

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

WILLIAMS: Good afternoon, everyone, and welcome to the first scheduled hearing date for the Banking, Commerce and Insurance Committee. We do have a few different rules this year with COVID that we have not had before, so we're back to normal kind of things as far as the hearing goes. My name is Matt Williams. I'm from Gothenburg, and I 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 part of the public process. This is your opportunity to express your position on the proposed legislation before us today. Committee members may come and go during the hearing. We have bills to introduce in other committees and are sometimes called away. It is not an indication that we are not interested in the bills being heard; it is just part of the process. To better facilitate today's proceedings, we 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, followed by proponents, opponents, neutral testimony, and then a closing. Please hand in your pink sheets to the committee clerk when you come up to testify. When you begin your testimony, if you would please spell your name for the record. Be concise. It is my request that you limit your testimony to five minutes. We will be using the light system. It will start with a green light and, at the end of four minutes, it will go to yellow and it will, at five minutes will turn red. And at that time, we'd ask you to wind up your testimony. If you will not be testifying at the microphone but want to go on the record as having a position on a bill, 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 be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and the staff when you come up to testify. We will need ten copies. If you have written testimony but do not have ten copies, please raise your hand when you come up and the page can make those copies for you. To my immediate right is committee counsel Bill Marienau. This is Bill's 44th legislative session and 36th legislative session as legal counsel to this committee.

McCOLLISTER: Scary.

WILLIAMS: That almost would deserve a round of applause [INAUDIBLE]. And to my left is committee clerk Natalie Schunk. And with us today

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

are our committee members, and we'll start with introductions from Senator Pahls.

PAHLS: Thank you, Chair. Rich Pahls, District 31: southwest Omaha.

McCOLLISTER: John McCollister, District 20: central Omaha.

LINDSTROM: Brett Lindstrom, District 18: northwest Omaha.

FLOOD: Mike Flood, District 19: all of Madison County, which includes Norfolk, and southern Pierce County now.

WILLIAMS: And our pages today are Jason and Malcolm, and Malcolm will be our normal page for out the whole year. So thank you for being with us today. Again, we will take up the bills when we get to those. But as we start today, we're going to hear a briefing from the Banking Committee-- or, Banking Department and then a briefing from the Insurance Department. So I'd ask Director Lammers if he would come up and address the committee.

KELLY LAMMERS: Good afternoon, Chairman Williams, members of Banking, Commerce and Insurance Committee. Thank you for this opportunity to talk about one of my favorite topics: Nebraska Department of Banking and Finance. It's good to see everyone here again today. My name is Kelly Lammers. I serve as director. With me. Today I have Tag Herbeck, Department [SIC] Financial Institutions counsel, Claire McHenry, deputy director of the Securities Bureau, as well as Darcy Bailar, deputy director, Financial Institutions. I have handed out an annual report and a briefing document. The annual report is provided for reference, identifies fiscal activity and licensing count. Today, I will focus on the handout titled Banking, Commerce and Returns Committee Briefing, on which the first page references the department's address, literally across the street in the First Nebraska administrative building. Moving to page 2, our daily mission is to protect and maintain the public confidence in Nebraska financial institutions. Our vision is to make Nebraska the most trusted financial home for people and businesses. Using tools available by law, the department serves in the role of regulator of those people and companies that touch other people's money. Moving to page 3, Banking and Finance is a code agency. We are cash funded. We have staff in offices in Omaha, Kearney, and Lincoln. The director is appointed by the Governor. Deputy directors are appointed by the director. The budget is listed as approved and the teammates reflect the budget approval, as well as the resources available through the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

Financial Innovation Act. Moving to page 4, while we are one agency, we are comprised of two primary divisions, the Financial Institutions and the Securities Bureau. Each division is responsible for a host of chartering, licensing, examining, and investigating duties. The Financial Institution Division is made up of 52.5 team members, of which 37 have examiner in their title. They reflect a regulatory presence over banks, credit unions, trust companies, digital asset depositories, money transmitters, mortgage bankers, just to name a few. The Securities Division consists of 14.5 team members, of which their titles include examiners, analysts, and investigators. They process security filings, investigate securities complaints, serving as a regulator over \$27 billion of securities registered in Nebraska. Turning to page 5, the key leadership team includes those introduced but also very much includes general counsel Patricia Herstein, chief information technology officer Michael Fabry, business manager Margo Sawyer, and Securities Bureau counsel Mike Cameron. Moving to page 6, the Financial Institutions Division is divided into depository [SIC] and nondepository teams. This page reflects the general work associated with the depository team. Depository examiners work scales according to the size of the organization. Thus, growth and depositories reflects increased sample sizes during examinations. Nebraska's chartered banks exceeded \$56 billion for the first time in history, trust companies over \$12 billion and state-chartered credit unions near \$900 million. Each segment reflects strong growth in trend as well as in the most recent year. Page 7 details the nondepository side of Financial Institutions. Historic low interest rates drove demand for licensed skilled mortgage loan originators. From '20 to '21, Nebraska increased to over 5,471 licensed mortgage loan originators. Nebraska closed over \$1.4 billion in mortgage loans the past quarter alone. Money transmitters also reflect significant growth at 6 percent in licensing this last year, an additional 4 percent year to date. Money transmitters moved over \$2 billion, third quarter of 2021. The installment loan company licensing interest increased since midyear as a result of legislation requiring nonoriginators to also be known to the department. Moving to the world of the Securities Bureau, on page 8, for fiscal year '21, revenues were impacted by volatility in the markets. Securities revenue came out strong due to a significant increase in total amount of securities issued to be sold in Nebraska, up 33.6 percent despite overall decreases in the number of securities registered. Since the start of fiscal year '22, securities revenue appears to have stabilized. Page 9, as I previously mentioned, the department is cash funded. The Securities Bureau has provided, since the year 2000, over 900 and-- excuse me-- \$490 million relief to the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

General Fund. Turning to page 10, I want to take a very quick moment to reflect on recent legislation. The Single Bank Pooled Collateral Program reports over \$1 billion in the program, enables over 200 municipalities to obtain legal pledging requirement confirmations monthly. And one bank shared with me a story that the money that was repurposed due to overpledging in the prior program went to originate over 50 local home loans. The department has completed the first examination of that program. Using information obtained from a report necessary under the Protection of Vulnerable Adults from Financial Exploitation Act, the department, following investigation, issued an order to Satitech to stop soliciting and stop additional losses, preventing additional Nebraskans from becoming victims of the scam. Legislation's very much working. Thanks to '21 legislation LB363, an option to accept late filings of a specific securities exemption has been utilized 88 times. And finally, the Nebraska Financial Innovation Act became effective October 1st, of a request for a proposal, a bid opening that occurred this last week. Thank you, Senators, for your time this morning. Do you have any questions for me at this time?

WILLIAMS: Thank you, Director Lammers. It is, it's really nice to see that some of the things that we do in here make a difference in people's lives and their protections. Are there questions for the director? Senator McCollister.

McCOLLISTER: Thank you, Mr. Chairman. That was a great report, very well organized and very, very good to hear, so thank you.

KELLY LAMMERS: Thank you, Senator McCollister. Thank you.

WILLIAMS: One of the questions that I would have is that you have been with the Department of Banking for many years, you've seen this continued consolidation of banking. One of the questions, I think, that should be answered with that, is, are the services, the banking services that banks are trying to offer still available to people all across our state?

KELLY LAMMERS: Yes. To add a few metrics to that number, as the number of charters decline, looking at the banking opportunities, the number of branches continue to increase. Matter of fact, there have been recent increases in the number of elementary school branches, interest in having educational fiscal literacy presented at K-8 programs within schools. The number of branches in the state of Nebraska, while they had leveled off a couple years ago, they really have not declined and we've seen increased activity relative to the number of banks going

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

in, rela-- being able to deliver services through pandemic, curbside, being able to see deliver services through drive-up and, in each opportunity, while a bank may consolidate the number of banking opportunities within the state of Nebraska, continue to be very stable and very strong.

WILLIAMS: How would you rank right now the, the, the general health of the banking industry itself, as you see it from an examination, in particular the safety and soundness side?

KELLY LAMMERS: Relative to the safety and soundness, there are a number of different metrics that we use and internally, that's-- we also exercise things that, that we monitor bank activity. And this is as strong of a banking climate relative to capital, reserves, income and consumer health. And in other words, are the consumers that they're working with-- actively have an active cash flow, have adequate reserves? This is as strong of a banking climate as I have seen. We have the least amount of concerns currently. Nonetheless, there are, there are some continuing monitoring activities we continue with, but this is as strong as I've seen in over 30 years, Senator.

WILLIAMS: Any additional questions for the director? Well, from the committee, thank you very much for coming today and giving this report. We know that, based on Senator Flood's activities last year, we handed a lot of stuff to you this past year to do, and we appreciate all the work and thank you.

KELLY LAMMERS: Appreciate it. Thank you.

WILLIAMS: That'll close the briefing from the Department of Banking. I would invite Director Dunning from the Department of Insurance to come up and provide us with an overview and an update on the Department of Insurance.

ERIC DUNNING: Good afternoon, 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. I'm the director of insurance. And on a personal note, I began my career with the Department of Insurance in 1998 and was away for a number of years working in government affairs for a Nebraska domestic. But last year I had the opportunity to come home and was appointed by Governor Ricketts to be director of insurance. So with me today, I also have Jordan Blades. Jordan is our legislative liaison and will be a great point of contact for you and your teams as you work through

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

constituent issues in particular that involve the Department of Insurance. I also have with me Justin Schrader. Justin is our chief financial examiner and a really key person in the regulation of insurance in our state. Moving towards some PowerPoint slides that we brought in, first, I wanted to leave you with my contact information and then-- and the contact information for Jordan Blade's, as well. So moving to page 3, look at-- as we all know in this, in this room, insurance is a key industry in our state, bringing jobs and providing all types of insurance protection for Nebraskans in their roles as policyholders. In terms of insurance-related employment, Nebraska is the second highest job concentration in the United States. And one of the things that I've been able to garner through, through surveys through our domestic insurers, is that 14,000 Nebraskans work in insurance companies that are Nebraska domestic companies, and we are one of the largest in the nation as a domestic industry. Assets, \$871.2 billion, third in the country. Surplus, this would be my favorite because we're biggest at \$344 billion-- billion dollars, and then 11th in the nation in terms of the premium written by Nebraska domestic insurers. Our low premium tax rate obviously attracts companies to the state because of how retaliatory tax works. You pay the higher of your domestic rate for the state in which you're doing business. And in addition, though, we work very hard over across the street at the Department of Insurance to provide a fair and thorough and consistent and measured regulatory approach. As a team, we always, we always welcome new to domestic insurers. On page 4, you'll see some of the results of that. There's a brief list of some of the 104 Nebraska domestics that make up our domestic insurance company, our domestic insurance industry. Moving on to page 5, the cost of operating our department comes through a variety of fees for services, so the premium tax that's levied against premiums paid by Nebraskans moves to the General Fund and other places. So we're a, we're a fee-supported agency. Our budget is about \$14 million a year, and we right around-- and we have right around 90 teammates at any given time. And again, we're also collecting premium tax and surplus lines tax from the licensed insurers about \$106 million dollars in premium tax in 2021-22. And those taxes are transferred again in their entirety to the General Fund-- municipalities, schools, and the CHIP program. And again, because the fees other than taxes often exceed the department's budget, in addition to the premium tax collected, we were able to transfer \$13.5 million from the Insurance Cash Fund to the General Fund during the last fiscal year. Pages 6 and 7 outline many of our duties of the department. I'll briefly cover them, but please feel free to jump in if you have any questions about any of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

specifics. So really, our core function is the financial oversight of insurers doing business in Nebraska, both in terms of onsite examinations of insurers where we, Justin and his team bring folks in to look at the books and records of the insurance companies. But also, one of the functions that's really grown over the course of my career has been the analysis function where we have devoted additional time and resources into looking at the financial filings that come in on a quarterly basis. We, we, of course, have an important responsibility to appropriately collect premium tax. We look at the market conduct and compliance oversight of insurers, licensed agents, and, and others. So that means-- when we say market conduct, that means that we send examiners in to look at how insurers are operating in the marketplace, whether or not they're complying with the standards for prompt investigations, whether or not they're doing a good investigation, making sure that, that, that they, they handle all of the standards that you folks adopt from year to year. We have a very robust Consumer Affairs Division, which handles complaints on an individual basis, as opposed to that systemic thing that we saw in market conduct. We licensed insurers, but we also licensed, licensed insurance producers who want to sell insurance to Nebraska. Roughly 140,000 people are licensed to sell insurance to the people who live in our state, many of whom are on a national basis. So they want to make sure that they can, they, they can do that. We-- last, but not least, we'll also do quite a bit with continuing education for insurance producers. We look at the insurance forms and rates that are paid by Nebraskans. We, we have three investigators who look at insurance fraud activities. They are, they are sworn law enforcement officers. They carry badges and guns and do some pretty serious work to make sure that we keep a lid, as much as possible, on in, on insurance fraud. And there have been estimates that one in ten dollars in premium have been paid through fraudulent claims. And so our Fraud Division is really-- their job is to make sure that we, we do our best to prevent that as much as possible, working with county attorneys and others. We spend a fair amount of time looking at health insurance matters, including those related to the Affordable Care Act, long-term care insurance, Medicare supplement and disability products. And we administer the gen, the excess liability fund for medi, medical malpractice coverage. And then, last but not least, we look at the insurance guarantee funds. God forbid an insurance company goes bankrupt, but when they do, those proceedings are done on a state-level basis, state by state, making sure that insurance policyholders are made whole through an assessment mechanism on everybody who's admitted to do business in our state. I am happy to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

report, by the way, that as of last week, for the first time in my, my entire insurance-adjacent career, so more than 20 years, Nebraska does not have any companies under, under active rehabilitation or liquidation proceedings. I'm incredibly proud of the work that Justin and his team have done to make that possible, and I'm sure, although I'm not turning around, that he's cringing right now because he thinks I'm probably laying a jinx on, on the work that he and his folks are doing. Moving to page 8, again, there's a list, the, the insurance that we are charged with regulating. Pages 9 and 10, there is a brief overview of the accreditation process. You'll hear me talk to you a lot about accreditation of the Department of Insurance. I've talked to a number of you about this subject over the last eight months, and financial oversight of insurance companies is done on a domestic, state basis. And it's important when we're doing that, that we all rely on our fellow regulators in other states. That process of making sure that we can rely on those results is fairly elaborate and fairly involved. One important part is to make sure that the Department of Insurance, and Justin and his team in particular, have the resources available to them to make sure that the examiners and analysts are able to do a really good job. But in another, a really important part of this project as well, is making sure that our team have the legal tools in the form of good regulations and, most importantly, in terms of good statutes, again, to make sure that we have the ability to do the job and that we need to do so other states can rely on our regulation. If we lose that accreditation, any state, any domestic insurer that is doing business in Nebraska is subject to regulation, not just by us as the domestic regulator, but financial examination by the other 49 states, the other 5 territories, the District of Columbia. So it's very important that we maintain our accreditation at all times. It has significant, it has significant results for the members of our domestic industry. Moving to Page 11 of the, of the, of the, of the PowerPoint, just a brief overview of the National Association of Insurance Commissioners. The National Association of Insurance Commissioners just celebrated its 150th year. It's the oldest group of state government officials. We get together on a very regular basis and set standards and that sort of thing. As part of that, we receive about \$8 million a year in support and support to our regulatory activities in terms of computer software, some significant responsibilities in reviewing securities through our Securities Valuation Office, that sort of thing. Page 12, again, there are some basic phone numbers. Page 13 is intended to show that insurance regulation frequently intersects not only with state law, but with federal law requirements as well. It includes a list of some, but not

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

all of those federal laws. The U.S. Treasury Federal Insurance Office, U.S. Office of Health-- U.S. Department of Health and Human Services, including the Center for Medicaid and Medicaid, Medicare Services, U.S. Department of Labor, the Federal Crop Insurance RMA, and the National Flood Insurance Program under FEMA are a few examples. Federal agencies are programs with which we have some occasional contact. And an incredibly international cooperation and communication of insurance regulatory matters has grown in importance for us, especially as a result of the 2008 financial situation. An organization called the International Association of Insurance Supervisors, or IAIS, located in Basel, Switzerland, which works to facilitate communication among insurance regulators and develop insurance regulatory standards, our chief examiner has served as vice chair of the IAIS's insurance group and, during 2020, for-- my predecessor served as vice chair of the NAIC International Relations Committee. We dissipate in supervisory colleges with other state and federal regulated or federal and-- excuse me-- state and international regulators to coordinate the oversight and share information relative to large insurance groups. Lastly, I'll touch on health insurance and the status of the individual market under the Affordable Care Act, as well as the implementation of the No Surprises Act, a federal law that went into effect on January 1st. So we have four health insurers this year in the Affordable Care Act individual market exchange: Medica, Bright Health, Oscar and Nebraska Total Care. Two of those are new entrants to the marketplace in 2022, and we are glad to have them. Overall, premiums are steady for 2022 compared to 2021. And moving to the No Surprises Act, there's a, there's a high level overview on page 16 in the briefing. That no surprises act was part of the Consolidated Appropriations Act signed by President Trump in 2020. The act prohibited-- or protects consumers from surprise balance bills and was passed with broad bipartisan support. For purposes of the act, surprise balanced bill happens in an emergency when-- and a patient seeking treatment in an in-network facility, but receives care in that facility from an out-of-network provider, for example, an anesthesiologist, boy, I've spent a lot of time talking about this subject to this committee. At any rate, this committee adopted a statute that protects patients from balance bills only in the emergency situations at a healthcare facility, and only to the point of stabilizing the patient. The federal No Surprises Act allows state laws to remain effective, but fills in any gaps where state law provides lower protection. Nebraska will be the-- Nebraska DOI will be the initial point of enforcement for the No Surprises Act. That law applies to health insurers, healthcare providers, and air ambulance

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

providers. Any enforcement action against non-insurance entities will be taken by the federal government and not by the NDOI. So I've covered quite a bit of ground here. I think it's a pretty good seven-minute overview of the work that is done by the Department of Insurance, and I'd be happy to answer any questions that any member of the committee has.

WILLIAMS: Questions for the director? Senator Pahls.

PAHLS: Thank you, Chair. The question I have, I've been listening, like especially over the summer, on the Revenue Committee, we had people talking about all the money that's generated through agriculture and then all the money that's generated through the financial aspect of the state. And it seems to me that we ought to be touting our financial aspect as much as we do agriculture. As I looked at the dollars that each one deals with, I was surprised that the financial side brings in more dollars than the ag side. What am I missing there?

ERIC DUNNING: Well, Professor Thompson, over at the University of Nebraska Business School, did a, did a lecture that I was able to attend this summer and, and said, Look, agriculture is first in our state, followed by transportation. But insurance itself is third, not insurance and financial services. Insurance itself is, is the third largest industry in our state. We're very proud of the fact that we have a successful insurance industry, and I don't think that takes away from all of the hard work that is brought to the table by our friends in agricultural--

PAHLS: No. And I'm not--

ERIC DUNNING: --agriculture, as well.

PAHLS: Right. I'm not trying to do that. But you had insurance and then the other financial aspect. If insurance is third, you had all the other dealing with finances or banking, I would assume that would move that up.

ERIC DUNNING: I, I, I don't I don't know how to answer that for sure. I just know that insurance caught my attention more than anything else.

PAHLS: Right. And I, I know that 'cause I have read some of his information he's given out, but I've also gone to our department here. And I, I, I am surprised how we keep saying agriculture. I-- and I'm

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

from a small town, I get the ag culture, but I just don't-- I think that we're missing the boat when all the money that's brought into our system through insurance and banking, I think it's, it's different. I think this financial, financial aspect is actually-- brings in more than ag.

ERIC DUNNING: Well, again, sir, we're very proud of the hard work that Nebraskans--

PAHLS: I'm trying to give you--

ERIC DUNNING: --do in--

PAHLS: --a compliment, so I--

ERIC DUNNING: --insurance. And I'm trying to run away from it [INAUDIBLE].

PAHLS: OK, thank you. Thank you.

WILLIAMS: Additional questions? Senator Slama.

SLAMA: Thank you, Mr. Chairman. Mr. Dunning, what would you consider to be upcoming challenges you see coming down the line for the insurance industry in Nebraska? And how as we, as lawmakers, tail those challenges off before they threaten the industry?

ERIC DUNNING: Again, at, at, at the risk of, of making my chief examiner cringe, things are looking fairly good at the moment. On a longer-term basis, I know that-- and on a short- and medium-term basis, I know that a low interest rate environment has been a significant challenge for folks who are doing life insurance in our, in our state, and that's probably the biggest one. It's not really something that we have any control of from a regulatory standpoint, but it is some, but it is a pressure on that business that I think is worth calling out for, for members of the committee.

SLAMA: Thank you.

WILLIAMS: Additional questions? Thank you very much for the report. Again, if I got the numbers right, 104 companies are domesticated here?

ERIC DUNNING: Um-hum.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

WILLIAMS: Are there-- is there anything on the horizon to increase that number?

ERIC DUNNING: We are always having conversations with folks who see the wisdom of doing business in our fair state, but most of whom would have a fit if I, you know, mention that in public.

WILLIAMS: And I would suspect there's opportunities for us, as a Legislature, to be sure that our regulation and our statutes that you mentioned are conducive to creating the right atmosphere for growth.

ERIC DUNNING: We are grateful for the partnership with the members of this committee and the Legislature as a whole.

WILLIAMS: And did I also hear that you said there are 14,000 employees that work for those domesticated companies, and then about 140,000 insurance licenses that are issued in our state?

ERIC DUNNING: Insurance producers. Now those folks don't all--

WILLIAMS: That's a big number.

ERIC DUNNING: Those folks don't all live in our state, obviously. I mean, it's-- I think that number is closer to about 30,000 people.

WILLIAMS: OK, thank you. Any additional questions? If not, thank you very much for your time and your briefing.

ERIC DUNNING: Thank you, sir.

WILLIAMS: All right.

LINDSTROM: We'll now move to the bill introduction portion of today's events, starting with Chairman Williams with LB707.

WILLIAMS: Thank you, Vice Chairman Lindstrom. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s, representing Legislative District 36. LB707 was introduced at the request of the Nebraska Department of Banking and Finance. It is the department's annual omnibus bill to update and clarify laws under the jurisdiction of the department. If enacted, LB707 will make three substantive revisions. First of all, the Nebraska Banking Act will be amended to authorize bank subsidiaries to be formed as limited liability companies, and to provide that the current limitations on investment amounts and authorized practices applicable to bank subsidiary corporations, as

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

well as the banks' authority to examine those entities, will also apply to limited liability company subsidiaries. Currently, bank subsidiaries may only be formed as corporations. State banks may currently form or invest in LLCs under the wild card, but a number are not complying with federal requirements. These attachments will provide-- or excuse me-- these amendments will provide necessary state authority and guidance. Those are contained in Sections 1, 2, 6, 7, and 8 of LB707. Second substantive revision is Section 8-1502, which governs-- governs changes of control of banks and trust companies would be amended. The law requires the department to approve applications for acquisitions of shares that will result in a person controlling 25 percent or more of the institution. The law contains a shortened procedure for shares received through debt collection, inheritance or a gift if the acquirer provides a 10-day prior notice requirement to the department. The amendment would change this to a 30-day prior notice requirement. The change will assist filers and provide adequate time for the department to review the applications. This is included in Section 16 of the bill. And finally, Section 45-736 of the Residential Mortgage Licensing Act currently provides that a licensee making loans under the Act shows its unique nationwide mortgage licensing system identifier number on the application forms and forms of advertising. The amendment will extend the requirement to all licensees under the Act to provide greater transparency to Nebraska mortgage loan applicants and borrowers. That is included in Section 24 of the bill. LB707 will make these, also, annual updates: provide for the annual reenactment of the depository financial institutions' wild card statutes to provide equal rights, powers, privileges, benefits, and immunities for state-chartered banks, savings and loans, and credit unions with their respective federal counterparts. Due to state constitutional restrictions, these statutes need to be amended annually. Those are included in Sections 11, 13, and 23 of the bill. Update cross-reference federal statutes and regulations to refer to these statutes and regulations as they existed on January 1, 2022; the current reference date is January 21, 2021. The laws include reference contained in the Nebraska Banking Act, the savings and loan statutes, the Security Act of Nebraska, the Nebraska Commodity Code, the Money Transmitters Act, the depository financial institutions' exploitation statutes, the Nebraska Financial Innovation Act, the Seller-Assisted Marketing Plan Act, the Consumer Rental Purchase Agreement Act, and the Uniform Commercial Code. This is included in Sections 3, 4, 5, 9, 10, 12, 14, 15, 17-22, and 25-29 of the bill. Also-- Malcolm, come and hand these out-- it was discovered, between the time the bill was introduced and today, that there was a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

slight miss in something that needed to be introduced following the activities, and the amendment that we are offering today adds into the Uniform Commercial Code holidays that are bank holidays. It adds the Juneteenth National Independence Day, which will be celebrated each year on June 19. That is now a federal holiday and needs to be included for our work with the Uniform Commercial Code. Director Lammers will be following me to answer any specific questions you might have. And that's my opening.

LINDSTROM: Thank you, Chairman Williams. Any questions from the committee? Seeing none, thank you. First proponent? Good afternoon, Director.

KELLY LAMMERS: Vice Chairman Lindstrom, members of Banking, Commerce and Insurance Committee, my name is Kelly Lammers, K-e-l-l-y L-a-m-m-e-r-s. I am director of the Nebraska Department of Banking and Finance, appearing today in support of LB707, which was introduced at the request of the department. LB707 introduces updates to a number of laws governing many of the industries regulated by the department through its Financial Institutions Division and Nebraska Securities Bureau. There are three revisions that I will discuss in detail that have been previously discussed as well. LB707, Sections 1, 2, and 6-8 propose amendments to the Nebraska Banking Act to update the laws governing the structure of bank subsidiaries. The amendments would authorize bank subsidiaries to be formed as a limited liability company, or an LLC, subject to the guidelines to be established by the department. Current Nebraska law limits the structure of these subsidiaries to corporations. National banks may establish and/or invest in subsidiary LLCs with the approval of the OCC or the Office of the Comptroller of the Currency, if the activities are part of the business of banking, except for deposit taking or incidental to the business of banking. Examples of such activities include insurance and managing other real estate. State banks have been using the equal rights statute, 8-1,140 for some time to form LLC subsidiaries, and who invest as a minority member in other LLCs. When state banks contact the Department about LLC subsidiaries and investments, we require that they submit to the department all the information that national banks must provide to the OCC for evaluation. It is increasingly more common, however, that department examiners discover that banks have formed an LLC subsidiary or made investments in LLCs without following any guidelines or contacting the department. An inappropriate investment may have to be unwound. Authorization of the LLC subsidiaries at the state level will provide efficiencies in the review process and needed clarity to the industry. The bill also

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

provides for the ability for the department to examine these subsidiary LLCs within the current examination powers. Section 16 of LB707 would amend 8-1502, relating to changes of control of a bank or trust company. The law requires 60 days prior notice to the department for these transactions. An application and fee are required. There are three specific instances in which the 60-days' notice and fee is not required. That is, if shares are acquired to secure or satisfy a debt by inheritance or through a bona fide gift. To claim one of these exceptions, notice must be given to the department within 10 days after the acquisition. LB707 propose, proposes to extend the 10-day timeframe to 30 days. The current post-acquisition notice period has been problematic for some acquirers, particularly with regard to the inheritance exception. This change still enables the department to acquire the information it needs in a sufficiently timely manner. LB707, Section 24, would amend the Residential Mortgage Licensing Act. Licensees under the act are assigned a unique identifier number through the Nationwide Mortgage License System, which allows regulators the ability to track applicants and licensees through the years, and benefits consumers searching for information on these persons and firms. The act requires licensees making loans to include their unique identifier on all business documents and advertising. The amendment will extend this requirement to all licensees under the act. In the last year, there have been advertising issues from nonoriginating licensees that have failed to include their unique identifiers on their ads. This proposal would allow the department to appropriately address their concerns and ensure that full disclosures are made to the consumers. The remaining focus of LB707, which constitutes the focus of the bill, is to update 11 separate acts that the department administers, including revisions that the Legislature has been adopting on an annual basis. LB707 contains the annual equal rights updates for Nebraska state-chartered banks, credit unions, savings and loan associations. Under these laws, the Nebraska-chartered depository financial institution may invoke a federal law or regulation applicable to its federal counterpart that gives it a right, power or privilege that is greater than or different from what Nebraska law or regulation permits. Due to state constitutional restrictions on the delegation of legislative authority, the statute needs to be amended annually to provide a current reference date. LB707 sets that date as January 1, 2022. LB707 also proposes to update all cross-referenced federal statutes and regulations affecting the industries under the department's jurisdiction before providing a new reference date of January 1st, 2022 for 19 Nebraska Statutes. Finally, please note that attached to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

my testimony is a copy of a.m. fifteen eighty one to LV 707, which will provide operative dates of the bill. I want to thank Chairman Williams for introducing this legislation to update and clarify the laws affecting our financial institutions. Happy to answer any questions.

LINDSTROM: Thank you, Director. Any questions from the committee? Seeing none, thank you. Next proponent? Any proponents? We do have two-- oh. Good afternoon, Mr. Hallstrom.

ROBERT J. HALLSTROM: Thank you, Vice Chairman Lindstrom, members of the committee. My name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB707. I'll divert from usual practice and try to be brief this afternoon. We do support the provisions of LB707, particularly the wild, the so-called wild card provisions for banks and savings and loans, and also supportive of the amendments that have been proposed with regard to the emergency clause that would apply to those wild card provisions, among others, and the amendments proposed by Senator Williams with regard to the bank holiday. That really is a UCC-related or negotiable-instruments-related amendment that has to do with the effect on some banking concepts with regard to midnight deadline and funds availability under Regulation CC and the effect of those holidays on transactions conducted by banks on holidays or in light of holidays intervening. Also like to close by thanking Senator Pahls for his remarks about the banking and insurance industries and their contributions to the state, but as Mr. Dunning alluded to, with respect to the insurance industry, it truly has been a two-way street in the partnership with this committee and the Legislature in general, in putting together a regulatory environment that's conducive for banks and insurance companies to thrive while looking at the importance of safety and soundness for the banks and consumer protection issues. So we thank you for those efforts. Be happy to address any questions that you may have.

LINDSTROM: Thank you. Any questions? Seeing none, thank you.

ROBERT J. HALLSTROM: Thank you.

LINDSTROM: Any other proponents? We do have two letters of support, one from Katie Zulkoski, representing Nebraska Independent Community Bankers, and Brandon Luetkenhaus, representing Nebraska Credit Union

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

League. We'll move to opponents of LB707. Seeing none, any neutral testifiers? Seeing none, Chairman Williams, if you'd like to close.

WILLIAMS: I would just offer to answer any questions that anyone has. Otherwise I'll waive closing.

LINDSTROM: Any final questions? That'll do it, and that will end the hearing on LB707. We'll now open the hearing with LB863, also introduced by Chairman Williams.

WILLIAMS: Thank you, Senator Lindstrom. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s, and good afternoon again to members of the Banking, Commerce and Insurance Committee. Director Eric Dunning asked me to introduce LB863 on his behalf. LB863 amends the Insurance Holding Company Act [SIC] to reflect the latest updates to a model law adopted by the National Association of Insurance Commissioners, which I will refer to as the NAIC. And in Eric's briefing today, he talked about the need to be sure that we follow the accreditation rules of both the state and national and international, and that's what we're talking about here. This proposed change to the Insurance Holding Company Act via LB863 is necessary due to two agreements signed by the United States, one with the European Union and the second with the United Kingdom. The NAIC modified their existing model law to implement those covered agreements by adopting a group capital standard to allow the department to evaluate insurer capital requirements on a group basis. It also requires large life insurers to engage in liquidity stress testing. Both these accreditation standards with the U.S. are there. If Nebraska, which has domiciled insurance companies that are subject to these covered agreements, does not enact changes outlined in the governed agreements and the NAIC model act, another authority such as the European Union or U.K. regulator may impose their own group capital requirements that may substantially differ from the accepted practices in the United States. I know Director Dunning will testify behind me to provide more thorough explanation and answer any of your questions.

LINDSTROM: Thank you, Chairman. Any questions? Seeing none, thank you. Going to have our first proponent. Hello, Director.

ERIC DUNNING: Good afternoon, 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. I'm the director of insurance and I'm here to testify in support of LB863. In addition, I have behind me Justin Schrader, the department's chief examiner, who can help answer

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

any particularly difficult technical questions should that be necessary. To begin today, I want to thank Chairman Williams for introducing LB863. It's an important bill to the department because it allows Nebraska to maintain its NAIC accreditation and to meet our obligations under that covered agreement referred to by Chairman Williams. Now I'm going to skip that part of my testimony talking about the accreditation process because I feel like the committee has a pretty decent grounding today, and move into the core of the bill. So again, the bill is an accreditation standard required to make sure our domestics aren't subject to double regulation by other states and, in this case, because of the terms of the covered agreement with U.K. or EU regulators. That deadline is November 7, 2022, to avoid, to avoid that. Now, the group capital calculation established under the bill originally grew out of the lessons we learned in 2008. The group capital calculation allows regulators to better understand the insurance groups' financial risk profile as a whole. That's going to improve solvency regulation and therefore, and most importantly, protect policyholder interests. The phrase "group capital calculation" refers to accounting methods used to evaluate the capital of insurance companies. Regulators currently perform group analysis on all insurance groups, including assessing the risks and financial positions of the holding company system. However, we have not had the benefit of a consolidated statutory accounting system and financial statements. This bill will allow our department, as the regulator, to have more insight into the risks faced by companies. In terms of compliance, the template is made to be as simple or as complex as needed, based on the needs of the group. So for the smaller groups, it can look overwhelming, but there are a few Excel tabs that require inputs and then the calculations do most of the rest. Because this was such an important project and because we needed to get this up and running by that November '22 date, we asked all of our, all of our groups to submit to a trial run this year. As with so many other compliance tools, it's one of those things that's easy-- it's easy, once you've done it once, just to update those numbers year over year. It becomes more complex the more non-insurance enterprises within the group that aren't directly under the insurance company. So this bill allows the department to exempt groups from group capital calculations if the company has direct written premiums of less than \$1 billion, no non-U.S.-domiciled insurers within the group, doesn't include a bank, and no material changes and transactions between insurers and noninsurers in the group. Nebraska is the lead for 26 groups. Of those, we have 8 with more than \$1 billion in direct written premium. Again, those 26 groups submitted pro forma filings under these

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

calculations, and we've received no, we've no, received no objections from those insurers. So the second part of the bill requires liquidity tests or stress tests by large life insurers. Those groups are so large, in fact, that if adopted, the requirement will apply to one Nebraska group now and one additional one at some point in the near future. There are 22 of these groups nationwide. The standard is focused on very large life insurers due to the long-term cash buildup involved in many life insurance products. The primary goal, goal of that liquidity stress test is to address macroprudential risk to solvency. Again, those are risks to the, to the financial system as a whole. Again, thank you to Chairman Williams for bringing this bill and for his focus on an admittedly dense but crucial aspect of insurance regulation. And I would be happy to in, to answer any questions the committee might have after I call out two handouts that I ask be distributed with my, with my testimony. There is a letter today from First American Title Insurance Company, referencing the bill and expressing support, as well as from Pacific Life Insurance Company, and both of those letters are in the materials that I've submitted to you today. So with that, if there are any questions?

LINDSTROM: Thank you, Director. Any questions from the committee? Seeing none, thank you, Director.

ERIC DUNNING: Thank you.

LINDSTROM: Any other proponents on LB863? Good afternoon, Mr. Bell.

ROBERT M. BELL: Good afternoon, Vice Chairman Lindstrom. Good afternoon, and thank you for the opportunity to testify. Members of the Banking, Commerce and Insurance Committee, my name is Robert M. Bell. Last name is spelled B-e-l-l. I am the executive director and registered lobbyist for the Nebraska Insurance Federation. I am here today to testify in support of LB863. Included in that handout are-- you have that Pacific Life letter again, the Aflac letter, and then one from the American Council of Life Insurers. I also have a letter from National Indemnity Company, which is a Berkshire Hathaway company, that I will get to the committee after the hearing. The Nebraska Insurance Federation is the primary trade association of insurance, insurers domiciled in or with a significant economic presence in Nebraska. Currently, the Nebraska, the federation consists of 31 member companies and 8 associate members. Members write all lines of insurance. One of the goals of the federation is to promote the concepts and importance of insurance products to the public. Nebraska insurers provide high value quality insurance products to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

Nebraskans to help protect Nebraskans during difficult times. Not only-- as you've already heard, not only do Nebraska insurers provide financial protections to Nebraskans, but insurers also provide high-paying jobs. Members of the Nebraska Insurance Federation alone provide well over 14,000 jobs to the Nebraska economy. According to a 2016 study, the insurance industry had a \$14.24 billion impact on the Nebraska economy in 2015. And yes, Senator Pahls, we are looking at updating the economic impact in 2022. As you have already heard, LB863 would adopt the latest National Association of Insurance Commissioners' amendments to the Holding Company System Act. The changes of the act represent many years of work by the NAIC to develop another risk surveillance tool, specifically the group capital calculation to be used by insurance regulators for the purpose of policyholder protection, by enhancing the regulator's picture of an insurance group's financial risk. I know the Department of Insurance staff was greatly involved, in particular Justin, in its development, so a special thank you to the department for its hard work. The group capital calculation is a tool that the Nebraska Department of Insurance will utilize in monitoring the risk of an insurance group by leveraging existing regulatory tools and assessing the financial risk of various corporate entities within that group of insurance, insurers, other financial business, and other non-financial business. Placing this consistent, consistent and coherent analytical group calculation framework into law permits the department to utilize information to engage company leadership regarding any potential business, business of concern or to facilitate discussions with other insurance regulators, both within the United States and overseas. LB863 also includes a new liquidity stress test adopted by the NAIC for very large insurance, life insurance companies. This test is another tool for the department, that the department will utilize to analyze the risk to a domestic life insurance group from broader market forces. Why are these changes important to the members of the Nebraska Insurance Federation? Several Nebraska insurance groups are active internationally. In the past, the Legislature has passed numerous laws that allow the director, the Nebraska director of insurance, to serve as a group-wide supervisor, essentially the chief regulator of these internationally active insurance groups. Passage of LB863 permits the Nebraska director to continue to have a leading role in the supervision of Nebraska-based, internationally active insurance groups. In the second portion, which you've already heard, of course, is adoption of these NAIC amendments to the act as an NAIC accreditation standard for the Nebraska Department of Insurance. And I am going to skip the rest of the accreditation part, as Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

Williams and Director Dunning have both already discussed. But obviously accreditation is very important to the domestic industry, so we don't have to be examined by more than one department of insurance. For these reasons, the Nebraska Insurance Federation supports the passage of LB863 and asks the committee to advance the legislation to General File for consideration by the full Legislature. Thank you for the opportunity to testify.

LINDSTROM: Thank you, Mr. Bell. Any questions from the committee? Seeing none, thank you.

ROBERT M. BELL: You're welcome.

LINDSTROM: Any other proponents? Seeing none, I think it was covered, but we do have two letters of support, one from Jennifer Webb with Pac Life, and the other from Malcolm Smith with Aflac. We'll now move to opponents of LB863. Seeing none, any neutral testifiers? Seeing none, Chairman Williams, if you'd like to close--

WILLIAMS: I would again only offer to answer questions if there are questions. Otherwise I'll waive closing.

LINDSTROM: Any final questions? Seeing none, thank you. And that'll end the hearing on LB863, and I'll turn it back to Chairman Williams.

WILLIAMS: All righty, we'll move on now and open the public hearing on LB728 and invite Vice Chairman Lindstrom to make his opening.

LINDSTROM: Good afternoon. Thank you, Chairman Williams and members of the Banking, Commerce and Insurance Committee. I'm pleased to introduce LB728, the Travel Insurance Act. The bill amends our current statutes regarding travel insurance to incorporate national model legislation, both from NCOIL and NAIC, pertaining to travel insurance. The bill builds on existing Nebraska law pertaining to limited lines of travel insurance producers, and this more comprehensive travel insurance legislation will help ensure regulatory certainty for consumers, the industry, and regulators. The bill includes provisions pertaining to definitions, sales practices, the sale of travel protection plans, and others. As travel picks back up after the pandemic, having this legislation in place will help ensure Nebraska consumers, as well as the industry and the department, have solid regulatory framework in place. I will note that 18 states have already passed this model. I'm happy to answer any questions. I have someone

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

following me here who can also answer more technical questions that you may have. Thank you, Chairman and the committee.

WILLIAMS: Thank you, Senator Lindstrom. Any questions for the senator? Seeing none, thank you. Invite the first proponent to testify. Welcome to Nebraska.

DUKE de HAAS: Thank you, Senator. Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Duke de Haas; that's D-u-k-e, last name d-e H-a-a-s. I am vice president, deputy general counsel with Allianz Partners U.S., located in Richmond, Virginia. I'm here on behalf of Allianz and the United States Travel Insurance Association. Thank you for your consideration of the bill today. I'll depart from my written remarks just for a second to say I really enjoyed the visit here. This is a beautiful capitol, and I have to say I really appreciated talking about the history of the Unicameral Legislature with Bill this morning. Virginia has a unique provision that only allows a governor one term in office. They can't succeed themselves. So each state is unique, and in Nebraska, I've really enjoyed my time here. This is my second visit. And great regulatory climate, to your question, Senator Pahls earlier, I have the opportunity in my job to visit a number of states and see insurance departments around the country. I can say that the department here has got a national reputation, a positive national reputation, as does the state. And that's both-- that was true with Director Ramege and also current Director Dunning. They have a great department, Justin and others. We've talked to them on a number of occasions at Allianz, and this is a great place to do business. So I just want to make sure you heard that, Senator. Thank you, Vice Chairman Lindstrom, for bringing this bill, LB728. Travel insurance is two tenths of one percent of the insurance industry in the U.S., so we know we're not on everyone's radar all the time. It is an important product. It's a consumer product. So last year, as travel started to emerge out of the pandemic, we did write about 70,000 insurance policies in Nebraska. So travel insurance is a discretionary product. No one has to buy it. It's not like health or homeowner's or, or auto where you're forced to buy it. Travel insurance is something that a person usually decides on when they're taking a trip, and it covers things like lost baggage, emergency medical trip cancellation, trip interruption. And again, if it's not a good experience, consumers will not buy the product. This legislation, as was mentioned, is national legislation that both NCOIL, the National Conference of, National Council of Insurance Legislators, and the NAIC both have enacted. It's important to the industry to have a product that goes with their

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

customers around the world. It's as important, as much as possible, to have uniformity in the legislative, in the legislative and regulatory arena. That's what this bill does. It does things like add specific definitions pertaining to travel insurance, prohibited and permitted sales practices, and some various other provisions. And I'm happy to get into the weeds if, if folks have questions, but again, we support LB728. We really appreciate your time and attention on this issue. We know it doesn't come up every day, but this will help establish regulatory certainty for consumers, and for the industry, and for the regulators. So thanks again for your consideration. I'm happy to answer any questions. And, and my remarks have more details about the legislation. Thank you, Chairman.

WILLIAMS: Thank you. Questions? Senator McCollister.

McCOLLISTER: Thank you, Mr. Chairman. Would you say this legislation is a result of some abuses from those companies offering this insurance?

DUKE de HAAS: Thank you, Senator McCollister, for the question. I would say that what happened for a number of years, going back to 2014, there was a multi-state investigation of the entire travel insurance industry. Personally, I don't believe abuses is the right term. I think there was regulatory uncertainty about how certain laws that didn't specifically pertain to travel insurance applied to them. But there was an investigation, absolutely, and there were plenty of aggressive regulators from a number of states who felt like things weren't being done properly. Those investigations were done behind closed doors by a number of what I would consider to be mid-level market regulators in a number of states. And what ended up happening was there was a feeling by a number of regulators, commissioners, and others that laws that apply to travel insurance, if laws are to be made, should be made by you folks or, or regulators at the commissioner level. So ultimately, a travel insurance working group was established, first through NCOIL and then through the NAIC, and ultimately, a lot of these things were hashed out. I participated in probably 30 meetings at the NAIC Travel Insurance Working Group level. Every word of this act was debated, painfully, I might say, and consumer advocates were at the table, insurance agents were at the table, commissioners and regulators were at the table, and the industry was at the table. So I, I don't disagree with the, with the thrust of your question that there was a number of questions about what was going on in the industry. Yes, sir.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

McCOLLISTER: Yeah. I'll just say that I used a travel insurance company and we indeed had a claim. It was like pulling teeth.

DUKE de HAAS: Yeah.

McCOLLISTER: And the, the burdensome documentation they wanted was something else. So I welcome this legislation. And if there's-- if it can help regulate this, this industry, I, I think it's a very good thing. Thank you for the, for coming.

DUKE de HAAS: Yes, sir, Senator, and I hope it wasn't our company. If it was, I'd be happy to talk to you off-line. But I, I think what we found in one of the-- and I was a regulator for 13 years in Virginia before going to a law firm and then the company. I would not feel good about what I do every day if I felt like we were nickel and diming people and making it hard for them to make a claim, which you said. I'm sorry you had a bad experience. What I would say is, what we found is our customers come first. If they don't like our product or they feel like they're getting the runaround, then they're not going to buy us. And during 2020, I will say at the height of the pandemic, we had days of negative revenue because nobody's traveling, nobody's buying the product, and we had claims and money flying out the door. What we did during that time-- and a number of other companies did this, too, I'm not just cheerleading for our company. People were hurting, right? And so people paid for travel insurance that they couldn't use. We have a 15-day period that's established in the legislation. After that, after that free-look period, you can't get your money back. Well, we paid tens of millions of dollars back to people beyond that period, and we paid lots of claims for a pandemic, which has, we have an epidemic exclusion, OK, in our product. Director Dunning and Justin would be able to say that they know about that because insurance companies aren't meant to cover an event that affects the entire population of the U.S. That being said, we paid all that money out because we knew our customers were hurting and, when travel came back, we wanted to be there. What we've now done is we've figured out how to underwrite an epidemic. We have really good reinsurance. Director Dunning and Justin can talk more about that, too. What we now have-- and this has been approved in Nebraska. We filed the product, it's been approved. We have something called an epidemic endorsement. So it's a little more expensive than the baseline travel insurance product, about 4 percent more, but you get some coverage now for COVID, whereas previously it wasn't covered. And as I said, we paid a lot of claims that weren't covered. So again, I'm sorry you had a bad experience, but I, I think this legislation is important and, and I do

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

feel like we, we treat our customers well. I agree not every claim is paid, so I'm sorry you--

McCOLLISTER: Thank you.

DUKE de HAAS: --had a bad experience.

McCOLLISTER: Thank you, Mr. Chairman.

WILLIAMS: Senator Slama.

SLAMA: Thank you, Mr. Chairman. And Mr. de Haas, thank you so much for being here today. You actually read my mind on my first question, which was how did the COVID pandemic impact your operations. Without getting too far into the weeds, can I get a little bit more detail on how your epidemic endorsement process works? I'm interested to hear a little bit more about that and how it operates both in the industry and in your own specific experiences.

DUKE de HAAS: So typically-- try not to go too deep here because I, I know time is limited and if I, I could go on for a long time. Typically-- so we have an epidemic exclusion, which means, essentially, if somebody files a claim, hey, I've got a COVID claim, it's not covered. There's a deniable reason there, and it wouldn't be covered. What the epidemic endorsement does is basically instead, you now have a specific coverage within the policy that covers-- it's, again, it's not everything, OK? So you've got to read the terms of your policy. But if you have a COVID-related claim, so you have a trip that gets interrupted because you get sick or you actually have, you get put in a hospital somewhere, God forbid, and you have to be on a ventilator and that's an emergency medical claim, that coverage is now built into the policy. Now to your question, where is it actually purchased or how do you do it? I have to confess, I don't think it's in every single sales channel we have, so travel insurance can be purchased online. You can go to a website, you can go to American Airlines' website and buy our product in the booking path. You can go to Travelocity or Orbitz. It's all there. You can go to a travel agency in a strip mall, so there's all kinds of different ways it's sold. I'm not sure that endorsement is available everywhere, but you pay, you'll get some sort of question like: Do you want to, you want to buy our epidemic endorsement? It's not forced on people I don't believe. I don't think it's in every channel. But if you ask for that, then you'll have that coverage when you go on your trip.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

SLAMA: Thank you. I was just interested in how it works and you answered--

DUKE de HAAS: OK.

SLAMA: --my question. Thank you.

DUKE de HAAS: All right, thank you.

WILLIAMS: Probably doesn't work for international travel to a wedding, though, does it?

DUKE de HAAS: Our coverage goes around the world, if that's--

WILLIAMS: That was a poke at my fellow senator.

DUKE de HAAS: OK.

SLAMA: I recently got married and went on a honeymoon, so--

WILLIAMS: Senator McCollister.

McCOLLISTER: Thank you, Mr. Chair. So it only covers airfare. Is that correct,--

DUKE de HAAS: No.

McCOLLISTER: --the policy you sell?

DUKE de HAAS: No, no. No, it will cover-- so the products vary, but typically you'll have a trip cancellation component, which would cover the whole cost of your trip. So if you go on a cruise-- for example, my, my wife and I are supposed to be going on an anniversary cruise. I hope it's going to go this time.

McCOLLISTER: Did you buy the insurance?

DUKE de HAAS: I have an annual product since I'm a company guy, so, you know, so that covers me and my family. But yes, it covers the entire trip, not just your airfare. And then you can also get-- it'll have things like you get stuck somewhere, your trip gets interrupted, you have to stay somewhere overnight, it'll cover your expenses, things like that. And then there's things like I've seen folks medevaced off the cruise ship. So we had a gentleman who paid \$70 for a policy, had a stroke in Italy, and it cost \$70,000 to put him on a pod on a plane and bring him back to the U.S. And so he got good value

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

out of his pol-- ultimately made it and got back home. So the product was very good for him. We write tons of policies where there are no claims, obviously, so that's how you help cover that.

McCOLLISTER: Thank you.

WILLIAMS: Additional questions? I have one. We have four members of our committee that are also members of the Revenue Committee, so they're interested in, in those kind of things. And if I'm understanding correctly how premium tax works in our state, this bill limits the premium tax to only that portion of the premium that is paid for the insurance part, and does not then include it for what is in the bill described as the amounts for travel assistance services or cancellation fee services. But if I understand our tax system correctly-- and this is my question-- those would still be subject to Nebraska corporate income tax.

DUKE de HAAS: So first of all, I would say, Mr. Chairman, that the-- this does not limit the taxes. So this is basically putting into law what's already in existence. So currently-- I'll give you just a hypothetical example. Our company will write a \$100 policy. \$95 of that will be insurance premium. \$5 of that-- this is just an example-- would be assistance services, for example. It would depend on who's writing the policy, whether they have a waiver in there or not. \$95 dollars is premium and, under Nebraska law currently, before this legislation goes into effect, we pay premium tax, as a company, to Nebraska on that premium. So--

WILLIAMS: Gross premium.

DUKE de HAAS: Correct. So for example, we-- I think we're going to pay 100 and we haven't filed a report. I think it's due in March-- Hopefully, I don't think we're late. We're going to pay about \$112,000 to the state of Nebraska for travel insurance premium that was written in 2021. The service, the service revenue is not paid to Nebraska, so the way it works for our company-- it varies by company, but our company's operations-- employees, everything else-- is in Richmond, Virginia. So on that revenue, that revenue actually doesn't go to our insurance company. It goes to a service company or an administrator which is located in Virginia, and we pay taxes on that to the state of Virginia. That was true before the legislation, and it's true after. It's not affected by it.

WILLIAMS: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

DUKE de HAAS: So there's no revenue loss to the state.

WILLIAMS: That's my question.

DUKE de HAAS: OK, thank you, sir.

WILLIAMS: Any additional questions? Seeing none, thank you for your testimony.

DUKE de HAAS: Thank you, Mr. Chairman. I much appreciate it.

WILLIAMS: Any additional proponents? Welcome, Director.

ERIC DUNNING: Mr. Chairman and members of the Banking, Commerce and Insurance Committee, for the record, my name is Eric Dunning; that is spelled E-r-i-c D-u-n-n-i-n-g. I'm the director of insurance, here today to testify very briefly in support of LB728, which, as Mr de Haas noted, it's based on an-- National Association of Insurance Commissioners' model law. It is not an accreditation standard. So our ability to do our jobs is not contingent on the passage of the bill. The NAIC, again, an organization of insurance directors existent since 1871. And we believe that the primary purposes of the NAIC is to have states and territories create these model laws and regulations so we get a uniform regulatory environment for the business of insurance, since insurance is primarily and uniquely regulated by the state. Now, as part of that process, I just want to cover a little bit of, of how these, these laws are developed. The NAIC meets not only the regulators of those products, such as, as Department of Insurance staff, but with members of the insurance industry and with consumers, as well. The NAIC goes so far as to fund consumer groups to come and advise and, and, as it were, lobby the NAIC in the development of this, of these model laws and regulations. All of these products come together-- or all of these parties come together to discuss, sometimes debate the formation of these models. They're always carefully and thoroughly constructed with the express purpose of bringing them forward to our respective legislatures for your adoption or rejection. Now LB728's product of that collaborative process-- and they recognized there was a lack of specificity and consistent application of regulation of the insurance industry when it started working on this model in 2016. The model was adopted in 2018. The model and LB728 defines regulatory structure related to travel insurance, covers market regulation, premium tax-- rate regulation and enforcement of this type of insurance. All of this is important to the, the Nebraska Department of Insurance as the industry regulator and to the industry

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

and consumers to have uniformity and consistency in this area. Thank you again for the opportunity to testify in support of the bill, and would be happy to answer any questions the committee may have.

WILLIAMS: Questions for the director? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Mr. Chairman. Mr. Dunning, you indicated that this is model legislation. Is that correct?

ERIC DUNNING: Yes.

McCOLLISTER: Is that model legislation emanate from NCOR-- NCOIL, I should say? Or is it NAIC?

ERIC DUNNING: I, I am familiar with the work that's been done at the NAIC on this, on this. It was news to me that NCOIL had also worked on the, on the model as well, but I, I, I do not believe that they were together working on this model.

McCOLLISTER: So where is the model legislation from then?

ERIC DUNNING: The NAIC.

McCOLLISTER: And not as Mr. de Haas indicated?

ERIC DUNNING: I am not aware of how--

McCOLLISTER: OK.

ERIC DUNNING: --NCOIL proceeded with this. I'm assuming that they looked at it. But again, I don't really want to go too far down there-- that road and would really rely on Mr. de Haas to, to be the expert on that one. OK?

McCOLLISTER: Thank you, thank you.

WILLIAMS: Additional questions? Seeing none, thank you for your testimony.

ERIC DUNNING: Thank you, sir.

WILLIAMS: Any additional proponents? Seeing none, we do have one letter in support from Andy Pollock, representing the Nebraska Travel Association. Are there any opponents? Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Lindstrom, you're invited to close.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 18, 2022
Rough Draft

LINDSTROM: Thank you, Chairman. I was going to waive, but I'll just clarify 'cause I got some information. NCOIL was the first one, but both had worked on it, NCOIL and NAIC,--

WILLIAMS: OK.

LINDSTROM: --if that answers your question.

WILLIAMS: Senator McCollister.

McCOLLISTER: Do you see any value in our, in an association with NCOIL?

LINDSTROM: Yeah. I, I mean, we've done a lot of those bills over the years. And oftentimes, when we're dealing with reciprocity and the issues with that, it's vital that we have those organizations that are engaged in that. So yeah, I do.

McCOLLISTER: Are you aware that we are, are not a member of their group?

LINDSTROM: I'm [INAUDIBLE].

McCOLLISTER: You see some value in establishing a relationship with that group?

LINDSTROM: Well, I'm on my way out, but I mean, the next chairman CAN-- and the director can do that, but--

McCOLLISTER: Thank you, Senator.

LINDSTROM: But yes, I mean, I think, I think some of the language is helpful over the years when we have--

WILLIAMS: Any additional questions? Any final comment, Senator?

LINDSTROM: That's it.

WILLIAMS: All righty. That will close the public hearing on LB728. We will be having a very short [RECORDER MALFUNCTION].