

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 863

FINAL READING

Introduced by Williams, 36.

Read first time January 07, 2022

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to insurance; to amend sections 44-361,
2 44-7,102, 44-2121, 44-2132, 44-2138, 44-4052, 44-5103, 44-5105,
3 44-5120, 44-5120.01, 44-5132, 44-5137, 44-5139, 44-5141, 44-5143,
4 44-5144, 44-5149, 44-5153, and 44-9004, Reissue Revised Statutes of
5 Nebraska; to adopt the Travel Insurance Act and the Primary Care
6 Investment Act; to prohibit certain insurance practices relating to
7 a person's status as a living organ donor; to change provisions
8 regarding premium rebates; to provide requirements regarding value-
9 added products and services; to provide, change, and eliminate
10 definitions; to change the requirement for screening coverage for
11 colorectal cancer; to require the filing of annual group capital
12 calculations and liquidity stress tests as prescribed and provide
13 for confidentiality and recognize trade secrets under the Insurance
14 Holding Company System Act as prescribed; to provide powers and
15 duties; to change provisions relating to the Insurers Investment
16 Act; to eliminate travel insurance provisions; to harmonize
17 provisions; to provide operative dates; to repeal the original
18 sections; and to outright repeal section 44-4068, Reissue Revised
19 Statutes of Nebraska.
20 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 10 of this act shall be known and may be
2 cited as the Travel Insurance Act.

3 Sec. 2. (1) The purpose of the Travel Insurance Act is to promote
4 the public welfare by creating a comprehensive legal framework within
5 which travel insurance may be sold in this state.

6 (2) The requirements of the Travel Insurance Act shall apply to
7 travel insurance that covers any resident of this state or that is sold,
8 solicited, negotiated, or offered in this state and to policies and
9 certificates of travel insurance that are delivered or issued for
10 delivery in this state. The act shall not apply to cancellation fee
11 waivers or travel assistance services except as expressly provided in the
12 act.

13 (3) All other applicable provisions of the insurance laws of this
14 state shall continue to apply to travel insurance, except that the
15 specific provisions of the Travel Insurance Act shall supersede any
16 general provisions of law that would otherwise be applicable to travel
17 insurance.

18 Sec. 3. For purposes of the Travel Insurance Act, unless the
19 context otherwise requires:

20 (1) Aggregator site means a website that provides access to
21 information regarding insurance products from more than one insurer,
22 including product and insurer information, for use in comparison
23 shopping;

24 (2) Blanket travel insurance means a policy of travel insurance
25 issued to any eligible group providing coverage for specific classes of
26 persons defined in the policy with coverage provided to all members of
27 the eligible group without a separate charge to individual members of the
28 eligible group;

29 (3) Cancellation fee waiver means a contractual agreement between a
30 supplier of travel services and its customer to waive some or all of the
31 nonrefundable cancellation fee provisions of the supplier's underlying

1 travel contract with or without regard to the reason for the cancellation
2 or form of reimbursement. A cancellation fee waiver is not insurance;

3 (4) Department means the Department of Insurance;

4 (5) Director means the Director of Insurance;

5 (6) Eligible group means two or more persons who are engaged in a
6 common enterprise or have an economic, educational, or social affinity or
7 relationship, including, but not limited to:

8 (a)(i) Any entity engaged in the business of providing travel
9 services, including, but not limited to, a tour operator, a lodging
10 provider, a vacation property owner, a hotel, a resort, a travel club, a
11 travel agency, a property manager, a cultural exchange program, and a
12 common carrier, or (ii) the operator, owner, or lessor of a means of
13 transportation of passengers, including, but not limited to, any airline,
14 cruise line, railroad, steamship company, or public bus company, so long
15 as, within the particular mode of travel, all members or customers of the
16 group have a common exposure to risk attendant to such travel;

17 (b) Any college, school, or other institution of learning covering
18 students, teachers, employees, or volunteers;

19 (c) Any employer covering any group of employees, volunteers,
20 contractors, board of directors, dependents, or guests;

21 (d) Any sports team or camp, or any sponsor of a sports team or
22 camp, covering participants, members, campers, employees, officials,
23 supervisors, or volunteers;

24 (e) Any religious, charitable, recreational, educational, or civic
25 organization, or any branch thereof, covering any group of members,
26 participants, or volunteers;

27 (f) Any financial institution or financial institution vendor, or
28 parent holding company, trustee, or agent of or designated by one or more
29 financial institutions or financial institution vendors, including
30 account holders, credit card holders, debtors, guarantors, or purchasers;

31 (g) Any incorporated or unincorporated association, including a

1 labor union, having a common interest, constitution, and bylaws and
2 organized and maintained in good faith for purposes other than obtaining
3 insurance for members or participants of such association covering its
4 members;

5 (h) Any trust or the trustees of a fund established, created, or
6 maintained for the benefit of covering members, employees, or customers,
7 subject to the approval of the use of such trust by the director and the
8 requirements of the premium tax provisions in section 5 of this act, in
9 one or more associations described in subdivision (6)(g) of this section;

10 (i) Any entertainment production company covering any group of
11 participants, audience members, contestants, employees, or volunteers;

12 (j) Any volunteer fire department or ambulance, rescue, first-aid,
13 police, court, civil defense, or other similar volunteer group;

14 (k) Any preschool, daycare institution for children or adults, or
15 senior citizen club;

16 (l) Any automobile or truck rental or leasing company covering a
17 group of individuals who may become renters, lessees, or passengers
18 defined by their travel status on the rented or leased vehicles. The
19 common carrier, the operator, owner, or lessor of a means of
20 transportation, or the automobile or truck rental or leasing company is
21 the policyholder under a policy to which this subdivision applies; or

22 (m) Any other group if the director has determined that the members
23 are engaged in a common enterprise or have an economic, educational, or
24 social affinity or relationship and that issuance of the policy would not
25 be contrary to the public interest;

26 (7) Fulfillment materials means documentation sent to the purchaser
27 of a travel protection plan confirming the purchase and providing the
28 travel protection plan's coverage and assistance details;

29 (8) Group travel insurance means travel insurance issued to any
30 eligible group;

31 (9) Limited lines travel insurance producer means a:

1 (a) Licensed managing general agent or third-party administrator;

2 (b) Licensed insurance producer, including a limited lines insurance
3 producer; or

4 (c) Travel administrator;

5 (10) Offer and disseminate means providing general information,
6 including a description of the coverage and price, as well as processing
7 the application and collecting premiums;

8 (11) Primary certificate holder means an individual person who
9 elects and purchases travel insurance under a group travel insurance
10 policy;

11 (12) Primary policyholder means an individual person who elects and
12 purchases individual travel insurance;

13 (13) Travel administrator means a person who directly or indirectly
14 underwrites, collects charges, collateral, or premiums from, or adjusts
15 or settles claims on, residents of this state in connection with travel
16 insurance. A person shall not be considered a travel administrator if
17 such person's only actions that would otherwise cause such person to be
18 considered a travel administrator include:

19 (a) A person working for a travel administrator and such person's
20 activities are subject to the supervision and control of the travel
21 administrator;

22 (b) An insurance producer selling insurance or engaged in
23 administrative and claims-related activities within the scope of the
24 producer's license;

25 (c) A registered travel retailer offering and disseminating travel
26 insurance under the license of a limited lines travel insurance producer
27 in accordance with the Travel Insurance Act;

28 (d) A person adjusting or settling claims in the normal course of
29 that person's practice or employment as an attorney and such person does
30 not collect charges or premiums in connection with insurance coverage; or

31 (e) A business entity that is affiliated with a licensed insurer

1 while acting as a travel administrator for the direct and assumed
2 insurance business of an affiliated insurer;

3 (14) Travel assistance services means noninsurance services for
4 which the consumer is not indemnified based on a fortuitous event and if
5 providing the service does not result in transfer or shifting of risk
6 that would constitute the business of insurance. Travel assistance
7 services are not insurance and not related to insurance. Travel
8 assistance services includes, but is not limited to:

9 (a) Security advisories, destination information, and vaccination
10 and immunization information services;

11 (b) Travel reservation services;

12 (c) Entertainment, activity, and event planning;

13 (d) Translation assistance services;

14 (e) Emergency messaging services;

15 (f) International legal and medical referral services;

16 (g) Medical case monitoring services;

17 (h) Transportation arrangement and coordination services;

18 (i) Emergency cash transfer assistance services;

19 (j) Medical prescription replacement assistance services;

20 (k) Passport and travel document replacement assistance services;

21 (l) Lost luggage assistance services;

22 (m) Concierge services; and

23 (n) Any other service that is furnished in connection with planned
24 travel;

25 (15)(a) Travel insurance means insurance coverage for personal risks
26 incident to planned travel, including: Interruption or cancellation of a
27 trip or event; loss of baggage or personal effects; damages to
28 accommodations or rental vehicles; sickness, accident, disability, or
29 death occurring during travel; emergency evacuation; repatriation of
30 remains; or any other contractual obligations to indemnify or pay a
31 specified amount to the traveler upon determinable contingencies related

1 to travel as approved by the director.

2 (b) Travel insurance does not include a major medical plan that
3 provides comprehensive medical protection for travelers with trips
4 lasting longer than six months, including those working or residing
5 overseas as an expatriate, or any other product that requires a specific
6 insurance producer license;

7 (16) Travel protection plan means a plan that provides travel
8 insurance, travel assistance services, cancellation fee waivers, or any
9 combination thereof; and

10 (17) Travel retailer means a business entity that makes, arranges,
11 or offers planned travel and may offer and disseminate travel insurance
12 as a service to its customers on behalf of and under the direction of a
13 limited lines travel insurance producer.

14 Sec. 4. (1) No person may act as a limited lines travel insurance
15 producer or travel retailer unless such person holds the appropriate
16 license or registration as required by the Travel Insurance Act.

17 (2) The department may issue a limited lines travel insurance
18 producer license to an individual or business entity that files with the
19 department an application for a limited lines travel insurance producer
20 license in a form and manner prescribed by the department. A limited
21 lines travel insurance producer may sell, solicit, or negotiate travel
22 insurance through a licensed insurer.

23 (3) A travel retailer may offer and disseminate travel insurance
24 under a limited lines travel insurance producer only if the following
25 conditions are met:

26 (a) The limited lines travel insurance producer or travel retailer
27 provides to the purchaser of travel insurance:

28 (i) A description of the material terms or the actual material terms
29 of the travel insurance policy;

30 (ii) A description of the process for filing a claim;

31 (iii) A description of the review or cancellation process for the

1 travel insurance policy; and

2 (iv) The identity and contact information of the insurer and limited
3 lines travel insurance producer;

4 (b)(i) The limited lines travel insurance producer, at the time of
5 licensure, establishes and maintains a register on a form prescribed by
6 the department of each travel retailer that offers travel insurance on
7 behalf of such limited lines travel insurance producer. The register
8 shall include the name, address, and contact information of the travel
9 retailer and an officer or person who directs or controls the travel
10 retailer's operation and the travel retailer's federal tax identification
11 number. The limited lines travel insurance producer shall submit such
12 register to the department upon request; and

13 (ii) The limited lines travel insurance producer certifies that the
14 registered travel retailer complies with 18 U.S.C. 1033. The grounds for
15 suspension or revocation and the penalties applicable to resident
16 insurance producers under the Insurance Producers Licensing Act shall be
17 applicable to limited lines travel insurance producers and travel
18 retailers;

19 (c) The limited lines travel insurance producer designates one of
20 its employees who is a licensed individual producer as the designated
21 responsible producer responsible for the compliance with travel insurance
22 laws and rules and regulations applicable to such limited lines travel
23 insurance producers and travel retailers;

24 (d) The designated responsible producer, president, secretary,
25 treasurer, and any other officer or person who directs or controls the
26 limited lines travel insurance producer's insurance operations complies
27 with the fingerprinting requirements applicable to insurance producers in
28 the state where the limited lines travel insurance producer resides;

29 (e) The limited lines travel insurance producer has paid all
30 applicable licensing fees as set forth in section 44-4064 and any other
31 applicable state law; and

1 (f) The limited lines travel insurance producer requires each
2 employee and authorized representative of the travel retailer whose
3 duties include offering and disseminating travel insurance to receive a
4 program of instruction or training, which may be subject to review by the
5 director. The training material shall include, at a minimum, instructions
6 on the types of insurance offered, ethical sales practices, and required
7 disclosures to prospective customers.

8 (4) A limited lines travel insurance producer and travel retailers
9 registered under its license are exempt from the examination requirements
10 in section 44-4052 and the continuing education requirements in sections
11 44-3901 to 44-3908.

12 (5) The director may take disciplinary action against a limited
13 lines travel insurance producer pursuant to section 44-4059.

14 (6) Any travel retailer offering and disseminating travel insurance
15 shall make brochures or other written materials available to a
16 prospective purchaser that:

17 (a) Provide the identity and contact information of the insurer and
18 the limited lines travel insurance producer;

19 (b) Explain that the purchase of travel insurance is not required in
20 order to purchase any other product or service from the travel retailer;
21 and

22 (c) Explain that an unlicensed travel retailer is permitted to
23 provide general information about the insurance offered by the travel
24 retailer, including a description of the coverage and price, but is not
25 qualified or authorized to answer technical questions about the terms and
26 conditions of the travel insurance offered by the travel retailer or to
27 evaluate the adequacy of the customer's existing insurance coverage.

28 (7) A travel retailer's employee or authorized representative who is
29 not licensed as an insurance producer shall not:

30 (a) Evaluate or interpret the technical terms, benefits, or
31 conditions of the offered travel insurance coverage;

1 (b) Evaluate or provide advice concerning a prospective purchaser's
2 existing insurance coverage; or

3 (c) Hold such travel retailer employee or authorized representative
4 out as a licensed insurer, licensed producer, or insurance expert.

5 (8) A travel retailer whose insurance-related activities, and those
6 of its employees and authorized representatives, are limited to offering
7 and disseminating travel insurance on behalf of and under the direction
8 of a limited lines travel insurance producer meeting the conditions
9 stated in this section is authorized to receive related compensation for
10 the services upon registration by the limited lines travel insurance
11 producer.

12 (9) The limited lines travel insurance producer is responsible for
13 the acts of the travel retailer and shall use reasonable means to ensure
14 that the travel retailer complies with the Travel Insurance Act.

15 (10) Any person licensed in a major line of authority as an
16 insurance producer is authorized to sell, solicit, and negotiate travel
17 insurance. A property and casualty insurance producer is not required to
18 become appointed by an insurer in order to sell, solicit, or negotiate
19 travel insurance.

20 Sec. 5. (1) A travel insurer shall pay premium tax, as provided in
21 Chapter 77, article 9, on travel insurance premiums paid by:

22 (a) An individual primary policyholder who is a resident of this
23 state;

24 (b) A primary certificate holder who is a resident of this state and
25 elects coverage under a group travel insurance policy; or

26 (c) A blanket travel insurance policyholder that is a resident in or
27 has its principal place of business or the principal place of business of
28 an affiliate or subsidiary that has purchased blanket travel insurance in
29 this state for eligible blanket group members, subject to any
30 apportionment rules which apply to the insurer across multiple taxing
31 jurisdictions or that permit the insurer to allocate premium on an

1 apportioned basis in a reasonable and equitable manner in those
2 jurisdictions.

3 (2) A travel insurer shall:

4 (a) Document the state of residence or principal place of business
5 of the policyholder or certificate holder; and

6 (b) Report as premium only the amount allocable to travel insurance
7 only and not any amounts received for travel assistance services or
8 cancellation fee waivers.

9 Sec. 6. Travel protection plans may be offered for one price for
10 the combined features that the travel protection plan offers in this
11 state if:

12 (1) Such plans clearly disclose to the consumer, at or prior to the
13 time of purchase, that the plans include travel insurance, travel
14 assistance services, and cancellation fee waivers as applicable, and the
15 person provides information and an opportunity, at or prior to the time
16 of purchase, for the consumer to obtain additional information regarding
17 the features and pricing of each; and

18 (2) The fulfillment materials:

19 (a) Describe and delineate the travel insurance, travel assistance
20 services, and cancellation fee waivers in the travel protection plans;
21 and

22 (b) Include the travel insurance disclosures and contact information
23 for persons providing the travel assistance services and cancellation fee
24 waivers, as applicable.

25 Sec. 7. (1) All persons offering travel insurance to residents of
26 this state are subject to the Unfair Insurance Trade Practices Act except
27 as otherwise provided in this section. In the event of a conflict between
28 the Travel Insurance Act and other provisions of the insurance laws of
29 this state regarding the sale and marketing of travel insurance and
30 travel protection plans, the provisions of the Travel Insurance Act shall
31 control.

1 (2) Offering or selling a travel insurance policy that could never
2 result in payment of any claims for any insured under the policy is an
3 unfair trade practice.

4 (3)(a) All documents provided to consumers prior to the purchase of
5 travel insurance, including, but not limited to, sales materials,
6 advertising materials, and marketing materials, shall be consistent with
7 the terms of the travel policy, including, but not limited to, forms,
8 endorsements, policies, rate filings, and certificates of insurance.

9 (b) For travel insurance policies or certificates that contain
10 preexisting condition exclusions, information and an opportunity to learn
11 more about the preexisting condition exclusions shall be provided to
12 consumers any time prior to the time of purchase of such travel insurance
13 and in the fulfillment materials provided.

14 (c)(i) Fulfillment materials and the information described in
15 subdivision (3)(a) of section 4 of this act shall be provided to a
16 policyholder or certificate holder as soon as practicable following the
17 purchase of a travel protection plan. Unless the insured has either
18 started a covered trip or filed a claim under the travel insurance
19 policy, a policyholder or certificate holder may cancel a policy or
20 certificate for a full refund of the travel protection plan price from
21 the date of purchase of a travel protection plan until at least:

22 (A) Fifteen days following the date of delivery of the travel
23 protection plan fulfillment materials by postal mail; or

24 (B) Ten days following the date of delivery of the travel protection
25 plan fulfillment materials by means other than postal mail.

26 (ii) For purposes of this subdivision, delivery means handing
27 fulfillment materials to the policyholder or certificate holder or
28 sending fulfillment materials by postal mail or electronic means to the
29 policyholder or certificate holder.

30 (d) The travel insurance policy documentation and fulfillment
31 materials shall disclose whether the travel insurance is primary or

1 secondary to other applicable coverage.

2 (e) If travel insurance is marketed directly to a consumer through
3 an insurer's website or through an aggregator site, it shall not be an
4 unfair trade practice or other violation of law where an accurate summary
5 or short description of the coverage is provided on the web page, so long
6 as the consumer has access to the full provisions of the policy through
7 electronic means.

8 (4) No person offering, soliciting, or negotiating travel insurance
9 or travel protection plans on an individual or group basis may do so by
10 using a negative option or opt out, which requires a consumer to take an
11 affirmative action to deselect coverage, such as unchecking a box on an
12 electronic form, when the consumer purchases a trip.

13 (5) It shall be an unfair trade practice to market blanket travel
14 insurance coverage as free.

15 (6) When a consumer's destination jurisdiction requires insurance
16 coverage, it shall not be an unfair trade practice to require that a
17 consumer choose between the following options as a condition of
18 purchasing a trip or travel package:

19 (a) Purchasing the insurance coverage required by the destination
20 jurisdiction through the travel retailer or limited lines travel
21 insurance producer supplying the trip or travel package; or

22 (b) Agreeing to obtain and provide proof of insurance coverage that
23 meets the destination jurisdiction's requirements prior to departure.

24 Sec. 8. (1) No person shall act as or represent that such person is
25 a travel administrator for travel insurance in this state unless such
26 person:

27 (a) Is a licensed property and casualty insurance producer in this
28 state for activities permitted under such producer license;

29 (b) Holds a valid managing general agent license in this state; or

30 (c) Holds a valid third-party administrator license in this state.

31 (2) A travel administrator and such travel administrator's employees

1 are exempt from the licensing requirements of adjusters for travel
2 insurance such administrator and its employees administer.

3 (3) An insurer is responsible for the acts of a travel administrator
4 administering travel insurance underwritten by the insurer and is
5 responsible for ensuring that the travel administrator maintains all
6 books and records relevant to the insurer to be made available by the
7 travel administrator to the department upon request.

8 Sec. 9. (1) Travel insurance shall be classified and filed for
9 purposes of rates and forms under an inland marine line of insurance,
10 however, travel insurance that provides coverage for sickness, accident,
11 disability, or death occurring during travel, either exclusively, or in
12 conjunction with related coverages of emergency evacuation, repatriation
13 of remains, or incidental limited property and casualty benefits such as
14 baggage or trip cancellation, may be filed under either an accident and
15 health line of insurance or an inland marine line of insurance.

16 (2) Travel insurance may be in the form of an individual, group, or
17 blanket policy.

18 (3) Eligibility and underwriting standards for travel insurance may
19 be developed and provided based on travel protection plans designed for
20 individual or identified marketing or distribution channels, so long as
21 those standards also meet this state's underwriting standards for inland
22 marine lines of insurance.

23 Sec. 10. The department may adopt and promulgate rules and
24 regulations to carry out the Travel Insurance Act.

25 Sec. 11. Sections 11 to 17 of this act shall be known and may be
26 cited as the Primary Care Investment Act.

27 Sec. 12. On December 27, 2020, the federal Consolidated
28 Appropriations Act, 2021, Public Law 116-260, became law. It requires
29 group health plans, health insurance issuers, and health insurance plans
30 to provide data to the federal government on the total amount of spending
31 on hospital costs; health care provider and clinical service costs, for

1 primary care and specialty care separately; costs for prescription drugs;
2 and other medical costs, including wellness services. Primary care is
3 important to the health of individuals and has been associated with
4 better health outcomes at lower costs. The purpose of the Primary Care
5 Investment Council is to analyze the data collected by the federal
6 government in accordance with the federal Consolidated Appropriations
7 Act, 2021, and other data sources, to assist the Legislature in
8 understanding:

9 (1) The current amount of health care spending on primary care in
10 Nebraska from public and private sources;

11 (2) Barriers to residents of Nebraska accessing primary care;

12 (3) Barriers to health payors and medical providers in investing in
13 primary care;

14 (4) Alternative payment models that deliver high-quality care and
15 spend health care dollars more wisely;

16 (5) The public health benefits for Nebraska residents if the level
17 of primary care investment in Nebraska increased;

18 (6) The estimated cost savings for health care consumers as well as
19 public and private payors if the level of primary care investment
20 increased in Nebraska;

21 (7) Nebraska's investment in primary care services relative to other
22 states; and

23 (8) Health outcomes in Nebraska relative to other states.

24 Sec. 13. For purposes of the Primary Care Investment Act:

25 (1) Department means the Department of Insurance; and

26 (2) Primary care physician means a physician licensed under the
27 Uniform Credentialing Act and practicing in the area of family medicine,
28 pediatrics, internal medicine, geriatrics, obstetrics and gynecology, or
29 general medicine.

30 Sec. 14. (1) The Primary Care Investment Council is created. The
31 council shall consist of fifteen voting members and two ex officio,

1 nonvoting members.

2 (2) The Primary Care Investment Council shall consist of the
3 following voting members:

4 (a) Three representatives of primary care physicians, one
5 representing each congressional district;

6 (b) A representative of behavioral health providers;

7 (c) A representative of hospitals;

8 (d) A representative of academia with experience in health care
9 data;

10 (e) Two other representatives of health providers who are not
11 primary care physicians or hospitals;

12 (f) Three representatives of health insurers, one of which shall be
13 a representative of a managed care organization;

14 (g) One representative of large employers that purchase health
15 insurance for employees, which representative is not an insurer;

16 (h) One representative of small employers that purchase group health
17 insurance for employees, which representative is not an insurer;

18 (i) One health care consumer advocate who is knowledgeable about the
19 private health insurance market; and

20 (j) A representative of organizations that facilitate health
21 information exchange in Nebraska.

22 (3) The following officials or their designees shall serve as ex
23 officio, nonvoting members:

24 (a) The Director of Insurance; and

25 (b) The Director of Medicaid and Long-Term Care of the Division of
26 Medicaid and Long-Term Care of the Department of Health and Human
27 Services.

28 (4) The Governor shall appoint the voting members of the council.
29 The Governor shall appoint the initial members by October 1, 2022. Any
30 member who ceases to meet the requirements for his or her appointment
31 regarding representation or practice shall cease to be a member of the

1 council. Any vacancy shall be filled in the same manner as the original
2 appointment.

3 (5) The council shall select one of its members to serve as
4 chairperson for a one-year term. The council shall conduct its
5 organizational meeting in October 2022.

6 (6) The council shall terminate on July 1, 2029.

7 Sec. 15. The Primary Care Investment Council shall:

8 (1) Develop an appropriate definition for primary care investment;

9 (2) Measure the current level of primary care investment, measured
10 as a part of overall health care spending, by public and private payors
11 in Nebraska;

12 (3) Conduct a comparison of spending on primary care services and
13 health outcomes in Nebraska with surrounding states and nationally;

14 (4) Develop an appropriate target level of primary care investment
15 by public and private payors in Nebraska;

16 (5) Recommend strategies to achieve the target level of primary care
17 investment through alternative payment models;

18 (6) Identify the public health benefits and estimated cost savings
19 that would result from meeting the target level of primary care
20 investment through alternative payment models; and

21 (7) Identify solutions to barriers for Nebraska residents from
22 accessing primary care and for health payors and medical providers from
23 investing in primary care.

24 Sec. 16. The Primary Care Investment Council shall convene at least
25 once a year through 2028 to review the state's progress in meeting the
26 target level of primary care investment, update the data regarding public
27 health benefits and cost savings as a result of investments in primary
28 care, update the strategies to achieve the target level of primary care
29 investment, and consider other information as necessary.

30 Sec. 17. On or before November 1, 2023, and on or before each
31 November 1 until November 1, 2028, the Primary Care Investment Council

1 shall prepare and the department shall electronically submit a report to
2 the Executive Board of the Legislative Council and the Governor which
3 contains, at a minimum, the Primary Care Investment Council's findings
4 under section 15 of this act and any additional findings from the council
5 regarding health care spending and health outcomes.

6 Sec. 18. (1) For purposes of this section:

7 (a) Insurance coverage means coverage under a disability insurance,
8 life insurance, or long-term care insurance policy; and

9 (b) Living organ donor means an individual who:

10 (i) Has donated all or part of an organ; and

11 (ii) Is not deceased.

12 (2) It shall be unlawful for an insurer to deny insurance coverage,
13 cancel insurance coverage, or determine the price or premium for, refuse
14 to issue, or otherwise vary any term or condition of a life insurance
15 policy, disability insurance policy, or long-term care insurance policy
16 solely on the basis of an individual's status as a living organ donor and
17 without any unique and material actuarial risks in accordance with sound
18 actuarial principles and actual and reasonably anticipated and expected
19 experiences of such individual on the basis of the individual's status as
20 a living organ donor.

21 Sec. 19. Section 44-361, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 44-361 (1) No insurance company, by itself or any other party, and
24 no insurance agent or broker, personally or by any other party, shall
25 offer, promise, allow, give, set off, or pay, directly or indirectly, any
26 rebate of, or part of, the premium payable on the policy, or of any
27 policy, or agent's commission thereon, or earnings, profits, dividends,
28 or other benefits founded, arising, accruing or to accrue thereon or
29 therefrom, or any paid employment or contract for service, or for advice
30 of any kind, or any other valuable consideration or inducement to, or for
31 insurance, on any risk authorized to be taken under section 44-201 now or

1 hereafter to be written, which is not specified in the policy contract of
2 insurance. ~~No ; nor shall any~~ such company, agent, or broker, personally
3 or otherwise, shall offer, promise, give, sell or purchase any stock,
4 bonds, securities or property, or any dividends or profits accruing or to
5 accrue thereon, or other things of value whatsoever, as inducement to
6 insurance or in connection therewith, which is not specified in the
7 policy. No insured person or party shall receive or accept, directly or
8 indirectly, any rebate of premium, or part thereof, or agent's or
9 broker's commission thereon, payable on the policy, or on any policy of
10 insurance, or any favor or advantage or share in the dividends or other
11 benefits to accrue on, or any valuable consideration or inducement not
12 specified in the policy contract of insurance.

13 (2) Extending of interest-free credit on life and liability
14 insurance premiums or interest-free credit on crop hail insurance
15 premiums shall not be considered a rebate of the premium for purposes of
16 this section.

17 (3) Payments made pursuant to the Nebraska Right to Shop Act shall
18 not be considered a rebate of the premium for purposes of this section.

19 (4)(a) The offer or provision by an insurance company or an agent or
20 broker, by or through employees, affiliates, or third-party
21 representatives, of value-added products or services at no or reduced
22 cost when such products or services are not specified in the policy of
23 insurance shall not be prohibited by this section if the product or
24 service:

25 (i) Relates to the insurance coverage; and

26 (ii) Is primarily designed to satisfy one or more of the following:

27 (A) Provide loss mitigation or loss control;

28 (B) Reduce claim costs or claim settlement costs;

29 (C) Provide education about liability risks or risk of loss to
30 persons or property;

31 (D) Monitor or assess risk, identify sources of risk, or develop

1 strategies for eliminating or reducing risk;

2 (E) Enhance health;

3 (F) Enhance financial wellness through items such as education or
4 financial planning services;

5 (G) Provide post-loss services;

6 (H) Incent behavioral changes to improve the health or reduce the
7 risk of death or disability of a customer; or

8 (I) Assist in the administration of the employee or retiree benefit
9 insurance coverage.

10 (b) The cost to the insurance company or agent or broker offering
11 the product or service to any given customer shall be reasonable in
12 comparison to that customer's premiums or insurance coverage for the
13 policy class.

14 (c) If the insurance company or agent or broker is providing the
15 product or service offered, the insurance company or agent or broker
16 shall ensure that the customer is provided with contact information to
17 assist the customer with questions regarding the product or service.

18 (d) The Director of Insurance may adopt and promulgate rules and
19 regulations when implementing the permitted practices set forth in this
20 subsection to ensure consumer protection. Such rules and regulations,
21 consistent with applicable law, may address, among other issues, consumer
22 data protections and privacy, consumer disclosure, and unfair
23 discrimination.

24 (e) The availability of the value-added product or service shall be
25 based on documented objective criteria and offered in a manner that is
26 not unfairly discriminatory. The documented criteria shall be maintained
27 by the insurance company or agent or broker and produced upon request by
28 the Department of Insurance.

29 (f) If an insurance company or agent or broker does not have
30 sufficient evidence, but has a good-faith belief that the product or
31 service will achieve the purpose for which such product or service was

1 primarily designed under subdivision (4)(a)(ii) of this section, the
2 insurance company or agent or broker may provide the product or service
3 in a manner that is not unfairly discriminatory as part of a pilot or
4 testing program for no more than one year. An insurance company or an
5 agent or broker shall notify the Department of Insurance of any such
6 pilot or testing program offered to consumers in this state prior to
7 launching such pilot or testing program and may proceed with the program
8 unless the department objects within twenty-one days of such notice.

9 (5) Notwithstanding the other provisions of this section, an
10 insurance company or an agent or broker may:

11 (a) Offer or give noncash gifts, items, or services, including meals
12 to or charitable donations on behalf of a customer, in connection with
13 the marketing, sale, purchase, or retention of contracts of insurance, as
14 long as the cost does not exceed an amount determined to be reasonable by
15 the Director of Insurance, per policy year per term. The offer shall be
16 made in a manner that is not unfairly discriminatory. The customer shall
17 not be required to purchase, continue to purchase, or renew a policy in
18 exchange for the gift, item, or service; and

19 (b) Conduct drawings or raffles to the extent permitted by state
20 law, as long as there is no financial cost to entrants to participate,
21 the drawing or raffle does not obligate participants to purchase
22 insurance, the prizes are not valued in excess of a reasonable amount
23 determined by the Director of Insurance, and the drawing or raffle is
24 open to the public. The drawing or raffle must be offered in a manner
25 that is not unfairly discriminatory. The customer shall not be required
26 to purchase, continue to purchase, or renew a policy in order to
27 participate in the drawing or raffle or in exchange for the drawing or
28 raffle prize.

29 (6) For purposes of subsections (4) and (5) of this section,
30 customer means a policyholder, potential policyholder, certificate
31 holder, potential certificate holder, insured, potential insured, or

1 applicant.

2 Sec. 20. Section 44-7,102, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 44-7,102 (1) Notwithstanding section 44-3,131, (a) any individual or
5 group sickness and accident insurance policy, certificate, or subscriber
6 contract delivered, issued for delivery, or renewed in this state and any
7 hospital, medical, or surgical expense-incurred policy, except for short-
8 term major medical policies of six months or less duration and policies
9 that provide coverage for a specified disease or other limited-benefit
10 coverage, and (b) any self-funded employee benefit plan to the extent not
11 preempted by federal law shall include screening coverage for a
12 colorectal cancer examination and laboratory tests for cancer for any
13 nonsymptomatic person forty-five ~~forty-five~~ fifty years of age or ~~and~~ older covered
14 under such policy, certificate, contract, or plan. Such screening
15 coverage shall include a maximum of one screening fecal occult blood test
16 annually and a flexible sigmoidoscopy every five years, a colonoscopy
17 every ten years, or a barium enema every five to ten years, or any
18 combination, or the most reliable, medically recognized screening test
19 available. The screenings selected shall be as deemed appropriate by a
20 health care provider and the patient.

21 (2) This section does not prevent application of deductible or
22 copayment provisions contained in the policy, certificate, contract, or
23 employee benefit plan or require that such coverage be extended to any
24 other procedures.

25 Sec. 21. Section 44-2121, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 44-2121 For purposes of the Insurance Holding Company System Act:

28 (1) An affiliate of, or person affiliated with, a specific person
29 means a person that directly, or indirectly through one or more
30 intermediaries, controls, is controlled by, or is under common control
31 with the person specified;

1 (2) Control, including controlling, controlled by, and under common
2 control with, means the possession, direct or indirect, of the power to
3 direct or cause the direction of the management and policies of a person,
4 whether through the ownership of voting securities, by contract other
5 than a commercial contract for goods or nonmanagement services, or
6 otherwise, unless the power is the result of an official position with or
7 corporate office held by the person. Control is presumed to exist if any
8 person, directly or indirectly, owns, controls, holds with the power to
9 vote, or holds proxies representing ten percent or more of the voting
10 securities of any other person. This presumption may be rebutted by a
11 showing made in the manner provided by subsection (11) of section 44-2132
12 that control does not exist in fact. The director may determine, after
13 furnishing all persons in interest notice and opportunity to be heard and
14 making specific findings of fact to support such determination, that
15 control exists in fact, notwithstanding the absence of a presumption to
16 that effect;

17 (3) Director means the Director of Insurance;

18 (4) Director or commissioner of the lead state means the director or
19 commissioner of insurance in the lead state for the insurance holding
20 company system as determined by the procedures within the Financial
21 Analysis Handbook adopted by the National Association of Insurance
22 Commissioners;

23 ~~(5)~~ (4) Enterprise risk means any activity, circumstance, event, or
24 series of events involving one or more affiliates of an insurer that, if
25 not remedied promptly, is likely to have a material adverse effect upon
26 the financial condition or liquidity of the insurer or its insurance
27 holding company system as a whole, including, but not limited to,
28 anything that would cause the insurer's risk-based capital to fall into
29 company action level as set forth in section 44-6011 or would cause the
30 insurer to be in hazardous financial condition as defined by rule and
31 regulation adopted and promulgated by the director to define standards

1 for companies deemed to be in hazardous financial condition;

2 (6) Group capital calculation instructions means the group capital
3 calculation instructions as adopted by the National Association of
4 Insurance Commissioners and amended from time to time in accordance with
5 its adopted procedures;

6 (7) (5) Group-wide supervisor means the chief insurance regulatory
7 official, including the director, who (a) is authorized to conduct and
8 coordinate group-wide supervision activities of an international
9 insurance group and (b) is from the jurisdiction determined or
10 acknowledged by the director under section 44-2155 to have sufficient
11 contacts with the international insurance group;

12 (8) (6) An insurance holding company system shall consist of two or
13 more affiliated persons, one or more of which is an insurer;

14 (9) (7) Insurer has the same meaning as in section 44-103, except
15 that insurer does not include agencies, authorities, or instrumentalities
16 of the United States, its possessions and territories, the Commonwealth
17 of Puerto Rico, the District of Columbia, or a state or political
18 subdivision of a state;

19 (10) (8) International insurance group means an insurance holding
20 company system that has been determined by the director to be an
21 international insurance group under section 44-2154;

22 (11) NAIC Liquidity Stress Test Framework means a separate
23 publication of the National Association of Insurance Commissioners which
24 includes a history of the National Association of Insurance
25 Commissioners' development of regulatory liquidity stress testing, the
26 scope criteria applicable for a specific data year, and the liquidity
27 stress test instructions and reporting templates for a specific data
28 year;

29 (12) (9) Person means an individual, a corporation, a partnership, a
30 limited partnership, an association, a joint-stock company, a trust, an
31 unincorporated organization, any similar entity, or any combination of

1 such entities acting in concert but does not include any joint-venture
2 partnership exclusively engaged in owning, managing, leasing, or
3 developing real or tangible personal property;

4 (13) Scope criteria means, as detailed in the NAIC Liquidity Stress
5 Test Framework, the designated exposure bases along with minimum
6 magnitudes thereof for the specified data year, used to establish a
7 preliminary list of insurers considered scoped into the NAIC Liquidity
8 Stress Test Framework for such data year;

9 (14) (10) Security holder of a specified person means one who owns
10 any security of such person, including common stock, preferred stock,
11 debt obligations, and any other security convertible into or evidencing
12 the right to acquire any such stock or obligations;

13 (15) (11) Subsidiary of a specified person means an affiliate
14 controlled by such person directly or indirectly through one or more
15 intermediaries; and

16 (16) (12) Voting security includes any security convertible into or
17 evidencing a right to acquire a voting security.

18 Sec. 22. Section 44-2132, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 44-2132 (1) Every insurer which is authorized to do business in this
21 state and which is a member of an insurance holding company system shall
22 register with the director, except that registration shall not be
23 required for a foreign insurer subject to registration requirements and
24 standards adopted by statute or regulation in the jurisdiction of its
25 domicile which are substantially similar to those contained in this
26 section, subsection (1) of section 44-2133, sections 44-2134 and 44-2136,
27 and either subsection (2) of section 44-2133 or a provision such as the
28 following: Each registered insurer shall keep current the information
29 required to be disclosed in its registration statement by reporting all
30 material changes or additions within fifteen days after the end of the
31 month in which it learns of each such change or addition. Any insurer

1 which is subject to registration under this section shall register within
2 fifteen days after it becomes subject to registration and annually
3 thereafter by May 1 of each year for the previous calendar year unless
4 the director for good cause shown extends the time for such initial or
5 annual registration and then within such extended time. The director may
6 require any insurer which is authorized to do business in the state,
7 which is a member of an insurance holding company system, and which is
8 not subject to registration under this section to furnish a copy of the
9 registration statement, the summary specified in subsection (3) of this
10 section, or other information filed by such insurer with the insurance
11 regulatory authority of its domiciliary jurisdiction.

12 (2) Every insurer subject to registration shall file the
13 registration statement with the director on a form and in a format
14 prescribed by the National Association of Insurance Commissioners which
15 shall contain the following current information:

16 (a) The capital structure, general financial condition, ownership,
17 and management of the insurer and any person controlling the insurer;

18 (b) The identity and relationship of every member of the insurance
19 holding company system;

20 (c) The following agreements in force and transactions currently
21 outstanding or which have occurred during the last calendar year between
22 such insurer and its affiliates:

23 (i) Loans, other investments, or purchases, sales, or exchanges of
24 securities of the affiliates by the insurer or of the insurer by its
25 affiliates;

26 (ii) Purchases, sales, or exchanges of assets;

27 (iii) Transactions not in the ordinary course of business;

28 (iv) Guarantees or undertakings for the benefit of an affiliate
29 which result in an actual contingent exposure of the insurer's assets to
30 liability, other than insurance contracts entered into in the ordinary
31 course of the insurer's business;

1 (v) All management agreements, service contracts, and cost-sharing
2 arrangements;

3 (vi) Reinsurance agreements;

4 (vii) Dividends and other distributions to shareholders; and

5 (viii) Consolidated tax allocation agreements;

6 (d) Any pledge of the insurer's stock, including stock of any
7 subsidiary or controlling affiliate, for a loan made to any member of the
8 insurance holding company system;

9 (e) If requested by the director, the insurer shall include
10 financial statements of or within an insurance holding company system,
11 including all affiliates. Financial statements may include, but are not
12 limited to, annual audited financial statements filed with the Securities
13 and Exchange Commission pursuant to the Securities Act of 1933, as
14 amended, or the Securities Exchange Act of 1934, as amended. An insurer
15 required to file financial statements pursuant to this subdivision may
16 satisfy the request by providing the director with the most recently
17 filed parent corporation financial statements that have been filed with
18 the Securities and Exchange Commission;

19 (f) Statements that show that the insurer's board of directors
20 oversees corporate governance and internal controls and that the
21 insurer's officers or senior management have approved, implemented, and
22 continue to maintain and monitor corporate governance and internal
23 control procedures;

24 (g) Other matters concerning transactions between registered
25 insurers and any affiliates as may be included from time to time in any
26 registration forms adopted or approved by the director; and

27 (h) Any other information required by rules and regulations which
28 the director may adopt and promulgate.

29 (3) All registration statements shall contain a summary outlining
30 all items in the current registration statement representing changes from
31 the prior registration statement.

1 (4) It shall not be necessary to disclose on the registration
2 statement information which is not material for the purposes of this
3 section. Unless the director by rule, regulation, or order provides
4 otherwise, sales, purchases, exchanges, loans, or extensions of credit,
5 investments, or guarantees involving one-half of one percent or less of
6 an insurer's admitted assets as of December 31 next preceding shall not
7 be deemed material for purposes of this section. Such exclusion from the
8 definition of material shall not apply for purposes of group capital
9 calculation instructions or the NAIC Liquidity Stress Test Framework.

10 (5) Subject to the requirements of section 44-2134, each registered
11 insurer shall give notice to the director of all dividends and other
12 distributions to shareholders within five business days following the
13 declaration thereof and shall not pay any such dividends or other
14 distributions to shareholders within ten business days following receipt
15 of such notice by the director unless for good cause shown the director
16 has approved such payment within such ten-business-day period.

17 (6) Any person within an insurance holding company system subject to
18 registration shall be required to provide complete and accurate
19 information to an insurer when such information is reasonably necessary
20 to enable the insurer to comply with the Insurance Holding Company System
21 Act.

22 (7) The director shall terminate the registration of any insurer
23 which demonstrates that it no longer is a member of an insurance holding
24 company system.

25 (8) The director may require or allow two or more affiliated
26 insurers subject to registration under this section to file a
27 consolidated registration statement.

28 (9) The director may allow an insurer which is authorized to do
29 business in this state and which is part of an insurance holding company
30 system to register on behalf of any affiliated insurer which is required
31 to register under subsection (1) of this section and to file all

1 information and material required to be filed under this section.

2 (10) This section shall not apply to any insurer, information, or
3 transaction if and to the extent that the director by rule, regulation,
4 or order exempts the same from this section.

5 (11) Any person may file with the director a disclaimer of
6 affiliation with any authorized insurer or such a disclaimer may be filed
7 by such insurer or any member of an insurance holding company system. The
8 disclaimer shall fully disclose all material relationships and bases for
9 affiliation between such person and such insurer as well as the basis for
10 disclaiming such affiliation. A disclaimer of affiliation shall be deemed
11 to have been granted unless the director, within thirty days after
12 receipt of a complete disclaimer, notifies the filing party that the
13 disclaimer is disallowed. If the disclaimer is disallowed, the
14 disclaiming party may request and shall be entitled to an administrative
15 hearing. The disclaiming party shall be relieved of its duty to register
16 under this section if approval of the disclaimer has been granted by the
17 director or if the disclaimer is deemed to have been approved.

18 (12) The ultimate controlling person of every insurer subject to
19 registration shall also file an annual enterprise risk report. The report
20 shall, to the best of the ultimate controlling person's knowledge and
21 belief, identify the material risks within the insurance holding company
22 system that could pose enterprise risk to the insurer. The report shall
23 be filed with the ~~lead state~~ director or commissioner of the lead state
24 ~~insurance holding company system as determined by the procedures within~~
25 ~~the Financial Analysis Handbook adopted by the National Association of~~
26 ~~Insurance Commissioners.~~

27 (13)(a) Except as otherwise provided in this section, the ultimate
28 controlling person of every insurer subject to registration shall
29 concurrently file with the registration an annual group capital
30 calculation as directed by the director or commissioner of the lead
31 state. The annual group capital calculation shall be completed in

1 accordance with the group capital calculation instructions, which may
2 permit the director or commissioner of the lead state to allow a
3 controlling person that is not the ultimate controlling person to file
4 the annual group capital calculation. The annual group capital
5 calculation shall be filed with the director or commissioner of the lead
6 state. The following insurance holding company systems shall be exempt
7 from filing an annual group capital calculation:

8 (i) An insurance holding company system that has only one insurer
9 within its holding company structure, only writes business and is only
10 licensed in its domestic state, and assumes no business from any other
11 insurer;

12 (ii) An insurance holding company system that is required to perform
13 a group capital calculation specified by the Federal Reserve Board. The
14 director or commissioner of the lead state shall request the calculation
15 from the Federal Reserve Board under the terms of information-sharing
16 agreements in effect. If the Federal Reserve Board cannot share the
17 calculation with the director or commissioner of the lead state, the
18 insurance holding company system is not exempt from the annual group
19 capital calculation filing requirement;

20 (iii) An insurance holding company system whose non-United-States
21 group-wide supervisor is located within a reciprocal jurisdiction as
22 described in subdivision (7)(a)(i) of section 44-416.06 that recognizes
23 the state regulatory approach to group supervision and group capital of
24 the United States; and

25 (iv) An insurance holding company system:

26 (A) That provides information to the director or commissioner of the
27 lead state that meets the requirements for accreditation under the
28 financial standards and accreditation program of the National Association
29 of Insurance Commissioners, either directly or indirectly through the
30 group-wide supervisor, who has determined such information is
31 satisfactory to allow the director or commissioner of the lead state to

1 comply with the group supervision approach of the National Association of
2 Insurance Commissioners, as detailed in the Financial Analysis Handbook
3 of the National Association of Insurance Commissioners; and

4 (B) Whose non-United-States group-wide supervisor, that is not in a
5 reciprocal jurisdiction, recognizes and accepts, as provided in
6 subsection (15) of this section, the group capital calculation as the
7 worldwide group capital assessment for United States' insurance groups
8 who operate in that jurisdiction.

9 (b) Notwithstanding subdivisions (13)(a)(iii) and (iv) of this
10 section, the director or commissioner of the lead state shall require the
11 filing of the annual group capital calculation for the United States
12 operations of any non-United-States-based insurance holding company
13 system if, after any necessary consultation with other supervisors or
14 officials, it is deemed appropriate by the director or commissioner of
15 the lead state for prudential oversight and solvency monitoring purposes
16 or for ensuring the competitiveness of the insurance marketplace.

17 (c) Notwithstanding the exemptions from filing the annual group
18 capital calculation stated in subdivisions (13)(a)(i) through (iv) of
19 this section, the director or commissioner of the lead state has the
20 discretion to exempt the ultimate controlling person from filing the
21 annual group capital calculation or to accept a limited group capital
22 filing in accordance with subsection (14) of this section.

23 (d) If the director or commissioner of the lead state determines
24 that an insurance holding company system no longer meets one or more of
25 the requirements for an exemption from filing the annual group capital
26 calculation under this subsection, the insurance holding company system
27 shall file the annual group capital calculation at the next annual filing
28 date unless given an extension by the director or commissioner of the
29 lead state based on reasonable grounds shown.

30 (14)(a) The director or commissioner of the lead state has the
31 discretion to exempt the ultimate controlling person from filing the

1 annual group capital calculation if the director or commissioner of the
2 lead state determines that:

3 (i) The holding company system has annual direct written and
4 unaffiliated assumed premium, including international direct and assumed
5 premium, but excluding premiums reinsured with the Federal Crop Insurance
6 Corporation and the national flood insurance program, of less than one
7 billion dollars;

8 (ii) The holding company system has no insurers within its holding
9 company structure that are domiciled outside of the United States or one
10 of its territories;

11 (iii) The holding company system has no banking, depository, or
12 other financial entity that is subject to an identified regulatory
13 capital framework within its holding company structure;

14 (iv) The holding company system attests that there are no material
15 changes in the transactions between insurers and noninsurers in the
16 group; and

17 (v) The noninsurers within the holding company system do not pose a
18 material financial risk to the insurer's ability to honor policyholder
19 obligations.

20 (b) The director or commissioner of the lead state has the
21 discretion to accept, in lieu of the group capital calculation, a limited
22 group capital filing if the holding company system:

23 (i) Has annual direct written and unaffiliated assumed premium,
24 including international direct and assumed premium, but excluding
25 premiums reinsured with the Federal Crop Insurance Corporation and the
26 national flood insurance program, of less than one billion dollars;

27 (ii) Has no insurers within its holding company structure that are
28 domiciled outside of the United States or one of its territories;

29 (iii) Does not include a banking, depository, or other financial
30 entity that is subject to an identified regulatory capital framework; and

31 (iv) Attests that there are no material changes in transactions

1 between insurers and noninsurers in the group that have occurred and the
2 noninsurers within the holding company system do not pose a material
3 financial risk to the insurers ability to honor policyholder obligations.

4 (c) For an insurance holding company that has previously met an
5 exemption with respect to the group capital calculation pursuant to
6 subdivisions (14)(a) and (b) of this section, the director or
7 commissioner of the lead state may require, at any time, the ultimate
8 controlling person to file an annual group capital calculation, completed
9 in accordance with the group capital calculation instructions, if:

10 (i) Any insurer within the insurance holding company system is in a
11 risk-based capital company action level event as set forth in section
12 44-6016 or a similar standard for a non-United-States insurer;

13 (ii) Any insurer within the insurance holding company system meets
14 one or more of the standards of an insurer deemed to be in hazardous
15 financial condition as defined by rule and regulation adopted and
16 promulgated by the director to define standards for companies deemed to
17 be in hazardous financial condition; or

18 (iii) Any insurer within the insurance holding company system
19 otherwise exhibits qualities of a troubled insurer as determined by the
20 director or commissioner of the lead state based on unique circumstances,
21 including, but not limited to, the type and volume of business written,
22 ownership and organizational structure, federal agency requests, and
23 international supervisor requests.

24 (15) A non-United-States jurisdiction is considered to recognize and
25 accept the group capital calculation if:

26 (a) For annual group capital calculations under subdivision (13)(a)
27 (iv) of this section:

28 (i) The non-United-States jurisdiction recognizes the United States
29 state regulatory approach to group supervision and group capital by
30 providing confirmation by a competent regulatory authority in such
31 jurisdiction that insurers and insurance groups whose lead state is

1 accredited by the National Association of Insurance Commissioners under
2 its accreditation program shall be subject only to worldwide prudential
3 insurance group supervision including worldwide group governance,
4 solvency and capital, and reporting, as applicable, by the lead state and
5 will not be subject to group supervision, including worldwide group
6 governance, solvency and capital, and reporting, at the level of the
7 worldwide parent undertaking of the insurance or reinsurance group by the
8 non-United-States jurisdiction; or

9 (ii) The non-United-States jurisdiction, if such jurisdiction has no
10 United States insurance groups operating in such jurisdiction, indicates
11 formally in writing to the lead state with a copy to the International
12 Association of Insurance Supervisors that the group capital calculation
13 is an acceptable international capital standard. Such writing will serve
14 as the documentation otherwise required in subdivision (15)(a)(i) of this
15 section; or

16 (b) The non-United-States jurisdiction provides confirmation by a
17 competent regulatory authority in such jurisdiction that information
18 regarding insurers and their parent, subsidiary, or affiliated entities,
19 if applicable, shall be provided to the director or commissioner of the
20 lead state in accordance with a memorandum of understanding or similar
21 document between the director and such jurisdiction, including, but not
22 limited to, the International Association of Insurance Supervisors
23 Multilateral Memorandum of Understanding or other multilateral memoranda
24 of understanding coordinated by the National Association of Insurance
25 Commissioners. The director shall determine, in consultation with the
26 National Association of Insurance Commissioners, if the requirements of
27 the information-sharing agreements are in force.

28 (16)(a) A list of non-United-States jurisdictions that recognize and
29 accept the group capital calculation shall be published through the
30 National Association of Insurance Commissioners committee process.

31 (b) A list of jurisdictions that recognize and accept the group

1 capital calculation pursuant to subdivision (13)(a)(iv) of this section
2 shall be published in accordance with the National Association of
3 Insurance Commissioners committee process to assist the director or
4 commissioner of the lead state in determining which insurers shall file
5 an annual group capital calculation. The list will clarify those
6 situations in which a jurisdiction is exempt from filing under
7 subdivision (13)(a)(iv) of this section. To assist with a determination
8 under subdivision (13)(b) of this section, the list will also identify
9 whether a jurisdiction that is exempt under subdivision (13)(a)(iii) or
10 (iv) of this section requires a group capital filing for any United-
11 States-based insurance group's operations in that non-United-States
12 jurisdiction.

13 (c) For a non-United-States jurisdiction where no United States
14 insurance groups operate, the confirmation provided to meet the
15 requirement of subdivision (15)(a)(ii) of this section will serve as
16 support for a recommendation that such non-United-States jurisdiction be
17 published as a jurisdiction that recognizes and accepts the group capital
18 calculation through the National Association of Insurance Commissioners
19 committee process.

20 (d) If the director or commissioner of the lead state makes a
21 determination pursuant to subdivision (13)(a)(iv) of this section that
22 differs from the National Association of Insurance Commissioners list,
23 the director or commissioner of the lead state shall provide thoroughly
24 documented justification to the National Association of Insurance
25 Commissioners and other states.

26 (e) Upon determination by the director or commissioner of the lead
27 state that a non-United-States jurisdiction no longer meets one or more
28 of the requirements to recognize and accept the group capital
29 calculation, the director or commissioner of the lead state may provide a
30 recommendation to the National Association of Insurance Commissioners
31 that the non-United-States jurisdiction be removed from the list of

1 jurisdictions that recognize and accept the group capital calculation.

2 (17)(a) The ultimate controlling person of every insurer that is
3 subject to registration and scoped into the NAIC Liquidity Stress Test
4 Framework shall file the results of a specific data year's liquidity
5 stress test. The filing shall be made to the director or commissioner of
6 the lead state.

7 (b) The NAIC Liquidity Stress Test Framework includes scope criteria
8 applicable to a specific data year. These scope criteria are reviewed at
9 least annually by the Financial Stability Task Force of the National
10 Association of Insurance Commissioners or any successor to the task
11 force. Any change to the NAIC Liquidity Stress Test Framework or to the
12 data year for which the scope criteria are to be measured shall be
13 effective on January 1 following the calendar year when such changes are
14 adopted. Insurers meeting at least one threshold of the scope criteria
15 shall be considered scoped into the NAIC Liquidity Stress Test Framework
16 for the specified data year unless the director or commissioner of the
17 lead state, in consultation with the Financial Stability Task Force of
18 the National Association of Insurance Commissioners or any successor to
19 the task force, determines the insurer should not be scoped into the
20 framework for such data year. Similarly, insurers that do not meet at
21 least one threshold of the scope criteria shall be considered scoped out
22 of the NAIC Liquidity Stress Test Framework for the specified data year
23 unless the director or commissioner of the lead state, in consultation
24 with the Financial Stability Task Force or any successor to the task
25 force, determines the insurer should be scoped into the framework for
26 that data year.

27 (c) In order for regulators to avoid having insurers scoped in and
28 out of the NAIC Liquidity Stress Test Framework on a frequent basis, the
29 director or commissioner of the lead state, in consultation with the
30 Financial Stability Task Force or any successor to the task force, shall
31 assess this concern as part of the determination for an insurer.

1 (d) The performance of, and filing of the results from, a liquidity
2 stress test for a specific data year shall comply with the instructions
3 and reporting templates for the NAIC Liquidity Stress Test Framework for
4 such data year and any determinations made by the director or
5 commissioner of the lead state, in consultation with the Financial
6 Stability Task Force or any successor to the task force, provided within
7 the NAIC Liquidity Stress Test Framework.

8 (18) (13) The failure to file a registration statement or any
9 summary of the registration statement thereto or enterprise risk report
10 required by this section within the time specified for such filing shall
11 be a violation of this section.

12 Sec. 23. Section 44-2138, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 44-2138 (1)(a) (1) All information, documents, and copies thereof
15 obtained by or disclosed to the director or any other person in the
16 course of an examination or investigation made pursuant to section
17 44-2137 and all information reported or provided to the director pursuant
18 to sections 44-2132 to 44-2136 and 44-2155 shall be recognized by this
19 state as being proprietary and containing trade secrets, shall be given
20 confidential treatment, shall not be subject to subpoena, and shall not
21 be made public by the director, the National Association of Insurance
22 Commissioners and its affiliates and subsidiaries, or any other person,
23 except to other state, federal, foreign, and international regulatory and
24 law enforcement agencies if the recipient agrees in writing to maintain
25 the confidentiality of the information, without the prior written consent
26 of the insurer to which it pertains unless the director, after giving the
27 insurer and its affiliates who would be affected thereby notice and
28 opportunity to be heard, determines that the interest of policyholders,
29 shareholders, or the public will be served by the publication thereof, in
30 which event he or she may publish all or any part thereof in such manner
31 as he or she may deem appropriate.

1 (b) For purposes of the information filed with the Director of
2 Insurance pursuant to subsection (13) of section 44-2132, the director
3 shall maintain the confidentiality of the annual group capital
4 calculation and group capital ratio produced within the calculation and
5 any group capital information received from an insurance holding company
6 supervised by the Federal Reserve Board or by any United States group-
7 wide supervisor.

8 (c) For purposes of the information filed with the Director of
9 Insurance pursuant to subsection (17) of section 44-2132, the director
10 shall maintain the confidentiality of the liquidity stress test results
11 and supporting disclosures and any liquidity stress test information
12 received from an insurance holding company supervised by the Federal
13 Reserve Board and non-United-States group-wide supervisors.

14 (2) The director may receive information, documents, and copies of
15 information and documents, including proprietary and trade secret
16 information, disclosed to other state, federal, foreign, or international
17 regulatory and law enforcement agencies and from the National Association
18 of Insurance Commissioners and its affiliates and subsidiaries pursuant
19 to an examination of an insurance holding company system. The director
20 shall maintain information, documents, and copies of information and
21 documents received pursuant to this subsection as confidential or
22 privileged if received with notice or the understanding that it is
23 confidential or privileged under the laws of the jurisdiction that is the
24 source of the information. Such information shall not be a public record
25 subject to disclosure by the director pursuant to sections 84-712 to
26 84-712.09, subject to subpoena, subject to discovery, or admissible in
27 evidence in any private civil action, except that the director may use
28 such information in any regulatory or legal action brought by the
29 director. The director, and any other person while acting under the
30 authority of the director who has received information pursuant to this
31 subsection, may not, and shall not be required to, testify in any private

1 civil action concerning any information subject to this section. Nothing
2 in this section shall constitute a waiver of any applicable privilege or
3 claim of confidentiality in the information received pursuant to this
4 subsection as a result of information sharing authorized by this section.

5 (3) In order to assist in the performance of the director's duties,
6 the director may share information, including any proprietary or trade
7 secret document or material, with state, federal, and international
8 regulatory agencies, with the National Association of Insurance
9 Commissioners, with any third-party consultant designated by the
10 director, and with ~~and its affiliates and subsidiaries~~, state, federal,
11 and international law enforcement authorities, including members of any
12 supervisory college described in section 44-2137.01, with the
13 International Association of Insurance Supervisors, and with the Bank for
14 International Settlements under the conditions set forth in section
15 44-154 if the recipient agrees in writing to maintain the confidentiality
16 and privileged status of the document, material, or ~~other~~ information and
17 has verified in writing the legal authority to maintain confidentiality.
18 The director may only share any confidential and privileged document
19 documents, material, or information filed ~~reported~~ pursuant to subsection
20 (12) of section 44-2132 with directors or commissioners of states having
21 statutes or regulations substantially similar to subsection (1) of this
22 section and who have agreed in writing not to disclose such document,
23 material, or information.

24 (4) The director shall enter into written agreements with the
25 National Association of Insurance Commissioners and any third-party
26 consultant designated by the director governing sharing and use of any
27 document, material, or information provided pursuant to this section that
28 shall:

29 (a) Specify procedures and protocols regarding the confidentiality
30 and security of information shared with the National Association of
31 Insurance Commissioners or any third-party consultant designated by the

1 ~~director and its affiliates and subsidiaries~~ pursuant to this section,
2 including procedures and protocols for sharing by the association or any
3 third-party consultant designated by the director with other state,
4 federal, or international regulators. The agreement shall provide that
5 the recipient agrees in writing to maintain the confidentiality and
6 privileged status of any such document, material, or information and has
7 verified in writing the legal authority to maintain such confidentiality;

8 (b) Specify that ownership of any document, material, or information
9 shared with the National Association of Insurance Commissioners or any
10 third-party consultant designated by the director ~~and its affiliates and~~
11 ~~subsidiaries~~ pursuant to this section remains with the director and the
12 association's use of any document, material, or the information by the
13 association or any third-party consultant designated by the director is
14 subject to the direction of the director;

15 (c) Prohibit the National Association of Insurance Commissioners or
16 any third-party consultant designated by the director from storing any
17 document, material, or information shared pursuant to this section in a
18 permanent database after the underlying analysis is completed. This
19 subdivision does not apply to any document, material, or information
20 filed pursuant to subsection (17) of section 44-2132;

21 (d) ~~(c)~~ Require prompt notice to be given to an insurer whose
22 confidential document, material, or information in the possession of the
23 National Association of Insurance Commissioners or any third-party
24 consultant designated by the director pursuant to this section is subject
25 to a request or subpoena to the association or any third-party consultant
26 designated by the director for disclosure or production; ~~and~~

27 (e) ~~(d)~~ Require the National Association of Insurance Commissioners
28 or any third-party consultant designated by the director ~~and its~~
29 ~~affiliates and subsidiaries~~ to consent to intervention by an insurer in
30 any judicial or administrative action in which the association or any
31 third-party consultant designated by the director ~~and its affiliates and~~

1 ~~subsidiaries~~ may be required to disclose confidential information about
2 the insurer shared with the association or any third-party consultant
3 designated by the director and ~~its affiliates and subsidiaries~~ pursuant
4 to this section; and -

5 (f) For any document, material, or information filed pursuant to
6 subsection (17) of section 44-2132, in the case of an agreement involving
7 any third-party consultant designated by the director, provide for
8 notification to the applicable insurers of the identity of such third-
9 party consultant.

10 (5) The sharing of any document, material, or information by the
11 director pursuant to this section shall not constitute a delegation of
12 regulatory authority or rulemaking, and the director is solely
13 responsible for the administration, execution, and enforcement of this
14 section.

15 (6) No waiver of any applicable privilege or claim of
16 confidentiality in any document, material ~~the documents, materials,~~ or
17 information shall occur as a result of disclosure to the director under
18 this section or as a result of sharing as authorized by this section.

19 (7) Any document, material ~~Documents, materials,~~ or other
20 information in the possession or control of the National Association of
21 Insurance Commissioners or any third-party consultant designated by the
22 director pursuant to this section shall be confidential and privileged,
23 shall not be subject to public disclosure under section 84-712, shall not
24 be subject to subpoena, and shall not be subject to discovery or
25 admissible as evidence in any private civil action.

26 (8) The annual group capital calculation and resulting group capital
27 ratio required under subsection (13) of section 44-2132 and the liquidity
28 stress test along with its results and supporting disclosures required
29 under subsection (17) of section 44-2132 shall be considered regulatory
30 tools for assessing group risks and capital adequacy and group liquidity
31 risks, respectively, and shall not be used as a means to rank insurers or

1 insurance holding company systems. Except as otherwise may be required
2 under the Insurance Holding Company System Act, it is unlawful to make,
3 publish, disseminate, circulate, place before the public, or cause
4 directly or indirectly to be made, published, disseminated, circulated,
5 or placed before the public in a newspaper, magazine, or other
6 publication, or in the form of a notice, circular, pamphlet, letter, or
7 poster, or over any radio or television station or any electronic means
8 of communication available to the public, or in any other way as an
9 advertisement, announcement, or statement containing a representation or
10 statement with regard to the annual group capital calculation, the group
11 capital ratio, the liquidity stress test results, or supporting
12 disclosures for the liquidity stress test of any insurer or any insurer
13 group, or of any component derived in the calculation by any insurer,
14 broker, or other person engaged in any manner in the insurance business,
15 except that if any materially false statement with respect to the annual
16 group capital calculation, the resulting group capital ratio, an
17 inappropriate comparison of any amount to an insurer's or insurance
18 group's annual group capital calculation or resulting group capital
19 ratio, liquidity stress test result, supporting disclosures for the
20 liquidity stress test, or an inappropriate comparison of any amount to an
21 insurer's or insurance group's liquidity stress test result or supporting
22 disclosures is published in any written publication and the insurer is
23 able to demonstrate to the director with substantial proof the falsity of
24 such statement or the inappropriateness, as the case may be, then the
25 insurer may publish announcements in a written publication if the sole
26 purpose of the announcement is to rebut the materially false statement.

27 Sec. 24. Section 44-4052, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 44-4052 (1) A resident individual applying for an insurance producer
30 license shall pass a written examination unless exempt pursuant to
31 section 44-4056, ~~44-4068~~, or 44-4069 or subsection (4) of section 4 of

1 this act. The examination shall test the knowledge of the individual
2 concerning the lines of authority for which application is made, the
3 duties and responsibilities of an insurance producer, and the insurance
4 laws, rules, and regulations of this state. Examinations required by this
5 section shall be developed and conducted under rules and regulations
6 adopted and promulgated by the director.

7 (2) The director may make arrangements, including contracting with
8 an outside testing service, for administering examinations and collecting
9 the nonrefundable fee set forth in section 44-4064.

10 (3) Each individual applying for an examination shall remit a
11 nonrefundable fee as prescribed by the director as set forth in section
12 44-4064.

13 (4) An individual who fails to appear for the examination as
14 scheduled or fails to pass the examination shall reapply for an
15 examination and remit all required fees and forms before being
16 rescheduled for another examination.

17 Sec. 25. Section 44-5103, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 44-5103 For purposes of the Insurers Investment Act:

20 (1) Admitted assets means the investments authorized under the act
21 and stated at values at which they are permitted to be reported in the
22 insurer's financial statement filed under section 44-322, except that
23 admitted assets does not include assets of separate accounts, the
24 investments of which are not subject to the act;

25 (2) Agent means a national bank, state bank, trust company, or
26 broker-dealer that maintains an account in its name in a clearing
27 corporation or that is a member of the Federal Reserve System and through
28 which a custodian participates in a clearing corporation including the
29 Treasury/Reserve Automated Debt Entry Securities System and Treasury
30 Direct system, except that with respect to securities issued by
31 institutions organized or existing under the laws of a foreign country or

1 securities used to meet deposit requirements pursuant to the laws of a
2 foreign country as a condition of doing business therein, agent may
3 include a corporation that is organized or existing under the laws of a
4 foreign country and that is legally qualified under those laws to accept
5 custody of securities;

6 (3) Business entity means a sole proprietorship, corporation,
7 limited liability company, association, partnership, limited liability
8 partnership, joint-stock company, joint venture, mutual fund, trust,
9 joint tenancy, or other similar form of business organization, whether
10 organized for profit or not for profit;

11 (4) Clearing corporation means a clearing corporation as defined in
12 subdivision (a)(5) of section 8-102, Uniform Commercial Code, that is
13 organized for the purpose of effecting transactions in securities by
14 computerized book-entry, except that with respect to securities issued by
15 institutions organized or existing under the laws of a foreign country or
16 securities used to meet the deposit requirements pursuant to the laws of
17 a foreign country as a condition of doing business therein, clearing
18 corporation may include a corporation that is organized or existing under
19 the laws of a foreign country and which is legally qualified under those
20 laws to effect transactions in securities by computerized book-entry.
21 Clearing corporation also includes Treasury/Reserve Automated Debt Entry
22 Securities System and Treasury Direct system;

23 (5) Custodian means:

24 (a) A national bank, state bank, Federal Home Loan Bank, or trust
25 company that shall at all times during which it acts as a custodian
26 pursuant to the Insurers Investment Act be no less than adequately
27 capitalized as determined by the standards adopted by the regulator
28 charged with establishing such standards and assessing the solvency of
29 such institutions and that is regulated by federal or state banking laws
30 or the Federal Home Loan Bank Act or is a member of the Federal Reserve
31 System and that is legally qualified to accept custody of securities in

1 accordance with the standards set forth below, except that with respect
2 to securities issued by institutions organized or existing under the laws
3 of a foreign country, or securities used to meet the deposit requirements
4 pursuant to the laws of a foreign country as a condition of doing
5 business therein, custodian may include a bank or trust company
6 incorporated or organized under the laws of a country other than the
7 United States that is regulated as such by that country's government or
8 an agency thereof that shall at all times during which it acts as a
9 custodian pursuant to the Insurers Investment Act be no less than
10 adequately capitalized as determined by the standards adopted by
11 international banking authorities and that is legally qualified to accept
12 custody of securities; or

13 (b) A broker-dealer that shall be registered with and subject to
14 jurisdiction of the Securities and Exchange Commission, maintains
15 membership in the Securities Investor Protection Corporation, and has a
16 tangible net worth equal to or greater than two hundred fifty million
17 dollars;

18 (6) Custodied securities means securities held by the custodian or
19 its agent or in a clearing corporation, including the Treasury/Reserve
20 Automated Debt Entry Securities System and Treasury Direct system;

21 (7) Direct when used in connection with the term obligation means
22 that the designated obligor is primarily liable on the instrument
23 representing the obligation;

24 (8) Director means the Director of Insurance;

25 (9) Insurer is defined as provided in section 44-103, and unless the
26 context otherwise requires, insurer means domestic insurer;

27 (10) Mortgage means a consensual interest created by a real estate
28 mortgage, a trust deed on real estate, or a similar instrument;

29 (11) Obligation means a bond, debenture, note, or other evidence of
30 indebtedness or a participation, certificate, or other evidence of an
31 interest in any of the foregoing;

1 (12) Policyholders surplus means the amount obtained by subtracting
2 from the admitted assets (a) actual liabilities and (b) any and all
3 reserves which by law must be maintained. In the case of a stock insurer,
4 the policyholders surplus also includes the paid-up and issued capital
5 stock;

6 (13) Primary credit source means the credit source to which an
7 insurer looks for payment as to an investment and against which an
8 insurer has a claim for full payment;

9 (14) ~~(13)~~ Securities Valuation Office means the Securities Valuation
10 Office of the National Association of Insurance Commissioners or any
11 successor office established by the National Association of Insurance
12 Commissioners;

13 (15) ~~(14)~~ Security certificate has the same meaning as defined in
14 subdivision (a)(16) of section 8-102, Uniform Commercial Code;

15 (16) ~~(15)~~ State means any state of the United States, the District
16 of Columbia, or any territory organized by Congress;

17 (17) ~~(16)~~ Tangible net worth means shareholders equity, less
18 intangible assets, as reported in the broker-dealer's most recent Annual
19 or Transition Report pursuant to section 13 or 15(d) of the Securities
20 Exchange Act of 1934, S.E.C. Form 10-K, filed with the Securities and
21 Exchange Commission; and

22 (18) ~~(17)~~ Treasury/Reserve Automated Debt Entry Securities System
23 and Treasury Direct system mean the book-entry securities systems
24 established pursuant to 5 U.S.C. 301, 12 U.S.C. 391, and 31 U.S.C. 3101
25 et seq. The operation of the systems are subject to 31 C.F.R. part 357 et
26 seq.

27 Sec. 26. Section 44-5105, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 44-5105 (1) An insurer shall not make any investment, sale, loan, or
30 exchange, except loans on its own policies or contracts, unless
31 authorized, approved, or ratified by a majority of the members of the

1 board of directors or by a committee of its members charged by the board
2 of directors or bylaws with the duty of making such investment, sale,
3 loan, or exchange. The board of directors shall further determine by
4 formal resolution at least annually whether all investments have been
5 made in accordance with the delegations, standards, limitations, and
6 investment objectives prescribed by the board of directors or a committee
7 of the board of directors charged with the responsibility to direct its
8 investments.

9 (2) The board of directors, after reviewing and assessing the
10 insurer's technical investment and administrative capabilities and
11 expertise, shall adopt a written plan for making investments and for
12 engaging in investment practices. The plan shall specify, unless
13 otherwise authorized by the Director of Insurance, the quality, maturity,
14 and diversification of investments, including investment strategies
15 intended to assure that the investments and investment practices are
16 appropriate for the business conducted by the insurer, its liquidity
17 needs, and its capital and surplus. At least annually, the board of
18 directors or a committee of the board of directors shall review and
19 revise, as appropriate, the written plan.

20 (3) On no less than a quarterly basis, and more often if deemed
21 appropriate, the board of directors or committee of the board of
22 directors shall receive ~~;(a) Receive~~ and review a summary report on the
23 insurer's investment portfolio, investment activities, and investment
24 practices engaged in under delegated authority, in order to determine
25 whether the investment activity of the insurer is consistent with its
26 written plan. ~~;~~ ~~and~~

27 ~~(b) Review and revise, as appropriate, the written plan.~~

28 (4) The board of directors shall require that records of
29 authorizations, approvals or other documentation as the board of
30 directors may require, and reports of any action taken under authority
31 delegated under the written plan shall be made available on a regular

1 basis to the board of directors.

2 (5) The board of directors shall perform its duties in good faith
3 and with that degree of care that ordinarily prudent individuals in like
4 positions would use under similar circumstances.

5 (6) Each insurer shall maintain a record of its investments in a
6 form and manner as prescribed by the Director of Insurance. Such record
7 shall include an indication by the insurer of the provision of law under
8 which an investment is held.

9 (7) For purposes of this section, board of directors includes the
10 governing body of an insurer having authority equivalent to that of a
11 board of directors.

12 Sec. 27. Section 44-5120, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 44-5120 (1) An insurer may lend its securities if:

15 (a) The securities are created or existing under the laws of the
16 United States and, simultaneously with the delivery of the loaned
17 securities, the insurer receives collateral from the borrower consisting
18 of cash or securities backed by the full faith and credit of the United
19 States or an agency or instrumentality of the United States, except that
20 any securities provided as collateral shall not be of lesser quality than
21 the quality of the loaned securities. Any investment made by an insurer
22 with cash received as collateral for loaned securities shall be made in
23 the same kinds, classes, and investment grades as those authorized under
24 the Insurers Investment Act and in a manner that recognizes the liquidity
25 needs of the transaction or is used by the insurer for its general
26 corporate purposes. The securities provided as collateral shall have a
27 market value when the loan is made of at least one hundred two percent of
28 the market value of the loaned securities;

29 (b) The securities are created or existing under the laws of Canada
30 or are securities described in section 44-5137 and, simultaneously with
31 the delivery of the loaned securities, the insurer receives collateral

1 from the borrower consisting of cash or securities backed by the full
2 faith and credit of the foreign country, except that any securities
3 provided as collateral shall not be of lesser quality than the quality of
4 the loaned securities. Any investment made by an insurer with cash
5 received as collateral for loaned securities shall be made in the same
6 kinds, classes, and investment grades as those authorized under the
7 Insurers Investment Act and in a manner that recognizes the liquidity
8 needs of the transaction or is used by the insurer for its general
9 corporate purposes. The securities provided as collateral shall have a
10 market value when the loan is made of at least one hundred two percent of
11 the market value of the loaned securities;

12 (c) Prior to the loan, the borrower or any indemnifying party
13 furnishes the insurer with or the insurer otherwise obtains the most
14 recent financial statement of the borrower or any indemnifying party;

15 (d) The insurer receives a reasonable fee related to the market
16 value of the loaned securities and to the term of the loan;

17 (e) The loan is made pursuant to a written loan agreement; and

18 (f) The borrower is required to furnish by the close of each
19 business day during the term of the loan a report of the market value of
20 all collateral and the market value of all loaned securities as of the
21 close of trading on the previous business day. If at the close of any
22 business day the market value of the collateral for any loan outstanding
23 to a borrower is less than one hundred percent of the market value of the
24 loaned securities, the borrower shall deliver by the close of the next
25 business day an additional amount of cash or securities. The market value
26 of the additional securities, together with the market value of all
27 previously delivered collateral, shall equal at least one hundred two
28 percent of the market value of the loaned securities for that loan.

29 ~~(2) For purposes of this section, market value includes accrued~~
30 ~~interest.~~

31 ~~(2) (3)~~ An insurer shall effect securities lending only through the

1 services of a custodian bank or similar entity as approved by the
2 director.

3 ~~(3) (4)~~ An insurer's investments authorized under this section shall
4 not exceed twenty ~~ten~~ percent of its admitted assets.

5 Sec. 28. Section 44-5120.01, Reissue Revised Statutes of Nebraska,
6 is amended to read:

7 44-5120.01 (1) For purposes of this section:

8 (a) Acceptable collateral means:

9 (i) As to reverse repurchase transactions, cash, cash equivalents,
10 highly rated business entity obligations created or existing under the
11 laws of the United States or Canada, public equity securities that are
12 traded on a United States exchange, and direct obligations of, or
13 securities that are fully guaranteed as to principal and interest by, the
14 government of the United States or an agency of the government of the
15 United States or the Federal National Mortgage Association or the Federal
16 Home Loan Mortgage Corporation; and

17 (ii) As to ~~reverse~~ repurchase transactions, cash and cash
18 equivalents;

19 (b) Cash equivalents means short-term, highly rated investments or
20 securities readily convertible to known amounts of cash without penalty
21 and so near maturity that they present insignificant risk of change in
22 value. Cash equivalents includes government money market mutual funds and
23 class one money market mutual funds; ~~For purposes of this definition:~~

24 ~~(i) Short-term means investments with a remaining term to maturity~~
25 ~~of ninety days or less; and~~

26 ~~(c) (ii)~~ Highly rated means an investment with a minimum quality
27 rating as described in subdivision (2) of section 44-5112 ~~rated at least~~
28 ~~P-1 by Moody's Investors Service, Inc., A-1 by Standard and Poor's~~
29 ~~division of The McGraw Hill Companies, Inc., or its equivalent rating by~~
30 ~~a nationally recognized statistical rating organization recognized by the~~
31 ~~Securities Valuation Office;~~

1 ~~(c) Repurchase transaction means a transaction in which an insurer~~
2 ~~purchases securities from a business entity that is obligated to~~
3 ~~repurchase the purchased securities or equivalent securities from the~~
4 ~~insurer at a specified price, either within a specified period of time or~~
5 ~~upon demand; and~~

6 (d) Repurchase ~~(d) Reverse repurchase~~ transaction means a
7 transaction in which an insurer sells securities to a business entity and
8 is obligated to repurchase the sold securities or equivalent securities
9 from the business entity at a specified price, either within a specified
10 period of time or upon demand; -

11 (e) Reverse repurchase transaction means a transaction in which an
12 insurer purchases securities from a business entity that is obligated to
13 repurchase the purchased securities or equivalent securities from the
14 insurer at a specified price, either within a specified period of time or
15 upon demand; and

16 (f) Short-term means investments with a remaining term to maturity
17 of ninety days or less.

18 (2) An insurer may engage in repurchase and reverse repurchase
19 transactions as set forth in this section. The insurer shall enter into a
20 written agreement for transactions entered under this section. Such
21 agreements shall require that each transaction terminate no more than one
22 year from its inception.

23 (3) Cash received in a transaction under this section shall be
24 invested in accordance with the Insurers Investment Act and in a manner
25 that recognizes the liquidity needs of the transaction or is used by the
26 insurer for its general corporate purposes.

27 (4) So long as the transaction remains outstanding, the insurer, or
28 its agent or custodian, shall maintain as acceptable collateral received
29 in a transaction under this section, either physically or through the
30 book entry systems of the federal reserve, depository trust company,
31 participants' trust company, or other securities depositories approved by

1 the director:

2 (a) Possession of the acceptable collateral;

3 (b) A perfected security interest in the acceptable collateral; or

4 (c) In the case of a jurisdiction outside of the United States,
5 title to, or rights of a secured creditor to, the acceptable collateral.

6 (5) The limitations of sections 44-5115 and 44-5137 shall not apply
7 to the business entity counterparty exposure created by transactions
8 under this section. An insurer shall not enter into a transaction under
9 this section if, as a result of and after giving effect to the
10 transaction:

11 (a) The aggregate amount of securities then sold to or purchased
12 from any one business entity counterparty under this section would exceed
13 five percent of its admitted assets; and in calculating the amount sold
14 to or purchased from a business entity counterparty under repurchase or
15 reverse repurchase transactions, effect may be given to netting
16 provisions under a master written agreement; or

17 (b) The aggregate amount of all securities then sold to or purchased
18 from all business entities under this section would exceed twenty percent
19 of its admitted assets, and in no event shall the collateral market value
20 of all public equity securities that are traded on a United States
21 exchange received in a reverse repurchase transaction exceed more than
22 twenty percent of the total market value of collateral received in
23 reverse repurchase transactions.

24 (6)(a) In a ~~reverse~~ repurchase transaction, the insurer shall
25 receive acceptable collateral having a market value as of the transaction
26 date at least equal to ninety-five percent of the market value of the
27 securities transferred by the insurer in the transaction as of that date.
28 If at the close of any business day ~~any time~~ the market value of the
29 acceptable collateral is less than ninety-five percent of the market
30 value of the securities so transferred, the business entity counterparty
31 shall be obligated to deliver, by the close of the next business day,

1 additional acceptable collateral, the market value of which, together
2 with the market value of all acceptable collateral then held in
3 connection with the transaction, at least equals ninety-five percent of
4 the market value of the transferred securities.

5 (b) In a reverse repurchase transaction, the insurer shall receive
6 acceptable collateral having a market value at least equal to (i) one
7 hundred two percent of the purchase price paid by the insurer for
8 collateral excluding public equity securities that are traded on a United
9 States exchange or (ii) one hundred ten percent of the purchase price
10 paid by the insurer for public equity securities that are traded on a
11 United States exchange. If at the close of any business day ~~any time~~ the
12 market value of the acceptable collateral is less than one hundred
13 percent of the purchase price paid by the insurer, the business entity
14 counterparty shall be obligated to provide, by the close of the next
15 business day, additional acceptable collateral, the market value of
16 which, together with the market value of all acceptable collateral then
17 held in connection with the transaction, at least equals the applicable
18 percentage of such collateral as provided in this subdivision ~~one hundred~~
19 ~~two percent of the purchase price~~. Securities acquired by an insurer in a
20 reverse repurchase transaction shall not be sold in a ~~reverse repurchase~~
21 transaction, loaned in a securities lending transaction, or otherwise
22 pledged.

23 Sec. 29. Section 44-5132, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 44-5132 (1) An insurer may invest in a security or other instrument,
26 excluding a mutual fund, evidencing an interest in or the right to
27 receive payments from, or payable from distributions on, an asset, a pool
28 of assets, or specifically divisible cash flows which are legally
29 transferred to a special purpose bankruptcy-remote business entity
30 ~~created or existing under the laws of the United States or Canada or any~~
31 ~~state or province thereof~~, on the following conditions:

1 (a) The business entity is established solely for the purpose of
2 acquiring specific types of assets or rights to cash flows, issuing
3 securities and other instruments representing an interest in or right to
4 receive cash flows from those assets or rights, and engaging in
5 activities required to service the assets or rights and any credit
6 enhancement or support features held by the business entity; and

7 (b) The assets of the business entity consist solely of interest-
8 bearing obligations or other contractual obligations representing the
9 right to receive payment from the cash flows from the assets or rights.
10 However, the existence of credit enhancements, such as letters of credit
11 or guarantees, or other support features, shall not cause a security or
12 other instrument to be an unauthorized investment under this section.

13 (2) Investments in interest-only securities, other than those with a
14 1 designation from the Securities Valuation Office, or other instruments
15 shall not be authorized under this section.

16 (3) Any investment authorized under this section shall have a
17 minimum quality rating as described in subdivision (2) of section
18 44-5112.

19 Sec. 30. Section 44-5137, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 44-5137 (1) An insurer may invest in foreign securities or other
22 investments (a) issued in, (b) located in, (c) denominated in the
23 currency of, (d) whose ultimate payment amounts of principal or interest
24 are subject to fluctuations in the currency of, or (e) whose obligors are
25 domiciled in countries other than the United States or Canada, which are
26 substantially of the same kinds and classes as those authorized for
27 investment under the Insurers Investment Act. A security or investment
28 shall not be deemed to be foreign if the issuer or a guarantor against
29 which an insurer has a claim for payment has its principal place of
30 business or is domiciled in the United States or Canada or the primary
31 credit source is located in the United States or Canada and, in each

1 case, the insurer has a contractual right to bring an enforcement action
2 in the United States or Canada.

3 (2) Subject to the limitations in subsection (3) of this section:

4 (a) An insurer's investments authorized under subsection (1) of this
5 section in any one foreign jurisdiction whose sovereign debt has a 1
6 designation from the Securities Valuation Office shall not exceed ten
7 percent of the insurer's admitted assets;

8 (b) An insurer's investments authorized under subsection (1) of this
9 section in any one foreign jurisdiction whose sovereign debt has a 2 or 3
10 designation from the Securities Valuation Office shall not exceed five
11 percent of the insurer's admitted assets;

12 (c) An insurer's investments authorized under subsection (1) of this
13 section in any one foreign jurisdiction whose sovereign debt has a 4, 5,
14 or 6 designation from the Securities Valuation Office shall not exceed
15 three percent of the insurer's admitted assets;

16 (d) An insurer's investments authorized under subsection (1) of this
17 section denominated in any one foreign currency shall not exceed two
18 percent of the insurer's admitted assets;

19 (e) An insurer's investments authorized under subsection (1) of this
20 section denominated in foreign currencies, in the aggregate, shall not
21 exceed five percent of the insurer's admitted assets; and

22 (f) An insurer's investments authorized under subsection (1) of this
23 section shall not be considered denominated in a foreign currency if the
24 acquiring insurer enters into one or more contracts in transactions
25 permitted under section 44-5149 to exchange all payments made on the
26 foreign currency denominated investments for United States currency at a
27 rate which effectively insulates the investment cash flows against future
28 changes in currency exchange rates during the period the contract or
29 contracts are in effect.

30 (3) An insurer's investments authorized under subsection (1) of this
31 section shall not exceed, in the aggregate, twenty-five ~~twenty~~ percent of

1 its admitted assets.

2 (4) An insurer which is authorized to do business in a foreign
3 country or which has outstanding insurance, annuity, or reinsurance
4 contracts on lives or risks resident or located in a foreign country may,
5 in addition to the investments authorized by subsection (1) of this
6 section, invest in securities and investments (a) issued in, (b) located
7 in, (c) denominated in the currency of, (d) whose ultimate payment
8 amounts of principal and interest are subject to fluctuations in the
9 currency of, or (e) whose obligors are domiciled in such foreign
10 countries, which are substantially of the same kinds and classes as those
11 authorized for investment under the act.

12 (5) An insurer's investments authorized under subsection (4) of this
13 section and cash in the currency of such country which is at any time
14 held by such insurer, in the aggregate, shall not exceed the greater of
15 (a) one and one-half times the amount of its reserves and other
16 obligations under such contracts or (b) the amount which such insurer is
17 required by law to invest in such country.

18 (6) Any investment in debt obligations authorized under this section
19 shall have a minimum quality rating as described in subdivision (2) of
20 section 44-5112, except that an insurer's investment in bonds or notes
21 secured by a mortgage on real estate located outside of the United States
22 or Canada that otherwise complies with section 44-5143 shall not be
23 subject to such minimum quality rating requirements.

24 (7) An insurer's investments made under this section shall be
25 aggregated with investments of the same kinds and classes made under the
26 Insurers Investment Act except section 44-5153 for purposes of
27 determining compliance with the limitations contained in other sections.

28 Sec. 31. Section 44-5139, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 44-5139 (1) An insurer may invest in shares of a fund registered
31 under the Investment Company Act of 1940, as amended, as a diversified

1 open-end investment company and in shares, interests, or participation
2 certificates in any management type of investment trust, corporate or
3 otherwise, subject to the following restrictions:

4 (a) The investment restrictions and policies relating to the
5 investment of the assets of the trust and its activities shall be limited
6 to the same kinds, classes, and investment grades as those authorized for
7 investment under the Insurers Investment Act; and

8 (b) The assets of such investment trust shall not be less than
9 twenty million dollars at the date of purchase.

10 An insurer's investments authorized under this subsection shall not
11 exceed ten percent of its admitted assets. ~~Shares, interests, or~~
12 ~~participation certificates in trusts described in this subsection shall~~
13 ~~also be subject to the overall limitation of subsection (3) of section~~
14 ~~44-5141.~~

15 (2) An insurer may invest in the shares of a fund registered under
16 the Investment Company Act of 1940, as amended, as a diversified open-end
17 investment company when the investment restrictions and policies relating
18 to the investment of the assets of the fund and its activities are
19 limited solely to (a) obligations, (b) commitments to purchase
20 obligations, or (c) assignments of interest in obligations issued or
21 guaranteed by the United States or its agencies or instrumentalities. An
22 insurer's investments authorized under this subsection shall not exceed
23 twenty-five percent of its admitted assets.

24 Sec. 32. Section 44-5141, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 44-5141 (1) An insurer may invest in the common stock or rights to
27 purchase or sell common stock of any corporation which has retained
28 earnings of not less than one million dollars, except that an investment
29 may be made in any corporation having a majority of its operations in
30 this state which has retained earnings of not less than two hundred fifty
31 thousand dollars. The earnings of all predecessor, merged, consolidated,

1 or purchased corporations shall be included through the use of
2 consolidated or pro forma statements.

3 (2)(a) An insurer may invest in equity interests or rights to
4 purchase or sell equity interests in business entities other than general
5 partnerships unless the general partnership is wholly owned by the
6 insurer.

7 ~~(b)(i) A life insurer's investments authorized under this subsection~~
8 ~~shall not exceed fifty percent of its policyholders surplus.~~

9 (b) ~~(ii)~~ A life insurer shall not invest under this subsection in
10 any investment which the life insurer may invest in under section 44-5140
11 or 44-5144 or subsection (1) of this section.

12 ~~(3) Except as authorized under the Insurance Holding Company System~~
13 ~~Act, an insurer shall not invest in more than ten percent of the total~~
14 ~~equity interests in any business entity other than an insurer.~~

15 ~~(3) (4)~~ A life insurer's investments authorized under this section
16 shall not exceed the greater of one hundred percent of its policyholders
17 surplus or twenty percent of its admitted assets.

18 Sec. 33. Section 44-5143, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 44-5143 (1) An insurer may invest in bonds or notes secured by a
21 first mortgage on real estate in the United States or Canada if the
22 amount loaned by the insurer, together with any amount secured by an
23 equal security interest, does not exceed eighty percent of the appraised
24 value of the real estate and improvements at the time of making the
25 investment, or if the funds are used for a construction loan, the amount
26 does not exceed eighty percent of the market value of the real estate
27 together with the actual costs of improvements constructed thereon at the
28 time of final funding by the insurer. The limitation in this subsection
29 shall not:

30 (a) Apply to investments authorized under section 44-5132;

31 (b) Prohibit an insurer from renewing or extending a loan for the

1 original amount when the value of such real estate has depreciated;

2 (c) Prohibit an insurer from accepting, as part payment for real
3 estate sold by it, a mortgage thereon for more than eighty percent of the
4 purchase price of such real estate; or

5 (d) Prohibit an insurer from advancing additional loan funds to
6 protect its real estate security.

7 (2) An insurer may invest in bonds or notes secured by a first
8 mortgage on leasehold estates in ~~improved~~ real estate located in the
9 United States or Canada if:

10 (a) Such underlying real estate is unencumbered except by (i)
11 rentals to accrue therefrom to the owner of the real estate or (ii) a fee
12 mortgage, if there is an agreement from the lender secured by the fee
13 mortgage to not terminate or extinguish the leasehold interest as long as
14 the lessee is not in default;

15 (b) There is no condition or right of reentry or forfeiture under
16 which such lien can be cut off, subordinated, or otherwise disturbed so
17 long as the lessee is not in default;

18 (c) The amount loaned by the insurer, together with any amount
19 secured by an equal security interest, does not exceed eighty percent of
20 the appraised value of such leasehold with improvements at the time of
21 making the loan, or, if the funds are used for a construction loan, the
22 amount loaned does not exceed eighty percent of the market value of the
23 leasehold estate together with the actual costs of improvements
24 constructed thereon at the time of final funding by the insurer; and

25 (d) Such mortgage loan will be completely amortized during the
26 unexpired portion of the lease or leasehold estate, or, if a loan has a
27 balloon payment, the mortgage loan amortization period plus the remaining
28 unexpired term of the lease after the maturity date of the loan is at
29 least thirty years, except that any lease or leasehold estate that is
30 convertible by the borrower, as lessee, or the insurer, as lender, into a
31 fee interest for no or minimal consideration at any time during the lease

1 term shall be treated as a fee interest for all purposes under section
2 44-5143 so long as the insurer's mortgage is secured by such fee interest
3 following such conversion.

4 (3) Nothing in this section shall prevent any amount invested under
5 this section that exceeds eighty percent of the appraised value of the
6 real estate or leasehold and improvements, as the case may be, from being
7 authorized under section 44-5153.

8 (4) All buildings and other real estate improvements which
9 constitute a material part of the value of the mortgaged premises,
10 whether estates in fee or leasehold estates or combination thereof, shall
11 be (a)(i) substantially completed before the investment is made or (ii)
12 of a value that is at all times substantial in value in relation to the
13 amount of construction loan funds advanced by the insurer on account of
14 the loan and (b) kept insured against loss or damage by fire or windstorm
15 in a reasonable amount for the benefit of the mortgagee.

16 (5) Other than investments subject to section 44-5132, if ~~If~~ there
17 are more than four holders of the issue of such bonds or notes described
18 in subsection (1) or (2) of this section, (a) the security of such bonds
19 or notes, as well as all collateral papers including insurance policies
20 executed in connection therewith, shall be made to and held by a trustee,
21 which trustee shall be a solvent bank or trust company having a paid-in
22 capital of not less than two hundred fifty thousand dollars, except in
23 case of a bank or trust company incorporated under the laws of this
24 state, in which case a paid-in capital of not less than one hundred
25 thousand dollars shall be required, and (b) it shall be agreed that, in
26 case of proper notification of default, such trustee, upon request of at
27 least twenty-five percent of the holders of the par amount of the bonds
28 outstanding and proper indemnification, shall proceed to protect the
29 rights of such bondholders under the provisions of the trust indenture.
30 Nothing in this subsection shall be deemed to inhibit the ability of an
31 insurer to rely on the provisions of section 44-5110 with regard to loan

1 participations for loans that meet the requirements of this section.

2 (6)(a) An insurer may invest in notes or bonds secured by second
3 mortgages or other second liens, including all inclusive or wraparound
4 mortgages or liens, upon real property encumbered only by a first
5 mortgage or lien which meets the requirements set forth in this section,
6 subject to either of the following conditions:

7 (i) The insurer also owns the note or bond secured by the prior
8 first mortgage or lien and the aggregate value of both loans does not
9 exceed the loan to market value ratio requirements of this section; or

10 (ii) The note or bond is secured by an all-inclusive or wraparound
11 lien or mortgage which conforms to the requirements set forth in
12 subdivision (b) of this subsection, if the aggregate value of the
13 resulting loan does not exceed the loan to market value ratio
14 requirements of this section.

15 (b) For purposes of this subsection, the terms wraparound and all-
16 inclusive lien or mortgage refer to a loan made by an insurer to a
17 borrower on the security of a mortgage or lien on real property other
18 than property containing a residence of one to four units or on which a
19 residence of one to four units is to be constructed, where such real
20 property is encumbered by a first mortgage or lien and which loan is
21 subject to all of the following requirements:

22 ~~(i) There is no more than one preexisting mortgage or lien on the~~
23 ~~real property;~~

24 (i) ~~(ii)~~ The total amount of the obligation of the borrower to the
25 insurer under the loan is not less than the sum of the amount disbursed
26 by the insurer on account of the loan and the outstanding balance of the
27 obligation secured by the preexisting lien or mortgage;

28 (ii) ~~(iii)~~ The instrument evidencing the lien or mortgage by which
29 the obligation of the borrower to the insurer under the loan is secured,
30 is recorded, and the lien is insured under a policy of title insurance in
31 an amount not less than the total amount of the obligation of the

1 borrower to the insurer under the loan; and

2 ~~(iii)~~ ~~(iv)~~ The insurer either (A) files for record in the office of
3 the recorder of the county in which the real property is located a duly
4 acknowledged request for a copy of any notice of default or of sale under
5 the preexisting lien or (B) is entitled under applicable law to receive
6 notice of default, sale, or foreclosure of the preexisting lien.

7 (7)(a) An insurer may invest in mezzanine real estate loans subject
8 to the following conditions:

9 (i) The terms of the mezzanine loan agreement:

10 (A) Require that each pledgor abstain from granting additional
11 security interests in the equity interest pledged;

12 (B) Employ techniques to minimize the likelihood or impact of a
13 bankruptcy filing on the part of the real estate owner or the mezzanine
14 real estate loan borrower; and

15 (C) Require the real estate owner, or mezzanine real estate loan
16 borrower, to: (I) Hold no assets other than, in the case of the real
17 estate owner, the real property, and in the case of the mezzanine
18 borrower, the equity interest in the real estate owner; (II) not engage
19 in any business other than, in the case of the real estate owner, the
20 ownership and operation of the real estate, and in the case of the
21 mezzanine real estate borrower, holding an ownership interest in the real
22 estate owner; and (III) not incur additional debt, other than limited
23 trade payables, a first mortgage loan, and the mezzanine real estate
24 loan; and

25 (ii) At the time of the initial investment, the mezzanine real
26 estate loan lender shall corroborate that the sum of the first mortgage
27 and the mezzanine real estate loan does not exceed one hundred percent of
28 the value of the real estate as evidenced by a current appraisal.

29 (b) The value of an insurer's investments authorized under this
30 subsection shall not exceed three percent of its admitted assets.

31 (c) For purposes of this subsection, mezzanine real estate loan

1 refers to a loan made by an insurer to a borrower on the security of debt
2 obligation, ~~that is not a security,~~ which is secured by a pledge of a
3 direct or indirect equity interest in an entity that owns real estate.

4 (8) An insurer's investments authorized under this section shall not
5 exceed forty percent of its admitted assets, and an insurer's investments
6 authorized under this section and section 44-5144, in the aggregate,
7 shall not exceed fifty percent of its admitted assets.

8 Sec. 34. Section 44-5144, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 44-5144 (1) An insurer may acquire and hold unencumbered real estate
11 or certificates evidencing participation with other investors, either
12 directly or through partnership or limited liability company interests,
13 or other equity interests, including common and preferred equity
14 investments, in unencumbered real estate if:

15 (a) The real estate is leased under a lease contract ~~in which the~~
16 ~~lessee contracts to pay all assessments, taxes, maintenance, and~~
17 ~~operating costs;~~

18 (b) The net amount of the annual lease payments to the owner of the
19 real estate is sufficient to amortize the cost of the real estate within
20 the duration of the lease, but in no event for a period of longer than
21 forty years, and pay at least three percent per annum on the unamortized
22 balance of the cost of the real estate; and

23 (c) The amount invested in any such real estate does not exceed its
24 appraised value.

25 When the lessee under a lease described in this subsection is the
26 United States or any agency or instrumentality thereof, any state or any
27 county, municipality, district, or other governmental subdivision
28 thereof, or any agency, board, authority, or institution established or
29 maintained under the laws of the United States or any state thereof, such
30 lease contract may provide that upon the termination of the term thereof,
31 title to such real estate shall vest in the lessee.

1 ~~When a lease described in this subsection is~~ When an insurer owns
2 ~~less than the entire real estate leased under a lease described in this~~
3 ~~subsection, the legal title to the real estate shall be in the name of a~~
4 ~~trustee which meets the qualifications set out in subsection (5) of~~
5 ~~section 44-5143~~ under a trust agreement which provides, among other
6 things, that upon proper notification of default under such lease and
7 request to such trustee by an investor or investors representing at least
8 twenty-five percent of the equitable ownership of the real estate and
9 proper indemnification, the trustee shall proceed to protect the rights
10 and interest of the investors owning the equitable title to the real
11 estate. In a governmental lease or leasehold estate under which the
12 insurer owns an interest in a lessee that is convertible by the lessee
13 into a fee interest for no or de minimis consideration at any time during
14 the lease term, it shall be treated as a fee interest for all purposes
15 under this section.

16 For purposes of this subsection, unencumbered real estate means real
17 estate in which other interests may exist which if enforced would not
18 result in the forfeiture of the insurer's interest.

19 (2) An insurer may also acquire and hold real estate:

20 (a) Mortgaged to it in good faith by way of security for a loan
21 previously contracted or for money due;

22 (b) Conveyed to it in satisfaction of debts previously contracted in
23 the course of its dealings; and

24 (c) Purchased at sale upon judgments, decrees, or mortgages obtained
25 or made for such debts.

26 (3) An insurer may invest in real estate required for its home
27 offices or to be otherwise occupied by the insurer or its employees in
28 the transaction of its business and may rent the balance of the space
29 therein. The value of an insurer's investments authorized under this
30 subsection shall not exceed ten percent of its admitted assets.

31 (4)(a) An insurer with policyholders surplus of at least one million

1 dollars may individually or in conjunction with other investors acquire,
2 own, hold, develop, and improve real estate that is essentially
3 residential or commercial in character, even though subject to an
4 existing mortgage or thereafter mortgaged by the insurer, if such real
5 estate is located in the United States or Canada ~~a city or village or~~
6 ~~within five miles of the limits thereof.~~

7 (b) For purposes of this subsection, real estate shall include a
8 leasehold having an unexpired term of at least twenty years, including
9 the term provided by any enforceable option of renewal. The income from
10 such leasehold shall be applied so as to amortize the cost of leasehold
11 and improvements within the lesser of eighty percent of such unexpired
12 term or forty years from acquisition.

13 (c) An insurer may hold real estate or certification evidencing
14 participation authorized under this subsection with other investors
15 either directly or through a partnership, limited liability company, or
16 other equity interest, including without limitation, common and preferred
17 equity investments.

18 (d) ~~(e)~~ The value of an insurer's investments authorized under this
19 subsection shall not exceed ten percent of its admitted assets.

20 (5) An insurer may also acquire such other real estate as may be
21 acquired ancillary to a corporate merger, acquisition, or reorganization
22 of the insurer.

23 (6) The value of an insurer's investments authorized under
24 subsections (3), (4), and (5) of this section, in the aggregate, shall
25 not exceed fifteen percent of its admitted assets.

26 (7) For purposes of this section, value shall mean original cost
27 plus any development and improvement costs whenever expended less the
28 unpaid balance of any mortgage and annual depreciation on improvements of
29 not less than two percent.

30 (8) An insurer's investments authorized under this section and
31 section 44-5143, in the aggregate, shall not exceed fifty percent of its

1 admitted assets.

2 Sec. 35. Section 44-5149, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 44-5149 (1) An insurer may use derivative instruments in hedging
5 transactions if:

6 (a) The aggregate statement value of options, caps, floors, and
7 warrants not attached to any financial instrument and used in hedging
8 transactions does not exceed the lesser of seven and one-half percent of
9 the insurer's admitted assets or seventy-five percent of the insurer's
10 policyholders surplus;

11 (b) The aggregate statement value of options, caps, and floors
12 written in hedging transactions does not exceed the lesser of three
13 percent of the insurer's admitted assets or thirty percent of the
14 insurer's policyholders surplus; and

15 (c) The aggregate potential exposure of collars, swaps, forwards,
16 and futures used in hedging transactions does not exceed the lesser of
17 six and one-half percent of the insurer's admitted assets or sixty-five
18 percent of the insurer's policyholders surplus.

19 (2)(a) An insurer may use derivative instruments in income-
20 generation transactions by selling:

21 (i) Covered call options on non-callable fixed income securities or
22 callable fixed income securities if the option expires by its terms prior
23 to the end of the non-callable period;

24 (ii) Covered call options on equity securities if the insurer holds
25 in its portfolio, or can immediately acquire through the exercise of
26 options, warrants, or conversion rights already owned, the equity
27 securities subject to call during the complete term of the call option
28 sold;

29 (iii) Covered puts on investments that the insurer is permitted to
30 acquire under the Insurers Investment Act if the insurer has escrowed, or
31 entered into a custodian agreement segregating, cash or cash equivalents

1 with a market value equal to the amount of its purchase obligations under
2 that put during the complete term of the put option sold; and

3 (iv) Covered caps or floors if the insurer holds in its portfolio
4 the investments generating the cash flow to make the required payments
5 under such caps or floors during the complete term that the cap or floor
6 is outstanding.

7 (b) An insurer may enter into income-generation transactions under
8 this subsection if the aggregate statement value of the fixed income
9 assets that are subject to call or that generate the cash flows for
10 payments under the caps or floors, plus the face value of fixed income
11 securities underlying any derivative instrument subject to call, does not
12 exceed the lesser of ten percent of the insurer's admitted assets or one
13 hundred percent of the insurer's policyholders surplus.

14 (3) An insurer may use derivative instruments in replication
15 transactions if:

16 (a) The aggregate statement value of options, caps, floors, and
17 warrants not attached to any financial instrument and used in replication
18 transactions does not exceed the lesser of seven and one-half percent of
19 the insurer's admitted assets or seventy-five percent of the insurer's
20 policyholders surplus;

21 (b) The aggregate statement value of options, caps, and floors
22 written in replication transactions does not exceed the lesser of three
23 percent of the insurer's admitted assets or thirty percent of the
24 insurer's policyholders surplus;

25 (c) The aggregate potential exposure of collars, swaps, forwards,
26 and futures used in replication transactions does not exceed the lesser
27 of six and one-half percent of the insurer's admitted assets or sixty-
28 five percent of the insurer's policyholders surplus;

29 (d) The replication transactions are limited to the replication of
30 investments or instruments otherwise permitted under the Insurers
31 Investment Act; and

1 (e) The insurer engages in hedging transactions or income generation
2 transactions pursuant to this section and has sufficient experience with
3 derivatives generally such that its performance and procedures reflect
4 that the insurer has been successful in adequately identifying,
5 measuring, monitoring, and limiting exposures associated with such
6 transactions and that the insurer has superior corporate controls over
7 such activities as well as a sufficient number of dedicated staff who are
8 knowledgeable and skilled with these sophisticated financial instruments.

9 (4) An insurer may purchase or sell one or more derivative
10 instruments to offset, in whole or in part, any derivative instrument
11 previously purchased or sold, as the case may be, without regard to the
12 quantitative limitations of this section, provided that the derivative
13 instrument is an exact offset to the original derivative instrument being
14 offset.

15 (5) An insurer shall demonstrate to the director upon request the
16 intended hedging, income-generation, or replication characteristics and
17 the ongoing effectiveness of the derivative transaction or combination of
18 the transactions through cash flow testing or other appropriate analysis.

19 (6) An insurer shall include all counterparty exposure amounts in
20 determining compliance with the limitations in section 44-5115.

21 (7) The director may approve additional transactions involving the
22 use of derivative instruments pursuant to rules and regulations adopted
23 and promulgated by the director.

24 (8) For the investment limitations covered in subsections (1), (2),
25 and (3) of this section, aggregate statement value and aggregate
26 potential exposure shall be calculated net of collateral posted or
27 received.

28 (9) ~~(8)~~ For purposes of this section:

29 (a) Derivative instrument means an agreement, option, instrument, or
30 a series or combination thereof:

31 (i) To make or take delivery of, or assume or relinquish, a

1 specified amount of one or more underlying interests or to make a cash
2 settlement in lieu thereof; or

3 (ii) That has a price, performance, value, or cash flow based
4 primarily upon the actual or expected price, level, performance, value,
5 or cash flow of one or more underlying interests.

6 Derivative instrument includes all investment instruments or
7 contracts that derive all or almost all of their value from the
8 performance of an underlying market, index, or financial instrument,
9 including, but not limited to, options, warrants, caps, floors, collars,
10 swaps, credit default swaps, swaptions, forwards, and futures. Derivative
11 instrument does not include investments authorized under any other
12 section of the Insurers Investment Act;

13 (b) Hedging transaction means a derivative transaction which is
14 entered into and maintained to reduce:

15 (i) The risk of a change in value, yield, price, cash flow, or
16 quantity of assets or liabilities which the insurer has acquired or
17 incurred or anticipates acquiring or incurring; or

18 (ii) The currency exchange rate risk or the degree of exposure as to
19 assets or liabilities which an insurer has acquired or incurred or
20 anticipates acquiring or incurring;

21 (c) Income-generation transaction means a derivative transaction
22 involving the writing of covered call options, covered put options,
23 covered caps, or covered floors that is intended to generate income or
24 enhance return; and

25 (d) Replication transaction means a derivative transaction or
26 combination of derivative transactions effected either separately or in
27 conjunction with cash market investments included in the insurer's
28 portfolio in order to replicate the investment characteristic of another
29 authorized transaction, investment, or instrument or that may operate as
30 a substitute for cash market investments. A derivative transaction
31 entered into by the insurer as a hedging or income-generation transaction

1 authorized pursuant to this section shall not be considered a replication
2 transaction.

3 Sec. 36. Section 44-5153, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 44-5153 (1)(a)(i) A life insurer may make investments not otherwise
6 authorized under the Insurers Investment Act in an amount, in the
7 aggregate, not exceeding the lesser of five percent of the first five
8 hundred million dollars of its admitted assets plus ten percent of its
9 admitted assets exceeding five hundred million dollars or one hundred
10 percent of its policyholders surplus.

11 (ii) An insurer other than a life insurer may make investments not
12 otherwise authorized under the act in an amount, in the aggregate, not
13 exceeding the lesser of twenty-five percent of the amount by which its
14 admitted assets exceed its total liabilities, excluding capital, or five
15 percent of the first five hundred million dollars of its admitted assets
16 plus ten percent of its admitted assets exceeding five hundred million
17 dollars.

18 (b) Investments authorized under this subsection shall not include
19 obligations having 3, 4, 5, and 6 designations from the Securities
20 Valuation Office.

21 (2)(a) In addition to the provisions of subdivision (1)(a)(i) of
22 this section, a life insurer may make investments not otherwise
23 authorized under the act in an amount not exceeding that portion of its
24 policyholders surplus which is in excess of ten percent of its admitted
25 assets.

26 (b) In addition to the provisions of subdivisions (1)(a)(ii) and (b)
27 of this section, an insurer other than a life insurer may make
28 investments not otherwise authorized under the act in an amount not
29 exceeding that portion of its policyholders surplus which is in excess of
30 fifty percent of its annual net written premiums as shown by the most
31 recent annual financial statement filed by the insurer pursuant to

1 section 44-322.

2 (3) Investments authorized under subsection (1) or (2) of this
3 section shall not include assets held by a ceding insurer as security
4 supporting reinsurance arrangements through which credit for reinsurance
5 has been allowed.

6 (4) (3) Investments authorized under subsection (1) or (2) of this
7 section shall not include insurance agents' balances or amounts advanced
8 to or owing by insurance agents.

9 (5) (4) The limitations set forth in this section shall be applied
10 at the time the investment in question is made and at the end of each
11 calendar quarter. An insurer's investment, which at the time of its
12 acquisition was authorized only under the provisions of this section but
13 which has subsequently and while held by such insurer become of such
14 character as to be authorized elsewhere under the act, shall not be
15 included in determining the amount of such insurer's investments, in the
16 aggregate, authorized under this section, and investments otherwise
17 authorized under the act at the time of their acquisition shall not be
18 included in making such determination.

19 (6) (5) Derivative instruments described in subsections (1), (2),
20 and (3) of section 44-5149 shall not be authorized investments under this
21 section.

22 Sec. 37. Section 44-9004, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 44-9004 For purposes of the Risk Management and Own Risk and
25 Solvency Assessment Act:

26 (1) Director means the Director of Insurance;

27 (2) Insurance group means those insurers and affiliates included
28 within an insurance holding company system as defined in ~~subdivision (6)~~
29 ~~of~~ section 44-2121;

30 (3) Insurer has the same meaning as in section 44-103, except that
31 it does not include agencies, authorities, or instrumentalities of the

1 United States, its possessions and territories, the Commonwealth of
2 Puerto Rico, the District of Columbia, or a state or political
3 subdivision of a state;

4 (4) Own risk and solvency assessment means a confidential internal
5 assessment, appropriate to the nature, scale, and complexity of an
6 insurer or insurance group, conducted by the insurer or insurance group,
7 of the material and relevant risks associated with the insurer's or
8 insurance group's current business plan and the sufficiency of capital
9 resources to support those risks;

10 (5) Own risk and solvency assessment guidance manual means the own
11 risk and solvency assessment guidance manual prescribed by the director
12 which conforms substantially to the Own Risk and Solvency Assessment
13 Guidance Manual developed and adopted by the National Association of
14 Insurance Commissioners. A change in the own risk and solvency assessment
15 guidance manual shall be effective on the January 1 following the
16 calendar year in which the change has been adopted by the director; and

17 (6) Own risk and solvency assessment summary report means a
18 confidential, high-level summary of an insurer's or insurance group's own
19 risk and solvency assessment.

20 Sec. 38. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 24, 39, and 41 of
21 this act become operative on January 1, 2023. The other sections of this
22 act become operative on their effective date.

23 Sec. 39. Original section 44-4052, Reissue Revised Statutes of
24 Nebraska, is repealed.

25 Sec. 40. Original sections 44-361, 44-7,102, 44-2121, 44-2132,
26 44-2138, 44-5103, 44-5105, 44-5120, 44-5120.01, 44-5132, 44-5137,
27 44-5139, 44-5141, 44-5143, 44-5144, 44-5149, 44-5153, and 44-9004,
28 Reissue Revised Statutes of Nebraska, are repealed.

29 Sec. 41. The following section is outright repealed: Section
30 44-4068, Reissue Revised Statutes of Nebraska.