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Banking, Commerce and Insurance Committee  
January 27, 2009

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[LB32 LB74 LB88 LB259]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, January 27, 2009, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB32, LB74, LB88, and LB259. Senators present: Rich Pahls, Chairperson; Pete Pirsch, Vice Chairperson; Mark Christensen; Mike Gloor; Chris Langemeier; Beau McCoy; Dave Pankonin; and Dennis Utter. Senators absent: None. []

SENATOR PAHLS: Good afternoon. We are short a couple of senators, but we do have enough to start this hearing. I want to welcome you to the Banking, Commerce and Insurance Committee hearing. My name is Rich Pahls. I'm from Omaha and represent District 31 which is sometimes called Millard. I have the distinct honor of serving you as the Chair of this committee. The committee will take up the bills in the order posted outside our hearing. Today is your public part of the legislative process. This is your opportunity to present your positions or opinions on the legislation in front of us. To better facilitate today's proceeding, I ask you to abide by some of the following procedures. If you take a look all over the smaller card over there, it makes the thing run more efficient, and it helps us. I'll just repeat some of them. Of course, please turn off your cell phones. Move to the reserved seats, we have three of them up here, when it is your time to testify. The order of testimony will be the introducer which are senators, the proponents, opponents, those neutral, and closing if that senator so decides to do so. We're asking the testifiers to sign in and place your sheet of information in this little box up here on the table. Again, we're asking you to spell your name when you come forth because we do have transcribers who are not in this room who are taking every word we say down, and we want to make sure that you're given credit for your testimony. Again, as you look at the very last one, I'm asking you to be concise. It makes our day a better run day. Also, if you have handouts, we need at least ten. If you do not have ten with you, we'll let you wave your hand, and it looks like we do not...otherwise, we'll have the pages get that for us. To my right is Bill Marienau, he's our committee counsel; all the way over there, Janice Foster. She keeps all the words done correctly, right? And also...what I'm going to do today is I'll have the senators, starting with you. Senator, introduce yourself to our people. []

SENATOR PANKONIN: (Laugh) I'm Senator...well, here comes Senator Utter. We'll let him introduce himself and keep things in sequence here. []

SENATOR UTTER: Thank you. I apologize for being late, but I'm Dennis Utter from District 33. []

SENATOR PANKONIN: I'm Dave Pankonin, District 2. []

SENATOR LANGEMEIER: I'm Chris Langemeier, District 23. []

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

Banking, Commerce and Insurance Committee  
January 27, 2009

---

SENATOR PIRSCH: Pete Pirsch, District 4. []

SENATOR McCOY: Beau McCoy, District 39. []

SENATOR GLOOR: Mike Gloor, District 35. []

SENATOR PAHLS: Okay, and did you see a couple had not come yet? I want you to wave your hands over there. These are our pages, Jared Weikum from Lincoln and Rebecca or Becky from...Armstrong from Omaha, Nebraska. The committee bills will be taken in the order; LB32 which will be introduced by myself; LB88 again by myself; LB74 by Senator Pirsch; and LB259 by Senator Utter. Senator Pirsch. []

SENATOR PIRSCH: Thank you, Chairman. First up is LB32. That's Chairman Pahls, the sponsor of that. []

SENATOR PAHLS: Senator Pirsch, members of the committee, today I come forth to speak on LB32. LB32 would expand the lists of business entities which may use the word "bank" in their name or to describe their business activities. Section 8-113 of the Nebraska Banking Act currently provides that no individual, firm, company, corporation, or association other than a bank, building and loan association, saving and loan association, or savings bank shall use the word "bank" as any part of its name or as a description of its business activity. The bill would amend this section to expand the existing list of entities to which this restriction does not apply to include firms, companies, corporations, or associations which sponsor incentive-based solid waste recycling programs which issue reward points or credits to persons for their participation in such a program. Such a business, even with the word "bank" in its name, is unlikely to be confused in the minds of the public with a financial institution. That concludes my opening remarks. [LB32]

SENATOR PIRSCH: Great. Does anyone have any questions for Chairman Pahls? Okay, seeing none, we'll take proponents of this measure. Are there any proponents here for LB32 at this time who would like to testify? Senator Karnes. Thanks for coming here today. You can just state your name and carry on from there. [LB32]

DAVID KARNES: David Karnes, 1620 Farnam Street, Omaha, Nebraska. Mr. Chairman and members of the committee, I represent Recycle Rewards, Incorporated, which is a Delaware corporation which operates the program, Recycle Bank, throughout the United States. We are here working...we've worked very closely with the banking industry and their representatives to make sure that the use of the name "bank" is protected, but in this case, since there has been no consumer confusion, and we've consulted with the banking department as well, I'm pleased to say that no issues or complaints have been raised by the public regarding any confusion in the name,

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

Banking, Commerce and Insurance Committee  
January 27, 2009

---

Recycle Bank, which is the program. And the suggestion was that we clarify this within the statute, and I appreciate the chairman for introducing this bill, and I would be happy to answer any questions on behalf of Recycle Rewards which, again, is the operator nationally of this program which we would like to see expanded in Nebraska. [LB32]

SENATOR PIRSCH: Great. Are there any questions here for this testifier? Senator Langemeier. [LB32]

SENATOR LANGEMEIER: Senator Karnes, thank you. Recycle Rewards, when did they start doing business? [LB32]

DAVID KARNES: Four years ago nationally. [LB32]

SENATOR LANGEMEIER: Oh, excuse me. Thank you. When did they start in Nebraska? [LB32]

DAVID KARNES: They...we have...if I might defer, I've...the operator, the licensee here in Nebraska is in the room. I might ask him specifically when that would occur, if I might. [LB32]

SENATOR LANGEMEIER: Okay. Are they going to testify? [LB32]

DAVID KARNES: No, I don't think so. [LB32]

SENATOR LANGEMEIER: Oh, not that big a deal. My next question is, is did you know that this...use of this word "bank" was a problem at that time when they did start? [LB32]

DAVID KARNES: Yes. There was some concern about the interpretation of the statutes it applies to, the recycle bank program. And so we were concerned and thus, you know, our discussions have taken place with the department on making sure that it's done properly. [LB32]

SENATOR LANGEMEIER: But they went forward anyway and opened as a business with that name even though they knew this was a problem. [LB32]

DAVID KARNES: They started using the name, yes. [LB32]

SENATOR LANGEMEIER: Okay. And you said it was suggested that you...correct this. Did they get a cease and desist order that said, don't use this name? Is that... [LB32]

DAVID KARNES: No. We, in our negotiations with the department, we agreed...we entered into a consent agreement which provided that...or required that we move forward in correcting the legislation. That was a part of the agreement. [LB32]

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

Banking, Commerce and Insurance Committee  
January 27, 2009

---

SENATOR LANGEMEIER: Okay. I was just curious how they suggested it in case I get that letter. Anyway, that's all I have for now. Thank you. [LB32]

SENATOR PIRSCH: Any other questions? Seeing none, I'll ask for the next proponent of this measure. Are there any other testifiers besides the senator? [LB32]

DAVID KARNES: Thank you. [LB32]

SENATOR PIRSCH: Thank you very much, Senator. Anyone else who's here to testify as a proponent of this LB32? How about opponent? Any opponents of LB32? Anyone...opponent? [LB32]

ROBERT HALLSTROM: Neutral. [LB32]

SENATOR PIRSCH: Neutral testimony. Okay, very good. [LB32]

ROBERT HALLSTROM: Senator Pirsch, members of the committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association in a neutral capacity on LB32. Our board and Government Relations Committee has yet to meet on this particular issue, so we do not have a formal position established. However, Mr. Karnes had worked closely with us and other banking industry representatives over the summer and the fall after this issue came to their attention. He had shared with us early on what the draft of the bill was going to be. We shared that with our Government Relations Committee and board this fall, obviously, before the introduction of the bill, and the best we could do at that point since there wasn't a bill introduced was to find out that our board and Government Relations Committee certainly had no objections to making this clarification in the law to allow the business to utilize the word "bank" in the manner that they intended, so I would be happy to address any questions that the committee may have. [LB32]

SENATOR PIRSCH: Great. Any there any questions for Mr. Hallstrom? Senator Pankonin. [LB32]

SENATOR PANKONIN: Thank you, Senator Pirsch. Mr. Hallstrom, there's other exceptions and these...the three years I've been here, these issues have come up. I think what Senator Langemeier was getting to is a business that started with a name and then obviously became a concern of the department. Is that typically what happens or usually businesses maybe take that into account and try to...obviously, there's blood bank, and there's other uses. But how does the industry kind of look at this as far as how this procedure should work? [LB32]

ROBERT HALLSTROM: Well, I think, Senator, the industry...from the banking industry

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

Banking, Commerce and Insurance Committee  
January 27, 2009

---

perspective, we look at what other states probably do a little bit more specifically in law with regard to possibly having some type of standard. Senator Karnes had referenced the issue of no confusion to the public. It's not uncommon in other states to have a more formal type of system that is created. That is certainly something that our association would look at on a longer-term basis since we seem to have a few more of these cropping up from time to time. I think that would be incumbent upon whether or not the banking department for cost purposes and manpower would be interested in going in that direction because the other states that have a more specific protocol generally will have more involvement by the department, but it may be more complaint-driven. So that a blood bank or a food bank, for example, where no one is going to be confused, where no one is probably going to suggest that that's a problem with the general banking industry, would probably never field a complaint as to them except our law says, "thou shalt not," and so we come in with the exceptions to provide that clarity. [LB32]

SENATOR PANKONIN: Thank you. [LB32]

SENATOR PIRSCH: Great. Any other questions for Mr. Hallstrom? Seeing none then,... [LB32]

ROBERT HALLSTROM: Thank you. [LB32]

SENATOR PIRSCH: ...thank you very much. Are there any other individuals here today to testify in a neutral capacity with respect to LB32? Very good. Seeing none, we'll move on then to LB...oh, I'm sorry. Were you going to close...? [LB32]

SENATOR PAHLS: Let me just close just on this... Trying to answer some of the questions, Senator Karnes and his staff, they have been involved with Bill and myself when this issue did arise, so I just want to make sure that we did understand that. And also, we may also address this in the next bill. We do realize other states do things differently, and, again, Bill and I have talked about maybe there are ways that we could take a look at that. Our immediate goal right now is to...needless to say, is to move these two bills along, and look at other issues perhaps later on in our...after the session is over. [LB32]

SENATOR PIRSCH: Great, okay. Thank you very much, Chairman. We'll move on to LB88, the second bill up today. It is, again, a bill in which you're the sponsor, so take it away. [LB32]

SENATOR PAHLS: Thank you, Senator Pirsch and members of the committee. Again, my name is Rich Pahls, P-a-h-l-s, District 31. LB88 would amend Section 8-113 of the Nebraska Banking Act which currently provides that no individual firm, company, corporation, or association other than a bank building, and loan association, savings and loan association, or savings bank shall use the word "bank" as any part of its name

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

Banking, Commerce and Insurance Committee  
January 27, 2009

---

or as a description of its business activity. Section 8-113 contains a list of entities to which this restriction does not apply including organizations which are described in Section 501(c)(3) of the Internal Revenue Code. LB88 would narrow this Section 501(c)(3) exception to food banks and blood banks. This would make the 501(c)(3) exception more certain rather than wide open in its application. That concludes my opening statements. [LB88]

SENATOR PIRSCH: Thank you. Are there any questions for Chairman Pahls? Seeing none, thank you very much. I'll ask if there's any proponents here to testify for LB88. [LB88]

ROBERT HALLSTROM: (Exhibit 1) Senator Pirsch, my name is Robert J. Hallstrom. I appear before you today and the committee as registered lobbyist for the Nebraska Bankers Association to testify in support of LB88. This is another use of the word "bank" named bill that is designed to narrow the application of an exemption that was granted, I believe, in 2004. When the legislation was introduced in 2004, it was specifically designed at that time to provide an exemption for the Community Blood Bank and the Community Food Bank. We were a bit more broad than perhaps we should have been in referring to tax-exempt 501(c)(3) corporations at that time. And what has happened since that time that has precipitated the introduction of LB88 is about two years ago, we discovered that the Alumni Association was conducting a partnership in a banking operation with an out-of-state financial institution which served to ruffle a few feathers of the members of ours in the state of Nebraska who were probably interested, as you might imagine, in having that type of banking operation conducted in concert with a Nebraska financial institution. Those issues were resolved and addressed to the satisfaction of the banking industry, but in the process of reviewing the issue, we came to the conclusion that perhaps the breadth of the 501(c)(3) tax exempt nonprofit exemption from the use of the word "bank" was too broad, and we have come forward today to narrow that by providing the specific definition of a food bank or a blood bank as the only ones that would qualify which we believe takes us back to what the intent of the law from 2004 was designed to cover. Be happy to address any questions that the committee might have. [LB88]

SENATOR PIRSCH: Thank you. Any questions? Senator Langemeier. [LB88]

SENATOR LANGEMEIER: Mr. Hallstrom, thank you. [LB88]

ROBERT HALLSTROM: Yes, sir. [LB88]

SENATOR LANGEMEIER: Here I've sat on this committee now five years, and I think we have fought over this word, "bank" every year I've been here, and...for a number of reasons. You talked about the situation with the University of Nebraska, and I agree that the wisdom behind what they did was not real swift. How did...you said it was resolved.

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

Banking, Commerce and Insurance Committee  
January 27, 2009

---

How did you resolve it? [LB88]

ROBERT HALLSTROM: What's happening over time, Senator, I believe, is that there were some contractual relationships and so forth that could not be disrupted or broken, so to speak. But I think there are assurances over time that that particular program will not be conducted in the fashion that it has been heretofore. [LB88]

SENATOR LANGEMEIER: So it was resolved in a fashion "unlegislatively." [LB88]

ROBERT HALLSTROM: That would be correct as to how it was operating, yes. [LB88]

SENATOR LANGEMEIER: Okay. Lobbying through...through donors, I'm assuming. [LB88]

ROBERT HALLSTROM: (Laugh) There were some conversations that took place that... [LB88]

SENATOR LANGEMEIER: With a big advertiser maybe. [LB88]

ROBERT HALLSTROM: ...reasonable minds came to the same conclusion. [LB88]

SENATOR LANGEMEIER: (Laugh) That usually can happen. Now my question is, is other than the fact this ruffled your feathers or your members' feathers, were they doing something illegal? Were they not engaged with a lending institution out of a different state? [LB88]

ROBERT HALLSTROM: They were, Senator, but they were promoting the...keep in mind that the provisions of the statute relate both to the use of the word "bank" and in the name of the title and the promotion of activities by a nonbank, their business activities. In this case, the Alumni Center, even though they were operating in concert with an out-of-state financial institution, was internally promoting the activities as the Alumni Banking Center, as I've indicated in this testimony, and so there were some questions that were raised, I believe, in the course of the Department of Banking looking into the situation for potential violations of state law, one of which could have potentially been whether or not they were violating the law in their use of the word "bank" or "banking" either in their title or in the description of their activities. [LB88]

SENATOR LANGEMEIER: If they would have used a Nebraska bank, would this have happened? [LB88]

ROBERT HALLSTROM: I think you would have...I think you would have still had the potential issue of whether or not the Alumni Association was authorized to promote their activities as a bank or with the word "bank" in their title. [LB88]

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

Banking, Commerce and Insurance Committee  
January 27, 2009

---

SENATOR LANGEMEIER: So an auto dealer in Nebraska that has a really big sale; we're seeing them right now, and they're guaranteeing financing through their lenders, and they name those lenders. Would that not be a...a questionable activity? [LB88]

ROBERT HALLSTROM: If they're referring specifically to the financial institution, that financial institution is authorized to use that name. This was one where you're...you're kind of skirting the edges by referring to the alumni program as an alumni banking center. [LB88]

SENATOR LANGEMEIER: Okay. Thank you. [LB88]

ROBERT HALLSTROM: Thank you. [LB88]

SENATOR PIRSCH: Thank you. Any other questions? Seeing none, thank you very much, Mr. Hallstrom. [LB88]

ROBERT HALLSTROM: Thank you. [LB88]

SENATOR PIRSCH: Any other proponents? Seeing none, are there anyone...anyone here an opponent, LB88? Anyone here in a neutral capacity? Very good. Senator Pahls, if you want to close. [LB88]

SENATOR PAHLS: Just let me close by making a couple of statements. I understand that this bill has...or this concept has been before us for several years. And, again, we can do this year after year. At least it makes us more aware what's going on out there. Or we might find another avenue, but my...like I say, my goal would be to get this off our table this year and move on to other remedies in the future, if need be. Thank you. [LB88]

SENATOR PIRSCH: Great. Thank you very much, Chairman Pahls, and I'll cede the chair back to you for LB74. [LB88]

SENATOR PAHLS: Senator Pirsch, any time you're ready to go with LB74, the floor is yours. []

SENATOR PIRSCH: Thanks very much, Chairman. Good afternoon, members of the Banking, Commerce and Insurance Committee. I'm state Senator Pete Pirsch, representing Legislative District 4. I'm here as the sponsor of LB74. LB74 amends Nebraska law to authorize a bank or any officer, director, or stockholder, or other employee of the bank to provide depositors with an irrevocable and nontransferable, unconditional standby letter of credit issued by the Federal Home Loan Bank of Topeka as security for private deposits. And there will be others who come after me to testify a

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

Banking, Commerce and Insurance Committee  
January 27, 2009

---

little bit more in-depth about the extent of the bill, but if you have any questions. [LB74]

SENATOR PAHLS: Any questions for Senator Pirsch? Seeing none, thank you, Senator. [LB74]

SENATOR PIRSCH: Thank you. [LB74]

SENATOR PAHLS: We're ready for the proponents. [LB74]

ROBERT HALLSTROM: (Exhibit 1) Senator Pahls, members of the committee, my name is Robert J. Hallstrom, and I appear before you today as registered lobbyist for the Nebraska Bankers Association to testify in support of LB74. Simply put, the bill would authorize, under state law, the ability of a Nebraska financial institution to utilize Federal Home Loan Bank of Topeka letters of credit as security for private deposits for those amounts that are in excess of the amount insured by the FDIC. Neb. Rev. Stat. Section 8-133 provides that no bank may provide inducements other than the payment of interest to induce a customer to either maintain or establish a deposit relationship. A number of years ago, the Bankers Association came before the Legislature with a bill to authorize the use of deposit guarantee bonds for private deposits to provide a level of comfort for their depositors on amounts in excess of the FDIC insurance levels which at that time were \$100,000. Since that time, given the turmoil that we've experienced in the financial markets, the deposit guarantee bond product has dried up, become more difficult to obtain, the banks are still looking for a product that they can provide to their customers that will provide that peace of mind on amounts on deposit in excess of the FDIC insured amount. And the amendments to section 8-133 are designed to provide that different product, if you will, through Federal Home Loan Banks letters of credit. We have previously authorized the use of these letters of credit for the protection of public funds, so it is not unprecedented to have them as security for deposits. I have provided with my testimony a copy of a promotional piece that has to do with the use of Federal Home Loan Bank standby letters of credit for public funds along with a copy of the two-page letter of credit application that is utilized. Essentially, the use of these products for private deposits would be no different than for public funds. You would issue the letter of credit. There would be a fee assessed for the issuance of the letter of credit. The letter of credit would go directly to and for the benefit of the depositor to cover and protect against deposits on hand that exceed the FDIC insured amount. I mentioned earlier that at the time of the deposit guarantee bond, that level was at \$100,000. It is presently at \$250,000 through the end of this year pursuant to recent changes on the federal level. The letters of credit are secured much like advances are to individual banks by a pledging of the assets of the bank. The Federal Home Loan Bank of Topeka is a AAA-rated institution, and we simply would ask the consideration and favorable action on the bill to advance to General File floor of the Legislature to allow consideration of the use of these letters of credit for private deposits. Be happy to address any questions that the committee may have. [LB74]

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

Banking, Commerce and Insurance Committee  
January 27, 2009

---

SENATOR PAHLS: Any questions for...? Seeing none, thank you. [LB74]

ROBERT HALLSTROM: Thank you. [LB74]

SENATOR PAHLS: Thank you. Any more proponents? Opponents? People in neutral? Closing? [LB74]

SENATOR PIRSCH: I'm going to waive... [LB74]

SENATOR PAHLS: Okay. Closing has been waived. LB74, that concludes the hearing on LB74. We are now ready for LB259. Senator Utter. [LB74]

SENATOR UTTER: Thank you, Mr. Chairman. LB259 is a fairly straightforward bill, and basically what it seeks to do is to change the law so that there's no misunderstanding that the word "insured" and the word "guaranteed" mean the same thing in connection with the recent changes that have taken place in the Federal Deposit Insurance Corporation in connection with the financial rescue packages. With that, there's an expert here...there's a guy here that knows a lot more about this than I do, and so I'm going to stop there and let him give you the nuts and bolts of it. [LB259]

SENATOR PAHLS: Okay, thank you, Senator Utter. Seeing no questions? Proponents? Floor is yours, Mr. Hallstrom. [LB259]

ROBERT HALLSTROM: (Exhibits 1 and 2) Chairman Pahls, members of the Banking Committee, my name is Robert J. Hallstrom. I appear before you as registered lobbyist for the Nebraska Bankers Association to testify in support of LB259. I'm not sure who the expert is that Mr. Utter was referring to, but I'll try my best to give you a breakdown of the bill. As Senator Utter indicated, the bill is designed to clarify that for purposes of state law relating to the requirement for a bank to provide security for public funds in excess of the amount insured by the FDIC that references to insured shall mean one and the same as references to guaranteed. What's given rise to this particular situation is that state law throughout all of our statutes relating to the investment and the pledging requirements for public funds all talk about having to pledge or provide security for public deposits that are in excess of the amounts insured by the FDIC. And, historically, the FDIC, as I indicated in the previous hearing, has had \$100,000 of coverage for insured deposits. That has been increased in October to \$250,000 for accounts which will be in place at least until December 31 of 2009. What has happened since that time in addition is that the FDIC has come out with what's called the Temporary Liquidity Guarantee Program, one component of which is an unlimited guarantee for FDIC insurance coverage of what they refer to as noninterest bearing transaction deposit accounts. It's a bit of a misnomer in that, although it does apply to noninterest bearing checking accounts, they also apply to NOW accounts that bear interest no more than 50

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

Banking, Commerce and Insurance Committee  
January 27, 2009

---

basis points, and it has been revised to also apply to lawyer trust accounts. With regard to public funds then, you could have a...potentially a noninterest bearing account or a savings account bearing interest up to 50 basis points. But, again, the distinction is that this particular program is cast or designated as a guarantee program rather than the traditional reference to amounts in excess of those that are insured by the FDIC. To ensure that there is no misinterpretation of the intent of the statutes, we are simply going through in fine detail, all of the statutes that relate to pledging for public funds by banks and clarifying that now whether they are insured or guaranteed by the FDIC that no pledging is required except for amounts in excess of those that are either insured or guaranteed. In my testimony, I have talked about the issue that there are really no substantive differences under federal law between deposits that are insured by the FDIC and those that are guaranteed. The same entity pays in the event of a financial institution failure. There are two separate funds for the insurance and the guarantee, but they're both funded by FDIC assessments against financial institutions. They both pay immediately upon a bank failure. The FDIC has a line of credit which can be drawn on to pay in either event with no distinction made between whether the deposits were insured or guaranteed. And, finally, from the banking industry perspective, if there is any shortfall in the FDIC funds, both of them are made up by emergency surcharges or special assessments against the banking industry to replenish the fund. So on the face and in reality, there is no change or difference between insured and guaranteed, and thus, the bill. One last thing I would mention is we have put a safe harbor or a catchall phrase in the bill that you'll notice in addition to trying to go through with bill drafters and identify each statutory section that exists today that only references insured, and to add the word "guaranteed." We have put a safe harbor provision that provides for purposes of any law in Nebraska requiring pledging for public funds that references to amounts insured by the FDIC, shall include amounts guaranteed by the FDIC. And with that, I'd be happy to address any questions of the committee. [LB259]

SENATOR PAHLS: Senator Pankonin. [LB259]

SENATOR PANKONIN: Thank you, Senator Pahls. Mr. Hallstrom, why do you think the FDIC used these...why do you think they distinguished between insured and guaranteed when,...as you say, under a failure scenario that they should both be paid? [LB259]

ROBERT HALLSTROM: I'm not exactly sure, but...Senator Pankonin, what has happened. I mentioned that this is one component of the FDIC Temporary Liquidity Guarantee Program. The other one has to do with the guarantee of senior unsecured debt that is issued by financial institutions. And so, I believe since they had both on the lending side and on the deposit side, they captured it with an overall title that included the word "guarantee", and so you have the guarantee nature of it. Interestingly enough, in some of the notices that banks must put out if they have not opted out of this program, it talks about deposits insured by, but the federal regulation or the federal register that set forth the regulation talks about it being deposits that are guaranteed by

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

Banking, Commerce and Insurance Committee  
January 27, 2009

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the FDIC. [LB259]

SENATOR PANKONIN: Follow-up question, if I may, were you surprised by the number of banks in Nebraska that opted out? [LB259]

ROBERT HALLSTROM: Probably so. I felt... [LB259]

SENATOR PANKONIN: I was. [LB259]

ROBERT HALLSTROM: Yeah, I felt really that the...just by way of background, Senator, to follow up on that question, the guarantee programs are not without cost to the banking industry. If you do not opt out of the deposit guarantee portion, and you have any accounts that are covered, unlimited guarantee, there's a ten-cent or 10-point...basis points surcharge on that... On the senior unsecured debt side, there's a floating scale of 50, 75, or 100 basis points, depending upon the maturity of the senior unsecured debt that you have the guarantee of the government behind. But I was surprised because if you don't have the accounts currently, or if you don't have any senior unsecured debt that you're going to issue currently, you could have been in the program and not have to pay anything if you weren't utilizing or benefitting from the guarantee. [LB259]

SENATOR PANKONIN: I think there's going to be...I'm a little bit concerned, on these public entities of the confusion. It used to be \$100,000 per account. People got used to that. But now you've got some banks are in; some that aren't. You have...if you have a noninterest bearing account, you're covered at some banks; some you're not. Would that be a true statement? [LB259]

ROBERT HALLSTROM: Yes,... [LB259]

SENATOR PANKONIN: And I think... [LB259]

ROBERT HALLSTROM: ...if they opted out. [LB259]

SENATOR PANKONIN: I understand. But I think what we're having here is that for folks that haven't kept up with the minutia of these changes, I have some concern that folks that might think they're covered, aren't if their institution...I think the industry...we've got to be careful here that the industry, that the consumer awareness is such that with the changes we've seen, understand what's happened. [LB259]

ROBERT HALLSTROM: Yeah, I would not disagree, Senator. There are specific disclosures and notices that must be posted in the banks regarding whether or not you're in or out of the program, and actually have specific verbiage regarding the effect of whether or not you're in or out. In essence, if you're in, you have \$250,000...if you're

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

Banking, Commerce and Insurance Committee  
January 27, 2009

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not in, you have only \$250,000 worth of coverage for the noninterest bearing accounts. But if you are in, then it's unlimited. And so, those notices are out there in terms of consumer protection. I think the other issue that the industry and the customers are going to struggle with is whether or not Congress is going to extend beyond December 31 of this year the increase from \$100,000 to \$250,000 and if they don't, then the banks are going to have to great detail to unravel and explain to customers as CDs come due in September or October, that if you're getting a six-month CD, you'll only have so much coverage until the end of the year and then it will drop back down to \$100,000. We are expecting that Congress will probably make that permanent, but until they do, that's what we're faced with. [LB259]

SENATOR PANKONIN: So that's why you have that federal home loan guarantee program in place, right? [LB259]

ROBERT HALLSTROM: That will help. [LB259]

SENATOR PAHLS: Seeing no more questions, thank you, Mr. Hallstrom. [LB259]

ROBERT HALLSTROM: Okay. Thank you. [LB259]

SENATOR PAHLS: (Exhibit 3) Any more proponents? Opponents? Neutral? Closing? Closing has been waived by Senator Utter. That concludes LB259. Do I have a motion to go in exec session? [LB259]

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

Banking, Commerce and Insurance Committee  
January 27, 2009

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Disposition of Bills:

LB32 - Placed on General File.

LB74 - Placed on General File.

LB88 - Placed on General File.

LB259 - Placed on General File with amendments.

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Chairperson

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Committee Clerk