

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee May 5, 2021

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

WILLIAMS: Welcome, everyone. We're going to get started. Welcome to the Banking, Commerce and Insurance Committee. My name is Matt Williams. I'm from Gothenburg and I represent Legislative District 36. And I'm honored to serve as Chair of the committee. We have one agenda item today, and that is a confirmation hearing for Eric Dunning. Committee members are here. I would ask them to introduce themselves, starting with Senator Pahls.

PAHLS: Rich Pahls, District 31.

SLAMA: Julie Slama, District 1.

LINDSTROM: Brett Lindstrom, District 18.

AGUILAR: Ray Aguilar, District 35.

FLOOD: Mike Flood, 19.

BOSTAR: Eliot Bostar, 29.

WILLIAMS: To my immediate right is committee counsel, Bill Marienau; and to the far left on the end of the table is committee clerk, Natalie Schunk. We're going to dispense with the reading of all the other things. I hope that you have your cell phone silenced. We'd appreciate that. And with that, we will open the hearing and invite Eric Dunning. Welcome, Director. Did I get that right?

ERIC DUNNING: Well, not yet, not until I'm confirmed, sir. Mr. Chairman and members of the Banking, Commerce and Insurance Committee, my name is Eric Dunning. For the record, that's spelled E-r-i-c D-u-n-n-i-n-g. Governor Ricketts has appointed me as Nebraska's Director of Insurance, and I'm here today to ask this committee to advance me for confirmation to the full Legislature. The majority of my professional career has been spent in one form or another in insurance regulation. Serving as director in one of the most important regulatory jurisdictions in the U.S. is a huge responsibility. And I hope, and I hope to live up to the trust that has been built up by the agency over its history and carry on the long legacy of effective, efficient, and ultimately customer-focused regulation. By way of background, I'm a sixth-generation Nebraskan, born and raised in Lincoln and living in Omaha with my wife and two children. However, Omaha is not my only home-- excuse me, my only home and I spend every

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

available weekend on what remains of my great-grandparents' place in Wheeler County. I graduated from Lincoln High in Lincoln, the University of Nebraska in Lincoln, and Notre Dame Law School. After law school, I ran away from home to spend three years working for the Colorado General Assembly, drafting insurance and banking bills. But Denver wasn't home, and I returned to Nebraska to work as an attorney for the Department of Insurance in Lincoln. For 15 years, I worked with a well-respected and talented group of regulators. That agency regulated and grew one of the largest domestic insurance regulatory structures in the United States. And I learned from three very talented directors of insurance that the core of the regulator's responsibility is solvency. Directors Wagner, Frohman, and Range, in particular, have left a legacy of balanced and sensible insurance regulation. The most important function of any department of insurance is to make sure that insurers have the resources to keep the promises that they've made in the insurance policy. Everything else flows from that. Doesn't matter how broad the promise is, if there isn't money to pay for it. That approach to regulation has made the Department of Insurance a nationally respected regulator. Now after my service with the department, I spent seven and a half years in government affairs for a, for a very large Nebraska health insurer. I worked with many of you, the Legislature more broadly and Nebraska's executive branch to answer questions, try to resolve concerns, and to come to the table to develop solutions that wouldn't meet the needs of Nebraskans across the state. I've worked hard to be a trusted source of information, and I hope I've been successful in that. As part of that process, I've made even-- been made even more aware that the best intentioned proposals can cause significant compliance costs for the regulated entities. I've learned that there may be ways to implement policies in ways to minimize unnecessary cost while still accomplishing the intended result. When I'm not at work or spending time with my family, I make a point to engage in public service activities. I've served on the boards of the Jewish Federation of Omaha, the Nebraska State Chamber of Commerce, and most fun, I'm on the board of the NEBRAKAland Foundation. But as I move back to the regulator role, I'll be focused on bringing to the table all of the knowledge and understanding I've gained in 25 years of the insurance business to oversee the best Department of Insurance in the country. Nebraska's insurance sector is an incredibly important part of our economic life and there are many ways to measure the size of a domestic industry. But I prefer to measure by capital and surplus. And under that measurement, Nebraska

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

has the largest domestic insurance industry in the United States. In other words, we're number one. It's gratifying to see the Nebraskans who work hard at every day to bring solid and desirable insurance products to our market. With a large presence in Nebraska, the jobs that that industry has brought in with it provides a significant economic presence in our state and one that I will focus on continuing to help grow and flourish. Because states focus their regulatory resources on the domestic industry, that represents a huge responsibility not only for the department but also for the Legislature and this committee, in particular. This committee has played a vital role over the years in keeping our statutes current so that we have up-to-date and nationally uniform statutes. Your committees close attention to that work, while often highly technical and even dense, has been vital. I hope to continue to work with you to keep up that good work. And with that, Mr. Chairman, I will wrap up testimony so you can go to lunch.

WILLIAMS: Before we go to questions, is there anyone here today that you would like to introduce to the committee?

ERIC DUNNING: Well, Mr. Chairman, that list is very long.

WILLIAMS: Or embarrass in front of the committee, whatever you would prefer.

ERIC DUNNING: That list has been very long. I'm fortunate to have made a number of acquaintances and colleagues over the years. But I'm most pleased today to introduce my daughter, Eleanor, who is a freshman at Nebraska Wesleyan here in Lincoln. So she came down to spend her lunch hour with her dad.

WILLIAMS: Thank you for being here. Questions for Mr. Dunning? Senator Pahls.

PAHLS: I have a question. I worked with the same three directors you had mentioned. Who would I anticipate you would be more like?

ERIC DUNNING: It depends on the context. If we're talking about physical dexterity, probably most like Director Wagner, who may he rest in peace, always had mustard on his tie. In terms of humility, I'm, I'm truly hoping to be-- to model myself on Director Ramage, who is just a wonderful leader, who always had more, had more than he

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

necessarily led on. And of course, Director Frohman was an amazing and creative public policy person. So, again, a little bit of each, hopefully.

WILLIAMS: Additional questions? Senator Bostar.

BOSTAR: Thank you, Chair Williams. Thank you, Mr. Dunning. I would say that I'm pleased that you were appointed, but at the same time, I am going to miss the role that you were in and the time that we had together in this committee was always enjoyable for me. And I think that'll change. That being said, you are coming from a role being within the insurance industry and advocating for the insurance industry--

ERIC DUNNING: Um-hum.

BOSTAR: --and going into a role where you're not working for the industry, you're working for the people of Nebraska as a regulator of that industry. Could you spend just a minute talking about how you view that difference and what you're going to bring to this role?

ERIC DUNNING: Well, Senator Bostar, first of all, I don't think it will surprise you when I disagree a little bit with your premise. My job working for my previous employer, a large Nebraska domestic health insurer, was to work for the benefit of the members, not for the enterprise itself necessarily. Those roles are not, are not inconsistent. And I would continue to try to keep an eye out first for the policyholders, because ultimately, again, the job is to make sure that they get the value of the promises that have been made to them by the, by the insurers. And, and that really is the core of that function.

BOSTAR: Surely, though, that there is added responsibility with being the Director of Insurance in so far as protecting the state and not just the members of a, a particular insurance plan.

ERIC DUNNING: Certainly.

BOSTAR: And I'm going to assume the answer is yes, but you feel like you are in a position where that's a responsibility you can take on?

ERIC DUNNING: It's absolutely a position I can take on. And I think it's important to have brought some knowledge of what happens on the

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

other side of the table from the regulator to some of that decision-making. Greater insight into the operations of, of an insurance company is, is always useful for the regulator.

BOSTAR: Just so-- and the last thing is, you know, for us on this side of the table, we-- one of the ways that we interact with agencies and departments of the state is through proposed legislation and the generation of fiscal notes that come from agencies and departments. And there are sometimes concerns, really not so much from the Department of Insurance, but from elsewhere, that the department will utilize the fiscal note process to weigh in on what policy they prefer or don't. Do you feel like that's a practice that is beneficial for the Legislature or would it be more beneficial or to maintain a process of being unbiased and just trying to provide the, the valuable information from a financial standpoint?

ERIC DUNNING: Well, Senator, I spent 15 years drafting fiscal notes and it, it can be a very challenging assignment to, to discern intent and, and potential results. But you work very hard to get as accurate a number as you possibly can. I don't see any difference between the, the approach that I took as an attorney for the department from, from the role as, as director in overseeing preparation of those. So a, a good, solid, accurate fiscal note, I think is a benefit to, to everyone involved.

BOSTAR: I appreciate that. And then just to my, my final point. And you mentioned that you spend time in Wheeler County and that's important. Is that-- and, you know, I live in Lincoln, but my family has farmland in, in greater Nebraska. But you predominately live in the Omaha area and but it sounds like Wheeler County is important to you. Does that-- do you have-- do you grow crops? Do you have animals?

ERIC DUNNING: We had-- we ran sheep for a little while in conjunction with, with one of the uncles. But challenge with that is our fences weren't good enough to continue to do that for very long. So they all went to the butcher, unfortunately.

BOSTAR: Did you ever consider bringing your sheep to the Omaha area?

ERIC DUNNING: I think I know what you're getting at. And I had a bottle lamb in Omaha. Now I had the good common sense to send the children to, to see the neighbors with the lamb so that they would be

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

aware of what the, the noise was that they were hearing on the other
side of the fence. So that worked very well for three weeks.

BOSTAR: Did that lamb have a name?

ERIC DUNNING: I'm sorry?

BOSTAR: Did that lamb have a name?

ERIC DUNNING: That lamb was named Minnie because she was very small
and she was actually-- she actually did follow me even when we took
her back to the farm. It was quite something.

BOSTAR: Thank you very much. I appreciate your candor.

WILLIAMS: Senator Aguilar.

AGUILAR: Thank you, Mr. Chairman. Mr. Dunning, knowing the size and
scope of the insurance industry in Nebraska and how important it is to
Nebraska, I don't have a question. I have a statement. I just want to
say this appointment to me is a no-brainer. And I need to let you know
that your daughter hasn't quit smiling since you started talking.

ERIC DUNNING: Thank you, sir.

WILLIAMS: Any additional questions? Seeing none, thank you. I would
invite anyone who would like to speak in support of Mr. Dunning's
confirmation, and if you would state and spell your name as you begin
your testimony.

SHAWN POLLOCK: Good afternoon, Senator Williams and the, and the rest
of the committee. My name is Shawn Pollock, it's spelled S-h-a-w-n
P-o-l-l-o-c-k. I am serving as the president of the Nebraska Insurance
Federation and my day job is I'm the director of Regulatory Risk
Management at Mutual of Omaha. I have been in the industry since 1993.
I started in April 1993 for an insurance company in Omaha that's not
Mutual of Omaha. I worked there for 19 years and I've been at Mutual
of Omaha now for 9, for 9 years. By the end of the, the time that I
started in the industry, I was working with regulators. I was making
filings with regulators. So I have worked with a lot of regulators
over the, the time every year since then. And there have been a lot of
different types of folks that regulate the business of insurance
across this nation. My, my role here today is, is to talk to you about

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

what we did. I don't have prepared remarks like the Director did. Rather, I'm going to tell you what we did as an insurance federation when we heard that Director Range was retiring. So as president, we got together. We said, hey, we got an opportunity here to really provide some input on what happens with, with this position. And just wanted to share that with you here today as a, as a committee of, of folks that represent all lines of business of insurance, of insurance in Nebraska, life, health, annuities, property-casualty, title. And I'm sure I'm missing others and Robert will probably fill in the gaps later. But we sat down and said, what, what is it that we really like to see in, in the director? And I'd, I'd also add that as part of this effort, Eric mentioned the, the commission-- the directors that he has served under. I reached out to three of the five former directors through this process, and although they didn't have direct input on what we came up with, their, their stories were very similar and definitely dovetailed with, with our findings and, and what we did as a, as a federation. So with that, the-- one of the very first things we had was we want the director to be able to have stability, reliability, and continuity of the Nebraska insurance market that, that is very steady and consistent. We've experienced that for years through various directors, in decades, really in, in Nebraska. And it's different than what's happened in other states where their people move around a lot and policy changes a lot. And it's difficult to maintain good working relations and, and look out for your policyholders like we do at Mutual of Omaha. Another aspect was to have a strong insurance business acumen. You can't have an individual that pulls out of one area and whatever industry, it doesn't matter. There are so many different pieces of the insurance industry, whether it be marketing, reserving, actuarial pricing, there-- there's so many pieces of it. You have to have an aspect of that. The market conduct side and checking things on the back end. There's, there's a lot of pieces that fit together. And having that acumen is, is a very strong quality that we wanted to see in a director. Another piece is, is understanding the Nebraska insurance landscape. So Nebraska is a unique animal in the insurance industry. It's, it's unique here in Nebraska because the insurance director will work with the Legislature, works with the Governor, works with companies, policyholders. There-- there's so many different pieces that, that fit together to create the insurance industry and look out for consumers in Nebraska that, that business acumen and, and understanding that with the insurance landscape is a very important part of being the

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

Director of Insurance. Another piece is to communicate effectively and, and, honestly, there were three directors that the first thing they said when, when we asked them what's a good characteristics of an insurance director? It was listen, to hear what's being said, to not come in with any preconceived ideas and then to be able to communicate so that-- that's a very strong piece. The other one is having a, a good team management skill. The Nebraska Insurance Department is a, a power nationally. They are looked at as experts in the field. They hold high positions, chair several committees at the Nebraska-- at the NAIC, National Association of Insurance Commissioners. And just being that team player representing Nebraska, that is-- that's key for a director. I've known Eric since he was a regulator and I've known him as he's been in the industry. And these qualities and characteristics I see in Eric and I see him being a good Director of Insurance for the state. And that is the reason why I'm here to support him.

WILLIAMS: Thank you. Questions? Seeing none, thank you for your testimony. Invite any additional supporters. Welcome, Mr. Bell.

ROBERT BELL: Thank you, Chairman Williams. You all look exceptionally hungry, so I will be brief as I can be. Chairman Williams, members of the Banking, Commerce and Insurance Committee, my name is Robert Bell. Last name is spelled B-e-l-l, and I'm executive director and registered lobbyist for the Nebraska Insurance Federation. And I am here today to testify in support of the confirmation of Eric Dunning as Director of Insurance. Insurance companies come to Nebraska for three primary reasons. One, is the general ease of working with the Legislature. Two, is an attractive premium tax rate in our state. And then three, and this is really the, the most important reason, is the reputation of the Nebraska Department of Insurance nationally and of individually, the Director of Insurance. And we've been very fortunate in Nebraska to have some very effective directors of insurances that have been able to bring a number of companies to our state. And when-- and, and in my time when I was at the Department of Insurance, what I learned was that what companies really liked about Nebraska was being able to pick up the phone and call people at the department and work through their particular issues that are, are going on. And whether or not that was on a call to an attorney or somebody in the examination division that works on their books or to the director, him or herself, where they could pick up the phone and say, hey, we have this, this issue, how do we work through it? And the department has a great reputation of working through those problems, but always keeping in

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

mind that all insurance regulation is about the protection of the policyholder, that that whole insurance code that exists and the administrative regulations that are behind it is designed to make sure that that promise is, is fulfilled. So-- and, and I, I know that Director Dunning is going to do a great job of being communicative with the industry, of being able to pick up the phone and talk with companies, with policyholders, with state senators, with, with other officials when there is an, an issue. And I think that-- and, and as you know, having worked with him in the past, that he's going to bring that to the job. I first met Director Dunning in 2003 when I was a legislative aide. I believe my senator at the time brought a bill on sales barn work comp rates or something along those lines. And so Director Dunning had the pleasure of, of working with me as an LA when he was the legislative liaison for the Department of Insurance informing me about how basically bad our idea was and how it would disrupt the various insurance markets. And, you know, you're familiar with probably hearing from both the department and industry and things like that. But seeing him and first meeting him in 2003 and then working with him in my time as a staffer at the Legislature, then as a, as a member of, of Governor Heineman's policy research office, working on insurance issues for a number of years over there and working again with him, then stepping into his role when he left and went to Blue Cross Blue Shield of Nebraska and stepping into his role as a legislative liaison to Department of Insurance and being able to learn more about insurance regulation and being able to pick up the phone and, and, and learn some from Eric on-- excuse me, Director Dunning, on, on what, what I needed to do to be a good liaison and so with the department, with the industry, etcetera, etcetera. And then in this role now. When he was at Blue Cross, he was, he was a great advocate for our industry and our state, as, as you all know, and a great resource for all the companies on, on what was going on in this building and otherwise. So we know that's going to continue on as, as director. We were excited to see somebody from the private sector step back in and serve the public. And we know that he has, has public service at his heart. So it was, it was good to see him willing to put his name in. And, you know, we were pleased that the Governor put his name forward. So with that, again, you still look hungry. So I will, I will stop there and except to say thank you for the opportunity to, to testify today.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

WILLIAMS: Thank you, Mr. Bell. Questions? Seeing none, thank you for
your testimony.

ROBERT BELL: You're welcome.

WILLIAMS: Is there anyone else here to testify in support? Is there
anyone here to testify in opposition? Is there anyone here to testify
in neutral? Seeing none, that will close the hearing for Eric
Dunning's confirmation. We will be having a short Exec Session.