

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**SLAMA:** OK. Welcome, everyone, to the Banking, Commerce and Insurance Committee hearing. My name is Julie Slama. I'm from Dunbar and represent the 1st Legislative District. I serve as Chair of this committee. The committee will take up bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members will come and go during the hearing. We have to introduce bills in other committees and are called away. It's not an indication we are not interested in the bill being heard in this committee. It's just part of the process. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please silence or turn off cell phones. Move to the front row when you are ready to testify. Our order of testimony will be the introducer, proponents, opponents, neutral, and then closing. Hand your green sign-in sheet to the committee clerk when you come up to testify. Spell your name for the record before you testify. Be concise. We have a light system in here. So we ask that you keep your testimony to 3 minutes and we'll have questions possibly to follow that. If you will not be testifying at the microphone but want to go on record as having a position on a bill being heard today, there are gold sheets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We need 10 copies. If you have written testimony but do not have 10 copies, please raise your hand now so the page can make copies for you. To my immediate right is committee counsel Joshua Christolear. To my left at the end of the table is substitute and rockstar committee clerk, Katie Quintero. The committee members with us today will introduce themselves beginning at my far right.

**BALLARD:** Beau Ballard, District 21, in northwest Lincoln and northern Lancaster County.

**JACOBSON:** Mike Jacobson, District 42.

**AGUILAR:** Ray Aguilar, District 35, Grand Island.

**von GILLERN:** Brad von Gillen, District 4, west Omaha.

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**SLAMA:** Our pages for today are Maddie [PHONETIC] and Mia. The committee will take up the bills today in the following order: LB1122, LB1227, LB1176, LB1332, LB1395, and LB872. And with that, we will open our first hearing of the day, Senator Ballard with LB1122. And if you are planning to testify on a bill, we anticipate there might be some people coming in later, please move to the front row just so we can avoid the staring contest of who's going to testify next. Welcome.

**BALLARD:** Thank you. Good afternoon, Chair Slama and members of the Banking, Commerce and Insurance Committee. My name is Beau Ballard. For the record, that is B-e-a-u B-a-l-l-a-r-d, and I represent District 21 in northwest Lincoln and northern Lancaster County. I'm here today to introduce LB1122. As many of you have experienced and know, after you purchase a home, you get a lot of mail supposedly about your mortgage, usually asking you to call them immediately and usually has your mortgage ID, loan amount, bank name, or any combination of the three. This happens because third parties go through your records of the Register of Deeds and look up new deeds and mortgages, copy customers' contact and loan information and deceptively use your lender's name, logo, and, etcetera, to facilitate you for other services. This leads to anger and confusion about why your lender has released that information. And as many of you know, the lender has not released any information. Currently, the Department of Banking and Finance is charged with enforcing this law. They will send a cease and desist order to any person who has found to violate the law. If the person violates the law again and receives another cease and desist order, the department may issue a fine up to \$1,000 for each violation. Since COVID, there has been an increasing number of these incidents. To combat the increase, the department recommends that increase from a \$1,000 fine-- a \$1,000 fine to a \$5,000 fine. The goal of this is to hopefully reduce the amount of mail that new homeowners receive and leave them one less thing to worry about when setting up their new home. I'd be happy to answer any questions, but there are testifiers behind me that have experience in this matter.

**SLAMA:** Thank you, Senator Ballard. Any questions from the committee? Seeing none, thank you very much.

**BALLARD:** Thank you.

**SLAMA:** We'll now open up proponent testimony on LB1122. Welcome, Mr. Hallstrom.

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Rough Draft

**ROBERT J. HALLSTROM:** Thank you, Chair Slama, members of the committee. My name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraska Bankers Association to testify in support of LB1122. Senator Ballard has done a nice job of reciting what the bill will do. Simply put, increasing the maximum fine from \$1,000 to \$5,000 per violation. I will probably give you a little better background as to why the law exists. Back in about the early 2000s, we had that same situation that Senator Ballard had indicated was just on the rise, that we were getting all kinds of third-party solicitations. People would find out your name, address, the loan number, the name of your bank. They would send you a request that said urgent, something about your loan, please contact us. And so Nebraska along, I think, with virtually every state in the country passed any type of deceptive advertising solicitation legislation that's found in 8-2501 to 8-2505 of the Nebraska law. Typically, again, you'll get an envelope with the name of the bank prominently displayed. What the law does, in effect, most importantly, is it says that you're supposed to get consent from the financial institution if you're going to send these type of third-party mailings, but it's not required as long as the solicitation clearly and conspicuously states that the party making the solicitation is not sponsored by or affiliated with the financial institution, states that the solicitation is not authorized by the financial institution, and identifies the financial institution by name. Importantly, the statement is required to be made in close proximity to and in the same or larger font size as the first and most prominent use of the bank name. Attached to my testimony are some samples that banks had sent in to us. If you'll notice, the first one, Cattle Bank and Trust is near the right-hand top corner and then in virtually unreadable font type down at the bottom, I think that says it's not affiliated with Cattle Bank and Trust. One of them is for a home warranty, another one says important notice, immediate action required. And the third one has the name of Nebraskaland National Bank up in the left hand corner in the disclaimer, which is supposed to be in close proximity and in the same font size is clear down at the bottom, again, barely readable. And it just says we've been attempting to contact you regarding a matter of importance. So our customers get upset over these types of issues. We approached the Department of Banking earlier this, this fall and asked them. By the way, the department has done an admirable job of following up on complaints either from member banks or individuals and has, has done a nice job in enforcing this particular law. But we asked because there was a kind of a ratcheting up of these types of notices that home buyers and, and loan customers are getting. If there

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

was anything they thought that would help enhance their ability to enforce, they suggested an increase in the fine from \$1,000 to \$5,000 per violation would help them get violators' attention. And so we brought the bill forward and would ask the committee to support its advancement. Be happy to address any questions.

**SLAMA:** Thank you, Mr. Hallstrom. Any questions from the committee?  
Senator Jacobson.

**JACOBSON:** Well, I, I guess I just want to maybe chime in here a little bit that-- for those that are maybe wondering, I, I guess you can confirm this, Mr. Hallstrom, but a lot of people ask where they get this information and, of course--

**ROBERT J. HALLSTROM:** Yeah, it's public-- it's public record. When you file a deed of trust or a mortgage with the county Register of Deeds that document is there. It's going to have the customer's name, the customer's address, the amount of the loan, which typically is the-- is the hook, the, you know, it's not only the, the name of the bank, but the amount of the loan. And then people wonder, how on earth did they get this? Well, unfortunately for them, in this instance, it's a public record.

**JACOBSON:** And it's all factual information that's on the record, which is how they get there. And, of course, in the case with Cattle Bank, they've got their name on there. It's not coming from them and in many cases that kind of shows up as the return address in a window envelope.

**ROBERT J. HALLSTROM:** In the window envelope. Exactly.

**JACOBSON:** Yeah, correct. Thank you.

**ROBERT J. HALLSTROM:** Thank you.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none,--

**ROBERT J. HALLSTROM:** Thank you.

**SLAMA:** --thank you very much. Additional proponent testimony for LB1122? Good afternoon, Director Lammers.

**KELLY LAMMERS:** Good to see you. Chairperson Slama, members of Banking, Commerce and Insurance Committee, my name is Kelly Lammers, K-e-l-l-y

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Rough Draft

L-a-m-m-e-r-s. I am director of the Nebraska Department of Banking and Finance. I'm appearing today in support of LB1122. LB1122 increases the fine that the department may impose on companies that violate written solicitation requirements targeting loan customers of the financial institution. The fine is only applied after the violation of a cease and desist order executed by the department. LB1122 would increase this fine amount from \$1,000 to \$5,000 per violation. Nebraska Bankers Association discussed this issue with the department prior to the session, and the department concurred that increasing the fine amount from \$1,000 to \$5,000 per violation could be a stronger deterrent against unaffiliated companies seeking to cause consumer confusion in order to sell their own products and services to the detriment of both Nebraska consumers and the Nebraska state-chartered financial institutions. Thank you for the opportunity to comment today. Be happy to answer any questions.

**SLAMA:** Thank you, Director Lammers. Are there any questions from the committee? Senator Jacobson.

**JACOBSON:** Thank you, Director Lammers, for being here. I, I guess I have a couple of questions in terms of the experience you've had and, and maybe the remedies that are being outlined here. I, I know I'm familiar with a particular case we were involved with where there was a bank actually wanting to do home equity loans and they contracted with a third-party company to go out and do all this research. They didn't even know they'd send us information. They found out-- their compliance officer found out when I called and had a chat with them about what our plans were if they were going to continue that practice. They were dumbfounded because they'd contracted with a third party that was out doing all of the solicitation. So with this, who would be penalized? Who would be fined here? Would it be the third-party provider, and are you able to collect from those third parties or do they just close the company and move on and start doing it again under, under another name?

**KELLY LAMMERS:** The cease and desort-- the cease and desert-- excuse me, Senator, the cease and desist order would be issued against the party that is offering the line of credit. If they'd reached out to a third party, that would be a contractual relationship relative to that third-party extension. However, with the increased deterrent of a \$5,000 fine, that may result in increased third-party due diligence.

**JACOBSON:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you very much.

**KELLY LAMMERS:** Thank you.

**SLAMA:** Additional proponents for LB1122? Any additional proponents for LB1122? Seeing none, is anybody here to testify in opposition to LB1122? Seeing none, anyone here to testify in the neutral capacity on LB1122? Seeing none, Senator Ballard waives closing, closing. Before we close out the hearing on LB1122, we received no letters for the record on this bill. And with that, we'll close out our hearing and take us to LB1227. Senator Ballard, long time no see.

**BALLARD:** It's been awhile. Good afternoon, Chair Slama and members of the committee. My name is Beau Ballard. For the record, that is B-e-a-u B-a-l-l-a-r-d, and I represent District 21 in northwest Lincoln and northern Lancaster County. LB1227 seeks to remove unnecessary limits on how a Professional Employer Organization structure their health benefit plans. PEOs provide comprehensive human resources service such as payroll, benefits, tax administration, and regulatory compliance assistance for employers. These organizations also allow businesses to access benefits such retirement plans, health, dental, and other benefits that businesses have difficulty providing for their employees due to the cost or size of their operation. PEOs are regulated through Nebraska's Professional Employer Organization Registration Act. Under the PEO Act, a PEO is not allowed to offer its covered employees any health benefit plans which is not fully insured by an authorized insurer. Elsewhere in statute, a benefit plan is defined as fully insured when health benefits are guaranteed under the contract or policy of insurance issued by a company licensed in Nebraska. Additionally, the Nebraska Department of Insurance maintains that all health benefit plans are not fully insured or consider self-insured. For example, a level-funded health benefit plan is considered self-insured. The result of this actuary language, combined with the department's interpretation, limits the availability of options for PEOs to structure their health benefit plans by limiting any level funded as well as a fully self-insured structure. This bill amends this statute to allow PEOs to sponsor self-insured benefit plans that are in compliance with the registration requirements of the Multiple Employer Welfare Arrangement Act and the requirements of the federal Employee Retirement Income Security Act. This change will add flexibility for PEOs to maintain adequate protection from abuse or fraud in the context of self-insured plans. I'd be happy to answer any questions, but I do have a Nebraska

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

PEO behind me that would-- that would answer-- be able to answer any technical questions.

**SLAMA:** Thank you, Senator Ballard. Are there any questions from the committee? Seeing none, thank you very much.

**BALLARD:** Thank you.

**SLAMA:** We'll now open it up for proponent testimony on LB1227. Welcome.

**AMY KNOBBE:** Good afternoon, Chairwoman Slama and members of the committee. My name is Amy Knobbe, A-m-y K-n-o-b-b-e, cofounder/managing partner of Pando PEO. My business partner and I founded Pando in July of 2022, the only Nebraska-born PEO. We currently service 122 clients, equating to 2,400 worksite employees across 36 states, ultimately processing \$100 million in wages. Small business runs in our veins. It's a deep-rooted passion. I come from a long line of small business owners and cattle feeders, giving me firsthand experience of the challenges and rewards that come along with being an entrepreneur. Dealing with compliance, regulations, and constant quest to attract and retain talented individuals can be demanding. However, having spent two, two decades in the PEO industry, I have observed firsthand how PEOs can alleviate the weight of these responsibilities. By partnering with a PEO, businesses can offload these tasks and concentrate their efforts on their core operations, unlocking greater potential for success. PEOs offer a wide range of HR services to businesses including payroll administration, benefits management, tax administration, and assistance with regulatory compliance. By partnering with Pando, our clients can gain access to comprehensive HR services that may not have the resources or expertise to handle on their own. This includes offering benefits such as retirement plans, health insurance, dental coverage, and other employee benefits. PEOs leverage their collective purchasing power to negotiate better rates and coverage options, making it more affordable for small businesses to provide these benefits to their employees. Health insurance premiums can be a substantial expense for small businesses, especially those with limited resources. Rising healthcare costs and increasing premiums can strain the financial resources of small businesses, potentially impacting their profitability and ability to, to invest in other areas of the business. In many cases, this requires employees to contribute a portion of the health insurance premium. High premium costs may lead to increased employee contributions, which could impact employee take-home pay and

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

potentially impact their financial well-being. To tackle these challenges, the design of insurance plans becomes crucial. As Senator Ballard stated, the current statutory language and interpretation by the department restricts the options available to PEOs in designing their health benefit plans. Specifically, it eliminates the possibility of offering level-funded and self-insured structures. This proposed bill aims to amend the statute to permit benefit plans that adhere to the registration requirements of the Multiple Employer Welfare Arrangement Act and the federal Employee Retirement Income Security Act. By making this change, PEOs will have more flexibility in their plan designs while still ensuring sufficient safeguards against abuse or fraud within self-insured plans. The flexibility in designing insurance plans can lead to potentially significant premium reductions, such as a 20% decrease. This allows small businesses to compete more effectively with larger corporations by creating a level playing field that enables them to attract and retain top talent in Nebraska, invest in their business, and reduce the burden of insurance costs for their employees. Ultimately, how does this impact a Nebraska-run business and its employees? It will translate into job security, higher salaries, lower costs-- lower insurance costs, and the ability to afford the rising cost of goods and services. Thank you, Chairwoman Slama and members. I would be happy to try and answer any questions you may have.

**SLAMA:** Thank you, Ms. Knobbe. Are there any questions? Seeing none, thank you very much for your testimony.

**AMY KNOBBE:** Thank you.

**SLAMA:** Additional proponent testimony for LB1227? Welcome.

**MICHELLE SITORIUS:** Thanks. Good afternoon, Chairwoman Slama and members of the committee. My name is Michelle Sitorius, M-i-c-h-e-l-l-e, Sitorius, S-i-t-o-r-i-u-s. I'm an attorney at Cline Williams with my practice focused on employee benefits. Our client, Pando, LLC, has already testified today in relation to the proposed legislation amending Nebraska's Professional Employer Organization Registration Act. As Amy indicated, Pando is a homegrown, Nebraska-headquartered PEO looking to grow its business both here in Nebraska and regionally. PEOs are unique. As set out in the current Nebraska PEO Act, a PEO is a co-employer with each of its clients. Thus, both the PEO and the client are the employer. This co-employer relationship has been recognized not only under Nebraska statutes, but also by federal agencies such as the U.S. Department of Labor. This



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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

legislation is straightforward. The proposed revisions to the PEO Act provide PEOs headquartered in Nebraska with the opportunity and the option to structure their health benefit plans as either fully insured or self-insured, so long as the plan follows the registration requirements of Nebraska's MEWA statute and the registration requirements of federal ERISA laws. To break this down a bit, both state law and federal law provide a regulatory framework for entities that meet their definition of a Multiple Employer Welfare Arrangement or MEWA for short. The purpose of those laws and regulations is to ensure that participants who receive coverage through a MEWA are adequately protected from abuse or fraud from sponsors of this type of plan. Conceptually, this makes good sense. On one hand, fully insured health coverage is subject to a multitude of insurance regulations to ensure that our insurance companies provide good policies that in turn provide the benefits promised. On the other hand, self-insured health coverage involving multiple employers is subject to these MEWA regulations to ensure the same. Both Nebraska law and federal law require a self-insured MEWA to, first, register the MEWA with the appropriate agency and then, second, to supply an annual report on the MEWA to the same agency. Here in this context, that would be the Nebraska Department of Insurance and the U.S. Department of Labor on the federal level. This annual report under Nebraska law requires the plan provide both a financial statement and an actuarial statement to assure the NDOI of legitimacy and integrity-- financial integrity of the plan. This is the manner in which the regulators monitor this type of health plan to ensure that the MEWA is financially stable and is complying with applicable law. Essentially, under the terms of the revised PEO Act, Pando and any other PEO in the same position would be required to comply with any registration requirements both on a state and federal basis that apply to self-insured plans that involve multiple employers. As we all know, the cost of health plan coverage continues to be one of the largest expenses that employers of all sizes must manage. Providing employers with options to manage this expense in the best interest of both employees and their employers. Great coverage at a price that allows the employer to thrive. I'd be happy to answer any questions.

**SLAMA:** Thank you very much. Are there any questions from the committee? Seeing none, thank you very much. Additional proponent testimony for LB1227? Seeing none, is anybody here to testify in opposition to LB1227? Seeing none, is anyone here to testify in a neutral capacity on LB1227? Seeing none, Senator Ballard to close. And as you approach, we received no letters for the record on LB1227.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**BALLARD:** I'll be very brief, Chair. I just want to say this is a win-win for Nebraska. This is a win not only for the PEOs, but also Nebraskans as many of you sitting around this committee know how difficult it is for small businesses to keep and maintain insurance, especially in the health, health, field. So I think anything we can do to cut red tape for these companies is a win for Nebraska and a win for the Nebraska Legislature. Thank you.

**SLAMA:** Thank you very much, Senator Ballard. Any questions from the committee?

**BALLARD:** Thank you.

**SLAMA:** Thank you very much. This brings to a close our hearing on LB1227. We'll now begin our hearing on LB1176. Senator Dungan.

**DUNGAN:** Thank you, Chair Slama and fellow members of the Banking Committee. My name is George Dungan, G-e-o-r-g-e D-u-n-g-a-n. I represent Legislative District 26 and I'm here today to introduce LB1176. LB1176 is a bill to adopt the Public Entities Pooled Investment Act. A public entity investment pool is a mechanism for political subdivisions to pool their investments to be managed by a local bank. Nebraska law has long recognized that the best and safest place for public deposits is in the local bank. Public deposits are FDIC insured up to \$250,000, with an additional protection provided in the form of a pledge of securities equal to at least 102% of the number of deposits above the FDIC insured amount. Local banks put public deposits to good and beneficial use in the form of loans and investments that spur, grow, and invigorate local economies. As you can see from the review of this legislation, this bill goes into great detail on definitions and regulations for what kind of public entities, financial institutions, and the different kinds of investments the act applies to. Local government investment pools have a history of being safe, which is why public entities utilize them. Allowing public entities to pool their investments help those entities that have fewer assets. This will have a more considerable impact on some of our state's most sparsely populated areas. Colleagues, I'm not an expert in this field. There are many people after me who will testify to go into much more detail about this, specifically about the local government investment pools and what this legislation seeks to regulate. If I were to oversimplify it, what this effectively does is put guardrails on the investments that are allowed by the local government investment pools. Generally speaking, what they're currently doing is safe. But this just ensures that there's some

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

regulation or rules around that investment to make sure that the money that is being utilized by the local government investment pools is being invested in instruments that are safe and ultimately don't put our money at risk. I'd be happy to try to answer any questions that you may have about this, but, again, some of the experts after me might be better suited for those questions.

**SLAMA:** Thank you, Senator Dungan. Are there any in-depth and detailed questions for Senator Dungan that we can watch him answer? Seeing none, thank you very much, Senator Dungan. Proponent testimony for LB1176? Welcome back, Mr. Hallstrom.

**ROBERT J. HALLSTROM:** Thank you, Chair Slama, members of the committee. My name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, appear before you today on behalf of the Nebraska Bankers Association to testify in support of LB1176. Senator Dungan has done a nice job of describing what the bank's obligations are in terms of providing protection and security for public deposits. And this bill is about providing safety and security for public funds with regard to the establishment of rules of the road, if you will, for reasonable regulations for local government investment pools. Just by way of background, the investment pools that we're talking about have significant investment authority currently. About 3 years ago, a group called Private [INAUDIBLE] headquartered out of Denver, Colorado, brought before this Legislature a series of legislative proposals, one of which was to authorize the creation of the investment pool under the auspices of the State Treasurer, no doubt to enhance the ability to attract participants to that particular pool. That legislative endeavor was not successful. Last year, there was a bill that was introduced that would have allowed an investment pool to invest in commercial paper of up to 390 days. Even though those legislative efforts were not successful, ultimately, what is now known as Nebraska CLASS affiliated with private trust advisors was created pursuant to the Nebraska Interlocal Cooperation Act. I have references to the other two primary investment pools in Nebraska, the Nebraska Public Agency Investment Trust and the Nebraska Liquid Asset Fund. But our members got curious when these legislative efforts came before the body, basically inquired into what regulations currently are applicable at the state level to these investment pools. And so we did a lot of research with other state laws, and what you see in LB1176 is kind of a compilation of things that are existent in other states, primarily with regard to consumer disclosures, in this case, the public entities putting limitations around the types of investments that an investment pool can invest in. And most significantly, from our perspective, putting some guardrails

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

around what is a permissible investment in commercial paper. No more than 270 days, investment grade rating by two nationally recognized firms, no more than 5% in any single issue or no more than 40% in the aggregate. We have had situations in 2007 to 2009 where commercial paper, which is typically a low-risk investment, was not so low risk at that time. And so we believe it's good and prudent state policy to put these guardrails around investment pools. We have had an opportunity since the introduction of the legislation to visit with some of the investment pools in Nebraska. It's our understanding that NPAIT AND NLAF work within these confines and, and no doubt are supportive. With that, I'd be happy to address any questions of the committee.

**SLAMA:** Thank you, Mr. Hallstrom. Are there any questions? Senator Jacobson.

**JACOBSON:** Thank you, Chair Slama. Thank you for the testimony, Mr. Hallstrom. The-- I guess I'd like to maybe walk through a series of questions in terms of how banks operate today who largely have generally carried a lot of this short-term deposits and deposits from local political subdivisions. And have generally pulled those dollars in to be able to reinvest back in the community, but there are restrictions on commercial banks. In fact, if a commercial bank is going to have a public deposit that exceeds the FDIC limit of \$250,000, what do they have to do?

**ROBERT J. HALLSTROM:** Well, basically, Senator, anything over FDIC, and you do have FDIC for what's effectively going to be called a savings or a checking account. You can have two FDIC coverages within political subdivisions but, effectively, anything beyond \$250,000 FDIC insurance coverage is required to have permissible securities pledged or collateralized for anything over \$250,000 at, at least 102%. In my testimony, I've got a list of permissible securities under 77-2387 of the Nebraska Revised Statutes. One of the interesting dynamics in this discussion is that, historically, when we look to local political subdivision officials for pledging purposes, mind you, not direct investments, they are typically suggesting that they'd really prefer that we only use government bonds and T-bills. The least risky and the lowest rate of return for the bank that's holding that collateral idling in order to support and protect the public funds. But yet in this case, we've got the potential, particularly if the commercial paper is exceeded beyond the 270-day limitation that we've set in here for investments to be ceded to the private investor-- investment

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

advisor in investments that they-- political subdivision officials, in my opinion, would never make directly.

**JACOBSON:** And then also confirm, commercial paper essentially is an unsecured promissory instrument, if you will, but it's unsecured to a corporate entity that is issued that paper. Correct?

**ROBERT J. HALLSTROM:** That is correct.

**JACOBSON:** So if that entity would fail, that, that commercial paper would be essentially worthless or it'd be liquidated out when the company assets were liquidated. Correct?

**ROBERT J. HALLSTROM:** You'd at best probably stand at the back of the line in a bank-- bankruptcy proceeding.

**JACOBSON:** And so if you're a commercial bank and, say, you're a billion dollar bank, you're likely going to have \$100 million of capital, but yet they're not allowed to take it unsecured are they?

**ROBERT J. HALLSTROM:** That, that is correct. And I might add, also, since you mentioned this, commercial paper is not one of the permissible securities that we can pledge for the amounts over FDIC insured coverage.

**JACOBSON:** So you're telling me that a commercial bank can't even pledge a piece of collateral, let alone directly invest in it.

**ROBERT J. HALLSTROM:** As commercial paper. Correct.

**JACOBSON:** OK. I do have one other question. Banks are also-- have something called a legal lending limit. Correct?

**ROBERT J. HALLSTROM:** Correct.

**JACOBSON:** And so what's the purpose for the legal lending limit?

**ROBERT J. HALLSTROM:** Well, the legal lending limit is so you don't have too much exposure with a particular company. It would be my thought.

**JACOBSON:** And typically that's a percentage of your capital. Correct?

**ROBERT J. HALLSTROM:** Correct.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**JACOBSON:** And even if it's completely secured back with marketable securities, you're still limited.

**ROBERT J. HALLSTROM:** There are some exceptions for a little bit of extra lending limit if it's collateralized by warehouse receipts or livestock, etcetera, etcetera. But, in general, yes, there is a cap or a limitation on the loans to any single entity.

**JACOBSON:** And banks also deal with what they refer to as concentrations of credit, where the regulator may say we want you to limit how much you've got invested with any company regardless of how it's collateralized.

**ROBERT J. HALLSTROM:** Correct. That could be agriculture in Nebraska and, and whatever.

**JACOBSON:** Thank you.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you, Mr. Hallstrom.

**ROBERT J. HALLSTROM:** Thank you, Senator.

**SLAMA:** Additional proponents for LB1176? Welcome, Mr. Schrodts.

**DEXTER SCHRODT:** Chair Slama, members of the committee. My name is Dexter Schrodts, D-e-x-t-e-r S-c-h-r-o-d-t. I am president and CEO of the Nebraska Independent Community Bankers Association. And I will say right off the bat that I'm only in year two of this role. But this is something that I have heard about from my members from the start. It gets brought up for discussion, essentially, at all of our board meetings to really level the playing field between community banks and these investment pools. And my take on the, the bill before us is this is a, a really good compromise from all sides. You know, that whole saying, the compromise is when neither side is happy but it's a good step forward. And I, I have heard from some of my members that this-- they, they believe that this bill doesn't go far enough. But we are happy for that step forward. In particular, some of the wins in this bill are disclosure on the risk of these investments and regarding the lack of FDIC coverage in these pools and the investment tools that the pools use. And then we do appreciate that this bill would set out in statute what the investment guidelines would be as Senator Dungan said to not to put our money at risk. So there's a provision in the bill that lays out the three, kind of the priority for investment, secondary and tertiary, then is the, the gains on the investment. But

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

the primary reason is for, for safety and soundness and, and risk aversion. The areas where we felt that it didn't go too far, as you heard from Senator Jacobson and Mr. Hallstrom, it does still allow for instruments to be used by these pools that community banks cannot use, such as commercial paper. And a few of our members really wanted to see language that would keep the funds more local, if you will. The 2022 report from one of these investment pools laid out that the CDs they utilize only were held in, I believe, 7 state-- 7 banks around the state, which is not a lot at all. So, so I know our members did want to see more money kept locally. But all that aside, we do support this bill and we thank Senator Dungan for bringing it because it is the right step forward to, to leveling the playing field.

**SLAMA:** Thank you, Mr. Schrodt. Are there any questions from the committee? Senator Jacobson.

**JACOBSON:** Thank you, Chair Slama. Well, to be clear, you mentioned the CD purchases. So essentially, what these pools can do is gather these funds and they can invest right now on an unlimited amount in the commercial paper, which is an unsecured IOU, if you will. And technically a bank CD-- a bank CD could be considered commercial paper. However, when it comes to investing in bank CDs, is there a limit as to what they can invest in on a bank CD? Would it not be limited to the FDIC insurance coverage?

**DEXTER SCHRODT:** The pools?

**JACOBSON:** Yes.

**DEXTER SCHRODT:** That I might have to get back to you on, Senator. I'm not familiar with the limits involved.

**JACOBSON:** I believe the, the answer would be that it's \$250,000--

**DEXTER SCHRODT:** OK, up to that [INAUDIBLE].

**JACOBSON:** --without coverage.

**DEXTER SCHRODT:** And that would make sense to me.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you very much, Mr. Schrodt.

**DEXTER SCHRODT:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**SLAMA:** Additional proponent testimony for LB1176? Welcome.

**BETH BAZYN FERRELL:** Good afternoon, Chairwoman Slama and members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing in support of LB1176. NACO has collaborated closely with Nebraska county treasurers to enhance education and resources that are aimed at diversifying their investment portfolios and guarding county funds, while identifying opportunities for an interest income. NACO supports the proposed requirement that investment advisers dealing with public dollars must possess the proper licenses, such as the FINRA series 6 or series 7 license. This requirement is a step forward in ensuring that those entrusted with advising on public sector investment portfolios have the necessary qualifications and expertise. By holding investment advisers to a higher standard, we enhance the ethical advisement of public funds, ultimately benefiting the counties and communities we serve. This approach aligns with the fiduciary responsibility of county treasurers in overseeing these funds and reinforces the trust that local communities place in its government. I would be happy to answer questions.

**SLAMA:** Thank you very much. Are there any questions from the committee? You sure?

**JACOBSON:** I'm sure. I thought about it, though.

**SLAMA:** Seeing none, thank you very much. Welcome.

**MATTHEW EASH:** Thank you. Chairwoman Slama, members of the Banking, Commerce and Insurance Committee, my name is Matthew Eash, M-a-t-t-h-e-w E-a-s-h. I am the Director of Finance for the Omaha Council Bluffs Metropolitan Area Planning Agency or MAPA, and I am also the treasurer and member of the Board of Trustees for the Nebraska Public Agency Investment Trust or NPAIT. I'm here today in support of LB1176. NPAIT was formed almost 25 years ago as a cooperative investment program designed for and governed by Nebraska public entities. NPAIT offers Nebraska public entities the opportunity to invest funds jointly, increasing efficiency and offering the financial benefits of investing together. LB1176 would further clarify in statute, the rules, guidelines, and safety protocols that are required in the safekeeping of Nebraska public funds. Current statutes have been difficult to interpret and may not adequately identify and mitigate the risks to public funds. The NPAIT Board supports this



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

improved legislation and looks forward to continuing to put the safety of Nebraska public funds front and center. Thank you, and I'm happy to answer any questions.

**SLAMA:** Thank you very much. Are there any questions from the committee? Seeing none, thank you very much for being here today.

**MATTHEW EASH:** Thank you.

**SLAMA:** Additional proponent testimony for LB1176? Seeing none, is anybody here to testify in opposition to LB1176? Welcome, Mrs. Vaggalis.

**MARY VAGGALIS:** Thank you. Good afternoon. My name is Mary Vaggalis, M-a-r-y V-a-g-g-a-l-i-s, and I'm here as a registered lobbyist on behalf of the Nebraska Cooperative Liquid Assets Securities System, or Nebraska CLASS, to respectfully oppose LB1176. Nebraska CLASS is a Local Government Investment Pool, or LGIP, created under Nebraska's Interlocal Cooperation Act. These pools allow various political subdivisions, small and large, to pool their money together for investment purposes to garner economies of scale. Most LGIPs, including the 3 in Nebraska, are governed by a board of trustees. The Nebraska CLASS Board is exclusively comprised of officials from its Nebraska members. Of the 3 LGIPs in Nebraska, 2 invest some funds in commercial paper, and 1 is exclusively investing in U.S. treasuries and agency-backed obligations. The Liquid Nebraska Asset Fund, which has not invested in commercial paper, has an overnight yield of 5.08% as of February 1. The Nebraska Public Agency Investment Trust, which invests in commercial paper, had an overnight yield of 5.31% as of February 1. And Nebraska CLASS, the low-cost provider in the state, invested a portion of its portfolio in commercial paper and had an overnight yield of 5.47% as of February 1. Nebraska CLASS has retained Public Trust Advisors as its program administrator. Public Trust Advisors, or PTA, is responsible for the day-to-day affairs of the pool. One of PTA's greatest responsibilities is to invest the underlying funds in a safe and prudent manner. PTA provides these services to over 7,000 participants and 18 investment pools nationwide. As at the end of 2023, PTA managed more than \$81 billion in local government funds. Public fund advisors have 3 goals. In order of importance, those goals are safety, liquidity, and finally a return in the form of yield. Those same tenets are reflected in the Nebraska CLASS and our local agreement. I'd like to briefly outline Nebraska CLASS's concerns with LB1176, which will only decrease competition and ultimately reduce interest income for participating local governments.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

First, according to the FDIC, there have been 569 bank failures since 2000. In our preliminary research, we cannot find a single issue of commercial paper rated at the highest category described in LB1176 who has defaulted during the same time period. LB1176, in limiting of how much an investment pool's portfolio may be invested in commercial paper does not increase the safety of fund assets. Second, LB1176 stipulates that professionals need to be registered with FINRA and have corresponding licenses. Our program administrator is registered federally with Security and Exchange Commission and is not required to register with FINRA. FINRA regulates broker dealers, not investment advisors, acting in a fiduciary capacity. Requiring FINRA licensing creates unnecessary administrative hurdles currently provided by the SEC oversight. Third, LB1176 excludes registered money market funds as an eligible investment. Again, in our preliminary research, we can only find 2 states that do not allow registered money market funds as an eligible investment. Nebraska CLASS uses these types of vehicles to provide additional liquidity, as well as to close out any late-day incoming wires. In closing, LB1176 does little in the way of adding real value to public funds investing in Nebraska. In fact, it will only reduce competition and hurt local governments. The three [INAUDIBLE] for Nebraska's existing pools currently manage more than \$225 billion of public funds, and none of them has ever lost a dollar of public funds. Thank you for your time. I'm happy to answer any questions you have.

**SLAMA:** Thank you very much, Mrs. Vaggalis. Are there any questions from the committee? Senator Kauth.

**KAUTH:** Thank you, Chair Slama. Could you tell me again the, the percentages? You said the overnight yields, I didn't quite catch that.

**MARY VAGGALIS:** Sure. Absolutely. There's 3 funds. The first is the Nebraska Liquid Asset Fund, NLAF, and on February 1 it had an overnight yield of 5.08%. The Nebraska Public Agency Investment Trust, or NPAIT, had a yield as of February 1 of 5.31%. And at that same time, Nebraska CLASS had held a 5.47%.

**KAUTH:** So these are things that you believe are relatively safe and give a very high rate of return. And so if we say we can't do those, then are hurting our political subdivisions?

**MARY VAGGALIS:** Yes. And the rate of return fluctuates as you know. Right now, we're in a high interest rate environment. So the options for a higher rate of return are, are better than they might be as the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

economics and market cycles change. But, but these funds do provide an additional source of income as part of the depository for the funds for the participating member governments.

**KAUTH:** Thank you very much.

**MARY VAGGALIS:** Um-hum.

**SLAMA:** Thank you, Senator Kauth. Additional questions from the committee? Senator Jacobson.

**JACOBSON:** I got to do it.

**SLAMA:** I, I respect it.

**JACOBSON:** Thank you. It's Vaggalis. Right?

**MARY VAGGALIS:** Yes.

**JACOBSON:** OK. The-- I, I did-- I have to ask the question. So as we look at failures, obviously, I just want to point out that Lehman Brothers issued a lot of commercial paper and there were some losses that were taken by those who had invested in Lehman Brothers. And that's been a few years back, but, but those, those things can happen. I also look at the rate of return differences between NLAF, NPAIT, and Nebraska CLASS and I assume that to some extent-- and maybe-- well, maybe, I could just ask you, can you tell me the difference why is Nebraska CLASS outperforming the other two in your opinion?

**MARY VAGGALIS:** Sure. If I might first respond to your first statement, you mentioned Lehman Brothers. Lehman brothers would not have qualified under the provisions of LB1176 as an eligible investment. It was not the highest grade of commercial paper at the time and public fund advisors typically use more than just their rating to determine what are sound investments. They look at market trends, impacts on certain industries, and a variety of factors to make investment decisions.

**JACOBSON:** And to be fav-- to be fair, the 565 bank failures have publicly-- quarterly information that's out there that people can also monitor and choose to stay out of it. Would you agree?

**MARY VAGGALIS:** I agree.

**JACOBSON:** All right.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**MARY VAGGALIS:** And, and I would encourage people to support their local community banks. With regard to the yield, there's a variety of factors. Some of it is the investment portfolio itself. And some of it is the fees that are charged to the members for fund management. So as I mentioned in my testimony, PTA provides a low-cost fund management assistance to Nebraska CLASS and that's, that's part of the reason for its high performance.

**JACOBSON:** I guess one last question would be as it relates to commercial paper which, I think, is one of the driving factors here. So to what extent does Nebraska CLASS invest in commercial paper? Are there limits? What would those boundaries be? And, and also, what would be the minimum net worth of a company that they would invest in that issues commercial paper? Do you-- do you know that information?

**MARY VAGGALIS:** Sure. Nebraska CLASS does invest a portion of its portfolio in commercial paper and that the amount of the portion fluctuates over time is certainly not 100%, I believe. And I will follow up with you on exactly the portion that's in commercial paper right now, as well as, information regarding the net assets of those who they use commercial paper with. Assets are determined by a number of factors, the primary being, the guardrails that are put in place by the Nebraska CLASS Board of Directors in their investment document. So I think, as, as you heard, one of the pools does not participate in commercial paper as an investment. And the local governments, who are members, are able to put those restrictions on their fund advisors and put those guardrails in place. Of course, there are many local governments who choose not to put funds into a local government investment pool. So there's a lot of flexibility here and there's still oversight of, of the membership and they really set out what the parameters are going to be for their fund advisors.

**JACOBSON:** Thank you for your testimony.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you very much.

**MARY VAGGALIS:** Thank you.

**SLAMA:** Additional opponent testimony for LB1176? Seeing none, is anyone here to testify in the neutral capacity on LB1176? Seeing none, Senator Dungan, you're welcome to close. And for the record, we received no letters for the record on LB1176.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**DUNGAN:** No letters. Man. Members of the Banking Committee, I appreciate you listening to the, the testimony here. I'm not going to go into great detail about that. I think that there's been some, some good testimony here from Mr. Hallstrom and others kind of explaining the need for this. I just want to reiterate again, the whole goal behind this legislation is to create guardrails that put us in a position where our public money is being invested in a prudent manner. I appreciate hearing Ms. Vaggalis say that there, I guess, tenets they live by are safety and then liquidity and then yield. That is the order in which those are codified by this legislation. So that shouldn't be a problem. In addition to that, I, I did do quite a bit of research prior to introducing this legislation with regards to the standards that are effectively being put in place with regards to the investment in commercial paper. Nothing that's being laid out in LB1176 is out of the ordinary. Certainly, I think that they adhere actually to a lot of best practices when it comes to commercial paper and industry standards when it comes to the time period for maturity on those unsecured short-term instruments. So I don't think there's any issue here. I absolutely believe in competition. I think we should have robust competition in Nebraska, and we will have robust competition. And I don't think that it requiring all of those various entities to adhere to these very basic standards will in any way, shape, or form upend that potential competition. So happy to answer any additional questions or talk about it with you in the future.

**SLAMA:** Thank you, Senator Dungan. Are there any questions from the committee? Seeing none, thank you very much. This brings to a close our hearing on LB1176. Senator Dungan, stick around, you're up next for LB1332.

**DUNGAN:** Thank you, Chair Slama and members of the committee. Once again, still, good afternoon. My name is George Dungan, G-e-o-r-g-e D-u-n-g-a-n. I represent District 26 in northeast Lincoln and today I'm here to introduce LB1332. LB1332 is a bill to adopt the Prepaid Card Consumer Protection Act. The Prepaid Card Consumer Protection Act aims to ensure a fair marketplace by protecting the interests of the state's consumers. A prepaid card means a record evidencing a promise made for monetary consideration by a seller or issuer that goods or services will be provided to the owner of the record to the value shown in the record. Things like gift certificate, prepaid debit card or prepaid phone card, colloquially known perhaps as a burner phone. LB1332 would make it unlawful for any person to, one, charge any fee, including maintenance, service, or inactivity fee on a prepaid card and, two, place an expiration date on a prepaid card or otherwise

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

limit the time for the redemption of a prepaid card. This legislation helps protect Nebraskans from predatory fees and erroneous expiration dates. Part of my interest in this stems from my time working as a public defender. I worked for quite some time with a population that was legally adjudged indigent, meaning they were generally very low income. Obviously, gift cards and prepaid debit cards can be different things, but at the end of the day, there are a number of people that I worked with who are lower income who rely on these kind of instruments as their day-to-day payment for things. For those who have bank accounts or have a regular debit card, that may seem out of the ordinary, but there's many, many, many Nebraskans across this entire state who fundamentally rely on these kind of instruments in order to get food, or in order to pay for day-to-day expenses by using those prepaid debit cards. Literally less than a month ago, I was in line at a Walgreens and somebody was charging up their prepaid debit card and was having some, we'll call it, robust discussions with the cashier regarding some of the service fees and things that had happened with their money. So it is an issue that I see cropping up. We are currently waiting on an amendment that would remove subsection (3) starting on page 2 [SIC], line 5. I met with members of the, the Department of Banking. There's a concern that that is too burdensome for financial institutions, and I believe that its removal does not degrade the intention of the bill. That's the portion of the bill that requires an entity to pay back a gift card it's \$10 or under. That would be a little bit unworkable and so we are going to be taking that out with an amendment. I had spoken with other individuals from other industries. I understand there are some concerns you're probably going to hear about today. I will let them testify about those and I will stick around to close, but I'm happy to answer any questions in the immediate future.

**SLAMA:** Thank you, Senator Dungan. Questions from the committee?  
Senator Kauth.

**KAUTH:** Thank you, Chair Slama. So, Senator Dungan, would this be-- so if you go to a Walmart and buy a Visa gift card for someone and they charge you \$5 to buy that gift card, is that the fee that you're talking about or is it the gradual erosion of the value of the card?

**DUNGAN:** It's the latter-- the latter of the two.

**KAUTH:** OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**DUNGAN:** Yeah, this is intended to get at those, sort of like, service fees where if you utilize it a certain percentage can be taken off the top or at a certain point in time that money starts to disappear, go away based on whatever structure might be in place. And so the, the fundamental premise of what we're trying to accomplish here is if I put money on a debit card it just stays there and I shouldn't be charged extra for utilizing that. Where a gift card won't terminate at the end of a certain period of time without knowing that's going to terminate. Because, again, some people rely on that. So it's to create consistency and to create, I think, an element of reliability when somebody puts their money in one of these instruments.

**KAUTH:** But, but so the company that is holding the instrument that is providing the instrument could charge for that service of-- and I, I guess I just want to make sure that we're not saying Visa has to provide this service for free for gift cards. They, they can still charge their \$5 or whatever it is.

**DUNGAN:** Yeah, I think you can have the initial sale. That would be my intention, is you can have the initial sale. Yeah, we wouldn't intend for this to just be given out for free effectively creating, yeah, debit cards for everybody. No, I think that an entity obviously can charge that initial upfront fee. And if I need to make that clearer, I can. It's more of those sort of hidden fees or service fees that over time erode the money in that instrument.

**KAUTH:** Got it. Thank you.

**SLAMA:** Thank you, Senator Kauth. Additional questions? Senator von Gillern.

**von GILLERN:** Thank you, Chair Slama. Senator Dungan, based on what you said, there are no expiration dates. And I've never been in a business model like this, but I could-- I'm thinking about it from an accounting standpoint where you could-- you could have this massive payable on your books that never goes away. You know, and-- you know, whether that's the, the dollar that's left on a Visa gift card or a card that got lost or whatever and it-- I would think it would just really, really be challenging for businesses that do this to-- from an accounting standpoint to accurately reflect the, the health of their business. Have you gotten any conversation-- maybe some of the testifiers are going to talk about that I don't know, but have you had any conversations about that?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**DUNGAN:** I have. I would imagine that that is a concern that others share and I-- and I understand that. Right? The last thing I want to do is be overly burdensome on certain industries who have trouble with regards to that, that accounting. My hope would be that they would have the capability or the, the accounting services to, to at least try to account for that over a long period of time. Again, my concern is making sure that people have reliability for the instruments they've already paid for and that money just doesn't disappear. More than happy to continue having conversations with individuals who have concerns about this. I really appreciate our friends in the banking industry and our friends in the retail industry who have reached out to me already expressing some concerns. And I do plan on continuing to talk with them or work with them. You know, the removal of that component, having spoken with the Department of Banking, I think is indicative of my willingness to, to make modifications. But so long as I don't think it undercuts the premise of the bill. So I'm happy to have more of those conversations

**von GILLERN:** Appreciate it.

**SLAMA:** Thank you, Senator Gillern. Additional questions? Seeing none, thank you, Senator Dungan. We'll now open it up for proponent testimony on LB1332. Anybody here to testify as a proponent on LB1332? Seeing none, is anyone here to testify as an opponent to LB1332? And if you do plan on testifying on LB1332 in any capacity, please feel free to come forward and sit in the front couple of rows. Welcome back, Mr. Hallstrom.

**ROBERT J. HALLSTROM:** Chair Slama and members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I'm appearing before you today as registered lobbyist for the Nebraska Bankers Association and the National Federation of Independent Business in opposition to LB1332. I have also signed in on behalf of the Nebraska Grocery Industry Association, the Nebraska Hospitality Association, and the Nebraska Retail Federation in opposition to the bill. Basically, our suggestions are that this bill is not required or needed in Nebraska. I would refer the committee to the 2009 federal card act, 15 U.S. Code Section 1693, which already places reasonable restrictions on fees and expiration dates that can be contained within a prepaid card, including gift certificates and gift cards, as well as mandating strict disclosure requirements for consumer protection. And I would note for the record that the federal law clearly applies to these types of gift certificates and gift cards in the state of Nebraska. When you look at the federal law, it provides exclusions regarding



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

certain service fees, such as the one-time initial issuance fees. So, Senator Kauth, I think that is something that is, is taken care of in the federal law. It also addresses inactivity fees, and there are specific requirements that you can't charge an inactivity fee until at least 1 year after the card is issued or reloaded. And with regard to expiration dates, no expiration date can be less than 5 years under the federal law. So we believe those are all adequate protections that already exist to cards that are issued in Nebraska without the need for additional changes in the law. I would also note I did some fundamental research on the 50 states. I think there's about a little less than a third of the states that have gone more stringent, which federal law does not preempt. It does allow more stringent requirements. But two-thirds of the states, including every one of our neighboring states, have stayed with the federal restrictions and have not gotten more stringent on the state level. The other thing I noticed, we already have some protective measures under state law in the unclaimed property statute, specifically section 69-1305.03. Those provisions, I think, were brought to the Legislature by the Nebraska Retail Federation a number of years ago. What they basically do is they provide that if you have no expiration date or fees after the sale of a gift certificate or gift card, that it's not presumed to be abandoned so it does not [INAUDIBLE] to the state. If you do have fees, you're required to give very specific notices to the consumers regarding whether they are inactivity fees or whether there's an expiration date. And those particular cards and certificates have an accelerated dormancy period of only 3 years. So there are already plenty of consumer protections, both in state law and under the federal card act, and so we do not believe there's a need for further legislation in this area of the law. Be happy to address any questions of the committee.

**SLAMA:** Thank you, Mr. Hallstrom. Are there any questions from the committee? Senator Jacobson.

**JACOBSON:** Thank you, Chair Slama. So, Mr. Hallstrom, I, I think I, I agree with you. And, obviously, though, one of the issues that's out here and it really goes to, to Senator von Gillern's question earlier on, you know, if you had an unlimited expiration and you couldn't charge any fees, you could have mountains and mountains of clients that have-- that, that you owe two bucks to and you got to pay for maintaining that information. So to me, these gift cards, as, as I think Senator Dungan laid out are, there are folks that do purchase these and use those as opposed to a checking account and, and they operate them. And for those-- as long as everything is disclosed,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

they're using that card, it's not going to expire and they're going to continue to use it and reload it, everything works. The problem runs into what happens if somebody loses a card. What happens if, if they just quit using it, they die? You don't know it. You're talking about relatively small dollars and so seemingly the merchant needs to have some mechanism. And it seems like the mechanisms are in place either through unclaimed property or other ways to really ultimately have this card go away if it's not being used. Is that essentially what you're seeing?

**ROBERT J. HALLSTROM:** Yeah, I tend to agree with that, Senator. I think the, the issue that I referenced in my testimony on the unclaimed property that we've made a policy decision already, not necessarily all for that reason, but we've made a policy decision that if you choose to have those gift certificates and gift cards assess either an expiration date or inactivity fees that there's an accelerated three year. Now, that's going to get it off your books. You're going to revert it to the state and then it's there. The issue is you, you probably don't have a name for an individual to, to assign that to because the card may have been gifted to someone and they don't have their name on it and that type of thing, but at least it gets into the state coffers and it's off the books of the-- of the business.

**JACOBSON:** Thank you.

**SLAMA:** Thank you, Senator Jacobson. Senator von Gillern.

**von GILLERN:** Thank you, Mr. Hallstrom. A couple of questions and last one-- my first question just came off of your last comment.

**ROBERT J. HALLSTROM:** Maybe I shouldn't have said it.

**von GILLERN:** I guess we'll see. Right now, the, the-- you know, two bucks left on a card times \$100,000 or 100,000 cards is being-- that's an asset of the issuer of the card because it's never been claimed. It's a cash asset because it's-- again, it's a payable, but it's never been converted to cash or I wanted to make sure I understood you. Would that now-- does that now revert to the state after some period of time and can come off of the, the merchants' books?

**ROBERT J. HALLSTROM:** If there-- if there are no inactivity fees, then it's not presumed to be abandoned. The merchant could, could choose to upstream that to the state if it was an issue, but--

**von GILLERN:** But no merchant ever would.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**ROBERT J. HALLSTROM:** Probably not.

**von GILLERN:** OK. Would Senator Dungan's change-- bill change that, do you know offhand?

**ROBERT J. HALLSTROM:** Well, it would-- I don't know that it would impact the, the unclaimed property issue. It would just say that you're, you're never going to be able to assess any of those types of fees against the card.

**von GILLERN:** OK. All right. And I'm not-- and I'm not in tuning the issuers of the cards, but let's not kid ourselves as part of the profit model of, of the cards is there's a lot of the dollars that end up going unused. And I'm trying to remember my original-- oh, my original question. When Senator Dungan's trying to load up his burner phone with additional time, does, does the current statute apply to that, because he mentioned that under-- as a protection under LB1332?

**ROBERT J. HALLSTROM:** Senator, I, I don't have the precise answer. My, my review of the federal exclusions are that the issue with regard to the telephone prepaid cards, I believe, is excluded under the federal act so there would be different treatment. There's also different exclusions for prepaid reloadable cards and probably 6 or 7 different exclusions that apply. And, again, with regard to the inactivity fees and the expiration dates, the federal law specifically says that as long as you have at least a 5-year expiration date and you don't impose inactivity fees within the first year, and then you can only do it once a month and things of that nature. There's a whole host of rules that apply there that allow some flexibility with regard to expiration dates and the imposition of inactivity fees. This bill, as I read it, would, would allow for none of that.

**von GILLERN:** And I think my last question. If LB1332 passed, would that change a merchant's motivation to sell cards in the state of Nebraska?

**ROBERT J. HALLSTROM:** I, I would assume it would have some adverse impact on it.

**von GILLERN:** OK. Thank you.

**SLAMA:** Thank you, Senator von Gillern. Additional committee questions? Seeing none, thank you, Mr. Hallstrom.

**ROBERT J. HALLSTROM:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**SLAMA:** Additional opponent testimony for LB1332? Seeing none, is anyone here to testify in a neutral capacity on LB1332? Seeing none, Senator Dungan, you're welcome to close. And as you approach, we did receive 2 proponent letters for the record on LB1332.

**DUNGAN:** Thank you, Chair Slama. And thank you, fellow members of the committee. I do genuinely want to thank Mr. Hallstrom for his constructive feedback here. I also want to thank him for coming in on behalf of all of those different organizations, instead of them all coming in and testifying one after the other. That makes all of our afternoon better. This is obviously a really complicated issue. I don't want to pretend like it's not. I think the questions that have been raised here today are helpful and important. I think this can be the beginning of a conversation that we have over maybe a period of time. I think we always have to balance ensuring that businesses have liquidity and flexibility. And we don't want to be overly burdensome, but still making sure that we have some consumer protections for those who oftentimes find themselves in a situation where, unfortunately, they may not, you know, always have somebody to advocate on their behalf. So I think this is the beginning of a conversation. I look forward to continuing to work with Mr. Hallstrom and others on some things that we can change. And, hopefully, we can make a difference here, but I, I do appreciate the feedback, so. Happy to answer any other questions.

**SLAMA:** Thank you, Senator Dungan. Are there any questions from the committee? Seeing none, thank you very much. This brings to a close our hearing on LB1332. Next up is LB1395 with Senator Murman. And as we turn over the room here, I'd ask that anybody wishing to testify on LB1395 come up to the first couple of rows just to expedite things. Welcome.

**MURMAN:** Thank you. Good afternoon, Chairman Slama and members of the Banking and Insurance Committee. My name is Dave Murman. I represent Nebraska's 38th District. Today, I'm here to bring LB1395-- and I'm having my open passed out along with an amendment-- the Natural Asset Company Prohibition Act. The aim of this goal was to protect Nebraska from a recently harmful proposed rule by the SEC. Shortly after I introduced this bill, the SEC dropped that rule. So while the immediate risk that the rule posed may have gone away, the SEC could, of course, bring the rule back later on in time so this bill still has some potential to act as a preventative measure or at least start the discussion up a bit. To begin, I'd like to explain what exactly the rule proposed and what a Natural Asset Company is. The proposed rule

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

allowed for the creation of a new type of company known as the Natural Asset Company, or NAC. The goal of NAC is to maximize the value of a land's so-called ecological services, rather than provide-- than profit like a standard investment. Ultimately, the proposed rule puts the economic security of our farmers and ranchers at risk in the name of the federal climate agenda. Under the rule, Nebraska land can be invested by any private investor, which includes with a nation that has adversarial security goals like China. Upon investing in a NAC, that investor may have the ability to become a shareholder in the land. For example, in Kimball County, our state is currently working on upgrading an aging ICBM system. The ICBM site is surrounded by farmland. Naturally, an adversarial nation with an interest in our missile capabilities, such as China, would gain a great advantage in the ability to invest in the surrounding farmland as a NAC. They wouldn't have to necessarily fly a balloon over it. By allowing this form of investment in our land, the rule puts our national security at risk. The proposal also creates an unclear system of valuating land based on the benefits of natural assets. Other terms used in the proposed rule include community well-being and ecological services. None of these terms have any sort of clear valuation method, but instead read as what could be better described as cultural or political goals. These goals are unobjective and may lead landowners and investors alike to have concern over the-- over the stability of these investments as cultural and political objectives naturally shift between changes in societal priorities and political administrations. Nebraska land being valued based upon anything other than tangible assets creates an unworkable system for the state. Finally, the proposal risks halting one of the most important sectors in both Nebraska's and United States' economy, agriculture. Private investors throughout the country and the world, including foreign actors or foreign controlled wealth funds, could, through the process of becoming a NAC shareholder, place an environmental easement on the land halted-- halting any economic activity. The result could be farmers, ranchers, and other landowners through no say of their own losing critical crops, in turn jeopardizing both business and the American food supply. So we all-- so we see all of these risks that the federal government has looked to push on our farmers and ranchers and LB1395 provides them some good protection. LB1395 prohibits the state from selling land and land rights to a NAC or doing any business that grants NAC's rights to land. State funds would be prohibited from going to any NACs. With LB1395, farmers and ranchers also do not have to worry about outside actors trying to put easements on their land halting production. This bill prohibits easements or other sorts of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

encumberments from being created for the benefit of a NAC. And if ownership of land or land rights does go to a NAC, the land reverts back to the state of Nebraska and any easement in violation of the bill is null and void. Those that are adversely affected from NACs on their land, including the state, are given the ability to file action in court to revert ownership of the land back to the state of Nebraska and declare any easement null and void. Finally, this bill ensures the Secretary of State is prohibited from accepting filings of authority to conduct business with a NAC, convert any existing company into a NAC, or issue a certificate of authority to a foreign NAC. I'll also note that we have an amendment after some discussion with State Investment Officer Ellen Hung, which aims to make sure this law is still manageable with the Nebraska Investment Council by ensuring its investment advisors can responsibly withdraw from any restricted holdings under this law. My hope is by taking care of the Investment Council's concerns, we can lower that fiscal note quite a bit, but we just received that amendment back from Bill Drafters today so we'll have to continue that discussion in the future. To conclude, it's no secret that the federal government has quite a bit of authority. So when they propose rules that risk Nebraska land, we have to all-- we have to have all of our bases covered. Between prohibiting the selling of land into NACs, giving Nebraskans the ability to file in court against their land being entered into a NAC, and equipping the Secretary of State with the clear guidelines on what to do with NACs, we offer-- we cover those bases. In a state where agriculture is our number 1 economic source, defending our farmers needs to be our number 1 goal.

**SLAMA:** Thank you very much, Senator Murman. Are there any questions from the committee? Senator Jacobson.

**JACOBSON:** Thank you, Chair Slama. Thank you, Senator Murman, for bringing this. Yeah, I am reading through the amendment and I was-- figured that there was a reason that our State Investment Officer and the State Treasurer were here and I, I think I probably gonna hear from them and so I may just defer to them. But I-- I'm assuming that the amendment is really dealing with what do they do with investments that they've got out there today because it looks like the language in the bill would prohibit the state from investing in any NACs outside the state of Nebraska. So if they're investing in pools, there's probably some of those out there. But I'll, I'll maybe-- I don't know what your thoughts are there, but I, I can defer the questions to them because I'm guessing one or both of them are going to testify.

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**MURMAN:** Yes, you've got the intent correct.

**JACOBSON:** Great.

**MURMAN:** And, yeah, they'll explain it a lot better than I can I'm sure.

**JACOBSON:** I will anticipate that question or they, they can anticipate my question. I'm sure they've already got the answer.

**MURMAN:** Otherwise, you can hit me on the close.

**JACOBSON:** All right. Thank you.

**SLAMA:** There will be no hitting of anybody on any close. Thank you, Senator Jacobson.

**JACOBSON:** Thank you.

**SLAMA:** Additional committee questions? Seeing none, thank you very much, Senator Murman. Proponent testimony for LB1395? Welcome, Treasurer Briese.

**TOM BRIESE:** Oh, thank you very much, Chair Slama. Thank you and good afternoon, Chair and members of the Banking Committee. I'm Tom Briese, T-o-m B-r-i-e-s-e, and I want to thank Senator Murman for bringing LB1395. And I'm here today to support his efforts to rein in these natural asset companies. And, honestly, I can't speak to all aspects of the bill. I hadn't heard of a Natural Asset Company until about two months ago, and I'm still not entirely sure what the model is here, what, what they're trying to accomplish with that. I, I have a general idea, but it's a fairly nebulous concept. And I think clearly there's going to be some details for the committee to work out and Investment Officer Ellen Hung will be here to offer some suggestions and ideas and probably explain some components of, of that amendment that was earlier referenced. But I'm here to support the general concept of limiting the expansion of these entities. In September of '23, the New York Stock Exchange proposed that the SEC, the Securities and Exchange Commission, permit the listing of securities and Natural Asset Companies. Specifically, it was a proposal to amend the NYSE listed company manual to adopt listing standards for these Natural Asset Companies. And, again, I hadn't heard of those things before this proposal. It was brought to my attention and so I researched the issue, and I pulled up the SEC's notice to solicit comments. And in its notice, the Commission included the New York Stock Exchange as

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

summaries of its statements in support of the proposal. In those summaries, the New York Stock Exchange in their proposal to the Securities and Exchange Commission, they assert that, quote, agriculture is contributing to the loss of natural habitat and soil degradation, unquote. And is one of several, quote, significant threats to life on Earth and the economy. Let me repeat that. The New York Stock Exchange said that agriculture is one of, quote, several significant threats to life on Earth and the economy. That got my attention. It further asserts these NACs would be prohibited from engaging in, quote, unsustainable activities, including, quote, perpetuating industrial agriculture, unquote. So as I see it, proponents of this concept are calling production agriculture unsustainable and suggesting agriculture poses a significant threat to our economy and life on Earth. My first reaction was, you know, who, who comes up with this stuff? This really sounds like a direct attack on production agriculture. And as a farmer myself and a public servant of a state heavily reliant on agriculture, I am here to voice my concern with these entities. I also sent a letter to the Securities and Exchange Commission in opposition to the proposed rules and that's what we passed around here. And, fortunately, the-- or happily, the, the New York Stock Exchange withdrew its proposal. And to the extent we can rein in this concept, I think it's a good thing. I think what we have before the committee today is a solid effort to rein this in. Again, it will be up to the committee to iron out some of these details and I certainly trust the judgment of this committee and the leadership of Chair Slama to get it done right. And there'll be some things ironed out, I think. And, and one thing to me is some of these things aren't necessarily defined. Again, it's a nebulous fluid concept what we're talking about here. I'm just not sure exactly what some of these-- what they're trying to do here, what some of these terms actually mean, and maybe some things we need to have ironed out. And, again, Ellen Hung will be here to talk about the potential implications to state investments. And so with that, I'd answer any questions if I'm capable.

**SLAMA:** Thank you very much, Treasurer Briese. Questions for the testifier? Senator Jacobson.

**JACOBSON:** Oh, I just-- yeah, I just wanted to confirm if, if Ellen Hung is going to testify, I'll save my questions for her. They were just some technical questions that I had with, with the ETFs and how those would be taken care of, so.

**TOM BRIESE:** Yeah, she truly is the expert on those items.



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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**JACOBSON:** She-- by the way, I had a chance to meet her here around a week or so ago and very impressed and she's very knowledgeable.

**TOM BRIESE:** You bet.

**JACOBSON:** A breath of fresh air to have here, so.

**TOM BRIESE:** You bet. Truly an expert.

**JACOBSON:** Thank you.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you very much.

**TOM BRIESE:** Thank you.

**SLAMA:** All right. Additional proponent testimony for LB1395? Welcome.

**KATHY WILMOT:** Good afternoon and thank you for this opportunity. I'm Kathy Wilmot, K-a-t-h-y W-i-l-m-o-t, here to represent Nebraska Eagle Forum. In recent weeks, many of us have been exposing information and formally submitting our concerns regarding a proposed rule that was submitted. And you just heard about that. Luckily, they pulled it back, but by pulling it back they can also reenter it at any time. This new investment product was created by the Intrinsic Exchange Group in partnership with the New York Stock Exchange. And some of the background players are the Rockefeller Foundation and other international environmental organizations such as the World Wildlife Fund. The purpose of the NACs would be that elite investors and governments would profit from the permanent, so-called protection of our lands. But you have to remember to these environmentalist actors, protection means no human use or access. The result translates to locking down our lands. Congresswoman Harriet Hageman of Wyoming warns that under the guise of climate change, NACs would be-- make this control mechanism profitable without the actual use of the land itself. By monetizing and leveraging the management of natural outputs, their war cry of ecological performance would fall under the rules of sustainable development. Natural assets would then belong to corporations that are potentially run by special interest groups, thereby requiring all production tied to the land to fall under sustainability rules established by the nongovernmental entities. The IEG admits that producing these essential goods and services and managing resources wisely is as valuable or, perhaps, even more valuable than food production. The IEG specifically prohibits NAC from engaging in, quote, unsustainable extractive activities. So it's a

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

direct threat to energy, mining, and ag production on lands across America. IEG documents reveal, quote, these assets can be areas that are publicly owned, such as national parks or tracts of privately owned property held by individuals or corporations. Land trusts could also enroll conservation easements without landowner permission. That's really scary to me. Another quote is a transformational solution hereby-- whereby natural ecosystems are not simply a cost to manage, but rather an investable asset which provides financial capital and a source of wealth for governments. Well, and its citizens, they claim. It is concerning that language contained in SEC proposal states: The exchange welcomes listing inquiries from private-- or foreign private issuers. And there is a huge concern that you already heard about. Proposed SEC language does not appear to prohibit foreign nations from holding shares in or creating NACs. Can't you just see China and others being very willing to shut down any of our mining or anything else that we need? The proposed rule, as I said, was withdrawn, but it can come back again at any time. And that's exactly why we need LB1395 to protect all of us. I want to thank Senator Murman and anyone that worked with them on this for being proactive. For once, we're actually, I think, in kind of in front of the move, and we've got concerned citizens all over the state. We would ask you to please work quickly to protect us.

**SLAMA:** Wonderful.

**KATHY WILMOT:** And I thank you.

**SLAMA:** Thank you, Ms. Wilmot. I have a quick question for you. I, I appreciate you pointing out the ownership side of this bill. And, obviously, as we talk about property taxes, it's an annual major issue for our Legislature. And a, a big component of our property tax rate is our property valuations. Could you walk me through how NACs could impact property valuations in the state?

**KATHY WILMOT:** I can't say I'm a, a specialist--

**SLAMA:** Sure.

**KATHY WILMOT:** --on that, but I do know that from some of the lawyers and things that I've had an opportunity to listen in on some of their explanations. There's some thought process that with this huge national debt we have, this is a way for us to come up to some collateral. Because if we come up with a value that we assign to water and all these other things, that begins to balance the sheet. And then

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

there is some thought in all their wisdom. And I don't mean the lawyers, I mean these game players. There's some thought, you know what, I'd bet we could probably tax those property owners on that value. So when you talk about property taxes, actually there is a possibility this could just skyrocket our taxes. You know, I don't know. I don't know what their-- I'm sorry-- evil plans are, but that's a possibility.

**SLAMA:** No, I, I, I appreciate your thoughts on that. Additional questions from the committee? Senator Jacobson.

**JACOBSON:** Well, one, just for clarification. So kind of walk us through how a NAC would get control. Would they need a willing seller to do this or how would they go about making the-- acquiring these rights on this land?

**KATHY WILMOT:** You know, I don't know all of the details. Some people would be possibly willing. But then, again, like when the trusts or easements can possibly be sold without a landowner's permission, somehow it can evidently work outside of that person's permission.

**JACOBSON:** Well, if, if I understand it, I, I think you need a willing seller to sell to the NAC the-- these, these nontangible rights, if you will. But-- and then they could pool those and sell those. But then ultimately, as you've indicated, would be able to come back then, control how that property would be used, and then basically drive out the revenue, move the taxes up and then ultimately take the land from because you, you basically [INAUDIBLE] to make the land worthless.

**KATHY WILMOT:** It sounds like that to me. And, again, you know, mechanics and how this would actually play out, I think, no one knows. And it's a little bit like he talked about, the nebulous terms, having some of these things aren't really defined. And we're just-- it would be like we're trusting to just let this stuff move on.

**JACOBSON:** And we thought 30/30 was a problem.

**KATHY WILMOT:** Well, this actually is just kind of taken 30/30 to another step. I mean, it's all very connected. If you go back and look at it, it's, it's just another step. And, and some of the more recent things that I had sat in on or listened to, even after they pulled the rule back, they're already doing some planning on what they think the next step would be. So that's why to me, sixth-generation Nebraskan, I happen to be blessed enough to have a piece of a homestead of, of our

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

family. But even beyond that, that's why for us it's just so critical that we act quickly. I want us to be careful, you know, and think it through well. But I don't think this is something we can sit around and, and maybe even wait till next session on. I mean, things move fast. And when they proposed this rule, they didn't even-- the SEC didn't even give the normal limit of time for comments. They had it all screwed down really tight. And it was only because they kept getting so much pushback that they actually extended the deadline two times. And then finally the day before the second or the third deadline, actually, then they finally pulled it back. And, and, again, that was for-- I think it's much easier now for them to do some adjusting and resubmit.

**JACOBSON:** Thank you.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you very much for being here--

**KATHY WILMOT:** Thank you.

**SLAMA:** --today. Additional proponent testimony for LB1395?

**TANYA STORER:** Good afternoon, Chairman Slama and members of committee. My name is Tanya Storer, T-a-n-y-a, last name S-t-o-r-e-r. I'm from Whitman, Nebraska. I am here today to first and foremost thank Senator Murman for having the foresight to bring LB1395 before you. I hope that you will see that he had exceptional foresight in bringing the issue to, to the body. Today I'll refer, and I'm going to repeat a few things, but I'm a teacher by background and you have to hear things 3 times to start to get them, so I think that's OK. I'll refer to Natural Capital Accounts, which are NCAs, as well as Natural Asset Companies referred to as NACs. These seemingly new concepts lack clear definition. However, we can proceed with discussing them with the following definitions and understanding that NCAs provide the framework by which NACs can be used to regulate property rights. The concept of a nationalized accounting of nature found its way into the American political landscape. On April 22, 2022, President Biden directed an Executive Order 14072 for the establishment of the first government-wide natural capital accounts. The Environmental Protection Agency declared their role in the development and use of those National Capital Accounts, as did the U.S. Department of Interior. The EPA gives a clear example of this potential integration in a report citing groundwater and its usage, which should be of keen interest, especially to the state of Nebraska. Control of the Natural Capital

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

Account assets would be achieved using the NACs. A NAC's purpose is to actively manage and grow the value of a natural asset in their production of ecosystem services. Ecosystem services are things like clean water, clean air, carbon sequestration, photosynthesis and pollination. These NACs hold the right to the ecological performance of a defined area and have the authority to manage the area for conservation, restoration, or sustainable management, and these defined areas may be federal, state, or private lands. NACs would allow shareholders, including foreign interests, to buy shares of companies whose express purpose is to lock up land and prevent productive natural resource development. This concept would create a change from natural value to a monetized right, which can be owned by someone else. The monetization of a natural value inherently declares ownership, ownership of a value which no one has the right to own. Currently property rights are something an owner can exclude someone else from using, such as access, mineral rights, development rights and agricultural rights, not ecosystem services. LB1395 is a proactive step that the state of Nebraska can take to help keep property rights, ownership, and control in our own hands. It would prevent other nations' sovereign wealth funds from investing in the control of our lands and our livelihoods. Thank you for your time and I would be happy to answer any questions but again.

**SLAMA:** Thank you, Mrs. Storer. I just have a couple of questions for you. You brought up there at the end adversarial nations and how they could use this system. Could you walk me through how NACs could be used, misused, abused by adversarial nations like China?

**TANYA STORER:** Sure. So the proposed rules for the-- before the SEC were developing a company that can be bought and sold, traded on the New York Stock Exchange. That would be any, any corporation, including foreign entities, would be eligible to buy, sell, or trade those. The proposed rules also stated what the, the details of owning that NAC would include and that would be management control to protect the ecosystem, which according to those proposed rules would be a-- would be prioritized over any-- defined by someone unsustainable activity which much of commercial agricultural would fall into.

**SLAMA:** Great. Thank you. Additional questions from the committee? Seeing none, thank you very much. You have a question.

**von GILLERN:** I, I do, in fact. Thanks for giving me a reboot here.

**TANYA STORER:** There was a pause.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**von GILLERN:** I'm, I'm so-- I'm so confused here. Your testimony is terrific. Thank you and it has built this or-- I'm just trying to figure out what this compare-- compares to. The only thing I can-- I keep landing on nonfungible tokens or carbon credits because it's a fictitious asset. It's an asset that produces nothing.

**TANYA STORER:** Correct. It is hard for--

**von GILLERN:** You have 2 pages of testimony here. Is there anything else you would like to add? There's my question.

**TANYA STORER:** I will tell you it was-- it is very difficult to wrap your mind around as a red-blooded American that, you know, believes in capitalism and private property rights. This is contrary to anything that, that we would ever have experienced, so to speak, in our system. And you gave a few examples that might be similar, but is monetizing something that is intangible that, that really shouldn't be owned by anyone to begin with. So the thought that a company or a-- especially a foreign entity would own a defined-- which is the question, who defines that? Who defines the value of the clean air over a, you know, section of ground or who defines what the clean water category or number? You know, there's a lot more questions than there are answers so your confusion is warranted.

**von GILLERN:** Appropriate.

**TANYA STORER:** Appropriate.

**von GILLERN:** Thank you, I think.

**SLAMA:** Thank you, Senator von Gillern. Additional questions from the committee? Senator Dungan.

**DUNGAN:** Thank you. And thank you for being here. And I apologize, I also am similarly confused. And I'm over here reading definitions and I tried to read this ahead of time, too, but I want to make sure that I clarify this. When we're talking about the NAC, or the NAC, that is a fictitious sort of company that is created and then ultimately invested in or traded on the New York Stock Exchange. That is separate and apart, though, from ownership of the land. Right? Like if I own-- let's say I own this plot of land and I have a desire to use it for water purification or use it for carbon sequestration or something that I think is arguably in the benefit of the sustainability of the land or something. So I own that land. I then create a NAC, I, like, file whatever paperwork I have to file, that NAC exists in the New

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

York Stock Exchange and with, like, an initial public offering can be invested in. I can then take that money as the owner of that land and the owner of this NAC and reinvest it for the purposes of the continued conservation of that land, like carbon sequestration or water purification. Somebody buying into that initial public offering or buying stock in that circumstance, that is separate and apart from the actual ownership of the land here in Nebraska. Is that correct?

**TANYA STORER:** Yeah, I think-- I think that's correct. However, I would add to that, that what we're doing here is we're creating a brand new property right. One that has never existed before that would not be tied to the deed of the land. So you're creating-- traditionally in our property rights system, all property rights go with the deeded land. Correct. And this would create a new property right that was never connected to the land that now someone else can own and manage.

**DUNGAN:** But in order to do-- whatever that noise was-- in order to do that, the person who owns the land has to agree to that. Right? Like, it's not like a NAC that can just come in and buy up my farm or my land, suddenly invest a bunch of money into that NAC, and then all of a sudden, oh, shoot, I wish I could keep farming, but I can't because this NAC has somehow nefariously come in and put this money in there. Right? Like, the owner of the land has to voluntarily enter into this agreement.

**TANYA STORER:** The proposed rules offered a variety of ways for land to be put into NACs, and one of them was land already owned by the federal government. Really, the, the people of the United States of America, not the federal government, any, any other government-owned property, land that would currently be under conservation easement. And in that specific situation, an owner-- landowner may have entered into a conservation easement without ever having agreed that that additional right could be sold off. So that, to me, is a prime example that would not be voluntary on the landowner's part.

**DUNGAN:** And, yeah, and that would be problematic potentially depending on how the language is. But the conservation easement was also entered into voluntarily.

**TANYA STORER:** Right, but the NACs would not have existed. And this was proposed to be creating those acres to be eligible to be put into a NAC, something that that landowner originally would not have agreed to.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**DUNGAN:** OK. And that's-- and I appreciate your clarification of that. These are not trying to be gotcha questions. I'm trying to understand--

**TANYA STORER:** I like gotcha questions.

**DUNGAN:** --the separation here because it sounds like the concern is, is being expressed, right, is this concern that agriculture is necessary in Nebraska. And one of our most vital things we do here is going to get somehow financially run out of business by these NACs or nefarious entities like foreign organizations that come in. My understanding from what I'm trying to figure out, if you talk through this, is that the only individuals that would be working with these NACs are voluntary folks who are entering into it. Now, obviously, if there's some nefarious other way that that could ultimately be subverted, that would be problematic. But I just appreciate the clarification of trying to understand the voluntary nature of it versus sort of the more malicious actors that there's a concern about coming in and pushing that back.

**TANYA STORER:** And I-- and if I may add one comment?

**DUNGAN:** Yeah. Yeah.

**TANYA STORER:** I, I think-- you know, the question of voluntary has come up a bit and I would-- I would say that it is one of government's clearly defined roles is national security. Our food production system is part of that. And so I think this is a direct threat to the long-term national security of our ability to, to mine, you know, whether it be minerals or, or the production of food. The other-- the other concern primarily I would have is this country was built on a very strong private property right system that benefits any-- every citizen living in the United States of America. And so I, I find it a bit abhorrent that we would support a system that would allow people to voluntarily dismantle our property right system.

**DUNGAN:** No, and I-- and I appreciate that. My, my concern, I guess, would be what we're actually doing here is the opposite, right? Like, it sounds like these NACs, which, again, I don't think are even actually in Nebraska right now,--

**TANYA STORER:** Correct.

**DUNGAN:** --but these snacks are a free-market solution where individuals are voluntarily choosing to enter into these companies to



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

have those assets then sort of bolster their own individual efforts for whatever conservation they want. I understand where you're coming from and I don't want to keep belaboring the point, but I just wanted to make sure I kind of highlighted that sort of difference between the NAC and the actual property right of ownership of the property here in Nebraska. And you've actually been very helpful in delineating that so thank you.

**TANYA STORER:** You bet.

**SLAMA:** Thank you, Senator Dungan. Senator Jacobson.

**JACOBSON:** Well, I, I guess I have, maybe, a question and a comment to maybe add some clarity here. You know, I, I think there's been-- let's just say some billionaires that have been pretty notable who have been known for buying a lot of farmland would likely be very willing sellers to NACs. And let's also recognize that as we look at generational turnover of ranchland, farmland across Nebraska, who don't have roots in wanting to continue to run that farm or ranch, who may be very enticed to, to be offered, you know, 2 or 3 times the market value of farmland or ranchland to sell to a third party who's going to put it into a NAC. So, so willing sellers, you know, the question is, how many dollars are coming at this to create willing sellers to make that acquisition? I, I-- some of these ideas are akin-- are akin to those people who came up with the modern monetary theory of we can inflate an issue as much-- we can continue to do deficit spending because the Treasury would issue bonds to fund-- to fund these-- the, the spending and the Federal Reserve would buy the bonds and put it on their balance sheet and we fixed the problem.

**TANYA STORER:** Right.

**JACOBSON:** OK. You can go to the candy store and have everything you want because somebody else is going to pay for it and then, ultimately, we find that somebody doesn't want to buy our, our bonds anymore and the Federal Reserve can no longer hold that. So there's, there's other crazy theories that have been put out there. This one seems to fall right on top of the other crazy theories, but ultimately it's a-- it's a-- it's a land grab. And it'll become clearer exactly what the strategy is, it seems, as we move down the road.

**TANYA STORER:** Yeah, I, I think so. And one other thing to add that just-- to address Senator von Gillern's comment, as well, that makes this just really difficult to wrap your head around. But the-- it was

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

made very clear in the discussion, as these were being present-- the rules were being presented to the SEC that NACs are not intended to make money. There's no anticipation because there's no method for them to actually make money.

**SLAMA:** Thank you, Senator Jacobson. Additional committee questions? Seeing none, thank you very much.

**TANYA STORER:** Thank you.

**SLAMA:** All right. Additional proponent testimony for LB1395? Hi.

**BETH BAZYN FERRELL:** Good afternoon, Chairman Slama, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm testifying in support of LB1395. The counties are concerned that purchases of property, especially agricultural land and horticultural land by Natural Asset Companies would affect property values and diminish the tax base. I think there's been some of that discussion here today. Any change to the tax base, of course, is going to affect the mechanism that counties use to, to provide services to their citizens. So with that in mind, we're in support of this bill because it would limit those transactions. I'd be happy to answer questions.

**SLAMA:** Thank you very much. Any questions from the committee? Seeing none, thank you very much for your testimony. Additional proponent testimony for LB1395? Seeing none, is anybody here to testify in opposition to LB1395? Welcome.

**AL DAVIS:** Good afternoon, Senator Slama, members of the Business and-- Business Committee. My name is Al Davis, A-l D-a-v-i-s. I'm the registered lobbyist for the Nebraska Chapter of the Sierra Club with 3,000 members. We are the oldest environmentally focused organization in the nation. I'm here today to oppose LB1395 for a number of reasons. The bill seeks to delegitimize a structured corporate entity known as a Natural Asset Corporation, which was actually proposed and designed to assist landowners in implementing holistic land management with a focus on protecting and preserving our farm and ranchland, sequestering carbon, and benefiting wild plants and animals. The Nebraska Chapter of the Sierra Club use these items as worthy goals, which should be embraced by Nebraska's governing bodies rather than opposing them, which is the basis of this bill. First and foremost, we believe that the intent of the bill is an incursion on the rights of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

landowners to manage and plan for the future of their land as they see fit. The Nebraska Chapter of the Sierra Club finds it perplexing that members of the Nebraska Unicameral are again seeking to regulate and suppress the ability of landowners to make a decision about what may be best for their property while claiming to be champions of private property rights. The Natural Asset Corporation was proposed as a class of entity to trade via the New York Stock Exchange which had filed with the Securities and Exchange Commission to trade there. However, the New York Stock Exchange withdrew their request in mid-January, meaning that LB1395 no longer has a purpose, purpose. I'm sorry, I've got a little bit of a sore throat. If Nebraskans are concerned about the loss of farm and ranchland, they should turn their focus on urban development which converts far more land to other classes of property in our state than any other. That land will never be farmland again and destroys habitat for the creatures who share the planet with us. Unfortunately, the attacks on conservation entities like the Nature Conservancy, the Land Trust, or big out-of-state landowners like the Mormon Church or Ted Turner are so often based on misinformation. I have personal experience with the entities I've mentioned, and I know the holistic management of lands they manage are a top priority. A Natural Asset Corporation is a new tool designed to further the efforts of private capitalists who are concerned about building a sustainable future and are willing to partner with landowners to foster vibrant and healthy grasslands and farms in Nebraska. The best way to achieve that goal is to work with those on the farm and ranch today by providing additional resources to them via mutually agreed goals. They are not the enemy and it shouldn't be viewed that way. And I'm-- one more point I'd like to make is I think that before we step forward with this, it would be really important and useful for us to maybe have an interim study next summer where we could have-- spend more time looking into this. I understand the concerns that were expressed by the opponents, because it's a whole new concept, but it may be-- it may work to our advantage if we have time to evaluate it before just reacting with, like, sort of a gut check, so. Thank you for your time. Be glad to take questions if I can answer any.

**SLAMA:** Thank you, Mr. Davis. Are there any questions from the committee? Senator Jacobson.

**JACOBSON:** Thank you, Chair Slama. Thank you, Mr. Davis, for being here. You mentioned the Mormon Church, Ted Turner, and Nature Conservancy, Land Trust. How many acres right now in the Mullen School District is controlled by Ted Turner and the Mormon Church? Do you have an idea?

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**AL DAVIS:** I really couldn't tell you.

**JACOBSON:** Significant.

**AL DAVIS:** Significant, yes.

**JACOBSON:** So if that land went off the tax rolls, what happens to the school district and, and-- in terms of their tax base?

**AL DAVIS:** Well, it would dramatically go up. Mr. Turner-- you know, from all indications I have they do not intend to take those off the tax rolls.

**JACOBSON:** I, I agree with that. At least that's what we're being told, but this could be certainly an avenue to get them there. Correct?

**AL DAVIS:** I would say that's a stretch. I-- you know, again, that's why we need an interim study like this to look into this. Those are things that we wouldn't want to have happen. I certainly agree with you, Senator, on that.

**JACOBSON:** I mean, you also own a substantial amount of farmland in that area as well, don't you?

**AL DAVIS:** I do.

**JACOBSON:** And, obviously, you're a taxpayer today in that area, but that could change dramatically if, if a bunch--

**AL DAVIS:** Yeah, Mr. Turner has a 50,000-acre ranch which borders mine so,--

**JACOBSON:** Right.

**AL DAVIS:** --you know, I'm very familiar with that.

**JACOBSON:** Right. Thank you.

**SLAMA:** Thank you, Senator Jacobson. Additional committee questions? Senator von Gillern.

**von GILLERN:** Thank you, Chairwoman Slama. I'm just curious if, if-- by reading your testimony, it sounds like the Sierra Club is a huge advocate of private property rights. Is that accurate?

**AL DAVIS:** I think so.

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**von GILLERN:** So if Ted Turner chose to-- on his 50,000 acres adjacent to your ranch-- if he chose to strip mine that, would the Sierra Club weigh in on that?

**AL DAVIS:** They probably would.

**von GILLERN:** And would that not be his right as a private property owner?

**AL DAVIS:** Well, he would have to observe the rules and regulations that go along with the mining industry in this state and how it's managed and to be sure that there's no damage to neighboring property. You know, we see this a lot with CAFOs and those entities that are coming in and changing an area dramatically, and that's where zoning comes in. I think that's where it's important.

**von GILLERN:** So the Sierra position-- Sierra Club's position on private property rights depends on what they want to do with that property it sounds like.

**AL DAVIS:** I don't think anybody in this day and age has free reign to do whatever they want to with their property, because you have certain expectations that have been put down by local governments as to what you're going to do, how you're going to manage that. You know, we had an issue nearby us a few years ago where a rancher ditched out of a meadow into the-- into the Snake River. Well, that obviously damaged the river. That's not his property so there were penalties that had to take place with the [INAUDIBLE].

**von GILLERN:** I understand that. I just wanted to understand what the Sierra Club's position was. So thank you.

**AL DAVIS:** Thank you.

**SLAMA:** Thank you, Senator von Gillern. Additional questions from the committee? Seeing none, thank you, Mr. Davis.

**AL DAVIS:** Thank you.

**SLAMA:** Additional opponent testimony to LB1395? Seeing none, is anyone here to testify in the neutral capacity on LB1395? Welcome.

**ELLEN HUNG:** Good afternoon, Chairwoman Slama, committee members. My name is Ellen Hung, E-l-l-e-n, last name H-u-n-g. I'm the State Investment Officer, and it's my job to manage the state's assets in a

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

prudent manner. State legislation that prohibits the investments of state assets in specific companies or countries will affect portfolio expenses and investment returns. We invest and passively manage comingle accounts in equity markets that are highly efficient. This is the most prudent way to invest in these markets as it is very difficult for active managers to consistently outperform in highly efficient markets. Prohibitions of specific companies would preclude the use of comingle funds as customizations can't be made in these types of accounts. We would be forced to use separately managed accounts, resulting in increased management fees of approximately \$1.3 million per year based on current portfolio values. It can be difficult to get into highly perform-- highly performing private market funds such as private equity and real assets. These funds are often oversubscribed, meaning that there are more investor interests than total fund sizes. Restrictions on investments would make it impossible to get into preferred funds. The difference in performance between the top tier versus bottom tier managers can be significant. In 2022, top quartile private equity funds generated an internal rate of return of 5.5% versus the bottom quartile at -20.9%. In 2021, it was 15.3% versus -4.9%. As mentioned by Senator Murman earlier, I've made some suggestions to minimize the effect of the bill to the state's invested assets. Indirect holdings should be excluded. This would prevent increases in management fees and other expenses. Private markets should be excluded. This will give us an opportunity to invest in high-performing private market funds. Both exclusions have been adopted by other states that have restricted investments. To minimize the loss arising from the divestments of assets in actively managed accounts, we propose an addition of a fiduciary exemption. The exemption would allow the prohibition of restricted companies to stop if it would result in a portfolio value that is 50 basis points lower than what it would have been had we invested in restricted companies. This will help cap the loss to Nebraska to \$1.2 million if only 1% of holdings are affected based on a portfolio size of \$23 million-- \$23 billion. The loss could be more with more restrictions as more holdings would be affected. Fiduciary exemptions have also been adopted by other states. In events of divestment, we ask that enough time be given for the divestments of restricted holdings to minimize the effect to the portfolio.

**SLAMA:** Wonderful. Thank you very much, Ms. Hung. Are there any questions from the committee? Senator Jacobson.

**JACOBSON:** Thank you, Chair Slama. And, Ms. Hung, great to see you again. Thank you for being here and welcome to Nebraska and to the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

committee here today. Well, we, we discussed the other day about-- I had several questions for you in terms of what's happening at the Investment Council. Part of it had to do with how you're handling a third-party proxy voting and, and, of course, also the investments with Northern Trust and BlackRock and how those are being managed. My understanding from that is that we still do have a number of, of dollars in ETFs, exchange-traded funds, which for those-- exchange-traded funds are you're, you're going out into a stock exchange and you're, you're taking pro-rata pieces of the entire fund and investing into every stock. And it's kind of been shown over the years, it's awfully hard for many private managers to outperform what the total market does and so ETFs have become pretty popular. The challenge, of course, would be if you start having the SEC allowing these new types of investment vehicles to be in the stock market, then you're inadvertently going to be investing in those if you invest into an ETF. Do you see that there would be-- I guess, I'm just questioning whether we'll see some modified ETFs out there that would carve out some of these types of assets or how would you see that? And I know you've entered some of this, but how would you see your divestiture from that and, and what would be your alternatives as the, the investment officer?

**ELLEN HUNG:** So just like clarification, we do not invest in ETFs, per se, but a vehicle similar to an ETF, it's like a mutual fund that would include all the stocks within a specific--

**JACOBSON:** Got you.

**ELLEN HUNG:** So same thing.

**JACOBSON:** So you'd be able to basically carve it out that way?

**ELLEN HUNG:** We, we could, but that is the additional expense. Anytime you do a customization, you would buy everything that's in the market except for those companies that has been identified and that's considered customization. And then the investment manager would charge us more money for that customization. And that's that \$1.3 million additional per manage-- just in management fees alone.

**JACOBSON:** But to that extent, I would expect that there'd be other states, other than Nebraska, that would be-- have the same concerns that we have. Would there not be an ability to be able to make a bigger market working with other states to be able to overcome that loss of efficiency?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**ELLEN HUNG:** Yes. So I have been in other states where we had accounts just like this. In Illinois, they-- there are restrictions to companies, companies that boycott Israel. So they have that, that, that legislation on the books. And it's the same thing. That is how much it costs. It's just a few basis points more, but it makes a big difference.

**JACOBSON:** Right.

**ELLEN HUNG:** That's that \$1.3 million.

**JACOBSON:** And, and to put that in context, the \$1.3 million compared to total return of how many dollars?

**ELLEN HUNG:** So the 1.3--

**JACOBSON:** I mean, if we lose 1.3, what's our gross?

**ELLEN HUNG:** So that's based on a portfolio of \$9.3 billion.

**JACOBSON:** \$9.3 billion. And so the-- running your return, \$1.3 million is?

**ELLEN HUNG:** It's a few basis points but,--

**JACOBSON:** Right.

**ELLEN HUNG:** --you know, I do pick up basis points and that's where we get money.

**JACOBSON:** I hear you. I would be disappointed if you-- if you weren't. Thank you.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you very much for being here today. Additional neutral testimony on LB1395? Seeing none, Senator Murman, you're welcome to close. And as you approach, we had 40 proponent letters, 2 opponent letters, and zero neutral letters for the record on LB1395. Senator Murman to close.

**MURMAN:** Thank you, Senator Slama. About 3 years ago-plus now, the administration made the goal of the-- as part of the climate agenda of the federal government controlling 30% of our land and 30% of our water. And there was a big pushback at that time about that. And I think these, these Natural Asset Companies are just another way that



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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

the government is, is trying to control our land and water in a different way. As far as an answer to Senator Dungan's question, if the Natural Asset Companies could become a majority shareholder they could possibly place a, a, a-- like a, a-- I forget what the term is for it now-- perpetual easement on the land. [INAUDIBLE] --overrule the property owner's rights, in that way. And then also, any time the federal government has any type of control of the land, through some kind of a government program, it might be another way that the, the actual owner could, could give up actual control of that land, as to-- you know, very limited as to what they could do with that land. So, there's probably other ways that I'm not-- can't explain really well right now, but I, I think there are a, a lot of risks of, of losing control of the land through perpetual easements for the natural asset companies. And I think it would typically be through investors controlling the land. And-- but I'll be available for any other questions, if you have any.

**SLAMA:** Thank you, Senator Murman. Committee questions? Senator Jacobson.

**JACOBSON:** Tiny one. Tiny one.

**SLAMA:** You always promise that.

**JACOBSON:** Thank you, Chair Slama. Senator Murman, looking at the bill and, I guess, hearing Ellen Hung's testimony, are we-- first and foremost-- is your first and foremost concern with the bill to not allow this activity in Nebraska? And secondarily, how big is the concern, in as far as the investment officers' investments or the restrictions there, and how much, how much do you see give, in, in terms of that piece of it?

**MURMAN:** Well, right now, with the Securities and Exchange Commission disallowing natural asset companies at this time, there's not an immediate risk, but there's always a possibility that, I think, as Senator Briese-- former Senator Briese-- Treasurer Briese referenced, that that-- this could happen in the future.

**JACOBSON:** Yeah. And--

**MURMAN:** And, and what was your other, second question?

**JACOBSON:** Well, my question-- my specific question is, are you more concerned about prohibiting any of those natural asset companies to operate in Nebraska, or are we more concerned about the state

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

investment officer being able to invest in those that might be in other states, as a part of a small piece of a huge investment pool?

**MURMAN:** Well, my first priority is to protect our assets in Nebraska, our agricultural assets and ranching assets. But I don't think natural asset companies are, are a good thing--

**JACOBSON:** Yeah.

**MURMAN:** --anywhere, but my first priority is our state of Nebraska.

**JACOBSON:** Well, I think you and I are on the same page there. I'm just trying to figure out where we have the best chance to move legislation forward and what the highest priorities are. Thank you.

**MURMAN:** Thank you.

**SLAMA:** Thank you, Senator Jacobson. Additional committee questions? Senator Dungan.

**DUNGAN:** Thank you, Chair Slama. And thank you, Senator Murman. I appreciate you answering my question. We're all kind of digging deeper into that. Generally speaking, on a piece of land, if like, let's say a farmer is doing business there-- you have agricultural land, right? They're probably not going to sell the rights for conservation to an NAC. Right?

**MURMAN:** Well, quite often, land is owned by an LLC or, you know, several different owners. So, you know, the, the owners-- certain owners could be overruled. Like, for instance, a-- in a family farm, the person farming the ground, actually, you know, is using it for their business, but maybe several brothers and sisters, might own part of it also. So the land could lose the possibility for production of agriculture, maybe, in that way. That's just one way I'm thinking of. There-- there's probably others.

**DUNGAN:** Yeah. And I think-- and, and that's-- I don't, I don't think we've even begun to scratch the surface of how this actually works or what it actually is. So I look forward to talking more with the committee and you about how this operates. But I think it's clear that we do need a lot more time to look into this, just given the fact that-- I, I don't think that-- at least-- I can only speak for myself. There's not a true understanding of how these operate, how these work, what effect they have with regards to the ownership of the land. So the concerns, I think, are all very valid and understandable. I just

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

think we need to make sure we continue to figure out how these actually operate. So thank you for raising the issue. And I hope that we can all work together, moving forward, to make sure we understand the issue as best we can.

**MURMAN:** Sure. I--

**DUNGAN:** Thank you.

**MURMAN:** --this is a brand new concept, like in, in the last 2 or 3 years anyway, so we're just getting started on understanding how this could possibly work.

**DUNGAN:** Thank you.

**SLAMA:** Thank you, Senator Dungan. Additional questions from the committee? Seeing none, thank you very much, Senator Murman. This brings to a close our hearing on LB1395.

**MURMAN:** Thank you.

**SLAMA:** Thank you. We'll now transition, transition over to our last bill of the day, LB872. And I'd ask anybody intending to testify on LB872, please come up to the first couple of rows just to expedite everything. Just give everybody a second to resettle. Welcome.

**CLEMENTS:** Thank you, Chairman Slama, members of the Banking, Commerce, and Insurance Committee. I'm Senator Rob Clements, R-o-b C-l-e-m-e-n-t-s. I represent Legislative District 2. I'm here to present to you LB872, to prohibit acceptance of central bank digital currency by state and local governments. This bill is written based upon a model policy recommended by the American Legislative Exchange Council, ALEC. I'm bringing this bill because, as a small-town banker, I've been hearing more about central bank digital currency recently. I'm concerned about what a CBDC would mean for Nebraska citizens. A main concern with the implementation-- implementation of a CBDC is the invasion of financial privacy and personal freedom. The government can currently request financial information of customers from banks and other financial institutions. In 2022 alone, banks were required to file over 26 million reports to the government on customer activities. Private digital currencies such as Bitcoin operate on a distributed ledger, where no central entity has a total view of everyone's account. A CBDC with a central ledger would allow the government to see all transactions by citizens. It could be used to greatly expand surveillance by putting our financial records on government databases.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

A CBDC would also present the opportunity for the government to control the availability of finances based on social credit scores, as exist in China. China is now implementing of ways to connect social credit scores to an individual's finances. The CBDC in the United States holds the potential to implement this type of individual value policing on citizens. As you're aware, LB94 recently advanced on the floor of the Legislature. LB94 represents the 2022 update to the Universal Commercial Code, by the Uniformed Law Commission, ULC, which was introduced in 27 states. In 2019, the ULC started studying digital assets like Bitcoin, and then formed a drafting committee to form this UCC update. Some language that came out in this update contained a provision that altered the general definition of money, and mentions, quote, electronic record, medium of, of exchange authorized or adopted by the government. This suggests that the federal government may be considering an electronic record medium of exchange. The language does not set up a central bank digital currency. However, a CBDC is the only thing that would fit the bill for this definition. In addition, in 2022, President Biden issued Executive Order 14067, quote, Executive Order on Ensuring Responsible Development of Digital Assets, quote. I am thankful to Senator Slama for agreeing to an amendment to LB94 to not endorse a CBDC as part of the Nebraska UCC update. The amendment to LB94 and my bill, LB872, are ways for Nebraska to push back or at least slow down a federal CBDC. At last count, 9 of the 27 states have amended the UCC updates in various ways to push back against CBDC. These include Montana, Nevada, Indiana, Alabama, South Dakota, and Florida. CBDC is very real, world-wide. Currently, 19 countries have already switched to a CBDC. These include China, Russia, Kazakhstan, India, Jamaica, and Nigeria. China, India, and Nigeria all have banned private digital currency as their CBDCs were launched. I would like to thank Bob Hallstrom and the Nebraska Bankers Association for suggesting this bill, and for their position against a central bank digital currency. I believe he will follow me, and he is more equipped to answer any detailed or legal questions. I'll answer any general questions at this time.

**SLAMA:** Thank you very much, Senator Clements. And thank you very much for your assistance on the amendment to LB94. I do appreciate it. Any questions from the committee? Senator Jacobson.

**JACOBSON:** I, I guess I just have one. And I'll probably defer some of them to Senator-- or to Mr. Hallstrom when he speaks. But I know this handout that you provided is-- primarily has to do with the UCC changes. And, and as you know, I'm a co-sponsor on your LB872, and as a banker, too, I adamantly opposed the use of a central bank digital

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

currency for many reasons, as, as some of you articulated. I, I do have some heartburn on-- I do believe that, that LB94, however, is something that's important to make sure that banks can perfect security interests in existing digital assets, the-- those horses that are already out of the barn. And so, I guess I have a different opinion on LB94 than I do on LB872. I, I wholeheartedly support LB872. But I do want to make sure that we have the right perfections that are outlined in LB94, though we're looking at 2 different issues there. Do you-- are-- I assume we're kind of going down the same, same, same path here, that your objections on LB94 was purely the reference to central bank digital currencies?

**CLEMENTS:** Yes.

**JACOBSON:** OK. Thank you.

**CLEMENTS:** The, the perfection of other digital assets, I support.

**JACOBSON:** Gotcha.

**CLEMENTS:** Yes.

**JACOBSON:** Great. Thank you.

**SLAMA:** Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you, Senator Clements. We'll open it up for proponent testimony on LB872. Welcome back.

**DEXTER SCHRODT:** Good afternoon. I am not Mr. Hallstrom. But he'll be coming. Dexter Schrodt, D-e-x-t-e-r S-c-h-r-o-d-t, president and CEO of the Nebraska Independent Community Bankers Association, here to testify in support of Senator Clements' bill. And we thank him for, for bringing this bill. You know, as-- and he actually took a lot of my points, I was going to say. But as you heard, from Senator Clements, it's very real, the progression towards central bank digital currency. The Treasury Department's looking at it. The Federal Reserve is looking at it. So we believe that this bill is, at minimum, something that the state can do to push back, by prohibiting its political subdivisions and other governmental entities from accepting central bank digital currency as a form of payment. And, you know, as Senator Jacobson said, community bankers are absolutely against the central bank digital currency for privacy reasons, cybersecurity reasons into the banking system. If you have folks with central bank digital currencies on their wallets, all of a sudden banks don't have deposits anymore, which means they can no longer lend. So it's, it's

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

real and serious concerns that the banking industry has about central bank digital currency. And again, we thank Senator Clements for taking this step for the state of Nebraska, to set forth this policy that, that we are opposed to any implementation of the central bank digital currency.

**SLAMA:** Thank you very much, Mr. Schrodt. Questions from the committee? Seeing none, thank you for your testimony. Welcome, Mr. Hallstrom.

**ROBERT J. HALLSTROM:** Chairman Slama, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as the registered lobbyist for the Nebraska Bankers Association, in support of LB872. I'd like to note that Mr. Schrodt had bragged that he wasn't me, but that's OK. When we look at this-- and we, we talked with Senator Clements early on, when there was a lot of discussion going on about UCC Article 12 and whether it had any impact on the issue of adoption or implementation of a CBDC, and we came across the ALEC model policy that Senator Clements referenced. It's got kind of a subtle, subliminal message in the title. It's the "reject CBDCs and protect financial privacy act." So I think that kind of says it all. And as a result, I think LB872 makes a clear public policy statement, if it's to be enacted, that the state of Nebraska does not approve of nor condone the adoption of a central bank digital currency by the Federal Reserve. Basically, when you look at the issues that the banking industry takes with regard-- or takes exception with regard to a CBDC, a lot of the discussion has to do with the, the fact that they think they're-- the supporters think that it will promote financial inclusion. While it would if it's a retail hold-- or a, a retail CBDC, establish deposit accounts, which is a frightening thing for the banking industry as I'll touch on in just a moment, it only focuses on that deposit account relationship. There's no lending relationship. There's no other banking relationship that individuals or small businesses would have if the Federal Reserve were to establish a retail, retail CBDC. The other issue is, obviously, and Mr. Schrodt alluded to this, as well, it takes deposits-- if it were to be implemented, it would take deposits out of the commercial banking industry. We make the loans that, that make the local economy hum, and that would take our source of funds away from us. And Senator Clements, I think, adequately touched on a major concern with the CBDC from the general public, which is the invasion or infringement of privacy rights. We do not believe a compelling case for a CBDC has been made. And we believe that LB872 makes a statement by the Nebraska Legislature that we don't want it in our backyard. So I would be happy to address any questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**SLAMA:** Thank you, Mr. Hallstrom. Are there any questions from the committee? Seeing none--

**ROBERT J. HALLSTROM:** Thank you.

**SLAMA:** --thank you very much. Welcome.

**GUY MILLS, JR.:** Good afternoon, Chairman Slama. My name is Guy Mills, Jr. That's spelled G-u-y M-i-l-l-s J-r. I'm a farmer in support of LB872. Senator Slama and other members of the Banking Committee, my name is Guy Mills Jr. I'm engaged in a farming operation near Ansley, Nebraska. I'm a member of the Corn Growers Association, but submit this testimony in favor of LB872 as an individual citizen. I've been concerned about the devastating impact central bank digital currency, or CBDC, as commonly called, would have on our country and our individual liberties for several years. Once President Biden's Executive Order 14067 was issued on March 9th, 2022, I addressed the potential threat to capitalism, liberty, and privacy that CBDC represents during a Nebraska Corn Growers Association meeting. The World Economic Forum has a stated goal to replace shareholder capitalism with stakeholder capitalism, according to our Nebraska Attorney General Mike Hilgers' December 6, 2022 report. Klaus Schwab, head of WEF or World Economic Forum, has said, you will own nothing and be happy. Unlike Bitcoin, CBDC is centralized. Local banks will not be needed. CBDC has an expiration date. Individuals could lose everything they have spent their entire lives building. The CBDC threatens privacy and individual liberties because all financial transactions will be monitored by the Federal Reserve, Treasury Department or other governing authorities, who could turn off an individual's access to currency and services based on a carbon intensity score or enviro-- environmental social and governance score. Over the past few months, I have submitted a resolution, and I've had-- or a resolution submitted on my behalf, in opposition to CBDC, to the Nebraska Farm Bureau, the Nebraska Corn Growers Association, and the Nebraska Soybean Association. All 3 organizations unanimously adopted the resolution opposing CBDC. The fact that there was not one dissenting vote among approximately 300 farmers, representing membership in these organizations is telling. Once citizens learn what CBDC is, they realize its ominous threat. A central bank digital currency is not a partisan issue. The concern is that nonelected people will control and supervise its use, restricting American liberties. If a CBDC were implemented, the dollar bill that features our first president, George Washington, on the front, with the words, God we Trust, on the back, would become obsolete. A CBDC would forever

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

transform American way of life into a situation that is unrecognizable. I want to thank Senator Clements for introducing LB872. Prohibiting payments to government entities using a CBDC is a step in the right direction to curtail the encroachment and threat that this digital currency imposes upon our privacy and citizens. And not included in my written testimony, I want to say that really, this falls under Agenda 21, from the United Nations. And that's where the origins of 30x30 come from, that Governor-- then-Governor Ricketts worked on. That's where the natural ass classet comes about. And the answer to what does the Mormon Church own? The Mormon Church owns 370,000 acres in Nebraska. So that is very important. In closing, as a proponent of LB872, I ask this committee to advance this bill out of the Banking Committee to the floor of the Legislature. I hope that this bill will be passed into law this session. I wrote a short speech, and I hope there are questions that would generate dialogue. If there are, I would be certainly glad to answer them.

**SLAMA:** Thank you very much. Are there any questions from the committee? Senator Jacobson.

**JACOBSON:** Just a quick clarification on it. You mentioned then-Governor Ricketts worked on 30x30. What you mean is he worked to oppose 30x30.

**GUY MILLS, JR.:** Absolutely. Yes, sir. Yes, sir. Yes, sir. That was under Agenda 21 of, of, of the United Nations. And that-- that's really--

**JACOBSON:** Since it's going into testimony, I'd just as soon make that clear.

**GUY MILLS, JR.:** Yes.

**SLAMA:** Thank you, Senator Jacobson. Additional committee questions? Seeing none, thank you so much for your testimony.

**GUY MILLS, JR.:** Thank you for your time.

**SLAMA:** Additional proponent testimony for LB872. Welcome.

**STACEY SKOLD:** Hello. Good afternoon, Senator Slama and committee. My name is Stacey Skold, S-t-a-c-e-y S-k-o-l-d. I very much appreciate this opportunity to share support for LPB872. I'm pleased Nebraska is one of the 10 states with proposed anti-CBDC legislation, and hope we join the 3 states that have already passed it. My support for LB872



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

does come with a few questions. They involve the bill's relationship to other complex bills and its strength. Will a bill prohibiting state officials and agencies from accepting or using CBDCs fully protect financial transaction freedom of citizens and Nebraska businesses? This strategy for this-- for LB872 is one of 3 legal fronts that the states are applying to anti-CBDC bills. And there, there are quite a few proposed right now. The second one is blocking a state's particip-- participation in CBDC trials. And the third is excluding CBDC from their state's uniform commercial code definition of money. Florida and Indiana have already passed a bill with that strategy. And Missouri and Indiana are currently working on all 3 bills with these approaches. It seems worth noting that it is the proposed redef-- redefinition of money in the Nebraska UCC update that has been the source of great criticism. And I want to say that today, I received a very detailed page addressing that criticism. And I'm looking forward to diving into it, but I haven't yet. But I do think it's worthwhile to really look very closely at the redefinition of money in that bill, and then the states that are using the definition of money to protect themselves from CBDC. To compare and contrast these definitions, I think, would be very instructive. Another question, moving on, involves the federal jurisdiction, you know, and how that would relate to a state's bill. And the 10th Amendment Center does indicate that while unknown in practice, there are multiple examples of how a federal law has not automatically overridden a state law. So I'm here to ask that Nebraska consider additional roadblocks to CBDC. It would seem that the more, the better, quite honestly. Other roadblocks could include the additional CBDC approaches I mentioned. As I said, other states are actually implementing multiple anti-CBDC bills simultaneously. So that is one. Another could be considering "right to pay with cash" bills. There are 8 states who have passed such a bill, and there are currently 6 other states with similar ones proposed. And there are many other actions or strategies listed in a document called Financial Transaction Freedom, by Solari, which I'd highly recommend. And I think I'm getting close to my time. Thank you for your time. And if there are questions, I could try to answer them.

**SLAMA:** Thank you very much for testifying today. Are there any questions from the committee? Seeing none, thank you so much for being here today.

**STACEY SKOLD:** Um-hum. Thank you.

**SLAMA:** Additional proponent testimony for LB872. Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

**CINDY MILLER:** Good afternoon. My name is Cindy Miller, C-i-n-d-y, Miller, M-i-l-l-e-r. I'm not a paid lobbyist. I'm just a citizen. And I think my voice would represent some of my neighbors and friends who can't come here because they're all working jobs. I wholeheartedly support this bill. I thank Senator for bringing it. I urge you, in absolutely no uncertain terms, to stand firmly against adopting any form of central bank digital currency. Our founding fathers knew how dangerous a centralized government would be, and our government agencies using CBDCs is one step in that direction. For 75 years, China has been ruled by communists and has inflicted tremendous harm on their people. Today, we know the Chinese-- China uses the latest technology to control their people. They have a form of CBDCs, and they use digital IDs and social credit scores to maintain their power over their people. And I would ask you, please don't be fooled by the promises, that CBDCs will provide businesses and consumers with all sorts of benefits. I do not think those benefits outweigh the potential for misuse. Many citizens, including myself, still use cash because we've been burned by electronic transfer fraud. Most recently, we saw Canada use their power of currency to shut down a peaceful protest by the truckers protesting the harsh government's COVID restrictions. Their higher courts recently ruled, ruled that Trudeau's crackdown was not justified, but it still-- they inflicted a lot of damage on those peaceful protesters. In America, we have seen people standing up for personal bodily autonomy and medical freedom debanked. Organizations like the National Committee for Religious Freedom and Alliance Defending Freedom also have been debanked. The NRA is an example of an organization that has long advocated for our Second Amendment rights, was also debanked. So I urge you citizen-- or you senators to stand against all of this. Move against our constitutional freedoms. I urge you to have the moral courage to stand up and do the right thing by standing against CBDCs. Thank you for your time.

**SLAMA:** Thank you very much, Ms, Miller. Are there any questions from the committee? Seeing none, thank you so much for your time.

**CINDY MILLER:** Thank you. Thanks.

**SLAMA:** Additional proponent testimony for LB872.

**KATHY WILMOT:** I'm going to give her my testimony. Again, thank you for this opportunity, each one of you. Kathy Wilmot, K-a-t-h-y W-i-l-m-o-t, and I'm here on behalf of representing Nebraska Eagle Forum. And you earlier heard about the executive order. I'll try to condense this a little bit, but since I drove 3.5 hours, I still have

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

something to say. In that executive order-- it was 37 pages long. And then it concluded with: We must take strong steps to reduce the risks that digital assets could pose to customers, investors, business protections, financial stability, financial system integrity, combating and preventing crime and illicit finance-- sounds pretty good-- national security; but then these words: the ability to exercise human rights, financial inclusion and equity, and climate change and posit- pollution. And CBDCs would eventually put an end to cash transaction along with the ability to perform any transaction anonymously. They can actually build in controls that can discriminate based on age, sex, wealth, race, religion, or whatever category they want to build into this. And the peaceful protest in Canada was just one example. There is a hierarchy in the banking system, where the Bank for International Settlements, the I-- BIS, sits at the apex. They dish out policies to individual central banks of member states, which in turn dish out policies to commercial and investment banks in their respective countries. And there's been a couple of examples of the debanking that the previous speaker mentioned, here in the United States. One of them is they totally shut down the JP Morgan Chase. It was terminated, the personal and commercial banks-- accounts associated with Dr. Joseph Mercola. They didn't shut down Chase. They shut down Dr. Mercola, as well as accounts of several company executives and their families also, that were connected with them. They also debanked without explanation. It was a shock and awe carpet bombing operation to remove what the banking industry saw as a pocket of stubborn, dangerous resistance. Mercola wasn't en-- engaged in any illegal activity, but he was a fierce, influential critic of big pharma, technology, the United Nations and the World Economic Forum. Another high-profile critic of globalization in the UK, Nigel Far-- Farage, was similarly debanked by NatWest, one of the big 4 clearing banks, with over \$750 billion in assets. Farage was the founder of the Brexit movement. It wasn't popular, and he's also been a fierce critic of globalization. In a world with increasing government controls in the wake of the pandemic, the CBDC should be a line in the sand. And I don't care which side of the political spectrum you're on, I would think that would be something that you would want to say, no, absolutely not. Is my money supposed to deliver human rights or financial inclusion or equity or halt climate change? Money should be neutral, not political. Do you want your assets in your bank account blocked because of who you are, or what you believe or stand for? And there are powers that be that view a digital currency as a means to enforce woke political policy. And I really want to thank Senator Clements for introducing this bill. I think it's very necessary. And

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Banking, Commerce and Insurance Committee February 5, 2024  
Rough Draft

it would ladd a-- add a layer of protection to Nebraska citizens. And again, I would ask you and encourage you to please support the bill and move it to the floor.

**SLAMA:** Thank you very much for your time, Ms. Wilmot, and for making the long drive out here today. We appreciate it.

**KATHY WILMOT:** It was worth it.

**SLAMA:** Absolutely.

**KATHY WILMOT:** Our voice is extremely important.

**SLAMA:** Absolutely. Any questions from the committee? Seeing none--

**KATHY WILMOT:** Even though I'm not a banker.

**SLAMA:** I know. Additional proponent testimony for LB872. Seeing none, any opponent testimony for LVB872. Seeing none, is anyone here to testify in a neutral capacity on LB872? Seeing none, Senator Clements, you're welcome to close. Senator Clements waives closing. Before we end the hearing, we did receive 102 proponent letters for the record, 4 opponent letters for the record, and zero neutral. This brings to a close our hearing on LB872, and our hearings for today. Stay tuned, all. We will have an Exec Session tomorrow, where we'll, among other things, be previewing some of the bills I envision for the Insurance and Banking Christmas tree, so preview of future events.