks, there is one place to go when the law needs to be clarified; that's the federal folks. Unlike banks, however, insurance companies are not regulated at the federal level. Insurance companies are each regulated at the state level. So there are 50 separate state regulators for the insurance industry and, as a result, various state law provisions cause uncertainty for the federal regulator of the Federal Home Loan Bank system. Just last year, the Federal Housing Finance Agency issued an advisory bulletin that expressed a concern about the fact that state insurance laws are not clear about how Federal Home Loan Bank secured interest and collateral will be treated in the event that an insurance company becomes insolvent. The regulator suggested that without statutory clarification that the Federal Home Loan Banks might have to restrict their lending or change their lending practices with regard to insurance companies. This bill is brought in response to that advisory opinion to provide clarity in Nebraska law relating to insurance company insolvencies. The bill makes sure that the Federal Home Loan Bank's security interest will stay in effect throughout the insolvency proceeding, that it doesn't lose priority, and that the Federal Home Loan Bank has the ability to stand fully secured throughout the insolvency proceeding. The bank provides assurance to the federal regulator that loans made to insurance companies will be treated the same way as those made to banks

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

with regard to how the security agreements and collateral are treated in the event that an insurance company experiences an insolvency. This bill is quite technical and while I could explain it, probably better left to be explained by the people who know something what they're talking about. And the folks from the Federal Home Loan Bank of Topeka are here to do that. I'll take any questions. [LB337]

SENATOR GLOOR: Thank you, Senator Schumacher. Are there any questions for Senator Schumacher? Senator Carlson. [LB337]

SENATOR CARLSON: Thank you, Senator Gloor. What...how did it come about, the amendment? What's the need for the amendment? [LB337]

SENATOR SCHUMACHER: Thank you for pointing that out, Senator Carlson. There is an amendment. The amendment is a...narrows the scope of the original bill a tad, but basically is a rework of some of the language and--the language in the original green copy--and the amendment copy is...replacements are the same. Each place that the language was used in the original bill, the language is replaced with revised language. And but the substance is the same other than it's a little bit narrower because it does not include...the original bill included language that said something to which a...that any party could take advantage of...or this could be brought in any proceeding to which the Federal Home Loan Bank is a party. And I believe that the amendment just restricts this right to invoke these provisions to the Federal Home Loan Bank, and not in a proceeding where someone else could...brought by somebody else. [LB337]

SENATOR CARLSON: Okay. Thank you. [LB337]

SENATOR GLOOR: Other questions? Senator Pirsch, then Senator Crawford. [LB337]

SENATOR PIRSCH: And maybe it's more than just for this question, but just with respect to the...apparently a recent development occurred on a federal level--2008, 2010 I think your testimony was--that said you had to have fully securitized...I'm sorry...yeah, you have to be fully securitized now with respect to your obligations. And so what this language does though is it says: shall not be stayed, enjoined, or prohibited from exercising or enforcing pledge on collateral. Does that language then address...is this specifically made to address that change in federal law then, or the new requirement...the new federal requirement? [LB337]

SENATOR SCHUMACHER: I think the folks from the bank can probably explain it clearer than I can. As I understand it simply, Senator Pirsch, everybody was--after 2008--a bit on the skittish side and wants to make sure that our larger financial institutions are not in a position of being undersecured. This is one of those institutions that is very important. It's not just like a small community bank or something like that. It's one of the big, big operators in the field. And in trying to go through and look where the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

weaknesses are, regulators do what regulators are supposed to do and sometimes overdo, and that is dot every "i" and cross every "t." And they said, gee, you know there is a scenario we could run that if a state law isn't completely synced up and in agreement that the Federal Home Loan Bank could maybe have its security impaired, and that would jeopardize its ability to do bonds and all kinds of other sophisticated things, and why their banks, Federal Home Loan Banks, check on the state laws to make sure you have a warm and comfortable feeling about what's going on, and if not, get them changed. [LB337]

SENATOR PIRSCH: Okay. Thank you. [LB337]

SENATOR GLOOR: Senator Crawford. [LB337]

SENATOR CRAWFORD: Thank you, Senator Gloor. And thank you, Senator Schumacher. Is this...does this bill only address loans to insurance companies? [LB337]

SENATOR SCHUMACHER: It's my understanding that this...that the loans to banks, which are the other folks that the Federal Home Loan Bank loans to, they're covered by federal law. [LB337]

SENATOR CRAWFORD: Okay. [LB337]

SENATOR SCHUMACHER: And this really deals with the fact that in our insurance companies, if they would get into financial trouble, are governed by local insurance law and the proceedings for receivership and liquidation of them are local laws. And they're all different. And our local law happened to trip some warning lights that basically indicated that the security could be tied up a long time, could be jeopardized, and this tries to shore that up so that they can smile at the federal regulator and say, no problem in Nebraska--which I think is maybe the third largest home of insurance companies in the state. So we're one of the more important players in the thing...or in the United States. [LB337]

SENATOR CRAWFORD: So the insurance...the loans to insurance companies were one of the major issues that brought this up... [LB337]

SENATOR SCHUMACHER: Right. [LB337]

SENATOR CRAWFORD: ...in the rules about how insurance is currently handled? [LB337]

SENATOR SCHUMACHER: How insurance...if an insurance company took out a loan from these folks and all of a sudden got into financial trouble, how these folks could get their collateral out so that they are totally secure at all times. And our law has a

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

procedure by which a insurance receiver takes possession and there was need, at least thought by implication in this federal memorandum, that our insurance procedures for liquidation might conflict with the need for the Federal Home Loan Bank to be held harmless--100 percent secured. [LB337]

SENATOR CRAWFORD: Uh-huh. [LB337]

SENATOR GLOOR: Go ahead, Senator Crawford. [B337]

SENATOR CRAWFORD: I have a follow-up question, thank you. Could you talk about the difference between the Federal Home Loan Bank and why it's important, in this case, to limit the law to those types of banks? [LB337]

SENATOR SCHUMACHER: Well, the importance here is the fact that as a practical matter, the Federal Home Loan Bank makes such a volume of loans to insurance companies. And I don't remember the exact number, but I think it's in the billions of dollars that just made here in Nebraska--volume. Other banks make little or no loans to insurance companies; certainly not in the kind of volume. Other banks, when they go out and sell their...or raise money, they don't raise it necessarily by selling large-scale bonds to the public really cheap. The way the Home Loan Bank gets money to loan to insurance companies and banks is it sells bonds. And since it's got a lily-white history and rating, it can sell bonds to the public really, really cheap; not too much different from U.S. Treasury bond rates. And, therefore, it can deal in volume, it can loan to insurance companies that are here money that's really, really cheap, far lower than they could have if they went out to sell bonds, even if it was practical for them to do it. These folks operate on a big scale. They are very, very important. And it's my understanding that other banks, if they are players in this market to insurance companies, by comparison are very, very minor. It might be that at some time, if they become major players in the insurance-lending market and if they actually are in competition, it's my understanding they are not because their interest rates are considerably higher, that it may be we may look at them, too. But right now, this is a very targeted rifle shot at a specific problem that recently emerged, and we probably should take care of it considering the large number of insurance companies that are chartered in this state. [LB337]

SENATOR GLOOR: Other questions? Seeing none, thank you, Senator Schumacher. [LB337]

SENATOR SCHUMACHER: Thank you, Senator Gloor. [LB337]

SENATOR GLOOR: (Exhibit 2) We'll now go to proponents. Can I see a show of hands of people who would like to speak in any capacity on this bill? Okay, we have about four, five. Please come forward. And while she is coming forward, we have a letter offered in support of LB337 from the American Council of Life Insurers. Have that show

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

on the record, and have it distributed also. [LB337]

SONIA BETSWORTH: Good afternoon. [LB337]

SENATOR GLOOR: Good afternoon. [LB337]

SONIA BETSWORTH: (Exhibit 3) My name is Sonia Betsworth, and that's spelled S-o-n-i-a B-e-t-s-w-o-r-t-h. Chairman Gloor and members of the Banking, Commerce and Insurance Committee, I am here today to testify in support of LB337 on behalf of the Federal Home Loan Bank. You are now being delivered my written remarks, but I'd like to take a few minutes just to highlight some of the items that are listed in that written testimony. To start with, I'd like to just give you a little bit of history of the Federal Home Loan Bank and what it is. The Federal Home Loan Bank was created by Congress in 1932. It consists of 12 cooperative-owned regional institutions that serve as liquidity providers. A liquidity provider is an entity that provides funds or loans to its members. Our members today are made up of commercial banks, thrifts, credit unions, and insurance companies. Each Federal Home Loan Bank serves a geographical region. The Federal Home Loan Bank of Topeka serves Colorado, Kansas, Nebraska, and Oklahoma. Today we have approximately 800 members in those four states. Of those 800 members, we have 24 insurance companies, and half of those insurance companies are domiciled right here in the state of Nebraska. So as you can imagine, it's very important to us. Of those 12 insurance companies that we have, they are currently borrowing \$1.7 billion from the Federal Home Loan Bank of Topeka. When we lend to a member, an insurance company, or a bank, a thrift, or a credit union, there is one requirement that we have to have. And that requirement is by federal law and regulation, we are required to have our borrowings fully secured. What that means is that the entity that is borrowing from us has to pledge assets to collateralize that borrowing before we will disburse the funds. When an asset is pledged to the Federal Home Loan Bank, the value of the asset is discounted. What that means, it's going to be worth less than the face value. I'm going to give you an example of what that means. Let's say we have ABC Insurance Company that wants to borrow \$100,000 from us. They're going to pick up the phone, they're going to make a phone call to us. And we're going to say, that is fine, after reviewing their financial condition, but we are going to say, we need you to deliver some collateral from your portfolio. The entity can choose, from the list of eligible assets that we accept, what asset they want to deliver to us. Let's use an example that they choose a Fannie Mae bond. If they would pledge a Fannie Mae bond, the Federal Home Loan Bank would require that Fannie Mae bond to have a market value of about \$105,000. And what that means is the Federal Home Loan Bank took a discount or a haircut of 5 percent, again, lower than the face value on the asset. Some of you might ask, well, why does the Federal Home Loan Bank take a discount or a haircut? Why can't you just take the Fannie Mae bond and live with that? The reason that we assess a discount or a haircut is to accommodate the market value volatility of the asset. You have an asset in your portfolio and due to the market conditions every

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

day, that asset price can bounce around. It can go up and it can go down. The Federal Home Loan Bank evaluates each asset that's pledged and we try to determine what is the volatility element of that asset over its expected liquidation period? Now when I say liquidation period, what that is, that is the time frame in which we believe--the Federal Home Loan Bank believes--that it can take that asset and turn it into cash. Because in the unfortunate event an insurance company would default on the loan, basically come back and tell us that they cannot repay the loan, we would take the asset that is pledged to us and we would liquidate it. And we want to make sure that that liquidation of that asset will make us whole. If we earn more money in the liquidation of that asset, we will pass it back to the receiver. But we always want to make sure that we're 100 percent collateralized. And the reason for that, again, it's required by regulation and law. Under normal circumstances, the Federal Home Loan Bank only accepts assets that we can liquidate fairly quickly. And when we say quickly, it's going to take us a few days or if it's a commercial real estate loan or something like that, it will be a little bit longer. But in most cases, we can liquidate fairly quickly. However, if your liquidation period is small, your haircut or your discount is going to be small. If your liquidation gets larger or longer, your haircut that you're going to have to take on that asset is going to increase. And that is specifically why we're here today. The reason we're here today is that the Nebraska law provides the insurance company receiver the opportunity to go to the court and ask the court to issue a stay. If a stay is issued, the Federal Home Loan Bank will be prohibited. We will not be able to liquidate our asset in due course. We will have to wait until that stay is lifted. The uncertainty of how long that stay could take has raised great concerns with the Federal Home Loan Bank and our regulator. And more importantly, we received an advisory bulletin from our regulator as recent as October of 2012 basically saying you need to address this risk. Now for us, when you get an advisory bulletin from a regulator, that's usually not a good sign. It means that our processes and our credit practices need to change to make sure that that risk has been mitigated. Today, in the Federal Home Loan Bank's capacity, we're somewhat limited as far as what we can do. Today with the advisory bulletin sitting there and knowing that we will be up for an examination yet this year, we really have three options available to us. The one option is to evaluate the assets that we will accept as eligible collateral and increase the haircuts or the discounts to accommodate the possibility of a stay that could last a year. As you can imagine, the value of the asset is going to go...that discount is going to go up considerably, almost to the point that I question whether the insurance companies will find the Federal Home Loan Bank's borrowing situation attractive. Another one would be an option that the Federal Home Loan Bank could do on its own is simply say we're not comfortable with the risk in lending to insurance companies which, again, would be detrimental to the insurance company industry. Last but not least, we could say that the borrowings of the insurance companies can ask for from the Federal Home Loan Bank, we'd have to limit the term. We would no longer issue borrowings with three years to five years or ten-year maturities. We would go to overnight status or less than three months. As you can imagine, these options are not going to be beneficial to the Federal Home Loan Bank, and they definitely will be

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

detrimental to the insurance company industry as looking to us as a liquidity provider. We believe today a better solution is to remove the uncertainty in the law in each one of our states. And, as Senator Schumacher said, we do have to do it at a state level due to the insurance companies are regulated at the state level versus the federal level. This year we are looking to attempt legislation in the state of Oklahoma and Nebraska. We will be reaching out to Colorado and Kansas next year and to try to get the same type of amendment. The other point that I would like to make is this is not something that has come easily for the Federal Home Loan Bank. We have worked for several months working with different entities to make sure that they were comfortable with the position that we were taking. We have reached out to the Nebraska Insurance director and individuals from his department. I in no way want to speak for the department, but it is my understanding that they will be here today to testify for LB337 in a neutral capacity. We've also notified our Nebraska insurance company members, and we have a member here today to testify on the importance of this bill. We've also worked with the American Council of Life Insurers, and I believe...I know that there is a letter that has been handed out in support of that bill from Jim Hall, the representative of ACLI. And last but not least, we are in discussions with the National Association of Insurance Commissioners, and we're currently working to secure their approval of the changes nationally. In conclusion, we understand that this is a complicated area of the law, but we do believe that LB337 is essential to being able to continue to provide low-cost funds to the insurance industry in the state of Nebraska. And we ask that you advance this bill. I'd be happy to answer any questions that you may have. [LB337]

SENATOR GLOOR: Thank you, Ms. Betsworth. Any questions? Senator Pirsch. [LB337]

SENATOR PIRSCH: Thank you. And can I just get kind of a greater perspective? So typically the Federal Home Loan Bank program is the preferred lender source for insurers, is that...I mean, as opposed to other types of banks? [LB337]

SONIA BETSWORTH: I can't speak as far as what other insurance companies the entities that they would go to to borrow, but I would say from the analysis that I do of insurance companies that are members, we are their main borrower. And I do believe, as Senator Schumacher indicated, the ability of the Federal Home Loan Bank to take its financial strength and its credit rating and go to the marketplace and issue bonds and then being able to issue those bonds at a cost just slightly over the U.S. Treasury, it allows us to take those low-cost funds and pass them back to our members. Again, we are a cooperative so we're not looking to have a huge spread, because all of our earnings are going to go back to our members. We're really here to help to serve as a liquidity provider to those members. [LB337]

SENATOR PIRSCH: How many members do you have in the...well, in Nebraska and in the multiple-state area? [LB337]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SONIA BETSWORTH: We actually have 800 members today. And I can tell you, and I apologize, I don't have the breakdown as far as how many thrifts or credit unions. I have 24 insurance companies. I have 173 banks. And it is my understanding from a quick check just this morning is there's 205 banks in the state of Nebraska and 173 of them are members. So we definitely have very good penetration of the financial institutions within the state of Nebraska. [LB337]

SENATOR PIRSCH: Yeah. Well, I appreciate your explanation of how increased time is going to lead to increased variability and volatility and risks and that leads to greater costs and fees. Thanks. [LB337]

SENATOR GLOOR: Senator Crawford. [LB337]

SENATOR CRAWFORD: Thank you. Does a bank or an insurance company need to be a member before they're allowed to take a loan? Would it only be members that are subject to this restriction among stays? [LB337]

SONIA BETSWORTH: That is correct. For an entity to belong to the Federal Home Loan Bank, they have to apply. We evaluate their financial condition. So yes, only members can borrow from the Federal Home Loan Bank. And so an insurance company that has chosen at this point in time to not be a member, they could not come to the Federal Home Loan Bank and borrow until they went through the membership process. [LB337]

SENATOR GLOOR: Go ahead. [LB337]

SENATOR CRAWFORD: Have you had any experience with any insurance companies issuing a stay? [LB337]

SONIA BETSWORTH: We have not, which is one of the difficulties. If I could elaborate a little bit, a lot of times when you're faced with an advisory bulletin the first thing you do as a credit officer, which is what I am, is you will do research to try to identify that this is really not something that our regulator needs to worry about, that our credit practices are in place to fully address that risk. The one challenge we have--which I think it's a great problem to have--when you evaluate or you research the laws in Nebraska, Colorado, Kansas...let me see, Colorado, Kansas, Nebraska, or Oklahoma, you find that there's very little case law on insurance company failures, receivers, or liquidations, which I think is excellent. We wouldn't want that to change. But you don't have any experience of what actually the receiver would do in the case of a liquidation. But because the law allows that, our regulator is going to look at it in the worst-case scenario and assume that we have the risk that our collateral could become devalued and, therefore, we would not be fully secured. [LB337]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR CRAWFORD: Thank you. [LB337]

SENATOR GLOOR: Other questions? Seeing none, thank you for your time. [LB337]

SONIA BETSWORTH: Thank you very much. [LB337]

SENATOR GLOOR: Next proponent please. Good afternoon. [LB337]

TAD KRAMAR: (Exhibit 4) Thank you, Mr. Chairman and Senators. I am Tad Kramar, T-a-d K-r-a-m-a-r. I'm vice president and associate general counsel of the Federal Home Loan Bank of Topeka. We support LB337 because it will provide Nebraska insurance companies with the same access to low-cost financing from the home loan bank that is available to Nebraska banks and credit unions. Federal law grants priority to Federal Home Loan Banks for their claims to their collateral over the claims of receivers of banks and credit unions. Therefore, in a bank or credit union insolvency, Federal Home Loan Banks can enforce their rights to their collateral without delay. However, because state law regulates the business of insurance, the federal law priority granted to home loan banks may not apply in an insurance company insolvency proceeding. Instead, various state laws create uncertainties concerning a home loan bank's ability to enforce its rights as a secured creditor. The result could be extensive delays in liquidating our collateral and even loss of some of our collateral. Consequently, we must treat insurance company members less favorably than our bank and credit union members. In addition, our federal regulator has expressed concern over these uncertainties and suggested that, in the absence of clarification at the state level, home loan bank lending to insurance companies may be restricted. That means that if this bill does not pass, Nebraska insurance companies' access to our low-cost financing could be significantly restricted. LB337 will clarify that certain provisions of Nebraska law will not delay or hinder a home loan bank's ability to enforce its rights to its collateral. This will ensure that our position with regard to collateral pledged by an insurance company is parallel to our position regarding collateral pledged by a bank or credit union. Sections 1 and 2 make clear that if a receiver of an insurance company asks the court to suspend actions by creditors, the court may not stay or otherwise prevent a home loan bank from exercising or enforcing rights to collateral. This will eliminate the possibility that a home loan bank may be prevented from enforcing its rights against its collateral for an extended indefinite period of time. Consequently, we will not need to increase the discount or haircut on insurance company collateral to protect against a possible decline in value over an extended, uncertain period of time or take other restricted measures with respect to Nebraska insurance company lending and collateral. Section 3 relates to repudiation of contracts. Nebraska law allows a liquidator in an insurance company insolvency proceeding to disavow contracts to which the insurer is a party. We don't know what would happen if a liquidator were to disavow a Federal Home Loan Bank security agreement or what effect it would have on our

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

ability to enforce our rights as a secured creditor. Consequently, section 3 states that a liquidator does not have the power to disavow, reject, or repudiate a Federal Home Loan Bank security agreement. Sections 4 and 5 of the bill relate to fraudulent transfers. Nebraska law provides that a transfer made by an insurer within one year before the beginning of a rehabilitation or liquidation proceeding is fraudulent and will have to be given to the receiver unless made for fair consideration and without actual intent to hinder, delay, or defraud creditors. Consequently, if it appears that a home loan bank's collateral may be declining in value and more collateral is needed to make sure the home loan bank continues to be fully secured as required by federal law, the home loan bank may be unable to accept more collateral because it would be a fraudulent transfer. As a result, the home loan bank may have to liquidate its collateral immediately, before it declines in value, and that could significantly hamper a receiver's efforts to rehabilitate an insurance company. Accordingly, these sections amend the fraudulent transfer provisions to make clear that the receiver cannot avoid a transfer arising under a Federal Home Loan Bank security agreement unless the transfer was made with actual intent to hinder, delay, or defraud creditors. This will benefit all parties, including the insurance receiver and policyholders, by facilitating an orderly rehabilitation. Finally, section 6 relates to preferences. Nebraska preference law operates in a manner similar to fraudulent transfer law with similar impact. Therefore, section 6 has language that's similar to sections 4 and 5. We urge you to support LB337 to help increase the level of stable economical liquidity available to Nebraska insurance companies and prevent their access to such liquidity from being restricted. Thank you very much. [LB337]

SENATOR GLOOR: Thank you. Are there questions? Senator Campbell. [LB337]

SENATOR CAMPBELL: Thank you, Senator Gloor. Mr. Kramar, have you reviewed or seen the amendment that was distributed to us? [LB337]

TAD KRAMAR: Is this the amendment...yeah. Okay. [LB337]

SENATOR CAMPBELL: AM107 to the bill. [LB337]

TAD KRAMAR: I've seen one amendment that was drafted to...after we consulted with the American Council of Life Insurers. Yeah, this is the amendment here. Yeah. And they wanted the language to be somewhat restricted. I had drafted it originally very broadly like a lawyer would generally draft things to try to make sure that no stone was left unturned and there couldn't be some weird judicial interpretation that might come back to haunt us. And they thought that was a little too broad and wanted some things cut back so that it refers specifically to collateral pledged and to home loan bank security agreements and couldn't be interpreted to apply to other agreements or possibly to other parties besides home loan banks. That was basically the changes they wanted. And that's...yeah, that's what this amendment does. [LB337]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR CAMPBELL: So you have reviewed that? [LB337]

TAD KRAMAR: Yes. [LB337]

SENATOR CAMPBELL: And from your perspective, it's a fine amendment? [LB337]

TAD KRAMAR: Yes. We accept the amendment. [LB337]

SENATOR CAMPBELL: Thank you. [LB337]

SENATOR GLOOR: Other questions? Senator Carlson. [LB337]

SENATOR CARLSON: Thank you, Senator Gloor. So you didn't write the amendment? [LB337]

TAD KRAMAR: Well, I actually had a hand in writing it with the attorneys at the American Council of Life Insurers. So it was kind of a joint effort. I was basically trying to make them happy is what it amounted to. [LB337]

SENATOR CARLSON: Well, I think there's something left out here. If you go to the first page of the amendment, it says "on page 5, lines 1 through 5, strike the new matter and insert." [LB337]

TAD KRAMAR: Which...wait a minute. This is where? [LB337]

SENATOR CARLSON: Well, half way down the first page. [LB337]

TAD KRAMAR: Okay. Yeah, I see it. Okay. [LB337]

SENATOR CARLSON: By number 3 on page 5. [LB337]

TAD KRAMAR: Strike the new matter. [LB337]

SENATOR CARLSON: Well, if you do that on page 5, you've got a sentence on page 4 leading into it that isn't going to make sense with the amendment. So I'm guessing the last line, line 25 on page 4, should probably also be stricken. [LB337]

TAD KRAMAR: Okay, let's see. Strike the new matter. It says, "lines 1 through 5 strike the new matter and insert A Federal Home Loan Bank." Oh, doesn't it say in number 2, though, to strike line 25 of page 4? I think that... [LB337]

SENATOR CARLSON: Oh, okay. Okay. It does. [LB337]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

TAD KRAMAR: ...yeah, I think that takes care of that. [LB337]

SENATOR CARLSON: Thank you. [LB337]

TAD KRAMAR: Yeah, I know. I agree with you, it's very confusing to have to look at two different documents. I hope at some point we can get them all combined. [LB337]

SENATOR GLOOR: It's nice when it gets resolved that quickly though. Senator Pirsch. [LB337]

SENATOR PIRSCH: Yes. Thank you for your testimony. So part of your testimony was that the Federal Home Loan Bank must treat insurance companies less favorably than their bank and credit union members which are regulated by federal law in terms of that. So I'm trying to develop an understanding of how that paradigm works on the federal level with respect to banks, credit unions, thrifts, those kind of things. Is that...is it a similar paradigm that you're trying to establish here? In other words, would they have a prioritized type of access to the collateral, the security with respect to those financial institutions? [LB337]

TAD KRAMAR: Well, yes. There's the federal law, the (Federal) Home Loan Bank Act, gives us a priority over the receiver for banks and credit unions with respect to our collateral. So we are not subject to stays and things other...preferences and things like that. If a bank or credit union becomes insolvent, we have full access to our collateral and, as a result, we have always been paid off in full with banks and credit unions. We have never had to liquidate collateral, and we would like to continue that. I mean, we don't want to have to do that. That is much more disruptive to not only for us, but also for, say, a receiver to have to lose all that collateral and have it liquidated at maybe low prices, you know. So we would much rather not have to do that, but we have to reserve our right to do it. It's kind of ironic. But under federal law we are secure with banks and credit unions, but the McCarran-Ferguson Act says that state law regulates the business of insurance. So it appears that our federal priority would not apply to insurance law in the states. So that's why we don't have that protection with insurance companies. At least we don't think we do. We can't...we...if it ever came down to litigation, we would argue that there is an argument to be made that it could apply, but we cannot rely on that argument. It's very uncertain. [LB337]

SENATOR PIRSCH: Yeah. Thank you. I was just trying to establish if you were trying to have a parallel type of paradigm or if there was some special, funky, federal, or a separate maybe pool of funds was put up to ensure that separately. But it's exactly as you're asking here. [LB337]

TAD KRAMAR: Yeah. We want to try to have insurance companies treated the same--basically the same--as banks and credit unions. [LB337]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR PIRSCH: Thank you. [LB337]

SENATOR GLOOR: Any other questions? Seeing none, thank you for your testimony. [LB337]

TAD KRAMAR: Thank you very much, Mr. Chairman. [LB337]

SENATOR GLOOR: Continuing with proponents. Welcome. [LB337]

ROBERT LANGE: (Exhibit 5) Thank you, Chairman Gloor. Chairman and members of the committee, my name is Robert Lange, R-o-b-e-r-t L-a-n-g-e. I'm vice president and general counsel for Ameritas Life Insurance Corp. here in Lincoln, Nebraska, and appearing on behalf of Ameritas in support of LB337 as amended. A little bit of background: Ameritas and its subsidiary insurance companies operate in all states, primarily issuing life insurance and annuity products, but also issuing group dental insurance and retirement plan products. Ameritas is a Nebraska domestic insurance company, as I mentioned. It's been in existence since 1887 and has 950 employees in Nebraska, and a total of 1,850 employees nationwide. Ameritas supports LB337 because the Federal Home Loan Bank of Topeka is an important source of temporary operating funds for Ameritas. This helps us and other life insurance companies in the Midwest region to provide insurance products and services at reasonable prices to our policyholders. Let me explain. As a mutual life insurance organization, Ameritas provides insurance products to the public in exchange for insurance premiums that the policyholders pay for, for the products and services related to those products. A prime example is life insurance with its death benefits, policy loans, cash accumulation, and other coverages. Like other life insurers, Ameritas invests the premium dollars that it receives in order to generate income to help pay claims, make policyholder loans, pay operating expenses, and, of course, to keep its financial net income...net worth in a strong position for future obligations of the policyholders. Ameritas invests these premium dollars in safe, income-producing investments as required by insurance regulations here in the state. The income from these investments helps Ameritas to operate efficiently and to keep its insurance products and services affordable to the public. Insurance companies regularly pay claims and benefits to their policyholders, of course. It's particularly important to pay these claims and benefits promptly and in a timely manner as required by insurance laws and just good business practices. This means that we need liquid funds available to do so, at some times more than at other times since the exact timing of the claims is not predictable. It's important for us to have ready access to cash to cover these obligations in a cost-efficient manner, so we borrow short-term funds from entities such as the Federal Home Loan Bank of Topeka. We're able to do this borrowing on favorable rates because of the nature of the business and because Ameritas is a member of the Federal Home Loan Bank. So in effect, there are competing demands for the use of an insurance company's assets. It's important for the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

company to invest its assets in order to earn the income, but the company also must be able to draw on liquid funds and cash to pay its policyholder obligations promptly in order to meet our business needs. One of the tools we use to manage these competing needs is to participate in the borrowing program established by this bank. As a member of the bank, Ameritas is able to pledge collateral in order to borrow funds on a short-term basis on favorable terms in order to meet our immediate cash needs. This way we are not forced to sell investments at a potentially inopportune time. In short, the bank is an important source of operating liquidity for Ameritas and other insurance companies in the Midwest region. LB337 will help allow the bank to continue to lend to insurers in the bank's region such as Ameritas. The bank's funds that have been loaned to an insurance company are collateralized by specific insurance company assets, as you heard a moment ago. LB337 clarifies that the bank will be able to immediately liquidate the pledged collateral and that the bank will not be subject to stays or delays during the insolvency proceeding of an insurance company that has borrowed from it. Our concern is that the bank will choose not to continue to lend to Ameritas and other insurers on favorable terms if there is no recognition of the bank's priority as a secured lender to insurance companies. Ameritas favors LB337 as amended. I'll be happy to answer any questions. [LB337]

SENATOR GLOOR: Are there questions? I've got...if I understand the issue, is the Topeka... [LB337]

ROBERT LANGE: Yes. [LB337]

SENATOR GLOOR: ...bank the only one that this pertains to? [LB337]

ROBERT LANGE: That's correct. [LB337]

SENATOR GLOOR: Okay. All right. Senator Pirsch. [LB337]

SENATOR PIRSCH: Do you have any projections on how material the...if...without this bill, it may affect your company in terms of rate or security or in terms of any metrics? [LB337]

ROBERT LANGE: Senator, that's a good question. I do not. I can't honestly say that we have projected that. But we do know that this is the only source we look to for this liquidity. We know that if we were to have to find a new source, it would be at rates that are higher. [LB337]

SENATOR PIRSCH: You mean materially higher, right, from what I understand the testimony to be? [LB337]

ROBERT LANGE: Well, the various terms that were talked about, the rates, the terms

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

and conditions all go into it. How that will actually aggregately impact, it's hard to say. We do know that it would affect us, yes. [LB337]

SENATOR PIRSCH: Thank you. [LB337]

SENATOR GLOOR: Other questions? Senator Crawford. [LB337]

SENATOR CRAWFORD: Thank you. If an insurance company were to become insolvent, then this what we're doing right now would protect the interests of the Federal Home Bank. Now if we're also thinking about who else has some competing claim on those dollars, it would be some of the consumers that would have purchased the insurance. Could you speak to--if the loan is just for sort of liquidity that is uncertain--could you speak to like the percent or portion of money that would be owed to the Federal Bank compared to money that would then go to consumers and other parties in a case that an insurance company would become insolvent? [LB337]

ROBERT LANGE: Senator, that's difficult to say because each receivership of an insolvent company would be different. I think the key point here, however, is that these assets are already pledged in collateral so they wouldn't be available, in any event, to the receiver to use. The bank's concern is more--it's a much more nuanced matter--the bank's concern is that the timing of it, that a stay could prevent the bank from actually realizing those funds in the marketplace until that judicial stay is lifted. And that could be a significant period of time. It's hard to say. In that situation, the market value of that collateral, those assets, could fluctuate, as one of the witnesses testified, and then there would be a loss. So indirectly, that could actually work to the detriment of the receivership, the estate. If there are insufficient assets in the collateral to pay the debt, then there would be a claim for the balance, I believe is how that would work. [LB337]

SENATOR CRAWFORD: Thank you. [LB337]

SENATOR GLOOR: Any other questions for Mr. Lange? Seeing none, thank you. Your testimony was particularly helpful for me from an insurer's perspective. [LB337]

ROBERT LANGE: Thank you. [LB337]

SENATOR GLOOR: Other proponents? Are there any opponents on the bill? [LB337]

BOB HALLSTROM: (Exhibits 6 and 7) Chairman Gloor, members of the Banking, Commerce and Insurance Committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association to express our opposition to LB337. The proponents of the bill I think have accurately and adequately described what the bill does and what their reasons are for the need for the bill from the Federal Home Loan Bank perspective, in particular. I would suggest that even though

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

we are opposed to the bill, as I think Ms. Betsworth suggested, banks are a large percentage of the ownership--probably the largest percentage ownership--of the Federal Home Loan Banks across the country. As such, we do have an interest in making sure that the Federal Home Loan Bank is successful and does have protection when they are making advances for loans that they make to various segments of the industry and the economy. I would note for the record that we are not, in general, opposed to the protections that are sought by the Federal Home Loan Bank in connection with these insurer insolvency proceedings. However, we do believe that they should apply equally across the board to other creditors. While Federal Home Loan Banks do have a much larger presence, perhaps, in the financing or making of advances to insurance companies, it's my understanding that that is a fairly recent phenomena; that they've gotten more actively engaged and involved in this marketplace and there are banks that do also engage in making loans to insurance companies. In fact, when Senator Schumacher introduced this bill, the day that he introduced the bill he approached me and said, would you check and see if the bankers have any concerns? I've got to admit that I was not aware whether banks made loans to insurance companies at all or to what extent they do. So I did canvas a sampling of our banks and found out that, yes, in fact, they do. The next question that was asked was if there is an opportunity for the banks to have similar protections or expanded protections such as those that are sought by the Federal Home Loan Bank under LB337, would you be interested in having those protections apply equally and across the board? And the bankers suggested that yes, that would be the case. Along with my written comments, I have submitted an amendment that may not be artfully drafted, particularly since there's another amendment to the bill that I was not able to see before the hearing this afternoon, but the design and intent of that amendment is to extend the protections sought by the Federal Home Loan Bank under LB337 to other secured creditors. In my testimony, I note that this is probably something, in light of the advisory bulletin that's been issued by the Federal Housing Finance Agency, that we will no doubt see other Federal Home Loan Banks across the country in the various 12 regions asking other state legislatures to do the same thing. We are aware--while there may be more states than two--we are aware thus far of two states, Michigan and Indiana, in particular, that have taken up this issue. Michigan introduced a bill initially to provide protection to all secured creditors. By the time the bill made its way through the process, it applied only on a more narrow basis similar to LB337, to Federal Home Loan Banks. Indiana, by contrast, adopted I believe in 2011, perhaps before the advisory bulletin was even issued, but nonetheless adopted it in legislation that applies to all secured creditors. It's been suggested to me that perhaps Indiana put their provisions, rather than in the liquidation provisions, in their investment provisions. I have not been able to confirm that, but the bottom line is there is precedent to have a broader approach to provide protection to secured creditors than is proposed under LB337 as introduced. And we would like for this committee and Senator Schumacher and the Department of Insurance to take a look at finding out if there is a way to yes, to find a way that all secured creditors could provide or be provided with that level of protection. I have

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

visited with representatives of the Department of Insurance. I've shared the amendment with them that just got done this morning, and we are not insensitive to the fact that there could be questions regarding the state Department of Insurance accreditation resulting from an expansion of the amendment. Obviously, if that is the case, we would have to retool our position and take another look at where we stand on the bill. But our position is until and unless the department suggests that that amendment is unacceptable and would potentially threaten their accreditation, that the committee hold the bill, allow that review to be taken up by the Department of Insurance to determine, again, if there is a way to yes, for secured creditors beyond the Federal Home Loan Bank to benefit from this legislation. And I would submit that if the amendments that we've proposed or something along those lines that is acceptable to the department were to be adopted by the committee, that we would provide support for the legislation. [LB337]

SENATOR GLOOR: Are there questions for Mr. Hallstrom? Senator Christensen. [LB337]

SENATOR CHRISTENSEN: Thank you, Chairman. By striking this, is there any fear we're making it too broad and bring others into this other than banks in the Federal Home? [LB337]

BOB HALLSTROM: There could be, Senator. I know Indiana has used language that generically referred to secured creditors. There's been some questions raised as to whether or not the intent is to include banks, savings and loans, credit unions. I would assume those are all secured creditors. As you might imagine, I don't...I represent two of those three categories, but not the third. So if the Department of Insurance has some suggestions to narrow the scope of what we've tried to do, we are certainly open to looking at what the Department of Insurance would find to be acceptable. But naturally, banks and savings and loans that are in the market of making loans and are making credit on a secured basis, we would like to see them covered as well. [LB337]

SENATOR CHRISTENSEN: I guess my concern come in if you got somebody that should be after the secured people, if they feel like somebody's behind on them, could they step in and force this, which limits your situation, I guess where I'm coming from? [LB337]

BOB HALLSTROM: Well, that certainly isn't the design or the intent, Senator. I think from my review of Indiana, from the discussion that Mr. Lange gave about how the Federal Home Loan Bank advances are given, they are fully collateralized or they are intended to be fully collateralized. To the extent that they are, they are not taking away anything that would otherwise go to the benefit of the policyholders or would be left over for general unsecured creditors. If they do not have sufficient collateral for whatever reason, whether they're the Federal Home Loan Bank or a financial institution that's

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

made a direct loan to an insurance company, the balance of the loan above and beyond the amount of collateral available, I presume, would be a general unsecured creditor status. [LB337]

SENATOR CHRISTENSEN: Correct. And if they are an unsecured creditor and they are shorted, they could only sue in place here and it would still be behind you guys, correct? If there... [LB337]

BOB HALLSTROM: It would be behind--if I'm understanding your question, Senator--it would be behind the secured portion in any event. [LB337]

SENATOR CHRISTENSEN: Correct. [LB337]

BOB HALLSTROM: It's only if there's an unsecured portion, whether it's a Federal Home Loan Bank or a traditional lender, that an unsecured portion of their indebtedness would fall into the pool, I assume, on a prorated basis with other unsecured creditors. And they may actually fall behind policyholders, but I don't know how that applies. [LB337]

SENATOR CHRISTENSEN: I guess my concern comes in on the part that you guys have a loan that's secured on, say, \$100,000, but it's worth \$150,000. But if they sue in on that last \$50,000 that's available and market changes, you know, I guess I just want to make sure we're not opening it too wide, I guess. [LB337]

BOB HALLSTROM: I don't think we're intending to open it too wide, Senator. I think that Indiana found a way to do it within their language. I have confidence that the Department of Insurance--as they fairly and confidently looked at the introduction of the bill and are going to come forward, I think, in a neutral capacity as the bill was introduced--that they'll give the same look at the amendment that we've proposed. We'll probably suggest if there is a way to yes, by making changes to narrow the amendment or whatever needs to be done, that they'll make those recommendations and we'll move on from there. [LB337]

SENATOR CHRISTENSEN: Okay. Thank you. [LB337]

SENATOR GLOOR: Senator Crawford. [LB337]

SENATOR CRAWFORD: Thank you. This is a follow-up in terms of Senator Christensen's question about how broadly it applies. If I understand it correctly, the Federal Home Loan Banks have members and it's the members that are applying for the loan. And so that creates, I guess, a boundary of the types of loans that we're talking about from those members. If we were to adopt this amendment language, I wonder how are we limiting the types of loans to banks...or I should say, what are

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

the...is there a way that we are limiting the types of loans that banks provide, in any way, so that we are still targeting really the issue of insurance companies in these secure loans? [LB337]

BOB HALLSTROM: Well, my assumption, Senator, would be the only difference is if the insolvent insurance company...they are either a member or a nonmember of the Federal Home Loan Bank. If they are a member of the Federal Home Loan Bank and the Federal Home Loan Bank has made advances to that member, then whatever treatment they're accorded under LB337 would be applicable within that insolvency proceeding. Conversely, if the insolvent insurance company is not a member of the Federal Home Loan Bank, by definition, they would not have advances made to them. But a traditional lender may have made a direct loan to that insurance company that would be secured and then they would be either subject, with no change, to all of the impediments and the restrictions and the delays that go along with the insolvency proceeding. But if some type of concession was made within LB337 similar to what's been done in Indiana, they would have similar ability, as the Federal Home Loan Bank is proposing, to effectively get out of Dodge a little bit quicker; perhaps much like a relief from a stay in a bankruptcy proceeding that doesn't involve an insolvent insurance company. [LB337]

SENATOR CRAWFORD: I guess one of my questions is, is there anything that ensures that it's limited to insurance companies as opposed to other entities that might be loaning from a bank? [LB337]

BOB HALLSTROM: Well, I assume the only loans that would be subject to the insolvency proceedings would be those that were made to the insurance company that is the subject of the insolvency proceeding. [LB337]

SENATOR GLOOR: Senator Campbell. [LB337]

SENATOR CAMPBELL: Thank you, Senator Gloor. Mr. Hallstrom, have banks...is this a fairly new area for the banks to make loans to? That's question one. And question two is, what percentage of banks in Nebraska would be involved in such transactions? [LB337]

BOB HALLSTROM: Number one, I don't know that it's a new phenomena. I would suggest that it's not nearly on as broad a scale as the Federal Home Loan Bank in terms of volume. Number two, I don't have any statistics regarding the banks that are involved in lending to insurance companies. But I would rather imagine they would be the larger banks that have a presence not only in Nebraska, but in other states. [LB337]

SENATOR CAMPBELL: Federally chartered, probably. [LB337]

BOB HALLSTROM: They could be state-chartered banks, but there are some national

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

banks that would be players in that market, I would assume. [LB337]

SENATOR CAMPBELL: Thank you, Mr. Hallstrom. [LB337]

SENATOR GLOOR: Other questions? Senator Carlson. [LB337]

SENATOR CARLSON: Thank you, Senator Gloor. Bob, you came in with this amendment, and I would suggest that you get ahold of their amendment and rework yours so that somebody like me knows where to insert it. [LB337]

BOB HALLSTROM: Well, I think and hope they'll share that amendment with me, Senator. [LB337]

SENATOR CARLSON: Okay. Thank you. [LB337]

SENATOR GLOOR: Other questions? Seeing none, thank you. [LB337]

BOB HALLSTROM: Thank you. [LB337]

SENATOR GLOOR: Anyone else in opposition? We move to neutral testifiers. Mr. Director, welcome. [LB337]

BRUCE RAMGE: (Exhibit 8) Good afternoon. Good afternoon, Senator Gloor and members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge. For the record, that's spelled B-r-u-c-e R-a-m-g-e. I'm the Director of Insurance and I'm here to testify in a neutral capacity regarding LB337 as originally introduced. LB337, as introduced, would adopt a broadly drafted exception to a very important insurance statute for one and only one creditor. Before discussing the bill, I'd like to give the committee a brief rundown on some important background information. The Insurers Supervision, Rehabilitation, and Liquidation Act is central to Nebraska's insurance solvency. Unlike most insolvency proceedings which occur under the auspices of the federal government, insurer insolvency proceedings are governed by state law, subject to the laws passed by our Legislature, and administered by persons who are retained by and responsible to the Director of Insurance. These persons are usually referred to as deputy liquidator or deputy receiver. An orderly gathering of the assets and obligations of insurers is ultimately intended to serve the interests of policyholders of the insolvent insurer. After secured creditors and the cost of administration, policyholders are at the top of the list of priorities. They are at the front of the line for payment. Even the federal government nonpolicyholder claims come after. The central concern is safeguarding the interests of policyholders. If there is not enough money to pay policyholder claims, those claims are paid by the guaranty associations of each state in which the policyholder resides. Those guaranty associations pay claims based on assessments imposed on the insurers still doing business in the state. In Nebraska, those insurers, in turn, get to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

claim a credit based on the assessments they pay to guaranty associations against the premium tax paid to each state. This means that making sure that the receivership laws are written and administered as efficiently as possible is in the very clear interest and direct interest of policyholders and taxpayers. As I mentioned earlier, the bill before you today is a broadly drafted exception to the law for one type of creditor, the Federal Home Loan Banks, one which operates in Nebraska as the Federal Home Loan Bank of Topeka. Although as introduced the bill applies to all credit obligations to that entity, we understand that as a practical matter that entity only extends credit on a secured basis pursuant to the regulations under which they operate. Therefore, we believe the practical effect is a narrower exemption which would appear on the face of the language. The department really appreciates that the Federal Home Loan Bank of Topeka came to speak to us about this bill before its introduction. That helped us to understand their intent behind the legislation and to gather some background information of our own. That said, however, generally when a bill amending an article of the insurance code so central to the function of the department and to the safeguarding of policyholders and taxpayers is contemplated and especially if they are seeking similar legislation in a number of states, those advocates typically work through the National Association of Insurance Commissioners. This allows careful consideration of all the sometimes very complicated potential for unintended consequences. That NAIC process has begun and is not yet completed. While we believe that at this point our accreditation is not affected by this bill, we do not rule out the possibility that may occur. If a national solution to the problem identified in this legislation is developed, we may very well be looking at this same issue again. Thank you for your time. [LB337]

SENATOR GLOOR: Are there questions for Director Ramge? Senator Campbell. [LB337]

SENATOR CAMPBELL: Thank you, Senator Gloor. Director, that is very helpful. Thank you very much. In the...near to the end of your testimony you indicate that the NAIC process has begun and it's not yet completed. Is there an anticipated date that we would know that? [LB337]

BRUCE RAMGE: Because this issue has...is fairly recently taken up at the National Association of Insurance Commissioners, I suspect that it would at least take throughout this entire year for the discussion. The national meetings are scheduled three times a year, and so it could be a bit before we have their full analysis. [LB337]

SENATOR CAMPBELL: Can I continue, Senator Gloor? [LB337]

SENATOR GLOOR: Certainly. [LB337]

SENATOR CAMPBELL: Given that and the testimony that we've had from others, the two states, Michigan and Indiana, obviously decided to proceed before some guidance

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

from the NAIC? Or did they issue some other statement? [LB337]

BRUCE RAMGE: You know, I'm not really as familiar with either state. I think it was mentioned that a difference in their code where these provisions were placed. So we would be happy to do some more research, but it appears that, again, it was handled differently in the two states. [LB337]

SENATOR CAMPBELL: At least from my perspective--and we can certainly discuss it as a committee--it might be helpful if you did make contact with the other two states to see whether there's anything there. Certainly appreciate your background explanation, though. It's helpful. [LB337]

BRUCE RAMGE: You're welcome. [LB337]

SENATOR CAMPBELL: Thank you. [LB337]

SENATOR GLOOR: Other questions? Senator Christensen. [LB337]

SENATOR CHRISTENSEN: Thank you, Chairman. Is this issue important enough to get passed right now and then amend next year or is it better, in your opinion, to wait a year and see that other language? [LB337]

BRUCE RAMGE: Well, again, we're supportive of the insurers being able to have access to credit. That's an important function for them to carry out their business. And because, as introduced, this...the scope of this seems to be narrow enough that it would not greatly hinder the efforts of a rehabilitator or liquidator. Now one of the first things when an event happens that would bring about a rehabilitation or liquidation is that there's a need to freeze the company's assets so they can get in there and get a good point-in-time accounting of the assets and the liabilities. And with this being only one entity where the stay would not apply, it wouldn't greatly disrupt that process. [LB337]

SENATOR CHRISTENSEN: But I guess the other side of it is if they don't feel like they have this done, with the rule interpretation, it could freeze the ability to get loans... [LB337]

BRUCE RAMGE: Yes. [LB337]

SENATOR CHRISTENSEN: ...and cause a crisis in waiting, because they tend to take some of the larger accounts through the insurance industry. And so that's reason I wondered if this is something that can really wait or if it needs to proceed. [LB337]

BRUCE RAMGE: And the folks, you know, from the Federal Home Loan Bank may be in a better position to explain how important of and a timely of an issue that is for their

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

regulator. So I'm not the best one to really maybe answer that question. [LB337]

SENATOR CHRISTENSEN: Okay. Thank you. [LB337]

SENATOR GLOOR: Other questions? Senator Campbell. [LB337]

SENATOR CAMPBELL: One last follow-up question. Director, over the last five years, how many times would we have seen this situation faced by an insurance company? [LB337]

BRUCE RAMGE: In our Department of Insurance we have not had really any new rehabilitations or liquidations. You know, oftentimes...would it be good for me to kind of go into the details of the different...what happens? [LB337]

SENATOR CAMPBELL: If it's okay with the Chair. [LB337]

SENATOR GLOOR: Certainly. [LB337]

BRUCE RAMGE: I don't want to take up your time, but when there's an event that triggers an activity, there are different levels. First of all, the first thing that could happen is that a company would have to come in and provide a corrective action plan. And that could explain to the department what action the management and the board will take to correct the situation and put the company back on course. If it were a more severe issue, then it would move to a level of supervision. Under a level of supervision, an insurance company would report more frequently to the Department of Insurance and would have to get the department's permission for certain transactions. Beyond that, then it would go to either rehabilitation--and at that point in time the courts would become involved--a deputy rehabilitator would be appointed and they would take an assessment of the company's assets and the obligations. And in a liquidation, the same thing would happen. Those creditors are often ranked in liquidation and the judge, at the request of the deputy liquidator, would release assets on a basis to provide to the creditors as they are ranked. [LB337]

SENATOR CAMPBELL: Thank you. That's helpful. [LB337]

SENATOR GLOOR: Other questions? Thank you very much, Director. [LB337]

BRUCE RAMGE: Thank you. [LB337]

SENATOR GLOOR: We'll continue with neutral. [LB337]

GALEN ULLSTROM: Senator Gloor, members of the committee, for the record my name is Galen Ullstrom, that's G-a-l-e-n, last name is U-l-l-s-t-r-o-m. I'm senior vice

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

president and a registered lobbyist for Mutual of Omaha Insurance Company appearing today in a neutral capacity. We're somewhat unique. We're a member of the Federal Home Loan Bank. We also are a member of the ACLI which supported this and we are in favor, in general, of the support of the bill. We are concerned a little bit about any expansion of the bill. This is a narrow exception, as Director Ramage has mentioned. And the concern we have about expansion is to what impact a change in Nebraska law would have on the accreditation of the Nebraska Department of Insurance. It's not only important for the department, it's very important to companies domiciled in Nebraska that our insurance department remain an accredited entity by the NAIC. We don't know what the NAIC would do if this act was expanded. There are states, as explained by the Federal Home Loan Bank, I think this is being introduced in a number of states this year. I think it first came up in Pennsylvania. The language I think we have here, as amended, as modified, is Pennsylvania language. That's the amendment the ACLI has supported. I think, again, we're hopeful that any change would not impact accreditation, but the broader it gets the more chance it would have to reach that. The NAIC, as Director Ramage mentioned, is looking at it. I think he feels comfortable with the narrow language. If it is expanded, I'm not sure anybody has ruled on that. The states of Michigan and Indiana were mentioned. I know Michigan did pull back, as was stated, from a wide bill to a narrow bill. It is my understanding--I've had some discussions with the Indiana Department of Insurance this morning--it's my understanding that the Indiana legislation is not in the rehabilitation section, it's in an investment section of the law. So I don't know...but I haven't looked at it, so I don't exactly know. But, again, we're supportive of this and want to make sure that we don't do anything that has an unintended consequence. So that would be our concerns. [LB337]

SENATOR GLOOR: Other questions? Any questions of Mr. Ullstrom? Seeing none, thank you for your testimony. [LB337]

GALEN ULLSTROM: Thank you, Senator. [LB337]

SENATOR GLOOR: Anyone else in a neutral capacity? Seeing none, closing. Senator Schumacher. [LB337]

SENATOR SCHUMACHER: Thank you, Senator Gloor and members of the committee. I think what the testimony basically has shown us today is that, as a practical matter, the provisions of the legislation proposed before us--whether in the original form with or without the amendments--the chances of it ever being invoked is really, really low. And that's probably a testimony to our banking department and our sound business judgment that these things don't happen very often. So the probability of anybody invoking these provisions is virtually nonexistent, at least a very, very low probability. What we do have a probability of is a federal regulator who worries about things with a very, very, very, very low probability worrying about them and having issued a letter that says, well, tell me what's going to happen when the improbable happens. And having

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

very little experience in that, it's hard to give a straight answer. So what we can do and I think what we're being asked to do is to give a straight answer by--in this very limited case of the Federal Home Loan Bank--saying what will happen. And what will happen is they will come out fully secured like they're supposed to be. And we solve a problem, a very specific, very narrow problem to the extent, theoretically, somebody else would like to have similar protections. If those are real concerns, there are things that can be addressed in future legislation with no harm to anyone, as a practical matter, in waiting. So with that, I'd ask for the committee's support in advancing (LB)337 and would take any further questions. [LB337]

SENATOR GLOOR: Any final questions? Seeing none, thank you, Senator Schumacher. [LB337]

SENATOR SCHUMACHER: Thank you. [LB337]

SENATOR GLOOR: And that ends the hearing on LB337. We'll take about a quick five-minute break before we move on to the second half of this game. And I need to check to make sure the lights don't go out part way into Senator Howard's hearing. [LB426]

BREAK

SENATOR GLOOR: I believe we'll get started with our next hearing, LB426. Welcome, Senator Howard, as a presenter. [LB426]

SENATOR HOWARD: (Exhibit 1) Thank you, Senator Gloor. Good afternoon, Chairman Gloor and members of the committee. My name is Senator Sara Howard, H-o-w-a-r-d, and I represent District 9. This afternoon I'm introducing LB426 at the request of Woodmen of the World Life Insurance Society. This bill would revise the Nebraska (Insurers) Risk-Based Capital Act to apply its requirements to fraternal benefit societies. Fraternal benefit societies are nonprofit insurance organizations that offer life insurance, annuities, and other financial service products to members while also providing benefits to members, member organizations, and member community-service efforts. Under current law, fraternal benefit societies are exempted from provisions of the act because they fall under the list of organizations excepted from the definition of insurers. LB426 would also require the approval of the Director of Insurance before a domestic fraternal benefit society may assess certificate owners. The bill would require notice to the Director of Insurance 30 days before a foreign or alien fraternal benefit society assesses certificate owners. Consistent with the organizational structure of fraternal benefit societies, a fraternal may assess its certificate owners in the event that its reserves become impaired under the laws of all the states, including Nebraska. Prior approval or prior notice of such company action will strengthen financial solvency, maintain the integrity of risk-based capital reporting requirements for fraternal benefit societies, and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

protect consumers. I want to be clear that this additional oversight is intended to protect fraternal and their customers and is being introduced at the request of the industry. This bill was brought to me by Woodmen of the World, Nebraska's largest fraternal benefit society, and is supported by the American Fraternal Alliance, a trade association representing 70 fraternal benefit societies operating in all 50 states and Canada. You'll hear from some experts behind me, Lynn Espeland from Woodmen of the World and Jan McKenzie as well, from the Insurance Federation. But there is an amendment that was passed out to you to correct a drafting oversight. And I thank you for your time and attention to LB426, and I'm happy to answer any questions that you may have. [LB426]

SENATOR GLOOR: Thank you, Senator Howard. Are there questions of Senator Howard? And I'm assuming you want to close? [LB426]

SENATOR HOWARD: Yes. Thank you. [LB426]

SENATOR GLOOR: Okay. Thank you, Senator Howard. Can I see a show of hands of those who would like to testify on this bill? Just a couple. All right, thank you. We'll start with proponents. Good afternoon. [LB426]

LYNN ESPELAND: (Exhibits 2 and 3) Good afternoon. My name is Lynn Espeland, L-y-n-n E-s-p-e-l-a-n-d, and I am assistant vice president and associate general counsel for Woodmen of the World Life Insurance Society. Also with me is Mark Schreier. He is our executive vice president and chief financial officer who will be available, if need be, for questions. We are here to testify in favor of LB426 with the amendment Senator Howard will be introducing. I have also distributed written testimony from our fraternal trade association, the American Fraternal Alliance, that we would request be entered into the record. Woodmen is an insurance company with a long history in Nebraska. We have been domiciled here since 1890, and for 122 years we have been located in downtown Nebraska (sic: Omaha). We have almost 700 home office associates, 1,500 agents, and almost 800,000 members or policyholders nationwide. Woodmen is licensed to transact the business of insurance in all 50 states and the District of Columbia. Our primary products are life insurance and annuities. We are a fraternal benefit society, one of the many different types of insurance company structures that are described under the Nebraska insurance laws. A fraternal is a nonprofit, mutual aid organization that insures its members and their families, maintains an active lodge system, and has a representative form of governance. Fraternal bring together individuals with a common bond that can be based on religion, gender, occupation, ethnicity, or value systems. Woodmen is the fourth largest fraternal in the United States. We are the only fraternal domiciled in Nebraska, although there are over 30 fraternal that do business in this state. LB426 affects fraternal, and it seeks to change Nebraska's (Insurers) Risk-Based Capital Act so that that law applies to fraternal. Currently we are exempt from those requirements. RBC is an important financial solvency oversight law with two important functions. The law offers early warning

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

financial solvency capabilities by establishing both mandatory annual company reporting requirements and financial risk levels. And two, the law provides four risk-based action levels that prescribe corrective actions to manage a troubled company. Nebraska's risk-based capital law is aligned with the national model that was enacted by the National Association of Insurance Commissioners, or the NAIC, a couple decades ago. That national model law also exempted fraternal, and it was a couple of years ago in the fall of 2011 where the NAIC sought to revise that model to apply it to fraternal benefit societies. And LB426 would mirror the revisions that have been made to that national model. Currently 12 other states have enacted these revisions, and there are bills pending in 5 states, including Nebraska. The revisions to the Nebraska RBC law proposed by LB426 would enhance regulatory financial solvency oversight of fraternal. And why does Woodmen support enhanced solvency oversight, you might ask? Well, along with our trade association, Woodmen has been involved on a national level to advocate for these changes, and so we believe that it's important that if we are a national advocate that these requirements apply to us and not just to fraternal domiciled in other states. But importantly, Woodmen has been historically a very strong--a financially very strong company. And we continue to be very strong financially, however, there are those fraternal who are not. And Woodmen believes that the changes proposed by LB426 would allow regulators to more effectively identify troubled fraternal, work with these companies, and resolve solvency weaknesses. If we do not make changes to strengthen the fraternal solvency, the financial weaknesses of a few will adversely affect our industry and our members. And that's one of the reasons we strongly support this revision to Nebraska law. LB426 also seeks to revise the provisions of the Nebraska Insurance Code that specifically apply to fraternal. Consistent with the organizational structure of fraternal and under the laws of every state, a fraternal may assess its members in the event that the relationship between the company's assets and liabilities becomes unfavorable. Currently, a fraternal may assess its members without any requirement to obtain approval or give notice to our regulator, the Director of Insurance. And LB426 would change that law to require prior approval for domestics and prior notice for foreign and alien companies. We believe that both of these concepts, the change to apply RBC to fraternal and prior approval or prior notice, strengthens the solvency of the fraternal system; they work hand in hand. And we strongly support the revisions proposed by LB426 along with the amendment that Senator Howard will be introducing. Thank you very much for the opportunity to present this morning. We're happy to answer questions if you have those now. [LB426]

SENATOR GLOOR: Thank you, Ms. Espeland. Questions? Senator Pirsch. [LB426]

SENATOR PIRSCH: Yes. And thank you very much for your testimony here today. Could you just help educate the committee with respect to other...how many other fraternal are in the state and, you know, their relative size? Are there very many? Or... [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

LYNN ESPELAND: Well, we're the only domestic fraternal. However, there are over 30 fraternal organizations that are licensed to transact business here in Nebraska. There are...we vary greatly in size so we have a Fortune 500-size fraternal that does business in Nebraska and then we have some very, very small ones. If you would like more detail, probably our chief financial officer would be more than happy to fill you in on the details, if that would be helpful. [LB426]

SENATOR PIRSCH: Okay. Yeah. Is he going to testify here later or is he not scheduled? [LB426]

LYNN ESPELAND: He certainly can come up right now or we can reserve it and... [LB426]

SENATOR PIRSCH: You know, we can...I don't have the need I guess, necessarily, to have that answered right at this very moment. I think you've fleshed out good enough meat on the bones to answer my question. Then this was in response to an NAIC model, correct, between 2011 and where it would first apply its requirements to fraternal benefit societies, right? [LB426]

LYNN ESPELAND: Correct. [LB426]

SENATOR PIRSCH: Okay. Do you know...are you familiar with NCOIL, the legislative kind of... [LB426]

LYNN ESPELAND: Yes, sir. [LB426]

SENATOR PIRSCH: I know just from my participation, they've kind of looked at this. Do you know what their approach...is it similar to the NAIC or do you know? [LB426]

LYNN ESPELAND: Frankly...and, you know, I do not believe that NCOIL has been involved in the RBC issue. There are a number of things that, of course, they are. But as far as I'm aware, the solvency laws have been primarily the drafting oversight of the NAIC and then the state regulators. [LB426]

SENATOR PIRSCH: Okay, thank you. [LB426]

SENATOR GLOOR: Senator Carlson. [LB426]

SENATOR CARLSON: Thank you, Senator Gloor. In your testimony--this might not be bad--but it kind of looks to me like Woodmen--you're in a pretty stable, strong position--and this may be a way of getting rid of some bad actors. Is that an accurate statement? [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

LYNN ESPELAND: Getting rid of some bad actors. It offers...I think you would...we would put it in such a way as to say that it offers...it allows the regulator to identify weak solvency and be able to take some action with it so... [LB426]

SENATOR CARLSON: And is Woodmen interested in that kind of thing happening because you have such high quality in the way that you operate or would it be a competitive advantage if you could...if some of those that are currently...some of those 30 that are currently in the state could no longer operate here? [LB426]

LYNN ESPELAND: I think our primary interest in it is that we...it benefits Woodmen to have a strong fraternal solvency so we are concerned about weaker fraternal in that it would adversely affect our members and our industry because it...and that's why we're here to support this. [LB426]

SENATOR CARLSON: Now as a fraternal, you're able to assess. Tell me what an assessment is, and has Woodmen ever assessed its 800,000 members? [LB426]

LYNN ESPELAND: Sir, no, Woodmen has never imposed an assessment on its members. Assessments are done, we believe, very rarely nationwide. An assessment is something that the board of directors of the fraternal may approve against the members in the event that the relationship between the assets and liabilities are unfavorable. Our board of directors for every fraternal is elected. It's a representative form of governance, and so the board represents the members and are authorized to take action such as imposing an assessment. [LB426]

SENATOR CARLSON: Now your 800,000 members are much like policyholders, correct? [LB426]

LYNN ESPELAND: Correct. [LB426]

SENATOR CARLSON: So if you have a plan to assess policyholders, there really isn't anything to keep them from bolting out of the company unless you'd lower the cash values or lower the values of the assets that they have with you? [LB426]

LYNN ESPELAND: Assessments can be made in a variety of ways. One can be a direct payment. Another could be a reduction in the benefit that's due them or another alternative is to act as a lien or a loan against the value of the product. [LB426]

SENATOR CARLSON: Okay, and one more question--I asked quite a few here. It would change the laws--bottom of your second page--it would change the law so the prior regulator approval of any assessment would be required. [LB426]

LYNN ESPELAND: Uh-huh. [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR CARLSON: Who's the regulator? [LB426]

LYNN ESPELAND: The Director of Insurance. [LB426]

SENATOR CARLSON: Okay, so it's...that's the Nebraska Department of Insurance that would determine whether an assessment was proper, I guess. [LB426]

LYNN ESPELAND: Correct. [LB426]

SENATOR CARLSON: Okay. Thank you. [LB426]

SENATOR GLOOR: Let me ask a question in keeping with Senator Carlson's questioning. Given how many years Woodmen's been domiciled in this state, it seems that this could have come up any time in years leading up to now and so I'm kind of curious as to why this year is the year that this has become an issue. Is it because we're starting to see fraternal organizations that are struggling in other states? [LB426]

LYNN ESPELAND: To be frank with you, I think there have been some concerns about solvency of fraternal organizations in other states, and that has prompted to the discussion of regulators. And there are some states that have quite a few fraternal organizations domiciled in their particular state, and so when this topic was discussed by the NAIC, a remedy or an answer to that they felt would be enhanced regulation through RBC. [LB426]

SENATOR GLOOR: Okay, thank you. [LB426]

LYNN ESPELAND: Sure. [LB426]

SENATOR GLOOR: Other questions? Senator Schumacher. [LB426]

SENATOR SCHUMACHER: Thank you, Senator Gloor. And thank you for your testimony today. I have a couple of questions. One is kind of a simple one. Repeatedly in here it refers to foreign or alien societies. I assume that doesn't mean from Mars. What's the difference between foreign and alien? [LB426]

LYNN ESPELAND: Foreign is a nondomestic; alien is outside the U.S. [LB426]

SENATOR SCHUMACHER: And then, so that I kind of understand how the system works, you're a society, members pay dues, and they get a life insurance policy, basically. Now...and some bean counter sat down and figured out how much of a reserve you should have based upon actuarial tables and things like that. And I assume you also buy some insurance from other insurers to protect, in the event of a drawdown on your reserves? [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

LYNN ESPELAND: Reinsurance? [LB426]

SENATOR SCHUMACHER: Reinsurance, yes. [LB426]

LYNN ESPELAND: Uh-huh, correct. [LB426]

SENATOR SCHUMACHER: And so what we're talking about here is a situation where a real unplanned for event, 90 percent of your policyholders get knocked out by some kind of plague, and your reinsurer doesn't have enough reinsurance, and that your reserves aren't enough, and so you go back on the other 10 percent and say, either ante up or lose the value of your policy, one way or the other. Is that kind of how it works? [LB426]

LYNN ESPELAND: And I would think probably the best one to visit with you about that would be our chief financial officer, Mark Schreier, if that would be acceptable for him to come up. [LB426]

SENATOR GLOOR: I think he's welcome to come up and provide testimony, but why don't we do it in a...we've got other folks who I think we want to hear from. And then we'll ask... [LB426]

LYNN ESPELAND: Okay. [LB426]

SENATOR GLOOR: You're welcome to come up along with the other testifiers. I want to make sure there aren't any further questions for you at this time. [LB426]

LYNN ESPELAND: Sure. I'm sorry I didn't defer. [LB426]

SENATOR GLOOR: We'll kind of defer it, but we expect him to be up here. [LB426]

LYNN ESPELAND: Okay. Okay. [LB426]

SENATOR GLOOR: Any other questions from anybody else? [LB426]

SENATOR SCHUMACHER: I don't have any other questions. [LB426]

SENATOR GLOOR: Yes. Senator Crawford. [LB426]

SENATOR CRAWFORD: Thank you. I just want to clarify for the record, we've talked about the assessment component because that's, you know, one thing that's been added here. But the whole bill also basically has fraternal organizations playing by the same rules as other insurance companies in terms of risk and risk assessment and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

those rules. Is that correct? [LB426]

LYNN ESPELAND: That's correct, uh-huh. However, there are other companies that are exempted from RBC. We're seeking to be covered. [LB426]

SENATOR GLOOR: Any other questions? Seeing none, thank you. And now I think we can do a change of seats. Yeah, please, if you would while the question is fresh in everybody's mind. [LB426]

MARK SCHREIER: Good afternoon, Senators. My name is Mark Schreier, M-a-r-k S-c-h-r-e-i-e-r, I'm an actuary by training. I am Woodmen's executive vice president and CFO. So Lynn brought me along in case these questions came up so I'm here to answer any of them that you have in mind. I have no written testimony. So you want...let's...would you ask that again? I'm not sure I have it all exactly straight in my mind, Senator Schumacher. [LB426]

SENATOR SCHUMACHER: Thank you for being here to answer questions for us. Basically it was an informative question so that I understand what these assessment mechanisms work like. And that something really, really unplanned for or unforeseeable happens, and it blows all the actuarial tables, and a big plague comes, and 90 percent of the people are dead, and the heirs are all there wanting to get paid out, and then your reserves are gone, and the holocaust is happening. And is that basically when the assessments would happen? [LB426]

MARK SCHREIER: Well, that is one circumstance in which an assessment may be required; I think there are many other ones. For instance, life insurance policies and annuity policies also have guaranteed interest rates. And you're all probably well aware of the rates that can be earned on high-quality, fixed-income investments which insurance companies normally invest in. If you go back 30 years, we could earn 18...15 to 18 percent on high-quality corporate bonds. Right now, we're lucky to get 3, and we have...a lot of our business has 3 and 4 percent guarantees built into the cash value. So while we can get into financial difficulties, fraternal and other insurers with adverse claim experience, we can also get into trouble with investment inadequacies. If interest rates move the wrong direction, down in this case, they can get us--if interest rates go up fast and a lot of folks want to take their money out and chase other yields--we can get in trouble that way. There are many risks that an insurance company is exposed to in their operations that can get an insurance company in trouble. That's one thing risk-based capital tries to do. It tries to say, based on all the risks that a company assumes in their business and the way they operate their business, how much capital should a company have and how much cushion should they have to address those risks? So risk-based capital lays that out, gives the regulators a way to look at how a company is doing, how much capital they need, so that they can manage that company or can work with that company ahead of time so that consumers don't get shortchanged

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

or, in our case, so that we don't do assessments. The last thing we want to do is have an assessment that would mean that we let our members, our policyholders, down. And really, the last thing to get back to Senator Carlson's question regarding competitive advantage, you know, I never really thought of it that way, Senator Carlson, but it is an interesting question. I think the reason that we are for this is as a fraternal, if another fraternal went out and did assessments, could we not get painted with that same brush? We don't really, quite frankly, have an awful lot of business in the state of Nebraska. It's not our biggest state by far. Our biggest states are in the rural southeast states, but...and we just don't want to have someone say, oh, they're a fraternal. They can do an assessment. Plus it just, you know, paints the industry in an adverse light. So hopefully I've answered your question there a little bit there, too, Senator Carlson. [LB426]

SENATOR GLOOR: Senator Pirsch. [LB426]

SENATOR PIRSCH: And thank you for your testimony. I can see, obviously, you want to make sure that, rightly or wrongly, your particular company may be painted by the actions... [LB426]

MARK SCHREIER: Yes. [LB426]

SENATOR PIRSCH: ...of those who are in your industry because you are, as you said, 2 percent of the insurance in kind of a niche... [LB426]

MARK SCHREIER: Uh-huh. [LB426]

SENATOR PIRSCH: ...so to speak, of the overall insurance market. But with respect to...I'm just trying to gain a more... [LB426]

MARK SCHREIER: Okay. [LB426]

SENATOR PIRSCH: ...a deeper understanding historically of the regulatory scheme that you've been under. And so you've been, you know, obviously around since 1890. But the RBC laws never applied to you, the Risk-Based Capital Act in Nebraska, and so what...are there other, in light of that, measures that were taken with respect to your type of fraternal? Are you subject to any other type of regulatory, you know, kind of hoops to jump through? Or... [LB426]

MARK SCHREIER: We are subject to practically all the other...the same regulatory burdens financially that other companies are. The insurance department of the state of Nebraska comes in and examines our books on the same basis that they examine nonfraternal companies. I think there might be some minimum capital requirements that are really de minimis that are applied in certain states, And, off the top of my head, I

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

don't know the answer to that, but Director Ramge, who I believe is going to testify shortly, could probably address that or perhaps Lynn Espeland could do that. So we do, we operate exactly like other companies in many, many, many ways. It's just that we have this assessment provision which is really a--I guess in my opinion or my experience--it's a throwback, if you will, to the way we were formed. We were formed as a mutual aid association where a group of folks, if there was an issue, if all the members that were in one area, if so-and-so died and their spouse or their children need something, there was a set pattern of assessments that they would levy against those members so that the widow and the kids would have something to carry on with. So I think that's where the assessments came from. It's just been ingrained in the laws and carried forward all these years, and that's the way it has remained. I don't know if that helped or not. [LB426]

SENATOR PIRSCH: No, it does. [LB426]

SENATOR GLOOR: Senator Carlson. [LB426]

SENATOR CARLSON: Thank you, Senator Gloor. How do you, as a company, how do you cope with extended low interest rates? [LB426]

MARK SCHREIER: Well, you know, that's a great question because it's something that a lot of companies are coping with right now. In the first place, you look forward and you anticipate those kinds of risks. You try not to chase business with the highest guarantees that you can. There are companies that have business out there that have 4 percent and 5 percent and even higher percent guarantees, annual guarantees, in their products. Woodmen...and one of the reasons that we like to believe that we are one of the stronger fraternal is that we have never really, you know, been out there trying to do the best we can, you know, guarantee the highest rates. The other thing that you do is that you build up some extra surplus, some extra capital. And that's what this risk-based capital measure would look at. It compares how much actual capital you have to the risks that you've taken. Those risks can include how high of rates you've guaranteed in the accumulation of your accumulation-type products. You can then go out and try to invest in riskier products, riskier investments. You can invest in junk bonds. Woodmen does not like to do that because you can get into trouble doing that. There have been insurance companies that have gone under doing that. Or you can invest in certain real estate ventures that should produce higher returns, but may not. So it's many faceted that you do: you try to remain strong, maintain strong levels of capital, you invest safely so you don't get runs on the bank, and then you try not to guarantee too much, and then you operate as effectively as you can so that you don't have a lot of expenses eating up the investment return that you do get. [LB426]

SENATOR CARLSON: I missed the testimony of approximately 30 fraternal operating in Nebraska. But how many have their home offices in Nebraska? [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

MARK SCHREIER: There is only one that has...that's domiciled in Nebraska and that's us. [LB426]

SENATOR CARLSON: That's you. [LB426]

MARK SCHREIER: Yes. [LB426]

SENATOR CARLSON: Where is Lutheran Brotherhood? [LB426]

MARK SCHREIER: Minnesota. Well, excuse me, they're in Wisconsin. Lutheran Brotherhood and Aid Association for Lutherans merged about five, six years ago. They are domiciled in Wisconsin, and they have corporate offices in Minnesota. [LB426]

SENATOR CARLSON: Is part of your support for this, and this may be a hard question you may not want to answer, but I would guess that there would be other companies and other fraternal in this time of low interest rates where they've got to try and come up with better earnings somehow to honor their contracts; that you see excessive risks taken by other companies, and that's probably leading them down the road to trouble and the need for assessments, and that's part of why you'd like this to be approved by the insurance department? [LB426]

MARK SCHREIER: I believe that is the...that some of that is a concern of the American Fraternal Alliance and Woodmen and that's why--and other state regulators--and that's why it has bubbled up right now, yes. [LB426]

SENATOR CARLSON: Okay, thank you. [LB426]

MARK SCHREIER: Sure. [LB426]

SENATOR GLOOR: And it's time for me to just make mention again that you were given a handout from the American Fraternal Alliance, and that's part of the record. Senator Schumacher. [LB426]

SENATOR SCHUMACHER: Thank you, Senator Gloor. In answering Senator Carlson's question about how you cope with these low interest rates that are being perpetuated by the fed and when you might have obligations out there that are based upon a theory that we would never see a 1.7 percent ten-year treachery, is...among the things that you said could be used to cope, one thing I noticed you did not say that you're not engaging in businesses incidental to the insurance business. Are you getting involved in other businesses, investing in LLCs and limited companies so you can do other things that are kind of maybe like the insurance business? [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

MARK SCHREIER: Well, the insurance laws of the state of Nebraska and Director Rame could talk about this better than I could, I think he could anyway. We have limitations on what we can invest our assets in within the insurance law, and if we wanted to do some of those other things, we could probably set up a subsidiary to do so. We have set up a subsidiary to sell nonproprietary mutual funds and nonproprietary...other products that we don't want to manufacture; mutual funds, some variable annuities, that some other companies would sell or some health insurance products that we don't want to manufacture. So we do set up...we have a subsidiary set up to do that, that sell non-Woodmen products through our agency force. [LB426]

SENATOR SCHUMACHER: Yeah. And how far out might you see this nature of business going? I mean, could you go out and set up a travel agency? Or would that be too nonincidental? [LB426]

MARK SCHREIER: You know, that's a good question. I don't think I can answer that question. I'd probably have to defer to one of the folks behind me. [LB426]

SENATOR SCHUMACHER: But they're in what you would set up a subsidiary or an LLC...do you engage in LLCs? Do you set those up? [LB426]

MARK SCHREIER: No. We have two wholly-owned subsidiaries, one to sell other companies' insurance products...commercial companies' insurance products that we don't want to manufacture. And one is a broker-dealer to sell investment products like mutual funds or other companies' variable products. [LB426]

SENATOR SCHUMACHER: What would be the danger in letting you set up a limited liability company so that you could go out and invest in things that are kind of far stretched, but nevertheless, might be insurance-ish (phonetic)? [LB426]

MARK SCHREIER: Well, I think one of the things would be what if we started losing money in that? Then it could impact our insurance operations. That would be just my off-the-cuff remark. I would defer to Director Rame on that, I believe. [LB426]

SENATOR SCHUMACHER: Thank you for your testimony. [LB426]

MARK SCHREIER: Sure. [LB426]

SENATOR CARLSON: Thank you. [LB426]

SENATOR GLOOR: Other questions? Seeing none, thank you, Mr. Schreier. Other proponents? Good afternoon. [LB426]

BRUCE RAMGE: (Exhibit 4) Good afternoon. Good afternoon Senator Gloor and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

members of the Banking, Commerce and Insurance Committee. My name is Bruce Ramge. For the record, that's spelled B-r-u-c-e R-a-m-g-e. I'm the Director of Insurance and I'm here to testify in support of LB426. By applying the risk-based capital rules to fraternal insurers and giving the department approval authority over assessments made by them, LB426 would give the department valuable tools for overseeing the solvency of fraternal insurers. Five states are considering such legislation this year on the fraternal risk-based capital standards. A similar number of states have addressed the issue of department authority in the area of assessments. The bill before you today will make Nebraska's laws some of the strongest in the country and we believe Woodmen should be commended for recommending this bill to you. We ask that LB426 be advanced to General File. [LB426]

SENATOR GLOOR: Thank you. Any questions? Senator Christensen. [LB426]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Director. Did you look over all those that are exempted in 44-6008 or page 6, top of the bill? Is there others that should be included that you have concerns about? [LB426]

BRUCE RAMGE: Part of the...I guess to explain that, in order for the risk-based capital rules to apply, they have to be drafted for the specific entity. So in other words, before you can apply the rules, the rules have to exist. These rules are developed by the National Association of Insurance Commissioners, and it's an ongoing process. They're updated continuously through the Capital Adequacy working group. So there are other types of entities that are in the business of insurance, and I really am not prepared to speak on each of those types of entity. This expands this tool to another important subsector of the insurance business in our state. [LB426]

SENATOR CHRISTENSEN: Okay. Thank you. [LB426]

SENATOR GLOOR: Senator Carlson. [LB426]

SENATOR CARLSON: Thank you, Senator Gloor. This is just a statement. I appreciate it when the head of a government agency comes to a committee hearing and is for something and testifies for something. You were neutral on the last one. And sometimes it's difficult when we have agencies testify in the neutral position, are they neutral/negative or neutral/positive? But I appreciate when you openly say you're a proponent. Thank you. [LB426]

BRUCE RAMGE: Thank you. [LB426]

SENATOR GLOOR: Other questions? I guess I would ask along the lines of Senator Schumacher's question of incidental business. We kind of started our day on the floor talking about incidental business, we might as well finish it in committee. [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

BRUCE RAMGE: Sure. [LB426]

SENATOR GLOOR: Do you have, within your authority, the ability to make decisions about incidental business when it comes to insurance companies? [LB426]

BRUCE RAMGE: It depends on where that incidental business is located. You know, last year the insurance code was expanded under the (Nebraska Bank) Holding Company Act which basically tasks the Department of Insurance with evaluating the entire holding company structure of an insurer. So we have insurance companies involved in every type of business you can imagine, you know, everywhere from restaurants to airplanes to whatever. Generally, those affiliated--or not affiliated--but those other noninsurance-type businesses are in subsidiary companies. And where those are structured in the holding company will differ from company to company. As insurance regulators, we want to make certain that those business sectors don't have a negative impact on the insurance company. The insurance company finances are pretty much held alone, but yet we look for systemic risk out there in those holding companies. That's not to say that some insurance companies can't have other types of business that are within their...the walls of the specific company. But, again, because of this risk-based capital, the form of those assets will be either discounted or evaluated based on the risk that they pose to the insurance company. [LB426]

SENATOR GLOOR: Do you work off any kind of a list or is this left to your discretion and wisdom when it comes to your role as director of the department? [LB426]

BRUCE RAMGE: In terms of the risk-based capital rules and applicability to them, that's a very complicated formulaic approach. For example, it looks at assets and whether they're sensitive to the interest rates or whether they're fungible, whether...and so there will be a formula. So a junk bond, you know, may only get a 15...you may be only be able to count 15 percent--and I'm just making these numbers up--but a U.S. government bond, you know, and that might be gold and that might be 100 percent. And so all these factors are multiplied to get to this number. In terms of what businesses an insurer can be involved in, I suppose that, again, it all impacts their financial stability as opposed to whether the Department of Insurance can be involved and say, no, you can't do that. Yeah. [LB426]

SENATOR GLOOR: Okay. [LB426]

BRUCE RAMGE: Yeah. [LB426]

SENATOR GLOOR: We got a lot of questions from that. Senator Pirsch and we'll work our way down the line, I guess. [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR PIRSCH: Just to clarify since we're on that issue though. But with respect to, you know, on the state-based system of regulations, you would only be doing primary jurisdiction with respect to the domestic, right? [LB426]

BRUCE RAMGE: That's correct. [LB426]

SENATOR PIRSCH: Okay. So in that case, it becomes your responsibility to kind of dig into the subsidiaries and the holding companies and to look at systemic risk? Is that right? [LB426]

BRUCE RAMGE: That's correct. [LB426]

SENATOR PIRSCH: And then we rely on the assessments of the departments of the other 49 states by respect to foreign? [LB426]

BRUCE RAMGE: We do. We give a lot of deference to the other state regulators, but we also have the ability to regulate by the fact that they are licensed here. And if we're able to detect that a company has not met our solvency requirements, we can independently take appropriate action. Usually the states work so closely together that it's a good deal of communication and the primary regulator will address the problem. [LB426]

SENATOR PIRSCH: Okay. Thanks for clarifying. [LB426]

SENATOR GLOOR: Senator Schumacher. [LB426]

SENATOR SCHUMACHER: Thank you, Senator Gloor. If an insurance company figured, well, we can make a little money by getting into the airplane leasing business, for example, what test would you apply that says, okay, you can go ahead and buy yourself four jet planes and start renting them? [LB426]

BRUCE RAMGE: It would be based on their financial solvency, how much surplus they had. If they had such...if they had adequate reserves and strong assets to cover those reserves, and then there might be room for some other nontraditional investments. If they were right on that border of having only enough quality assets to cover the needed reserves, then it's probably unlikely that a risky investment would be permitted within the insurance company. You would be outside, you know, in an affiliated company. [LB426]

SENATOR SCHUMACHER: So you would look at the risk rather than the nature of the business in saying yes or no to them? [LB426]

BRUCE RAMGE: Yes. [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR SCHUMACHER: With that business, would you require that they set up a subsidiary entity to do that or could they do that as the insurance company? [LB426]

BRUCE RAMGE: Again, depending on the company and their financial strength, it could be required to be set up outside. [LB426]

SENATOR SCHUMACHER: Now is there any specification whether it be a regular corporation or a limited liability company or some other entity that they use, or don't you get into that? [LB426]

BRUCE RAMGE: I don't get into that. I'm sorry, but we can research that. Again, that would be something I think one of our legal staff members would have to give you a better answer on. [LB426]

SENATOR SCHUMACHER: Now when one would set up a subsidiary company of some nature, how would you prevent it from getting away from you as far as being able to audit the operating risk and whether or not there is adequate finances and adequate management in that subsidiary company? How close would you babysit that subsidiary? [LB426]

BRUCE RAMGE: If there were really no systemic risk to the insurer, we'd probably have very little babysitting. Again, we just want to make certain that if that subsidiary failed, it wouldn't bring the insurer down with it. Also, the company wouldn't be able to be permitted to transfer assets that are needed for the insurance operation over to prop up that subsidiary if it would cause a detrimental impact to the insurer. [LB426]

SENATOR SCHUMACHER: Assuming it was a limited liability company that was set up to do the business, how closely do you...would you review the operating agreement with the limited liability company to determine whether or not they had some exposure for the debt of the operating company? [LB426]

BRUCE RAMGE: Intercompany agreements from insurers with their affiliated companies have to be filed with the Department of Insurance. There's a specific form. It's called a Form D, and those are reviewed by our financial analysts. [LB426]

SENATOR SCHUMACHER: So they would have to show you the agreements that they have with the LLC and any LLCs within the LLC? [LB426]

BRUCE RAMGE: Yes. [LB426]

SENATOR SCHUMACHER: Okay. Thank you for your information. [LB426]

BRUCE RAMGE: You're welcome. [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR GLOOR: Senator Crawford. [LB426]

SENATOR CRAWFORD: This is, I think, a much simpler question. I just want to clarify, at the bottom of page 3 on the bill, there is language giving you the authority to prohibit foreign or alien societies that have assessed their owners from issuing contracts and insurance in this state. It doesn't have any language...similar language about domestic societies, so I wanted to clarify whether you have that authority elsewhere in our statute so it's not necessary to specify that in this bill. [LB426]

BRUCE RAMGE: I'm assuming that if there was an assessment made, it would be because of the company's in a hazardous financial position... [LB426]

SENATOR CRAWFORD: Uh-huh. [LB426]

BRUCE RAMGE: ...and so there would be authority elsewhere to require the company not to issue new policies or that type of thing. [LB426]

SENATOR CRAWFORD: Okay. Thank you. [LB426]

BRUCE RAMGE: You're welcome. [LB426]

SENATOR GLOOR: Senator Pirsch. [LB426]

SENATOR PIRSCH: And just kind of continue on just one more question with respect to subsidiary type of...for those domestics in which you are primary in terms of regulating. Would it...is the forms and the regulatory scheme work such that, especially with...if they were to engage in subsidiary type of highly leveraged type of instruments, futures, or derivative type of investments, would that be well captured by, and capable of being assessed that type of risk, by your...in the way, you know, Orange County didn't have that? [LB426]

BRUCE RAMGE: Yes, absolutely. The...again, in evaluating the assets, not only would there be a discount or a factor applied to them during the risk-based capital calculations, but those types of situations are monitored closely by our financial analysts who want to make certain that the company is not overly leveraged in those types of arrangements. [LB426]

SENATOR PIRSCH: Is it prospective-like looking within, you know, within...you know, in other words, conditional granting as long as you stay, I mean, you must stay within these types of investments or is it kind of...it is backward-looking? In other words, here's what we did and we anticipate... [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

BRUCE RAMGE: It could be...it's both. You know, the analysts look prospectively in...it would be prospective in terms of like if a Form D filing where there was a request to enter into an intercompany agreement. It would be retrospective in terms of the company's financial statements... [LB426]

SENATOR PIRSCH: Yeah. So both. [LB426]

BRUCE RAMGE: ...and changes in their financial position. Yes. [LB426]

SENATOR PIRSCH: Okay, thanks. [LB426]

SENATOR GLOOR: Other questions? Senator Schumacher. [LB426]

SENATOR SCHUMACHER: Just one quick call. Is this kind of monitoring and when you have the analyst look at the economics of it, is that an expensive process? [LB426]

BRUCE RAMGE: It is not. Well, it's part of the department's budget. We have dedicated analysts who monitor each and every domestic company and then also watch the foreign companies, as well, to make certain that there's nothing happening there that we need to address. But, again, that's just part of the function of this company is monitored anyway. This bill actually makes the job easier for us to do because we have one more tool in our tool kit. [LB426]

SENATOR SCHUMACHER: Thank you very much. [LB426]

SENATOR GLOOR: Thank you, Director Ramge. Appreciate it. [LB426]

BRUCE RAMGE: You're welcome. [LB426]

SENATOR GLOOR: Anyone else who would like to speak as a proponent? [LB426]

JAN MCKENZIE: Senator Gloor, members of the committee, for the record, my name is Jan McKenzie, spelled J-a-n M-c-K-e-n-z-i-e. I'm here testifying in support of LB426 as amended, on behalf of the Nebraska--with the amendment--on behalf of the Nebraska Insurance Federation. My other life members wanted to be on the record as all supporting their only fraternal brother's willingness to come on board and live in their world and sail on the same seas that they've been having to do for a number of years. So the other thing that they're very concerned about, as you heard today earlier on a different bill, is our department's accreditation. That's always one of their number one issues is to make sure that accreditation is retained in Nebraska. And this issue, as I understand it, is also going to be important in the accreditation process with NAIC as it's become an adopted model act. [LB426]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR GLOOR: Thank you. Questions? Seeing none, thank you. Other proponents? Anyone in opposition? Anyone in a neutral capacity? Senator Howard. [LB426]

SENATOR HOWARD: I just want to thank the committee for listening around LB426 and having a robust conversation about the bill. It's rare, and I've only been here for 18 days, but I believe it's rare for organizations to ask for additional regulations and oversight. And so I just want to thank Senator Schumacher for considering the hypothetical of severely adverse financial situations because that's what risk-based capital is about. And allowing the Department of Insurance to regulate fraternal benefit societies will, I believe, strengthen financial solvency for these organizations, but also protect consumers. So I want to thank you for your consideration of LB426, and I look forward to discussing it with you in Executive Session. Thank you. [LB426]

SENATOR GLOOR: Any final questions for Senator Howard? I think Senator Schumacher offered them a business line or a business niche of jet rental if they wanted to get into it, but nobody was taking notes on that. So that will end the hearing on LB426. We now move to LB628. Senator Conrad. Welcome from your busy duties with Appropriations to the Banking, Commerce and Insurance Committee. [LB426]

SENATOR CONRAD: Hello. Grueling, grueling duty. No, it's a joy. It's a joy to be here. Senator Gloor, members of the committee, my name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I represent the "Fightin' 46th" Legislative District of north Lincoln. I'm here today to introduce LB628 which is my first bill of 2013 so it's very exciting and my first time before this newly comprised committee. Welcome to new members and hello to returning friends. LB628 amends the Small Business Innovation Act, also known as the Economic Gardening (Program) pilot project, which was enacted in 2011 via LB345. This bill really does two things. It extends the termination date from December 31, 2013, to an additional year, December 31, 2014, and lowers the minimum number of employees for qualification from five FTEs to two FTEs. I introduce this bill after hearing from professionals in the field who were working with the eligible small businesses intended to benefit from this legislation, that these changes were needed to better utilize the funds we have already appropriated and to help the most qualified businesses for the program. A little background on the program, quick refresher course for returning members, a little introduction for new members. LB345 established the economic gardening technical assistance act through a two-year pilot program. The plan was for the program to assist up to 40 Nebraska-based growth businesses. Half of these businesses would be in an urban area, half of these businesses would be in a rural area. The assistance provided would include market research, national and local demographic trends, strategy analysis, capital and labor referral, and growth tools directly to the small business and entrepreneurs who typically lack these kind of resources to commission these tools critical to their success and growth. We know that locally and nationally small businesses are the engine in a vibrant economy and are the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

ones responsible for much of our job growth. However, small businesses and entrepreneurs generally lack the resources requisite to qualify for other traditional economic development programs. Thus, this opportunity helps to evolve our economic development tools for small businesses, entrepreneurs, and innovators so they can grow and thrive. LB628 is, at its heart, a technical bill that would make a good program more user friendly. It would help us to reach more worthy and eligible businesses and ensure that the pilot program for economic gardening is, indeed, a success. There are some people behind me who really I'm so excited for you to have a chance to meet and hear from because they're the folks who are on the front lines, who are assisting Nebraska small businesses grow, succeed, and thrive. And so I really want you to have time to visit with them about their experiences and how we can, indeed, strengthen this existing and good program and do so without additional appropriations at this time which is nice as well. So with that, I'd be happy to answer any questions about the bill or the program or the original ideas as brought forward by this Legislature's Innovation and Entrepreneurship Task Force, which I had a chance to chair a few years ago. I also want to send a thank you to Senator Hadley who is a cosponsor of this legislation. [LB628]

SENATOR GLOOR: Senator Conrad, my question would be, obviously, you're trying to give this program a little more time to take root? [LB628]

SENATOR CONRAD: That's right. [LB628]

SENATOR GLOOR: Why just one year? Why not two years, three years, four years? [LB628]

SENATOR CONRAD: It's really just a starting point. I'd be happy to remove the date limitation altogether; but in order to keep with the original spirit and intent of the legislation, which was to create a temporary pilot program for this type of activity, we're asking for just a small extension because, as you know, change does not happen overnight. And it took some time for the department and qualified professionals in the economic development field to come together to craft the rules and regulations, to start the education and outreach necessary once the program was eligible for applicants. And so it just took a little bit longer than we had hoped for to get started and off the ground and moving. We're really headed in the right direction now and just need a little bit more time to, I think, fully utilize the resources appropriated to this program. [LB628]

SENATOR GLOOR: Okay. Other questions? Senator Pirsch. [LB628]

SENATOR CONRAD: Can I have some water, please? Thank you. [LB628]

SENATOR PIRSCH: Oh, sure. And I'm trying to...and I have to apologize. The details are little fuzzy so let me ask, was the sunset, was that added on the floor during...I'm

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

trying to think back. Or was that part of the original concept? [LB628]

SENATOR CONRAD: I think it was part of the original, Pete...Senator Pirsch. But let me...I'd be happy to double-check the record and clarify that, if need be, but this legislation really became part of a package that the Nebraska Legislature passed a few years ago where we modernized a variety of our different economic development tools. And this piece was the piece that was targeted for small businesses. [LB628]

SENATOR PIRSCH: Sure. And I really appreciate your focus on small business and there's a similar bill or two designed for that. But with respect to...and you had mentioned some of, I guess, goals of or tools or help that could be provided eligible small businesses including, I think you said, market research, capital analysis. Were you reading from the statute itself at that point in time or is this just kind of general kind of... [LB628]

SENATOR CONRAD: No. I don't think the statute in its original form specified all of those types of activities. It did provide some examples for how the resources would be utilized but, traditionally, when we talk about economic gardening, you really focus on information, infrastructure, and networking. Those are really the three pillars of economic gardening. [LB628]

SENATOR PIRSCH: And with...so it mentions...does it mention those three things then, those three pillars? Or what do you...I'm trying to think of the operative...what does it say? You know, here's a pot of money that can be spent for eligible businesses and utilized to...for the purpose of...do you remember, just in general? [LB628]

SENATOR CONRAD: You know, Senator Pirsch, I think that the legislation itself was a bit more broad and referred to technical assistance that would be provided to the eligible businesses. And then through rules and regs and other widely and well-established definitions, the other activities have been more completely defined. [LB628]

SENATOR PIRSCH: Okay. I do appreciate it. Thanks. [LB628]

SENATOR CONRAD: Sure. Thank you. [LB628]

SENATOR GLOOR: Senator Christensen. [LB628]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Senator. I understand why you dropped it from five to two. My question is--because I understand going clear to one might allow somebody just to basically use the system--in going to two, can this be a husband/wife that could use the system? Or is this two separate...I guess, in a way I see if you go to one, you support a single person; you go two could be a married

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

couple. And I just wondered, is two the right number? Is three the right number? Is one...in a way, I can see how either one could be scammed. Why did you pick two? [LB628]

SENATOR CONRAD: You know, Senator, thank you for the question. And I don't think that we've seen any sort of gamesmanship within the existing program parameters, but it's my understanding--and I think you'll find this as typical with a program of first impressions, so to speak, like this Economic Gardening Program which is really the first of its kind in Nebraska--is that when starting out, we developed some program parameters to ensure that we were really targeting the kinds of high-growth potential small businesses that really had a great potential for Nebraska. And so looking at some other states and some other community models, we kind of picked the five-employee threshold and required minimum revenues of \$500,000 to \$2,000,000. And as the rules and regs have been adopted and people are on the front lines out looking for businesses that might qualify, the revenue piece has not been a problem at all in finding eligible companies that would like to benefit and participate in this program, but a lot of these start-ups aren't quite at five employees yet. And so it is in some ways arbitrary in terms of a choice there, but since the economic development program was really meant to focus on job creation more than just self-employment, we started at two. But we'd be wide open to discussion with the committee on what that number might be. [LB628]

SENATOR CHRISTENSEN: I'm not saying the two should change. I just kind of wanted to hear your background on it. [LB628]

SENATOR CONRAD: Sure. [LB628]

SENATOR CHRISTENSEN: And you hit on this, but I thought if anything else was...sales revenue of no less than \$500,000 in trying to help a start-up business; that's a whale of a income to hit. [LB628]

SENATOR CONRAD: That's right. [LB628]

SENATOR CHRISTENSEN: That's a high level, I guess, to try to obtain. I've started some businesses and it took me a long time to even get close to that in gross sales in businesses. [LB628]

SENATOR CONRAD: Right. [LB426]

SENATOR CHRISTENSEN: And so that's why I ask if that number is too high or what you have seen. [LB426]

SENATOR CONRAD: You know...and again, Senator, I think that this legislation is fair game for debate on any of those parameters or thresholds. But we tried to choose some

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

factors to really target the types of businesses that had a proven track record of success, but needed assistance in kind of building and growing because those are really the types of jobs that economic gardening or types of businesses that economic gardening is best suited for in assistance. It will, by its nature, not be helpful to people who just have a great idea and are starting at the ground floor. We do have other programs available to help some of those folks. But really, this program is targeted at people who already have established their idea, so to speak, and have maybe even a good baseline or track record of success but are looking to take it to that next step which means employing a few more people or expanding their reach beyond their existing market. So it's really to help leverage those kinds of companies forward.  
[LB628]

SENATOR CHRISTENSEN: I think you've put it very well. It's not for a start-up, but it's for to help those try to achieve the next level. [LB628]

SENATOR CONRAD: That's right. [LB628]

SENATOR CHRISTENSEN: Okay. Thank you. [LB628]

SENATOR GLOOR: Other questions for Senator Conrad? Seeing none, thank you.  
[LB628]

SENATOR CONRAD: Yes, thank you. And I'm probably going to need to waive my close to head back to committee this afternoon, but I'd be more than happy to visit with any of you about any questions that may arise. And I think that you'll find the testifiers coming behind me as compelling and as exciting as I do. So thank you for your time and consideration. [LB628]

SENATOR GLOOR: Okay. Thank you, Senator Conrad. Next proponent, please. And thank you for sitting through a long afternoon of the intricacies of insurance and a number of other issues. So we appreciate your patience. [LB628]

JANELL ANDERSON EHRKE: (Exhibit 1) You're welcome, and good afternoon, Chairman and Senators. I do know more about insurance now than I knew prior. So I am Janell Anderson Ehrke, J-a-n-e-l-l A-n-d-e-r-s-o-n E-h-r-k-e. I am the CEO of a nonprofit 501(c)(3) marketing training program called GROW Nebraska. I actually had the opportunity to start the program back in 1998. GROW Nebraska is a membership organization. At the end of 2012, we had the opportunity to serve 397 small Nebraska businesses, artisans, and entrepreneurs. We design growth platforms, and our marching orders are quite simply to provide promotion and awareness. We are the only program in the state that provides technical assistance and training solely on market access and marketing. In December of 2010, GROW Nebraska entered into a contract with the Department of Economic Development to provide economic gardening services

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

to 12 clients a year. Eighty percent of our clients had to be in rural communities which means we can only have three of our clients located either in Sarpy, Douglas, or Hall Counties. Our marching orders are quite simple. They wanted us to provide growth tools that evolved around technology. So we were to work with companies that were what we refer to as seconds, which is what the conversation was a few minutes ago, second-stage companies--companies at at least \$500,000 in sales to \$2,000,000 and 5 full-time employees. And it was quite a feat to find, in rural Nebraska, companies that had five full-time equivalent employees. The sales revenue was not that hard because these are second-stage businesses. These are businesses that have great ideas and that are making money, but they needed some help. Technically, we did a lot of work with social media. For those of you who watched the Super Bowl, you probably saw a lot of what was going on with the ads this morning if you got on into social media, any platform. So we did a lot of work with working with companies on developing their social media game plan, redoing some Web sites, and also working on some e-commerce initiatives. In the packets there is a map that shows in the red stars are where the first year the economic gardening clients that we worked with are located. And in the second handout we've basically given a synopsis of some of the successes, and I'll review some of those with you very quickly. One of our biggest success economic gardening clients was a company called Pro Printing owned by a woman in North Platte, Nebraska, by the name of Judy Pederson. Her printing business she purchased from another couple, and she needed to grow her business outside of the dependency of the North Platte area. So we helped her develop in a game plan to develop clients in the Front Range and also statewide. She now has hired a full-time marketing person, they have seven full-time employees, and they have one of the state-of-the-art printers. And she was showing to me just the other day, her printer; it prints on white, which I guess is unique. It's the only printer of its type between Denver and Omaha, so it is a big feed in North Platte, Nebraska. We've helped to revamp her whole Web site, her marketing plan, and just strategizing a lot with her social media. We also have Heartland Gourmet which is a successful gourmet company here in Lincoln, helping them get on e-commerce with a program called Shopify, and also just organized their efforts on the social media. If you ever have the opportunity to go to a community called Gibbon, Nebraska, there is a company called Icon Poly. And you might all remember the bicycles that some of the public arts that even like the community of Lincoln has done. Those are actually created by a little company called Icon Poly in Gibbon, Nebraska. In fact, 95 percent of all their business that they do is out-of-state. They are one of our definitely hidden treasures. If you happen to go to any state park in Maine, there are some bears that will greet you. Those particular structures that are made of a special, it's fiberglass, are actually done in Gibbon, Nebraska. So we helped them develop, revamp their Web site. They also do the guitars for the Hard Rock Museum; just some really unique things. But we've sort of outlined some of the companies that we've worked with. We tried to align them with the Department of Tourism. We did some work with some marinas trying--because, obviously, tourism is the third largest industry in Nebraska--so we really tried to work on getting companies either involved...we had an

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

opportunity, we worked with Sam's Club. We got some of our gourmet food companies actually now being warehoused and sold in Sam's Club. We're now also working closely with the Department of Ag to try to get some of our economic growth companies to do more exporting. We're looking to go into a food show in Germany with some of them. GROW Nebraska has applied for competitive grants from the state since the start in 1998. And this has to be the most positive legislation that I've ever worked with for the simple fact that we were forced to do a lot of one-on-one technical assistance and really work with these companies. And so that's why I think we're seeing some of the success that maybe we didn't always see prior. We now have 15 clients that we're working with on this program, and we very much support, and hope that you will, too, the continuance of LB628. And with that, are there any questions that any of you might have? [LB628]

SENATOR GLOOR: Senator Pirsch. [LB628]

SENATOR PIRSCH: Thanks very much and I do appreciate it. I like, as part of what you've said, that one necessary component of companies who come to you and seek essentially this subsidization from the state, is that they be in tech. They have to have a tech componentry. I suppose that equivocates out into higher jobs and whatnot, and I agree with that. [LB628]

JANELL ANDERSON EHRKE: Right. [LB628]

SENATOR PIRSCH: Does it make...well, let me just ask you this. You mentioned one company in Gibbon, Nebraska, in which 95 percent of their business is out of state. [LB628]

JANELL ANDERSON EHRKE: Uh-huh. [LB628]

SENATOR PIRSCH: Is that fairly representative of the companies that are there that, by far, almost exclusively these are companies that are bringing in out-of-state dollars into the state or is it, in some instances, they're operating in a domestic regional area? [LB628]

JANELL ANDERSON EHRKE: That's a great question, Senator. We've really, since we just actually have had our first year now, we're really seeing a little bit of both. We're trying to focus more on those Icon Polys just because that's new money bringing into the state. The other scenario I want to make sure--I did not inform you earlier--these companies are required to do a match. They have to provide...we provide them \$10,000 worth of technical services or we help them align that. They have to give at least \$4,000. Most of them have given a lot more in match. But that's, I think, part of it, too, that why this is probably successful legislation is they're not getting...there's no such thing as a free lunch. So as far as trying to have someone scam the system, I think the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

legislation set some really important barriers, which I think is important. So we've had a real mix, I guess. Senator Pirsch, to answer your question, we have like Heartland Gourmet which is, obviously, a majority of its business is out of state, and we have Icon Poly. Pro Printing was domestic pretty much at one point. We're hoping to...we're trying to help her get to the point where she's doing more out-of-state business because she knows that's important. Since she's so dependent on ag now, if cattle market goes down and her bull sale...she doesn't have the number in her business, she would lose employees. So right now we're seeing a real mix. And Ogallala Bay Rum is a company that does a majority of its business...it sells bay rum cologne, which is unique. We've...they sell to the Vermont Country Store, Duluth. It's amazing what...this little company started in a basement and he left his full-time job at the radio station. And in the next five years we are going to strategically try to help them figure out how he can sell...it's become a real salable business that's selling...I would have never guessed there was that much demand for bay rum cologne, but there truly is. And we set up...with our program, one of the barriers with a lot of these companies is selling on-line is the merchants' processing, and how do you get on Amazon? So GROW Nebraska now has set on Amazon...we have an Amazon store, we are power sellers on eBay, and we have BuyNebraska.com and shopgrownebraska.org. So for some of these companies that maybe still have manpower, but don't have enough time to really manage their "e-com" presence, a lot of them are using GROW Nebraska as their "e-com" presence. Originally when I started the program back in 1998, I wanted GROW Nebraska to be the Amazon.com of Nebraska products and services. We're getting closer. We have roughly over 2,200 products on-line now. So... [LB628]

SENATOR PIRSCH: Yeah. And I appreciate it... [LB628]

JANELL ANDERSON EHRKE: Sure. [LB628]

SENATOR PIRSCH: ...and you've obviously reached a lot of communities. I guess my only...the concern that I just--and maybe you can address this or not--is that for the state to enter with, you know, tax dollars and to pick winners and losers, if it's only between Nebraskan versus Nebraskan, I'm a little bit scared about entering...venturing too far down that. If it's, you know, if we're targeting Kansans' money or lowans' money or Colorado, I'm very much...you know, obviously, that's the goal. And so I don't know if there is...with the...I mean, does it make sense or has that always...make sense to put in some sort of parameters that the target...the investment must be at least primarily targeted towards... [LB628]

JANELL ANDERSON EHRKE: Out-of-state monies? [LB628]

SENATOR PIRSCH: ...out-of-state or growth or does it...has that always been your emphasis that, informally, that they have to show you that this is Coloradoans' dollars or... [LB628]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

JANELL ANDERSON EHRKE: Well, that's a great question, Senator, and I do think that as we look and continue in this, we probably need to add that. But it's probably the reason why when we sat down with the Department of Economic Development, they wanted us to utilize technology as our main growth tool. [LB628]

SENATOR PIRSCH: Right. [LB628]

JANELL ANDERSON EHRKE: Focusing that we weren't just helping, you know, another hair salon in a community with another hair salon. You know, we're just circulating the same dollars. They really wanted us to focus on the fact that we want to bring in new monies and track this. So that's really where we've tried to put the majority of our emphasis and working with those kind of businesses that are utilizing e-commerce so they can be located anywhere in Nebraska but bringing in and making a great living. [LB628]

SENATOR GLOOR: Thank you. Senator Schumacher. [LB628]

SENATOR SCHUMACHER: Thank you, Senator Gloor. How much is the state spending on this program a year? [LB628]

JANELL ANDERSON EHRKE: Our contract with the state is \$100,000. [LB628]

SENATOR SCHUMACHER: And you don't know the overall cost? [LB628]

JANELL ANDERSON EHRKE: The overall there--and you probably would have to talk with Senator--there was more monies, but not all of it's been utilized. [LB628]

SENATOR SCHUMACHER: So we're talking a fairly modest amount of money here, aren't we? [LB628]

JANELL ANDERSON EHRKE: Yes, you are talking fairly modest money with getting some good results. [LB628]

SENATOR SCHUMACHER: From the \$100,000 that you guys were given, how many jobs have been created? [LB628]

JANELL ANDERSON EHRKE: We've been able to track seven full-time equivalent jobs. [LB628]

SENATOR SCHUMACHER: Seven jobs. And the average pay of those jobs? [LB628]

JANELL ANDERSON EHRKE: It ranges, I'll be honest. It's anywhere between...we have

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

one at \$10 to up to \$22 an hour. [LB628]

SENATOR SCHUMACHER: Thank you for your testimony. [LB628]

JANELL ANDERSON EHRKE: Sure. [LB628]

SENATOR GLOOR: Other questions? Senator Christensen. [LB628]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Janell, for coming in. [LB628]

JANELL ANDERSON EHRKE: You're welcome. [LB628]

SENATOR CHRISTENSEN: I just want to...appreciate the work you've done and I know where you started. So it's been a long process, but you've done a lot of good things. Thank you. [LB628]

JANELL ANDERSON EHRKE: Thank you. Well, and I'm excited to have actually Erin Malzer, from our staff, who's done a lot of the technical assistance address some of those questions. [LB628]

SENATOR GLOOR: Thank you. [LB628]

ERIN MALZER: Hello, Senators. My name is Erin Malzer, E-r-i-n- M-a-l-z-e-r, and I'm actually out there in the trenches providing some of this technical assistance that we've talked about today. I've been with GROW Nebraska since 2004, and as Janell had pointed on, in the eight years that I've been with GROW Nebraska, I have found that this legislation has been one of the most positive things that I have worked with. It's great to be able to work with people one-on-one and hear exactly what their specific needs are and then help them create a solution to their problem. I personally assisted about five of the businesses. One of them is Heartland Gourmet based here in Lincoln. I met weekly with Susan and Pam over there at Heartland Gourmet. They do gluten-free mixes which--I don't know if you're familiar with where the world of food is going right now--but gourmet and gluten free is very, very big right now. So I met with them weekly. I helped them with social media, I helped them get set up on Facebook, Twitter, Pinterest. I also assisted them with redesigning their Web site. I pointed them toward Shopify. For the first time in a couple of years, they had a Web site that was functional for the holiday season. And they were able to do coupon codes which they were very thrilled about, so that was really a success story. And I also helped them get into the Sam's Club opportunity with the grand opening of the south Lincoln Sam's. They were able to go and sample their product for a week, and they did get invited back two weeks after the grand opening. And they still are getting calls from people saying, you know, hey, we saw you at Sam's. And so that's been really great for them. I also worked with

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

Icon Poly out in Gibbon. I helped them with the social media training. They actually homeschool their children and so they travel around the country; they have a semi. They throw their kids in the semi, they travel around the country, and they deliver these public art projects that they're doing. And so I taught her how to put HootSuite, which is a program that helps you update your Twitter, your Facebook, and your Google all in one platform, on her phone. And so Danielle goes in and she puts everything on her phone through HootSuite and is able to keep up with her social media as they travel. I also helped them with Google AdWords. They were spending \$6,800 a month on Google AdWords, and what was happening was their competitor was going in and actually clicking all their ads and so within the first week of their month of their AdWords, they would all go away. And so GROW Nebraska got a Google ad grant. We got \$10,000 a month in free Google advertising, and we were able to put their replica fire hydrants on her AdWords. And their competitor did not know that that was what we were doing, obviously, and we have been able to increase their sales of their replica fire hydrants. You wouldn't think replica fire hydrants would be very popular, but I handle all the e-commerce question calls and let me tell you, I get more questions about those fire hydrants than any other product we have. They have sold \$1,800 in replica fire hydrants since we put them on in July. Only one of those orders was for the state of Nebraska so everything else was going out of state. And just to give you a little bit of background on our e-commerce, last year on average, between our three e-commerce solutions, 80 percent of those sales go out of state. We have asked the question to people, do you have a connection to Nebraska? Surprisingly, the answer is no. So people are just really interested in the products. If you look at our Amazon store and our eBay store, it's over 90 percent of those sales are going out of state. Also, I assisted Lakeshore Marina, they're at Johnson Lake. And we helped them set up a mobile app and texting service so that if there was bad weather, for instance, maybe coming in, they could text people that were out on their boats and be able to get them in and tell them to come in and have a drink at their bar or eat in their restaurant. So that's been a really good tool for them. We set up something similar for Patterson Harbor which is in Republican City. We also assisted them with Web redesign. So when we talked to them they said, you know, we really need an on-line reservation system because they have campgrounds, and they had a really hard problem keeping track of what campgrounds were being held when. And so we worked with a local business, another economic gardening client, Nebraska Digital here in Lincoln, to help set up a Web site that had an on-line reservation system. So that has been completed about a month ago. They've gotten everything in there and they're looking forward--since we're supposed to have an early spring--a lot of people going in and reserving their camping spots. And I also worked at JB's Fat Boy in Grafton. They're in 1,500 grocery stores across the country. They're warehoused in Whole Foods, Kroger, Hy-Vee, Super Saver, Russ's. They're just about everywhere, and they had no social media. They had a Facebook page that had been inactive since August of 2011, so we helped them get rid of that one because it was under an old employee's name, couldn't get access to it. We were able to create a new one for them. They have almost 300 followers on Twitter now, they have a successful

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

Pinterest page, you're going to see new labels coming out for them with social media icons on there to help them grow their business. And we also helped them with a Sam's Club opportunity as well. So those are some of the people that I've worked with, and I'd be happy to answer any questions. [LB628]

SENATOR GLOOR: Are there any questions? Senator Carlson. [LB628]

SENATOR CARLSON: Thank you, Senator Gloor. And thank you for testifying. Let's go to Patterson Harbor. Tell me again. That's to clean up their reservation program for campsites? [LB628]

ERIN MALZER: Yes. [LB628]

SENATOR CARLSON: Really? It's not for...what do you call the places in the water where they park your boat? [LB628]

ERIN MALZER: The boat slips? That is part of the reservation system as well. [LB628]

SENATOR CARLSON: That's part of it, too? [LB628]

ERIN MALZER: Yes. He just built a new boat slip this year and doubled the size, I think, of his boat slip abilities. And so that is part of the reservation system as well. [LB628]

SENATOR CARLSON: How does this process pick up the revenue? I can see it would eliminate squabbles, but how does it pick up the revenue? [LB628]

ERIN MALZER: Well, it allows them to have black-out dates and it allows people not to come in and, say, block out, say, the Fourth of July weekend. You know, it puts some restrictions on what people can hold. So, for instance, on the Fourth of July he requires that you need to be there five days. And so with the on-line reservation system it allows people, instead of calling him, trying to get ahold of someone, you know, they can just go on-line. They can see, oh, okay, if I want to, you know, reserve for the Fourth of July, I need to be there five days. If that's something that they can't do, then they're not calling in and taxing their employees, because that's really what we heard from him was, all my employees do is answer the phone and answer these questions because there wasn't a way for them to go on-line and find out that information themselves. [LB628]

SENATOR CARLSON: And then if they go to a five-day reservation, that's increasing revenue. [LB628]

ERIN MALZER: Correct. [LB628]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

SENATOR CARLSON: Okay. And what was the...go back to Johnson Lake. [LB628]

ERIN MALZER: Uh-huh. [LB628]

SENATOR CARLSON: Well, Patterson Harbor. Now part of that was alerting people that are out in rough water. But how does that increase their revenue? [LB628]

ERIN MALZER: Well, part of it is to get people, hey, the weather's bad. Come in, we have a drink special. So it gets people to come in maybe, instead of going back to their campground or going home, coming into the restaurant and taking advantage of other specials that might be going on at their facilities. [LB628]

SENATOR CARLSON: So this is something that they've liked. [LB628]

ERIN MALZER: Uh-huh. [LB628]

SENATOR CARLSON: But it's kind of hard to put a figure on it in terms of what it means in revenue, isn't it? [LB628]

ERIN MALZER: Well, and that's part of what this legislation extending it to 2014 will allow us to do, especially with the tourism-type places being in Nebraska. Obviously, there is a tourism season; the winter is kind of tough. And so it will allow us to go through the next two seasons, really, to get some better revenue numbers to know how that's benefitting them. [LB628]

SENATOR CARLSON: Good. Thank you. [LB628]

SENATOR GLOOR: Good point. Ski Nebraska is not a good tourism slogan. Senator Pirsch. [LB628]

SENATOR PIRSCH: I'm sorry. And thank you very much for presenting. Was it the gluten company, what was the name again? [LB628]

ERIN MALZER: Uh-huh. Heartland Gourmet. [LB628]

SENATOR PIRSCH: Okay, Heartland Gourmet. And that was in Lincoln you said? [LB628]

ERIN MALZER: That is in Lincoln. [LB628]

SENATOR PIRSCH: Oh, good. And I notice another gluten which is, I understand, the fastest growing... [LB628]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

ERIN MALZER: It is. [LB628]

SENATOR PIRSCH: ...trend in food today. So that's good. [LB628]

ERIN MALZER: It is. When I look at our AdWords, most of what our AdWords are being hit are the gluten free. So... [LB628]

SENATOR PIRSCH: Wonderful. How much...if you're a otherwise qualifying company with sales of \$500,000...you said...is it sales of \$500,000? [LB628]

ERIN MALZER: Sales of \$500,000 to \$2,500,000. [LB628]

SENATOR PIRSCH: Okay. In gross sales, right? So... [LB628]

ERIN MALZER: Correct. [LB628]

SENATOR PIRSCH: And say I was interested in having this service, whatnot, if I had such a company. How long of a backlog do you have? I mean, do you have a backlog or how many contacts do you have? And how do you advertise to potential companies around the state? [LB628]

ERIN MALZER: We did send out information to all of our membership which, as Janell said for the 2012 list, 397 members. And then we have handpicked a few because when they join our organization we know what their revenues are and we know what their full-time employees are. And so we're able to...you know, there's no use in sending out this information to someone who only grosses \$10,000 worth of sales because it's obvious that they're not going to meet that. So we have approached some members and said, hey, this is an opportunity that we have for you, you know, do you have any needs? And we have a consultation with them to see if they would fit. [LB628]

SENATOR PIRSCH: Did you find yourself bumping up against the \$2,500,000 limit ceiling? [LB628]

ERIN MALZER: We do have a couple members that we have wanted to work with and they are over that \$2,500,000 so... [LB628]

SENATOR PIRSCH: Okay. Thank you. [LB628]

ERIN MALZER: Uh-huh. [LB628]

SENATOR GLOOR: Any final questions? Seeing none, thank you, Ms. Malzer. [LB628]

ERIN MALZER: Okay. Thank you. [LB628]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Banking, Commerce and Insurance Committee  
February 04, 2013

---

JANELL ANDERSON EHRKE: Can I...Senator Carlson, your question about the...  
[LB628]

SENATOR GLOOR: I'm sorry. We have to have this recorded so if you wanted to  
answer him quickly, you might want to do that after we're adjourned. [LB628]

ERIN MALZER: Thank you. [LB628]

SENATOR GLOOR: It just...I'm sure he'll corner you or you corner him. Thank you.  
Anybody else who would like to speak as a proponent? An opponent? In a neutral  
capacity? Senator Conrad waived. We adjourn this session. And committee, we  
will...given the fact we've lost a member and the late hour, we'll Exec tomorrow  
afternoon on today's bills and tomorrow's bills and try and get it accomplished then.  
Thank you, and we are adjourning the hearings. [LB628]