

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee February 26, 2019

WILLIAMS: Welcome, everyone, and welcome to the Banking, Commerce and Insurance Committee hearing. My name is Matt Williams. I'm from Gothenburg and represent Legislative District 36, and I'm privileged to serve as Chair of this 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 opinion on the legislation before us today. The committee members will come and go during the hearing. We have bills to introduce in other committees and are sometimes called away. It's not an indication that we are not interested in the bill being heard in this committee, it's just part of the legislative process. To better facilitate today's proceeding, I ask that you abide by the following procedures: please silence or turn off your cell phones; move to the front row when you are ready to testify. The order of testimony will be the introducer, followed by proponents, followed by opponents, neutral testimony, and then a closing by the senator presenting the bill. Testifiers, please sign in; hand your pink sign-in sheets to the committee clerk when you come up to testify. And when you testify, if you would please state and spell your name for the record. Please be concise. It is our request that you limit your testimony to five minutes. We do use a clock system-- or a light system here. The lights will be green for the first four minutes followed by one minute of yellow light and then the red light will come on and at that time I would ask you to finish your testimony. If you will not be testifying at the microphone but want to go on record as having a position on a bill being heard today there are white tablets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record for today's public hearing. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Please hand them to the page for distribution to the committee and staff when you come up to testify and we will need ten copies. If you do not have ten copies, if you would raise your hand, one of our pages would make those copies for you. To my immediate right is committee counsel, Bill Marienau. To my left at the end of the table is committee clerk, Natalie Schunk. The committee members will introduce themselves and we'll start with Senator Kolterman.

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

QUICK: Dan Quick, District 35, Grand Island.

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LINDSTROM: Brett Lindstrom, District 18, Northwest Omaha.

GRAGERT: Tim Gragert, District 40, northeast Nebraska, Cedar, Dixon, Knox, Holt, Boyd, and Rock County.

WILLIAMS: And it is Senator Gragert's 60th birthday today [LAUGHTER], so we will be celebrating that. Our pages today are Kylie and Dana, if you would stand and be recognized, and thank you for, for your special work. As, as mentioned the committee will take up the bills in the order posted. We will now open the public hearing on LB603 by Senator Lindstrom to change automatic teller machine fees. Senator Lindstrom, welcome.

LINDSTROM: Thank you, good to be here. Good afternoon, Chairman Williams and members of the committee. Again, my name's Brett Lindstrom, B-r-e-t-t- L-i-n-d-s-t-r-o-m, and I represent District 18, Northwest Omaha, here to introduce LB603, a bill to change automatic teller machine fees. LB603 will modify Nebraska statute 8-157.01(3) to allow more flexibility for payment networks and setting default interchange, interchange fees. It will no longer require each payment network to apply the same default interchange fee to each issuing bank with an office or branch in Nebraska for Nebraska cardholders conducting transactions at Nebraska ATMs. The bill would modernize Nebraska statutes. And it might be the shortest opening I've ever had, so I'd be happy to answer any questions.

WILLIAMS: Thank you, Senator Lindstrom. Are there questions for the Senator? Seeing none, I'm sure you'll be staying to close.

LINDSTROM: I will be here.

WILLIAMS: We would invite the first proponent. Welcome to the Banking, Commerce and Insurance Committee.

PATRICK DWYER: Thank you, Chairman. Afternoon, so Patrick Dwyer, P-a-t-r-i-c-k D-w-y-e-r, with Mastercard. Good afternoon, members of the committee, I appreciate Chairman Williams. I appreciate the opportunity to testify on behalf of LB603. My role with Mastercard is I manage our State Government Relations Program at MasterCard and I want to thank the, the committee for the opportunity to speak today about this bill that will modify the permissible automatic teller machine usage fees by banks that operate in Nebraska ATMs that have offices and branches in Nebraska that issue cards to Nebraska residents in transaction-- for tran-- for transactions at ATMs. So

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from the outset I just want to explain that we're talking about the bank-to-bank fees, these, these are not consumer-based fees, these are not any fees that a consumer pays for an ATM. These are B2B fees set by the Mastercard network. The Visa network operates very similarly between banks that issue payment cards and ATMs, processors, and, and owners. So from the outset, I just want to make sure that was, that was sort of clear which issues we're talking about here. For background ATM usage fees are charged by ATM operators to issuing banks for ATM transactions that are processed by a payment network that are, that are referred to by the industry's interchange fees. And in the case of ATM interchange fees, these are fees paid by issuing banks that issue payment card at banks or credit unions, and issue credit cards or debit cards to ATM owners. Mastercard establishes these default interchange fees. We don't collect these fees. We don't gain any revenue from these fees. These are fees that we set up as a payment card network between the 25,000 different institutions that we represent around the world to help the systems operate effectively and securely. The, the issue before us today regarding the piece of legislation is Nebraska is unique in the fact that it-- within the law has a nondiscriminatory legis-- law-- language in the, in the current law. That means that there can be no differentiation between any interchange fees charged to ATM operators who have a branch or office in Nebraska. The practical impact of that is, it forces each payment network to apply the same default interchange fee to every issuing bank with an office or branch in Nebraska for Nebraska account-- cardholder conducting transactions at a Nebraska ATM. LB603 would modify or eliminate the, eliminate the relevant parts of these provisions and allow more flexibility for payment networks in setting default interchange rates. By passing LB603, the Nebraska Legislature would modernize the statutes without putting any residents at a disadvantage. The, the relevant aspects of, of that is that currently because of the inability to, to set differential interchange rates the-- we're unable to, to negotiate with-- you know, both large and small institutions for ATM pricing. Therefore, having the unintended consequence as a potential-- potentially limiting the amount of ATMs that could be deployed in a particular state, whether that default applies to a large multinational institution or a smaller community bank that could partner per se with a national debit network. You know, the, the-- also we're not aware of any state outside Nebraska that imposes restrictions on interchange fees for ATM transactions. These restrictions hamper our ability to freely contract with our issuing bank customers and prohibit us from setting a discounted inter--

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interchange fee for an ATM transaction for any issuing bank located any else-- anyplace else in the world that might also have an office or branch located in Nebraska. As I-- also as I previously mentioned, the-- it is likely that the statute was initially put in place to protect smaller banks in Nebraska during-- you know, the, the late stages of the interstate banking debate. You know, we're now 30 years beyond-- you know, some of those initial debates and, and-- you know, we feel that there's a potential harm going forward if, if these rates continue at this level-- you know, there, there could be a desperate impact on smaller communities that won't be able to-- that may not have a large national bank presence and be disadvantaged from the small community bank perspective who may not be able to, to compete for putting ATMs in, in their locations while partnering with some of the large national ATM networks for example. So in conclusion, I want to thank the committee for their time, and we believe obviously that-- you know, this bill is important both from a free-market perspective for allowing companies like Mastercard as well as issuing banks based in, in Nebraska to be able to set their own prices for their own products. And we also believe that by not modernizing the statute could potentially put residents at risk of harm be-- becoming excluded from certain banking services if they're not able to compete on a level, level playing field. Thank you, Mr. Chairman.

WILLIAMS: Thank you, Mr. Dwyer, and thank you for coming from New York to testify today. Any questions? I have a couple. We have this nondiscriminatory language in our current statute. Do you know of any other states that currently do that?

PATRICK DWYER: No, Mr. Chairman, there are no other states that have that particular provision.

WILLIAMS: And, and you also mentioned that you, you feel that by passing LB603 we might increase the availability of ATMs across Nebraska. Could you go into that a little bit more?

PATRICK DWYER: Sure, so following the, the banking consolidation, following interstate banking going back-- you know, going back a number of years, there's also been a sort of large institutions that manage their own, their own ATM networks. You think of the U.S. Bank, Wells Fargo, for example are, are examples of larger institutions that have a built-in ATM network. To compete with that, a number of regional and smaller community banks have aligned themselves with, with what's called through National Debit Networks, Allpoint is an example of these networks that have the ability to charge-- to partner

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with smaller community banks to, to deploy ATMs either with-- you know, with the banks or, or in their locations. That also have the advantage of, of being low surcharge or no surcharge in many cases. The market for those large National Debit Networks are based on pricing from the networks, ourselves and Visa. Without, without that special-- without that kind of pricing flexibility that we have in other states, the ability of those networks to grow in Nebraska could be hampered by the fact of this particular price regulation, which would, again, not impact maybe larger communities like here in Lincoln or in Omaha, but certainly smaller communities where there are no nat-- there is no national bank present. So, so that's a potential unintended consequence that we see sort of coming out of, of this particular legislation when it was passed a, a number of years ago.

WILLIAMS: You also made it clear, I think, in the beginning of your testimony, that the fee that we're charging-- talking about here, the interchange fee, is not a fee that directly goes to the consumer. Is that correct?

PATRICK DWYER: Exactly, it-- no, this is totally separate from any sort of convenience fee that the-- that an ATM processor would charge for using either an ATM that's out of their network or not affiliated with their bank. These are-- you know, these are priced in basis points, and, and are negotiated by Mastercard with the, with the business entities, not the consumer.

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

PATRICK DWYER: Thank you, Mr. Chairman.

WILLIAMS: Would invite any additional proponents. Seeing no one coming forward, is there anyone here to testify in opposition? Seeing no one, is there anyone here to testify in a neutral capacity? Seeing no one, Senator Lindstrom waives closing, and that will close the public hearing on LB603. And we will move forward and open the public hearing on LB407, again with, Senator Lindstrom, to grant in-state credit unions powers of out-of-state credit unions as prescribed. Welcome back.

LINDSTROM: Thank you. Good afternoon, Chairman Williams and members of the committee. My name is Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-o-m. I'm representing District 18, northwest Omaha. Today I'm introducing LB407, a bill to grant in-state credit union powers of out-of-state

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credit unions as prescribed. LB407 amends the State Credit Union Act to provide parity for Nebraska state- chartered credit unions with a credit union chartered by any other state operating one or more branches in this state. A Nebraska state-chartered credit union may submit an application, on a form prescribed by the Department of Banking and Finance, the Department then approves the applicant to engage in any activity that a credit union chartered by any other state may be authorized to engage in. Credit unions seeking approval must be well-capitalized as, as of the most recent state or federal credit union regulatory exam. The bill also strikes (2) of Section 21-1725.01. And thank you, and I'd be happy to answer any questions.

WILLIAMS: Questions for Senator Lindstrom? Seeing none, I would invite the first proponent. Welcome, Mr. Luetkenhaus.

BRANDON LUETKENHAUS: Thank you. Good afternoon, Chairman Williams, members of Banking Commerce and Insurance Committee. My name is Brandon Luetkenhaus, spelled, B-r-a-n-d-o-n L-u-e-t-k-e-n-h-a-u-s. I'm here today on behalf of the Nebraska Credit Union League. Our organization represents Nebraska's 60 not-for-profit credit unions and their members. I appear before you today to offer our association's support of LB407. I'd like to first thank, Senator Lindstrom, for introducing this legislative bill. LB407 would modernize and improve the State Credit Union Act, eliminate burdensome regulation, provide Nebraska credit unions with a more viable option in chartering with the state of Nebraska and sustain or potentially increase funds to both the Department of Banking and the state's General Fund. This proposal is extremely important as it relates to the Dual Chartering System in Nebraska. There are 60 credit unions with only 12 of them currently being state-chartered. The remaining 48 credit unions chose to be chartered with the federal government. The ability of both credit unions and banks to charter with either the state or federal government is known as the Dual Chartering System which is essential to promoting innovation and competition between state and federal regulators. Credit unions and banks can move quite easily from one charter to the other if they believe that one is more advantageous than the other. Consider that in Nebraska there are 172 banks, and unlike we see with credit unions only 17 of those 172 are federally chartered. It is, therefore, empirical that for banks in Nebraska chartering with the state is far more advantageous than chartering nationally. This is not the case for Nebraska's credit unions, which the numbers bear out. The competitive nature of the Dual Chartering System has prompted individual states to be responsive to the needs of

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their constituents and consumers, thereby, resulting in new products and powers. State regulators provide a local perspective and tend to keep a state focus on the financial issues that impact the state's economy by ensuring the success of local financial institutions. State regulators are also strengthening local economies, therefore, state regulators must compete with federal regulators as well as other state regulators in the development of regulatory policy and supervision decisions that affect credit unions and banks. Today, the state finds itself on the brink of losing all its tax paying state-chartered credit unions. Over the past ten years eight chartered-- eight state-chartered credit unions have opted for the federal charter. Consider that according to the Nebraska Department of Banking and Finance Web site, in the last 10 years, 26 Nebraska banks have changed from the federal or national charter while for Nebraska credit unions in the last 10 years, there's been zero credit unions that have changed-- chartered from federal to state. This is a symptom, a symptom of an all but nonfunctioning state-chartering system in Nebraska for credit unions. There are many reasons for the flight from the state charter to the federal charter by Nebraska credit unions, but the primary reasons are twofold, cost and regulatory burden at the state level. We com-- we commissioned economist Bill Hampel of Virginia to conduct a study in recent months of the impact of credit union charter choice in the state of Nebraska, and he found that there are significant higher costs associated with operating a state-chartered credit union. Unlike their financial-- or federal counterparts not-for-profit state- chartered credit unions pay the identical state taxes as do for-profit state banks. In 2017, Nebraska's 12 state-chartered credit unions paid an estimated \$295,000 in state sales tax, another \$154,000 in the franchise or deposits tax. In Nebraska all financial institutions, both banks and credit unions pay the franchise or deposits tax in lieu of state income tax. They also paid-- credit unions also paid \$154,000 to the Department of Banking and Finance in annual assessments and exam costs. He also cited that if the 48 federally-chartered credit unions would have been chartered by the state in 2017, that Nebraska would have seen an increase in revenue of \$2.8 million. The second reason-- and I, I provided his report with my testimony. The second reason that so many credit unions have opted for the federal charter is additional regulatory burdens and a lack of modernization to the State Credit Union Act. State credit unions have been provided with really no advantages to choose the state charter over the federal charter. Business of any kind will seek the path of least resistance when it comes to operating, paying triple the price as Mr. Hampel discovered

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to operate in a charter that provides no advantages but rather only headaches and obstacles doesn't make common sense. Simply put, the juice isn't worth the squeeze for so many of our, our credit unions in Nebraska. Compounding the problem, is the fact that Nebraska credit unions are now beginning to turn-- to move to more progressive credit union acts in other states. Just last year, a Nebraska-based credit union opted to charter with the state of Iowa, because Iowa's State Credit Union Act offered a better opportunity for growth and innovation than either the federal charter or the Nebraska state charter. In fact the credit union indicated that by chartering with the state of Iowa, it had a greater opportunity to do more business in Nebraska. Nebraska has evolved into a state where-- for credit unions to grow, they're are all but forced to move their headquarters outside of Nebraska or charter with the federal government. This is the reality today. The state of Iowa is very similar in cost for state-chartered credit unions as Nebraska, yet in Iowa only one credit union in Iowa is federally chartered. That's because Iowa has mitigated the higher cost of being a state-chartered credit union by allowing credit unions to grow and serve more Iowans. As competition in all sectors grow, it grows in the financial sectors as well. Whether it be through brick-and-mortar institutions from within or without the state or outside the state or online competitors, credit unions do not shudder at competition, in fact we welcome it. Like any other business, credit unions are made stronger by competition, credit unions thrive in a competitive marketplace because they are focused on serving their members and owners. However, when an out-of-state credit union can open more branches in more areas of Nebraska than can a Nebraska state-chartered credit union, we believe there's a problem. LB407 is not intended to hinder competition, but rather expands it by allowing Nebraska state-chartered credit unions the ability to compete with those credit unions chartered by another state which operates branches in Nebraska. I'd like to address our Association's support of striking part (2) in Section 21-1725. For years we have believed that is unnecessary and overly burdensome from both a financial and human resources standpoint to require the Department to hold a hearing on or publish in newspapers the application of a new branch whether it be a credit union or a bank, frankly, in communities where branches proposed to open. It is our understanding talking with the Department that it's an extremely rare occasion where a proposed branch location, bank or credit union is opposed by anyone. In fact, we are not aware of one being denied. In 2017 this committee, with the leadership of then Chairman Lindstrom, Senator Williams, and Speaker Scheer, eliminated the requirement that bank executive officers and credit

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union loan officer licenses-- license with the Department for this exact reason. It was very rare for a bank executive license or a credit union loan officer license to be denied so the requirement was really a formality with almost a certain conclusion that the executive or loan officer license would be approved. In an economy where competition has become the norm, we believe that it is no longer necessary that state-chartered credit unions be required to pay for the unnecessary step of publication, comment or hearing. In fact, when a federal credit union chooses to open a new branch, there is no such requirement of notification by the federal regulator, the National Credit Union Administration. So it begs the question if 48 federally-chartered credit lines can open up branches as they see fit, then why shouldn't the 12 state-chartered credit unions be able to do the same. Under LB407, a credit union wishing to open a branch would still be required to make application to the Department for approval. We firmly believe that the Department has the expertise and regulatory authority to rightly decide on these matters to ensure the safety and soundness of Nebraska's credit unions and that not, not passing LB407 continues the status quo of placing the Department in somewhat of an awkward position between competitors with whom they have oversight authority. We don't believe the Department should be required to referee between banks and credit unions, but rather allow the Department to umpire by calling balls and strikes as it pertains to those institutions for which they have oversight. The state of Nebraska has been chartering supervising examining credit unions since 1921. Since that time financial institutions have flourished and regardless of the attempts to-- at the contrary, credit units will continue to thrive in Nebraska. The real question is whether credit unions-- whether the state wants to remain in the credit union business as it pertains to state charters. In conclusion, LB407 aims to strengthen the state charter for Nebraska credit unions by providing parity with out-of-state credit unions, reducing regulatory burden, and allowing the director of the Department to decide on safety and soundness matters without inserting outside competitive pressures. We respectfully ask that this committee support the advancement of LB407 to General File. I want to thank you for your time and consideration, and I will do my best to answer any questions you might have.

WILLIAMS: Thank you, Mr. Luetkenhaus.

BRANDON LUETKENHAUS: Thank you.

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WILLIAMS: Questions? I guess I'll ask some questions.

BRANDON LUETKENHAUS: OK.

WILLIAMS: I, I want to try to be sure that I'm, that I'm understanding what's going on here.

BRANDON LUETKENHAUS: Um-hum.

WILLIAMS: We, we annually pass the wild-card statute that, that equalizes things in, in Nebraska with those federal laws that, that hit us. You mentioned a, a credit union that has now chosen to charter in Iowa because that was a better choice than a federal charter or the Nebraska state charter. Can you explain why that was better than the federal charter? And if there's somebody else better--

BRANDON LUETKENHAUS: Yes.

WILLIAMS: --for me to that of coming, I would be happy to.

BRANDON LUETKENHAUS: Thank you. Thank you, Senator, for the question. I appreciate it very much. We do have a testifier here that can speak directly to that issue because she is present CEO of that credit union. But, yes, it was more advantageous for them to charter with the state of Iowa because the state of Iowa has rules and regs in place that allow those credit unions to grow. And so, in fact, by chartering with the state of Iowa they have more opportunity to serve more Nebraskans than if they were chartered through the state of Nebraska. So for instance, there may be a credit union-- there, there is a credit union in, in Nebraska that operates as a, a Iowa state-chartered credit union and they can serve more people in Nebraska than can a state-chartered credit union in Nebraska. And we think that's really a problem. We think that there should be parity between those credit unions that are coming from outside the state that are state-chartered with that outside state providing parities who are credit unions that are state-chartered here so that they, too, can serve and open up branches in those areas.

WILLIAMS: I appreciate the fact that state-chartered credit unions in Nebraska pay the same franchise tax as the banks do.

BRANDON LUETKENHAUS: Um-hum.

WILLIAMS: Do they in Iowa?

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BRANDON LUETKENHAUS: In Iowa they have a deposits and credits tax, I believe. So they have very similar-- when we look at the [INAUDIBLE], they pay state, state sales tax in Iowa as well.

WILLIAMS: OK.

BRANDON LUETKENHAUS: So they have, they have quite the same cost as, as our Nebraska state charters do-- state- chartered credit unions. I think the difference is the state of Iowa has mitigated those costs for credit unions to say, OK, it costs you a little more to be a state-chartered credit union than a federal, but you will have more ability to grow as an institution as a credit union if you're chartered with the state of Iowa then if you were, say, chartered with the federal government or if you're chartered in Nebraska.

WILLIAMS: So with those abilities to grow those type of things that, that Iowa has done, if I'm understanding LB407, that would allow a, an Iowa-based state credit union that does business also in Nebraska to take those same activities that they have in Iowa and do them in Nebraska?

BRANDON LUETKENHAUS: No. So the-- if I'm understanding your question, that those credit lines are coming as a state- chartered Iowa institution and operating branches in Nebraska, they are regulated by the state division of credit unions in Iowa. What LB407 would do-- would say, if, if an Iowa state- chartered credit union comes into Nebraska and is, is able to serve, let's say, Douglas County and, and Lancaster County, then so could our state charters could then apply for that same power with the director and the director would have to approve that. This is not something that automatically the credit unions automatically get the same powers as, as outside out-of-state-chartered credit unions. They would have to apply as the bill talks about-- have to apply with the Department and provide the Department the information that they need that's required under this legislation. And anything else that the Department might require when it comes to safety and soundness of that institution that's making the application.

WILLIAMS: So that could potentially change field of membership rules?

BRANDON LUETKENHAUS: Senator, I, I think it's-- thank you for the question. I think that's clearly what this bill-- probably the teeth of it are when we have Iowa-chartered credit unions able to serve more Nebraskans than our own state-chartered credit unions, than the

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director should have the ability to provide parity to those state charters in our opinion.

WILLIAMS: You mentioned in your study that you've provided us with that, that the author of that talked about two things: cost and regulatory burden being different. And in your testimony you've talked at some, at some length about the cost side of that. What would the regulatory burden difference be?

BRANDON LUETKENHAUS: So that's a great question, and thank you for it. Some of the regulatory burdens that you might find in the state that you don't find elsewhere or through the federal charter is with branching is a great example and that's why in LB407, we, we strike that sub, subpart (2) is because for federally-chartered credit unions, when they want to open up a branch they simply open up a branch. And for state-chartered credit unions it's not that simple, they have to make application to the director. They have to potentially have comments from the community and in addition they could potentially have a hearing and there's publication, by the way, publication notification which cost the credit union money as well. So what we're saying is, if a federal-chartered credit union can open up a branch in Nebraska why with-- without such burdens-- why do we burden our state-chartered credit unions of which we only have 12 left out of 60. Why would we burden them with this process when we know what the conclusion is from the Department. The Department has said to us that as far as we know there hasn't been a, a branch that has been declined in recent memory from what I understand now. The director or the Department could provide more information on that, but that is my understanding is that branches are very rarely contested and it is almost an inevitable conclusion that if you're a state-chartered institution whether it be bank or credit union you aim to open up a branch that you'll be able to open up that branch. And so we wonder why there is this very similar to the executive loan officer license and, and credit union or bank executive officer license and credit union loan officer license argument which was these are very rarely denied. And so why do we have to go through this process, why can't credit unions and banks just opt in to that ability if they want that oversight. So with this we think with branches as well as the regulatory burden when it, when it comes to field of membership in Nebraska if you're a federally-chartered credit union in the state, you apply to the National Credit Union Administration, the NCUA, they're federal prudential regulator, you apply to them for the expanded field of membership and the NCUA comes back and they either

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approve it or deny it. In Nebraska, what is seemed to be tradition is the Department will send out publication notice to those counties and, and then once they get objection from in, in most cases and I think all cases it's, it's banks or banking industry will oppose that, then the Department is put in an awkward position of choosing between two customers, credit unions and banks which are their customers. The Department is not funded by taxpayer money, it's funded by those that they regulate, banks, credit unions, and others. They're put in an awkward position, and so they, they tend to hold hearings and what those hearings mean, and we have a testifier that can testify to it because he just is about going through one, is they're very expensive. People have to hire attorneys. The Department has to take their staff and utilize time for those hearings. In the one hearing that I attended a couple of weeks ago, there were six Department staff. They also hired a hearing officer. They hired a reporter-- court, court reporter, whatever you might want to call it. And then both, both banking trade associations had attorneys present as well as the applicant credit union had attorneys present. So it was probably around an eight-hour hearing, took a lot of time, and this is something that federally-chartered credit unions don't have to endure. And so if you're going to pay a higher cost to be a state-chartered credit union and you have these kind of hurdles, I guess we don't understand why you would be a state-chartered credit union, and, and there is benefit to the state to be a state-chartered credit union. If we have state-chartered credit unions that pay state sales tax as, as you noted, state sales tax and the deposits tax, which is in lieu of state income tax for both banks and credit unions, we don't technically pay state income tax, we pay it through the deposits or franchise tax. And so there is a benefit, and Mr. Hampel pointed out that were all 48 credit unions state-chartered in 2017, that the state would have seen roughly estimated \$2.8 million in additional revenue than the \$603,000 they saw through the current 12 state-chartered credit unions.

WILLIAMS: In most of those hearings that you're talking about and in particular the, the, the most recent one, wasn't the hearing based on an issue of field of membership?

BRANDON LUETKENHAUS: The hearing was based on-- solely on field of membership.

WILLIAMS: Right.

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BRANDON LUETKENHAUS: Absolutely.

WILLIAMS: Right. Any other questions? Thank you for your testimony.

BRANDON LUETKENHAUS: Thank you.

WILLIAMS: Would invite the next proponent. Welcome.

GAIL DeBOER: Thank you. Good afternoon. I am Gail DeBoer, G-a-i-l D-e-B-o-e-r. I'm the president and CEO of Cobalt Credit Union, formerly SAC Federal Credit Union, and I'm just here to tell my story about why the Nebraska charter was not beneficial to SAC. We are the largest credit union in the state of Nebraska, we hit a billion in assets this year. We have 114,000 members, and we had 8 counties as a federal charter-- we've been a federal charter for 70 years. Under the federal charter, I could only get my MSA counties, so I had eight counties, five in Nebraska, three in Iowa, and last year we also merged at the request of NCUA a small credit union in Denison, five million, which gave us another six counties in Iowa. But for the past five years, I have tried to expand my field of membership to include Lancaster County. We have many members in Lancaster County because we can qualify them based on working in one of our counties, but we couldn't actually open it up to everybody in Lancaster County. It's a county that's contiguous to the counties we have. We feel like it's a community that's pretty interconnected with the counties we have so we had approached that with NCUA. I was denied twice, our field of membership expansion. As you know the Nebraska charter mirrors the federal charter. So if I couldn't get it as an-- as a federal charter, I would not be able to get it as a Nebraska charter. But as an Iowa state charter, I was able to get the two more counties that I was hoping to get. It's a very simple process to become an Iowa state charter. It will cost us more money. We know that, we will pay the, the state tax in Nebraska. We will pay the tax in Iowa. We will pay sales tax in addition that we didn't have to pay as a federal charter. The operating expense is actually half what the NCUA was so-- but there is still an additional expense to doing this, but it was the only way for us to grow. And as many small credit unions and banks know, community banks as well, if you're not growing it's a problem. It gets more and more expensive to compete against nonfinancial, the nontraditional financial institutions, and the large banks. Our members want the same technology that they could get at a Wells Fargo. They want the same security that they can get from a big bank, and all of those have a high price tag. So to be able to provide those we really needed to be able to grow our membership and be limited to just

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those counties was hindering our growth. So we did go through the process and as of October, we became an Iowa state-chartered credit union. And it's not only more expensive, we now have two exams every year, we'll have an Iowa state exam, and we will continue to have an NCUA exam because of the, the insurance fund. So it's also a little more work. But again, it was a business decision that it was worth it to Cobalt Credit Union to be able to expand, and we did get-- we did-- we were able to now serve Lancaster County and Dodge County in Nebraska which we would have not been able to do. And really what, what pushed it even faster was Veridian Credit Union, an Iowa state-chartered credit union, who has the entire state of Iowa and is significantly bigger than any Nebraska credit union, has opened three branches in Omaha. They have more counties today in Nebraska than even I have with the two additional ones. And we, you know, that was-- that seemed like an unfair advantage for us, so that was the business decision. I'd be happy to answer any questions that you might have.

WILLIAMS: Questions for Miss DeBoer? As you went through this process and the NCUA did not allow you to branch into Lancaster County, what-- why didn't they allow that?

GAIL DeBOER: I wish I had that answer. They just said I couldn't prove an interconnectedness between the two communities and apparently that was a requirement. Even though we provided a significant amount of data that shows the number of people that live in Lancaster work in Omaha, live in Omaha work in Lincoln, the commuting, the shared services, the university system, it was, it was not enough to show that we had this interconnectedness.

WILLIAMS: So you were able then to take advantage of the Iowa state charter to achieve your, your goal of branching to Lancaster County,--

GAIL DeBOER: Right.

WILLIAMS: --which also ended up including Dodge County as I [INAUDIBLE].

GAIL DeBOER: As long as we were-- we again, Fremont County is very close to Omaha and really is a suburb almost at this point.

WILLIAMS: Right. Right. You mentioned you're the largest credit union in Nebraska.

GAIL DeBOER: We are.

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WILLIAMS: Over a billion.

GAIL DeBOER: We hit a billion last July.

WILLIAMS: Last July. Compared to most of the banks in Nebraska, you're substantially larger than them. Yet, you talk about continuing to need to grow and I certainly understand that. Did you ever consider another alternative to growth that wouldn't have these restrictions converting to a bank charter?

GAIL DeBOER: We are very loyal to our credit union mission and I think we did not consider that. My Board would not consider that because we're owned by our members and they feel strongly that that's the type of charter that they want. We are very much about giving back to our members and our community. Not that I don't think banks are, are not, but, no, that was not ever a consideration.

WILLIAMS: Parity is an issue I've heard all my life. Other questions for Miss DeBoer? Thank you for coming today. I'd invite the next proponent. Welcome.

FRANK WILBER: Thank you. My name is Frank Wilber, F-r-a-n-k W-i-l-b-e-r. Chairman Williams and the members of the Banking, Commerce and Insurance Committee, I am the president and CEO of Liberty First Credit Union. Liberty First Credit Union is a state-chartered community credit union with locations in Lincoln and Seward. I'm here to support LB407. I want to thank, Senator Lindstrom, for introducing the bill.

LINDSTROM: Thank you.

FRANK WILBER: Liberty First Credit Union has been serving members needs for over 80 years. Initially employees of Burlington railroad, then offering services to a variety of SEGs and associations, eventually adding Lancaster County, and after approached by the Department of Banking, adding Seward County through the addition of the membership of the now defunct Hughes Brothers Credit Union. Liberty First Credit Union employees 90 associates that assist in our full-service organization which offers deposit services, consumer lending services, a full, a full suite of mortgage services, commercial lending, safety deposit boxes, debit and credit card programs including onsite production of cards as necessary to meet the needs of our members. As a state-charged credit union, we pay sales-- state sales tax, the franchisor deposit taxes in lieu of state income

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tax, use tax, real and personal property taxes, and fees and assessments to the Nebraska Department of Banking at the exact same rate as state-chartered banks. State-chartered credit unions like Liberty First Credit Union pay the same taxes as do state banks. Federally-chartered credit unions are exempt from most of these taxes and assessments with the obvious exception of property-related taxes. Yet the majority of states, state-chartered credit unions vastly outnumber federally-chartered credit unions, despite the additional expense inherent in being state chartered as was discussed by my predecessors in this chair. Of course, in those states there is recognition of the value of state-chartered credit unions, value in collecting significant sales tax, related revenue, value in collecting the banking department and related fees, and value in the appropriate supervision of financial institutions that serve as citizens of the state. There is value in competitive banking market. Most importantly there is value in making avail-- available crucial banking services to the unbanked and underbanked. I mean, again I'm here today in support of LB407, because I think it's in the best interest of the state of Nebraska to recognize that a viable credit union state charter is good for the citizens in Nebraska, the state of Nebraska, and the Department of Revenue here in Nebraska. I think that it should be an honor to be a state-chartered credit union here in Nebraska, not a burden or disadvantage. It should be a concern to those in the business of assuring fair and competitive business that it's much easier for federal credit unions and Iowa charter credit unions to function and grow in Nebraska than those that are actually chartered here with the state of Nebraska. I use the term easier figuratively, because under the current process there's almost no chance to grow as a Nebraska state-chartered credit union. The application process is cumbersome and gray encouraging the Bankers Associations to challenge the application for what appears to be the sake of limiting competition essentially requiring the credit union to have a legal team in place to counter the objection. At the same time an Iowa starter-- Iowa charter credit union can freely expand their membership, add counties and locations in Nebraska with great ease. Of course SAC Credit Union, who spoke right before me, really could only consider an Iowa charter to get what they needed to achieve done last year. Now named Cobalt Credit Union, they have far more freedom to expand and help the people in Nebraska than Nebraska state chartered-credit unions. Liberty First has been a Nebraska state-chartered credit union for the entire existence. I've only been with the credit union-- I'm going-- I'm in my sixth year now. Prior to being at Liberty First, I was an executive vice president of a

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Michigan state-chartered credit union. The added taxes and fees that we paid in the state of Michigan provided the credit union with excellent local regulation and a fair opportunity to serve the citizens of Michigan to the best of our ability. And that was based on our ability to do it. That's why the majority of credit unions in Michigan, which is 60 percent of them, are happy to pay the taxes and assessments that come with being state chartered. Much like Nebraska, the state of Michigan values sales tax revenue as it helps keeps property taxes low. Would the state of Nebraska like to collect sales tax from 60 percent of the credit unions as opposed to only 20 percent? Does the state value the business of the remaining 20 percent? History has shown that the percentage will continue to decrease. For our credit union, we are at a crossroad. Baring a major development in Nebraska, obviously beginning with the passage of this law, we will likely not be a Nebraska state-chartered credit union for much longer. Our expenses are our members' expenses. We cannot utilize our members' resources in a manner that sabotages our ability to grow a necessary element to maintaining a healthy organization. I support LB407 because it would provide the state of Nebraska Department of Banking the opportunity to provide parity to Liberty First Credit Union with credit unions chartered in another state and still operate here in our state. It is my hope that the Department of Banking would recognize that true parity does not require a contested hearing. Furthermore, it would eliminate the unnecessary and burdensome requirements for branching that our federal counterparts do not have at the time. Thank you for allowing me to provide our position on LB407.

WILLIAMS: Thank you, Mr. Wilber. Questions for the witness? Senator Kolterman

KOLTERMAN: Thank you, Senator Williams. As I read through the bill here-- appreciate you coming today. As I read through the bill on, on, on line 13 and 14 of page 2, it talks about being well-capitalized. What, what, what does that mean to be well-capitalized [INAUDIBLE]?

FRANK WILBER: By NCUA regulations, I believe,-- and, and again it's been a while since I've been an expert in this area, but I, I believe well-capitalized would be seven percent capital.

KOLTERMAN: OK.

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FRANK WILBER: That's functionally what they declare you as well-capitalized. So seven percent of your total assets you'd have in members' capital. It's there--

KOLTERMAN: It's in members' capital?

FRANK WILBER: Yeah, it's, it's-- you know, you see this a lot in mergers anymore really where that full capital abound, if there's a merger or a significant portion that actually goes back to the members of the credit union in merger situations. Lacking a merger or, or significant loss is the capital is, is there is a nest egg that, you know, you go through certain circumstances that we saw especially in Michigan seven or eight years ago with the economy and the housing market, that capital comes in pretty handy when you're, when you're charging off a significant amount of home loans. But, but generally that is members' capital.

KOLTERMAN: So, so when you moved to Seward several years ago and you took over Hughes Brothers Credit Union, prior to that the only people who could participate in the Hughes Brothers Credit Union were people that worked at Hughes Brothers. Is that correct?

FRANK WILBER: I, I-- or their families or, or relatives. And that is my understanding. Now, that happened prior to my coming to Liberty First.

KOLTERMAN: And then once you took over, that expanded the ability for them to just take customers, whoever walked in?

FRANK WILBER: It did as, as part of the arrangement, and I think that was initially brokered by the NCUA through the State Department of Banking, and I know that predates either one of us. I believe that they were told that if they were-- would agree to take that on that they would be given the entire county of Seward to serve.

KOLTERMAN: So it's just Seward County and then all these branches that you have in Lincoln is, is all you have right now?

FRANK WILBER: Correct.

KOLTERMAN: What you're saying is you can't expand to another county or-- can you add more branches?

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FRANK WILBER: We could add more branches within the two counties that we have if we petition, I mean, that would be an option. Obviously, we know that I'd have to post it and then put those things out there.

KOLTERMAN: Um-hum, and who oversees those expansions?

FRANK WILBER: Well, that would run for us, we're state charters so I would make that request with the Department of Banking.

KOLTERMAN: And do they put you through some sort of criteria that'll allow for that?

FRANK WILBER: Oh, I'm certain there would be. Again, we have not expanded since my arrival.

KOLTERMAN: So the, so the locations that you list here-- the, the four in Lincoln, you haven't expanded on those since you've been here?

FRANK WILBER: No, correct.

KOLTERMAN: Would you say that you're adequately capitalized in Lincoln--

FRANK WILBER: Oh, absolutely.

KOLTERMAN: -- [INAUDIBLE] territory?

FRANK WILBER: Absolutely.

KOLTERMAN: Now do you-- when you say your capitalized, does that mean you take all five branches?

FRANK WILBER: Correct. One organization--

KOLTERMAN: [INAUDIBLE] one on the other?

FRANK WILBER: -- [INAUDIBLE]. Correct, yes.

KOLTERMAN: OK, thank you.

FRANK WILBER: My pleasure.

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

FRANK WILBER: Thank you, sir.

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WILLIAMS: Invite any additional proponents. Seeing none, we will open it up to opponents. First opponent. Welcome, Mr. Hallstrom.

BOB HALLSTROM: Thank you, Chairman Williams, members of the committee. My name is Bob Hallstrom, H-a-l-l-s-t-r-o-m, and I appear before you today as registered lobbyist for the Nebraska Bankers Association to testify in opposition to LB407. I've got my written testimony that's being handed out. It's fairly brief, but there are a couple of points that I'd like to impress upon the committee. The scope of LB407 is very broad. We have, as Senator Williams noted earlier, a wild card that allows state-chartered banks, S&Ls, and credit unions to latch on to those powers, benefits, and privileges of their national- or federally-chartered counterparts. LB407 contains what I would refer to as a super wild card provision in that it allows a state-chartered credit union to be able to benefit from any type of authorization or power that is granted to another credit union that happens to be doing business in the state of Nebraska. Two specific issues that I'd like to draw to the committee's attention have to do with matters that have been brought before the Legislature on behalf of the credit unions on numerous occasions been rejected by this Legislature, but they happen to be powers that are authorized for credit unions that operate in Iowa. Specifically, I'm referring to the issue of accepting public deposits. State-chartered credit unions in Iowa have been authorized to accept public deposits in the years that I've represented the NBA. I can think of probably at least a half a dozen cases where similar legislation was brought before the Nebraska Legislature and was rejected. Under LB407, that specific power because Veridian and Cobalt are Iowa State charters would be available for Nebraska state-chartered credit unions. We've also talked about community-chartered credit unions. Nebraska does not have a-- an express statutory provision authorizing community charters. There was a bill LB582 brought as recently as two years ago that would have expanded community-chartered credit unions in Nebraska. That was opposed by the banking industry and was indefinitely postponed by the Legislature. That is another authority that Ms. DeBoer referenced in terms of the Iowa state charters. Iowa has a provision in their law, believe it or not, that says that a Iowa state-chartered credit union can have a community charter that's restricted only by a geographic boundary. So ostensibly, I can get out a piece of paper and a pencil and draw a line around something and that is a geographic boundary which is part and parcel, I would guess, of why they are able to go from Iowa into Nebraska notwithstanding state borders and notwithstanding any of the other restrictions that apply for a federal NCUA community charter.

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Under the NCUA rules and regulations which are applicable in Nebraska because of the wild- card legislation that I mentioned, a state-chartered credit union can go into a well-defined local community and that is what is at the nub of all the issues that are pending in terms of the items that Mr. Wilber referenced in terms of First Liberty. Members Own also has a situation of that nature. I'd also note when you look at the standards, Mr. Wilber-- Mr. Luetkenhaus talked about the ability to approve by the Department. I think those standards are fairly lax. There's nothing about safety and soundness or the operations of the credit union. It simply says that they can do-- if they're well-capitalized, the Department's limited to look at what's in the best interest of the credit union members and how they can maintain parity with other states. It's interesting to note that parity is in the introducer's statement of intent that we're looking at here today. I can assure you from the e-mails that you've gotten from Nebraska Bankers Association members that they, too, would like to have parity when it comes to some of the tax advantages that the credit unions have over the banking industry. So for the credit unions to want parity because somebody else has a little better deal perhaps, is interesting at best. I think Mr. Luetkenhaus testified about, you know, if we could spruce up the state-chartered, we've got 60 charters in Nebraska, 48 of them are federal. I think his testimony suggested something to the effect if 48 other members were in Nebraska they'd estimate another 2.5 million. If you think for a moment that any of those 48 federal charters are going to convert to state charters because they want to come to Nebraska and pay tax, I don't think that's realistically going to happen. With that, Chairman Williams, I'd be happy to address any questions that you might have.

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

BOB HALLSTROM: OK, thank you, Senator.

WILLIAMS: Invite the next opponent. Good afternoon and welcome.

ERIC HALLMAN: Thank you so much. Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Eric Hallman, E-r-i-c H-a-l-l-m-a-n, and I'm president of the Nebraska Independent Community Bankers. Nebraska Independent Community Bankers is an association committed to maintaining strong representation for independent banks and the communities we serve. Nebraska's community banks never shy away from competition. All we ask for is a level playing field. On page 3 of the bill beginning with line 8, LB407

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would strike an important notice in the hearing process for credit union branch expansion, the very same provisions that apply under Section 8-157(9) of Nebraska law for new bank-- branch applications. As you'll note in our letter of support for Senator Clements' LB453, NICB is supportive of as much notice as possible of credit union changes that impact our members. Simply put, Nebraska Independent Community Bankers respectfully urges the committee not to advance LB407. Thank you very much.

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

ERIC HALLMAN: Thank you.

WILLIAMS: Invite the next opponent. Welcome back.

MIKE HALL: Good afternoon. My name is Hall, H-a-l-l, Mike, representing here American National Bank, an American National Corporation out of Omaha. I did provide to each of the members of the committee an email that someone is going to mirror the testimony I'm about to make. The preceding opponents hit on most of the high points, but I will quickly run through my testimony. Obviously, I'm here to oppose bill LB407. I think the Unicameral has been down this path in previous sessions in allowing a state-chartered credit union engage in any activity that a credit union is chartered in another state that is current-- or I'm sorry, that is lawful in that state is a usurps of the current state law and provides expanded powers in the state by passage. We currently have two very large Iowa state-chartered credit unions operating in the state, Cobalt, f/k/a SAC Federal Credit Union-- SAC Credit Union, and Veridian, f/k/a John Deere Credit Union. Expansion of the powers as suggested by LB407 does not consider the safety and soundness issues and could inplu-- could include approval of increased risk investment, higher lending limits than those allowed by a Nebraska financial institution, or specific powers that have been previously rejected by the Unicameral. I would suggest capital structures of credit unions is not close to the strength of the capital in the commercial banking industry in Nebraska, and realizing as you all sure-- I'm sure do a strong economy that we are currently enjoying-- my apologies-- a strong economy as we currently enjoy can provide cover for an undercapitalized institution. The union-- the credit union industry is frequent-- frequently [INAUDIBLE] continuously put the legislat-- put forth to the Legislature authorization for credit unions to accept public funds in Nebraska. As previously stated, this is allowed in Iowa. LB407 would authorize the

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Department of Banking, by administrative order, to allow such to occur here. While this may appear to be a windfall for public funds depositors, it totally discounts a virtually tax-free environment that out-of-state credit unions enjoy, ability to bid up rates over Nebraska banks due to this preferential tax structure that is enjoyed. There's a couple of statistics in my testimony I won't repeat here, but I think they are quite graphic. This detail was provided by the Iowa Bankers Association. In the home state of these organizations, Veridian and Cobalt, the five largest credit unions in Iowa generated 2016 profits in excess of \$100 million. It pays zero in taxes. For comparison, Iowa S corp banks, which are similar to what we have here in Nebraska on a regular basis, paid a pass through tax of almost 47 percent. In addition, the need for us as banks and as legislators to be ever diligence that credit unions can purchase currently tax paying businesses such as insurance agencies, abstracting entitled companies, and remove that taxpaying business from the tax base. Another detrimental tax impact. Thank you, and please vote to oppose the advancing of LB407.

WILLIAMS: Thank you, Mr. Hall. Questions?

MIKE HALL: Thank you. Oh, I'm sorry.

WILLIAMS: Senator, Senator Kolterman asked you the question or, or asked a previous witness a question about what does well-capitalized mean when looking at a credit union. You've been in banking for a, a long time. What does well-capitalized mean in the banking industry?

MIKE HALL: Eight percent, eight percent of total assets capped.

WILLIAMS: So it's a higher standard that--

MIKE HALL: That would [INAUDIBLE]. That would be the regulatory standard, 8 percent, 8 percent.

WILLIAMS: Senator Kolterman.

KOLTERMAN: Thank you. You just said something that kind of caught my ear. So if a credit union acquires an insurance agency, does that come off the--

MIKE HALL: I don't see how it could not.

KOLTERMAN: -- [INAUDIBLE] tax bills?

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MIKE HALL: There's no, there's no-- they don't pay taxes except in Nebraska. A state-chartered credit union pays a deposit tax, because that would be a fee-income based business that would not necessarily generate an increase in deposit.

KOLTERMAN: OK, thank you.

WILLIAMS: Additional questions? Thank you, Mr. Hall.

MIKE HALL: Thank you.

WILLIAMS: Additional opponents? Seeing none, is there anyone here to testify in a neutral capacity? Welcome, Director Quandahl.

MARK QUANDAHL: Chairman Williams, members of the Banking, Commerce and Insurance Committee, Mark Quandahl, Q-u-a-n-d-a-h-l, director of the Nebraska Department of Banking and Finance. I'm appearing here today on behalf of the Department in a neutral position regarding LB407. LB407, as you heard previously, would provide parity for Nebraska state-chartered credit unions with out-of-state state-chartered credit unions operating a branch in Nebraska. In effect, the law could function as a super wild card. I think that's a word that Mr. Hallstrom used, and I think that's appropriate. The Department, as the regulator of the state-chartered members of the credit union and banking industries, is a strong supporter of the financial institution dual chartering system. The Department has been consistent over the years in its support of parity between state-chartered credit unions and federal credit unions as well as parity between national banks and state-chartered banks. Nebraska had 17 state-chartered credit unions operating five years ago. It was just a little bit before I assumed the directorship. Today there are 12 credit unions that operate under Nebraska state charters, and only 5 of those 12 have branch offices. Over time, the decline in numbers is principally due to conversions to federal charters. Nebraska state-chartered credit unions pay the depository tax, sales tax, real estate, and personal property taxes. Federal credit unions do not pay any of these taxes as Congress has preempted the states from imposing taxes on these institutions. LB407 would remove the requirement for hearings on credit union branch applications as you heard before. Credit unions would still be required to obtain the prior approval of the Department for a branch, would have to be well-capitalized, and would have to demonstrate the financial feasibility of the branch. LB407 would not release state-chartered credit unions from paying depository sales, real estate, and personal property taxes in the state of Nebraska. LB407

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may facilitate more competition with state-chartered credit unions from other states that are branching into Nebraska. While LB407 would not provide a competitive edge for Nebraska credit unions over Nebraska banks, it could level the playing field between Nebraska starter-- chartered credit unions and credit unions from other states. And with that, I'd be happy to answer any questions that you might have.

WILLIAMS: Thank you, Director. Questions? Director, as, as I'm understanding this, if a-- and correct me where I'm wrong here-- if a Nebraska chartered-- a state-chartered credit union wanted to do the same activities that a charter from out-of-state that is located in Nebraska is able to do, they would have to-- I'm reading the language here-- apply to the Department for approval to engage in that activity.

MARK QUANDAHL: That's correct.

WILLIAMS: How do you view the Department being able to handle those kind of requests?

MARK QUANDAHL: Well, I mean it-- at, at, at this point, I mean, this just kind of provides a basic framework of it. There'd have to be rules, right? There'd have to be some regulatory guidance. There'd have to be forms, right, 'cause we've, we've never done it before, too. So that the procedures could be put in place to make it work, should LB-- should, should this go into law. And so I'm not sure exactly how to answer that right now, but I would imagine it would mirror a lot of the same sort of application processes that we have at present.

WILLIAMS: And they could, in your opinion as director of banking, those activities that they could engage in could infringe on the current level of scope of membership or field of membership and of the area of public deposits? We heard testimony on both of those issues.

MARK QUANDAHL: I, I think, in, in my opinion, I think it could 'cause if you look on page 2, line 24 and 25, "For purposes of this section, activity includes, but is not limited to, establishing a branch of the credit union."

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WILLIAMS: Thank you. Any additional questions? Thank you for your testimony. Any additional neutral testimony? Seeing none, Senator Lindstrom.

LINDSTROM: Thank you, Chairman Williams. I'll be brief, I think. Everything that said that could be said and just glad I could bring the credit union and bankers-- you know, we usually have that day here in opposition. But, you know, I look at this bill as-- is deregulation potential revenue to the state. And so that's why I carried the bill, but would appreciate the committee's consideration with LB407. With that, I'll be happy to take any final questions.

WILLIAMS: Any questions for Senator Lindstrom? We do have some letters. We have six proponent letters and eleven opponent letters. I'm not going to read all those, those names, but we have those in the record. So if there are no additional questions, thank you,--

LINDSTROM: Thank you.

WILLIAMS: --Senator Lindstrom, and that will close the public hearing on LB407. And with that, we will open the public hearing on LB453 with Senator Clements to provide for hearings on credit union membership expansion applications. Welcome, Senator Clements.

CLEMENTS: Thank you, Chairman Williams and members of the Banking, Insurance and Commerce Committee. I'm Senator Rob Clements, R-o-b C-l-e-m-e-n-t-s. I represent Legislative District 2, and I'm here to introduce LB453. LB453 would amend Section 21-1725.01 to require the director of the Department of Banking and Finance to hold a hearing when a credit union applies to expand its field, field of membership or published notice of a credit union's application to expand its field of membership when the director determines a hearing is not warranted. The published notice of the filing of the application by a credit union would be required in a paper of general circulation in the county or counties in which the expanded field of membership has been requested. A notice of the filing would also be required to be sent to the Nebraska Bankers Association and the Nebraska Independent Community Bankers Association. In the event, in the event that the director receives a substantive objection to the application for the expanded field of membership, the director would be required to hold a hearing on the application with notice of hearing to be published in a newspaper of general circulation in the county or counties in which the expanded field of membership has been requested including written notice of the hearing to the Nebraska Bankers Association and the

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Nebraska Independent Community Bankers Association. LB453 was brought to me by the Nebraska Bankers Association to address the lack of adequate notification provided by the current law. This became apparent recently when applications for expanded membership were missed or almost missed, one expanding into the Metropolitan Statistical Area, one wanting to expand into 11 new counties, and the most recent wanting to expand into 50 counties. Representatives from the Nebraska Bankers Association and the Nebraska Independent Community Bankers Association will follow to speak more directly to the specific cases and the implications for not having adequate notice of such applications. I thank you for your consideration of LB453, and I will try to answer any questions at this time.

WILLIAMS: Thank you, Senator Clements. Questions for the Senator? Seeing none, none, I'm assuming you will stay to close.

CLEMENTS: Yes, sir.

WILLIAMS: Thank you. I would invite the first proponent. Welcome, Mr. Hallstrom.

BOB HALLSTROM: Thank you, Chairman Williams, members of the committee, my name is Bob Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB453. Senator Clements has described what the bill is intended to do. I'll give you a little bit of background regarding the reasons why we think the bill is necessary. LB453 would provide greater transparency regarding applications filed by state-chartered credit unions with the director of the Department of Banking to amend their articles of association or bylaws for the purpose of expanding their field of membership. Senator Clements referred to three specific expanded membership applications that have been fielded and in the process of being acted upon by the Department or having been acted upon by the Department. And under current regulations and practices, the only notice that is provided when these types of applications are filed with the Department is a published notice in the county or counties in which the expansion is to occur. There have been, as Senator Clements noted, three specific cases that have drawn our attention that were either in the process of Department of Banking actions or in one case did not happen to obtain notice of an, of an action that was taken by the Department. In 2016, First Nebraska Credit Union made application, and unless it's folklore, I was-- it was indicated to me that the initial application was to cover the entire state of Nebraska and a number of counties in Iowa. At some

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point that was paired back to a request that there'd be an expansion in from Lancaster County into the Omaha Metropolitan Statistical Area. That particular published notice was not picked up by the Nebraska Bankers Association, the Nebraska Independent Community Bankers, or our respective members and it was taken up by the Department and approved. I cannot speak to what the process was in terms of a hearing or evidence that was presented to the Department in reaching that decision, but in the lack of an objection or a party coming forward to challenge that, that particular application was approved. More recently we've had Liberty First Credit Union and MembersOwn Credit Union that have made applications for expanded field of membership. MembersOwn has requested 11 counties going from Lancaster and Gage County into 11 surrounding counties and some further removed. Liberty First initially came into the Department seeking approval for an additional 50 counties beyond Lancaster and Seward County where they currently operate. That has subse-- subsequently been narrowed back to the Omaha Metropolitan Statistical Area. In the course of the Department proceedings, we were met with the suggestion that since the Department had acted on the First Nebraska application for expanded field of membership and authorized them to operate in the Omaha Metropolitan Statistical Area that that was precedent setting and should be binding on the Department. The Department has ruled that that is not the case since it did not involve an objection and a formal hearing process, so that particular challenge continues on. It's going to be interesting to see if the Liberty First request to go into the Omaha Metropolitan Statistical Area is denied, what impact that may or may not have on the prior approval of First Nebraska. When we look at these things the reason that's important to have notice is not that we want to come in and challenge each and every expanded field of membership application, but when they are significant like the ones that are being acted upon by the Department presently and arguably are going beyond the authority of the federal law and regulations in terms of the expanded field of membership and the approving of a well-defined local community. Now those are things that there ought to be transparency in the process, notification given so that if you want to have a chair at the table you're aware of what your rights are and if warranted you can make a challenge to something that may seem to go beyond what the federal law under our wild-card statute would authorize. With that, I'd be happy to address any questions that the committee may have.

WILLIAMS: Questions for Mr. Hallstrom? Mr. Hallstrom, are, are there other cases that you're aware of where there is specific notice

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required to be sent to specific organizations like the Nebraska Bankers or the Nebraska Independent Community Bankers?

BOB HALLSTROM: I can't speak to any right off the top of my head, Senator. I know there are from other states, is where we, we kind of came up with the process. There's a, a North Dakota statute that requires their Pharmacy Association to be notified of certain things. Beyond that-- and if there are, if there are, Senator, other issues that we need to look at, there are statutes-- the chartering statute provides notice to be given to all financial institutions: banks, savings and loans, and credit unions. That's an existing statute under Nebraska law. I think 8-- 8-115.01 where there's a requirement to give notice to all financial institutions in the area that's gonna be impacted. That could be something that could be looked at as well.

WILLIAMS: Thank you. Any additional questions? Thank you for your testimony.

BOB HALLSTROM: Thank you.

WILLIAMS: I'd invite the next proponent. Seeing no one moving this way, I would invite any opponents. Welcome back, Mr. Luetkenhaus.

BRANDON LUETKENHAUS: Thank you. Thank you, Mr. Chairman. Good afternoon, Chairman Williams, members of Banking, Commerce and Insurance Committee, my name is Brandon Luetkenhaus, B-r-a-n-d-o-n L-u-e-t-k-e-n-h-a-u-s, here, here on behalf of the Nebraska Credit Union League and our trade association which represents Nebraska's 60 credit unions and their members. I appear, appear before you today in opposition of LB453. This would amend the State Credit Union Act, Section 21-1725 by adding burdensome language, and I won't get into that because it's, it's been-- the Senator did a good job in introducing what exactly the bill does. But it, it, it is-- it does add burdensome-like regulation to our state-chartered credit unions as they aim to-- or as they try to make application for an expanded field of membership with the Department who is their regulator. It would further require that the director publish notice of the application filing in a newspaper of general circulation in the county or counties in which the credit union has applied to serve. And it goes even further and requires the Department as has been testified to, to notify the two banking associations in this state. We believe that LB453 is, is bad public policy for four key reasons. First, it's an attempt by the banking trade associations to build barriers to business. In this case, credit unions. Second, it's an attempt by the

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banking associations to stifle competition from not-for-profit credit unions. Third, it's an attempt by the banking association to insert themselves as a sort of de facto regulator of credit unions. And fourth, it is an attempt by the banking and trade associations to insert themselves in the boardroom of credit unions which whom they are direct competitors. While the Ricketts administration aims to break down barriers to business, it appears that the banking associations are trying to build barriers to business. The banking trade associations are attempting to make the process for credit unions to apply their field of membership to their regulator, the Department, for cumbersome-- as cumbersome as possible. This provision would only apply to the 12 Nebraska state-chartered credit unions. I think it's important to note that federally-chartered credit unions would not have and do not have such a process. They simply apply to their federal regulator, the National Credit Union Administration. And that regulator opines on that application; either approves it or denies it. We believe that the Department should be able to approve or deny without added pressures from competitors in the marketplace. That's what the Department is there for; safety and soundness of credit unions and banks, not to regulate competition. So in addition to stifling what we believe is, is good competition between for-profit institutions and not-for-profit institutions, I think it also goes to the, the, the attempt by the bankers associations to try to insert themselves into the regulatory process which really should be given only to the Department of Banking. Director Quandahl and his professional staff are, are very prepared and, and do a great job in regulating the safety and soundness of credit unions. And I think it should be left in their hands. We think it should be left in their hands, not in the hands of the banking association with whom their members directly compete with credit unions. So with that, I would be more than happy to answer any questions the committee may have. I provided you my written testimony which goes a little bit deeper. So thank you for the time and for the opportunity to speak today.

WILLIAMS: Questions for Mr. Luetkenhaus? Seeing none, thank you for your testimony. I would invite any additional opponents. Welcome.

LINDA CARTER: Thank you for having me. Thank you for allowing me to testify today concerning LB453. My name is Linda Carter, and I'm the president of MembersOwn Credit Union in Lincoln. I'm speaking in opposition to this bill. MembersOwn Credit Union--

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WILLIAMS: Ms. Carter, could you spell your name, please, for the record.

LINDA CARTER: Oh, I apologize, thank you.

WILLIAMS: Thank you.

LINDA CARTER: L-i-n-d-a C-a-r-t-e-r.

WILLIAMS: Thank you.

LINDA CARTER: MembersOwn Credit Union has been a state-chartered financial institution for over 80 years. I've personally been with MembersOwn for 30 of those years. We've always been-- appreciated the Nebraska Department of Banking and Finance because of the local control and felt that it gave us a voice with our regulators. As a state-chartered credit union we pay the same taxes that state-chartered banks also pay. Not just the property and payroll taxes, but deposit tax and sales tax. In 2018, our Board of Directors requested to expand our field of membership into adjoining counties of our current counties; Lancaster and Gage County. Seven of those eleven counties don't even have an option for a not-for-profit credit union in their community. The processes currently in place for this, this expansion request made to the Nebraska Department of Banking and Finance brought opposition from both Nebraska Bankers Association and the Nebraska Independent Community Bankers Association. We-- they didn't need a certified letter from the banking department to find out that we were requesting to expand this field of membership. Due to their opposition, we were subject to a public hearing that is a financial burden to our member owners and adds a barrier for credit unions to conduct business in Nebraska. This hearing and the associated expense comes even before a decision will be made by our state regulator. If we were a federally-chartered credit union, we wouldn't have to go through this burdensome regulatory process and the costs associated with it. This additional layer of bureaucracy that LB453 would bring is unneeded and frankly mind-boggling that two bank trade associations would be added into the Nebraska Credit Union Act. Nebraska credit unions do not have to give notice-- or Nebraska banks do not have to give notice to the credit union's trade association if they were expanding, and I wouldn't support such a change. By adding additional barriers for state-chartered credit unions to expand their business, it feels that the state of Nebraska might as well give up on state-chartered credit unions. Just because a credit union is a not-for-profit cooperative doesn't mean it needs-- it doesn't need to

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grow its business just as a for-profit bank or business would. If this is the case that the state of Nebraska does want to help state-chartered credit unions grow, the 12 state-chartered credit unions could consider switching to a federal charter. But the state would lose out on the state taxes paid by those credit unions. I believe that we should support growth in Nebraska.

WILLIAMS: Thank you, Ms. Carter.

LINDA CARTER: Thank you.

WILLIAMS: Are there questions? Senator McCollister.

McCOLLISTER: Yes, thank you for coming here this afternoon. I noticed that when a credit union makes application to the director-- they can determine whether or not a hearing is warranted.

LINDA CARTER: Correct.

McCOLLISTER: What, what, what factors does, does the director consider when-- to determine whether or not a hearing is warranted?

LINDA CARTER: I think he would have to answer that directly. My indication was that if someone opposed it then a hearing would come into play. But, I don't know the exact reasoning.

McCOLLISTER: When a particular bank opposes an application, what factors do they use to say the application should not be granted?

LINDA CARTER: The opposition is-- you know, if we-- if the-- if they don't feel that we should be able to expand into those counties.

McCOLLISTER: Is it unwarranted competition? Is that the essence of the argument or, or is it a particular institution is unworthy of expanding?

LINDA CARTER: I think that each case varies, but-- you know, as being a credit union who's gone through that I feel that it's that they don't want the competition.

McCOLLISTER: OK, thank you very much.

WILLIAMS: Additional questions? Thank you, Ms. Carter for your testimony.

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LINDA CARTER: Thank you.

WILLIAMS: Any additional opponents? Seeing none, is there anyone here to testify in a neutral capacity? Welcome, Director Quandahl.

MARK QUANDAHL: Thank you, Chairman Williams, members of the Banking, Commerce and Insurance Committee, Mark Quandahl, Q-u-a-n-d-a-h-l. I'm director of the Nebraska Department of Banking and Finance. I'm appearing here today on behalf of the Department in a neutral position regarding LB453. The purpose of my testimony is to inform the committee that with the exception of the proposed notice to the banking associations, the provisions of LB453 already exist in law and the Department's rules and procedures. Under the Nebraska Credit Union Act, the director of the Department has had discretionary authority since 1996 to hold a public hearing on amendments to a credit union's articles of association or bylaws. Previous to that time, for instance in 1993, the Department had scheduled a hearing on a field of membership expansion request based on the Administrative Procedures Act of Nebraska and the Department's supervisory authority over state-chartered credit unions. The Department has consistently published countywide notices of requests for credit union field of membership expansions. And if a substantive objection was received, scheduled and held a hearing. So, Senator McCollister, kind of to directly answer your question, a substantive objection must be received by the Department. That could either be on a factual issue, or it could raise a legal issue for the Department to consider in whether or not to grant a field of membership expansion.

McCOLLISTER: And just because an application--

WILLIAMS: Senator McCollister, let's, let's let the-- him finish his testimony, and then we'll come to questions.

McCOLLISTER: Oh, I'm sorry.

MARK QUANDAHL: I'd be more than, I'd be more than happy to answer, answer as many questions as you have. As, as, as a matter of fact I think that the previous--

McCOLLISTER: I thought you were done, sir.

MARK QUANDAHL: --there, there-- there's presently two current field of membership expansion requests pending before the Department. The Department held a hearing on January 30, 2019, on a request by

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MembersOwn Credit Union and we have another hearing scheduled for March 22nd of this year for field of membership expansion request from Liberty First Credit Union. So the Nebraska Bankers Association and the Independent Community Bankers Association, the NICB, are both formal objecting parties in both of those matters. And, obviously, there's a hearing and it could take just-- the current procedures followed by the departments have worked efficiently for a long time, that being 23 years since, since 1996. And LB453 wouldn't improve or really enhance that process. As stated earlier, LB453 contains one provision that's not provided for an existing law and that's the proposed notification to the Nebraska Bankers Association and the Nebraska Independent Community Bankers Association. I have a reference in my testimony to, to Article III, Section 18 in the Nebraska Constitution regarding special legislation that you can review and see if that's applicable to this case or not. But as director of the Department, I'm uncomfortable with the Department being placed in a position where it appears we're preferring one financial institution industry over another. Our statutory charge under Section 8-103 is to constructively aid and assist banks and credit unions, and LB453 would, would seemingly erode some of the even-handed approach that the Department has and currently employs. And so with that, I'd be happy to answer any questions that, that the committee would have.

WILLIAMS: Thank you, Director Quandahl. Senator McCollister.

McCOLLISTER: Thank you, Senator Williams. Do you wish to expand your answer? I think you answered it during your testimony that competition [INAUDIBLE]--

MARK QUANDAHL: I was gonna say I thought I did a pretty good job in answering that question. If I do say so myself.

McCOLLISTER: But under the current statutes you are not required to have a hearing if you see no need. Correct?

MARK QUANDAHL: That is correct. That is correct.

McCOLLISTER: Does it generally occur that you see no need or is it--

MARK QUANDAHL: Well, field of membership expansion requests-- you know, and again, my field of experience is just a little more than four years, four years and a couple of months. And so, and so we've had three of them, right. And so on, on two out of those three, we're currently in the process of having hearings and collecting evidence in

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support and in opposition to those applications. Mr. Hallstrom, brought up that in 2016 there was a field of membership expansion request and we did not have a, a, a hearing on that. There were no objections that were received by the Department for the 2016 request for First Nebraska Credit Union. And just, just kind of one thing I wanted to mention, too, is that in that case there was a publication notice in October of 2016 that was published in the Plattsmouth Journal, the Fremont Tribune, the Omaha World-Herald, the Lincoln Journal Star, the Bellevue Leader, the Wahoo Newspaper, the Pilot Tribune in Blair, and the Council Bluffs Daily Nonpareil. So the publication notices were pretty, pretty widespread in that 2016, no objections were received.

McCOLLISTER: And with passage of LB453, your discretionary authority would end, correct?

MARK QUANDAHL: Well, it, it, it, it-- not necessarily. Basically, what it would do is, is that we'd still have to publish the notice but then we'd also have to send a certified mail notice to the Nebraska Bankers Association and the Nebraska Independent Community Bankers Association.

McCOLLISTER: But you wouldn't be required to hold a hearing.

MARK QUANDAHL: I don't believe so. That's correct. It'd, it'd be the same.

McCOLLISTER: Thank you, Director.

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

MARK QUANDAHL: Thanks.

WILLIAMS: Any additional neutral testimony? Seeing none, Senator Clements, you're invited to close.

CLEMENTS: Thank you, Chairman Williams. I just wanted to respond to a couple of points. It was mentioned that banks aren't notifying other institutions about expansion. There is a statewide branching law that allows banks to expand, and I believe that the banks do welcome competition. We compete with lots of other institutions on a daily basis, but I think they're wanting to have it on an, on an equal basis. It's my understanding that no credit union pays any federal income tax and that, I believe, creates an advantage to, to them. And

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for having that advantage, I think additional requirements are warranted such as requiring them to serve a well-defined local community. And a local community in my mind is fairly restrictive, probably less than 11 counties; certainly not 50 counties. And I believe, I believe that's all the comments I'd like to make. And I would appreciate your consideration of LB453.

WILLIAMS: Thank you, Senator Clements. Any additional questions for the Senator? Thank you. Seeing none, we do have some letters. We have one proponent letter, and we have six opponent letters. And again, we will make those part of the record. That will close the public hearing on LB453. We will be having a short Executive Session when we have the--