

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

[LB140 LB184 LB185 LB186 LB196]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, January 23, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB140, LB184, LB185, LB186, and LB196. Senators present: Brett Lindstrom, Chairperson; Matt Williams, Vice Chairperson; Roy Baker; Tom Brewer; Joni Craighead; Mark Kolterman; John McCollister; and Paul Schumacher. Senators absent: None. [LB140]

SENATOR LINDSTROM: Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Brett Lindstrom; I'm from Omaha and represent Legislative District 18. I serve as Chair of this committee. The committee will take up the bills in 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 is not an indication we are not interested in the bill being heard in this committee, just part of the process. To better facilitate today's proceeding, I ask that you abide by the following procedures. The information is posted on the chart to your left. Please silence or turn off your cell phones. Move to the front of the row when you're ready to testify. Order of testimony will go introducer, proponents, opponents, neutral, and closing. Testifiers, please sign in; hand your pink sign-in sheet to the committee clerk when you come to testify. Spell your name for the record before you testify. Please be concise. It is my request that you limit your testimony to five minutes. We will be using the light system which means four minutes is the green light; you will have one minute warning to end your testimony when the yellow light is shown, and the red light means that your five minutes are up. Today is an interesting hearing because we have a big bill, LB140, and so we will be extending the testimony for the director today and it will be more than five minutes because of the vastness of the information in the bill. If you will not be testifying at the microphone and want to go on record as having a position on the bill being heard today, there are white tablets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record 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 will need ten copies, please. If you have written testimony but do not have ten copies, please raise your hand now so the page can make copies for you. To my immediate right is the committee counsel, Bill Marienau. And to my far left is the committee clerk, Jan Foster. And I will now have the committee members introduce themselves starting with my far right.

SENATOR SCHUMACHER: Paul Schumacher, District 22; that's Platte and parts of Stanton and Colfax County.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR KOLTERMAN: Mark Kolterman, District 24; that's Seward, York and Polk Counties.

SENATOR BREWER: Tom Brewer, District 43; the Sandhills.

SENATOR WILLIAMS: Matt Williams, District 39; Dawson, Custer, and part of Buffalo Counties.

SENATOR CRAIGHEAD: Joni Craighead, District 6; Omaha.

SENATOR BAKER: Roy Baker, District 30; Gage County and part of Lancaster County.

SENATOR McCOLLISTER: I'm John McCollister, District 20; central Omaha.

SENATOR LINDSTROM: Thank you. And our page today is Phillip Levos from Columbus; thank you, Phillip. Today, we'll be taking up the bills in order: LB140, LB184, LB185, LB186, and finally LB196. We will now open with LB140. Senator Williams. Thank you.

SENATOR WILLIAMS: Thank you, Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee. I am Matt Williams from District 39; M-a-t-t W-i-l-l-i-a-m-s. In 1877, yes, 1877, that's before Bill Marienau was even legislative counsel to this committee, the first act relating to banking in Nebraska was passed. The current Nebraska banking act was enacted by the Unicameral in 1963. Since the first act, Nebraska law pertaining to banking have been amended, added to, and changed as a result of the environment and the time. To our knowledge, no comprehensive review and update to the current Nebraska banking act has occurred since its enactment in 1963. Last year, in 2016, legislative resolution, LR430, was introduced proposing to study whether the Nebraska banking act should be updated. Pursuant to LR430, a group of legislators, banking committee staff, banking industry professionals, and the Department of Banking and Finance staff have met monthly to review and suggest changes to the banking act. Reducing regulatory complexity and carefully updating sections to reflect the current banking environment while protecting consumers and preserving the public confidence in the financial institutions of Nebraska were the goals of the LR430 study committee. The committee had many, as you might imagine, robust debates and discussions. Senator Scheer, Senator Lindstrom, and I participated in the study committee and assisted in the drafting of the proposed legislation which you have all 143 pages in front of you. Any suggested changes to the banking act had to first be mutually agreed to by the senators, those representatives from the industry, and also the state Department of Banking. After many revisions and drafts, the study committee produced what is now before you, LB140, which was fully supported by all of the stakeholders. I'd like to say a special thank you to the members of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

the LR430 study committee for their months of work. It included Senator Scheer and his staff member, Spencer Head; Senator Lindstrom and staff, Tim Duey and Randi Scott; myself and my staff, Jeremiah Blake; committee counsel, Bill Marienau; committee clerk, Jan Foster. Industry participants included David Routh from Cline, Williams, Wright, Johnson, and Oldfather; Brad Koehn from Midwest Bank; Chris Buller from Cornerstone Bank; Mark Hesser from Pinnacle Bank; Jonathan Wegner from the Baird, Holm Law Firm; Brandon Luetkenhaus from the Nebraska Credit Union League; Scott Sullivan from the Credit Union League also; Jerry Stilmock and Bob Hallstrom from the Nebraska Bankers Association; Kurt Yost from the Nebraska Independent Community Bankers; Julia Plucker from the Credit Union League also. There were numerous representatives from the Department of Banking and Finance also involved. I'd particularly like to thank Director, Mark Quandahl for scheduling and conducting the meetings, but also Patty Herstein, Mike McDannel, Kelly Lammers, and Terri Behl. Director Quandahl will follow my testimony going through the vast changes to this bill; and they are significant, and I appreciate the fact that this will be a little bit painstaking and take some time to go through, but this is an important update. And again, special thank you to all those members of the committee that were willing to participate in this process. I would answer any questions you may have at this point, but those that are technical in nature, Director Quandahl and those that will follow will be able to answer them better than me. [LB140]

SENATOR LINDSTROM: Thank you, Senator Williams. Any questions from the committee? Seeing none, thank you. Now proponents. Director. [LB140]

MARK QUANDAHL: Thanks for the accommodation on the time, too. [LB140]

SENATOR LINDSTROM: Absolutely. [LB140]

MARK QUANDAHL: (Exhibit 1) Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee, my name is Mark Quandahl, it's Q-u-a-n-d-a-h-l; I'm director of the Nebraska Department of Banking and Finance appearing here today in support of LB140 which was introduced at the request of the department. As stated before, LB140 is the product of LR430 Study Committee. The bill as introduced encompasses 143 pages, 157 sections consisting of a combination of new sections, repealed sections, and amendments of existing sections of the banking act. LB140 has no substantial fiscal impact to the Department of Banking and Finance. I will make myself or department staff available to discuss any and all aspects and sections of the bill at any time, respond to questions, or provide clarification or reasons for the proposed updates. I would urge you to reach out to the department or any members of the study committee with any questions that you, your staff, or your constituents may have about LB140. The department has provided a section-by-section explanation of the bill separate from my testimony for your review and that will be distributed, if it hasn't already at a later time so you can go

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

through that. For ease of presentation at this hearing, I will highlight only the new sections of law, the repealed sections of the banking act, the amendments of particular note, or substantive policy updates, and a summary of the nonsubstantive updates to the banking act. First, the new sections created by LB140: section 1 on page 3 sets forth the four new sections of the Nebraska banking act found in sections, 1, 2, 37 and 51. Section 2 provides for definitions of the banking act in alphabetical order. Section 37 on page 35 is currently contained in section 8-702(2)(b). It requires that banks employ a mortgage loan originator, must register that employee or employees with the Nationwide Mortgage Licensing System, or NMLS. Section 51 on page 51 would allow a bank to acquire the stock or controlling interest of another financial institution if the transaction is a part of a merger, consolidation, or acquisition of assets with the provisos that the merger, consolidation, or assets acquisition occurs on the same day that the stock is acquired. The other financial institution will not be operated as a separate entity and prior approval of the director of the department is received. As the committee may know, the trend in the financial institution industry is towards a consolidation of institutions for efficiency and economies of scale. Next I'll go over the six sections of law currently contained in the banking act that will be repealed by LB140. Section 157 on page 143 of the bill would outright repeal these statutes: section 8-121, which requires the department to issue a certificate for the reason that the issuance of such certificate was made obsolete by the Administrative Procedure Act. Section 8-151 which provides that a bank shall not increase the book value of property without obtaining the prior approval of the department would be repealed for the reason that such approval is unnecessary. Simply put, any increase that appears unwarranted would be noted during the course of an examination and justification required at that time. Section 8-1,120, which authorizes the department to offer and pay up to \$250 for the apprehension and conviction of any person violating the act would be repealed for the reason that the amount is simply too low to be of any consequence. Sections 8-816, 8-819, and 8-827 relating to the requirement of registration by banks of a statement of intention to make personal loans would be repealed for the reasons that such registration provides no additional protection to consumers and is unnecessary due to the level of regulation of banks. Next I'll outline the amendments to the banking act of particular note or substantive public policy changes that consist of about 18 different things starting at section 6. Section 6 on page 10 would amend section 8-105. The current prohibition against the employment of any relative or any employee of the department would be changed to a provision that would provide that employment of anyone working for the department is subject to the Nebraska statute 49-1499.07 which is the state's current nepotism statute. On section 9 on page 12, would amend section 8-108 relating to regulatory examinations of financial institutions as follows--it would authorize the department to provide examinations or reports to federal and state institution regulatory agencies and clarify that the director may accept an examination or report from another state or federal financial institution regulator in lieu of examination or report required under the act. Among other things, it also requires that any examination or report received from another regulator cannot be obtained by subpoena from the department and that any request for that report must be directed to the originating regulator. In section 23 on page 26

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

would amend section 8-124 which relates to the composition of the board of directors of the bank. It would authorize an increase and maximum number of directors from 15 members to 25 members. It would provide that the board of directors shall select a bank president who shall then be a member of the board of directors and it would also remove the requirement that the board appoint a secretary. Bank director qualifications are also addressed in section 26 on page 27. It would amend section 8-126 which sets the qualifications for bank directors to change the current requirement that a bank make reasonable efforts to require members from the county where the bank is located to a requirement that the members be from the county where the bank's main office is located or the county where a branch is located. This will allow a bank to add board members from more communities where it has offices. Section 32 on page 30 would amend section 8-133 which governs the payment of interest on bank deposits. New section would prohibit the payment of a higher rate of interest to bank insiders than the interest rate paid to noninsider depositors for the bank for the same type of depository instrument. It would also remove obsolete languages related to inducements for establishing a deposit account. Finally, it would also define "principal shareholder" as a person owning 10 percent or more of a bank's voting shares. Section 57 on page 65 would amend section 8-158 to update language relating to the authority of a bank to act as a personal representative or administer of an estate of a deceased persons, and it also specifies which officers are authorized to make an oath on behalf of the bank in such instances. Section 59 on page 66 would amend section 8-161--sets the conditions for granting a trust charter to a bank. It removes the requirement that the directors and shareholders of the banks...that a finding is made that they're persons of integrity and responsibility for the reason that that finding has already been made either through a charter, change of control, or director applications. But the director must determine that the trust department will be operated by such officers of integrity and responsibility. Section 68 on page 70 would amend section 8-170, just requiring that records, files, or copies of records and files be readable or legible. Section 73 on page 72 would amend section 8-177, it applies when a bank consolidates with any type of financial institution. The bank may transfer resources to the financial institution with which it is merging. Section 75 on page 73 would amend section 8-179 which sets the procedures for a national bank conversion to a state charter by eliminating a reference to section 8-121 which would be outright repealed in section 157 of LB140. It removes obsolete language regarding a certificate issued prior to chartering. Section 88 on page 80 would amend section 8-191 to update the method of notice that the department must use regarding insolvent banks from a telegram to electronic mail. That's one of those things that if you don't update a statute since 1963 or '64 sometimes references to telegrams are still out there. Emergencies: I'd advise the committee that as the working group was reviewing the laws relating to emergencies, two of our banks--Wahoo State Bank and First Central Bank in Cambridge had very real emergencies when fires destroyed their main offices. We found that the existing statutes were inadequate with regard to authorizing the banks to immediately establish temporary locations. And hence, section 116 on page 95 would amend section 8-1,124 to update definitions relating to emergencies. Section 117 on page 97 would amend section 8-1,125, among other things, that a financial

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

institution that closes due to an emergency may obtain the approval of the director of the department to open a temporary office where it may conduct its business for up to 30 months and that a temporary office may be a mobile branch if the office closed due to the emergency was a branch office, and that the temporary opening of an office may be approved by the director orally. And such oral approval is valid for up to four business days. Section 134 on page 112 would amend section 8-602 to remove the fee for registering a statement of intent to make personal loans for the reason that that registration requirement in (section)8-819 would be repealed by section 157 of LB140. Section 137 on page 115 would amend section 8-702 which requires federal depository insurance for financial institutions. This amendment is proposed for the reason that the sole institution which qualified for an exception to having FDIC insurance-- Metropolitan Building and Loan Association in Omaha--merged into an insured bank in 2016. Section 138 on page 118 would amend section 8-815, defines terms used in sections 8-815 through 829 known as the personal loan statutes for banks, to strike the definitions of registered and unregistered banks. The registration requires no qualifications other than a bank charter, and as noted previously, provides no additional consumer protections. Section 143, page 122 would amend section 8-1,401 governs the release of confidential records of financial institutions and other entities doing business in Nebraska. It will allow the disclosure of such records to a CPA conducting an independent audit when making a report required by statute or in the course of regular business pursuant to a proposed purchase or sale of an entity subject to section 8-1,401. Section 155 on page 142 is a savings clause stating that transactions validly entered before the effective date of this legislation remains effective as though this legislation had not occurred. Okay, we're rounding towards home, so. The remaining sections of the bill contain what can best be described as nonsubstantive updates to the banking act. They can be generally categorized under the following headings: Grammatical language and numerical updates or references; clarification or inclusion of definitions of financial institution; clarification of the authority or structure of the Department of Banking and Finance; removal of obsolete statutory references, updates, or insertions of sections or numbers; updates to board memberships, shareholders, stock meetings, and subsidiary corporation provisions; references to federal statutes, regulations, or other state statutes or the constitution; updating or modernizing forms or methods of operation. And that's it. I'd like to thank Senator Williams for introducing this bill. And thanks for bearing with me in that, kind of, quick recitation of about a year's worth of work boiled down to as shortly as I could. So thank you. [LB140]

SENATOR LINDSTROM: Thank you, Director. Have any questions from the committee?
Senator McCollister. [LB140]

SENATOR MCCOLLISTER: Yeah, thank you, Chairman Lindstrom. And thank you for that quick recitation. [LB140]

MARK QUANDAHL: I didn't take a breath the whole time. (Laughter) [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR McCOLLISTER: To what extent did you use model legislation throughout the country to produce this document? [LB140]

MARK QUANDAHL: You know, we didn't look at just a specific model. What we did was that we looked over kind of best practices. I mean that the industry, that the department, that the legislators that participated in this knew. And then also, too, just with, kind of, our experiences over the years since the first banking act. So it's not a model act that we just took and "cookie cuttered" into Nebraska. [LB140]

SENATOR McCOLLISTER: To what extent do Nebraska statutes on banking differ from the other states? [LB140]

MARK QUANDAHL: They're fairly similar to most other states. I would tell you that in recent years, there's been a lot of banks that have changed their charters from a federally chartered bank to a state chartered bank. And there's a lot of different reasons for that. But the way that it's coming out, too, is that most OCC banks now generally are the larger banks. I would say just as kind of a factoid that 73 percent of all banks in the country are state chartered banks. So most numerically are state chartered banks. [LB140]

SENATOR McCOLLISTER: Thank you, Director Quandahl. Thank you, Mr. Chairman. [LB140]

SENATOR LINDSTROM: Thank you. Any other questions? Senator Schumacher. [LB140]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. And thank you for your testimony today, Mr. Quandahl. [LB140]

MARK QUANDAHL: Sure. [LB140]

SENATOR SCHUMACHER: In Senator Williams' opening, he basically said that this is an attempt to address issues that may have developed in the last couple of decades since we last looked at this issue. And to the extent that that applies and this is the effort of this study group and which will become the effort of the committee, I've got a few questions, in general, in the change of the banking industry over that period of time and whether or not, if they are, addressed in this particular document. Before I get to those questions, I do know one particular that we've had discussions already in this committee about, that is in the current draft that talks in terms of when you hire a loan officer, I think, so (inaudible) if I can find the highlighting here, that the...yeah, "any financial institution chartered by the department that employs a mortgage loan

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

originator needs to furnish fingerprints for submission." How often does someone employed as a loan originator change jobs? Is it a high turnover business or a...do you know? [LB140]

MARK QUANDAHL: Yeah, it's fairly frequent. [LB140]

SENATOR SCHUMACHER: Okay now, as you read on page 35, line 14, that provision, do these poor souls have got to get their fingerprints taken over and over, or is there a mechanism or a procedure that the department uses to say--look, we know who you are, and two years ago you were hired by somebody else and we've got your fingerprints. Unless you're a good member of the mafioso, you probably haven't burned them off. [LB140]

MARK QUANDAHL: Yeah, that's a good question. For the most part, we rely on NMLS, the Nationwide Mortgage Licensing System, which is...and that's something that actually the Conference of State Banks supervisors, so not only the Department of Banking here in Nebraska, but also all of the other 50 states have banded together, came up with a nationwide, basically, mortgage licensing registration system, so that once you get those fingerprints, they're with the NMLS and that's...if it's good for Indiana, it's good for us. [LB140]

SENATOR SCHUMACHER: So do we need...because as this reads, this, I think, is a...shall, it's a "shall" word in there rather than a "may", do we need to give you that wiggle room in there to say--yeah, but you don't have to if they comply with this outfit that you just mentioned? Because this almost looks like that you shall provide fingerprints for submission to the FBI in...at line 20 on page 35. [LB140]

MARK QUANDAHL: Right, in order to be a mortgage loan...in order to be licensed as a mortgage loan originator in the state of Nebraska, you do have to do that. [LB140]

SENATOR SCHUMACHER: Okay, but how often do you...I mean, is there a quick...should we address the situation, since there is high turnover, that once you have your fingerprints on file with somebody, you don't need to do it over and over again every time you change jobs. Do you need that wiggle room in here? Because we say "shall" here, and I don't know if you have the wiggle room. [LB140]

MARK QUANDAHL: Can I get back to you on that? [LB140]

SENATOR SCHUMACHER: Okay. Because it strikes me that that...particularly in a high turn over business that you...you know, your fingerprints usually don't change that much. [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

MARK QUANDAHL: No, we don't want to make it overly onerous on the industry either. [LB140]

SENATOR SCHUMACHER: Okay. In the last 20, 30 years, there's been big changes in banking. And if you know, you can tell me whether it's addressed in here, I have not parsed through the 130 pages yet...140 pages, and maybe you can help a little bit, a lot of loans are just...not held locally. They're packaged and sold for later securitization by some outfit that packages loans. Is there any procedures on that addressed in here? [LB140]

MARK QUANDAHL: I don't believe so, no. [LB140]

SENATOR SCHUMACHER: Okay. In the same period time, one of the profit centers for banks has become fees on bad checks; a lot of money collected on fees on bad checks. Any effort in here to address that? [LB140]

MARK QUANDAHL: There is no...no. [LB140]

SENATOR SCHUMACHER: Okay. With regard to...we're in an age where businesses have a lot of cash simply because it's...it hasn't been deployed. There's a lot of cash available from the Federal Reserve to the banking system. If a customer has more than the FDIC limits, first question...and I raise this because of some language that said, well, they could pledge securities for the purpose of governmental deposit. Does it also provide or in here for how a private depositor with more than the...or private corporation with more than the \$250,000 is handled? [LB140]

MARK QUANDAHL: Yes. Yes, and it's in section...and what I could do, too, is that there will be some testifiers after me, too. I mean, you could ask the actual industry representatives where the rubber meets the road how they handle something like that. So, and... [LB140]

SENATOR SCHUMACHER: Do you think they're probably more familiar with that down in the grass than you would have? [LB140]

MARK QUANDAHL: I think so. [LB140]

SENATOR SCHUMACHER: Okay. So I will try to remember to see if I can get those guys...he threw you under the bus. Another one of the things that has happened in the last few years is...and whether or not it's addressed in some form or this thing gives you regulatory ability to do it, is you used to get your check back and the checks were full-size checks and they were easy

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

things to prove to the IRS that you made a payment and you could look on the back to see who cancelled the check and whether, you know, what hands it went through and it was...life was good. And now, oftentimes, there is only a line on a bank statement that indicates a debit or a credit, very little other identifying information or a copy of a check that it takes the Hubble Telescope to read the print on. Any of that...rights established in here for customers on that? [LB140]

MARK QUANDAHL: The only thing I would say is that we did deal with some records retention statutes. And the records that are retained must be readable or legible, and so that was addressed. [LB140]

SENATOR SCHUMACHER: Okay, but the customer doesn't get those for his IRS files, or her IRS files, and usually a bank will make those available only...its internal stuff only in return for a fee. So, but yet that's a modern problem. [LB140]

MARK QUANDAHL: I think that's true. [LB140]

SENATOR SCHUMACHER: Okay, and that's not addressed in here? [LB140]

MARK QUANDAHL: It is not. [LB140]

SENATOR SCHUMACHER: Okay. All right, we'll save the rest for other lucky parties. Thank you. [LB140]

MARK QUANDAHL: Okay. I think you just scared off the rest of the testifiers. (Laughter) [LB140]

SENATOR SCHUMACHER: Method to the madness. [LB140]

SENATOR LINDSTROM: Senator Baker. [LB140]

SENATOR BAKER: Thank you, Chairman Lindstrom. Mr. Quandahl, I'm looking at your handout, page 4. [LB140]

MARK QUANDAHL: Yes. [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR BAKER: That bottom section: "Subsection (2) would be amended to remove obsolete language related to inducements for establishing a deposit account"... [LB140]

MARK QUANDAHL: Yes. [LB140]

SENATOR BAKER: Could you elucidate on what that obsolete language was that was removed? [LB140]

MARK QUANDAHL: Yes. I think Mr. Hesser might be following, might be able to give you some specific examples of that, but basically, what it's...we don't want to make it a crime for giving somebody a toaster for opening up a checking account. But that's... [LB140]

SENATOR BAKER: So that doesn't apply to bank employees receiving inducements for opening...more deposit accounts from their customers. [LB140]

MARK QUANDAHL: I'm not sure I understand the question. [LB140]

SENATOR BAKER: All right. A certain bank was in the news lately for providing incentives of some kind for employees who opened... [LB140]

MARK QUANDAHL: Oh, right, that's right. Right. [LB140]

SENATOR BAKER: ...more and more accounts. This does not refer... [LB140]

MARK QUANDAHL: No, no, this doesn't refer to that. [LB140]

SENATOR BAKER: Okay. Thank you. [LB140]

SENATOR LINDSTROM: Thank you. Senator McCollister, do you still have a question? [LB140]

SENATOR McCOLLISTER: I'll wait for... [LB140]

SENATOR LINDSTROM: Okay. Any other questions from the committee? Seeing none, thank you, Director. [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

MARK QUANDAHL: Yep, thanks. [LB140]

SENATOR LINDSTROM: Next proponent. [LB140]

ROBERT J. HALLSTROM: (Exhibit 2) Chairman Lindstrom, members of the Banking Committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, and I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB140. I'm not sure whether Director Quandahl had a recitation or a dissertation, but nonetheless he did a nice job of filling the committee in on all the provisions of the bill. So I will not belabor a lot of the substance, but certainly will entertain any questions that the committee may have. Senator Williams has already gone through and thanked most of the people--industry representatives, Department of Banking staff, Bill Marienau. I would just add Neal Nelson up in Bill Drafters, who I think did quite a bit of work as well in putting the provisions of this lengthy bill together. In preparation and through the process of LR430, the NBA solicited input and received input from its banker members with regard to provisions; some of which were discussed fully and discarded and others of which were implemented or integrated into the final product that's before you in the form of LB140. Many of the provisions, as Director Quandahl noted, were technical in nature, but there are a number of substantive provisions which I think will be beneficial both for the financial institutions industry and the customers that we serve. And again, I'd be happy to address any questions that you may have regarding the substance of the bill. [LB140]

SENATOR LINDSTROM: Thank you, Mr. Hallstrom. Questions from the committee? Senator Schumacher. [LB140]

SENATOR SCHUMACHER: Thank you, Chairman Lindstrom. Thank you, Mr. Hallstrom. You mentioned in your testimony that in response your membership and the banking community let the committee know of various issues and questions and that some of the provisions were discussed and disregarded...or discarded rather. Can you give us an example of some of those issues that you chose not to pursue? [LB140]

ROBERT J. HALLSTROM: One in particular, and, Senator, we also, through the NBA staff, did quite a bit of research into some of those other states, Director Quandahl referred to the best practices. We looked at some of the best practices and some of the modernization that had gone on in recent years in other states, so we had some provisions. One of which, I know, we talked at length with the department about and just couldn't come to resolution on how to best do it. It had to do with whether or not there ought to be different provisions for bank investment in premises, particularly with respect to how much of the premises could initially be rented out in terms of planning for future growth. But in the meantime, building an extra floor on your bank, for example, and being able to rent a certain percentage of your bank facility or premises out while

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

you're waiting to grow into the rest of the building. And we had full and fair discussions on those and decided not to take any action on that particular issue. There were some states that have done what's called a universal bank charter and had expanded real estate investment types of authorities that we discussed and decided that that might be left better for another day, given the significant amount of issues that we were already addressing under this bill. [LB140]

SENATOR SCHUMACHER: Would you be the person that Mr. Quandahl threw under the bus that you get these questions or is there some other poor soul out there? [LB140]

ROBERT J. HALLSTROM: Senator, I would take whatever questions you have. I certainly don't want to rain on Mr. Hesser's parade with regard to the inducement issue, but I can address that as well. You pose the questions; I'll answer to the best of my ability. [LB140]

SENATOR SCHUMACHER: Okay. On...kind of reverse order, anything in here or should there be anything regarding customers' access to their records, particularly if they're under IRS audit and need copies of their cancelled checks, things of that nature that they...? [LB140]

ROBERT J. HALLSTROM: There's nothing in this bill, Senator, but there's UCC provisions that have been on the books for some time; and, in fact, were modernized to recognize the electronic nature and the streamlined mechanisms for sending check-related information and deposit account information to your customers without having to mail out an entire bank statement. Those have been in place under the Uniform Commercial Code for probably 15 years. [LB140]

SENATOR SCHUMACHER: So how does a customer get them, front and back copies of a check if they need them for an audit if it's not covered in the modernization act? [LB140]

ROBERT J. HALLSTROM: They can request those from the bank and get those. [LB140]

SENATOR SCHUMACHER: And the fees? [LB140]

ROBERT J. HALLSTROM: I can't tell what the fees would be. I would assume there is a fee and maybe one of the bankers that follows knows from their own practices what they do in terms of both providing those records, whether they are provided to the customer with or without a fee. [LB140]

SENATOR SCHUMACHER: And that would be a change, because you used to, for no fee, get a copy of your cancelled checks. Now a fee to get a copy, is that...? [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

ROBERT J. HALLSTROM: Correct. [LB140]

SENATOR SCHUMACHER: On the issue of pledge of securities to a private party who has funds in excess of the FDIC limit, I notice in here that it makes an exception to...is inferred, at least, from the paragraph I read, the rule that...so that public agencies can get a pledge of securities. What's the status of private securities now that that's probably an issue? [LB140]

ROBERT J. HALLSTROM: There are federal restrictions on your ability to pledge for private deposits so we do not have any direct pledging authority for private deposits. There is a reciprocal deposit type of company or program that's been set up where you can exchange and reciprocate with other banks. Let's say I've got a million dollars in an individual deposit account. I may keep \$250,000 of that deposit and then I will have an arrangement with three other banks to send me \$250,000 of deposits so I retain my million dollars for purposes of using that for local loans and so forth and the \$750,000 that's above the insurance deposit limit will be shipped out on the books to those other companies. [LB140]

SENATOR SCHUMACHER: Is that the way that it's typically done with the banks of deposit of over \$250,000? [LB140]

ROBERT J. HALLSTROM: I don't know how universally banks participate in a reciprocal deposit, but it's certainly out there for them to do so. [LB140]

SENATOR SCHUMACHER: What is then meant by, on page 5, I don't know if you have this or not, of the Director's paper work where it says--section 7 authorizes a bank to provide a depositor a standby letter of credit from the Federal Home Loan Bank of Topeka as security for deposits in excess of federal deposit insurance coverage would be amended to remove a notice requirement? [LB140]

ROBERT J. HALLSTROM: There are standby letters of credit and deposit guarantee bonds that are authorized to be utilized, the deposit guarantee market is, basically, dried up and gone away. Warren Buffett's company was involved in that at some point and decided that they weren't going to continue in the marketplace any longer. But the standby letter of credit can be provided to a customer to provide protection based on certain contingencies. That notice, we didn't believe it served any particular purpose when it was originally put together when that legislation was originally adopted. It was a floor amendment and in the process of going through this, we decided with regard to the department and the industry that that particular notice that's posted in the bank could go away. [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR SCHUMACHER: So would a private depositor be able...how would a private depositor take advantage of this standby letter of credit have security for his, hers, or its deposits? [LB140]

ROBERT J. HALLSTROM: Senator, I'm probably going to have to look more into that in terms of what...exactly how that would be utilized. [LB140]

SENATOR SCHUMACHER: And again, the direction I'm coming from is these are things that have probably happened in banking in the last...well, since this thing was amended last, or looked at last. Fees on bad checks--any limits on the fees the banks can collect for bad checks? [LB140]

ROBERT J. HALLSTROM: The regulators have come in and put significant restrictions on notices and fees and things of that nature, not universally with regard to all the regulators, but for the most part there are restrictions that have come into play, probably, in the last five years that have put restrictions in that particular area. [LB140]

SENATOR SCHUMACHER: As long as we're modernizing this, I think there's another bill that, I guess, will end up coming before this committee that addresses the issue of people who are of limited means that get into trouble trying to make credit for themselves and get behind. And the "behinder" they get the more they owe and related to that issue is somebody bounces a check, gets hit with a \$35...or whatever the going rate is, fee; the next chains of checks bounce and pretty soon over a small transgression in the beginning they've got a whole chain of bank charges. Shouldn't something like that be addressed in a bill like this? [LB140]

ROBERT J. HALLSTROM: Senator, that's probably...and I'm not sure what the Nebraska Bankers Association may do with that particular legislative bill, we'll be taking a look at it, but I think those are issues that are generally, probably, more self contained within the pay day lender and statutes in terms of the way that the marketplace has evolved and the way that the fee structures and the APRs are established in that particular area. [LB140]

SENATOR SCHUMACHER: But this is a parallel problem in the banking industry, these compounded fees that drive small bouncing check and all of a sudden a string of bad check fees that really are hard to recover from if you're in that tight of financial shape. And if we're modernizing this, I think we probably should throw something in there, or at least combine the two bills to make the other...if we're going to address reform in that area. [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

ROBERT J. HALLSTROM: Senator, we've looked at restrictions on fees and we generally do not support restrictions on fees being placed. [LB140]

SENATOR SCHUMACHER: Okay. Along the same line of large amount of cash in corporate hands, what does this bill address and do we need to address how a depositor would get access to the bank's financials to determine the stability of the bank independent so they can render an independent judgment and do their due diligence for their shareholders as to whether or not to maintain high deposits in a bank? [LB140]

ROBERT J. HALLSTROM: I don't know that there's anything, Senator, new or different in the bill that would address that issue. [LB140]

SENATOR SCHUMACHER: Okay. So this is more of a technical thing rather than a substantive addressing of some of the problems that have evolved in the last 20 or 30 years? [LB140]

ROBERT J. HALLSTROM: Those problems may be in the eye of the beholder, Senator, but, yeah, I would agree that a lot of the bill is technical. There are some substantive provisions that go more to operations, but not in the areas that you have outlined. [LB140]

SENATOR SCHUMACHER: How does a provision that deals with the...provides that a bank shall not increase the book value of property without obtaining prior approval of a department...that's supposedly unnecessary, relate to the Federal Reserve allowing a bank to carry excess reserves on its books. Is there relationship there? [LB140]

ROBERT J. HALLSTROM: Not that I'm aware of, Senator. I'd have to think about that more, but I'm not aware that there's any relation to those two, removing one and retaining the authorization in the other area. [LB140]

SENATOR SCHUMACHER: Okay, well I've got to save something for somebody else. So thank you very much. [LB140]

ROBERT J. HALLSTROM: Thank you. [LB140]

SENATOR LINDSTROM: Thank you. Senator Kolterman. No? [LB140]

SENATOR KOLTERMAN: I got my question answered. [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR LINDSTROM: Okay. Any other questions from the committee? Seeing none, thank you. [LB140]

ROBERT J. HALLSTROM: Thank you. [LB140]

SENATOR LINDSTROM: Next proponent. [LB140]

MARK HESSER: Chairman Lindstrom, members of the committee, my name is Mark Hesser, M-a-r-k H-e-s-s-e-r. I am president of Pinnacle Bancorp and participated with the working group. As Senator Williams said, I'm in favor of all the additions, deletions, and changes in the bill. I'm just happy to answer any questions you may have. [LB140]

SENATOR LINDSTROM: Mr. Hesser. Questions from the committee? Senator McCollister. [LB140]

SENATOR McCOLLISTER: Thank you, Mr. Chairman; and welcome. [LB140]

MARK HESSER: Thank you. [LB140]

SENATOR McCOLLISTER: Senator Schumacher indicated that copies of checks at one time were sent back to customers, but now, at least it's been my experience that you can go online for a short time and get a copy of a check. Is there any standard time that check needs to be available online? [LB140]

MARK HESSER: I believe our checks online are available for at least a year. But a customer can come, at least in the case of Pinnacle, to the bank at any time and request copies, full size copies of their checks. Typically, it is done in the case of an audit. Somebody will want to get copies of all their checks. And it's generally done at no fee. I'm sure there are institutions that charge a fee, but I think you'll find most community banks don't for something in that case. [LB140]

SENATOR McCOLLISTER: Thank you, Mr. Hesser. [LB140]

MARK HESSER: Senator Baker, you asked a question about the inducement clause. I raised that issue. When we started the working group I went through and read the entire act to kind of see what was in there. And that's when I had kind of forgotten about that specific statute. But as a lay person anyway, I read it that any inducement on behalf of a bank employee to have someone make a deposit was a Class IV felony. Oftentimes in the course of business, we might take a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

customer to lunch; talk about moving their business relationship, their personal relationship, we might pay for the lunch or might take you to a Husker basketball game at Pinnacle Bank Arena or something like that and provide a ticket to that person. As a layman, to me, that's an inducement to open up a deposit with the bank and that's why I raised it, and I think that's why this language ended up being adjusted. [LB140]

SENATOR BAKER: Thank you for that answer. So what did the language...what is the language being removed what does it say? [LB140]

MARK HESSER: The language being removed? [LB140]

SENATOR BAKER: Um-hum. [LB140]

MARK HESSER: That got rid of the word "inducement," I believe, as it related to opening a deposit. There is other language that was added that makes it...I think, continues to...I'll defer to one of the attorneys that follows, continues to make it a felony if I provide better terms or to employees, executive officers of the bank as opposed to regular customers. So there's still prohibitions in there on what we can do in that regard. [LB140]

SENATOR LINDSTROM: Any other questions from the committee? Senator Schumacher. [LB140]

SENATOR SCHUMACHER: Thank you, Senator Lindstrom. And thank you for your testimony today. Along the lines that I questioned some of the other folks on, a customer comes to Pinnacle, million dollars, above the FDIC limit; corporate customer so we can't play games with the wife and husband, kids and dogs and cats. And what procedures does Pinnacle use in order to make sure that customer is not in jeopardy should there be some unforeseen financial crisis? [LB140]

MARK HESSER: Well, of course, there's FDIC insurance coverage as you alluded to up to \$250,000. What we would do with that customer beyond that, first we would show them the well capitalized position of our institution. I mean, that's the primary support there, the first line of defense for many, if there is a change in the economy or anything else that will protect their deposits. If a customer wanted to do something beyond that, was not comfortable having an uninsured amount, we can offer several things. There is a reciprocal deposit relationship, which Mr. Hallstrom referred to, that allows us through...it's called CDARS, it's a deposit repository. We could send money to that. And they, basically, send...let's say we send \$750,000 to them, they would send us three other individuals \$250,000 back to us. And their money would be put

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

in with three other institutions so they would be totally insured. Another thing, we used to do a lot more before the 2008 was for that...particularly that business customer with the million dollars in one account, we would sweep it or transfer it every night to a money market fund. We use one at Goldman Sachs. That practice, primarily, ended in the '08 crisis when...I don't know if you've heard of "breaking the buck." The way they value those money market funds, they're always worth a dollar and there was a period of time there where let's say they would be worth 99.5 cents, so that was no longer full insurance of your principal. And so all our customers willingly wanted to get out of that relationship. For the most part though, those deposits, and there are many, well in...amounts well in excess of a million that are just in the bank, the customer accepts that risk. [LB140]

SENATOR SCHUMACHER: Now, a bank's capital, the amount that its investors put in to it, is multiplied many times over in the amount of loans the bank makes. What's that ratio, generally? [LB140]

MARK HESSER: Correct. Well you're going to normally have a ratio of capital to loans...probably ten times would be an average. You're going to have 8 to 10 percent capital in a bank and you might have 80 percent of the assets in loans, it just depend, 60 to 80; some banks would be less, some would be a little higher. [LB140]

SENATOR SCHUMACHER: Is there a standard in Nebraska? [LB140]

MARK HESSER: There would be an average. I couldn't tell you that it's a standard necessarily. [LB140]

SENATOR SCHUMACHER: So that's discretionary with the bank or is there some other? [LB140]

MARK HESSER: Well, it would be discretionary with the bank, but there are many federal regulations and the state looks at it very close too of our capital requirements. There's limits on poor guidelines of...like for instance, commercial real estate loans, as a guideline, cannot exceed 300 percent of our capital. So three times our capital. So there's limits within various types of loans, too. So you...commercial real estate loans were considered risky and part of the problem of the '08 crash, that's when that standard came in. Only 100 percent of our loans...or 100 percent of capital can be in loans that are for land development and construction. [LB140]

SENATOR SCHUMACHER: One of the problems of sitting on a committee like this is a lot of us aren't really experienced in the industry. And it would be really helpful, not so much for

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

somebody who is near the end as I am, but I think for everyone else that may be here a little longer, to get a good grasp of how the banking industry works, just like this testimony right now about many, many times more loans than there is money. Going on, we spent some time at...a session at the Harvard Business School looking very closely at the innards of a Kansas bank. And that's where my questions regarding the check fees come from. How do you handle...how should we handle any modernization bill...the issue of folks tripping over a small check and setting a chain reaction that they, at least in this Kansas bank, was a highly profitable chain reaction of fees. And, in fact, I think one of the conclusions of that study was that a customer that bounces checks one the...bankers like...best customers because it generates a lot of money. How do you handle it? How should we handle it? Is any regulation needed, because, apparently, it is a problem once people get...dig themselves out of a hole? [LB140]

MARK HESSER: Well, certainly there are fees generated from checks that create an overdraft to a customer's account. There...I would encourage you to rely on federal legislation and federal best practices. Because I believe one of the problems if...I'm not sure if you put a fee to limited overdraft fee in the Legislature if that's going to impact any bank charter by the OCC, a national. So you're going to create different playing fields within a state, but I'll defer to one of the legal counsels coming behind me to clarify whether your fee would impact a national bank. So would U.S. Bank, Wells Fargo...you know, we always like to see a level playing field in that regard. There's been very strong pressure put on from the federal regulators, as I referred to like best practices, to limit overdraft fee income. An example of that would be the bank can decide in what order your checks are paid as they come in. So if you have ten checks that come in in a day, a common bank practice in prior years, many years back, would be to pay the check largest to smallest. So if you had \$1,100 in your account and the first...these ten checks come in, and one check is for \$1,000, that's the largest one, they pay that first, now you only got \$100; the next one is for \$200, that creates an overdraft along with the other eight. So you could...nine overdrafts that day, as opposed to...if you did it backwards, you might only have one overdraft. Today, paying smallest to largest is the industry norm, at least in my opinion. And that's been brought about by federal best practices peer pressure and lawsuits in some cases, by the Consumer Finance Protection Bureau against banks that they thought were using that in an unfair manner that was unfair to customers. So, there's also proposed regulations coming from the Consumer Financial Protection Bureau on overdrafts, overdraft fees. There's been regulations added that in general have got banks to...there's also a daily overdraft fee that's charged often time when an account is overdrawn to not charge that in instances depending upon the number of checks and everything involved. So there's been strong pressure to lower any dependence on overdraft fee income. And I would urge the committee and the Legislature to watch, but defer action following what the feds are doing in that regard. [LB140]

SENATOR SCHUMACHER: Thank you very much for your testimony today. [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

MARK HESSER: Mr. Chairman, if I could. [LB140]

SENATOR LINDSTROM: Yes. [LB140]

MARK HESSER: One other question you asked about was the director being able to increase the real estate value. That was one I raised myself as well. That would be...that's prohibited today by GAAP, generally (accepted) accounting principles, so he couldn't do it anyway. I mean, a bank couldn't do it even if he authorized it; they'd be violating GAAP which is a violation of the federal call report rules. [LB140]

SENATOR SCHUMACHER: Thank you. [LB140]

SENATOR LINDSTROM: Thank you. Senator Kolterman. [LB140]

SENATOR KOLTERMAN: Yeah, my question deals with the reciprocal agreement you have with, I don't know, is it handled through the fed? [LB140]

MARK HESSER: No, it's an institution that's handled...I believe it's handled through a bank's trust department. [LB140]

SENATOR KOLTERMAN: Okay. And is that specifically limited to individual accounts or corporate accounts or both? [LB140]

MARK HESSER: You can do either one. [LB140]

SENATOR KOLTERMAN: You can do either one. [LB140]

MARK HESSER: To my knowledge. [LB140]

SENATOR KOLTERMAN: Do you know, is that readily known with consumers? [LB140]

MARK HESSER: I think a lot of consumers...a consumer that was questioning their FDIC insurance would certainly be informed about it as an option. [LB140]

SENATOR KOLTERMAN: Okay. Thank you. [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

MARK HESSER: Thank you. [LB140]

SENATOR LINDSTROM: Any other questions? Seeing none, thank you very much, Mr. Hesser. [LB140]

MARK HESSER: Thank you. [LB140]

SENATOR LINDSTROM: Other proponents. [LB140]

DAVID ROUTH: Good afternoon. My name is David Routh, D-a-v-i-d R-o-u-t-h. I'm an attorney with Cline, Williams, Wright, Johnson, and Oldfather here in Lincoln. I served as a member of the study committee and I'm here to support LB140. As some background, a majority of my practice, a large majority of my practice involves various kinds of work with community banks throughout the state. So I focus primarily on bank regulatory matters, as well as bank mergers and acquisitions. As a result, I spend a good deal of time looking through the Nebraska banking act, and I believe the changes that are proposed in the bill will be helpful over all. In particular, I was asked to provide a little bit more background and explanation of one of the new provisions that's included in the bill and that's section 51 which deals with the power of a Nebraska state bank to acquire stock of another bank or stock of a holding company. In my view and the way I see it, first and foremost in short, this is a substance over form provision. In order to understand why, I think you need to understand how bank MMA tends to work. In general, nine times out of ten the ultimate goal is for the acquiring bank, ultimately, to merge the target bank into itself under one charter. However, because of federal tax considerations, more times than not, the first step in that process has to be a purchase of stock. It can either be a purchase of the target bank stock or the holding company stock, but step one needs to be a purchase of stock. Step two then becomes the merger of the two banks. I think that...overall is relatively straightforward. However in the past, there have been some obstacles in the Nebraska banking act to getting that done, in particular...although it isn't the department's position anymore, the department used to take the position that a Nebraska bank could not own the stock of another bank. Therefore, in order to get a bank merger done, you had to have the acquiring bank holding company purchase the stock and then do the merger after that. That created yet an additional step because more times than not the acquirer had the cash that it wanted to use to buy the other bank at its bank level. Therefore, before it could do an acquisition, it had to transfer by way of dividend cash from its bank to its bank holding company so that its bank holding company could acquire the target bank and thereafter merge the two banks. So you turn what in practicality is a one-step process into at least a three-step process. What this new section 51 tries to do is to eliminate at least one step. What it says is that the acquiring bank can use the cash that it has on hand to buy stock of another bank or another bank holding company if the ultimate intention is to merge. It can maintain the separate charter it has to merge. It also...the whole transaction has

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

to be approved by the Department of Banking. So at the end of the day, section 51 really is trying to promote substance over form by saying--at the end of the day, if the department is going to approve and the two banks are going to be merged, you can have the acquiring bank be the acquirer to save a step. So since I deal in this world, I know that's highly technical, but it really is something that my clients and others will value. I can't tell you the number of times that I've had a client dumbfounded by the fact that they can't use the cash that they have in their bank to buy another institution and they have to do a dividend. Although it's technical, it does have practical impact and will simplify things. For that reason, I and the study committee supported that change. Also, I will reiterate that I support LB140 as a whole. So if there are any questions feel free to let me know? [LB140]

SENATOR LINDSTROM: Thank you very much. Any questions? Senator Schumacher. [LB140]

SENATOR SCHUMACHER: Thank you, Senator Lindstrom; and thank you for your testimony today. What I'm fishing for in some of this is to see what left undone in the modernization of our banking oversight and regulation, of which, in some respects, the thanks...or the buck is supposed to stop here, unless we can get it back over to Director Quandahl, what left undone and not addressed or not looked at by your committee and decided, no, we don't need to mess with that because we're modern enough. Credit default swaps--explain, maybe, if you can to the committee what those are and what regulations there are...or keep the department of regulators keeping track of those and how they affect your books. [LB140]

DAVID ROUTH: I'm not a banker, so I don't know specifically how they affect the books. I do know what a credit default swap which is which is, essentially, a derivative position that pays one party...one party pays the other when a particular borrower or particular security goes bad. So it is, in a sense, being charitable. It's a type of insurance being uncharitable, it's a type of bet...you know, the Nebraska banking act does not deal with that directly. My understanding is, you know, the federal regulators will examine...if any bank has an exposure to credit default swaps or other derivative securities, those are separately reported on the call report. And if there is a large amount of them that jeopardizes the health of a bank, it will come to the attention of the federal or state regulators. [LB140]

SENATOR SCHUMACHER: Besides credit default swaps, are there any other liabilities that a bank may have that may not appear as credit default swaps where before 2008 upfront to a customary audit? [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

DAVID ROUTH: Not that I'm aware of. And I'll also add that, again, my practice is limited primarily to working with community banks located in Nebraska. And there are not many...a whole lot of them that have any of this stuff. [LB140]

SENATOR SCHUMACHER: Are there a lot of counter-party agreements between community banks? [LB140]

DAVID ROUTH: Counter-party agreements in? [LB140]

SENATOR SCHUMACHER: Between...in loan sharing agreements and agreements as to... [LB140]

DAVID ROUTH: There will be loan participations. I mean, I think that, separate and apart from the CDARS and the...which is not directly between banks, but the sharing of deposits through that central repository is one thing, loan participations--say bank one reaches its loan limit, it sells the overlying to bank two, there are those relationships as well. Bank one stays in the position of servicing the loan with its customer, but the loan is spread over more than one bank. That's the primary example among community banks that I'm aware of. [LB140]

SENATOR SCHUMACHER: Thank you for your testimony today. [LB140]

DAVID ROUTH: Yep. [LB140]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you very much. Further proponents? [LB140]

BRANDON LUETKENHAUS: Good afternoon Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee, my name is Brandon Luetkenhaus, spelled B-r-a-n-d-o-n L-u-e-t-k-e-n-h-a-u-s, and I'm here today on behalf of the Nebraska Credit Union League. Our trade association represents the 61 credit unions in the state. I appear before you today in support, to show our association's support for LB140. I want to thank Senator Lindstrom and Senator Williams for introducing the bill, and Senator Scheer for their work, as well as Director Quandahl, his staff, and committee staff for all their work, and, of course, the industry as well. It's an honor and privilege to be part of the working group. We had myself and Julia Plucker participated in those meetings. As financial institutions, Nebraska's credit unions must comply with various sections found in the Nebraska state banking act in chapter 8, but many of our...we also have a state credit union act that many of our rules are in. So there are provisions in this new bill that impact the credit unions, but a vast majority of them do have to do with the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

banking...banks. So, with that I do put our full support of LB140 and would answer any questions you might have. [LB140]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Seeing none, thank you very much. Other proponents? [LB140]

CHRISTOPHER BULLER: Thank you, Chairman, and members of the committee. I'm Christopher Buller, C-h-r-i-s-t-o-p-h-e-r B-u-l-l-e-r. I am in-house legal counsel for Cornerstone Bank and I'm here to speak up in support of LB140. As a member of the LR430 working group, and, fortunately, these folks have done a nice job with the substantive stuff so I really don't need to expand on that much other than I'd like to say in particular what Mr. Routh spoke about with the merger statute. Cornerstone feels that that is a good addition to the law, would add transparency and it would also take away any incentive for banks to, essentially, play accounting games. And it just...to get to the same end result, we can now do it more transparently and it gives a little more flexibility for banks. We also support the adjustments to the members of the board and also the bit about the secretary being drawn from the board. There, too, it adds flexibility for banks and I think it improves governance. And, anecdotally, I'd just like to add, although the industry was primarily in the room during this working group, there was a fairly meaningful discussion about consumer protection. When it came up, a couple ones I can think of would be the inducements to deposit discussion and also about department employees and their own personal borrowing. I would say I was impressed, in fact, with the level of thought that went in to the consumer protection aspects of those. So, for what it's worth, I think that's useful. If you have any questions for me, I'd be happy to answer them. [LB140]

SENATOR LINDSTROM: Thank you. Any questions? Senator Schumacher. [LB140]

SENATOR SCHUMACHER: You raised the issue of the mergings of the banks, and I know Cornerstone has done a lot of progress in acquiring a lot of small banks in, at least, the part of Nebraska I'm from. [LB140]

CHRISTOPHER BULLER: That's correct. [LB140]

SENATOR SCHUMACHER: And done a nice job with that. Where...what should we be looking for; what should we be concerned about as groups such as yours begin to acquire the smaller banks and, maybe, themselves are targets of acquisition of larger banks, what should...what future should this committee, over the next...well, like the members on here, we've got a freshman senator on here, so the next eight years, be looking for as things that will need our attention as we see those mergers and acquisitions unfold and as the face of rural Nebraska changes, probably, fairly dramatically? [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

CHRISTOPHER BULLER: Frankly, Senator, I'd have to think about that a little bit. Wasn't really prepared to touch on that. I mean it's... [LB140]

SENATOR SCHUMACHER: Sometimes you get the best answers when people aren't prepared. (Laughter) [LB140]

CHRISTOPHER BULLER: I mean, it's obviously the trend in the industry for consolidation. We like to think, as what Director Quandahl mentioned, that there's an economy of scale that we have and maybe some of the smaller institutions don't have which is why we're generally looking for smaller community banks to merge into. That trend is probably going to continue. I would say that all of our institutions in the state are vigorously regulated by the federal government, in addition to our own internal auditors to the state with our pledging to the Federal Home Loan Bank, so I feel like everybody's cards are on the table in that regard. You know, that that...I don't think that there's anything that...I made mention of accounting games with the mergers and I don't mean to say something incorrect as being done other than it was really form over substance and so any time you can make a move towards substance and clarity I think it's a good thing. [LB140]

SENATOR SCHUMACHER: And one other thing, banks used to do their own...a lot of their own in-house processing of their checks, their own accounts' bank statements, and I've become aware over the last year that a lot of that work is being shipped out of state to processing centers in California, bank statements are sometimes handled locally (inaudible) processing centers in California which are, you know, the employee people and computer programmers and twenty-first century employees high wages, whatever, there instead of here, is that becoming widespread in your industry? Should we be addressing that as...to try to keep some of those resources here? Is it okay that the bank statements come from California? [LB140]

CHRISTOPHER BULLER: Well, as an institution who is a significant part of our business is actually doing that data processing for other banks. I think they should all keep it local. (Laughter) There too, every bank is liable to their own regulator and to their own charter for the work that is done by their third-party vendors. So with a strong department and with a strong fed and a strong OCC, I think the risk to the consumer is there...are handled by the regulators. [LB140]

SENATOR SCHUMACHER: Thank you. [LB140]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you. [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

KURT YOST: Chairman Lindstrom, members of the Banking, Commerce and Insurance Committee, my name is Kurt Yost, K-u-r-t Y-o-s-t. I'm the president and registered lobbyist for the Nebraska Independent Community Bankers and we, too, are here today to weigh in, in support of the workings of LB140 that Senator Williams has introduced on behalf of the department and the industry. And I deliberately wanted to be last in hopes that Senator Schumacher had run out of fire power. (Laughter) [LB140]

SENATOR LINDSTROM: Thank you, Mr. Yost. Any questions from the committee? Senator Schumacher. (Laughter) [LB140]

SENATOR SCHUMACHER: Just for that, you get a "get out of jail free" card. I don't have any questions. [LB140]

KURT YOST: I would make a comment that along some of the lines of real quick that Senator Schumacher commented on, that I've had the good fortune to work for the Independent Community Bankers of Nebraska for 33 years. And when I started working for the group back in early 1984, there were 420 bank charters in the state of Nebraska...420 bank charters. Today, that number hovers around 180. One hundred and fifty-seven of them, or thereabouts, are state chartered, and 17 or 18 of them are national charters. The industry, Senator Schumacher to your point, the dynamics of banking in the state of Nebraska have changed. And community banks, by far and away, are the majority in Nebraska, as most of you know. The largest family-owned bank in the United States is located in Nebraska in the form of First National Bank of Omaha. But the industry has changed. And the regulators, the Federal Reserve Bank and others would tell you that one of the biggest challenges community banks across rural America face today is work force. Who is going to be there? Who is going to go to the rural communities and run those banks? [LB140]

SENATOR LINDSTROM: All right, thank you. Thank you very much. [LB140]

KURT YOST: Thank you, Senators. [LB140]

SENATOR LINDSTROM: (Exhibit 3) Any other proponents? I do have one letter of support from Brad Koehn from Midwest Bank. We'll now move on to opponents; any opponents? Seeing none, any neutral testifiers? Seeing none, Senator Williams. [LB140]

SENATOR WILLIAMS: You would all probably like me to waive at this point, but there's just a couple things I would like to point out. I really appreciate the time and effort that the various people have made, especially those that have come to testify today. Senator Schumacher posed

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

the question--what's left undone? And I would point out the working groups' rule that we had, there were three groups, there were the three senators: Senator Lindstrom, Senator Scheer, and myself; then there were those representatives from the industry of which you have heard from today; and then the representatives from the state Department of Banking. We all came to the table with the idea of working together. And we agreed on the front end that the only provisions that would be included in LB140 would be those that were mutually agreed upon by all three parts. Therefore, there are some things that have been left out, but they've been left out intentionally. They've been left out because we believe those items should be items of separate legislation if they are deemed necessary. So those items that were mentioned like the valuation of real estate, bank-owned real estate, and those kinds of things, that's why there is some things that are left out. It's also been pointed out that we have a unique banking system in our country where we have nationally chartered banks and we have state-chartered banks and we have to deal with that with legislation and regulation. And we do not want to create an unlevel playing field where those that choose to have one charter have to do business with customers different than the other charter. It was asked about financial information on banks. Shouldn't a bank have to provide a customer with financial information. FDIC.com...or .gov you can get a full report on any bank in our country at any time. So that information is available. There was a time when banks were required to publish in a local newspaper their statement of condition. I would tell you there are very few people that could accurately read a statement of condition and understand the true financial condition of bank, but if there is someone that wants that information, it is readily available on the Internet. The question of overdrafts and whether that should be included in any kind of regulation was brought up. The world for banking changed following the financial collapse of '08 and '09 and the implementation of Dodd-Frank legislation and the creation of the Consumer Financial Protection Bureau, CFPB, and they have come out with stringent regulation on such things as overdrafts and they are working on the pay day lending issue of which this committee will have at least two bills presented to it this session, so those things are there. The CDARS program was pointed out, and Senator Kolterman you asked about whether consumers would know about that, and Mark Hesser mentioned that, yes, they probably would. But that is also a program that a bank makes a choice of whether they offer that for their customer. There's a significant fee to belong to the CDARS program. And unless a bank saw a significant need or a sufficient need to justify that fee, they would not necessarily participate. So many of those banks in Nebraska are not members of that program. The consolidation issue, I would just recommend and remind all of us that are in a position of creating legislation, the last thing that we need to do is create legislation that will tie the hands of our businesses in our state and cause an accelerated amount of consolidation beyond what we already have. And I would be careful that we don't include things that would be additional regulation that would not be needed. This is a significant piece of legislation that has been worked on by a lot of people. I can't imagine how Senator Lindstrom is going to introduce this on the floor, because I'm going to offer a white copy amendment and let the committee chair introduce it rather than...no, I'm just kidding. (Laughter) I will do it, but I would appreciate your support and encourage you to advance LB140. [LB140]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR LINDSTROM: Thank you, Senator Williams. Any final questions? Seeing none, thank you very much. And that will close the hearing on LB140. [LB140]

SENATOR WILLIAMS: All right. The next bill we will be hearing today is LB184 and it will be introduced by Chairman Lindstrom. [LB184]

SENATOR LINDSTROM: Thank you, Vice Chairman Williams. My name is Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, I represent District 18 in northwest Omaha. Today I bring you LB184; comes to us from the Department of Banking and Finance as part of this year's package of dependent housekeeping bills. This bill would amend our statutes that govern loan brokers. Loan broker is a business that, for a fee, seeks out lenders for its clients. The bill does three things. First, it provides that a bank holding company does not fall within the definition of "loan broker." Banks are excepted from the definition...so this is a logical followup clarification for provisions dating back to 1981. Next, the bill updates provisions regarding disclosure notices that a loan broker must provide a perspective borrower. Now the law says that at least 48 hours before a borrower signs a loan brokerage agreement, the loan broker shall give the borrower a written disclosure statement. That no longer works when borrowers do business with loan brokers online. Now a Nebraska resident who gets on a loan broker's website can see the disclosure statement, but then must get off the site for 48 hours before seeing the contract. The bill would change all this by providing simply that prior to a borrower signing a brokerage agreement the loan broker shall give the borrower the written disclosure statement. This chain operates in conjunction with the final change in the bill. The final change involves a law current free-look requirement. Now the law says that the borrower has the right to cancel a loan brokerage agreement for any reason at any time within three days after the date the party signs the agreement. The bill would change that time frame to five days. That is the overview of this bill. The director is behind me with the answers to all of your questions. Thank you very much. [LB184]

SENATOR WILLIAMS: Questions for Chairman Lindstrom? Seeing none, Director Quandahl. [LB184]

MARK QUANDAHL: (Exhibit 1) Vice Chair Williams, members of the committee, my name is Mark Quandahl, it's Q-u-a-n-d-a-h-l; I'm Director of the Nebraska Department of Banking and Finance appearing here today in support of LB184 which was introduced at the request of the department. LB184 would amend the Loan Broker Act, which is under the jurisdiction of the department. The Loan Broker Act regulates those persons who, for compensation, procure, attempt to procure, arrange, or attempt to arrange a loan of money for a borrower. The payment of advance fees to loan brokers is prohibited. For clarification purposes, please note that the Loan Broker Act does not apply to persons who are licensed or registered as mortgage bankers

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

or mortgage loan originators under Nebraska's Residential Mortgage Licensing Act to deal with real estate loans involving one-to-four family homes. Section 1 of LB184 would amend section 45-190, which is the definitional statute to the act, to exclude bank holding companies from the definition of loan broker. The department proposes this exclusion for the reason that bank holding companies are already regulated and subject to examination by federal and state financial institution regulators. Other entities currently excluded from the definition of loan broker are also closely regulated and subject to regulatory examination, such as financial institutions, mortgage bankers, installment loan companies and insurance companies. Sections 2 and 3 of LB184 to be read together as the amendments are intended to combine the requirement currently found in section 45-191.01 that a borrower must have 48 hours after receiving written disclosure before signing a loan brokerage agreement, with the requirement in section 45-191.04 that a borrower has three business days after signing the contract to rescind. Section 2 would change the 48-hour prior notice requirement for disclosure to a simple prior notice, while section 3 would increase the post-contract signing rescission period from three business days to five business days. Under current law, a loan broker first has to provide the customer with a disclosure document. After a 48-hour waiting period, the loan broker can have the customer sign a loan agreement. After the loan agreement is executed, the customer has an additional three business days in which he can elect to rescind. Thus, the customer ultimately has five days in which to change his or her mind and end the agreement. The bill proposes to consolidate the two time frames in the current law into one five-day time frame to rescind the agreement. Sections 2 and 3 of LB184 are intended to address the increase in loan brokers that conduct their businesses entirely online, and are the result of ongoing discussions with a nationwide entity that has been unable to conduct business in Nebraska because of these requirements. The current act predates the inception of the Internet and does not contemplate individuals seeking out a loan broker on the Internet. Under current law, an online loan broker, upon determining that the consumer is a Nebraska resident, must provide the disclosure document and cannot allow the customer to complete the agreement when he or she first visits the loan broker's website. The borrower has to come back to the loan broker's website two days later to complete his or her application. By consolidating the time frames, the consumer will be able to finish the application and execute the loan broker agreement when he or she visits the loan broker's website. The loan broker will provide the consumer with the disclosure document and the loan broker agreement. The consumer will be able to change his or her mind within five business days. This will make it easier for loan brokers that operate on the Internet and make it easier and less confusing for consumers by allowing them to complete the agreement when they visit the website, rather than requiring the consumer to come back to finish the loan agreement at a later time. I want to thank Senator Lindstrom for introducing this bill, and I'd be happy to answer any questions that the committee may have. [LB184]

SENATOR WILLIAMS: Do we have questions for the director? Senator Baker. [LB184]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR BAKER: Thank you, Senator Williams. I take it this is kind of targeted toward the online loaners, people who are doing business online? [LB184]

MARK QUANDAHL: In part, but it also changes the definition to exclude bank holding companies from the definition of loan broker. [LB184]

SENATOR BAKER: Do you see any difficulty if a person, say, does deal with an online lender and wants to change their mind, do you see any difficulties than being able to do that? I mean, what's the actual process--you go back on that website? [LB184]

MARK QUANDAHL: Well, the loan isn't actually funded for five days. [LB184]

SENATOR BAKER: Right. [LB184]

MARK QUANDAHL: And so they have that five days, under the proposal, to change their mind. [LB184]

SENATOR BAKER: So is there any standard procedure to do that? I mean, do they just contact...they get back on the website, they check a box that says I want to stop? [LB184]

MARK QUANDAHL: I don't know the actual particulars, but, yes, basically, it's that simple; just say--I don't want it, and the loan won't be funded and they don't have to go through with it. They can rescind it. The idea is to provide a less confusing avenue for loan brokers and their customers to get together. [LB184]

SENATOR BAKER: I'm probably worried about nothing, supposing they got on the website, said I think I cancelled it, then they find the money is delivered and saying--you did take out this loan. I'm probably worrying about something I don't need to worry about, but what's the safeguard? [LB184]

MARK QUANDAHL: I'm not sure exactly how to answer that, but I can get back to you on that if you like. [LB184]

SENATOR BAKER: Okay. [LB184]

SENATOR WILLIAMS: Other questions? Senator Schumacher. [LB184]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR SCHUMACHER: Thank you, Senator Williams. Looking around at the name tags in front of us up front up, looks like about half of the committee is new and the other half, probably, could need a little bit of a refresher course, including myself. We've heard in this bill and in the prior bill the term "bank holding company." What is a bank holding company and what role does it play in the system today that we are dealing with it in these two bills? [LB184]

MARK QUANDAHL: Yes. Right. A bank holding company, for instance, I mean there's a number of bank holding companies in the state of Nebraska, they sometimes own multiple banks, multiple different entities, banks; multiple different charters in the state of Nebraska, however it rolls up into one bank holding company, for lack of a better way to put it than that, in...I can't explain all the great accounting and all the great tax consequences that flow from that, but that's in essence what a bank holding company is. [LB184]

SENATOR SCHUMACHER: So the several banks that are owned by the same people, then their stock is owned by the holding company. [LB184]

MARK QUANDAHL: Yes. [LB184]

SENATOR SCHUMACHER: And the holding company then remotely controls the underling banks. [LB184]

MARK QUANDAHL: That's correct. [LB184]

SENATOR SCHUMACHER: Okay. Does the holding company pay an income tax or does it give benefit of the depository tax? [LB184]

MARK QUANDAHL: That I'm not...I can't answer that...I can't (inaudible). [LB184]

SENATOR SCHUMACHER: And is a holding company in Nebraska typically a closed corporation or a public corporation (inaudible). [LB184]

MARK QUANDAHL: I'd say just anecdotally it's a closed corporation, yes. [LB184]

SENATOR SCHUMACHER: Okay. Do you know of any that are public corporations? [LB184]

MARK QUANDAHL: Off the top of my head, no. [LB184]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR SCHUMACHER: Okay. Thank you. [LB184]

SENATOR WILLIAMS: Senator Kolterman, you had a question? [LB184]

SENATOR KOLTERMAN: Yeah, thank you, Senator Williams. Mark, my question really deals with...how prevalent are these loan brokers? I mean, is this going on a lot in our state? [LB184]

MARK QUANDAHL: No, I'm not going to say it's a lot; I'm not going to say...there is some transactions out there. And I can get you the specific numbers on the numbers of loan brokers that we know of that are out there. [LB184]

SENATOR KOLTERMAN: Again, along the same lines, what kind of dollars are we talking about here? I mean, it looks to me like you're trying to protect the consumer here, but how much is it being abused. I guess that's where I'm going with my line of questioning. [LB184]

MARK QUANDAHL: Off the top of my head I couldn't answer that, but, maybe, I could provide you some followup statistics on the number of brokers that are out there and kind of volumes that they do in the state. [LB184]

SENATOR KOLTERMAN: Are they from without the state or internal? [LB184]

MARK QUANDAHL: I think both. [LB184]

SENATOR WILLIAMS: Senator Schumacher. [LB184]

SENATOR SCHUMACHER: Thank you, Senator Williams. Just one quick follow-up question, because supposedly it's on the horizon, and that is currently banks and these brokers make loans in U.S. dollars. Have you seen or are aware of and what regulatory issues might be involved in loans being made in bitcoin and other bit chain currencies? [LB184]

MARK QUANDAHL: In kind of a round about way. They say loans, not so much. But, however, we do have a number of entities that are licensed under our money transmitters act...as money transmitters that do deal in cyber currencies. And so... [LB184]

SENATOR SCHUMACHER: Do we need to pay more attention to the development of that, or are we going to contend to be behind the curve, ahead of the curve, how do you feel your department is situated for that? [LB184]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

MARK QUANDAHL: Yeah, I mean that's a good question, too. And that's one of those items, too, that when bank regulators...when state bank regulators get together, that's one of the things that we talk about, too. It's just how do we handle these folks. And what the general consensus is and in most states, the transactions dealing with cyber currency is handled as money transmitters because there's a value, there's a stored value that for a part time is parked with the company. And so it fits best under money transmitters. Now what they're telling me is that when you say "fintech" out there, it's like you give me a definition of fintech and you'll get like eight million different responses as to what that means. And I think you also see on the federal level that the OCC, the Office of the Comptroller of the Currency, put forth a proposal to actually charter a fintech bank. And so that's being met with a lot of push back, not only from state regulators, such as myself, but then also kind of the broader consumer protection community that's out there, too. Just because it's hard to get our arms...it's hard to get our arms around something that we can't define. So long bout, should we be paying more attention to bitcoin? Bitcoin cyber currencies are here to stay and I think they're probably going to be playing a larger and larger point...or place in financial institution, not only now, but in the years to come. So short answer is yes, we should be paying more attention to that. [LB184]

SENATOR SCHUMACHER: Okay. Should we feel comfortable the feds are watching this and we don't have to become experts in it? [LB184]

MARK QUANDAHL: No. [LB184]

SENATOR SCHUMACHER: No? Okay. [LB184]

MARK QUANDAHL: No. No. I'll just leave it there. [LB184]

SENATOR SCHUMACHER: Okay. [LB184]

SENATOR WILLIAMS: Senator Kolterman. [LB184]

SENATOR KOLTERMAN: Yeah, thank you, Senator Williams. I'm still trying to get my arm and my head around this...what exactly a loan broker is. So in the opening statement, it talks about mortgage bankers and mortgage loan originators and the Nebraska Residential Mortgage Licensing Act deals with real estate loans, one to four families. [LB184]

MARK QUANDAHL: Right. [LB184]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR KOLTERMAN: Is that like the Lending Trees or the Quicken Loans or...those aren't loan brokers. [LB184]

MARK QUANDAHL: No. No, that's... [LB184]

SENATOR KOLTERMAN: Those fall under what he's talking about here? [LB184]

MARK QUANDAHL: That would be a...let's say you go to buy a house, right? So you go to a mortgage loan originator or a mortgage banker and you say, hey, you know what, I need to find a loan for this house, right? And so that person, and they're excluded from the definition of "loan broker", but in essence that's what they're doing is that they're going to shop that around to a number of different financial institutions and banks to get you the best rate that they can for your house and they're entitled to a fee for that. That's, in essence, what a loan broker would do, too, just not with respect to a house. Say you needed a loan for a business or something like that. You'd go to a loan broker, say, hey, I need \$200,000, can you find me somebody to do it. Does that make sense? And you're asking yourself, now why would I do that? [LB184]

SENATOR KOLTERMAN: No, because I...you know, you get credit cards all the time that ask you if you want to borrow money from them. [LB184]

MARK QUANDAHL: Sure. [LB184]

SENATOR KOLTERMAN: I assume that's a loan broker. Maybe I'm wrong, I don't know. [LB184]

MARK QUANDAHL: Not necessarily, not necessarily; it's a third party that will contact you with another financial institution or another lender. [LB184]

SENATOR KOLTERMAN: Sure. I'll find out outside the hearing. [LB184]

MARK QUANDAHL: Okay. [LB184]

SENATOR KOLTERMAN: Thank you. [LB184]

MARK QUANDAHL: Yep. [LB184]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR WILLIAMS: Director, in your testimony, you made mention that there's been ongoing discussions with a nationwide entity that's been unable to do business in Nebraska because of our current requirements. Are you in a position where you could actually discuss that with us and explain what you meant by that statement? [LB184]

MARK QUANDAHL: I'd just as soon do it offline. [LB184]

SENATOR WILLIAMS: Okay...that's fine. [LB184]

MARK QUANDAHL: But, basically,...what...it's...somebody whose business model doesn't... [LB184]

SENATOR WILLIAMS: Doesn't fit with our current... [LB184]

MARK QUANDAHL: That's correct. [LB184]

SENATOR WILLIAMS: Other...Senator McCollister. [LB184]

SENATOR McCOLLISTER: Thank you, Senator Williams. Director Quandahl, would you say Nebraska is more or less restrictive than these requirements than the other states you're familiar with? [LB184]

MARK QUANDAHL: I'd say the same. I'd say the same. [LB184]

SENATOR McCOLLISTER: Offers the same consumer protections that the other states offer? [LB184]

MARK QUANDAHL: That's correct. That's correct. Now, that's just anecdotally and that's just off the top of my head, and so I haven't done a survey, but... [LB184]

SENATOR McCOLLISTER: Thank you, Director. [LB184]

MARK QUANDAHL: Certainly. [LB184]

SENATOR WILLIAMS: Seeing no more questions, thank you, Director. [LB184]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

MARK QUANDAHL: Thank you. [LB184]

SENATOR WILLIAMS: Any other proponents of LB184? Any opponents? Seeing none, anyone to testify in the neutral capacity? Senator Lindstrom waives closing. We'll close the hearing on LB184. And we'll open the hearing on LB185, and again Senator Lindstrom. [LB184]

SENATOR LINDSTROM: Thank you, Vice Chairman Williams. My name is Senator Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, I represent District 18 in northwest Omaha. LB185 comes to us from the Department of Banking and Finance. This bill would help streamline department functions. Our department oversees laws governing money transmitter licensees, installment sales licensees, and installment loan licensees. Currently, if any applicant fails to complete the process of issuance of a license, the department must go through application denial proceedings. The bill would provide instead that if an applicant fails to respond to deficient notice, the department may simply deem the license application as abandoned. With this bill, the process would become more efficient. That is what this bill...this clean-up bill will do. The director will follow me after my opening. Thank you. [LB185]

SENATOR WILLIAMS: Any questions for Senator Lindstrom? Seeing none, Director Quandahl, I might make mention we will plan to take a five-minute break at the end of this hearing before we start the hearing on the next bill. [LB185]

MARK QUANDAHL: (Exhibit 1) Vice Chairman Williams, members of the committee, my name is Mark Quandahl, Q-u-a-n-d-a-h-l, Director of the Nebraska Department of Banking and Finance, here today in support of LB185 which was introduced at the request of the department. LB185 proposes identical amendments to three consumer finance related acts under the jurisdiction of the department: the Money Transmitters Act, the Nebraska Installment Sales Act, and the Nebraska Installment Loan Act. Section 1 would amend section 8-2733 of the Money Transmitters Act; section 2 would amend section 45-346 of the Nebraska Installment Sales Act; and section 3 would amend section 45-1009 of the Nebraska Installment Loan Act. These sections contain the application and licensing process for their respective entities, and each law would be amended to provide that the department could classify license applications which are incomplete and have failed to respond to one or more deficiency notices from the department for 120 days or more as abandoned. Once an application is deemed abandoned, the department would have the authority to notice...a Notice of Abandonment on the application in lieu of formal administrative proceedings to deny the applications. These amendments mirror the procedure adopted by the Legislature in 2012 to Nebraska's Residential Mortgage Licensing Act with respect to applications for mortgage loan originator licenses, and again in 2015 for mortgage banker license applications. The department has used the Notice of Abandonment sparingly. Since January 1, 2013, 321 Notices of Abandonment were issued to mortgage loan

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

originator license applicants. During that same time, more than 8,200 mortgage loan originator licenses were issued. The department has not issued any Notices of Abandonment to applicants for mortgage banker licenses. Similarly, we anticipate that we will use this authority infrequently under the three acts that (LB)185 would amend. Our experience indicates that adoption of this process will result in a more efficient use of department resources on those occasions. I want to thank Chairman Lindstrom for introducing the bill. I'd be happy to answer any questions. [LB185]

SENATOR WILLIAMS: Questions for the director? Senator Schumacher. [LB185]

SENATOR SCHUMACHER: Thank you, Senator Williams. Thank you, Director Quandahl. When they submit one of these applications, do they send along money...fees? [LB185]

MARK QUANDAHL: Yes, they do. [LB185]

SENATOR SCHUMACHER: What happens to the fees if you deem it abandoned? [LB185]

MARK QUANDAHL: The department retains that fee. [LB185]

SENATOR SCHUMACHER: Talking a lot of money? [LB185]

MARK QUANDAHL: I think it's \$100. And so it's...and that's why we give them 120 days, basically, to correct any sort of deficiencies in the applications. [LB185]

SENATOR SCHUMACHER: And how is the notice go to them that they've got a pending problem with their application? [LB185]

MARK QUANDAHL: Usually a couple of different ways. One is e-mail, so electronically that way, too. And then too, under the NMLS, it's through the NMLS system and that will notify them also that they have deficiencies and that their license is abandoned. [LB185]

SENATOR SCHUMACHER: Even though they have a hundred dollars or so riding on it, they don't get a letter? [LB185]

MARK QUANDAHL: Wet letter, I do not believe so, no. [LB185]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR SCHUMACHER: So if their e-mail happens to get caught in their spam screen or their Internet provider's spam screen, they may just...and they're sitting there waiting because they didn't complete line eight on the application, or their typewriter...because people never make mistakes, but typewriters do, didn't fill out line eight, they...they're just waiting for your letter saying...or your notice saying you've been granted a license and then all of a sudden they lose their hundred bucks. [LB185]

MARK QUANDAHL: I don't know how many typewriters are still out there, Senator, but as far as computers or word processors, I understand what you're saying, I mean, as far as...but there's all sorts of reason why people don't go back and finish their application. They could move; they could leave their job; they could just not have any interest in doing business in the state of Nebraska. [LB185]

SENATOR SCHUMACHER: But you see my concern. Somebody has filled out an application, there is something on it that you think needs more. They get an e-mail; don't get a real letter and then they lose their hundred bucks and... [LB185]

MARK QUANDAHL: I'm getting an indication that they do get a letter, they do get a wet letter from us. [LB185]

SENATOR SCHUMACHER: Okay. Okay. Thank you. [LB185]

MARK QUANDAHL: So good ol' U.S. mail...comes to my rescue, too. [LB185]

SENATOR SCHUMACHER: All right. And that always comes through, right? Thank you. [LB185]

MARK QUANDAHL: Yep. [LB185]

SENATOR WILLIAMS: Other questions for the director? Seeing none, thank you for your testimony. [LB185]

MARK QUANDAHL: Thank you. [LB185]

SENATOR WILLIAMS: Any other proponents? Anybody testifying in opposition? Neutral testimony? Seeing none, Senator Lindstrom waives. We will take a short...that concludes our hearing, and we'll take a short five-minute break. [LB185]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

BREAK

SENATOR WILLIAMS: All right, Senators, if you'd gather up...been five by mine. All right, we'll begin the hearing on LB186. Senator Lindstrom. [LB186]

SENATOR LINDSTROM: Thank you, Vice Chairman Williams. My name is Senator Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, representing District 18 in northwest Omaha. LB186 comes to us from the Department of Banking and Finance. This bill would change the formula for calculating the amount of a surety bond which a money transmitter licensee must maintain. Under current law, money transmitter licensee must maintain a surety bond in the amount of \$100,000 plus \$5,000 for each location in this state in excess of one up to a maximum of \$250,000. The director may also...always increase the amount of the surety bond up to \$250,000 for good cause shown. The bill would eliminate the calculation based on the number of locations and would instead employ calculation upon annual license renewal based on the dollar amount of money transmitter transaction in the state in the most recent four-calendar quarters for which data is available, up to \$2 million in business the bond would be \$100,000. Then the bond would increase by \$50,000 for each \$2 million of business up to the maximum of \$250,000. Those are the provisions of the bill. The director will follow me to answer any of your questions. Thank you. [LB186]

SENATOR WILLIAMS: Questions for Senator Lindstrom? Seeing none, Director Quandahl. [LB186]

MARK QUANDAHL: (Exhibit 1) Vice Chair Williams, members of the committee, my name is Mark Quandahl, Q-u-a-n-d-a-h-l, I'm Director of the Nebraska Department of Banking and Finance appearing here today in support of LB186 which was introduced at the request of the department. LB186 proposes an amendment to section 8-2727 of the Nebraska Money Transmitters Act. Current law requires licensees to maintain a bond in the base amount of \$100,000 with required increases in the bond up to a maximum of \$250,000, based on the number of licensee's Nebraska locations. The amendment would tie the calculation of the amount to the volume of the licensee's money transmitter transactions in Nebraska rather than locations. The base amount of the bond will stay at \$100,000 and the maximum amount will remain at \$250,000. Fewer and fewer money transmitters are using agents, as most new licensees are Internet-based. As such, only a \$100,000 bond is required for those Internet companies, although many are doing a great deal of business in the state. There are 11 money transmitter licensees who report no agents in the state of Nebraska who have Nebraska yearly volumes of over \$1 million, with the top five all reporting more than \$11 million in volume. All of the data that will be required to calculate the bond amounts based on volume is currently submitted to the department at the annual year-end license renewal. If an increase in the bond amount is required,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

LB186 will require the department to send a written notice to the licensee who then has 30 days to increase the bond. Conversely, if a licensee has a reduction in transactions in accordance with the table included with the amendment, it may be eligible to reduce the amount of its surety bond. LB186 is modeled after section 45-724 of the Residential Mortgage Licensing Act, which ties the security bond amounts to the number of mortgage loans closed in the state during the proceeding calendar year. That statute has been in place since 2009 and allows for the efficient review, calculations, and notices to licensees about increases or decreases in bond amounts. LB186 will provide better protection for the many Nebraska consumers who use the services of money transmitters as the bill will require companies doing the most business to have the highest bond amounts. I want to thank Chairman Lindstrom for introducing this bill. And at this point, I would be happy to answer any questions. [LB186]

SENATOR WILLIAMS: Director, with the amount of business that's being done in this area, is there any thought been given or is there any potential need to have a bond even get higher than the \$250,000? [LB186]

MARK QUANDAHL: We didn't do that in this particular legislation because we didn't want to raise the bond amounts. However, I do have some information on some of the surrounding states. Some of the surrounding states and many of the other states do have higher bond amounts than \$250,000 for their money transmitters that are out there. [LB186]

SENATOR WILLIAMS: I'm still not sure why we wouldn't consider raising this then. Is there some explanation of why we wouldn't consider raising... [LB186]

MARK QUANDAHL: Other than we didn't want to adversely...money transmitters kind of...there's a wide variety and breadth. Some are mom and pop operations and some of them are Microsoft. All right? And so we didn't want to adversely affect Nebraska-based businesses in this. And I can tell you, too, just by way of I've got some extra information here. How many companies would actually be impacted by this particular legislation? It would be 31 total. Seventeen of them would have an increase in the bond amount required, and 14 would have a decrease in the bond amount required. [LB186]

SENATOR WILLIAMS: Okay. Senator McCollister first. [LB186]

SENATOR MCCOLLISTER: Thank you, Senator Williams. These licensees don't normally send \$100,000, or whatever the amount is, don't they normally work with an insurance company to provide the bond? [LB186]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

MARK QUANDAHL: Correct. Yes. [LB186]

SENATOR McCOLLISTER: And so for a premium, the insurance company would take a look at their credit worthiness and then determine what the premium should be? [LB186]

MARK QUANDAHL: That's correct. [LB186]

SENATOR McCOLLISTER: Let's suppose that a company was going to get a \$100,000 bond, what would the premium be for something like that? [LB186]

MARK QUANDAHL: Off the top of my head, I couldn't tell you. But it would be a risk-based premium though. I mean, per increment. [LB186]

SENATOR McCOLLISTER: Last question, Director; the Internet purveyors of these instruments, would they need a higher amount as well? Because they could actually blanket the state with e-mails and do a great deal of business, which would make that \$250,000 look pretty limited. [LB186]

MARK QUANDAHL: Yeah, \$250,000, according to this bill is the maximum, but you are correct. That's the ceiling on this, too. And some of the Internet providers could do an awful lot of volume, that's correct. [LB186]

SENATOR McCOLLISTER: In your experience, how many of these licensees are Internet companies? [LB186]

MARK QUANDAHL: I could...I'll tell you what I will do is I've got a copy, I don't have it with me right here, but I've got a copy of all of the money transmitter...and so you can take a look at them. I mean, it might be of interest to the committee, too, so you can kind of see where they are and then I can get you the information on the specific balances, too. There's 187 of them, so perhaps I'll give you the top ten or so. [LB186]

SENATOR McCOLLISTER: Thank you. [LB186]

MARK QUANDAHL: Okay. [LB186]

SENATOR McCOLLISTER: Thank you, Director. Thank you, Senator Williams. [LB186]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR WILLIAMS: Senator Baker. [LB186]

SENATOR BAKER: Thank you, Senator Williams. Director Quandaahl, of the 31 money transmitters, off the top of your head, how many operate within the state of Nebraska? [LB186]

MARK QUANDAHL: I think, and I'd have to go back and grab my notes... [LB186]

SENATOR BAKER: Just roughly. [LB186]

MARK QUANDAHL: I think it's 185. [LB186]

SENATOR BAKER: 185? [LB186]

MARK QUANDAHL: Correct. [LB186]

SENATOR BAKER: Money transmitters in Nebraska? [LB186]

MARK QUANDAHL: Licensees, yes, I think. [LB186]

SENATOR BAKER: Okay, all right. How many out of state? Are they all in-state? [LB186]

MARK QUANDAHL: No. No, no, they're all operating within the state of Nebraska, but where would they be headquartered, I'm not sure how many out of that number would be actually headquartered in...but I'd say probably most of them are not headquartered in the state of Nebraska. [LB186]

SENATOR BAKER: New York or someplace. [LB186]

MARK QUANDAHL: Correct. Correct. [LB186]

SENATOR WILLIAMS: Senator McCollister. [LB186]

SENATOR MCCOLLISTER: I'm sorry. Thank you, Senator Williams. If you're domiciled outside the state of Nebraska, don't you have to have a registered agent to do business in Nebraska? [LB186]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

MARK QUANDAHL: That's correct. That's correct. [LB186]

SENATOR McCOLLISTER: And these licensees would have a registered agent? [LB186]

MARK QUANDAHL: That's correct. [LB186]

SENATOR McCOLLISTER: Thank you. [LB186]

SENATOR WILLIAMS: Senator Kolterman. [LB186]

SENATOR KOLTERMAN: I just...thank you, Senator Williams. To dovetail off of what Senator Williams was talking about earlier about the possibility of increasing the size of the bond. Did you take a look at the idea of utilizing the percentage of the sales in an annual basis? In other words, if you did \$11 million and you did 10 percent would be the bond, that would be how much for 20 percent or whatever. Have you given that any thought? So those that are doing more would actually pay for a higher bond than those that are doing less. [LB186]

MARK QUANDAHL: And I understand what you're saying there, too. And perhaps I can answer it in this way. I've got some information here about the adequacy of the bond amounts. And so the surrounding states around Nebraska show bond amounts ranging from \$50,000 to \$2 million. And so there's a little bit of a range there, too. So all neighboring states, except for South Dakota, are by for increasing bond amounts depending on loan volume or absence of instate locations. And so, we're basically catching up to the surrounding states by requiring kind of a flexible bond amount. [LB186]

SENATOR KOLTERMAN: Do you know, do any of those require a percentage or...? [LB186]

MARK QUANDAHL: I'm trying to...yes, as a matter of fact they do. I'm looking at Kansas--you provide a \$200,000 bond or the Kansas volume multiplied by .25 percent, whichever is greater. So, yes, there is that sort of method out there. [LB186]

SENATOR KOLTERMAN: Thank you. [LB186]

SENATOR WILLIAMS: Senator Schumacher. [LB186]

SENATOR SCHUMACHER: Thank you, Senator Williams. Just a couple of questions for our kind of education. What is a money transmitter? What do they do? How do they do it? [LB186]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

MARK QUANDAHL: That's a good...I mean, I don't have the definition at the top of my head, but it's a company that actually takes some sort of measure of stored value, keeps it...you want me to pay Senator Baker, you give me...I keep it for a period of time and then pass the money on to Senator Baker and then I charge a fee for that, too. [LB186]

SENATOR SCHUMACHER: So if I change my mind, I don't want to give it to Senator Baker but want to give it to Senator Craighead, the money that you're holding is kind of a trustee...how do I do that? Do I send you a note? Does she come in with a check blank? How does it work? [LB186]

MARK QUANDAHL: It's different, but probably the easiest way to describe it is it's like Western Union. Western Union is probably the biggest and...probably the one that's most familiar to the committee as a money transmitter. So you go to your grocery store, you want to send \$500 to your aunt in Cleveland and you pay Western Union \$510 and they send the money off to your aunt in Cleveland. [LB186]

SENATOR SCHUMACHER: Okay. Now do we levy any tax on this transaction or does the state get any part of the action? [LB186]

MARK QUANDAHL: Other than the annual licensing revenue? [LB186]

SENATOR SCHUMACHER: Yeah, is there...? [LB186]

MARK QUANDAHL: I mean, I would imagine that they're subject to sort of corporate income tax or income tax. [LB186]

SENATOR SCHUMACHER: Other than their profit on that. And how do you know then, for purposes of plugging them into this chart where they fit, do they have to give a report to you as to how much they transmit? [LB186]

MARK QUANDAHL: Annual report, the license has to be renewed on a annual basis and (inaudible). [LB186]

SENATOR SCHUMACHER: And they got to tell you how much pass through? [LB186]

MARK QUANDAHL: That's correct. [LB186]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR SCHUMACHER: So if someone were going to beat this system, you just use bitcoin. (Laughter) [LB186]

SENATOR WILLIAMS: That wasn't a question. [LB186]

SENATOR SCHUMACHER: Thank you, Director. [LB186]

MARK QUANDAHL: (Inaudible) certainly. [LB186]

SENATOR WILLIAMS: Senator Kolterman. [LB186]

SENATOR KOLTERMAN: Yeah, just a follow up to Senator Schumacher. Are those audited...ever audited? Like you do a work comp audit. [LB186]

MARK QUANDAHL: Do we...yeah, at this point we don't actually go out and examine money transmitters. It is possible to do that, too. [LB186]

SENATOR KOLTERMAN: Okay. [LB186]

SENATOR WILLIAMS: Senator Baker. [LB186]

SENATOR BAKER: Thank you. I'm just going to see if I'm understanding what we're talking about here. In my previous sordid life as a school superintendent who would submit bond principal/interest payments every six months and it would go to some outfit in New York, is that what you're talking about? Would that be the money transmitter? [LB186]

MARK QUANDAHL: I suppose it could be, but that's not necessarily, or that's not exactly what we're talking about here. I mean, more probably or more commonly it would be going to the grocery store, going to some sort of a place of business that has a Western Union and sending money off in that fashion. [LB186]

SENATOR BAKER: Okay. I got you. Okay. [LB186]

SENATOR WILLIAMS: Any further questions? Seeing none, thank you, Director. [LB186]

MARK QUANDAHL: Thank you. [LB186]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR WILLIAMS: Any other proponents? Seeing none, any opponents? Seeing none, anyone to testify in the neutral capacity? Seeing none, Senator Lindstrom waives closing. We close the hearing on LB186. [LB186]

SENATOR LINDSTROM: We will then open the hearing on LB196. Senator Craighead. [LB196]

SENATOR CRAIGHEAD: Good afternoon, Chairman Lindstrom and members of the Banking, Commerce and Insurance Committee. My name is Joni Craighead, J-o-n-i C-r-a-i-g-h-e-a-d; I represent Legislative District 6 in Omaha in Douglas County. I am here today to introduce LB196 at the request of the Department of Banking and Finance which would amend various sections relating to financial institutions. The bill would provide section by section as follows. Section 1 would amend section 8-1,140 of the Nebraska banking act, which is the "wild-card" statute for state-chartered banks. This section would be amended to provide that state-chartered banks have the same rights, powers, privileges, and immunities as a federally chartered bank doing business in Nebraska as of January 1, 2017. Due to the state constitutional restrictions on delegation of legislative authority, this statute is amended annually. Section 2 would amend section 8-335, which is the "wild-card" statute for state-chartered savings associations. This section would be amended to provide that state-chartered savings associations have the same rights, powers, privileges, and immunities as a federally chartered savings association doing business in Nebraska as of January 1, 2017. Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually. Section 3 would amend section 21-17,115 of the Nebraska Credit Union Act, which is the "wild-card" statute for state-chartered credit unions. This section would be amended to provide that state-chartered credit unions have the same rights, powers, privileges, and immunities as a federally chartered credit union doing business in Nebraska as of January 1, 2017. Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually. Section 4 would provide for repealers of a mandatory sections. Section 5 would provide for the emergency clause. I thank you for considering this bill, and I am sure that Director Quandahl would be very happy to answer any questions you may have. [LB196]

SENATOR LINDSTROM: Thank you, Senator Craighead. Any questions? Senator Williams. [LB196]

SENATOR WILLIAMS: Senator Craighead, why does this need the emergency clause? [LB196]

SENATOR CRAIGHEAD: That's a great question. We do this every year. [LB196]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR WILLIAMS: Want me to ask him that? [LB196]

SENATOR CRAIGHEAD: Yes. [LB196]

SENATOR WILLIAMS: I will. [LB196]

SENATOR CRAIGHEAD: Thank you. [LB196]

SENATOR LINDSTROM: Thank you, Senator Williams; thank you... [LB196]

SENATOR CRAIGHEAD: Because I believe it's because it's suppose to take effect at the beginning of the year. But I'm sure that the director will probably have the correct answer. [LB196]

BILL MARIENAU: We don't need to (inaudible). [LB196]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you very much. Any proponents? [LB196]

MARK QUANDAHL: (Exhibit 1) Chairman Lindstrom, members of the BCI Committee, I think for the last time today, my name is Mark Quandahl, Q-u-a-n-d-a-h-l, director of the Nebraska Department of Banking and Finance appearing here today in support of LB196 which was introduced at the request of the department. LB196 contains the annual equal rights updates for Nebraska state-chartered depository institutions, all of which are under the jurisdiction of the department. Traditionally known as the "wild card" laws, this legislation provides the same rights, powers, and privileges to state-chartered financial institutions as those enjoyed by like federally chartered financial institutions doing business in the state of Nebraska. Due to state constitutional restrictions on delegation of legislative authority, these statutes need to be amended annually to provide a current reference date. The reference date provided in LB196 is January 1, 2017. So LB196 carries the emergency clause. And so...did you get...did Bill sufficiently answer the question for you? [LB196]

SENATOR WILLIAMS: Yes. [LB196]

MARK QUANDAHL: Thank you. Within the bill, section 1 provides equal rights between our 158 state-chartered banks and the national banks chartered by the Office of the Comptroller of the Currency. Section 3 provides the same rights for Nebraska's 13 state-chartered credit unions

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

as those held by federal credit unions chartered by the National Credit Union Administration. In 2016, Nebraska's one remaining state-chartered building and loan association merged into a state bank so no institutions would be impacted by section 2. The savings and loan "wild-card" has been in effect since 1971, while the credit union statute was first enacted in 1977. The bank "wild-card" was adopted in 1999. The annual enactment forestalls any constitutional challenges. Under each of these sections, there is no exemption from the payment of any taxes imposed by the state. The legislative history for these three statutes show that department directors have consistently testified that "wild-card" legislation is sensible legislation in that it provides parity for our state-chartered financial institutions with their federal counterparts without the need to enact state legislation for each specific power or privilege, and I echo that philosophy. So I want to thank Senator Craighead for introducing this legislation. Happy to answer any questions at this time. I will note that I did provide the page with a listing of all the money transmitter licenses in the state of Nebraska, as well as some of the other ones, installment loan licenses, so you can kind of look through them. That doesn't have the volume amounts on them, so I will provide those also for your edification, or at least the top ones, too, so you can see how much volumes are actually going through some of these institutions. Those are primarily non-depository institutions where this just deals with our depository. So with that I'd respond to any questions that you might have. [LB196]

SENATOR LINDSTROM: Thank you, Director. Any questions? Senator Schumacher. [LB196]

SENATOR SCHUMACHER: Thank you, Senator Lindstrom. Thank you, Director. This is my sixth year on the committee... [LB196]

MARK QUANDAHL: Yes. [LB196]

SENATOR SCHUMACHER: ...and I've always refrained from asking this questions, but seeing how I have few chances to ask it, I'll ask it now. Why do they call it "wild-card"? [LB196]

MARK QUANDAHL: I'm going to have to get back to you on that, because it's been called "wild-card" for...actually when I was sitting on that side, it was called "wild-card" and we just always called it the "wild-card." [LB196]

SENATOR SCHUMACHER: Okay. [LB196]

MARK QUANDAHL: Maybe Bill can help us out. [LB196]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Banking, Commerce and Insurance Committee
January 23, 2017

SENATOR LINDSTROM: Any other questions from the committee? Seeing none, thank you, Director. Our next proponent. [LB196]

BRANDON LUETKENHAUS: Good afternoon, Mr. Chairman, members of the Banking, Commerce and Insurance Committee, my name is Brandon Luetkenhaus, spelled B-r-a-n-d-o-n L-u-e-t-k-e-n-h-a-u-s and I appear before you today on behalf of the Nebraska Credit Union League. Our trade association represents the 61 credit unions in Nebraska. And I appear before you today in support of LB196. I want to thank Senator Craighead for introducing the bill and for Director Quandahl and the support of the department of this "wild card" or parity provision as we like to call it. It's extremely important to our Nebraska state-chartered credit unions; we have 13 of them in Nebraska currently today. We strongly support the dual chartering system whereby a credit union can choose either a state or a federal charter and can move from one to the other. We believe that this is essential to our state-chartered clients because it provides clarity to those areas not specifically addressed by state statutes and extends parity to the services which can be provided by those state-chartered credit unions. And so for those reasons we strongly support LB196 and urge the advancement of this bill. [LB196]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Seeing none, thank you so much. [LB196]

JERRY STILMOCK: Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska Bankers Association, in support of LB196 for the same reasons already stated. Each year we thank the senator for introducing; thank the committee for hearing; and appreciate your efforts to get this pushed across so we're in line with 2017 and we'll do the same thing, hopefully, next year. Thank you. [LB196]

SENATOR LINDSTROM: Thank you very much. Questions? Seeing none, thank you very much. [LB196]

JERRY STILMOCK: Very well, thank you, Senators. [LB196]

SENATOR LINDSTROM: Proponents? Seeing none, any opponents? Any neutral testifiers? Seeing none, Senator Craighead. Senator Craighead waives closing. Now we'll end the hearing on LB196. And that ends today's hearings. Thank you so much for coming. [LB196]