

Transcript Prepared by Clerk of the Legislature Transcribers Office
Banking, Commerce and Insurance Committee January 25, 2021

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WILLIAMS: 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 honored to serve as Chairman 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 a proposed legislation that is before us today. Committee members may come and go during the hearing. In fact, we have two committee members that are watching by video this morning because of weather issues. Sometimes we are called away and it's not an indication that we are not interested in the bills being heard in the committee; it's just part of the process. To better facilitate today's proceeding, we ask that you abide by the following procedures. Please silence or turn off your cell phones. Seating is limited, therefore, we ask that you maintain a seat in the hearing room when you have an interest in the bill that is currently being heard. We will pause between bills to allow people to come and go while exiting the hearing room, and we ask you to use the east doors as the exit. We request that you wear a face mask covering while in the hearing room. Testifiers may remove their face mask during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity will be monitored by the Sergeant-at-Arms, who will allow people to enter based on their seating availability. Persons wanting to enter a hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. In order of testimony will be the introducer, followed by proponents, neutral testimony, and then closing by the introducing senator. Testifiers, please sign in and fill out the pink sheet and turn it in at the box on the testifiers' table when you come up to testify. As you begin your testimony, we ask that you please spell your first and last names for the record. It is our request that you limit your testimony to five minutes. We'll use the light system. The light will be green for four minutes, will turn yellow with one minute remaining, and will turn red at the conclusion of 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 the entrance where you may leave your name and other pertinent information. The sign-in sheet will become part of the exhibits and permanent record at

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the end of today's hearing. We ask you to please limit or eliminate handouts. Written materials may be handed to the committee clerk only while testimony is being offered. To my immediate right is committee counsel Bill Marienau; to my left, at the end of the table, is committee clerk Natalie Schunk. And at this time we will have the committee members introduce themselves, starting at my right with Senator McCollister.

McCOLLISTER: John McCollister, District 20, central Omaha.

SLAMA: Julie Slama, District 1, Otoe, Nemaha, Johnson, Pawnee and Richardson Counties.

LINDSTROM: Brett Lindstrom, District 18, northwest Omaha.

FLOOD: Mike Flood, District 19, Madison and a part of Stanton County.

BOSTAR: Eliot Bostar, District 29, south-central Lincoln.

WILLIAMS: And as I mentioned, Senator Ray Aguilar and Senator Rich Pahls are both watching by video this morning. Our pages today are Jordan and Sophie. Appreciate having you with us today. With that, we will open the first hearing of the year with LB373, which is being introduced by Senator Pahls. But since Senator Pahls is not here, Tim Duey will be coming, his legislative assistant, to introduce the bill. Welcome, Tim.

TIMOTHY DUEY: Good morning, Chairman Williams, members of the committee. My name is Timothy Duey, T-i-m-o-t-h-y D-u-e-y, I am the legislative aide for Senator Rich Pahls. Senator Pahls could not be here to introduce LB373 due to inclement weather, so I will be doing it in his place today. Senator Pahls was asked to carry LB373 on behalf of Nebraska's life insurance industry. The legislation makes a small change to Nebraska's Standard Nonforfeiture Law for Individual Deferred Annuities, which is the law that governs the cash surrender value of an annuity. Historic low interest rates forced the life insurance industry to approach the National Association of Insurance Commissioners, or NAIC, about amending the NAIC model on the Standard Nonforfeiture Law for Individual Deferred Annuities. The NA-- the NAIC agreed with the industry that these historic low interest rates placed the availability of these annuities at risk, and the NAIC lowered the interest rate in the model from 1 percent to 15 basis points, or 0.15

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percent, which is reflected in LB373. Members of the insurance industry are behind me to provide more detail. Thank you for your time.

WILLIAMS: Thank you, Mr. Duey. Are there any questions? Seeing none, thank you. And we would invite our first proponent to testify.

BRANDON CAGE: Good morning, everyone.

WILLIAMS: Good morning. And if you'd please spell your name for the record.

BRANDON CAGE: You bet. I'm here today on behalf of Pacific Life Insurance Company. My name is Brandon Cage, B-r-a-n-d-o-n, last name Cage, C-a-g-e. I am an assistant vice president and legal counsel for Pacific Life, and I'm here in support of LB373. LB373 would amend Nebraska law to conform with a technical amendment recently approved by the National Association of Insurance Commissioners to NAIC Model Law number 805. The Nebraska Department of Insurance participated in the NAIC process that approved the model law amendment, and several other states, including North Dakota, South Dakota and Minnesota, are considering similar bills in their respective legislatures. Nebraska law currently requires that individual deferred annuity contracts provide the annuity owner with a guaranteed minimum value if the owner stops making payments before the end of their payment term. This is called the nonforfeiture amount. LB373 would lower the minimum guaranteed interest rate used for calculating the nonforfeiture amount from 1 percent to 15 basis points, or 0.15 percent. The change is needed because of the current ultra-low interest rate environment we find ourselves in. In 2020, the yields for the U.S. five-year and ten-year treasuries were as low as 0.19 percent and 0.52 percent, respectively. It is difficult to support current minimum rates given these historically low interest rates that we're having to deal with. LB373 would allow insurance companies like Pacific Life and others greater flexibility to adapt products to the current rate environment and will help promote expanded product availability to consumers and citizens of Nebraska. Importantly, this change would only impact newly issued annuity contracts and would not impact annuities that have already been issued. Furthermore, under current law, and if LB373 is enacted, the minimum guaranteed interest rate used by companies in their annuity contracts would continue to be based on a specific calculation that does allow for an interest rate as high as 3 percent.

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In other words, if interest rates increase in the future, consumers of these products could receive a higher interest rate. The change in LB373 is only intended to address extreme drops in interest rates, as we've experienced over the last year and even currently, such as when we were facing the economic downturn in the COVID pandemic for last year and going into this year. So, again, thank you for your time and consideration. I can attempt to answer any questions if you have any.

WILLIAMS: Thank you, Mr. Cage. Are there questions? Senator Flood.

FLOOD: Yeah, thank you for your testimony today.

BRANDON CAGE: You bet.

FLOOD: So do you contract with-- what-- what sets your interest rate? Right here, I see you're-- you're setting a minimum of 15 basis points, but--

BRANDON CAGE: Right.

FLOOD: --what-- how do you set that rate otherwise? Is it a contract between you and the policyholder?

BRANDON CAGE: Yes, it'll be and at the state level when it's filed. But I will say I'm not an actuary or on the pricing team, you know, so I don't know exactly all the steps that would go into that calculation. But I know once a policy is issued or a contract is issued, it is set at that time. So the prospective purchaser would be aware of what that rate would be. But mechanics in which how that actually comes about, whether it's 15 BPS up to the 3 percent, that I'm not aware of exactly how that's done, to be honest and fair.

FLOOD: But it doesn't exceed 3 percent?

BRANDON CAGE: That's correct. I think that's the maximum that's allowed at this point, is my understanding.

FLOOD: And you're dropping the floor to 15 base--

BRANDON CAGE: Yeah, so the floor today at 1 percent with the-- want the ability to be able to drop it to 15 basis points, which I think is-- is a positive change.

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FLOOD: OK. Why is the cap at 3 percent?

BRANDON CAGE: That I don't know. I think that's done by a legislative act or whatever model laws we have. I know my-- my colleagues behind me can probably answer that a lot better than I can.

FLOOD: Well, maybe in advance of their testimony, the question would be, would it be-- be better to-- to set this to like a ten-year treasury plus 15 basis points or something like that so that we aren't in here changing the 3 percent or the 15 basis points and-- and have these arbitrary numbers that seem to be kind of a narrow window--

BRANDON CAGE: Right.

FLOOD: --when in fact interest rates could go to 9 percent. Or obviously, they could be what they are now, so.

BRANDON CAGE: Right, right.

FLOOD: Thank you.

BRANDON CAGE: Um-hum.

WILLIAMS: Senator McCollister.

McCOLLISTER: Yeah, thank you, Mr. Chairman. Thanks for braving the snow to come here today.

BRANDON CAGE: Oh, you bet.

McCOLLISTER: Senator Flood talked about the ten-year fed rate, and what is that current rate, if you know?

BRANDON CAGE: I think it's just almost about to breach 1 percent maybe.

McCOLLISTER: It's higher.

BRANDON CAGE: When-- the last time I looked, I think it's--

McCOLLISTER: It's higher than 1 percent now, so--

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BRANDON CAGE: -- it's been 90. No, no, lower [INAUDIBLE] close to that. Last time I checked, it was in the 90 to 80 BPS range. It's fluctuating quite a bit.

McCOLLISTER: Senator Flood also gave the impression that the rate you hope to have is a variable rate based on some interest rate measure or index. Is that correct?

BRANDON CAGE: That I don't know exactly how it's based on. We're just looking at the range to see what flexibility we have as a product issuer, given the environment. So, again, if it goes back, ten-year treasury goes back to 60 BPS and sometimes 59, like it was, I believe, last year, that 1 percent that we're required to do now as an industry is pretty tough. And I think-- this is now my opinion, not the opinion of Pacific Life-- and we've seen a lot of insurers exit the business, which we think is bad for-- for the citizens of Nebraska. We're losing choice and the ability of that. So it's getting so expensive and ways to offer the products with the features and the benefits that it provides, it gets tougher over the prolonged environment that we've had with the low interest rates. So I think that's why a lot of insurers and insurance companies and others are getting behind this, to give us flexibility to maintain a competitive atmosphere, I think, for-- for choice, which is a big thing. As more insurers exit, there's less choice for the consumers.

McCOLLISTER: You're doing this at a time of historic highs for the stock market, and that's where I would guess most of your surplus cash is going. Is that correct?

BRANDON CAGE: I don't know, to be honest. Yeah.

McCOLLISTER: Thank you.

WILLIAMS: Can we be-- be sure-- a-- a question that I would have, the-- the rate that we are adjusting here is not the accumulation rate of the annuity, correct?

BRANDON CAGE: That's correct, just as it's--

WILLIAMS: This is the rate that is paid on nonforfeiture--

BRANDON CAGE: Oh, right.

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WILLIAMS: --when somebody stops making their premium payments, right?

BRANDON CAGE: Correct.

WILLIAMS: So we're not talking about a customer of your company who has purchased a contract and continues to make their payments and then eventually the product is annuitized.

BRANDON CAGE: That's correct. They are able to, as you talked about on the equity side, they're able to participate in the market like anyone else, yeah.

WILLIAMS: Right. I just wanted to make it clear--

BRANDON CAGE: Yes, exactly.

WILLIAMS: --that this is only the circumstance of a nonforfeiture--

BRANDON CAGE: Correct.

WILLIAMS: --situation.

BRANDON CAGE: Thanks for that distinction. Yeah.

WILLIAMS: Thank you. Senator Bostar.

BOSTAR: Thank you for your testimony. You mentioned that other states are also examining legislation to make this kind of change. Where does Nebraska currently compare within the-- the legislative environment to other states regarding this interest rate floor currently?

BRANDON CAGE: Oh, current in-- meaning our 1 percent or the 15 BPS that they're going to change it to?

BOSTAR: Well, I mean, what's the-- what's the national picture look like, I guess?

BRANDON CAGE: That, again, I have not done a survey. I apologize.

BOSTAR: Sure.

BRANDON CAGE: Yeah, I don't know. But I think most of the states try to be consistent with the NAIC model. I know the 1 percent has been around a very long time. I know that. I don't know if as each state's

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vary from that are a little bit lower or a little bit higher. I think most would be looking to maintain or get close to that. And I think that's what the approach for this is too. It's based on the NAIC model, not something arbitrarily put out by me or Pacific Life, you know, in that sense. It literally is something that's trying to give flexibility for that. So, again, I'm hoping others can listen to this question that are going to testify today. And I'm kind of pinch hitting, by the way. This is my first time, so I'm kind of excited. I like that. And I'm glad I'm the-- this is the first session of the year, too, so this is pretty cool, my first time and your first one for the year. So our-- our-- our government affairs folks have followed this very closely, can't come in from D.C. And since I'm here in our Omaha office, I said, yeah, let me-- let me come in here and go through the experience, so I appreciate your questions as well.

BOSTAR: Thank you.

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

BRANDON CAGE: Thank you.

WILLIAMS: We'll invite our next proponent. Good morning.

MATT HOLMAN: Good morning, Chairman Williams, members of Banking, Commerce and Insurance Committee. My name is Matt Holman. That's M-a-t-t H-o-l-m-a-n. I'm assistant general counsel for Ameritas Life Insurance Company here in Lincoln, Nebraska, and you guys are going to get a string of pinch hitters, it sounds like, here on LB373. I'm not an actuary either. I was here to testify on another bill, and so Ameritas tagged me in to express our support here on-- on-- on this one as well. As has already been stated, the nonforfeiture law for individual annuities sets minimum floor-- sets a minimum floor for the calculation of what the insurer must pay to a consumer who purchases an annuity but later surrenders that contract, annuitizes, or if a death benefit is to be paid. The interest rate we're talking about is that minimum interest rate that insurers must use when-- when calculating that nonforfeiture value, like we've already talked about. The importance of this change for Ameritas and for the insurance industry is really product availability. If an insurance company cannot earn any spread on the products it sells, the products are not viable and they won't be offered. Adjusting this floor recognizes the

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sustained low interest rate that life insurers are operating in and will allow companies to keep these products available to consumers, which is important as these annuities are a valuable source of sustained income through retirement for many individuals. I-- I had a little more here that I think the gentleman from Pac Life covered, so I'll just skip that. But obviously, I'll certainly try to answer any questions anybody has.

WILLIAMS: Are there questions for Mr. Holman? Seeing none, thank you for your testimony.

MATT HOLMAN: Wow. Thank you. I got off a lot easier here this morning.

WILLIAMS: It's good to be second.

MATT HOLMAN: Yeah.

WILLIAMS: Invite our next testifier. Welcome, Mr. Bell.

ROBERT BELL: Good morning. Chairman Williams and members of the Banking, Commerce and Insurance Committee, my name is Robert Bell; last name is spelled B-e-l-l. I am the executive director and registered lobbyist for the Nebraska Insurance Federation. I'm here today to testify in support of LB373, and I'd like to thank Senator Pahls and Tim for pinch hitting here, for introducing LB373 on the federation's behalf. The Nebraska Insurance Federation is the primary trade association of insurers domiciled in or with a significant economic presence in Nebraska. Currently, the federation consists of 29 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 and public officials. Nebraska insurers provide high-value, quality insurance products to Nebraskans that help protect Nebraskans during difficult times. Not only do Nebraska insurers provide financial protections to Nebraska-- Nebraskans, excuse me, but insurers also provide high-paying jobs. Members of the federation, 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. As you've heard already, LB373 makes a change to the minimum nonforfeiture law for deferred annuities. So just some definitions, and I know you've been over this already, but a minimum nonforfeiture law is the law that is

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established for an insurance-- insurance product that lapses due to nonpayment or some other type of surrender by the consumer. And so it sets the floor value that a company must meet and put in their contract and policy to pay out to that consumer when a consumer ceases paying premium. A deferred annuity is, of course, an annuity that pays-- you're paying into the annuity. It pays some sort of periodic or maybe a lump-sum payment sometime in the future at a later date. And LB373 amends one of the interest rates that is used to determine what the floor would be for an insurance company for-- to determine that surrender value. So typical calculation on a nonforfeiture law is the value that's been paid in minus fees, which could be commissions, taxes and other things that have already been paid for an insurer related to that product, plus an interest rate that's defined within the contract, and this establishes the floor that must be in that contract. So as Brandon had mentioned, it can go all the way up to 3 percent as required by statute, but it sets out several floors in there, one of them being this particular floor, which is at-- right now in Nebraska law, 1 percent would lower it to 15 basis points. So over the summer, as interest rates were continuing to fall, the life insurance industry approached the National Association of Insurance Commissioners to amend their model law, which has been adopted in part in all 50 states related to deferred annuities. And so right now across the United States, that-- that minimum floor is 1 percent. But in December of 2020, the NAIC agreed with the life insurers that for the-- to make these products available into the future, that the floor needed to be dropped to 0.15. And to be honest with you, they had initially asked for zero, is what the life insurers asked for, so some negotiation with the insurance commissioners got the change up to 0.15. So right now, the American Council of Life Insurers, state trade associations and other groups are going around to all the states and asking that the model law be changed where it's been adopted, which it's been adopted in all states, to lower that amount, and that is what LB373 is doing. A couple of important things to remember is this will only apply to contracts moving forward after the effective date of this law. So contracts that are already in place, we can't-- we can't go back in time and amend contracts, right? So that floor would remain at 1 percent. And I had a second point, but I've lost it, so I think I'll stop there and see if I can answer any questions that the committee has-- may have. Thank you for the opportunity to testify.

WILLIAMS: Questions for Mr. Bell? Eliot.

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BOSTAR: Thank you, Mr. Bell. So-- so currently all states have a 1
percent floor?

ROBERT BELL: That is my understanding, yes.

BOSTAR: If-- if we lower our floor, hypothetically, and-- and other
states don't, or the reverse, we don't lower our floor and other
states do--

ROBERT BELL: Right.

BOSTAR: --can you-- can you walk me through how that would impact the
state of Nebraska as it relates to the insurance industry?

ROBERT BELL: Well, yeah, I can. So for those states that don't lower
the floor, their consumers are going-- you're going to start seeing
these deferred annuities disappear from the marketplace. For the
states that do lower the floor to 0.15 or 15 basis points, you're
going to see the market continue. There's a-- we're going to talk
about some other annuity legislation here in a minute that will also
help annuities moving forward, but that-- that's really the heart of
it. So, I mean, and maybe as a way-- little way of-- of answering that
question, what the NAIC does is it's the directors of insurance and
the insurance commissioners of all 50 states and four or five
territories. They get together and they debate and work with the
industry and work with consumer advocates on model laws that they
present to then their legislatures, once they're adopted, and say, now
based off of our ideas as insurance regulators, that to protect the
consumer, we believe that this law would be important. And to protect
the consumer, that might mean a couple of different things: one, the
availability of the product or the ability of the insurer to offer the
product and properly reserve against that product and to make sure
that the financial-- the financial regulatory-- the financial reserves
meet the requirements of the market, etcetera, etcetera, so-- and I
know the director is going to testify in a little bit, so he can
probably go more in-depth on the NAIC process. And once they adopt
that, then they-- they encourage states. Of course, it's up to each
legislature to do whatever they wish, but they encourage those states
to then adopt their changes to the model law. And that's what we're
doing here. And so a company like Pacific Life does business in all 50
states, right? And so the more uniform the law is, the better it is
for them. But if, let's say, Iowa doesn't lower it to 0.15 and

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Nebraska does, we're certainly going to have more products available
here in Nebraska than they would in Iowa, so a long answer to a simple
question. Thank you.

BOSTAR: Thank you.

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

ROBERT BELL: You're welcome.

WILLIAMS: Invite our next testifier. Welcome, Director Ramge.

BRUCE RAMGE: Good morning. Members of the Banking, Commerce and
Insurance Committee, my name is Bruce Ramge, spelled B-r-u-c-e
R-a-m-g-e, and I'm the Director of Insurance for the State of
Nebraska. I'm here today to testify in support of LB373. The change
addressed in the bill mirrors a change made to the underlying model
law by the National Association of Insurance Commissioners.
Specifically, the bill introduces the minimum interest rate that may
be used in computing nonforfeiture amounts under certain annuities
from the current rate, 1 percent, to 0.15 percent. The reduction was
driven by the very low interest rate environment presently experienced
in this country. This change will allow insurance companies to
innovate, offer more products, and increase competition among
insurers. Passage of the bill will not interfere with day-to-day
normal business operations and administration of the department in any
manner, nor will it require additional staffing or a shift in the
department's current staffing. Thank you for allowing me to testify
today in support of LB373. I would be happy to answer any questions
the committee might have.

WILLIAMS: Thank you, Director Ramge. Any questions for the director?

FLOOD: One quick one.

BRUCE RAMGE: Yes.

WILLIAMS: Senator Flood.

FLOOD: Director Ramge, so when you have a forfeiture, is this
something that, you know, so you pay your annuity, somebody pays the

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annuity for five years and-- and then they stop making payments in the sixth year?

BRUCE RAMGE: Yes.

FLOOD: The-- the annuity says it has to be a ten-year pay into.

BRUCE RAMGE: Yeah.

FLOOD: So what we're talking about now is paying back the five-and-a-half years, for instance, of annuity payments at a rate as low as 0.15 percent.

BRUCE RAMGE: It-- it will be based on the accumulated values up to that time. And for-- for instance, many annuities have an accumulated value based on an index. There are three kinds of annuities. There are variable annuities, which is truly a wrapper around an investment, and there's no floor on those. So it's just like investing in the stock market. If you choose a fund that does poorly, then your annuity is going to track. If it does great, your annuity is going to do well. Others are based on an index, so let's say the-- the S&P 500 index, and then the company is off-- allowed to offer a floor so that people don't lose their underlying payments, and so what-- what this change will do will allow insurers to provide those types of annuities that offer a floor instead of having the market being more geared towards those types of annuities that have no floor. So I think, although at first blush it-- it doesn't seem consumer friendly, I believe it really is, be-- because there will be more products out there with that floor being offered.

FLOOD: So is their money at risk in this annuity? Meaning--

BRUCE RAMGE: For the--

FLOOD: For the-- for the one that has the floor.

BRUCE RAMGE: For the one-- yes, be-- because the reserves that then are required have to be based on really stringent investment products so they-- the company would have to use T-bills or something of that nature that would-- would track, you know, the-- these lower interest rates. They can't prop it up by investing in-- in the stock market to support those reserves.

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FLOOD: This is far from a bank account. This is-- this is you buy an annuity, you're-- you're taking some-- if you-- if you complete your contract--

BRUCE RAMGE: Yes.

FLOOD: --you get the value of-- of everything that's good and your floor is set at 0.15 percent.

BRUCE RAMGE: Yes.

FLOOD: Do you think that insurance companies will just change their contracts to provide the floor? It's not in their interest to go anything above, is it?

BRUCE RAMGE: I think competition will help to keep that floor at a-- at a reasonable rate, you know, up in-- up to that maximum amount. The-- the-- the 1 percent was put into place in the year 2002, I believe. Before that, it was 3 percent. And then the insurance industry realized at that time that that couldn't be sustained, and so that 1 percent was adopted. And up until now, you know, and-- and we've seen even in some countries a negative interest rate, which would be very devastating.

WILLIAMS: Additional questions? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Mr. Chairman. Director Ramge, just so I understand, there's three types of annuities, one based on the stock market--

BRUCE RAMGE: Yeah.

McCOLLISTER: --and then there's that-- the one that we're referring to now with the new floor is-- is a fixed-income kind of annuity, is that correct?

BRUCE RAMGE: It could be-- there-- yes, there's-- there's the other two. One is a fixed income where it says, OK, we're going to pay you, you know, an interest rate of 2 percent a year, so, and that-- that's locked in. The other-- the other type would be called an equity index product, which would allow your accumulated values to grow based on an investment index like a mutual fund or a stock market, S&P 500 type of

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thing. And then those equity index products have this nonforfeiture
floor in case--

McCOLLISTER: As well?

BRUCE RAMGE: Yes.

McCOLLISTER: And-- and there's a third type as well?

BRUCE RAMGE: The third type is the variable where--

McCOLLISTER: OK.

BRUCE RAMGE: --where your-- your basically annuity wraps around an
in-- your investment choices. And so your investments are at risk
until you annuitize and then decide to get out monthly payments.

McCOLLISTER: Using Senator Flood's example, somebody that pays into
the annuity for five or six years and then quits, the floor goes into
effect.

BRUCE RAMGE: Yes.

McCOLLISTER: Also, what fees does-- are-- does the annuity company
generally impose--

BRUCE RAMGE: Oh.

McCOLLISTER: --when you-- when you do quit paying?

BRUCE RAMGE: I would have to look at that and get back to you.

McCOLLISTER: There's no forfeiture fee?

BRUCE RAMGE: The forfeiture fees are usually set for a certain period.
It could be anywhere from five to ten years, so that's why it's always
a good idea to purchase an annuity with a long-range investment
objective in-- in mind.

McCOLLISTER: And continue paying the premium, is sort of the--

BRUCE RAMGE: Yes. Yes.

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McCOLLISTER: Thank you. And congratulations on your many years of
service.

BRUCE RAMGE: Thank you. Appreciate that.

WILLIAMS: Senator Bostar.

BOSTAR: Thank you, Director Ramge. Sort of related to Senator Flood's
questions, it was mentioned in previous testimony that there's a
ceiling, right? I mean, this legislation is-- is aimed at changing the
floor, but there's also a ceiling to this rate. Is that-- is that
correct?

BRUCE RAMGE: Yeah, I believe so. You know, and to-- I have to be very
honest with you. I've always focused on the floor. I've really never--

BOSTAR: Yeah, well, actually, my question was going to--

BRUCE RAMGE: And--

BOSTAR: --was going to be, why--

BRUCE RAMGE: Why is there a ceiling?

BOSTAR: --what-- what function does the ceiling serve?

BRUCE RAMGE: You know, I'd like to go back and ask our actuary for
that information. She's the one who would really understand that
better. I'd be happy to get back to you with that answer.

BOSTAR: Great. Well, thank you.

BRUCE RAMGE: You bet, Senator.

WILLIAMS: Seeing no other questions, thank you, Director Ramge.

BRUCE RAMGE: Thank you.

WILLIAMS: Any additional proponents? Seeing none, is there anyone here
to testify in opposition to LB373? Seeing none, is there anyone here
to testify in a neutral capacity? Mr. Duey, if you'd like to close.

TIMOTHY DUEY: I believe we can just waive closing, right?

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WILLIAMS: Yeah.

TIMOTHY DUEY: OK.

WILLIAMS: Mr. Duey waives closing. We do have two letters of support, one from Jason Berkowitz from the Insured Retirement Institute and one from Tyler Laughlin from the American Council of Life Insurers. That will close our public hearing on LB373. And with our new procedures, for anyone that is interested in our next bill, you're certainly welcome to stay. But if you're not, we would ask you to exit through the east door.

LINDSTROM: We will now open the hearing on LB21, introduced by Chairman Williams.

WILLIAMS: Good morning, committee members and-- and Vice Chairman Lindstrom. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s, and I appear today to present LB21, a bill I'm introducing at the request of the Director of the Department of Insurance. LB21 is this year's cleanup bill from our Department of Insurance. Three general topics are addressed. First, in three places, the bill corrects language regarding the disposition of administrative fines and penalties. Second, the bill would eliminate a superfluous requirement that our Department of Health and Human Services review applications from certain HMOs for a certificate of authority, because review of those HMOs is present-- excuse-- excuse me, preempted by federal law. Third, the bill would clean up confusing language regarding continuing education requirements for insurance agents operating under their initial license. These are housekeeping changes in this year's cleanup bill from the Department of Insurance. Director Ramge will testify behind me to provide a more thorough explanation and answer any of your questions. I thank you and I would urge your advancement of LB21. Thank you, Mr. Vice Chairman.

LINDSTROM: Thank you, Chairman Williams. Any questions from the committee? Seeing none, thank you. We'll now move to proponents of LB21. Good morning, Director.

BRUCE RAMGE: Good morning again. Members of the Banking, Commerce and Insurance Committee, my name is Bruce Ramge, spelled B-r-u-c-e R-a-m-g-e, and I'm the Director of Insurance for the State of Nebraska. I'm here today to testify in support of LB21, and I would

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like to express my gratitude to Senator Williams for introducing LB21 on the department's behalf. Like many state agencies, the department often runs into situations where existing statutes become outdated, superfluous, or difficult to administer. LB21 is designed to deal with some of these situations. The first portion of the bill replaces language that the department has deemed unconstitutional. The existing statutory language requires the department to remit fines and penalties that are collected to the permanent school fund. This troublesome language is replaced in LB21 with language that complies with the Nebraska Constitution. The second portion of the statute eliminates a superfluous requirement. In particular, certain HMOs require approval from both the Department of Health and Human Services and the federal Centers for Medicare and Medicaid Services. Since federal law preempts state law in this subject matter area, the review of DHHS, or Department of Health and Human Services, is unnecessary, yet it still is prescribed by Nebraska law. It should be pointed out that DHHS was involved with the drafting of the language in this particular portion of the bill and supports the proposed change. Finally, the statute addresses a unique situation that impacts brand-new insurance agents working under their very first license. Due to statutes that link insurance license renewals to the licensees' birthdays, there are occasions where an individual obtains a license only to have it expire mere months or even weeks after issuance. According to existing law, the licensee has to complete a substantial continuing education requirement prior to that renewal. This requirement is extremely burdensome, especially considering that new agent would have just completed a comprehensive written exam on Nebraska insurance laws and is trying to make a living marketing insurance products after receiving their requirement for renewal-- or excuse me, after receiving their license. In order to tackle this issue, LB21 eliminates the continuing education requirement for renewal of the first license only if and only if that first license is set to expire less one year-- than one year after the license was issued. All these changes will help department operations and eliminate the situation whereby the department is acting in an unconstitutional manner by following the existing statutes. Thank you again for the opportunity to testify in support of LB21. I would be happy to answer any questions the committee might have.

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

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BRUCE RAMGE: Thank you.

LINDSTROM: --thank you very much. Next proponent. Morning, Mr. Bell.

ROBERT BELL: Good morning, Senator Lindstrom. Vice Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee, my name is Robert Bell; last name is spelled B-e-l-l. I'm the executive director and registered lobbyist for the Nebraska Insurance Federation. I am here today to testify in support of LB21. As you know, the Nebraska Insurance Federation is the primary trade association of insurers domiciled in or with a significant economic presence in Nebraska. Currently, the federation consists of 29 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 and public officials. Nebraska insurers provide high-value, quality insurance products to Nebraskans to help protect Nebraskans during difficult times. The federation appreciates the efforts of the Department of Insurance to amend the administrative fine language and to provide some flexibility to new insurance producers who do not-- who do not have enough time to acquire enough continuing education credits prior to their first renewal. Specifically, though, the federation is wholeheart-- wholeheartedly supports the efforts of the department to remove unneeded review by the Department of Health and Human Services of health maintenance organizations' license applications when the applicant is only providing Medicare insurance programs. The removal of this requirement will eliminate unnecessary delays while not compromising consumer protection. As a result, the Nebraska Insurance Federation supports the passage of LB21 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? Senator McCollister.

McCOLLISTER: Yeah, thank you, Mr. Vice Chairman. So it's my understanding the federal government now makes these reviews. So the efforts of the department are duplicative?

ROBERT BELL: No, the-- the efforts are duplicative in that you initially file your application with the Department of Insurance and the Department of Insurance reviews all of the necessary licensing criteria of-- of the HMO. And then that-- under current law, if

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you're-- say you're only selling-- selling Medigap or Medi-Vantage products, they send that over to the Department of Health and Human Services to do a review, which I-- my understanding is usually they don't, they're not going to differ from the Department of Insurance, right? They-- the insurer has the [INAUDIBLE]

McCOLLISTER: So it's--

ROBERT BELL: It's--

McCOLLISTER: --it's duplicative in that way.

ROBERT BELL: That way. Now, if you were talking about a Medicaid HMO, that would be a different story, so. And my understanding is this legislation does not touch that, so.

McCOLLISTER: Thank you.

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

ROBERT BELL: You're welcome.

LINDSTROM: Next proponent. Seeing none, any opponents? Any neutral testifiers? I do have letters of support from Gary Anthone from Nebraska Department of Health and Human Services, Carol McClelland with Independent Insurance Agents of Nebraska, and James Dobler with Professional Insurance Agents of Nebraska. Senator Williams, you're welcome to close.

WILLIAMS: Thank you, Vice Chairman Lindstrom, and thank you for your time in front of the committee this morning. Appreciate always having the opportunity to carry legislation that improves the insurance industry in our state. And these cleanup items are necessary to be sure that we comply with current law. Thank you, and I would encourage the committee to advance the bill.

LINDSTROM: Thank you. Any final questions for Chairman Williams? Seeing none, thank you. And that will close the hearing on LB21. We will now open the hearing on LB22.

WILLIAMS: Thank you, Vice Chairman Lindstrom and members of the committee. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s, and I appear today to present LB22, a bill I am introducing at the request

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again of the Director of the Department of Insurance. LB22 amends the Nebraska protections in annuity transactions governing mandatory disclosures that must be made by insurance agents in marketing annuities. The changes included in the bill reflect the latest updates to a model law adopted by the National Association of Insurance Commissioners, the NAIC. The bill implements a best-interest standard of care that requires the insurance producer that is trying to market an annuity to put the consumer's interest ahead of his own or her own. That standard is intended to curtail churning of annuity contracts and provide other similar protections to consumers and senior citizens in particular. Director Range will testify behind me and provide a more thorough explanation. I would encourage you to advance the bill. Thank you, Mr. Vice Chairman.

LINDSTROM: Thank you, Chairman Williams. Any questions? Seeing none, thank you. We'll now move to proponents of LB22.

BRUCE RANGE: Members of the Banking, Commerce and Insurance Committee, my name is Bruce Range, spelled B-r-u-c-e R-a-m-g-e, and I'm the Director of Insurance for the state of Nebraska. I'm here today to testify in support of LB22 and would like to express my gratitude to Senator Williams for introducing LB22 on the department's behalf. The changes made by LB22 are based upon revisions to a model adopted by the National Association of Insurance Commissioners, also known as the NAIC. The NAIC is the United States' standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five United States Territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the United States. The original suitability in annuity transactions model was implemented to protect the public interest and facilitate the fair and equitable treatment of insurance consumers. The original model has been updated periodically due to advancements and trends. Every state has adopted some version of the model. In February 2020, the NAIC made significant revisions to the model, following extensive input from insurance regulators, consumer representatives, and the insurance industry. Those revisions, which make up the language in LB22, incorporate a best-interest standard that requires all recommendations made by agents or carriers to be in the best interest of the consumer and

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ahead of any financial interest the specific agent or insurance company may have in the transaction. To assure the duty of putting the consumer first, the revision requires agents and insurers to satisfy obligations outlined in a care obligation, a disclosure obligation, a conflict-of-interest obligation, and a documentation obligation. Agents are required to disclose and answer questions about their role in the transaction, their compensation, and any material conflicts of interest. The changes also codify as a requirement the good business practice of carefully and clearly explaining to the consumer the basis of any recommendation. This requirement is designed to ensure consumers understand why a product is consistent with their particular financial needs and objectives. Agents and carriers are required to document in writing any recommendation and the basis for such recommendation. Each of these new requirements make this a more robust regulatory framework that strengthens the consumer protections currently in place from the previous model. Finally, the new model is designed to be consistent with the U.S. Securities and Exchange Commission's Regulation Best Interest, also known as Reg BI, which was finalized in June of 2019. Together, these complementary federal and state initiatives will bolster protections for consumers, especially those seeking lifetime income in retirement through annuities. As millions of baby boomers retire over the next decade, it is imperative that strong standards are in place to ensure that they receive clear and appropriate sales, marketing and financial advice relating to the purchase of annuity contracts from insurers and insurance agents. Thank you again for the opportunity to testify in support of LB774 [SIC]. I would be happy to answer any questions the committee might have.

LINDSTROM: Thank you, Director. Senator McCollister.

McCOLLISTER: Yeah. Thank you, Mr. Vice Chairman. Senator, or Senator-- Director Ramge, if a consumer feels as though the product he or she has been sold isn't appropriate, is there an opportunity for redress in the-- in the-- in the model that you are using?

BRUCE RAMGE: Through regulatory processes or an appeal directly to the insurance company. But this model does not set forth a, like a cause of action, a legal cause of action. It does not have a fiduciary duty, which would actually hamper the sale of-- of annuities.

McCOLLISTER: So there's no mechanism for redress at all?

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BRUCE RAMGE: Through the Department of Insurance. If they were to bring their case to us and show that the agent didn't take my specific instructions in mind or I was not-- or it was misrepresented to me, then the department can order the company to refund the money.

McCOLLISTER: Does that occur very often?

BRUCE RAMGE: Does not.

McCOLLISTER: Thank you.

BRUCE RAMGE: Yeah. You're welcome.

LINDSTROM: Thank you. Any other questions for the director? Seeing none, thank you.

BRUCE RAMGE: Thank you.

LINDSTROM: Next proponent.

BRANDON CAGE: Hello again.

_____ : Good morning.

BRANDON CAGE: I'm here on behalf of Pacific Life Insurance Company to support LB22. My name is Brandon Cage, B-r-a-n-d-o-n, last name Cage, C-a-g-e. I'm employed by Pacific Life as an assistant vice president and legal counsel. Last year, the NAIC adopted revisions to its suitability in annuity transactions model regulation, imposing a higher standard of care for recommendations related to the sale of annuities. The Nebraska Department of Insurance was actively involved in the NAIC process to revise the model law, and Pacific Life commends the department for all their hard work and contributions towards that effort. LB22 would simply require financial professionals to act in the best interest of annuity purchasers and not to put their own financial interest ahead of the consumer's interest. It also requires financial professionals to provide consumers with user-friendly disclosure materials to help them make informed decisions, all while preserving access to valuable financial advice and products. The regulation will bring Nebraska in line with the NAIC model rule, which Pacific Life supports, as I stated earlier. Will not go into a lot of detail which was prev-- previously stated. There are four core requirements that is going to-- this rule will place on financial

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professionals: an obligation of care with their clients, an obligation to disclose, an obligation to avoid any material conflicts of interest in any recommendation that's made, and an obligation to document that recommendation, what was the basis on which you decided that this was appropriate for a given client that you may have. LB22 also places responsibility on certain actions that the insurer or the product issuer is going to be required to do. It requires insurers to establish and maintain a system of supervision, including reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses and non-cash compensation that are based on sales of specific annuities for like a certain time period or contest-type things. It places enhanced training requirements on financial professionals and is in alignment with similar laws and regulations governing financial professionals at the federal level, such as the Securities and Exchange Commission Regulation Best Interest that they have there as well. Several other states have enacted legislation or are considering legislation very similar to LB22. I believe Iowa-- our neighbor Iowa just did, I think, at the beginning of this year, and I think it's going to become effective a little bit later, I think, in the year. There's two other states. I don't recall what they are now, but, again, it's starting to make its way through the state legislatures. So again, in closing, Pacific Lights-- Life supports LB22 and I'm welcome to attempt to answer any questions and feel free, since it's my first time, don't know if you want to give me any.

LINDSTROM: Thank you, Mr. Cage.

BRANDON CAGE: You bet.

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

BRANDON CAGE: OK, thank you all.

LINDSTROM: Feel free to come down anytime.

BRANDON CAGE: Thanks.

LINDSTROM: Next proponent.

MATT HOLMAN: Good morning again, Vice Chairman Lindstrom, senators of the committee. Again, my name is Matt Holman, that's M-a-t-t H-o-l-m-a-n, and I'm assistant general counsel for Ameritas Life Insurance Corp. Just as a little background, I've been with Ameritas

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since March of last year. Prior to that time, I spent roughly ten years in various capacities at the Nebraska Department of Insurance. And during that time, I served on the working group at the NAIC that helped draft the model that we're talking about today. Ameritas strongly supports the passage of LB22. I'm going to skip over a little bit since we've had-- the prior testifiers here dug into the mechanics a little bit, but obviously, if you have any questions, I'd be happy to address those at the end. Just a couple of points I do want to make. I will note that while the bill enhances the standard of conduct required by insurance producers and insurers, it also clearly defines what is required of the producers and the insurers in order to satisfy that standard of conduct. One complaint we received when we were drafting the bill was that-- that producers particularly really need to know how to comply and what those steps are required. So the bill puts forward a high-level, best-interest standard, but then it goes into detail across those four specific areas to outline exactly what conduct is required to comply. For Ameritas, it is important that Nebraska adopt these NAIC model changes not only because it provides enhanced protections for Nebraska citizens, but also because it will keep Nebraska law up to date with the rest of the country. As was previously mentioned, LB22 is actually based on an NAIC model regulation, not a statute, and many states are well underway in adopting or promulgating those regulations. Iowa and Arizona are already effective and we expect a really big push here through 2021. I think a lot of-- a lot of states were headed in that direction last year, but because of the COVID and-- and things, that slowed down a little bit. For insurers who operate in all 50 states, the more uniform the market standards are across those states, the more efficiently we're able to operate, which helps keep costs down for the insurers and, in turn, results in more affordable products for Nebraska consumers. The final point I want to make, but, you know, maybe is the most important, is that LB22 went through an exhaustive drafting-- drafting process at the NAIC for nearly three years, and during that process all interested parties had significant input. The goal of the NAIC was really to thread the needle and produce an updated model that enhances consumer protections, harmonizes with what the SEC has done in its regulation of broker dealers, but also maintains the access and availability of commission-based annuity products, which would dry up if we had overly strict regulation of these sales throughout the states. So thank you very much for your

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time today and I'd be happy to try to answer any questions you might
have.

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

MATT HOLMAN: Thank you.

LINDSTROM: Next proponent.

ROBERT BELL: Vice Chairman Lindstrom and members of the Banking,
Commerce and Insurance Committee, my name, again, 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
to testify in support of LB22. I'm not gonna go over my initial
statement about the federation and our impact on-- on Nebraskans today
on this particular bill since you've already heard it a couple of
times, nor am I going to get into the four standards or the-- the
best-interest standard that is in-- in this particular legislation.
What I will talk about is maybe why this is an issue and why it's an
important thing for Nebraska to create a new standard of conduct in
the-- or conduct, excuse me, in the selling of annuities. Over the
years, unfortunately, I believe, consumer confidence has eroded in
annuities. Annuities are complex and they have high fees that are
based on every annuity that is sold. And so you have, when you have
bad actors, at least you can set up a situation where the selling of
annuities can produce significant compensation for an insurance
producer at the harm of the-- at the harm of the consumer. And so what
this bill does, is our belief as insurance companies in Nebraska, is
help restore-- well, we hope it will help restore the confidence in
annuities. These are important financial products for Americans. We
know, as you heard earlier, that, you know, we have an aging
population in Nebraska, in the United States, and folks need access to
as many different retirement vehicles as possible. And so as states
proceed with the adoption of these new standards, which complement the
new standards that are being established also by the Securities and
Commission-- Securities and Exchange Commission for broker dealers,
it's hoped that this renewed confidence will spur interest in
acquiring annuities for consumer retirement needs. And for these
reasons, the Nebraska Insurance Federation supports the passage of
LB22. Thank you for the opportunity to testify.

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LINDSTROM: Thank you, Mr. Bell. Any questions? Senator McCollister.

McCOLLISTER: Yeah, and thank you, Senator Lindstrom. Appreciate your
testimony, particularly with reference to consumers that perhaps have
been taken advantage of in the past--

ROBERT BELL: Sure.

McCOLLISTER: -- with this-- with this product line. Therefore, my
question again, is there any enforcement of this new standard that
we're going to employ?

ROBERT BELL: So, yeah, I mean, I imagine in a situation where let's
say you have an elderly parent that has an annuity and maybe the son
or daughter discovers, goes into the records and discovers that
they've been-- they have an insurance agent that is-- is switching
their annuity on them every couple of years. And it's called churning,
right? And they're-- they're just trying to-- they're moving those
annuities to-- to get the products and the consumer is losing value
over time. What that son or daughter should do is pick up the phone,
call the Nebraska Department of Insurance, file a complaint. They will
investigate that complaint, and then that producer will be subject to
administrative penalties by the Nebraska Department of Insurance. And
one would hope in the communication with the department, as the
department goes into their investigatory role, they'll communicate
with both the insurance company, if the insurance company didn't catch
this, which, again, LB22 also provides additional guidelines for
insurance companies that-- that procedures that they need in place for
annuities as well to help catch some of this bad, you know, bad acting
that is occurring. Hopefully, they would do something to help the
consumer. That's certainly within the right of-- of two parties in a
contract, right? They can come together and make an agreement to-- to
move on to something that's better and-- and make the individual
whole. Or, while they don't have remedies under this law in court,
they may have other remedies available to them in a court of law. The
producer, very likely, if they get caught doing this, is going to be
subject to revocation of their insurance producer license, so-- or
significant administrative fines or both, so.

McCOLLISTER: Director Rame indicated the disputes haven't arisen that
often. Do you anticipate with passage of this particular statute,
this-- this bill, that disputes will go up?

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ROBERT BELL: I anticipate there will be higher compliance with the law, that this is prescriptive enough for an insurance producer to know how to follow the law and what best-- what best interest means in the sight of Nebraska law. And so one would hope that we'd actually have a reduction in these types of complaints at the Department of Insurance. Although I think they're relatively uncommon, when they do happen, they're bad, you know, and they do-- I can remember from my time at the Department of Insurance, having read some of the orders against insurance producers that have-- have, you know, churn policies and violated the law, even under-- previously under the-- the-- the current standard. This makes it a little bit more clear what you need to do. These are complex products. It's-- it's helpful to have a more prescriptive standard in law.

McCOLLISTER: I'm really grateful for your testimony. Thank you.

ROBERT BELL: You're welcome.

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

ROBERT BELL: You're welcome.

LINDSTROM: Any other proponents? Seeing none, any opponents? Seeing none, any neutral testifiers? Seeing none, we do have three letters of support, James Clements representing himself, Tyler Laughlin with American Council of Life Insurers, and Jason Berkowitz with Insured Retirement Institute. Chairman Williams, if you'd like to close.

WILLIAMS: Thank you, Senator Lindstrom. And again, thank you to the committee for taking time to hear this important legislation. I've always thought it's our obligation as senators to try to create consumer protections when they are needed and when they don't get in the road of-- of business conducting itself normally. And this is one of those areas, and I think our Department of Insurance has done a great job, Senator McCollister, in dealing with those kind of complaints that have come up when they have come up. I find it refreshing when we have Mr. Bell, Mr. Holman, and Mr. Cage, who represent directly the people that are selling these products, coming in and requesting more prescriptive, was the term that was used, language that can be followed so that we know that the consumers, when they're buying these products, are being watched over and follow these

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four pillars that are in the legislation. So with that, I would encourage the-- the committee to advance the bill to the floor of the Legislature. Thank you.

LINDSTROM: Thank you, Chairman Williams. Any final questions from the committee? Seeing none, thank you, and that will close the hearing on LB22.

WILLIAMS: [RECORDER MALFUNCTION] Banking, Commerce, Insurance Committee. My name is Matt Williams. I'm from Gothenburg and I represent Legislative District 36, and I'm honored to serve as Chairman of the committee. We have a-- have a rather lengthy thing that I read. I'm going to shorten that considerably this afternoon because I think everybody in here has heard it before. If you haven't, silence your cell phones. Seating is limited. People will come and go maybe during the hearings. We do have several members who were not able to get here today who are watching via the video broadcast, and so they're par-- participating that way. Testifiers, when you come up, please fill out the pink sheet and turn it in to our committee clerk. I think that will cover pretty much everything. On my immediate right is committee counsel Bill Marienau. To the left, on the far end of the table, is committee clerk Natalie Schunk. And we'll have the committee members that are here introduce themselves, starting with Senator McCollister.

McCOLLISTER: John McCollister, District 20, central Omaha.

FLOOD: Mike Flood, Norfolk, Madison County, Stanton County.

WILLIAMS: And our pages this afternoon are Caroline and Ashton, both students at UNL, and appreciate having you here this afternoon. So we're going to kick off our afternoon with a hearing on LB77, introduced by Senator Gragert. Welcome, Senator Gragert.

GRAGERT: Thank you. Chairman Williams and members of the Banking, Commerce and Insurance Committee, I'm Senator Tim Gragert, T-i-m G-r-a-g-e-r-t, representing District 40 in northeast Nebraska and here today to introduce LB77. LB77 amends the Property and Casualty Insurance Rate and Form Act by prohibiting an insurance company from adding a surcharge or increasing premiums for a member of the armed forces based solely on the fact that they had not continued their motor vehicle insurance coverage while deployed outside of the United

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States, United States Territories, or the District of Columbia for the period of six months or greater. A former military member called me early last year expressing his displeasure of the so-called "patriot penalty." He was not comfortable coming to testify today due to the COVID, so I have handed out a letter to you, been passed out earlier. When I looked into this, I found an article reporting on research conducted by Fox News, Fox 8 News and the Consumer Federation of America who found that a certain insurance company adds a surcharge to the auto insurance premiums of soldiers who dropped coverage while they served abroad. CFA called on the nation's insurance commissioners to intervene, stating that it is absolutely outrageous and unacceptable to allow any insurer to charge a higher premium to a member of the military solely because they didn't maintain insurance coverage while serving abroad. According to the research, the surcharge can be as high as \$500 every six months, even if the service member had a clean record. This research of the insurance company's practices indicated that it appeared to have "patriot penalty" in at least 21 states, including Nebraska. The CFA also wrote that if commissioners determine that they are not authorized by state law to intervene and block this penalty, that state lawmakers should take up legislation. Since the article was written last February, I am aware of at least one state that has passed such legislation. In June, Louisiana Governor Edwards signed a bill to end the so-called "patriot penalty," where members of the military who were deployed are charged for a lapse in coverage after they return from deployment. The sponsor of the legislation also stated that it was offensive to him that some insurance companies are kind of duping people when they come back by telling them they get a discount because they are a service member, but that's after they raise the rates based on them not having insurance for the last six months. I fashioned LB77 after the legislation that passed with little disagreement in Louisiana. In working on this bill, I did run it by the legal counsel of the Department of Insurance, the Adjutant General, and a representative from the Nebraska Insurance Information Service. Based on suggestions from the Nebraska Insurance Information Service, I did make some changes to tighten the bill's provisions. Thank you for your consideration of LB77. I urge your favorable vote on this bill that will guarantee our service members are not charged higher auto insurance rates after deployments. If you have any questions, I'd be happy to try and answer them. Thank you.

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WILLIAMS: Thank you, Senator Gragert. Are there questions for the senator? Senator Gragert, you-- you talked about a constituent that was not able to come or-- is that this Leon Cederlind?

GRAGERT: That's correct.

WILLIAMS: OK, and we all have that letter. I just wanted to be sure that that was--

GRAGERT: That's correct.

WILLIAMS: --the one you talked about in your testimony. When-- in the research that you did on this bill, did-- did you find at all that this was a widespread tactic that was being used by insurance companies?

GRAGERT: Actually, it was by one insurance company in 21 states, including Nebraska, that we-- that we had seen--

WILLIAMS: But your research showed that that company does do business in our state also?

GRAGERT: That's correct.

WILLIAMS: Yeah. Any additional questions? Senator Bostar.

BOSTAR: Thank you, Senator Gragert. I just-- I'm sorry, it's really not a question. I just wanted to mention that I've-- I've also heard from-- when I was running for office, of this issue, and I-- I appreciate you bringing this bill.

GRAGERT: Thank you.

WILLIAMS: Senator McCollister.

MCCOLLISTER: Thank you, Senator Williams. Any idea how-- what the premium is or the-- the surcharge or--

GRAGERT: As stated, well, you know-- as stated, it could be up to \$500 for every six months, even if-- even if the individual had a clean record, so they could charge in addition to what, you know, the standard premium was, so, yeah, that could cost a soldier or, you know, a military personnel \$500 every six months.

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McCOLLISTER: And this is for car insurance?

GRAGERT: Car insurance.

McCOLLISTER: Why would the risk be any different? I don't understand
why. I guess--

GRAGERT: It-- I think it's because of the lapse. The penalty is, is
you--

McCOLLISTER: Oh.

GRAGERT: --you-- you take-- you know, you put your car in the garage
and then you decided, well, I'm not going to pay insurance for the
year I'm gone. But then what's happening is when you come back, they
charge you that little bit more.

McCOLLISTER: My daughter left for college and she didn't use a car for
a year. But I think there is a category of insurance that you can buy
that when a vehicle is-- isn't recognized to be on the road, per se,
but is sitting in a garage. Does-- does that enter into the discussion
at all?

GRAGERT: Well, there definitely is that-- there-- I believe there is
that type of insurance, but these individuals didn't want to pay
insurance at all while they're deployed, you know, so, you know, maybe
the smart thing would be is to keep comp on your car in case, you
know, the garage burnt down or something like that. I don't-- you
know, I'm not an insurance whiz. I'm insurance poor, I know that.
[LAUGH]

McCOLLISTER: OK, thank you, Senator.

WILLIAMS: Any additional questions? Seeing none, I'm assuming you'll
stay to close?

GRAGERT: You bet. Thank you.

WILLIAMS: Thank you. We invite our first proponent after a thorough
cleaning. OK, anybody to testify in opposition? Seeing none, is there
anyone here to testify in a neutral capacity? Welcome, Ms. Nielsen.

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COLEEN NIELSEN: Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Coleen Nielsen. That's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I am a registered lobbyist for the Nebraska Insurance Information Service. I'm here to testify in a neutral capacity. Senator Gragert did contact me with regard to this piece of legislation, and I surveyed my members. We did make a couple adjustments to the bill before he introduced the bill, and we thank him for graciously entertaining those provisions. One was a tweak basically on the definition of the term of employment, and the other tweak was with regard to risk-based-- the risk classifications and inserting the word "solely." So when I surveyed my members, I have to say that none of the members thought that they used deployment as a risk-based classification, and that's why we're testing neutrally on the bill.

WILLIAMS: Any questions for Ms. Nielsen? Senator McCollister.

McCOLLISTER: Thank you, Senator Williams. In the example we used previously, when somebody is deployed and they put a car in the garage without notifying the insurance company about a change of status and the insurance lapses, would the insurance company pay the claim if the-- if the garage burned down?

COLEEN NIELSEN: Well, if-- if they don't have insurance and it's lapsed, if they haven't paid the premium, then there wouldn't be coverage. But in terms of a surcharge, once that person tried to get insurance again or start paying premiums again, I've-- we've not-- we did not hear of that, and I didn't hear it from my members. My members said that they had not heard of such a thing.

McCOLLISTER: Thank you.

WILLIAMS: So can I assume, Ms. Nielsen, that since your members aren't doing that, they would not be opposed to putting it statutorily in language?

COLEEN NIELSEN: They are not, Senator. They're not opposed at all.

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

COLEEN NIELSEN: Thank you.

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WILLIAMS: Any additional neutral testimony? Seeing none, Senator Gragert waives closing. All right, that will end our hearing on LB77-- oh, excuse me. We have three letters that I need to-- we have one from Dean Kenkel, we have one from Leon Cederlind, and we have a letter in support from Director Bruce Ramage from the Department of Insurance. Then we'll close the hearing. And our next bill, and our last bill this-- this afternoon, is LB280 with Senator Albrecht. Welcome, Senator Albrecht.

ALBRECHT: Thank you. Man, those lights are bright. Whoosh. Well, I'll get started.

WILLIAMS: We want to see you well that way,

ALBRECHT: Yeah, I guess so. Well, good afternoon, Chairman Williams and members of the Banking and Insurance Committee. For the record, my name is Joni Albrecht, J-o-n-i A-l-b-r-e-c-h-t. I represent District 17 and it's Wayne, Thurston, and Dakota Counties in northeast Nebraska. By way of introduction. I was contacted late last year by a representative of Great West Casualty Company and their parent company, Old Republic International Corporation, to consider offering this legislation. Great West Casualty is a property and casualty insurance company located within my district, in South Sioux City. The company was organized under the Nebraska law in 1956 and has maintained its company headquarters in South Sioux City since that time. Their office employs 575 people at the South Sioux City location and an-- and an additional 350 at regional offices throughout the country. The direct written premiums for the company were about \$1.13 billion for 2019, almost exclusively for the hire of long-hauling truck markets. They are considered among the leaders in the segment of that insurance industry. As legislators, we all share the common task of weighing the public interest of regulation versus the interest of creation and maintenance of healthy and vibrant business environment for our state. It is the appropriate balance that we seek in our role as legislators, weighing the ultimate benefit to all Nebraskans. In my discussions with these constituents, I became convinced that, as it pertains to the domestication process, the corporate commitment to the state in terms of infrastructure and employment opportunities for our citizens are much more important qualifications than perhaps retaining the services of an individual resident as a director for the purpose of qualification. When considering legislation, I always consider the upside benefit and the downside risks of implementation for Nebraska

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and for Nebraskans. In this instant, I resolved that this legislation is warranted. Due to the weather, today, Craig Posson, the legal counsel for Great West Casualty Company and the Republic Insurance Group, has asked me to read his letter of testimony, LB280, into the record. So if you don't mind, I'd like to do that. Because of the weather, he wasn't able to be here, so I'll read it as he wrote it. Mr. Chairperson Williams and members of the committee, my name is Craig Posson; that's C-r-a-i-g, Posson, P-o-s-s-o-n-- and I think you sent a letter around, right? OK-- a Nebraska domesticated property and casualty insurer, and the Old Republic International Corporation, the national holding company for which Great West is wholly owned and affiliated. I am general counsel and the secretary of the Great West Casualty Company. Great West was formed under the Nebraska law in 1956 and has maintained its principal place of business in Nebraska since that date. The organization has been and remains committed to Nebraska. The company headquarters are located in South Sioux City, Nebraska. In 2016, Great West Casualty Company invested over \$10 million in a 25,000-square-foot expansion to their corporate headquarters. The office there employs 575 people, with an additional 350 regional offices throughout the country. Great West wrote approximately \$1.13 billion in direct written premiums in 2019, almost exclusively for-hire long haul trucking markets. Nebraska direct written premium was approximately \$58.4 million, and we are considered the leaders in that segment of the insurance industry. Great West and its parent, Old Republic International Corporation, support Senator Albrecht's proposed legislation, LB280. In support of our position, we note that there has been extensive development of the various federal and state regulatory requirements since the original enactment of those provisions in the early 1900s. This is particularly true of governance for publicly traded entities and their directors, as well as how insurance companies do business in multiple states. We emphasize these developments are initially for the purpose of providing the context for what we feel are compelling reasons to eliminate the current director residency requirement. For the sake of simplicity and general speaking, an insurer domesticated in one state can reasonably acquire authority to do business within any other state, irrespective of whether they have a director residing within that second state. Each state has established legal perimeters within its state statutes and regulations to afford the state agencies adequate oversight of any insurer doing business within their boundaries. Some might argue that since a company is enjoying the

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benefits of the statutes and regulations of Nebraska, that they should have a Nebraska resident on the board. We think domestication should require more than a mere Nebraska resident on the board. Domestication, as contrasted to licensing, should require, in our opinion, a greater commitment of meaningful presence in the state domesticate-- domestication, a material economic presence, premiums in the state, jobs in the state, etcetera. We do not see director residency as a requirement of substance, as it once may have been, due to the evolution of the regulatory environment. The National Association of Insurance Commissioners would seem to agree, as their model law provisions do not include director residency in the state of domicile or as regulatory criteria. Having said that, and the further evidence of the impact of regulatory evolution, an insurer must have its board of directors individually vetted or qualified by insurance departments of the state in which it's domesticated. We are required to send a bio-- biographical affidavits about almost every state where we are licensed to do so-- business-- do business, and some states require fingerprints. We believe this close review of individual director adds more value to the qualification assessment than does the mere residency, and certainly adds to the level of meaningful oversight of the insurance regulators. This level of oversight, along with the Insurance Department oversight over forms, rates, etcetera, more than adequately protect the Nebraska consumers. Secondly, the development of corporate governance regulations for Security Exchange Commission-regulated organizations in more recent past resulted in increased accountabilities for affected insurance organizations and their directors. Old Republic has long believed that the directors of the parent holding company should likewise serve as directors of the principal charter insurers within the holding company, thus reinforcing director accountabilities as to major affiliates within the overall corporate structure. We believe a common board in this respect serves governance issues best for the organization and the regulatory bodies that oversee our operations. That obviously is made more difficult by states' specific resident requirements. To be fair, several states do require director residence and the domestication or the redomestication qualifications. Even so, some of these states do treat the requirement as one that can be waived in their approval process, which makes application for the domestication more feasible. Considering our core values, as respects the alignment of the affiliate and parent company board accountabilities, it would be our position in considering any further domestication or redomestication

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possibilities to eliminate from consideration any state requiring strict director residency requirements and believe other organizations similarly situated would likely do so. We all know and appreciate the fact that Nebraska is a great place to live and do business. As such, the requirement may not impact all possible applicants for domestication and redomestication, but the same based on their specific attendant circumstances. Having said that, it seems that even one otherwise very viable opportunity is lost to the state due to the single unwavering requirement, it would be unfortunate. Thank you for the opportunity to express our position in favor of the proposition of leg-- this proposed legislation. We're happy to respond to any comments or questions you might have. Respectfully, Craig Posson. Sorry that was kind of long, but-- but they are my constituents, and that's why I brought the bill. If you have any questions, I can certainly try to answer them for you. I understand that this bill-- I don't think-- it was written back in 1930 and any of this type of-- this ask has never been asked before, to ask for a Nebraska resident to be taken off. It's just one little line within the bill.

WILLIAMS: Any questions for Senator Albrecht? Senator Bostar.

BOSTAR: Thank you. In the-- in the letter that you read, it talks about how in other states, other states maintain a residency requirement, some other states do--

ALBRECHT: Some.

BOSTAR: --but that some of them then have a process for the state to waive it within some either application or review framework, I'd imagine. Is-- would that be a good intermediate step between where we are now and a full revocation of the requirement?

ALBRECHT: You know, I would certainly entertain it, and I'm sure they would, too, because they don't feel like they've ever really had a problem that they couldn't have taken care of at the state level, so if it's waiving someone but not somebody else. But if you have an insurance company, like they-- they have seven or eight other affiliates across the country, I mean, they would have to have-- if-- if everybody required residency, they would have a big board--

BOSTAR: Right.

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ALBRECHT: --you know, so that's the reason that-- but that's a good question, the wavering-- waiving that might be a consideration as well.

BOSTAR: Thank you, Senator.

ALBRECHT: Thank you.

WILLIAMS: Any additional questions? One-- one of the questions that I-- that I would have, that I don't know that we have anybody that can answer this here, first of all, Great West has been a wonderful company in our state and a great asset with those employees in-- in South Sioux City. Nebraska, as we all know on this board, is-- is now the home to 109 insurance companies that have domesticated here. I'd like to hear if this issue has been a hindrance to any companies coming here or if it's kind of a nonevent for most of them. And I-- I don't know how to get an answer to that without Director Ramage sitting here. He's not here this afternoon.

ALBRECHT: Yeah.

WILLIAMS: So--

ALBRECHT: But he--

WILLIAMS: But I-- I may call him and ask him that.

ALBRECHT: Yeah, that's a good question that I couldn't answer for you. But leading up to that, I know that he did send a-- a letter. And I hope everybody--

WILLIAMS: We have a letter, a neutral letter from--

ALBRECHT: Yeah, because it's not like we're asking them to do any more than what they currently do.

WILLIAMS: Right.

ALBRECHT: So, yeah, that would be a consideration.

WILLIAMS: Any additional questions? If not, before you leave, is there anyone else here to testify in favor, opposed, or neutral on LB280? Seeing none. Senator Albrecht--

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ALBRECHT: Well, I just hope that--

WILLIAMS: --if you would like to close.

***THEODORE FRAIZER:** Good afternoon, Senator Williams and members of the Banking, Commerce and Insurance Committee. My name is Theodore D. (Tad) Fraizer. I am local counsel and a registered lobbyist for Mutual of Omaha. I testify today in opposition to LB280 on behalf of Mutual of Omaha, and I appreciate the opportunity to raise our concerns to the members of the Banking, Commerce and Insurance Committee. Mutual of Omaha does not believe that overturning the long-standing requirement of having a Nebraska resident on Nebraska insurance companies' Boards of Directors will result in better outcomes for consumers and this state's regulatory ecosystem. We certainly cannot fault non-Nebraska companies for seeing the desirability of incorporating in our state. Nebraska's insurance regulators and industry leaders have established Nebraska as a nexus of understanding and cooperation that fosters growth while still prioritizing exceptional consumer protection. At the same time, we would not want Nebraska to become seen as simply a "paper domicile." Maintaining a direct tie to Nebraska within each company's Board of Directors is a reasonable requirement that is in keeping with our collaborative and well-respected regulatory environment. There is no foreseeable situation in which Mutual of Omaha would not have a Nebraskan on its Board of Directors. The robust industry presence in Nebraska offers a multitude of qualified potential board members with extensive expertise in all aspects of the insurance industry. Finding qualified Nebraskans with appropriate expertise to join our Board of Directors has never presented an impediment for Mutual of Omaha, and we see no reason why this requirement would present any greater hurdle to other insurance companies. For these reasons, we oppose LB280. We do not believe that overturning the long-standing requirement of having a resident of this state participate in the governance of its insurance companies would prove advantageous for Nebraskans. If you have any questions, please feel free to contact me. Thank you for your consideration.

ALBRECHT: I just hope that you'd consider it, as a company that has been around for an awful long time in the state of Nebraska and doing wonders for the trucking industry. They have quite the facility. If you're ever in South Sioux, I invite you to stop by. It's a beautiful building with lots of room for expansion. So it's just a small ask.

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Obviously, there might be more to it than-- than what I think, but I
appreciate you listening.

WILLIAMS: Senator McCollister.

McCOLLISTER: Yeah. I just want to thank you for bringing the bill.
When we were in the trucking business, we used this company and they
really are a top-notch company.

ALBRECHT: We-- I-- when I went up to visit, there-- I mean, there are
employees there that have been there 40 years. I don't think there's
too many people in this room, but maybe one, that we can say that
about, and I hope he doesn't decide to leave, so, but thank you.
That's all I have.

McCOLLISTER: Welcome.

WILLIAMS: We do have one letter, as I mentioned. We have a letter as a
neutral letter from Director Bruce Ramage from the Department of
Insurance. Seeing nothing else, we will close the hearing on LB280. We
aren't going to have Exec Session today. There's-- we've got too many
[RECORDER MALFUNCTION]