WILLIAMS: [RECORDER MALFUNCTION] 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 in this body. I'm privileged to serve as Chair of the committee. The committee will take up the bills in the order posted. Our hearing today is your part of the public process, and this is your opportunity to express your position on proposed 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 is 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 rules. Please silence or turn off your cell phones. When you are ready to testify, please move to the front row. The order of testimony will be the introducer first, followed by those people that are here to support the legislation, followed by those who are here in opposition, and anyone then in neutral testimony, and then the senator will be asked if they would like to make a closing. We ask that the testifiers please sign in. You will have pink sheets, and would you hand those pink sheets to our committee clerk when you come up to testify. When you begin your testimony, if you would please spell your first and last names for the record. And we ask that you be concise with your testimony, and we will be asking people to limit their testimony to five minutes today. And we do use a clock. The clock will-- or the light switches here-- the light will be green for the first four minutes, followed by one minute of a yellow light, and then the light will turn red at the expiration of five minutes. And we ask that you conclude your testimony at that time. 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 of our entrances, and you can use those, please. The sign-in sheets will become part of the exhibits in the permanent record of our testimony today. Written materials may be distributed to committee members only when you come up to testify. If you would hand them to one of our pages for distribution to the committee, and we will need ten copies. If you do not have ten copies, if you would raise your hand, our pages can make those copies for you. To my immediate right is committee counsel, Bill Marienau. To my left at the end of the table is committee clerk, Natalie Schunk. And all of our committee members are with us today, and I would begin by having them introduce themselves starting with Senator Kolterman.

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

McCOLLISTER: John McCollister, District 20, representing the central Omaha area.

QUICK: Dan Quick, District 35, Grand Island.

LINDSTROM: Brett Lindstrom, District 18, northwest Omaha.

La GRONE: Andrew La Grone, District 49, Gretna and northwest Sarpy County.

HOWARD: Sara Howard, I represent District 9 in midtown Omaha.

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

WILLIAMS: And our pages that are with us today are Tsehaynesh and Kylie. Did we lose them already? We lost them already, but I am sure they will be back. And we appreciate all of their work. Again, we will now open the public hearing on LB379 introduced by Senator Kolterman to change provisions under the Delayed Deposit Services Licensing Act and the Nebraska Installment Loan Act. Senator Kolterman, you're invited to open.

KOLTERMAN: Chairman Williams and fellow members of the Banking, Commerce and Insurance Committee, my name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. I represent the 24th Legislative District in Nebraska, and I appear before you today to introduce LB379. LB379 addresses two issues. Number one, the bill requires delayed deposit service operators to license under the Nation-- Nationwide Mortgage Licensing System. This-- this provision was requested by the Department of Banking and Finance, and it provides a uniform licensing procedure for entities that are licensed and regulated by the department. Number 2, LB379 allows licensed delayed deposit service licensees to offer regulated loans on-line for an additional licensing fee and provided that the license has at least one physical location within the state. Some of you that were on this committee last year and on the floor would recall-- will recall that we considered and passed a bill last year. It enacted a number of consumer protections on these types of loans. The bill was a result of significant deliberation and negotiation between consumer groups, industry members, and this committee and others in our Legislature. Last year, we discussed adding the on-line operating provision as an additional consumer protection in the bill but learned the department was not yet ready to institute and regulate such a provision. Industry members worked with the department during the interim to address any regulatory concerns. This bill is a result of those meetings. Consumers want to access credit on-line, and the reality is our constituents are already accessing these loans on-line, just through a lender that is not licensed and regulated by this state. This bill allows Nebraskans a safeguard, gives them a regulated source for that short-term small-dollar credit. I've submitted AM542 which are technical changes requested by the Department of Banking. I appreciate your consideration of LB379. With that, I'm open to address any questions I might be able to, but at the same time, we have some good testifiers coming behind that can attest to some of the questions you might address.

WILLIAMS: Thank you, Senator. Are there questions for Senator Kolterman? Senator Howard.

HOWARD: Senator Williams. Senator Kolterman, thank you for visiting with us today. Do we have a copy of the amendment?

KOLTERMAN: You should have.

HOWARD: Oh, it's in the book. It's in the book. All right. I will find my copy of it.

KOLTERMAN: All right.

HOWARD: Thank you, Senator Kolterman.

KOLTERMAN: And I thought you should have. I will tell you that I'm not going to be able to stay. I've got two other hearings that I've got to attend openings, two different committees. I'm kind of balancing my time today, but I would tell you we worked very hard on this bill last year. What this really does, it allows for on-line access. It doesn't really change anything that we accomplished last year. The regulations will remain the same, but it does give us some regulation through the Department of Banking which I believe just enhances the protections that the people are utilizing these types of loans should have. So there's some protections built into this that maybe we didn't have last year. With that, again, thank you for your questions. I won't be here to close.

WILLIAMS: Thank you, Senator Kolterman. With that, we will ask the first supporter of LB379 to come forward. Welcome, Mr. Brady.

JUSTIN BRADY: Chairman Williams and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for Advance America in support of LB379. Senator Kolterman had laid out the two provisions in the bill. That one, the NMLS which is-- I'd point out, delayed deposit services or DDS or some people refer to them as payday lenders are the only, if you will, institution that files with the Department of Banking that isn't using the NMLS. They right now have to do a paper copy. And this would-- as opposed to doing a paper copy in triplicate, they could follow all other financial institutions in filing electronically with the department. The other provision, the on-line regulation and licensing provision, as Senator Kolterman alluded to, was a piece that was left to be worked out from last year. And with that, I'd like to just go back through a little bit of history on how we got to this point. I know some of you are here and some are new and just to kind of update everybody. So two years ago Senator Vargas introduced a bill, LB194. As that bill was introduced, the industry opposed it the way it was written. And there was specifically some ability to pay pieces that the thresholds were too high and stuff that the industry would have went out of business in Nebraska. At that time two years ago, we worked with Chairman Lindstrom and Senator Vargas, and there wasn't, at two years ago, a compromise that could be had. I mean, your committee met-- I mean, those of you who were on it will recall you met. You discussed multiple amendments in multiple Exec Sessions, and we left that session two years ago without any action taken on LB194. Then the next year, go to last year, and Senator Vargas renewed his desire to try to get LB194 passed. And he came with another amendment which, again, we felt would put us out of business. But again Chairman Lindstrom brought himself, Senator Williams, and Senator Vargas together, and-- and through many, many hours of negotiations and discussions, we eventually got to a point where some in the industry, Advance America was one of them, could be neutral on the bill. And there were others, some of the smaller-- not some-- the smaller operators and the, quote, the mom and pop stores still with the back room and expenses and stuff were opposed. And it's my understanding, those that were in the room would know better than I, but that there was a discussion in this committee to try-- I should back up, Senator Vargas even made LB194 his priority to show his intent to really try to get something done. This committee met and there was a discussion. I don't believe there was an actual vote taken, but LB-- it was decided that LB194 was not coming out of committee again. And which we were approaching towards the end of last session, and that's where it was left until Senator Vargas reached out to me and asked me to come up to Omaha and sit down with him and see if there was anything that could be done. So I went up to Omaha, and we spent a couple hours going through the bill, going through the consumer protections, going through some of those pieces to see where can, one, we increase consumer protection that helps consumers but also that doesn't put the industry out of business. We came up with a laundry list of items that could be done. And if there's time, I could list some of them. And from that point, there was another Exec Session of which this committee moved that bill out as amended unanimously, and it passed. It then moved to the floor and passed. The one piece that was in that was the discussion of how do we regulate on-line lenders. You have companies now who are offering it, not regulated in-state companies, but you have out-of-state companies who are offering on-line to Nebraskans, to all around the world. But how do we start? How does the department start to regulate them? And we are on, I looked back at my notes, we were on day 54 of the 60-day session last year when this discussion happened. And the Department of Banking said, hey, we don't know if we are equipped yet, and to be completely honest, to make us make a decision in five minutes standing in the Rotunda isn't appropriate for Nebraskans and the protection. So we said, let's stop talking about the on-line piece this year, this was last year, let us work with the department to try to come back and say, how do we start that process of regulating on-line-- like not only regulated but licensing and regulating the on-line piece? And so LB379 and LB379 as amended, Senator Howard, did you find the--

HOWARD: I did find it, thank you.

JUSTIN BRADY: --OK, you're welcome-- as amended, would provide the license and regulation. And the attempt-- and as I understand, all the things we passed in LB194, all the consumer protections would then apply to the on-line lending piece. And with that just, you know, there would be greater notice given to customers. We have to provide notice of total fees, the annual percentage rate, make it clear that this is only a short-term cash needs. This isn't a long-term. If there's insufficient funds when it comes time to pay the advances, we could attempt to only try to return the check once to the bank for a fee of fif-- no more than $15. We can't-- some-- apparently there was a concern that some companies would keep trying to send an insufficient check back to the bank over and over and over and keep charging more and more fees, so we put a limit on how they did that. We made it clear that you could make a prepayment of the advancement without penalty. We added a right to rescind, so if a customer were to come in, they would have till the next-- end of the next business day to come back and rescind the advancement without paying anything. And looking at, one, acknowledging the on-line piece but also looking how times have changed, we added that not only could you pay by check, but you could also pay by electronic payment or the ACH debit card. We made it clear that you can't-- can't charge-- in other states what they saw is once they got their check from a company, they said, oh, but to cash it, you've got to go right next door and see Joe or Sally, and they charge you another $5 to actually cash the check we just gave you. That was happening in other states. We made it clear that can't happen-- how we provide-- that either whether it's a check or cash to you, there cannot be an additional item tied to it or you have to go here to get it cashed or it will cost you. We also added an extended payment plan. If a customer comes in and says, hey, I can't pay the loan, they can elect to do this and then get it no charge to pay off over six months. We also gave the department stronger cease-and-desist orders for people who were not abiding by the law. And we did annual reporting so the department has more information on the types of loans, the amounts of loans, the default rate, different stuff like that. So with that, I'll just say all those provisions would then apply to the on-line piece under this bill. And with that, I'll try to answer any questions.

WILLIAMS: Thank you, Mr. Brady. Questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams. Mr. Brady, I notice on the fiscal note--

JUSTIN BRADY: Yeah.

McCOLLISTER: --that the bill would eliminate delayed deposit service branches. And apparently there's 42. And as a result, a literacy-- a literacy-- financial literacy cash fund has been reduced and will perhaps eliminate some of the education the university and other bodies offer. Can you give me some explanation about that?

JUSTIN BRADY: Yes. One, I will say that that issue, I'll go through it, but that issue is corrected in this amendment. What the original draft said-- current law says you-- if you have a main office-- if you have a main office, you can have an-- you can have branch offices in that same county. The original draft of LB379 eliminated that branch office provision and just said you'd have a main office and then could offer on-line. The department pointed out, what if somebody wants to operate branched offices? And so we fixed that in the amendment to say--

McCOLLISTER: OK.

JUSTIN BRADY: --you'll have the option to have your-- you have to have your main branch and then you can have branch offices. And this will be a third option to say and then you could get licensed and regulated to do it on-line. So we put that branch office piece back in there.

McCOLLISTER: What's the amendment do to the fiscal note?

JUSTIN BRADY: That I-- well, I would think at least from that provision, you-- the department would no longer be able to say that those 42 or 44, I forget the number, Senator, that all branch offices will be closed. And so I would think you-- that financial literacy fund would then have the money again because those branch off-- there-- there wouldn't be the requirement that those branch offices have to be closed now.

McCOLLISTER: OK. Thank you.

JUSTIN BRADY: You're welcome.

WILLIAMS: Additional questions? Mr. Brady, so currently we could have a situation of people offering these on-line services from outside of the state into our state and not being regulated in any form by the Department of Banking.

JUSTIN BRADY: Correct.

WILLIAMS: And under LB379 as amended, those individuals from outside of the state that are offering those services inside, including then also our in-state payday lending industry, would be able to offer products on-line to their consumer base, but they would continue to be regulated under the Department of Banking.

JUSTIN BRADY: Correct. Um-hum.

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

JUSTIN BRADY: Thank you.

WILLIAMS: I would invite the next proponent. Welcome, Director Quandahl.

MARK QUANDAHL: Chairman Williams, members of the Banking, Commerce and Insurance Committee, my name is Mark Quandahl. It's Q-u-a-n-d-a-h-l. I'm director of the Department of Banking and Finance here in Nebraska. I'm appearing here on behalf of the department in support of LB379 which proposes to amend the Delayed Deposit Services Licensing Act and I'll refer to that here and after as DDS Act, makes it a little easier to kind of roll off the tongue. The department has administered the DDS Act since it was first adopted in 1994. Today, there are 75 licensees operating from 117 offices in Nebraska. A list of those licensees and the report the Department submitted to the Clerk of the Legislature in November of 2018 in accordance with the provisions of Section 45-931 of the DDS Act is provided with my written testimony and is coming around to you right now. The industry brought the outlines of this proposal to the department in 2018 focusing on updating the licensing structure required under the Act and the authority to offer on-line services. The department asked the industry to consider transitioning the DDS licensing and renewal process to the Nationwide Mortgage Licensing System and Registry, NMLS, and that has been done for a number of Nebraska's other consumer finance licenses. That would include installment loan licenses, installment sales licenses, money transmitter licenses, mortgage banker licenses, and mortgage loan originator licensees and registrants. The NMLS, just for a little history there, is an on-line licensing system created by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators in 2008. Nebraska was one of the first seven state agencies to participate in the NMLS system. Originally designed for the mortgage banking industry, the NMLS now offers financial entities to submit applications, renewals, and amendments to multiple state regulators through one on-line system. The NMLS assigns a unique identifier to each individual who creates a filing on the NMLS. The unique identifier allows regulators to track individuals across state lines and from company to company over time. As of year-end 2018, 63 state agencies are using the system. I say 63 state agencies, not every-- every state has basically a Department of Banking, but some also have a department for credit unions, a department for nondepository or consumer loan. Also in some states, consumer lending institutions are regulated through the Secretary of State or the State Treasurers, and so that's why there's 63 different state agencies using the system. Fifty-nine of those are using the system for mortgage licensing while 47 are using the license-- the system for licensing of other nonbank finance entities. And the department currently does not pay any fees to utilize the NMLS system. Once the bill was introduced, the department requested clarification on issues such as establishing branch offices. There was some discussion on that earlier. The department also suggested revisions to allow for NMLS processing fees, licensing during the interim transitional period, and updated fingerprint requirements. The department's comments were incorporated into this L-- or AM542 which we understand Senator Kolterman filed or provided to the committee that will replace the original bill. The department is of the opinion that AM542 to LB379 provides the tool for a more efficient system of licensing renewal and filing, not only for the industry but also for the Department of Banking and Finance. The proposed structure change from a per county license with branches limited to the home county to one statewide licenses with branches throughout the state would not lessen the department's authority to regulate and examine these entities and would preserve protections for consumers. We wish to thank Senator Kolterman for being receptive to the department's comments and concerns. And at this point, I'd be happy to answer any questions that you may have.

WILLIAMS: Thank you, Director Quandahl. Questions for the director? Director, you heard the testimony of Justin Brady before you concerning the discussions last year about the-- the on-line efforts.

MARK QUANDAHL: Yes.

WILLIAMS: I appreciate the fact that last year you were part of those-- those-- the solution with that. It-- it seems to me your-- your testimony is related primarily around what Senator Kolterman introduced as the second reason for the bill and that's the-- the licensing portion.

MARK QUANDAHL: That would be correct.

WILLIAMS: Do you have any comments about the oversight and the regulation by the Department of Banking on the offering of on-line services in this area of business?

MARK QUANDAHL: Right. Well, the offering of on-line services-- I guess we know that on-line finance companies are out there and they're operating and offering loan products to Nebraska consumers. The addition to this, to the DDS Act, would allow the department to actually regulate that activity in the state of Nebraska. And so that's something that we can do. It's also reflective of just, it's 2019 and that's the way that business is done these days. When the Act was originally put into place back in the-- in the '90s, it was a paper-based, you know, it was checks. And so now with electronic transitions, it-- it only makes sense to add the on-line component.

WILLIAMS: And you're-- you're comfortable that you would have the ability to have at least some regulatory oversight on those companies outside of our state reaching in-- in this method?

MARK QUANDAHL: Well, yes. And I'll tell you a couple of different ways. There's quite a few different states that actually reach into the state of Nebraska and deal with Nebraska consumers. It used to be in the olden days to examine them we used to have to parachute, you know, our examiners in on-site to actually paw through the records. Well now, with electronic records, almost everybody is electronically. We can do that remotely. You know, we can actually examine any entity throughout the entire world from the state of Nebraska actually from our across the street or in Omaha or in Kearney. So-- so I think it's just reflective of the industry and just where the financial services industry is heading.

WILLIAMS: Thank you, Director. Any additional questions? Seeing none, thank you for your testimony. Would invite the next supporter. Welcome, Mr. Rogert.

KENT ROGERT: Good afternoon, Chairman Williams, members of the Banking, Commerce and Insurance Committee. My name is Kent Rogert, K-e-n-t R-o-g-e-r-t, and I'm here today in support of LB379 representing the Nebraska Financial Service Association. And I first want to thank Senator Kolterman and his staff and Director Quandahl and his staff for working with us on this bill. Our association started about 25 years ago when these statutes were put into law. We're in 21 counties and there's about 20 member stores all across the state. There's really nothing more to add. The questions have been asked and answered by everybody, but I can tell you that there are-- there are on-line companies that aren't in the best interest of Nebraska consumers. When you go search for something, it would be nice to have Nebraska consumers up there being able to do it. I think it allows for the offering of loans and would require those who are to register and be-- have a place of business here in the state. And like Director Quandahl said, people like to go on-line in 2019 and beyond.

So we think this will be-- this will go a long ways towards helping Nebraskans not get into trouble with bad actors.

WILLIAMS: Thank you, Mr. Rogert. Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams, and I probably should have asked Director Quandahl, but I'll ask you instead. Thank you, Kent.

KENT ROGERT: Great.

McCOLLISTER: Are there some on-line lenders now that will be unregulated?

KENT ROGERT: Well, they're unregulated now. I believe-- I think it would-- the bill rises question to with the allowance of, if this were to pass, and with the allowance of on-line offering of these types of things, does it give the department more leeway to offer cease-and-desist orders to companies who aren't regulated? I think that's very high possibility and that would be a-- at least a hope.

McCOLLISTER: OK. Thank you very much.

WILLIAMS: So if-- if we look at part of what you said, if-- if I were to go on-line now and try to-- through the search engine and find something, I would not find your clients that are--

KENT ROGERT: Correct.

WILLIAMS: --brick and mortar here in Nebraska, that are taxpayers in our state, that are employers in our state. We wouldn't find those. We'd find somebody that's outside our state.

KENT ROGERT: You might find our Web sites, but there's no method for which you can do the--

WILLIAMS: Right.

KENT ROGERT: --actual procedure of borrowing. But you're exactly right. It's only folks who are either not even in the state, not in the country.

WILLIAMS: And LB379 as amended would allow that--

KENT ROGERT: Yeah.

WILLIAMS: --opportunity.

KENT ROGERT: Absolutely.

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

KENT ROGERT: Thank you.

WILLIAMS: Would invite the next supporter. Seeing no one, we will switch to those that are here in-- in opposition. I would invite the first opponent to come forward and testify, please. Thank you for being here.

JAMES GODDARD: Good afternoon. My name is James Goddard. That's J-a-m-e-s G-o-d-d-a-r-d, and I'm the director of the economic justice program at Nebraska Appleseed, here today to testify in opposition to LB379. And we're here today to oppose it because it would expand access to payday lending products. The current product that is available still has three core problems, and they still remain even after the passage of LB194. One, payments are unaffordable for most borrowers. A loan of $400 would mean for the average borrower who earns $30,000, they'd have to pay a third of their income back in a lump sum leaving very little to pay for the rest of life's necessities like rent, childcare, and food. Two, the durations for repayment are too short. Typically, a loan is due in 2 weeks, and it can't be outstanding for more than 34 days. While LB194 last year does allow for a request of a one-time-per-year extension, lenders are not required to promote this option. Borrowers have to request it, and it's not clear whether they know it exists. Third, allowable interest charges are excessive, 404 percent APR, according to a Department of Banking report in 2018. This is among the highest in the nation. All of these core problems still exist even after LB194 passed. I will acknowledge there were improvements made in that bill, including the report I just referenced, but these core problems with the product are still there. And because of this, borrowers can still get caught in a cycle of debt where they pay off an existing loan then immediately take out a new one. And so we oppose this bill because it would allow for a significant expansion in access to this product. And I'd like to spend the less-- the rest of my time talking a little bit about what I've heard so far in the hearing in-- an on-line lending. Right now lenders have to have a license, and you can only offer a loan at a designated office or a branch office. So technically, on-line lending in Nebraska is presently illegal. Now there may be lenders who've incorporated in other states that are circumventing Nebraska law and attempting to export their interest rates into our state. There are also lenders that have tried to rely on tribal sovereign-- sovereign immunity to make loans in Nebraska. But we aren't powerful-- powerless to stop this, and we don't have to pass this bill to do that. To-- to characterize this legislation as being needed to regulate on-line lending I think is inaccurate. On-line lending without a license that does not follow Nebraska law is likely impermissible right now. And that can be addressed by the Department of Banking now. The Department of Banking and Finance already has investigative and other authority to regulate the industry. They can issue cease-and-desist orders. They can hold hearings for violations. They can seek injunctions for court violations. And operating without a license right now, as these lenders are doing, is a Class IV felony. So for-- for these reasons, the department presently can regulate this industry. If-- if we feel that more clear authority to really get into regulating on-line lenders is needed, then we would wholeheartedly support it. But that's not what this bill does. What this bill does is open up and legalize on-line lending for anyone that designates a principal place of business in Nebraska. And that is opening up the product more widely, and that is our concern. For these reasons, I would urge this committee to not advance this bill. And I would be happy to answer any questions if I can.

WILLIAMS: Thank you, Mr. Goddard. Questions for the witness? Seeing none, thank you for your testimony. Would invite the next opponent. Welcome, Miss Joekel.

TIFFANY JOEKEL: Thank you. My name is Tiffany Seibert Joekel, T-i-f-f-a-n-y S-e-i-b-e-r-t J-o-e-k-e-l, and I am research and policy director at the Women's Fund of Omaha. I'm not sure that I can add much to what Mr. Goddard has already testified to. Our general concern with this bill is that it is an expansion in access of a product for which we have concerns about its impact on the consumer. In particular, we're interested in women consumers. Women, by most research, tend to represent 50 to 65 percent of borrowers under these types of short-term loans, in particular, women ages 25 to 44. So at a time when they should be building economic stability, they may access these products that actually take them further from that goal. I would say it was mentioned that this bill is about increasing regulation and-- of on-line lending and-- and allowing local-- locally licensed lenders to do that. I think the piece that we feel is missing is the concern about regulation. Nationally, on-line lending has been subjected to some very harsh questions about their practices, on-line lending practices. I think almost 90 percent of complaints to the Better Business Bureau were regarding the practices of on-line lending, unauthorized withdrawals from accounts, fraud, harassment, etcetera. So I guess our question in this process is if we are unable to regulate the existing lenders, who I agree with Mr. Goddard are not legally operating in this state, then to expand access through additional on-line lending creates significant concerns for us. So my question would be if operators are lending now without licenses, without local places of business, and are operating outside of the Delayed Deposit Act currently, I don't see anything in this bill that would give me confidence that by opening this practice up to more lenders that we can be ensure-- or we can be sure that the-- the lender-- or the borrowers are protected. I appreciate that the director indicated that the department has the ability to investigate across state lines. I think that's great to know. And I guess my question is what-- what resources does the department need to further regulate the existing lenders, if they're doing so illegally, before we can feel comfortable moving forward with making this increasingly accessible? So with that, I'm happy to answer any questions.

WILLIAMS: Thank you, Miss Joekel. Questions? You referenced the concept that there have been lots of complaints about this type of industry. Are you aware of how many complaints have been filed with the state Department of Banking against the industry as they regulate it right now?

TIFFANY JOEKEL: On-line or overall?

WILLIAMS: Overall.

TIFFANY JOEKEL: I don't know the number. I was just perusing the Web site this morning. It's-- I mean, it's-- it's not insignificant. There's a sig-- significant number of consent decrees that the department is engaged in. There was an action, a cease-and-desist letter, as recently as 2017 that the department took action against an organization or an entity called Steve's Payday Loans that was acting with an alleged physical address here in Lincoln, but-- but--

WILLIAMS: I thought you were talking about-- I'm sorry, I thought you were talking about consumer complaints against the payday lending industry that has been filed with the Department of Banking.

TIFFANY JOEKEL: There-- there are a significant number of complaints listed on their Web site that the department has handled, but I'm not sure, always, the entry point of that whether those are coming directly from consumers or otherwise. But I'm happy to get you further information on that.

WILLIAMS: I would have to look at the testimony. I think the testimony that we have had over the years has been-- there's been very limited, maybe one or two complaints a year by a consumer coming in. I should have asked that question--

TIFFANY JOEKEL: Yeah.

WILLIAMS: --of Director Quandahl when he was here.

TIFFANY JOEKEL: And I'm happy to follow up, Senator. It was just [INAUDIBLE].

WILLIAMS: Any additional questions?

GRAGERT: Oh, it's OK.

WILLIAMS: Senator Gragert.

GRAGERT: Well, thank you, Senator. I was just curious-- Williams-- he hit on it a bit though. Has there been anybody prosecuted over the Internet yet? And if not, why-- why haven't they if they're out there illegally?

TIFFANY JOEKEL: So I think that's a great question that I would have to defer to the department on, especially given the testimony just presented that they have significant ability to access this information for those that are operating across state lines. I think that is our question is if-- if-- if the reality is that this is happening, I believe it's happening in a way that is not allowed under state statute which requires these lenders to be licensed. So if it is happening, I believe the question should be why and how can we better get a handle on that before we expand access to this product.

GRAGERT: Thank you.

TIFFANY JOEKEL: Sure.

WILLIAMS: Additional questions? Seeing none, thank you for your testimony. Would invite the next opponent. Welcome.

JULIE KALKOWSKI: Good afternoon. Thank you. My name is Julie Kalkowski, J-u-l-i-e K-a-l-k-o-w-s-k-i. What if there was an industry in Nebraska that drained $29 million from our local and state economies in excessive fees? That's what we're talking about, what happens with our payday lenders in Nebraska. So I'm very concerned about any kind of expansion of payday lending in Nebraska. I work with single mothers, low-income single mothers. I run a financial education/financial coaching program. And when I'm thinking about expansion of on-line payday lending, never once in 10 years have any of those single mothers, over 800, have asked me for more opportunities for payday lending. I am one who benefits from expanding this law, to have on-line consumers, but none of the single moms that I have worked with, average income about 25 grand, have ever requested that. I am very concerned that if we do this expansion-- in my experience since 2004, I've been trying to come here and talk about payday lending, and 5 times between 2007 and 2015, we came to the Banking Committee to try to get some protections for consumers of payday lending. And we were never able once to get a bill that would protect consumers out of the Banking Committee. Expanding it seems like-- we're fiscally conservative in Nebraska, right? Why would we want to throw more millions away on payday lenders? I would love to have a credit union alternative to payday lending. I also was formerly on the Consumer Financial Protection Board. I was appointed in 2017. There was a very good legislation, regulations developed by it over five years, through countless hearings, hundreds of testimony, trying to find an answer to this need for payday loans but also that's not abusive to consumers. So I'd ask you to vote no on this bill. We do not need expansion. We need alternatives, but we don't need expansion. I can't think of one single mom I've ever worked with who would like that. I do want to just tell you one example of Bobby [PHONETIC] who we worked with. We do debt consolidation loans for our single mothers, and Bobby had six payday loans that we were going to help pay off along with some other debt that she had. We asked her, naively, in 2014, we said, Bobby, ask them for a payoff amount. So she went and she e-mailed all the six on-line bankers-- on-line for payday lenders and said, what is my payout amount? Within hours of each e-mail that she sent, each of those 6 people-- payday lenders, on-line payday lenders withdrew $250 from her account. She called us crying because she had checked her account, and she said, I'm down $1,500 and I'm bouncing all my checks and what am I going to do? And I said, close your account, go in and close your account. And she had a good friend that worked at that bank. And her friend called and said, Bobby, it's a good thing you closed that account because 24 hours later, which is the rule, they couldn't take out more than $250 within a 24-hour to-- tool, those on-line lenders went back and they tried to withdraw $250 more. But because the account was closed, they could not do that. I cannot see how this can benefit Nebraska consumers. I can only see how it can hurt low-income families. Thank you.

WILLIAMS: Thank you for your testimony. Any questions? Seeing none, thank you. Whoop, we'll-- we'll stop. Senator McCollister.

McCOLLISTER: Better late than never. Thank you for--

JULIE KALKOWSKI: Sure.

McCOLLISTER: --coming here today. Is there an alternative to payday lending for those people that need immediate cash?

JULIE KALKOWSKI: There is not really a good alternative. We-- I know there-- the Sherwood Foundation is investing in an alternative but that's going to take a while to roll out. We would love at the Consumer Financial Protection Bureau had put into place some things for credit unions to be able to offer these small-dollar loans. However, that-- all that got kind of pushed away. So there's no protection for credit unions right now to do that. So we would love-- we need an alternative because many times people need small amounts of cash, but--

McCOLLISTER: When you say protection for our credit union, what do you mean?

JULIE KALKOWSKI: You know, I can't-- you know, that was about a year ago that we worked on that legislation and I can't recall, but there were some concerns that credit unions brought to the table when the Consumer Financial Protection Bureau were trying to enact reforms and provisions that protected consumers for payday loans. And so the bureau worked with the credit unions to devise a way that they could do that and not be as at risk. So if I can go back, and I can find out what those were and get those to you.

McCOLLISTER: Thanks for coming today.

JULIE KALKOWSKI: You're welcome.

WILLIAMS: Senator Gragert.

GRAGERT: Senator Williams, thank you. I just want to clarify something that you said--

JULIE KALKOWSKI: Um-hum.

GRAGERT: --that-- was it on-line payday lending that was getting into this person's account?

JULIE KALKOWSKI: Yes.

GRAGERT: So you don't feel like this bill at all would regulate, try to regulate or stop or protect that kind of thing that's going on today?

JULIE KALKOWSKI: I have not read all the specific details of this bill, so I cannot answer that question. I don't know, but I would be very concerned that people would repeatedly have stuff withdrawn from their account and that would lead to overdrafts. And that leads to a worse financial position for these consumers.

GRAGERT: Yeah, I was just wondering if and I don't know for a fact either, but if LB379 would protect people like, you know, that's already happening to even though it's illegal to do it right now.

JULIE KALKOWSKI: You know, the thing that has been very discouraging about payday lending in Nebraska is there's almost no enforcement of the current regis-- legis-- registration. There's only supposed to be two payday loans prior to legislation last year. We had-- we-- I've seen people that have 6, 17. I mean, nobody is regulating the payday lending industry. And that's a huge concern for consumers in Nebraska.

GRAGERT: All right. Thank you.

WILLIAMS: When you have seen those cases that you talked about--

JULIE KALKOWSKI: Um-hum.

WILLIAMS: --have those loans all been at the same payday lender?

JULIE KALKOWSKI: No. They would go to different ones. So they'd go to Advance America, they'd go just to different ones, and some were on-line.

WILLIAMS: So you understand the difficulty in trying to enforce something like that?

JULIE KALKOWSKI: Right. But if we had a registry-- Iowa-- about ten years ago, I worked with the state of Iowa, and they had a registry for payday lenders. And so what would happen is if you would come in and you would say I want a loan from Advance America and then you'd go someplace else, they would say, OK, you have a loan, you can have a second loan. But if you'd go to the third place, they'd say, no, you already have two loans with two different banks, you can't do that. Nebraska did not-- I talked to John Munn when he was a banking-- director of banking, and he said, no, we don't want to do that. Even if Iowa will give us the software for free, it would cost the payday lenders $100 to be-- use this system. And so we cannot enforce the current laws. So if we can't enforce the current laws, open, it's like the Wild West, open it up to on-line banking.

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

JULIE KALKOWSKI: Thank you.

WILLIAMS: I would invite the next opponent. Welcome.

RODNEY KUHLMANN: Afternoon, Senators. My name is Rodney Kuhlmann, R-o-d-n-e-y K-u-h-l-m-a-n-n, and I'm a member of the payday lending action committee of the Omaha Together One Community, or known as OTOC. OTOC first began to study payday lending practices in Nebraska in February of 2017. We heard many stories of working Nebraskans who found themselves without the money to cover unexpected expenses and went-- then went to take out unsecured loans from payday lenders. We learned that these borrowers frequently found themselves caught up in a cycle of debt lasting six months or more and resolving in paying more than twice the principal amount of the loan before the debt was paid off. Nationwide, 76 percent of new payday loans are to cover old payday loans. Over the past two years, we have discussed this issue with hundreds of fellow-- our fellow Nebraskans in house meetings and public forums. Some of them have told us that they have taken advantage of payday-- or were taken advantage by payday lenders themselves. Others told us that friends had suffered from on-- at the hands of payday lenders. And others expressed concern that their children would fall into the hands of payday lenders while they were in college or just starting out their careers. None of the hundreds of Nebraskans with whom we have spoken to about this issue have said that the solution is for the state of Nebraska to allow expansion of on-line payday lending as LB379 would do. Most of the Nebraskans with whom we have spoken agree that low-income borrowers need access to small-principal loans when they cannot make ends meet. But to-- but they insist that the practice of payday lending requires reform that will protect the borrower. LB379 will not protect the borrower. It would make the even greater variety of these harmful financial products available to the marketplace. Consequently, OTOC opposes LB379. Thank you.

WILLIAMS: Thank you, Mr. Kuhlmann. Questions for Mr. Kuhlmann? Thank you for your testimony.

RODNEY KUHLMANN: Thank you.

WILLIAMS: Would invite the next opponent. Good afternoon.

JINA RAGLAND: Good afternoon. Chair Williams and members of the Banking, Commerce and Insurance Committee, my name is Jina Ragland, that's J-i-n-a R-a-g-l-a-n-d, testifying in opposition to LB379 on behalf of AARP Nebraska. According to the Pew Charitable Trusts Payday Lending in America report, on-line lending practices often have detrimental effects on consumers such as promotion of renewals and long-term indebtedness, threats by lenders or debt collectors, unauthorized withdrawals, aggressive practices, fraud, and disclosure of personal information. Many on-line payday loans charge extremely high interest rates and fees just so one can borrow a small amount of money over a short time frame. That can quickly lead to situations where consumers end up getting behind on the loan and have to borrow more and more in order to pay it back. Soon consumers are in a hole so deep they don't know how to get out. It can be costly, greatly damage their credit, or even lead to bankruptcy. Often consumers are forced to make a choice in how and what they are able to pay for, such as groceries, rent, utilities, etcetera, with a large portion of their set income being absorbed. The Consumer Financial Protection Bureau studies found that one-- one out of five payday borrowers on monthly benefits ended up trapped in debt. The study also looked at payday borrowers who are paid on a monthly basis and found out-- found one out of five remained in debt the entire year that the study was done. According to a report from the Center for Responsible Lending, more than 25 percent of payday loans issued by banks go to people who are collecting Social Security benefits. Many older adults operate on a tight budget. One-third rely on the money they receive from Social Security which is an average of $1,200 a month, sometimes less, for 90 percent of their total income. On-line lending pract-- practice--

places consumer bank accounts at risk and reduces the control the borrower has over their own account often resulting in overdrafts, unauthorized transactions, and the loss of accounts as a result. With the increase of senior fraud and scams, we are concerned with the impact on-line payday lending could have on some of our most vulnerable Nebraskans. Most on-line payday loans start with a third-party lead generator that collects personal and financial information from potential borrowers and then sells their information to on-line lenders. And the use of lead generators and other third-party entities leads to confusion about who to contact and leaves the person not having any authorization of a loan which is vulnerable to potential phishing and fraud. The growing popularity of on-line loans has attracted scam artists who are eager to prey on these vulnerable consumers. Consumers' personal information often finds its way into the hands of fraudsters making it easy for them to utilize the consumers' personal and confidential information. There are numerous reports of abuse in the on-line payday loan market for the last few years, according to Pew Charitable Trusts reports. Reports include threats and fraud by lenders, debt collectors, and those posing as lenders and debt collectors. Thirty percent of borrowers report being threatened in connection with an on-line payday loan. Twenty-two percent of on-line borrowers have lost bank accounts because of on-line payday loans and 89 percent of payday loan consumers' complaints are about on-line lenders. AARP surveyed membership in 2016 to learn their thoughts on payday lending. The survey found strong support for placing additional limits and reform on payday loans. Nebraskans overwhelmingly support payday lending reform and increasing consumer protections but not expansion. We recognize that payday lending services function in providing credit to those who have no place yet to turn. We are, however, concerned with LB379 as it potentially opens Nebraska up to the possibility of fraud, dissemination of personal information, and lack of control over personal accounts for some of the most vulnerable populations via payday lending. Thank you for the opportunity to provide comments on this legislation, and we would ask the committee to consider the implications especially for our aging population. And I would-- with that, I'd be happy to try and answer any questions.

WILLIAMS: Thank you, Miss Ragland. Are there questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams. And thank you for appearing. How does this bill give the potential for increased fraud and incidents of other issues--

JINA RAGLAND: And I think it goes--

McCOLLISTER: --over what we have now?

JINA RAGLAND: Sure, Senator McCollister, and I think that's a great question and it's a fair question. I think this just adds to all the consumer fraud issues that we already see with on-line services in general outside of-- I think that it's not just the payday lending problem that we have with fraud and neglect and those sort of things, but it just adds another piece to that entire puzzle for our consumers, would be my answer to that question.

McCOLLISTER: Thank you.

JINA RAGLAND: Um-hum.

WILLIAMS: Seeing no other questions, thank you for your testimony. I would invite the next opponent. Welcome, Miss Tse.

JULIA TSE: Thank you. Good afternoon, Chairman Williams and members of the Banking Committee. For the record, my name is Julia Tse, J-u-l-i-a T-s-e, and I'm here today on behalf of Voices for Children in Nebraska. We oppose LB379 because it opposed-- it opens the door to a significantly more predator-- predatory and abusive lending industry without ensuring that our state regulators will be able to, to sufficiently protect consumers. The payday lending debt trap is alive and well in Nebraska, and statutory violations are already rampant among storefront lenders. I have attached to my testimony a brief summary of the new banking department report that was referenced to earlier by previous testifiers. The long story short from that report is that rollovers and renewals and the debt trap is not an exception but the rule here in Nebraska. The average borrower had ten loans in a single year in 2017. The fees from the volume of the number of renewals that we have seen in Nebraska drained $29 million in fees alone just from 52,000 Nebraskans. This largely mirrors what we see nationally which is that 80 percent of payday loans are taken out within 2 weeks of repayment of a previous loan. There was some discussion earlier about enforcement of existing payday lenders and on-line lenders which are not currently able to provide loans to Nebraskans. So I want to briefly touch on what that looks like currently in our state. Payday lenders represented 2 percent of institutions that the department had authority over in 2015 but they accounted for three quarters of the violations that were investigated by the department. From 2005 to 2015, there were over 1,700 violations of a single statutory requirement around rollovers and renewals and the documentation that's required before you're able to make a second loan to a borrower. The volume and prevalence of statutory violations among existing storefront traditional lenders raises significant concerns about the capacity of the department to adequately regulate the new on-line lending industry. I also want to briefly talk a little bit about the difference between storefront and Internet lenders. There has been some discussion about this already. It's estimated that 70 percent of on-line payday lenders are currently operating without a license. I think the main thing that we want to underscore here is that it is impossible for a consumer to distinguish between a good guy and a bad guy. Most on-line loans, as Miss Ragland mentioned, starts with a third party. This leaves consumers open to a number of vulnerabilities. Because all of this information is collected on-line, lenders-- or the-- the third party who collects Social Security numbers, bank account routing information, that third party will sell that consumer's information to the highest bidder. While sometimes it may be the case that the legitimate lender is the highest bidder, sometimes it may be that it's a fraudulent entity which is our concern with legalizing on-line lending without meaningfully reforming the underlying product. The survey that Miss Ragland mentioned also shared some information about this monetization of private information. Thirty-nine percent of on-line borrowers believe that their information was sold to a third party. So I think that there was also a question about regulation and complaints about the current system here in Nebraska. I think there is a case to be made that consumers don't always know that the Department of Banking and Finance is their first call if they feel that their-- their loan terms have not been executed to the full letter of the law. There is also a lot of complaints that are publicly searchable on the CFPB's Web site and the Better-- Better Business Bureau's scam tracker. I shared a couple of the narratives in my testimony, but one older Nebraskan wrote that they were called 300 times. Another mother from Hebron shared that her son was denied a loan and then later called two days later by another entity claiming that they were going to give him $8,000, so he had to quickly close his bank account preemptively. Also the department has already taken action against on-line lending, so there's nothing in state statute to my understanding that prevents them from enforcing the illegal lending that's happening here in the state. Miss Seibert

Joekel mentioned Steve's Payday Loans. I checked before I drove down here, and that Web site is still alive even though the cease-and-desist order was issued in December of 2017. One last concern that I want to raise-- oh, and I also want to mention that at least ten other states have taken action, their AGs or regulating bodies. So I'm out of time, and I'll wrap up and thank this committee and Senator Kolterman for their time.

WILLIAMS: Thank you. Are there questions? Seeing none, thank you--

JULIA TSE: Thank you.

WILLIAMS: --for your testimony. Would invite any additional opponents. Seeing none, we do have one letter in opposition by Don Zebolsky, representing himself. Is there anyone here to testify in a neutral capacity? Welcome.

JENNIFER DAVIDSON: Thank you. Good afternoon, members of the committee, and Chairman Williams. My name is Jennifer Davidson, J-e-n-n-i-f-e-r D-a-v-i-d-s-o-n. I am president of the Nebraska Council on Economic Education and an assistant professor of practice in economics at the University of Nebraska at Lincoln. The Nebraska Council on Economic Education is a nonprofit entity housed at the University of Nebraska at Lincoln in the College of Business. We're in our 56th year of operation. Our entire mission is economic and financial literacy, and we focus primarily on K-12 teachers and students. The Council has been the beneficiary of past legislation affecting the delayed deposit industry in Nebraska. In 2012, the 102nd Legislature passed LB269 increasing the application fees for each delayed deposit location and depositing these increases into the then newly created Financial Literacy Cash Fund. This fund is administered by the University of Nebraska to, to provide assistance to UNL nonprofits that offer financial literacy programming to students in grades K-12. As a result of LB269, we've received a total of $311,000 with an annual average of $52,000. This is about 20 percent of our budget. This is the only funding we receive through the Legislature. The remainder of our funding comes from private donations, corporate donations, and foundation grants. The Council works very closely with the Nebraska Department of Education and school districts across the state to provide economic and financial literacy professional development training for teachers. In addition-- in addition to teacher professional development, we have direct-to-student programming that teaches-- that teachers utilize as a way to increase student engagement in the classroom. Due to time constraints, I'm going to very briefly mention only three: the finance challenge where students analyze a family scenario then create and present their financial plan to a panel of judges, over 3,000 students compete each year; the stock market game which is a real-life simulation of the stock market for students in grades 4-12 where they manage and invest a virtual $100,000 in real time for 15 weeks, we have over 4,000 students participating annually; and third, our in-school savings program. It's a partnership between the council, a financial institution, and an elementary school where we set up an actual bank branch inside the school, students open savings account and we emphasize the habit of savings. We currently have 29 operating branches with 2 additional branches opening this fall. In 2017 and '18, our programming year, we reached 17,642 Nebraskans for a total of almost 100,000 contact hours all focusing on economic and financial literacy education. I very much appreciate the intent of the committee to help ensure consumers understand what they are getting into when they take out delayed deposit loans. I'm certainly a proponent of appropriate oversight and consumer protection. That said, I'm also a huge promote-- proponent of mom-and-pop business, consumer choice, and personal responsibility. These are foundational aspects of our country. I would like to see more effort and funding put into economic and financial literacy education. I'd like all consumers to understand from a young age the importance of savings, having an emergency fund, and education. I would love for payday lenders to have no consumer demand for their services because we have less expensive and accessible alternatives to short-term loans through banks and credit unions. We need all students to have coursework in economics and personal finance. We need funding for nonprofits working in this field. The importance of economic and financial literacy education cannot be overstated. Thank you for your time, and I'm happy to answer any questions.

WILLIAMS: Thank you, Miss Davidson. Questions? Thank you for being here today. Financial literacy is-- is vitally important to many industries, and it's something that we are somewhat lacking at this point in time. Thank you for your testimony. Is there anyone else here to testify in a neutral capacity? Seeing none, Senator Kolterman is going to waive closing because he is presenting a bill in another committee, so that will close the public hearing on LB379. We will now open the public hearing on LB265 with Senator La Grone to adopt the Unsecured Consumer Loan Licensing Act and clarify licensing provisions under the Delayed Deposit Services Licensing Act and the Nebraska Installment Loan Act. Before Senator La Grone begins his testimony, I would like to see a show of hands of how many people here plan to testify on this piece of legislation. OK. We will continue using the five-minute clock. Senator La Grone, you're invited to open.

La GRONE: Thank you, Chairman Williams, members of the committee. LB265 is a bill to adopt the Unsecured Consumer Loan Licensing Act. The bill creates licensing procedures within the Department of Banking and Finance and sets restrictions for unsecured consumer installment loans under $1,000 with a minimum term of 180 days. LB265 contains an ability to pay provision that would require the pay-- that the payment of the loan cannot be greater than 9 percent of the borrower's growth-- gross monthly income. The bill creates another well-regulated financial tool that is simple, transparent, and reliable for hardworking Nebraska families who need access to credit. We do-- we are passing around a white-copy amendment at this time that just addresses a technical insert-- technical concerns of the Department of Banking and Finance. With that, I'd be happy to answer any questions that you might have.

WILLIAMS: Thank you, Senator La Grone. Questions for the senator? And I'm assuming-- Senator Howard.

HOWARD: What were the technical concerns?

La GRONE: I believe that people behind me can speak more to that. It was more in the process of how the licensing was occurring though, but to the specific provisions, that would probably be better for somebody behind me.

HOWARD: Isn't it just a full white-copy amendment?

La GRONE: Yes, but the substantive provisions remain the same.

HOWARD: OK. Thank you.

La GRONE: Um-hum.

WILLIAMS: Additional questions? I'm assuming you'll be staying to close.

La GRONE: Absolutely.

WILLIAMS: Thank you.

La GRONE: Thank you.

WILLIAMS: We would invite the first supporter of LB265 to testify. Good afternoon.

JEANETTE SCHWARTZ: Good afternoon. Good morning and thank you to Chairman Williams and the committee for having me today. My name is Jeanette Schwartz, J-e-a-n-e-t-t-e S-c-h-w-a-r-t-z, and I am an area manager for Advance America, a leading provider of regulated consumer loans with 17 locations in Nebraska. I was pleased to host Chairman Williams during a recent informational visit to one of my centers in Grand Island. Today, I'm here to share a bit about our customers and why they borrow small-dollar loans. I have worked for Advance America for 13 years and see firsthand the very real need for small-dollar credit in Nebraska. Thousands of hardworking Nebraskans currently use regulated small-dollar advances to manage periodical financial difficulties to make ends meet. Sometimes they need a loan to help cover medical expenses or other emergencies. Other times, they just need a little bit of help between paychecks. They choose our short-term small-dollar advances because they are simple, convenient, confidential, and cost-effective. It's upsetting and offensive when I hear people claim that my customers are uninformed and uneducated about the loan process and their own finances. My experience as an employee at Advance America has shown me that our borrowers understand the terms and fees associated with an advance before taking one out and are more than capable of choosing the best financial option for themselves and their families. My colleagues and I work with every customer to help them evaluate their credit needs and options, walking them through the fees associated with an advance, and the process for borrowing and repaying. Our customers weigh the cost of our advances against comparable, more expensive, riskier alternatives like overdraft fees, bounced checks and late fees, and unregulated lenders and find our product to be the best option for their personal financial situation. Our simple terms give customers confidence in our product which is why our customer satisfaction and repayment rates are both above 90 percent. But sometimes our customers tell us they could use a larger loan amount or longer term than the $500 over 2 to 4 weeks that we can currently offer. There is no one to help them between our service and the big long-term banks offer. LB265 would strengthen consumers' access to credit to bridge a gap in the credit market for those who need and prefer smaller-dollar longer-term loan not offered by most banks and credit unions providing a responsible and innovative option for borrowers in need of a little more money and time to repay. Our customers and all of Nebraskans would benefit from more regulated credit options so that they can choose the one that works best for their financial need. I hope the committee and Legislature will help us help them. Thank you.

WILLIAMS: Thank you, Miss Schwartz. Questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams. And thank you for being here. How does this bill change the way you do business?

JEANETTE SCHWARTZ: There are a group of individuals that come in. The advance does not work because we're only allowed to advance up to a certain amount. They need a little bit more and need a longer term to pay. Right now, we can only offer payday advance which is till their next payday. If they need a little bit more than that but need to make payments, we cannot offer that product right now.

McCOLLISTER: Will this reduce the interest rate that you're allowed to charge?

JEANETTE SCHWARTZ: I am an employee. I'm not sure on the interest rates and fees of any of that. I'm just here today to let you know that my customers ask for small-dollar loans over time to repay, and that product is not available at my location or in the state of Nebraska right now.

McCOLLISTER: What do you consider a small loan?

JEANETTE SCHWARTZ: Right now, when I go and I call banks to help customers who are looking for $700, $800, there is not available credit for them in the state of Nebraska right now.

McCOLLISTER: So but it's below $1,000?

JEANETTE SCHWARTZ: Correct.

McCOLLISTER: And where was the breakpoint between what you would offer in a-- in a payday lending operation vers-- versus the longer term? Where is-- is that $500?

JEANETTE SCHWARTZ: In the state of Nebraska, we can advance up to $425.

McCOLLISTER: Thank you.

WILLIAMS: Additional questions? So what-- part of what-- what you're talking about with-- with what you're running into with customers is what, I think you used the term a gap in financing, that-- what Senator McCollister was just asking you, the up to the either $425 or depending on how you term it, $500 [INAUDIBLE], that you've got the customer that wants a little bit more than that or needs a little bit more than that and needs to stretch that out over a longer period of time, and this legislation would-- would open that up. And what-- what I think you're saying, tell me, that there is a gap in the availability of that in the market now. Is that what you're telling us?

JEANETTE SCHWARTZ: That's correct.

WILLIAMS: So your customer comes to you. It doesn't fit the payday advance model.

JEANETTE SCHWARTZ: Correct.

WILLIAMS: That's-- I just wanted to be sure I understood that. Additional questions? Seeing none, thank you, Miss Schwartz, for your testimony.

JEANETTE SCHWARTZ: Thank you.

WILLIAMS: I'd invite the next supporter. Welcome again, Mr. Rogert.

KENT ROGERT: Good afternoon, Chairman Williams, members of the Banking, Commerce and Insurance Committee. My name is Kent Rogert, K-e-n-t R-o-g-e-r-t. I'm here today representing Nebraska Financial Service Association in support of LB265. Again, we thank Senator La Grone and his staff and Director Quandahl and their staff for working with us. And we specifically support AM542. Senator Howard, the technical amendments that they were trying to address in there were some language concerning branch offices and then they added a 365-day maximum loan limit in there amongst a couple other little ifs, ands, and commas.

HOWARD: Sorry. I couldn't hear you.

KENT ROGERT: I'm sorry. So we added 100-- a 365-day max loan limit. And then there's some language surrounding branch offices in there and a couple of other little departmental changes that were requested.

HOWARD: Thank you.

KENT ROGERT: As the previous testifier explained, currently we-- our industry is specifically limited to do one thing and that is advance up to $425 with-- with fees. And there's really nowhere to go get anything more than that other than to be tempted to take a second note out. So this would give another opportunity for a little more borrowing power with, yes, Senator McCollister, a lower APR, lower fees schedule than is currently on the payday product. Just, you know, a couple examples here. Most of time folks come for medicals-- medical things or vehicle expenses. I did check with a friend of mine who works in the public power industry. To have your power shut off during the week is $75. On nights and weekends, it's $165. So this-- these are-- these are services that are easier and cheaper than-- than those things-- than those options. We provide what we believe is a needed service. It's been talked about the CFPB ruling in the previous bill. Currently, there is no official ruling on what the Consumer Financial Protection Bureau is going to do. But should they make their reg-- regulations more difficult than they are now, our current product would be just really very hard to use in the state of Nebraska. And that's all we're allowed to do. And so we are trying to create a secondary product that would conform with those regulations that have been proposed from the CFPB which are, yes, less aggressive, longer pay period, and gives-- gives more consumer protections than we might have-- currently have on the books today. I'd be happy to answer any questions.

WILLIAMS: Thank you, Mr. Rogert. Questions? Senator Howard, did you have any follow-ups?

HOWARD: No. Thank you.

WILLIAMS: OK.

HOWARD: I apologize for interrupting.

KENT ROGERT: No, I'm fine.

WILLIAMS: Any additional questions? Seeing none, thank you, Mr. Rogert.

KENT ROGERT: Thank you, Senator.

WILLIAMS: Invite the next supporter. Welcome back, Mr. Brady.

JUSTIN BRADY: Chairman Williams and members of the committee, my name is Justin Brady, that's J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for Advance America in support of LB265. Originally, I wasn't going to testify as there was another individual from Advance America, but due to a couple of the questions-- Senator Howard, I only have one copy but if pages can-- this is a actually a strike and add of the language that-- and Bill Drafters turned it into a white copy. So for-- the committee can have-- specifically go back to the green copy and see that the changes that were made I know are, from my standpoint, always easier than trying to reread a whole white copy and try to figure out what did they change and do. So if-- sorry I didn't have more copies, but obviously the page will get you that. On-- the other questions on as far as what are the terms in this loan. One, as Senator La Grone mentioned, this-- be a maximum amount of $1,000. It would have a minimum of 180-day term, so that's no longer the 2 week or-- or 4 week depending when your next pay period is. Payments may not exceed 9 percent of the borrower's gross monthly income. There would be a payment schedule set out with equal interval-- intervals. There's no prepayment penalty, no renewals, and incorporates all those enhanced disclosures and notices and consumer protections that I listed on the-- when I was up here before on that we had passed in LB194. Specifically to the question on fees, based on my quick math in the back of the room, I believe the fees will be reduced by-- not reduced-- they will reduce to a third compared to the current product to roughly-- it goes to $11.25 per $100 loaned which are also pro rata. Where current law says, you paid a fee and it doesn't matter if you come back in five days and pay it off. The fees-- the fee-- that's what you paid. This would actually make it pro rata, that if you came back in a week and said, hey, I've got the money and want to pay it off, the-- those fees are-- are prorated based on the term. Like a-- like you would think of like a normal loan from a bank and stuff. So with that, I'll try to answer any questions if you have any.

WILLIAMS: Questions for Mr. Brady? Senator McCollister.

McCOLLISTER: Thank you, Chairman Williams. What collateral would a pay-- a payday lender with this kind of instrument would they be obligated to offer?

JUSTIN BRADY: None. That's what puts-- it's an unsecured loan. It is-- you come in, you fill out the application based on-- you're looking at you having a job, looking at your ability to pay. Then the industry looks at it and says, OK, we will give you, I'll just use the word-- term $1,000. We'll give you $1,000, Senator, and we'll set out these payments over 6 months. The only thing I'm holding is your promise that you're going to come back and pay and the money is going to be there when we've said you're going to make those payments.

McCOLLISTER: [INAUDIBLE].

JUSTIN BRADY: Unlike a traditional loan which would either have a house or a car or something attached to it, there's nothing attached.

McCOLLISTER: Thank you.

JUSTIN BRADY: Um-hum.

WILLIAMS: Senator Gragert.

GRAGERT: Just a quick question. Thank you, Senator Williams. So there's $11 per $100 fee--

JUSTIN BRADY: Um-hum.

GRAGERT: --and then the interest on top of that?

JUSTIN BRADY: No, that-- that would be the interest. This industry does it, at least in Nebraska, based on a fee basis. By federal law and Nebraska law, we have to change that to say if it were an APR, here's what it is. But it is-- it is done on a fee basis, not an interest--

GRAGERT: OK. Thank you.

JUSTIN BRADY: --basis.

WILLIAMS: Seeing no other questions, thank you for your testimony.

JUSTIN BRADY: Thank you.

WILLIAMS: Is there anyone else here to testify in support of LB265? Seeing no one, we will open it up for opponents at this time. Would someone come forward to testify as an opponent to LB265? Welcome.

KEN SMITH: Thank you. Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Ken Smith, that's spelled K-e-n S-m-i-t-h, and I'm a staff attorney in the economic justice program at Nebraska Appleseed which is a nonprofit, public interest legal advocacy organization that works for justice and opportunity for all Nebraskans. I appreciate the opportunity to testify before you today in opposition to LB265. I think our perspective on this bill is pretty simple. We know that the current short-term high-cost loans available to Nebraska borrowers under the Delayed Deposit Services Licensing Act have well-documented and detrimental impacts on the low- and middle-income communities that represent the vast majority of payday loan customers. Just like payday loans, loans-- loans issued under LB265 would carry aggressive fees, be directly debited from a borrower's checking account, and frequently result in the borrower paying back twice as much as they borrowed in the first place. And I know we've had some proponent testimony that speaks to positive experiences that payday lending customers have with payday loans, and I can only speak to the borrowers that-- that I have met with and spoken with. But I'll tell you that that does stand in contrast with the experiences that I've been told about from many, many borrowers that have-- that have contacted us. And there's also been some proponent testimony about how this model would be less aggressive than the current payday loan model. And if you look at the latter pages of my testimony, I have attached what I'm calling kind of an initial assessment of the model proposed under LB265 which includes kind of a forecast of the total cost of the loan over its lifetime, and it assumes various factual circumstances, borrowers with different incomes. And I think what is noticeable when you look at what a borrower ends up paying out over the life of a loan, for example, if somebody made $24,000 per year and takes out a $500 loan under the model suggested in LB265, they would end up paying back about $912 over the course of 6 months. If the same borrower making $24,000 per year were to take out a $1,000 loan, they would end up, under this model and according to my calculations, paying back, you know, $2,800 on a $1,000 loan so almost 3 times the amount that they originally borrowed. There are a few things about the way that I did this analysis. I'm not sure how the origination fee would be folded into maybe a first payment, so there may be some-- some small discrepancies in this analysis and how they end up playing out in reality. But-- but I do think this provides a pretty accurate forecast as to the-- the cost of the loan, and I think demonstrates that these loans, maybe while less aggressive than the current delay deposit services loan, are still quite aggressive, quite costly, and would result in people paying back far more than they originally borrowed. In terms of the protections proponents talked about, the fee structure, the limit on payments based on, you know, 9 percent of gross monthly income, and I just want-- this-- this kind of reminded me of a few of the different models we were talking about and this committee may recall from LB194 where it was a bit of a longer-duration loan and it had some of those specific-- specific terms kind of like the one suggested in this proposal. But I just want to remind the committee that in those original negotiations, we were-- we were asking for a 30 percent-- a 36 percent cap on APR which is not in this bill. We were asking for a 5 percent limit on gross income, or on what can be collected relative to gross income. This bill is nearly double that. We wanted to limit monthly maintenance fees to $20. This bill would have monthly maintenance fees that are more than 5 times that by my calculation. We drew a hard line saying that we shouldn't be charging origination fees since they drive up the cost of the product. This bill has pretty aggressive origination fees. And we-- we wanted a cap on total fees. And we thought that a reasonable measure would be that you can't charge in total fees more than 50 percent of principal. This bill does not have that protection, and the result, I think as my analysis shows, is total fees that, in fact, can sometimes exceed principal. So in short, we don't find this an acceptable model. We think it presents a lot of the same dynamics of payday loans that we know currently ensnare Nebraska borrowers in cycles of debt. With that, I see my time has ended. I would be happy to answer any questions you have.

WILLIAMS: Thank you, Mr. Smith. Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams. Mr. Smith, thanks for coming. This particular instrument that LB265 would enable, is that less expensive for a borrower than a typical payday lender alone?

KEN SMITH: So the question is whether or not the instrument proposed under LB265 is less expensive than the current product?

McCOLLISTER: Yeah.

KEN SMITH: I-- I don't know the answer to that on kind of a-- a-- a by dollar basis. But what I would say is that when I was doing-- kind of crunching the numbers with this bill, it reminded me very much of crunching the numbers throughout our negotiating process for LB194 in that the ratio of-- the-- the amount of money that a borrower ends up paying back under this bill, according to my calculations and I've-- I've made mistakes before in my life but according to my-- espec-- particularly mathematical ones, but according to my calculations, this is a-- a substantially similar product in terms of what somebody would pay over time relative to principal.

McCOLLISTER: Thank you.

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

KEN SMITH: Thank you.

WILLIAMS: Invite the next opponent. Welcome.

KEVIN GRAHAM: Thank you, Chairman Williams and members of the Banking Committee. My name's Kevin Graham, K-e-v-i-n G-r-a-h-a-m, and I'm chair of the payday lending reform action team of Omaha Together One Community. I'm here to speak in opposition to LB265. A lot of my testimony is basically going to be very similar to what we've heard in-- from opponents of the previous payday lending bill that we were talking about and this one. Basically, I would invite you to look at my testimony in writing but I would just emphasize a few aspects of it. We have 52,000 Nebraskans taking out these loans every year at an annual percentage rate of 404 percent. It doesn't seem to me like that's a good situation. It seems to me like that's something we need to-- we need to reform these practices and make small principal loans more affordable for people and less likely to end them in a cycle of debt that they can't get out of. We in OTOC, we have talked with people over the past two years, hundreds of our fellow Nebraskans in house meetings, in public forums. Some of them told us they've been taken advantage of themselves. Some of them told us their friends and neighbors have been taken advantage of. Others have expressed concern that their kids are going to get taken advantage of as they're just getting started out in life. But none of them have told us that we need more vehicles for payday lending in the state of Nebraska. No one, OK? So I-- I just don't see the need for this-- for this vehicle that's going to increase the amount of-- of payday lending loans that can be taken out, increase-- increase the principal amount, and put a greater burden on borrowers to repay. So for all these reasons, OTOC opposes LB265. I'd be happy to answer questions.

WILLIAMS: Thank you, Mr. Graham. Senator McCollister.

McCOLLISTER: Yeah, yeah, thank you for appearing today. Thank you, Chairman Williams. So what I hear you saying is what we want to do or should do is reduce the interest rates in the terms but not get rid of the industry. Is that correct?

KEVIN GRAHAM: Yeah, basically, so when we talk to people, people appreciate the need for low principal-- low principal, low amount loans to borrowers who can't make ends meet. That-- that is something that we need in this state. How exactly that works out I will leave to wiser heads than mine. We do need that, but we need a reformed practice. Yes, that is exactly correct, Senator.

McCOLLISTER: Do you have a particular model that you're advocating?

KEVIN GRAHAM: I think that the Pew Charitable Trusts have laid out some guidelines that would specify some-- some-- a-- a good place to start on that. I don't have those in front of me, but I'd be happy to dig them up and share those with you.

McCOLLISTER: Thank you.

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

KEVIN GRAHAM: Thank you.

WILLIAMS: Invite the next opponent. Miss Kalkowski, welcome back.

JULIE KALKOWSKI: Yes. My name is Julie Kalkowski, J-u-l-i-e K-a-l-k-o-w-s-k-i. I've got two handouts which I'm going to hand-- give to the clerk. I agree with the previous testifier that, yes, we do need payday loans. However, the bill as it's-- LB-- 6-- 6-- LB265 would hurt the single moms I work with. Just real briefly, I run a financial education/financial coaching program for single moms in Omaha, Nebraska. Average income is about 25 grand. We found that their health was getting better after they went through our financial education/financial coaching program. In fact, it was doing so much better that we are involved in the very first clinical trial in the entire country to see-- determine if financial education/financial coaching improves the health outcomes of low-- low-income, single moms. So back to LB265, I am concerned that it's even going to drain more, given the increase in the fees, more excessive fees, more than the current $29 million that are drained from Nebraska borrowers now. That will increase almost-- I don't if it will double. I don't know the math. I'm not a great math person. But I do want you to know, if you look at the finance-- the FINRA Foundation does a financial capability study every two years. And in Nebraska, when they asked Nebraska consumers, 43 percent of Nebraska households said that they are living paycheck to paycheck. Another 13 percent of the Nebraska borrower-- Nebraska-- Nebraskans said that 13-- 13 percent said they-- expenses are more than their income every month. So I'm concerned with this increase, with an increased amount of payday lending. When I look at our single moms, their average income is a little bit under 25 grand. And if you look at 9 percent, they're taking home about $1,900. You decrease that to about $1,700 by that 9 percent rule in LB265. In Omaha, Nebraska, $1,700 for your rent, for utilities, for your food, for your car payment, it's not viable. People are not going to be able to sustain that payment even though I know they're trying to make it reasonable. We do need an alternative. We need something. People need small-- small-dollar loans, but they cannot afford LB265. I urge you to vote no. I also want to address real quickly, Senator McCollister, you talked about a viable alternative. The state of Colorado has reformed their payday lending industry, and while some payday lenders did go out of business, it is working much better. So the Pew Charitable Trusts-- Trusts worked with them to develop a model that is working very effectively in the state of Colorado. We would be well served to model our payday legis-- legislation revis-- revisions on that. Also in terms of consumer complaints, I've asked my single moms when they've been-- had terrible experiences with payday loans. I said, why didn't you file a complaint? And they're like, Julie, I'm so stressed out of my mind I don't-- I looked-- I tried to look on-line. I looked at state government. I didn't know where to file a complaint. So again-- and they said, I felt stupid asking people. So people are not filing complaints, one, because they don't know where to go or how to do it. We are educating our folks, and so we are telling them, please do, please, this is an option, this is how you can do that. We just started doing that this year, so hopefully more complaints. I, unfortunately, probably [INAUDIBLE]. Any questions?

WILLIAMS: Any questions? Senator Gragert.

GRAGERT: Thank you, Senator Williams. Just reading this here. Just if you get me smarter on this whole process, but I'm fortunate not to have to use any of this. But you deliver-- OK, so the individual writes a $500 check--

JULIE KALKOWSKI: Um-hum.

GRAGERT: --and you hold it or the payday holds it. So they get-- this is next payday, I guess, that they got-- they got till their next payday to pay this $425.

JULIE KALKOWSKI: They have to pay $500 back.

GRAGERT: Right.

JULIE KALKOWSKI: So they walk--

GRAGERT: I was going to add the $75 fee--

JULIE KALKOWSKI: --Yeah. OK. Right.

GRAGERT: --for $500. So they cash that check to the bank and then are they going to, if they don't have that money in the bank, they're going to get charged now another charge of insufficient funds?

JULIE KALKOWSKI: No, what happens-- which, again, this is-- I believe in the current law, you're not supposed to have rollover fees. You're supposed to be able to pay it off-- pay it off. So what happens is you go and you say, you know, I didn't have $500 2-- 2 weeks ago. I don't have $500 now. I need to roll my loan over. So rollover fees, I've been told with our single moms, between $30 and $45. So they roll their loan over and they keep rolling it over until maybe they get their taxes back. And then they pay that-- that off, but then often that-- the $500 loans becomes a 9 or 10-- or $900 or $1,000 loan.

GRAGERT: It reads here, though, we agree to hold your check without processing it for collection until the next-- until your due date.

JULIE KALKOWSKI: Which is 2 weeks, which is 14 days.

GRAGERT: So then they could actually send it to the bank and cash it.

JULIE KALKOWSKI: They could-- and they could, but-- but they make more money off the rollover fees.

GRAGERT: OK. Thank you.

JULIE KALKOWSKI: It's much more lucrative that way.

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

JULIE KALKOWSKI: Thank you.

WILLIAMS: Invite the next opponent. Welcome back, Miss Ragland.

JINA RAGLAND: Thank you. Chair Williams and members of the Banking, Commerce and Insurance Committee, my name is Jina Ragland, J-i-n-a R-a-g-l-a-n-d, testifying in opposition to LB265 on behalf of the AARP Nebraska. Low and stagnant wages, the increasing cost of living, declining assets and wealth, and higher levels of debt are some of the factors driving people to take out payday loans. Families continue facing increases in nondiscretionary expenses such as food, housing, transportation, medical care, and utilities. Today these basic needs are taking out more of the family budget while incomes have stayed the same and even declined, leaving the typical family just $100 each month for other expenses and to set aside for financial emergencies. Over 40 percent of Americans describe themselves as struggling to pay bills and make credit payments, and more than 20 percent do not know how they will make ends meet if they lose their job or their income. According to a new report from the Center for Responsible Lending, more than 25 percent of payday loans issued by banks go to people who are collecting Social Security benefits. Many older adults operate on a tight budget, and a third rely on the money they receive from Social Security, again, as I said in my last testimony, $1,200 a month or less which is 90 percent of their total income. Having a limited budget means seniors have very little room when it comes to monthly expenses. The thin, limited budget and an age-related increase in the risk for costly health complications means that the average adult that's aging may find him or herself needing additional sources of revenue fast, oftentimes, resulting in no other option but payday loans. While payday loans are typically smaller in dollar amount, their impact on low- and moderate-income borrow-- borrowers is significant. Payday loans put income struck-- strapped Nebraskans in the potential cycles of debt which strips money from their income repeatedly. Often consumers are forced to make a choice in how and what they're able to pay for, again, groceries, rent, utilities, etcetera, with a large portion of their set income being absorbed. As I mentioned before, we surveyed membership in 2016 to learn thoughts on payday lending, and the survey found strong support for placing additional limits and reform on payday lends-- lending loans. And Nebraskans overwhelmingly support payday lending reform and increasing consumer protections but not expansion. We do recognize that payday lending serves as an important function in providing credit to those who may have no place to turn. But we oppose 3-- LB265 because it creates a new longer-term, triple-digit-interest loan product with excessive fees. An example of that, again, the person with the $1,200 a month Social Security. When you compound those reinvestment loans-- or when they're recompounding and retaking out a new loan, you--

obviously that fee continues to compilate on top of everything else that they're paying on an annual-- or a monthly basis which puts them further in debt. With that, I'd be happy to try and answer any questions.

WILLIAMS: Any questions for Miss Ragland? I want to clear up one thing and I may have misunderstood this. In the first part of your testimony, did you use the term payday loans issued by banks?

JINA RAGLAND: In this testimony?

WILLIAMS: Yes.

JINA RAGLAND: Let me double-check. If I did, I was misspeaking, Senator. It should be payday loan lending facilities. If I said banks, it's not the correct, so I'd correct that.

WILLIAMS: I think you said banks. My ears perked up. That would-- that would be a mistake, right?

JINA RAGLAND: Correct.

WILLIAMS: I just want to be--

JINA RAGLAND: For the record, I would correct that. That was-- I misspoke.

WILLIAMS: Thank you. Any other questions for Miss Ragland? Seeing none, thank you for your testimony. Any further opponents? Welcome.

GABRIELA PEDROZA: Hi. Good afternoon. My name is Gabriela Pedroza, that's G-a-b-r-i-e-l-a P-e-d-r-o-z-a, and I am community organizer at Heartland Workers Center. I am here in opposition for LB265. I strongly believe that we shouldn't create something new. I believe that the payday lending business that we have now do help a lot of people especially when we have emergencies such as illnesses, car emergencies-- car emergencies, and family emergencies. These places do help a lot, and I think we should focus on fixing them and looking at how we could decrease interest rates in a way that would work for everyone. I have personally used pay-- used payday lending services for a car emergency I had. I ended up paying way more interest than I was able to afford, and it took me three years to pay off the loan. And by that time I had my car repossessed. Because of this, I was able to break the contract with the payday lending loan I applied for. This experience has left me scared to seek help especially now that I am a single mom and I live paycheck to paycheck. My money is short, and I want to look for places that could help me. And as of now, I do not believe I could receive help from those places. Again, I believe we should be working to decrease-- decrease the rates first because these places do have the potential to help people like myself. We need to work on improving the interest rates for a loan. Thank you for your time.

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

GABRIELA PEDROZA: Thank you.

WILLIAMS: Invite the next opponent. Welcome back, Miss Joekel.

TIFFANY JOEKEL: Thank you. Chairman Williams, members of the committee, my name is Tiffany Seibert Joekel, T-i-f-f-a-n-y S-e-i-b-e-r-t J-o-e-k-e-l, here to testify on behalf of the Women's Fund. Many of the points have been made so I won't take your time by doubling up. I just want to note, you know, again, women tend to be the primary users of these products. This, as written in LB265, has an origination fee which is 20 percent of the first $300 of the amount of the loan. And then 7.5 percent of thereafter. So that can max out at $1,000 loan at $112.50. Then there is a monthly maintenance fee so, depending upon how long it takes-- the minimum term of the loan is six months, so depending upon how long the borrower would pay that monthly maintenance fee, every month under the bill it's set at 11 point-- or $11.25 per $100 of the principal of the loan so that if the amount is $1,000 could be $112.50 of the loan as well. So those are pretty significant fees. Again, I think everyone is very clear that there are times when Nebraskans are struggling and-- and need money. I think the question for us is whether this product ends up helping or hurting more in the long run when they're drawn down into a cycle of debt that becomes very difficult to escape. So with that, I'd be happy to answer any questions.

WILLIAMS: Any questions? Seeing none, thank you--

TIFFANY JOEKEL: Thank you.

WILLIAMS: --for your testimony. Invite any additional opponents. Welcome back.

JULIA TSE: Good afternoon, Chairman Williams and members of the Banking Committee. For the record, my name is Julia Tse, J-u-l-i-a T-s-e, and I'm here today on behalf of Voices for Children in Nebraska. I won't repeat any of the points that other opponents have made already. My ears did perk up also when Miss Kalkowski mentioned that they have a new study-- study underway. I think that some of her anecdotal findings have-- have been confirmed by-- by a number of studies looking at health risks associated with the use of these fringe financial products. So research-- researchers have found poor outcomes in health and even poor outcomes in child development when these products put families into a financial crisis. Our fundamental problem with LB265 is that we believe that the-- the bill doesn't create a product that will help families. The product that's created by LB265 will almost certainly set families up to fail by creating loan terms that they won't be able to afford. I also wanted to mention a concern that I had with the previous bill and also in this bill in Sections 33, 35, and 37 on pages 21 to 22. This-- this language, by our reading, allows lenders licensed under this new product created by the bill to also provide payday loans and installment loans. I think that this could create opportunities for lenders to mask reborrowing or refinancing. So, in theory, you could have a borrower who maybe can't make a payment after two weeks on their payday loan and maybe that lender offers them a new product even though under current law they wouldn't be allowed to offer, you know, the initial products once more. So that raises significant concerns about refinancing and rollover which is prohibited under existing law but also in sections included in this bill. One last point that I want to make is that we-- there are a lot of other states that have instituted caps on interest rates, over a dozen since I last checked. In many of those states the findings in surveys from borrowers who have previously used payday loans or would have otherwise used payday loans, the overwhelming conclusion is that borrowers feel better off, and they wish they had never taken out that first loan to begin with because the terms are so unaffordable and it ultimately ended up costing them much more than they expected. In conclusion, rate limits and reasonable consumer protections are necessary to ensure that Nebraskans have access to safe and affordable loans. Without a reasonable payment to income ratio, caps on total interest and fees charged, and additional protections that can effectively prevent renewal and rollovers, we are opposed to LB265 and would respectfully urge you to not advance the bill. Thank you.

WILLIAMS: Any questions? Senator McCollister.

McCOLLISTER: Thank you, Chairman Williams. And welcome, Julia.

JULIA TSE: Thank you.

McCOLLISTER: Aren't rollovers prohibited in Nebraska?

JULIA TSE: They are. So I mentioned this in the previous bill. So as it relates to payday lending, current law requires that there's a form that's filled out between the lender and the borrower that affirms that that first loan has been fully, completely paid off before you enter into another loan. This was the specific section of statute that is most often violated according to the Department of Banking. So I, you know, I can't guess as to what happened in each of those instances, but I would, you know, I think that that suggests that that's happening even though the law says that that's not what you're allowed to do.

McCOLLISTER: Well, I would guess Director Quandahl is going to be coming along here in a neutral position, so we'll just ask him.

JULIA TSE: Yes, let's hope so.

McCOLLISTER: Thank you.

JULIA TSE: Thanks.

WILLIAMS: Any additional questions? Seeing none--

JULIA TSE: Thank you.

WILLIAMS: --thank you for your testimony. Any additional opponents? Going once, going-- seeing none, we would invite anyone testifying in a neutral capacity. And here he comes.

MARK QUANDAHL: Yeah, here I am. I think you've got some questions for me. Thank you.

WILLIAMS: Welcome back, Director Quandahl.

MARK QUANDAHL: Chairman Williams, members of the Banking, Commerce and Insurance Committee, again, Mark Quandahl, Q-u-a-n-d-a-h-l, Director of the Nebraska Department of Banking and Finance. And I'm not going to read my testimony, but I just want to point out a couple of things with this. The department can accept the regulatory and supervisory responsibilities that LB265 and the amendment assigns to it. And also, as set out in the fiscal note, the department would be able to administer this act within existing resources. Senator Howard asked a question early on about what were the department's concerns. Specifically, they're in that second paragraph of my testimony: department suggested a definition of unsecured consumer loan; an increase in the amount of a licensee's available assets, that being $50,000; a one-year maximum term for the unsecured consumer loan; and the addition of emergency license suspension procedures. And all of those are included in Senator La Grone's AM515. Further, Senator McCollister, you asked what the fees were on this. Those are in my third paragraph of my testimony. Set forth in Section 22 of AM515, licensees may charge a 20 percent fee on the first $300 loaned plus 7.5 percent of any amount in excess of $300. Those fees are deemed fully earned immediately and are nonrefundable. Licensees are further allowed to charge a monthly maintenance fee of up to $11.25 for each $100 loaned. And that entire maintenance fee may be charged beginning with the first month. However, if the loan is paid off prior to maturity, those monthly maintenance fees are refundable on a pro rata basis. And so with that, I'd-- I'd be more than happy to answer any of your questions. I think you had a question about this-- the same--

McCOLLISTER: The rollovers?

MARK QUANDAHL: --yeah, the rollovers.

WILLIAMS: Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Williams. Are rollovers permitted?

MARK QUANDAHL: No. I mean, previous testimonies was-- was correct. Is-- is that-- with each payday transaction, the licensee is required to get a same day transaction verification form. And-- and-- and-- and there was some testimony that that's the most frequent finding when we go in to examine payday lending facilities is that sometimes or quite often they don't have those forms on file, and so that's one of our findings as a result of the examinations that we do.

McCOLLISTER: Is that a frequent occurrence?

MARK QUANDAHL: I guess, it-- it happens. It does happen. And so I'd say as far as violations of the current law, I do believe that that is the most frequent occurrence of that. And I can get you numbers on--

on that because I believe we did put together a chart on the numbers of different violations on the different requirements of the DDS Act.

McCOLLISTER: Is this product typically available in many states?

MARK QUANDAHL: I-- you know what, I-- that I don't know. That I don't know.

McCOLLISTER: OK. Would you say this product is more competitive than the typical payday lender loan?

MARK QUANDAHL: Again, qualitatively I don't know that I can-- I don't know that I know that. I mean I-- I-- I would like to say that the department would leave any sort of public policy discussion on the amount of fees that are charged to you as the Legislature. And it's our job to enforce that law once-- or if it does become enacted.

McCOLLISTER: Yeah. Thank you, Director.

MARK QUANDAHL: Sure.

WILLIAMS: Any additional questions? Seeing none, thank you, Director.

MARK QUANDAHL: Yep. Thanks.

WILLIAMS: Any additional neutral testimony? Welcome back.

JENNIFER DAVIDSON: Thank you. Good afternoon, again, Banking Committee and Chairperson Williams. Again, my name is Jennifer Davidson, J-e-n-n-i-f-e-r D-a-v-i-d-s-o-n, and I'm submitting my same testimony from LB379, just wanting to remind the body of the creation of the Financial Literacy Cash Fund and the importance of financial education early and ongoing. And with that, I don't have anything else to say. I don't want to-- I don't need to reread things again.

WILLIAMS: Any questions for Miss Davidson? Thank you for being here today.

JENNIFER DAVIDSON: Thank you.

WILLIAMS: Any additional neutral testimony? Seeing none, Senator La Grone, you're invited to come and close.

La GRONE: Thank you, Chairman Williams, and at the outset I just want to say, I'm definitely receptive to the concerns raised about ability to pay especially as it relates to women. I was actually raised by a single mother who often worked two jobs. I'm definitely receptive to those concerns. But getting into the substance of the bill, I want to be very clear, this isn't payday lending. So I think that got lost a little in discussion. This is a different product, and as was discussed, rollover fees are not allowed. So, Senator Gragert, if you turn to page 17 [SIC] of the bill, Section 23(c) [SIC], no licensee shall "Renew, roll over, defer, or in any way extend an unsecured consumer loan by allowing the borrower to pay less than the total amount of the unsecured consumer loan transaction and any authorized fees or charges." So that's not allowed--

GRAGERT: OK.

La GRONE: --under this bill. In a lot of the opposition testimony, everyone seemed to agree that you need-- we need to offer some sort of access to credit for this market. So again, getting back to the-- the whole setup, payday lending addresses short-term small loans. This is-- addresses a gap in the market between the payday lending and your traditional banks. This addresses a under $1,000 loan over a longer term. I mean, everyone seemed to agree that we needed to address that market because there needs to be access to credit there. But in order to have that market, we need businesses to actually serve that. Obviously, you can't have a business if-- if it doesn't make business sense. So I think this bill allows a product to do that. It offers credit to a market that needs to be served. And with that, I would ask for your support on LB265. Thank you, Mr. Chair.

WILLIAMS: Any final questions for Senator La Grone? Senator McCollister.

McCOLLISTER: Thank you, Senator Williams. The model proposed here--

La GRONE: Um-hum.

McCOLLISTER: --with this bill, where did it come from? Is it a national model or from other states or--

La GRONE: So I can't speak to the-- this-- I can speak to the general national makeup. I can't speak to the specific model where it come from I don't know-- came from, I don't know the answer to that question. I had it brought to me and I thought it was a-- a good model to start from, so that's why I obviously wanted to introduce it. But essentially, there's some concern among the-- the-- the-- well, there's really two factors that precipitated it. Number one, this market is kind of sitting unserved at the moment. There's, like I said, that gap, unavailability of credit, but also with the CFPB ruling that could be coming down and some of the issues with that. There was a concern that this-- this type-- the-- the lower loan product that isn't served by your traditional banks might go by the wayside entirely. And so there was a push to get some other mechanism. I really think it-- I think it would have been even sooner basically because we have that gap currently, but it was precipitated by that. That's old kind of national structure. As to where the specific-- whether the specific language came from another state, I can get that information for you.

McCOLLISTER: Thank you.

WILLIAMS: Additional questions? Seeing none, before we close the hearing, we do have one letter in opposition from Don Zebolsky, again, representing himself. Thank you, Senator La Grone. And that will close the public hearing on LB265. The committee will take a short ten-minute break before we start the final hearing for today.

[BREAK]

WILLIAMS: We are back and we will reconvene and we'll open the public hearing on LB602, Senator Lindstrom, to adopt the Domestic Stock Insurance Company Division Act. Welcome, Senator Lindstrom.

LINDSTROM: Thank you, Chairman Williams and members of the Banking Committee. My name's Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, representing District 18 in northwest Omaha. I'm here to introduce LB602. LB602 would permit insurance companies that are domiciled in Nebraska in-- to divide into two or more insurance companies pursuant to a plan of division subject to the Nebraska Department of Insurance approval after a hearing. LB602 is potentially transformative legislation for the industry because it will provide increased flexibility in restructuring legacy lines of business and operations. Under current Nebraska law, insurance companies domiciled in Nebraska have limited means ineffectively-- transfer insurance lines through reinsurance. In contrast, many other states, including Illinois and Michigan and Connecticut, have adopted provisions similar to LB602 which facilitate divisions, protect policyholders and shareholders, reduce transaction costs, and contain liabilities. Likewise, Iowa is in the process of adopting a division bill, and many other states are considering similar leg-- legislation. Although NAIC is studying the various forms of insurance company division legislation, NAIC-- NAIC has no plans to develop model legislation for this type of transaction. LB602 would provide a competitive advantage for Nebraska and the insurance industry marketplace and draws on the positive development of key statutory provisions in other states. Before I turn to testifiers to provide comments on LB602, I'd like to provide background on this transaction and the key provisions to LB602. A division is conceptually the reverse of a merger. In a merger of two insurers, one insurer merges in-- into another in assets and liabilities included-- including policy liabilities of the nonsurviving insurer becomes the assets and liabilities of the surviving insurer by operation of law. In a division, asset-- assets and liabilities of the dividing insurer, including insurance policies and reinsurance agreements, are allocated to two or more resulting insurers and become the assets and liabilities of the resulting insurers of operation of law. Absent passage of LB602, a division could only be accomplished through reinsurance-- reinsurance transactions with otherwise result in residual credit, increased transaction costs, and operational risk with the ceding insurer. Without effective cost, sorry, efficient, cost-effective means of insurance companies to improve operations and focus through division, shareholders and policyholders lose value. Under LB602, an insurance company domiciled in Nebraska may divide into two or more resulting companies pursuant to a plan of division but only after receiving the approval of Department of Insurance. The plan of division must include the new companies' proposed entity formation documents, the manner of allocating the dividing company's assets and liabilities between or among the resulting companies, and distribute-- distribution of shares or units. The director may approve a plan of division only after a hearing. At the dividing company's cost and at the director's discretion, the director may engage legal and technical professionals to assist the department in vetting the proposed plan of division and conducting the hearing. This process will ensure that the policyholder and shareholder interests are duly considered and properly protected and that the resulting companies will be solvent and hold sufficient remaining assets. Importantly, all expenses incurred by the department to perform this due diligence must be paid by the dividing company, whether or not the department ultimately approves the plan of division. LB602 further confirms procedures and legal liabilities for resulting companies after the department approves a plan of division. Specifically, LB602 clarifies that after a division becomes effective, each resulting company is responsible by operation of law for liabilities, including policy liabilities, that the resulting company issues, undertakes, or incurs, or are allocated to do it by dividing--

by the dividing company. Lastly, LB602 expressly grants the department rule-making authority to specifically address the provisions of the Insurance Company Division Act. I will continue to work with the Department of Insurance industry stakeholders, including Allstate Insurance which requested this bill, to improve the language of LB602. This effort has resulted in significant-- in a significant amendment to the bill. AM650, which I believe is handed out, captures the changes in response to the comments from the Department of Insurance to date. And I understand that Allstate intends to continue to work cooperatively with the department to address any outstanding specific concerns Director Ramge may have with the bill. Appreciate your attention, and I'll be happy to answer any questions. Thank you.

WILLIAMS: Thank you, Senator Lindstrom. Senator McCollister.

McCOLLISTER: Senator Williams, thank you. What kind of situation would arise that would cause an insurance company to want to divide in two?

LINDSTROM: Good question. Miss Silke will follow behind me and probably could speak to that a little better with regards to Allstate and why they'd want to do that.

McCOLLISTER: Would it-- if an insurance company wanted to divide their product lines, would that be something-- a way that they could accomplish that and sell part of their product lines to some other insurance company?

LINDSTROM: I think at this point all we're trying to do is if they want to create two companies. I don't know about the selling of those assets. I suppose it's-- potentially they could. Any type of restructuring of the two companies, they could potentially sell off that other company at some point.

McCOLLISTER: OK. Thank you. Thank you, Senator.

WILLIAMS: Any additional questions? Seeing none, I'm assuming you're staying.

LINDSTROM: I will stay.

WILLIAMS: Thank you. Would invite the first supporter of LB602. Welcome, Miss Silke.

VANESSA SILKE: Thank you, Chairman Williams. My name is Vanessa Silke, V-a-n-e-s-s-a S-i-l-k-e. I'm an attorney with Baird Holm and we represent Allstate Insurance Company. As Senator Lindstrom referred to, we did ask for this bill on behalf of Allstate, and we really appreciate Senator Lindstrom and members of the committee in working with us to address this important piece of legislation. I'll start by answering Senator McCollister's questions. I'll identify some other topical areas that I'm happy to address. I don't see the lights on. I won't take too much of your time but you can tell me. Sorry, maybe I just earned that. [LAUGHTER]

WILLIAMS: You want a reminder?

VANESSA SILKE: It's my one; never going to say that again. So-- so, Senator McCollister, you asked why do we want this legislation, under what circumstances would insurance companies seek this. Well, we know that they do because other states have adopted this legislation. And think of it in these terms, in the best circumstances it's where the sum of the parts are actually greater than the whole. And so we have this-- this circumstance across the business community. Gap and Old Navy are an example outside of the insurance industry where for good reason they determined that it was better to divide those assets and those companies to better focus their efforts, their capital, and their investments to grow those separate lines. Same concept applies in the insurance industry. That's the purpose of LB602. But certainly because it's insurance, it's a highly regulated industry, we need to make sure that there's proper controls in place to protect shareholders and also to protect policyholders. Those are two really big ones. And this bill is modeled off of an insurance division bill that was recently adopted in Illinois that Allstate helped draft. They understand the NAIC is studying division bill concepts. There's a couple of them out there. Insurance Business Transfer, or IBT, is another version of this. It's not what Allstate is seeking here. NAIC does have a working group that's going to address that. But they do not have any definite plans to develop model legislation. And so we certainly want to continue to participate and learn what we can from other states to be sure that what we adopt here in Nebraska is sound legislation. You asked what other product lines-- or could companies do this. Well, right now, the only way for an insurance company to divide up, in air quotes, would be through reinsurance provisions. Those can add significant costs and time lines to those transactions that aren't always appropriate, and there isn't another mechanism in place in Nebraska to facilitate this. The other concerns that we've shared in AM650 incorporates, at least to date, what the Department of Insurance has identified, and we'll continue to work with them to improve the language of the bill. But AM650 specifically allows-- or affords due process for shareholders and for policyholders in a way that isn't common in all other states. On page 6 we refer to 80-- Section 84-913. So in order for one of these plans of division to ever be even considered by the department, they have to hold a contested case hearing under the Nebraska Administrative Procedure Act. They've got to provide notice to all policyholders and shareholders, reinsurance, you know, holders, anyone else who might be involved in this transaction so that they have the opportunity to make a record of any issues they have. This bill also allows for the Department of Insurance to determine, under their own discretion, if they need additional experts to help them evaluate these plans of division before they ever make a decision at a hearing. Cost is certainly a concern, and Allstate agreed to change the language to ensure that if the department does decide that other experts are necessary, that bill for those experts is going to go to Allstate or another company that requests this type of plan of division. In addition, the bill-- the AM itself clarifies the conditions that the department needs to consider in context of that hearing in order to move forward. Another key provision of the bill in determining whether shareholders and policyholders are protected, in order for an insurance company like Allstate to even submit a plan of division for the department to consider, they have to have shareholder or unitholder approval, depending on what type of company they are, to even move forward with making that ask of the department. So right out of the gate, we're already protecting shareholders, at least on that procedure, before we ever get to a hearing. With that, I know I've covered quite a bit of ground. I want to reaffirm Allstate's commitment to this process. Allstate's an industry leader nationwide. They are not currently domiciled in Nebraska, but they see this type of legislation as an opportunity to come to Nebraska and grow here. That's been part of their effort in introducing this legislation in other states like Illinois. They've also successfully and very cooperatively worked with departments of insurance in other states to develop regulatory controls at the rule-making level to make sure that these statutes aren't abused by companies that are simply trying to dump bad lines of insurance. So with that, I've covered quite a bit of ground. I'm happy to answer any other questions that you might have.

WILLIAMS: Thank you, Miss Silke. Are there questions? I have a question.

VANESSA SILKE: Yeah.

WILLIAMS: Nebraska holds itself out as being a great place to domicile insurance companies, and-- and you're currently not domiciled here. If LB602 were to pass and to take advantage of what Allstate would like to do, you would have to--

VANESSA SILKE: Absolutely.

WILLIAMS: --domicile here.

VANESSA SILKE: It's only available for insurance companies--

WILLIAMS: Which, which--

VANESSA SILKE: --who are domiciled here.

WILLIAMS: And then in one of your last statements you made the comment about dumping bad lines. And part of my-- my concern that I want to ask you to address is, you know, we're-- we're-- we're proud of the insurance guaranty funds that we have here and that we protect consumers. Tell me about any angst that there should or could be with someone wanting to have this division and dumping bad lines. Can you talk about that specifically?

VANESSA SILKE: Sure. I think in AM650 and certainly also in the original language of the bill, Allstate perceives and we're willing to entertain any other controls the department might want to put in place. But right now as it's written, AM650 requires a number of factors to be presented in the plan of division. And the Department of Insurance can determine whether or not the resulting company that might hold those bad lines and only those bad lines, they may not be solvent. They may not fully protect policyholders. They wouldn't cross those hurdles that are in statute in order for the department to even improve-- approve that plan. We don't foresee that this language in this statute-- in this bill could be utilized for that sole purpose. There's too many thresholds for the department to consider before approving a plan that those issues would be identified, vetted out, and they would likely decline to approve a plan under those circumstances.

WILLIAMS: And if I'm understanding the-- the legislation correctly, the department who would eventually make that decision would hold a public hearing.

VANESSA SILKE: Yes.

WILLIAMS: And anyone that objected to that could testify at that public hearing also, is that [INAUDIBLE]?

VANESSA SILKE: Certainly, and we'd be utilizing an existing statutory structure in order for that to work. So the Nebraska Administrative Procedures Act is almost universally accepted, and most attorneys are familiar with it. By statute, there's a specific notice and opportunity to be heard process built in-- right into the 84-913 process. There's also a clear right and a limited right of appeal. They've got 30 days from the day-- anyone involved in that hearing who is a party to it, to appeal to a district court, likely Lancaster County given that the Department of Insurance is based here in Lincoln. We've got a clear statutory procedure for folks to integrate into that process whether they are a policyholder, a shareholder, a reinsurance provider, or the company seeking to divide itself.

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

VANESSA SILKE: Thank you, and I'm available for any other questions you might have afterwards.

WILLIAMS: OK. Thank you. Invite additional supporters. Seeing no one, is there anyone here to testify in opposition? Welcome, Director Ramge.

BRUCE RAMGE: Good afternoon, Chairman Williams and 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 opposition to LB602. LB602 adopts a Domestic Stock Insurance Company Division Act. The bill is intended to provide additional flexibility to stock insurers by allowing them to divide into two or more resulting companies pursuant to a plan which must be approved by me as Director of the Department of Insurance. The Department of Insurance was consulted on this bill prior to its introduction and did provide some initial concerns regarding language of the bill as introduced. I'm aware of the amendment to LB602 which is addressed to some but not nearly all of my concerns. I wish to be clear that I remain in opposition even with suggested changes. While I am happy to answer any questions about the specifics of the bill's language, I would like to focus my testimony on the fund-- fundamental concerns underlying the concept of LB602 including the difficulty in reviewing a proposed plan of division, the timing of the bill, potential constitutional issues, and potential strain on Nebraska guaranty associations. LB602 would allow an insurer to divide into two or more resulting companies splitting its assets and liabilities among the resulting companies pursuant to a plan of division. The department is tasked with review and approval of the proposed plan of division. While the department has very capable and competent staff, certain lines of business are notoriously difficult to actuarially project. The long-term care industry is a prime example of a line of business that was seriously underpriced on a nationwide basis. This underpricing was not due to incompetency of the professionals involved, but largely due to unforeseeable developments relating to aging, medicine, and care of the elderly. These unforeseeable developments have led to a systematic issue that threatens the solvency of insurers across the country. Luckily, many insurers have been able to offset long-term care losses through diversity into other lines of business. If an insurer proposes to split off unprofitable business, the department will be responsible for ensuring the assets accompanying that unprofitable business are sufficient to support the liabilities. This is no easy task especially in light of long to-- to-- excuse me, long-tail liabilities with adverse developments. The best actuaries or consultants may not be able to predict the adverse development of a particular block of unprofitable business. There are no best practices or actuarial guidelines that have been developed to address the concept of an insurer division. This is why LB602 is not yet ready to be advanced. This year, in light of these corporate division bills being introduced in various iterations across the country, the National Association of Insurance Commissioners, or NAIC, has developed a subgroup and a working group to discuss this type of legislation. Specifically, task force is looking into develop minimum standards of review, minimum capital requirements, and actuarial guidance in determining initial reserving levels. All of these items would be developed at a national level with input from all interested parties. Once developed, these best practices and guidelines would help the Department of Insurance analyze the proposed plan of division. I'm also aware that the American Council of Life Insurers has been looking at this type of legislation in order to develop guardrails related to consumer protections. I strongly urge the committee to not advance LB602 in order to give these national bodies time to develop the guidance necessary to help departments appropriately analyze these extremely complex issues. Another fundamental issue with LB602 is that a mechanism already exists in Nebraska's insurance code to allow an insurer to off lock-- load blocks of business from their books. This is called assumption reinsurance. In an assumption reinsurance transaction, insurer A enters into an agreement with insurer B to assume 100 percent of the contractual liabilities on a certain block of business. Once the transaction is effective, the policyholder has a contract with insurer B only, and insurer A is no longer party to the contract. It is completely novated. The important aspect of the assumption reinsurance laws is that policyholders, Nebraska consumers, have the option to opt-out of the assumption and keep a contract with insurer A. Although insurer A will typically reinsure the risk to insurer B, the consumer keeps a direct contract with the insurer they originally contracted with. In a corporate division, although the consumer may object, there is no right for the consumer to keep the contract with the original insurer. This has the potential to raise constitutional contract clause issues. Finally, if a proposed plan of division were approved and adverse development does ultimately lead a resulting company into insolvency, it is unclear the impact this may have on the appropriate Nebraska guaranty association. There is no mechanism in LB602 which requires a resulting company to be licensed in all 50 states. Therefore, any insolvency of a resulting company may ultimately lead to Nebraska guaranty association being responsible for policyholder protection across the entire country. The Department of Insurance is lucky to have such a positive relationship with our legislators. Over the years, the Nebraska Department of Insurance has been able to maintain a positive and flexible regulatory environment for insurers while maintaining the appropriate levels in consumer protection. LB602 simply gives up too much consumer protection. More work needs to be done before such a mechanism is adopted in Nebraska. Thank you again for the opportunity to testify in opposition of LB602. And I'd be happy to answer any questions the committee might have.

WILLIAMS: Thank you, Director. Questions for the Director? Director, I think we heard testimony in the-- in the introduction and from-- from the first testifier that this-- some states have adopted this already or--

BRUCE RAMGE: They have in-- in a-- in different forms. They've not done it in a uniform manner. And so it has come about in kind of different iterations and it's just been recently that regulators from other states have started wondering, well, how is this going to impact the policyholders in my state? How is this going to impact financial regulation? And that's why the NAIC has decided to take on this, you know, important work of looking at it this year.

WILLIAMS: Thank you.

BRUCE RAMGE: Uh-huh.

WILLIAMS: Any additional questions of the Director? Thank you, Director--

BRUCE RAMGE: Thank you.

WILLIAMS: --for being here. Invite any additional opponents. Welcome.

CHRISTINE NEIGHBORS: Hello, Chairman Williams, members of the committee. My name is Christine Neighbors. I am the general counsel of the life insurance companies for Ameritas Life Insurance Corp. here in Lincoln. I was the deputy director and general counsel for the Department of Insurance for a number of years, leaving in October of 2017 to join Ameritas. Ameritas also expresses opposition to LB602. And frankly, Director Ramge covered everything so succinctly, I don't know that I have much to offer. Only there's a couple of points I would like to make. The bill did pass in Illinois. It's my understanding they do have something similar. However I, in visiting with other domestic insurers in Illinois, it's my understanding that there's a push afoot to try to reopen that legislation and get that bill amended. I think there is concern, as Director Ramge mentioned, that the regulators are seeing that having this patchwork across the country isn't a good idea. And when you think about the impact, as you mentioned, Senator, about the potential impact on the guaranty funds, if you take your bad block of business and move it into a subsidiary, it's very possible that we just don't know the ramifications of that. My concern is that if you-- you may very well start out with a subsidiary that has sufficient assets and reserves backing that block of business, but because of development and over time and the trends that they're seeing at the parent company, it's possible that you can very quickly put that subsidiary into financial-- hazardous financial condition or financial trouble just based on the type of assets that are transferred, etcetera. So rather than put the burden on the department to have an analysis of that done, focusing on shareholder protection. That's one other thing that I do remember Baird Holm's attorney talking about as-- her comments were focused on shareholder protection. Regulators protect the-- the-- the policyholders. They don't focus completely on shareholder protection. The regulator's focus is on policyholder protection. And how do we ensure that those policyholders can be adequately protected? Frankly, I'm a little concerned that LB602 doesn't consider the policyholder protection nearly as much as other mechanisms in our current regulatory system would do. As Director Ramge mentioned, while a policyholder may object to the transfer of their policy on this corporate division new subsidiary, they wouldn't necessarily have any way to challenge that or stop that movement. Otherwise, it defeats the purpose of the proposed legislation. I will tell you that I have not read the amendment. I was not aware. I received a copy of the amendment this morning and did not have a time-- have a chance to look at it. But frankly, the opposition is going to be holistic in terms of Ameritas' focus on, let's allow the NAIC to do its work. The reason why we have the NAIC, and if you look at financial accreditation requirements and other specific focuses of the NAIC, it allows for more of a uniform approach across the country so that we avoid these one-off situations of-- of new law enactment that creates confusion within the industry. So with that, I-- I don't have any other comments, but I'd be happy to take questions.

WILLIAMS: Thank you, Miss Neighbors.

CHRISTINE NEIGHBORS: Senator McCollister.

McCOLLISTER: Sorry.

WILLIAMS: He-- he's limited. He can't--

CHRISTINE NEIGHBORS: I was waiting. He's asked everyone else.

WILLIAMS: -- [INAUDIBLE]. He hit his goal.

CHRISTINE NEIGHBORS: I was trying to anticipate.

McCOLLISTER: I've been shut off.

WILLIAMS: Any questions for Miss Neighbors? Seeing none, thank you--

CHRISTINE NEIGHBORS: OK. Thank you very much.

WILLIAMS: --for your testimony. Additional opponents? Welcome.

ROBERT NEFSKY: Thank you. Chairman Williams, members of the committee, my name is Robert Nefsky, R-o-b-e-r-t N-e-f-s-k-y. I'm an attorney and a partner at Rembolt Ludtke LLP here in Lincoln. My specialization is the regulation of the business of insurance. I've been practicing insurance regulatory law for more than 20 years. My subspecialty is insurance company insolvency law. I'm a member of national and international professional organizations which support and recognize competency in these areas. I've represented insurance companies and insurance company receivers in Nebraska and other states. I've served as an expert witness in insolvency matters, and I have represented several companies that have redomesticated to Nebraska. I'm testifying in opposition to LB602. I'm testifying as a citizen on my own behalf, not on behalf of my law firm, any client or third party, or any professional organization to which I may belong. LB602, as drafted, appears to represent a material departure from existing insurance law. Nebraska insurance law was enacted for the principal purpose of the protection of the interests of policyholders of insurance companies. The stated purpose of the-- of the Domestic Stock Insurance Company Division Act is much different. It's to stimulate economic development in the state by permitting insurance companies to divide themselves into one or more additional companies and has a standard of shareholder protection which appears to be potentially at odds with policyholder protection. My understanding is that the concept and details of whether it is prudent and in the best interests of policyholders, potential claimants, and the general public to permit the division of insurance companies, and if so under what conditions, has not been considered and passed on by national industry and regulatory groups charged with the obligation to do so such as the ACLI, which is the American Council of Life Insurers, or the NAIC, the National Association of Insurance Commissioners. There may be valid business reasons to divide assets and policy obligations among two or more companies such as separating lines of insurance an-- an insured no longer engages in from current lines or separating profitable from unprofitable business along with their respective assets. However, what is in the best interest of a company may or may not be in the best interest of its policyholders. It is therefore of great importance that any statutory scheme permitting an insurance company to divide into two or more separate insurance companies do so only in a manner that does not jeopardize the interests of its policyholders. Should the Legislature decide to make LB602 the law of Nebraska, there are many details to consider beforehand. Among them are how to reconcile the principal objectives of LB602 with the existing insurance law which has held the state and its insurance industry in good stead and has played a material part in making Nebraska one of the great insurance states. This would require statutory structure that continues to make policyholder protection its principal objective and does not increase the risk of insurance company insolvency. Insolvency of an insurance company is a typically a long, costly, and complicated process. In cases where insurance lines are covered by guaranty funds, the policyholders whose policy limits do not exceed guaranty fund coverage may not be harmed, but other insurance companies may be called on to make up the losses by paying into guaranty funds. And in those cases where policyholders exceed guaranty fund coverages, or like surety or title insurance are generally not covered by guaranty funds, the loss and resulting hardship to policyholders can be material. Permitting division of insurance companies without adequate policyholder protection could add to this hardship, harming not only policyholders but other insurance companies and instead of promoting economic development, could weaken the insurance industry in Nebraska as a whole. While insurance company insolvency would not necessarily follow from a separation of insurance company into multiple companies, it is incumbent on the Legislature to put adequate safeguards in place to better assure that policyholders are protected. Prior to further consideration of LB602, I urge the committee to request that the proposal be analyzed and considered by ACLI and NAIC. Then, equipped with the analysis of independent experts with the responsibility to advise lawmakers on the avail-- advisability of such a law, this committee and the Legislature can make an informed decision whether LB602 should become the public policy of the state and if so, in what-- in what form. Thank you.

WILLIAMS: Thank you, Mr. Nefsky. Questions? As an expert in insurance insolvency law, we certainly hope you do more business outside the state than you do in the state.

ROBERT NEFSKY: Thank you, Senator.

WILLIAMS: Any questions? Seeing none, thank you for your testimony. Invite the next opponent. Welcome, Mr. Bell.

ROBERT BELL: Good afternoon, Chairman Williams and members of the Banking, Commerce and Insurance Committee. My name is Robert M. Bell, last name is spelled B-e-l-l. I'm the executive director and registered lobbyist for the Nebraska Insurance Federation. I'm here today to testify in opposition to LB602. As I've stated before, 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 27 member companies and 7 associate members representing a spectrum of insurers from small insurers to Fortune 500 companies. Members write all lines of insurance. One of the goals of the federation is to promote the concepts and importance of insurance products to the public. Nebraska insurers provide high-value, quality insurance products to Nebraskans that help protect Nebraskans during difficult times. I just want to make four very simple points, and-- and I think the first point is I want to thank Senator Lindstrom, and Miss Silke, and Allstate for being open to comments back from the members of the Insurance Federation. They have-- they have reached out, and-- and they said, you know, whatever changes the industry here needs, let's talk. And I certainly appreciate that and I know my member companies, too. My member companies-- and my second point is they're-- they're both-- they're both mutual companies which are owned by the policyholders and stock companies which are, you know, owned by shareholders. And I think Miss Neighbors and Mr. Nefsky talked about the protection of the policyholder being the kind of a primary stay of insurance regulation and certainly the green copy. And I haven't had enough time to dive into the white-copy amendment, but certainly the protection of the policyholder is the primasary-- is the primary purpose of insurance regulation. And when you start sneaking in shareholder, it becomes a little bit of a dicier gamble. And thus is the-- kind of the major concern of my companies is that there could be some guaranty fund problems out there in the future. Not to say that-- my companies have viewed us and-- and the other states-- or in Illinois and the IBT legislation in other states, and they are interested in doing this. However, what they've told me is that there's every reason to wait-- to wait until the National Association of Insurance Commissioners and the American Life Insurance Council companies have a chance to review the legislation and come up with an idea that works for all 50 states, that works for all companies, that guarantees the protection of the policyholder, that does not put the guaranty funds at greater risk than they are at right now. And so and I guess my final point is Nebraska is a great state for insurance companies. Right now, last year MetLife domiciled to Nebraska. We've had numerous companies come into Nebraska without the passage of this legislation, though, again, my member companies are always interested in-- in if there is a piece of legislation out there that would bring more companies to Nebraska. They're-- they're interested because we are a hub of insurance activity, not only in the United States but worldwide. And so they're-- they're keeping an open mind, but the caution in the opposition in this case is, let's wait, let's see what the national discussions bring. And if a resolution occurs on a national level, I'll be the first to pick up the phone to talk to Senator Lindstrom, and Miss Silke, and Allstate to come together and have a discussion. So with that, thank you for the opportunity to testify.

WILLIAMS: Thank you, Mr. Bell. Questions? I have to ask one question.

ROBERT BELL: Sure.

WILLIAMS: Is there any motivation just simply from not having to compete head to head with Allstate sitting as a domicile in our state that motivates your opposition?

ROBERT BELL: I don't believe so because my member companies already compete with Allstate in the marketplace. They, you know, Allstate writes a lot of property and casualty insurance and they write a lot of life insurance. I have property and casualty members. I have life members. I have members that write every type of insurance out there. They are already competing on a-- on a day-to-day business, then moving to the state of Nebraska. I mean, when-- when other companies, whether or not it's Pac Life or Aflac or MetLife, when they've moved into Nebraska they're-- I have not been aware of opposition from that standpoint. I mean, I guess there could be some competition for employees, but I think what we found is that when companies do domicile to Nebraska and they open up a small operation with a small number of employees, one of the great things that we've seen is that they like the-- they like the environment in Nebraska. They like-- they like Lincoln. They like Omaha. They like other parts of the state, and they-- they start moving more operations to Nebraska. And that's been-- that's been a great thing for the communities that are able to have those employees move in. So from a competition standpoint, one, they're already in market competition. And two, I-- I don't think they're too worried about employee competition at this point.

WILLIAMS: Thank you, Mr. Bell. Seeing no other questions, thank you for your testimony.

ROBERT BELL: You're welcome.

WILLIAMS: Would invite any other opponents. Seeing none, is there anyone here to testify in a neutral capacity? Seeing none, Senator Lindstrom, as you're coming up, we do have one letter in support from Vanessa Silke that we will make part of the record. Senator Lindstrom.

LINDSTROM: Thank you, Chairman Williams, members of the committee. I appreciate the testimony today. Oftentimes, when we're doing something on the forefront, there's a few growing pains attached to it. And so, you know, a lot of the things that could be addressed in the-- in the opposition testimony could be promulgated through rules and regulations by the director. And I think we all have had a good working relationship with the director and the department and trust what they're doing. Anytime you have the ability to have a new insurance company domicile here, it's something to look at. We've-- we've obviously been known for being an insurance state. Mr. Bell alluded to the fact that MetLife-- I believe, Pac Life was one that-- that recently, in the last couple of years as well. And so anytime we can have a company look at that, it does provide a lot of upside of the community. And so I'll continue to work, as I'm sure Allstate will, with-- with Director Ramge. And if it is something we can address now and then later put in in some of the NAIC model legislation at some point, be willing to do that as well. So with that, I'd be happy to answer any final questions and thank the committee.

WILLIAMS: Thank you, Senator Lindstrom. Final questions? Seeing none, that will close the public hearing on LB602. The Banking Committee will--