

Banking, Commerce and Insurance Committee January 29, 2019

WILLIAMS: [00:00:01] Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Matt Williams. I'm from Gothenburg and represent Legislative District 36 and I serve as chair of the committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members may come and go during the hearing. We have to introduce bills in other committees and are sometimes called away. It is not an indication that we are not interested in the bill being heard in this committee, just part of the process. To better facilitate today's proceeding, I ask that you abide by the following procedures. Please silence or turn off your cell phones. Move to the front row when you are ready to testify. The order of testimony will be the introducer first, proponents followed by opponents followed by neutral testimony, and then the introducing senator will be asked to provide a closing if they choose. Testifiers, please sign in. Hand your pink sign-in sheet to the committee clerk when you come up to testify. Also, when you begin your testimony, please spell your name for the record before you testify. Be concise. It is my request that you limit your testimony to five minutes. We do use a clock. It will be on green for four minutes, yellow for one minute and then red signaling you have used your five minutes, and I will be willing to help you stop your testimony at that point. If you will not be testifoning-- testifying at the microphone but want to go on record as having a position on a bill being heard today, there are white tablets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Written materials may also be distributed to committee members as exhibits only while testimony is being offered. Hand them to a page for distribution to the committee and the staff when you come up to testify, and we will need 10 copies. If you have written testimony but do not have 10 copies, please raise your hand now so one of our pages can make those copies for you. To my immediate right is Committee Counsel Bill Marienau. To my left

at the end of the table is Committee Clerk Natalie Schunk. The committee members with us today will introduce themselves starting at my far right with Senator McCollister.

McCOLLISTER: [00:02:41] John McCollister, Dist-- District 20, Omaha.

KOLTERMAN: [00:02:43] Mark Kolterman, District 24, Seward, York and Polk Counties.

QUICK: [00:02:49] Dan Quick, District 35, Grand Island.

LINDSTROM: [00:02:51] Brett Lindstrom, District 18, northwest Omaha.

La GRONE: [00:02:54] Andrew La Grone, District 49, Gretna and northwest Sarpy County.

GRAGERT: [00:02:59] Tim Gragert, District 40, Cedar, Dixon, Knox, Holt, Boyd, and Rock County.

WILLIAMS: [00:03:03] And Senator Sara Howard will join us shortly as she's involved with something else right now. And our pages for today are Tsehaynesh and Kylie. We will take up the bills as posted. Our first bill today is LB355. We'll open the hearing on LB355 to change provisions relating to money transmitters, installment sales, and mortgage loans. Senator La Grone, you're invited to begin your testimony.

La GRONE: [00:03:43] Thank you, Chairman Williams, and members of the committee. My name is Andrew La Grone, A-n-d-r-e-w L-a-G-r-o-n-e. I represent District 49 which is Gretna and northwest Sarpy County. LB355 was introduced at the request of the Nebraska Department of Banking and Finance which amends sections of the Nebraska Money Transmitters Act, Nebraska

Installment Sales Act, and the Residential Mortgage Licensing Act. The bill accomplishes three goals. First, it updates the department's authority relating to the examination by licensees and their authorized delegates under the Nebraska Money Transmitters Act by providing for off-site examinations and joint examinations with federal agencies. Second, it amends the Nebraska Installment Sales Act to allow licensees to establish branch offices rather than having to obtain a full license for each physical location as currently required. In doing so the bill defines branch office, sets licensing and renewal fees for branch offices, requires applicants to submit specific information, sets standards for licensing notifications to the department, and updates terminology. Finally, the bill amends the Residential Mortgage Licensing Act to provide requirements for the submission of fingerprints for specified principles of an applicant for a mortgage banker license. It adopts a transitional license process to allow certain federally registered mortgage loan originators and mortgage loan originators licensed-- licensed by another state-- licensed by another state to temporarily conduct business in Nebraska, and it limits the term of inactive mortgage loan originator licensees and changes the time period for record retention. And after me, Director Quandahl will testify to specific changes and what prompted each change, but I would be more than happy to answer any questions that you might have.

WILLIAMS: [00:05:23] Are there questions for Senator La Grone? Seeing none, thank you for your testimony. We'll invite our first proponent. Welcome, Director Quandahl.

MARK QUANDAHL: [00:05:35] Thank you, Chairman Williams, members of the Banking, Commerce and Insurance Committee. My name's Mark Quandahl, Q-u-a-n-d-a-h-l, and I'm the Director of the Nebraska Department of Banking and Finance appearing here today in support of LB355 introduced at the request of the department. Section 1 proposes amendments to Section 8-2737 of the Nebraska Money Transmitters Act. Money transmitters are businesses which receive money or monetary value for transmission by any means or those who sell or issue payment

instruments or stored value cards or provide bill payment services. Authorized delegates transmit business on behalf of a licensee. For example, many grocery stores offer money transmission services through Western Union. Western Union is the licensee. The individual grocery store is the authorized delegate. The amendments will authorize off-site examinations of licensees and authorized delegates so that all or part of an examination could be conducted electronically. Current law also provides that the department may conduct joint examinations with other states. LB355 expands that authority to permit joint examinations with federal agencies or joint examinations with federal and state agencies. The amendments also clarify notice requirements for examinations of authorized delegates with the cross-reference to laws governing the department's examination costs. Section 2 through 6 amends the Installment Sales Act which regulates companies which purchase consumer installment sales contracts. Current law does not provide for branch offices. Every office wherever located must obtain a full license under the act. This process is archaic and does not reflect an industry that now operates on a multi-state basis. LB355 will allow a Nebraska installment sales licensee to establish branch offices. To accomplish this the bill defines branch office as any offices physically located in the state of Nebraska and any offices that intend to transact businesses-- business with Nebraska residents. LB355 requires applicants to submit specific information, set standards for license notifications to the department, and provides for a \$100 fee and renewal fee from those branch offices. Branch office license applications will be filed and processed through the Nationwide Mortgage Licensing System and Registry which, in short, is the NMLS which is an on-line licensing system which allows applicants and registrants to submit applications, renewals, amendments to multiple state agencies through one on-line system. Nebraska has required NMLS filings since 2013. The amendments would be effective January 1, 2020. LB355 also proposes amendments to the Residential Mortgage Licensing Act which provides for the regulation of mortgage bankers and mortgage loan originators. Section 7 amends Section 45-705 to provide for mandatory submission of fingerprints for specified principles of the applicants. The amendment further authorizes the department to use NMLS as a channeling agent for these

fingerprint requests as it will allow applicants to quickly and efficiently submit them to the department and then also other states that they wish to do business in, too. Section 8 of the bill amends Section 45-727 to provide for transitional licensing of mortgage loan originators known as MLOs. This was required by provisions in the Federal Economic Growth Regulatory Relief and Consumer Protection Act. How's that for a name? That was signed into law by Congress on May 24, 2018 with a mandated effective date of November 24, 2019. The federal changes will allow a federally registered MLO to obtain temporary authority to act as an MLO for up to 120 days after becoming employed by a state-licensed company. Additionally, under the new federal regulation, the state-licensed MLO who has been licensed in one state may obtain temporary authority to act as an MLO for up to 120 days in another state. The amendments proposed in Section 8 would become effective November 24, 2019. Section 8 would amend Section 45-734 of the Residential Mortgage Licensing Act to limit persons with an inactive MLO license to one renewal of that inactive license absent a showing of good cause. The department spends considerable amount of time at the annual year-end renewal process attempting to contact inactive licensees, and so this amendment would allow the department to improve its efficiencies in serving the public. The final amendment is found in Section 10 of the bill and would amend Section 45-737. Under this amendment, mortgage banker licensees would be required to maintain copies of mortgage loan documents and applications for five years rather than the current three-year period. This amendment would provide uniformity with the Federal Truth in Lending Act and the federal Real Estate Settlement Procedures Act. So I'd like to thank Senator La Grone for introducing this legislation and would be happy to answer any questions that the senators may have.

WILLIAMS: [00:11:10] Are there questions for the director? Senator McCollister.

McCOLLISTER: [00:11:14] Thank you, Senator Williams. I've been looking through the bill trying to find the definition of "transmitter", Director Quandahl, is that-- can you tell me where that-

-

MARK QUANDAHL: [00:11:23] Ah.

McCOLLISTER: [00:11:23] --is if it is in the bill?

MARK QUANDAHL: [00:11:25] Off the top of my head, I don't know that I can--

McCOLLISTER: [00:11:29] Or maybe you could simply give me a working definition.

MARK QUANDAHL: [00:11:33] --a working definition, that was sort of at the beginning. A money transmitter businesses which receive money or monetary value for transmission by any means for those who sell or issue payment instruments or stored value cards or provide bill payment services. So probably the most common one would be like a Western Union. You give money to Western Union and you send it to your aunt across the country and they transmit that basically by wire.

McCOLLISTER: [00:12:02] Would Venmo and also PayPal be qualified as a transmitter?

MARK QUANDAHL: [00:12:07] Yes. Yes, actually PayPal happens to be the-- the-- the money transmitter that's licensed in the state of Nebraska with the most transactions in the state. They do over \$800 million in money transmission.

McCOLLISTER: [00:12:21] So if you send out money from Nebraska using Venmo, do they have to be registered with your department in order to conduct business?

MARK QUANDAHL: [00:12:30] I can't remember if Venmo is a licensed money transmitter in the state of Nebraska.

McCOLLISTER: [00:12:38] How many are there?

MARK QUANDAHL: [00:12:40] Hold on and I can tell you that.

McCOLLISTER: [00:12:41] Yeah.

MARK QUANDAHL: [00:12:41] I did happen to bring that kind of a cheat sheet.

McCOLLISTER: [00:12:45] Got you.

MARK QUANDAHL: [00:12:46] Money transmitters, we have 109 currently. And like I said, PayPal, Western Union, MoneyGram are the largest ones and do kind of the largest volume, but there's quite a few other ones. Just-- probably-- some of the more newer ones that are out there, Coinbase, where you can actually give them U.S. dollars, and they'll exchange that into virtual currency, Bitcoin or Ethereum or something like that.

McCOLLISTER: [00:13:17] How about Apple Pay?

MARK QUANDAHL: [00:13:19] What's a-- Apple Pay is licensed as a money transmitter. Yeah.

McCOLLISTER: [00:13:22] Great. Thank you.

MARK QUANDAHL: [00:13:23] Sure.

WILLIAMS: [00:13:23] Additional questions. I think in our briefing you-- you talked about the over \$100 and-- do you remember the total dollars? It-- it is a staggering number.

MARK QUANDAHL: [00:13:37] \$2,416,415,000--

WILLIAMS: [00:13:43] Annually.

MARK QUANDAHL: [00:13:43] --in money transmission in the state of Nebraska and that was just for the last four quarters. And so we expect that number-- that number continues to climb. As a matter of fact, you know, as far as money transmitter licenses, we seem to get between 8 or 10 or 12 new money transmitter license applications every year. So it's a-- it's definitely a growth industry.

WILLIAMS: [00:14:08] Senator McCollister.

McCOLLISTER: [00:14:09] They're allowed to charge a transaction fee, are they not?

MARK QUANDAHL: [00:14:11] That's correct. Yep. That's how they make money.

McCOLLISTER: [00:14:12] Is there any limit to what they can charge?

MARK QUANDAHL: [00:14:20] That I'll have to get back to you on. I don't believe so, just as long as it's disclosed to the participants and [INAUDIBLE]

McCOLLISTER: [00:14:25] Well, I know there's a variety and some don't charge at all. And-- and that's legal as well?

MARK QUANDAHL: [00:14:32] What, not to charge?

McCOLLISTER: [00:14:32] Yeah.

MARK QUANDAHL: [00:14:34] Well, as long as they're not charging, I don't know that--

McCOLLISTER: [00:14:35] OK.

MARK QUANDAHL: [00:14:35] --anybody is going to complain about that arrangement so.

McCOLLISTER: [00:14:37] Thank you.

WILLIAMS: [00:14:41] Thank you for your testimony. We'll invite the next proponent. Seeing none, are there any-- is there anyone here to testify in opposition. Seeing none, anyone to testify neutral. Seeing none, Senator La Grone waives closing. That will close our public hearing on LB355.

LINDSTROM: [00:15:20] We will now open the hearing on LB258 introduced by Senator Williams. Senator Williams, whenever you're ready.

WILLIAMS: [00:15:27] Thank you, Senator Lindstrom, and members of the Banking, Commerce and Insurance Committee. My name is Matt Williams, M-a-t-t- W-i-l-l-i-a-m-s, and I represent Legislative District 36. I'm here today to introduce LB258. LB258 is being introduced at the request of the Department of Banking and Finance. It is a housekeeping measure to update and clean up various sections of statute involving financial institutions. First, the bill would amend what we call

the wild card sections to provide that state-chartered banks, state-chartered savings and loan associations, and state-chartered credit unions shall have all the rights, powers, privileges, benefits, and immunities which may be exercised by their federal counterparts as of January 1, 2019, changed from January 1, 2018. The Legislature may adopt by reference existing law of another jurisdiction such as the federal government. But under our state constitution, the adoption by reference cannot be of federal law not yet in existence. Due to this restriction on legislative authority, the wild card sections are updated annually. In this way we uphold the notion that our state-chartered financial institutions shall not find themselves in a disadvantageous position in relation to their federally regulated counterparts. The wild cards are in three separate sections. The savings and loan wild card section has been around since 1971, the credit union wild card section since 1977, and the bank wild card section since 1999. Next, this bill would eliminate the \$15 annual renewal fee for state-chartered bank executive officers' loan licenses. The department has indicated that processing these licenses renewal fees ends up costing more than the money they actually bring in. Finally, the bill would amend sections all throughout the banking statutes to eliminate references to the Office of Thrift Supervision and insert where needed references to the Consumer Financial Protection Bureau. In 2011 following the passage of the Dodd-Frank Act, the Consumer Financial Protection Bureau came along-- came into being, and the Office of Thrift Supervision went out of existence. This fully describes the housekeeping changes within LB258 from the Department of Banking and Finance, and I urge the committee to advance the bill to General File.

LINDSTROM: [00:18:17] Thanks, Senator Williams. Any questions from the committee. Senator Kolterman.

KOLTERMAN: [00:18:19] Thank you, Senator Lindstrom. Senator Williams, I noticed on the previous bill and this bill fiscal note, we're seeing a reduction in revenue. Is that something that

we're going to continue to see? You know, we need some money in this state.

WILLIAMS: [00:18:38] We have two things, Senator Kolterman, going on here. As mentioned in - in my testimony this bill reduces the fee, in fact, eliminates the renewal fee. And that's where the fiscal note is generated from. The offset of that is, and I think the director will-- will testify to this, that the actual cost to the department exceeds that approximately \$13,000 worth of revenue that they'll not be receiving.

KOLTERMAN: [00:19:04] OK. Thank you.

WILLIAMS: [00:19:06] You're welcome.

LINDSTROM: [00:19:07] Thank you. Any other questions from the committee. Seeing none, thank you Senator Williams. We now move to proponents.

MARK QUANDAHL: [00:19:27] Vice Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee. My name is Mark Quandahl, Q-u-a-n-d-a-h-l, Director of the Nebraska Department of Banking and Finance, here today in support of LB258 introduced at the behest of the department. LB258 contains the annual equal rights updates for Nebraska state-chartered banks, credit unions, savings and loan associations. All of which are under the jurisdiction of the department. Sections 8-1,140 and 21-17,115 and 8-355 provide our state-chartered depository institutions with the same rights, powers, and privileges enjoyed by their federally chartered counterparts doing business in Nebraska. These three laws are traditionally known as the wild card laws because, as in a card game where the player who holds the wild card may give it any value, Nebraska state-chartered financial institutions may invoke a federal law or regulation that gives it a right, power, or privilege greater than or different from Nebraska law or regulation permits. Due to

state constitutional restrictions on delegation of legislative authority, statutes need to be annually amended to provide a current reference date. The reference date provided in LB258 is January 1, 2019. Within the bill, Section 6 provides equal rights between our 155 state-chartered banks and the national banks chartered by the Office of the Comptroller of the Currency. Section 13 provides the same rights for Nebraska's 13 state-chartered credit unions as those held by federal credit unions chartered by the National Credit Union Administration. Section 11 provides for equality between state-chartered savings and loan associations and federal savings associations doing business in Nebraska. Department directors have testified many times that wild card legislation is sensible and that it provides for parity for our state-chartered financial institutions with their federal counterparts without the need to enact state legislation for each specific power or privilege. LB258 proposes to abolish the annual \$15 fee that the department charges for renewal of bank executive officer and credit union loan officer licenses. The process essentially consists of confirming the continued employment of these licensees. As this can now be done electronically, the fees are unnecessary. Small fiscal impact related to dis-- dis-- discontinuing this fee; department has estimated a revenue loss of approximately \$14,000, so. LB258 proposes to update all cross-reference federal statutes and regulations affecting financial institutions to refer to those statutes and regulations as they existed on January 1, 2019. Those changes are found in Sections 1 through 5, Sections 9, 14, and 18 of the bill. The Nebraska Banking Act and relating-- and related laws were recodified in 2017. As a part of the recodification, the cross-referenced federal laws and regulations were updated through January 1, 2017 with the intent expressed that updates be made on an annual basis. LB812, adopted by the 2018 Legislature, reflected that intent and current reference dates is January 1, 2018. LB258 will also remove obsolete references to the Office of Thrift Supervision that are contained in various laws outside of the Nebraska Banking Act including the Nebraska Trust Company Act, insurance and real estate statutes. The OTS was abolished by Congress in 2011 and obsolete references in Nebraska laws have been since updated by that ti-- by this time. The amendments in Section 7, 8, 10, 14, 15, 16, and 17 should complete this process. The remaining change in LB258 is within

Section 5 to update a reference to a federal statute relating to capital for a mutual savings association. The bill carries the emergency clause. So I want to thank Chairman Williams for introducing this legislation. I'd be happy to answer any questions that you may have.

LINDSTROM: [00:23:37] Thank you, Director. Senator McCollister.

McCOLLISTER: [00:23:40] Yeah. Thank you, Senator Lindstrom. Do federally chartered institutions pay a fee to the federal government?

MARK QUANDAHL: [00:23:47] Yes they do.

McCOLLISTER: [00:23:48] Do you know ho--

MARK QUANDAHL: [00:23:48] Yes they do. As it is-- Yes.

McCOLLISTER: [00:23:50] --Is it-- is it a substantial or a nominal fee?

MARK QUANDAHL: [00:23:52] Yeah, I would call it probably substantial.

McCOLLISTER: [00:23:56] And so those state-chartered institutions heretofore have been paying a fee as well, correct?

MARK QUANDAHL: [00:24:01] That's correct.

McCOLLISTER: [00:24:03] Is there a compelling reason that they shouldn't pay a fee?

MARK QUANDAHL: [00:24:10] If you're talking specifically with--

McCOLLISTER: [00:24:12] the state inst--

MARK QUANDAHL: [00:24:12] --respect to the executive officer license--

McCOLLISTER: [00:24:16] --Yeah.

MARK QUANDAHL: [00:24:16] --this-- that one being-- here's-- Nebraska is the only state in the union that requires an executive officer license or credit union loan officer license. There is no requirement of that in the federal system either, so.

McCOLLISTER: [00:24:29] Back to the locally-- with the state-chartered institutions, if those federally chartered institutions are paying a fee, shouldn't the state-chartered institutions pay some kind of fee?

MARK QUANDAHL: [00:24:42] Oh sure, and they do. And they do. I mean overall department obtains its revenue from financial institutions, banks, credit unions, savings and loan associations, through two means. One is an asset assessment on the total assets held by those financial institutions and then all-- and that's on a sliding scale. And then the other way is-- is that we-- we have the right and actually the obligation to go out and examine those-- those institutions, too. And so we charge basically \$50 an hour for each of our examiners for the time that they spend examining the financial institutions. So they do pay a fee. And the Department of Banking being kind of a totally cash-funded agency, that's where we obtain our revenues to operate. We-- we don't take any sort of sales or income tax or other state revenues. We're totally supported by the industries that we regulate.

McCOLLISTER: [00:25:38] Super. Thank you, Director.

MARK QUANDAHL: [00:25:40] Sure.

LINDSTROM: [00:25:40] Thank you. Any other questions. Seeing none, thank you, Director.

Next proponent.

JERRY STILMOCK: [00:25:54] Vice Chair, members of the committee. My name is Jerry Stilmock, Jerry, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client the Nebraska Bankers Association, of course, in support of LB258. Everything's been said. We do it every year. I - I think the Banking and Finance Committee got it right first, in terms of annually updating instead of by reference. And most of the other committees in the legislature have now found that-- that it's necessary to pass the law each year in order to update the codes and different items. And this is just another area where we need this. The banking industry needs this to continue. I think Director Quandahl said it most succinctly when he said the parody provision that-- that allows this to happen. And, of course, the doing away with, as proposed in legislation, with the renewal fee for EOLs, executive officer licenses. We support all those measures and would appreciate the committee advancing the measure. And thanks again to Senator Williams for bringing the legislation to you all. Thank you.

LINDSTROM: [00:26:57] Yeah, Mr. Stilmock. Any questions from the committee.

JERRY STILMOCK: [00:27:02] Very good.

LINDSTROM: [00:27:02] Seeing none, thank you.

JERRY STILMOCK: [00:27:02] Thank you, sir. Thank you, members.

LINDSTROM: [00:27:04] Next proponent.

BRANDON LUETKENHAUS: [00:27:12] Good afternoon, Vice Chairman Lindstrom, members of the committee. My name is Brandon Luetkenhaus, B-r-a-n-d-o-n L-u-e-t-k-e-n-h-a-u-s, and I'm here on behalf of the Nebraska Credit Union League and our 60 credit unions across the state. We are in support of LB285, and we strongly want to thank Senator Williams, Chairman Wil-- Williams for introducing the bill and the department's work on this bill as well. We believe especially with the parity provision for our state-chartered credit unions in the state. As Director Quandahl noted, we have 13 state-chartered credit unions. The remaining 47 are federally chartered credit unions. And so for those 13 state charters that's extremely important especially when it comes to the dual-chartering system where financial institutions can choose either the federal or state charter. And so for that reason we're very much in support of LB285. We also appreciate the department-- their elimination of the renewal on credit union loan officer licenses-- license fees. So with that I'd be happy to answer any questions you might have.

LINDSTROM: [00:28:21] Thank you, Mr. Luetkenhaus. Any questions from the committee. Seeing none, thank you. Next proponent. I do have a letter of support from J. Eric Hallman, Nebraska Independent Community Bankers. Now move to opponents. Seeing none, any neutral testifiers. Also seeing none, Senator Williams waives closing. And that'll end the hearing on LB258.

WILLIAMS: [00:29:02] We will now open our hearing on LB259 introduced by Senator Lindstrom. Go ahead.

LINDSTROM: [00:29:10] Thank you, Chairman Williams, and members of the committee. My name is Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, representing District 18, northwest Omaha. Today I'm introducing LB259, a bill that was brought to me and introduced by the request of the Nebraska Department of Banking and Finance. LB259 would update provisions of the Securities Act of Nebraska, the Nebraska Commodity Code, and the Consumer Rental Purchase Agreement Act. There will be others versed in the subject matter testifying today and I would defer more technical questions to them. Thank you, and I'll be happy to answer any questions I can.

WILLIAMS: [00:29:45] Are there questions for Senator Lindstrom? Seeing none, we would invite the first proponent. Welcome back, Director Quandahl.

MARK QUANDAHL: [00:30:07] Chairman Williams, members of the Banking, Commerce and Insurance Committee. My name is Mark Quandahl, it's Q-u-a-n-d-a-h-l, Director of the Nebraska Department of Banking and Finance, appearing here today in support of LB259 introduced at the request of the department. As said before, it updates the Securities Act in Nebraska, Nebraska Commodity Code, and the Consumer Rental Purchase Agreement Act, all under the auspices of the department. In 2018, last year, Senator Lindstrom introduced a bill, LB813, on behalf of the department to update the Securities Act in Nebraska. The bill, however, remained on General File upon adjournment. Sections 1, 2, 3, and 5 of LB259 contain the provision-- provisions of 2018's LB813. Section 1 of this bill corrects a discrepancy in the Securities Act between the definition of a federal covered adviser and an exclusion to the definition of a federal covered adviser. A person who is excluded from the federal definition of investment adviser makes no filing with the SEC, the Securities and Exchange Commission. Under current Nebraska law, this person is within the definition of federal covered adviser and is required by Section 8-1103 of the Securities Act to file with the department a copy of all documents that he or she files with the SEC and to pay a filing fee to the department. However, since the person files no documents with the SEC, there are no

documents to file with the department. Without an SEC filing, the person can't make a notice filing to the state or pay the fees. As such, persons who are excluded from the federal definition of investment adviser should also be excluded from the state's definition of investment adviser. This proposal is consistent with the laws of many other states, so it will promote uniformity and coordination as provided for in Section 8-1122 of the Securities Act in Nebraska. LB259 also proposes to update all cross-referenced federal statutes, regulations, and standards referenced in these 3 acts. January 1, 2019 is the operative date. The 2017 Legislature recodified the Securities Act, and so everything is current as of January 1, 2017. References in the Commodity Code are current as of January 1, 2011, and references in the Consumer Rental Purchase Agreement Act are current as of January 1, 2016. Section 4 of the bill amends Section 8-1108.02 regarding federal covered securities. The Securities and Exchange Commission has two exemptions from federal registration: Rule 506 of Regulation D which qualifies as a federal covered security under Section 8(b)(4)(F) of the Securities Act of 1933; and Regulation A, Tier 2 created just in 2015 which qualifies as a federal covered security under Section 18(b)(3) of that same act. Since these offerings qualify as federal covered securities, the securities are also exempt from state registration. Under current law, issuers relying on Rule 506 are not required to utilize a broker-dealer to sell the securities as long as those selling the securities do not receive commissions or other compensation. By contrast, current law requires issuers relying upon Reg. A, Tier 2 to utilize a broker-dealer to sell the securities. LB259 would amend this section to eliminate the broker-dealer requirement for issuers relying upon Reg. A, Tier 2 provided that no remuneration is paid in connection with the sale of those securities. This amendment will make it easier for companies relying upon Reg. A, Tier 2 to conduct offerings in Nebraska without negatively affecting investor protection. A large majority of states do not require the use of a broker-dealer in connection with these Reg. A, Tier 2 offerings. Thus, this amendment will promote uniformity with other states as provided for in Section 8-1122. The remaining changes in LB259 are within Section 2 to remove obsolete languages related to 2 federal rules, within Section 4 to update citation to the Securities Act of 1933

in accordance with the recent change in numbering in the federal statute, and within Sections 8 and 12 to clarify language regarding the distribution of fines and within Section 14 to provide for an emergency clause. The department wishes to thank Senator Lindstrom for introducing this legislation, and I would be happy to answer any questions that you may have.

WILLIAMS: [00:34:48] Thank you, Director Quandahl. Any questions for the Director. Seeing none, thank you for your testimony.

MARK QUANDAHL: [00:34:54] Thank you.

WILLIAMS: [00:34:54] Invite the first proponent-- next proponent, I mean. Seeing none, is there anyone here to testify in opposition? Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Lindstrom waives closing. That will close our public hearing on LB259. We are now ready to open the hearing on LB188 and, again, we welcome Senator Lindstrom.

LINDSTROM: [00:35:25] Thank you, Chairman Williams, and members of the committee. My name is Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, and I represent District 18 in northwest Omaha. Today I come before you to introduce LB188 to amend the Nebraska Installment Loan Act. It would cap the amount of interest a lender may charge a borrower. Our Act now says that the rate may not exceed 24 percent per annum on the first \$1000 of unpaid balance and 21 percent per annum on the remainder of the unpaid balance. This bill simply would change the cap to a single rate of 29 percent per annum. I want to reiterate this does not mean that every loan will charge 29 percent. It broadens the range of borrowers the bank or lender can serve. This bill helps Nebraska banks and lenders to remain competitive with other states and on-line lenders. And there will be testimony behind me to answer any questions you may have on the bill. But with that, I would be

happy to answer any questions that you have.

WILLIAMS: [00:36:20] Thank you, Senator Lindstrom. Are there questions? Seeing none, we'll invite the first proponent. And would you state-- please, spell your name.

ASHLEY KRINGS: [00:36:43] Yes, good afternoon, Senators. My name is Ashley Krings, A-s-h-l-e-y K-r-i-n-g-s, and I'm the District Manager for OneMain Financial here in Nebraska. I would like to thank you for the opportunity to testify today in support of LB188. And I would like to thank Senators Lindstrom for sponsoring it as well as Senator Kolterman and Wishart for cosponsoring. I'm a native Nebraskan born and raised on a farm outside of Humphrey. Today my husband and I are proud to be living, working, and raising our three children in Platte County. I started with OneMain in 2003 as a customer service representative, and I've worked as a district manager here in Nebraska for more than 5 years with OneMain. We have been in business for over 100 years in Nebraska and for more than-- and in Nebraska for more than 75 years. Today we have 8 branches here in Nebraska, but unfortunately in the last decade, 11 of our branches here in Nebraska have closed limiting access for Nebraskans. I am proud to work for OneMain. Our employees, myself included, live, work, and volunteer in the communities we serve. Here in Nebraska, we empower nearly 8800 hard-working Nebraskans with financial mobility through access to credit. Our average FICO score of consumers in Nebraska is 630, and our average personal loan is around \$9,000 with an average 57-month term. Nationwide our average borrower is 49 years old and has an income of approximately \$48,000 a year. The Nebraska Installment Loan Act has not been updated in many years. I believe, LB188 is needed to allow Nebraskans additional access to credit. Everyday our employees help Nebraskans by creating and maintaining highly successful lending relationships with tangible benefits for borrowers. During a recent visit to one of my Omaha locations, a customer is telling the manager how excited he was to go buy his wife her very first pair of diamond earrings as soon as he made his loan payment. He explained that it was OneMain who took

a chance on him and his imperfect credit helping him buy a car which not only helped him have adequate transportation, but allowed him to build the credit he needed to now take advantage of a sales promotion going on at the local jewelry store. Another recent interaction really pulled at my heartstrings. A customer was referred to us from a funeral home up the street. Their son had just been killed in a car accident and they needed money for the funeral. Being a small community, the manager recognized the name and quickly got in touch with a manager at another location where the son had a loan. When he opened his loan, the branch personnel had educated him on the benefits of life insurance, and he chose to protect his loan with credit life coverage and also purchased a term life policy which his family could use for final expenses. It's stories like these that I believe would have a completely different ending without the real community relationships that are built in a branch network model. The consumer finance industry in Nebraska has changed significantly. For example, in 2005, according to the Department of Banking's annual report, there were 39 installment loan company locations with licenses in Nebraska. In 2018, there were 10 including our 8 locations in the state. We have seen tremendous growth of on-line, out-of-state, unlicensed lenders in Nebraska. Unlike OneMain, these lenders do not have licenses with the Nebraska Department of Banking and, therefore, are not examined by the state. They also are likely to charge higher rates than currently allowed by statute. The financial needs of those who cannot get loans from banks and credit unions has not gone away. According to Pew Charitable Trusts report from October 2018, each year approximately 10 million Americans take out a loan from brick-and-mortar lenders like OneMain. Without these types of local lenders, Nebraskans are forced to seek other alternatives such as on-line lenders. Our personal and auto installment loans amortize and are fully underwritten. We help our customers budget, only lend to those with the ability to pay, and still turn down a vast majority of applicants at nearly 70 percent. Nebraskans need access to credit via installment lenders in the state who are licensed and examined by the Department of Banking, LB188 would allow in-state, licensed lenders to help more Nebraskan consumers. Thank you, again, Senator Lindstrom, for sponsoring LB188. If the law is updated, I am confident that we can

help more consumers. I respectfully ask this committee to support the bill and pass it into law this year. Thank you for the opportunity to speak with you. I welcome your questions and would be happy to discuss this further.

WILLIAMS: [00:41:29] Thank you, Ashley. Are there questions? Senator McCollister.

McCOLLISTER: [00:41:32] Yeah. Thank you, Senator Williams. You don't conduct any payday loans do you?

ASHLEY KRINGS: [00:41:35] No, we do not.

McCOLLISTER: [00:41:39] OK. Thank you.

WILLIAMS: [00:41:43] Additional questions. I have a few.

ASHLEY KRINGS: [00:41:43] OK.

WILLIAMS: [00:41:43] Would you tell me about the examination process that you go through? You are licensed by the State Department of Banking.

ASHLEY KRINGS: [00:41:53] Um-hum. So we actually have an examination going on today in our Norfolk location. So the department normally notifies us that they have a selection of files and denial letters and different items that they want to examine, and we produce those for them. Their examiners usually come into our locations and are usually there for a day or-- or maybe two.

WILLIAMS: [00:42:15] Again, showing that you-- you have to meet the standards and all the

regulations and all the laws in the state of Nebraska and you're examined--

ASHLEY KRINGS: [00:42:23] Yes.

WILLIAMS: [00:42:24] --to do that. You mentioned in your testimony the-- and appreciating the time that you've been in this business with OneMain, the decrease in the number of people doing this business. And you're the largest one left with-- with eight locations.

ASHLEY KRINGS: [00:42:43] Um-hum.

WILLIAMS: [00:42:43] What do you think the primary reason for people going out of this business has been, again, would you emphasize that?

ASHLEY KRINGS: [00:42:49] So we try to control our losses as a company but in order to do that we have to limit the number of customers, the riskier customers, that we serve. And because there is just a small amount of margin that can be made with the cost of funding that we have to get in order to make our loans, with the overhead cost of operating a brick-and-mortar shop, I just don't see the-- how it appeals to other lenders to enter our space. And our company actually is a combination of two companies that used to exist in-- in the states. Springleaf Financial who had actually exited Nebraska and now as-- being combined with OneMain, they have a presence again in the state.

WILLIAMS: [00:43:32] In the space that you deal in, who do you view as your primary competition?

ASHLEY KRINGS: [00:43:37] You know, most of our competition, I guess, would be the credit

unions just because, I believe they're able to take a little bit more risk with their members, but they're really-- in state there aren't any. So then you look at the on-line lenders who are definitely entering our space more in recent years.

WILLIAMS: [00:44:00] And speaking from the regulated banking side of the environment, through many of the regulations that have been put in place over the recent years this is a very difficult space for banks to fill. So you are kind of the-- the one on the block to do that. And without you, where do these people go again?

ASHLEY KRINGS: [00:44:23] Really they're very limited to the options because small town banks that used to be able to help those customers with, you know, maybe a couple thousand dollar loan, there's really not enough room for them to be profitable. And so I know some small town banks still choose to do that just as kind of that small town business relationship. However in my own community, our local Farmers State Bank was recently taken over by a larger bank. So I see those options becoming more and more slim. So you have things like your payday lenders which Senator McCollister had asked about, but again, that fulfills a completely different need than what we have. That's more of a short-term solution typically around \$500, where customers that come to us are looking for maybe a bigger need. It could be something like a furnace goes out, and they, without a loan, they may not be able to take care of those needs for their families. So it fulfills a larger-- a larger need for them.

WILLIAMS: [00:45:25] And the payday lending space gets a little complicated with their kind of products. And as I view it, the primary products that you offer are more traditional in nature:--

ASHLEY KRINGS: [00:45:35] Um-hum.

WILLIAMS: [00:45:35] --that it has a monthly payment, that it's set up that way based on their income abilities, and-- and-- and all of that. And I also want to thank you for the pride you have in your industry and for inviting me to come visit your--

ASHLEY KRINGS: [00:45:51] Um-hum.

WILLIAMS: [00:45:51] --your spots this off-season. So thank you. Any additional questions. Thank you.

ASHLEY KRINGS: [00:45:56] Thank you.

WILLIAMS: [00:45:57] Additional proponents? Seeing none, is there anyone here to testify in opposition? Seeing none, is there anyone here to testify in a neutral capacity? No one's rushing to the front. Senator Lindstrom, you're invited to close.

LINDSTROM: [00:46:16] Thank you, and I'll make this brief because I think most of it was already stated. Really, it does come down to access to credit. And, of course, sitting in this committee the last couple of years we've-- we've dealt with your traditional loans, we've dealt with the payday lending. And so this, in my opinion, fills that in-between, if you will, for those loans that could be anywhere up to \$30,000 for, for instance, for consolidation of debt, for some type of primary home, you know, process-- or-- or project that you might have. So when it comes down to where do you go, you can go to the on-line which is not regulated. From what I understand, they can charge up to 36 percent. So with regards to the brick and mortar and being competitive, this is a need that needs to be here for folks in Nebraska. And OneMain and other companies like that-- like them fill that void and provide a lot of value to our constituents and the people of Nebraska. So I would urge the committee to vote for LB188. And with that, I'd be happy to answer any final

questions.

WILLIAMS: [00:47:23] Any final questions for Senator Lindstrom? Seeing none, that will close our public hearing on LB188.