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Banking, Commerce and Insurance Committee
January 29, 2007

[LB122 LB124 LB125 LB126 LB156]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, January 29, 2007, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB122, LB124, LB125, LB126, and LB156. Senators present: Rich Pahls, Chairperson; Chris Langemeier, Vice Chairperson; Tom Carlson; Mark Christensen; Tim Gay; Tom Hansen; Dave Pankonin; and Pete Pirsch. Senators absent: None. []

SENATOR PAHLS: Good afternoon on this fine Monday. Welcome to the Banking, Commerce and Insurance Committee hearing. My name is Rich Pahls. I am from Omaha, and I represent District 31, the Millard of Omaha, I should say, and I am honored to serve as the Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the process. This is your opportunity to express your position on the proposed legislation before us today. And to better facilitate today's proceedings, I ask that you abide by some of the following procedures. Many of you have been here long enough you know the procedures, but we have posted some of the more significant ones on the board over to my right and your left. Just to reiterate, please check your cell phones. There is an on-deck chair for you to be if you are the next testifier. The testifier, please place your sheet in the little box provided up here. Typically the introducing senator will make the initial statements and then followed by introduction of the bill by the proponents, opponents and neutral testifiers. As usual, the committee will strive to give equal time for both sides. And typically the closing statement is reserved for the senator. Again, begin your testimony by spelling your first and last name. Written material may be distributed to committee members. We are asking if you do have copies, have ten copies for us. If you do not have ten, if you hold your hand up we will have one of the pages come over and get the copies. If we could do that now, that would help later on. Thank you. Appreciate that. And if you are following other testifiers, we ask you to be concise. To my immediate right is committee counsel Bill Marienau. To my immediate left is committee clerk Jan Foster. The committee members today will introduce themselves beginning... []

SENATOR CARLSON: Tom Carlson, District 38. []

SENATOR PIRSCH: Pete Pirsch, District 4. []

SENATOR LANGEMEIER: Chris Langemeier, District 23. []

SENATOR PANKONIN: Dave Pankonin, District 2. []

SENATOR HANSEN: Tom Hansen, District 42, Lincoln, County, home of Buffalo Bill. []

SENATOR PAHLS: Right. We always need a few little descriptors. That does make it

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seem more real, more human. One of our pages today is Kristine Kubik from Prague, Nebraska, maybe we have her busy, and the second one would be Cora Micek from Hastings, Nebraska. The committee will take up the bills today in the following order which is: LB122, LB124, LB125, LB126, which basically are the Banking, Commerce and Insurance Committee bills, and LB156 by Senator Langemeier. The first bill before us is LB122, which was introduced by the Banking, Commerce and Insurance Committee on behalf of the Department of Banking and Finance. My opening on the bill will be limited to now asking our Director of Banking and Finance to come forward and testify on the provisions of this bill. When you are ready, Director. [LB122]

JOHN MUNN: (Exhibit 1) Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is John Munn, spelled J-o-h-n M-u-n-n. I am director of the Nebraska Department of Banking and Finance. I am appearing today in support of LB122, which was introduced by the committee at the request of the department. LB122 proposes to update and revise the laws relating to financial institution assessments and certain costs and fees collected by the department. The Department of Banking and Finance is an entirely cash-funded agency. We receive no tax dollars and no federal funds. The Department has two principal division, the Financial Institutions Division and the Bureau of Securities. There are two funds established by law for the department, the Financial Institution Assessment Cash Fund and the Securities Act Cash Fund. LB122 relates solely to the Financial Institution Assessment Cash Fund. The Financial Institution Assessment Cash Fund holds monies collected from financial institutions, which include state-chartered banks, credit unions, building and loan associations, and bank holding companies, and from other financial entities such as mortgage bankers, delayed deposit businesses, installment loan and installment sales companies. These funds are then used to help pay the expenses, including salaries, which the department incurs in the supervision of these institutions and entities. The department is authorized under current law to assess state-chartered depository financial institutions an annual fee based on asset size. We are also authorized to collect examination and investigation costs from financial institutions and financial entities as well as fees for chartering, licensing , applications and other services. While section 8-601 is the primary statute that would be amended by LB122, the bill also contains a number of cross-referencing updates to other statutes that direct funds collected to the Financial Institution Assessment Cash Fund. LB122 divides section 8-601 and the proposed revisions to that law into six statutes by subject matter. This was done at the suggestion of the bill drafter's office for improved reference and comprehension. The substantive revisions are as follows. Section 2 of LB122 repeals the current language of section 8-601 and reinstates a portion of existing language that authorizes the department to levy assessments on financial institutions with the approval of the Governor. The statute is updated by including a list of the acts under the jurisdiction of the department that contribute to the Financial Institution Assessment Cash Fund. Similarly, section 4 of the bill brings together in one statute the various types of monies which are paid to the department pursuant to existing law and deposited in the Financial Institution

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Assessment Cash Fund. Section 5 of LB122 is a new section recreating the existing Financial Institution Assessment Cash Fund, which is currently found in subsection 2 of section 8-601, and restating the purpose of the fund with a cross-reference to updated section 8-601. This section also provides for the State Treasurer to invest any funds awaiting appropriation. The Financial Institution (Assessment) Cash Fund retains its status as a fund dedicated solely to the purposes and operations of the department. Section 6 of LB122 updates the procedure for determining the amount of the financial institution assessment. June 30 will be the benchmark date for determining the assessment. June 30 is the end of the department's fiscal year. It is also a significant date for regulatory data collection from financial institutions. Under the procedure, the department will estimate the amount that will be collected pursuant to section 4 of the bill and estimate the amount needed to administer the laws set forth in sections 1 and 5. The difference between the two is the foundation of the assessment calculation. As in current law, the assessment is to be levied on the total assets of each financial institution. There are three updates contained to the law. First, current law requires that the department set a per diem fee for examination hours as part of the assessment. That requirement is outdated and is not carried over into the asset calculation. Second, the law will provide that the asset amount is to be determined by reference to the institution's June 30 Report of Condition. Reports of condition are financial statements required on a quarterly basis by all financial institution regulators. Third, the Director may include in the asset calculation fiduciary and related assets, and the total amount of off-balance sheet receivables held by an institution. In some cases, this will result in a more accurate assessment. We understand that there is some industry concern as to how assessments would be calculated for fiduciary assets and off-balance sheet receivables, as the department will not be adopting any formulas for such calculations unless legislation passes. To alleviate this concern, the Nebraska Bankers Association representative will be requesting a delayed effective date just for this provision in his testimony this afternoon. The department would agree to such an amendment so that the financial institutions affected could be fully informed of the potential impact of this change. An important addition to the assessment process is found in subsection 3 of section 6. This provision gives the department authority to prorate the assessment for any financial institution which receives or surrenders its charter or license during the assessment period. For example, when an institution leaves state authority, it is charged and required to pay for the full year, even though we do not supervise them for the entire period. What we have seen more of in the last year, however, are conversions of nationally chartered banks to state charter. In those instances, the institution does not pay any assessment until the following June 30. This revision will allow the department to fairly assess such institutions for the actual time that they have been in operation as a state-chartered institution. The last provision of section 6 continues the authority of the department to make a special assessment if the amount levied during a fiscal year is insufficient. Historically, this authority has been used very sparingly, but it is important that it be retained in the law. Section 7 of LB122 is a new section relating to department examination costs. This proposal would provide that an hourly cost for examiner time be

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set annually after consultation with the Governor. It retains the ability of the department to set different fees for examinations of financial institutions, such as banks, than it does for examinations of financial entities such as delayed deposit businesses, because financial institutions also pay the asset assessment. Currently the department charges \$45 per hour for financial institution examinations and \$85 an hour for financial entity examinations. Section 7 also continues the department's authority to assess for the costs of special examinations and investigations. In addition, this section authorizes the department to assess travel costs to out-of-state entities and to in-state entities that have out-of-state offices, if out-of-state travel is required for examinations or investigations. This authority is necessary because of the growth in the number of out-of-state financial institution branches due to mergers and the number of Nebraska offices of national financial entities such as installment loan companies. Section 8 of LB122 is a new section to allow the department to take administrative action when an entity fails to pay amounts owed to the department. Administrative action would include fines and suspension or revocation of charters and licenses, depending on the length of time the amount has remained unpaid. The affected institution or entity will have the right to a hearing under the Administrative Procedure Act. This section would also provide clear authorization for the department to accept installment payments for amounts owed the agency. As I indicated at the start of my testimony, the remaining sections of LB122 are technical in nature. They include cross-referencing updates to the proposed new statutes and to the term Financial Institution Assessment Cash Fund and repeal obsolete language. The institutions and entities covered by these changes are bank holding companies, interstate bank branches, interstate trust offices, financial products solicitations, credit unions, installment sales companies, mortgage bankers, delayed deposit service businesses, and installment loan companies. LB122 will provide needed updates and clarifications to the financial institution assessment process and to the collection of fees and costs by the department. I want to close with a thanks to the committee for its introduction of this needed legislation. I will be happy to answer any questions. Thank you. [LB122]

SENATOR PAHLS: John, I just have one question. The section that you said the Nebraska Bankers Association will be talking to us today, is that the only section that there is a concern about? [LB122]

JOHN MUNN: That is my understanding. Yes. [LB122]

SENATOR PAHLS: Okay. Thank you. Senator Langemeier. [LB122]

SENATOR LANGEMEIER: Director Munn, thank you for your testimony and your bill here. On page 12, line 22, subsection 3, and it talks about the permitting of payments for annual assessments. Can you give me an example, what is good cause shown to allow for payments? What would be a good cause? [LB122]

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JOHN MUNN: This happens more often on the financial entities side, like with a mortgage brokerage company, where by virtue of the fines that we may assess, it might be difficult for them to write us a check for \$10,000 in payment of a fine. However, allowing five months to pay at \$2,000 a month would work for them on a cash flow basis. [LB122]

SENATOR LANGEMEIER: If we have to finance out their fine of \$10,000 to an agency, obviously at that size it would be a smaller type of group, would that not constitute maybe the fine is inappropriate to the existence of this company? I don't know if I worded that right. If the fine is that substantial to that size company, is it maybe there is a reason we should or should not have that company doing business in Nebraska, to put it that way? [LB122]

JOHN MUNN: One reason the fine can get that high, and we do levy numerous fines in that range or sometimes even larger, is because we assess many times based on the number of times that misconduct occurred, like if it was in an inappropriate disclosure and it happened on 25 loans, there would be a per-loan assessment. Rather than one misdeed worthy of a \$10,000 penalty. So it all also is based on how often the conduct occurs. [LB122]

SENATOR LANGEMEIER: Okay. Thank you. [LB122]

SENATOR PAHLS: Seeing no more questions, thank you. Proponents? [LB122]

ROBERT HALLSTROM: (Exhibit 2) Senator Pahls, members of the committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB122. The financial institutions industry provides funding for the department to regulate, examine and supervise the financial institutions under its jurisdiction. We have been more than willing historically to provide that source of funding and have received a high quality examination procedure and a high professionalism with the examiners that are providing those services to the banks. We certainly want to continue to allow the department to hire, train and retain capable examiners, and this bill provides the funding mechanism, if you will, procedurally to get to that point. Director Munn has indicated that there is an amendment that, I think, is being passed around regarding changes to page 10, line 24. The department was gracious enough to provide full and fair disclosure of the provisions that appear on page 10, line 24 with regard to the new sources of assessment capability, if you will. In the course of discussing that issue with the department, we raised the prospect that perhaps some of the institutions that might be hit more heavily by the new assessment basis should, perhaps, have some opportunity to comment in case there is some objection to it. We are perfectly comfortable with moving forward with the legislation in light of the deferred implementation date, if you will, that we have proposed and that the department has agreed to of June 30, 2009 with regard to the items of off-balance-sheet

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receivables and the total amount of fiduciary and related assets. We have attempted to be in touch with some of the institutions that might, because of the makeup of their off-balance sheet receivables and their fiduciary assets, be affected by this. But, obviously, at the end of the day, there is a reshuffling of deck chairs, if you will, in that we may be more accurately assess and assign the responsibility for providing funding for these necessary activities. With that, we would ask the committee to adopt the amendment that has been proposed and advance this bill to General File. Be happy to address any questions. [LB122]

SENATOR PAHLS: Yes, Senator Pankonin. [LB122]

SENATOR PANKONIN: Thanks, Senator Pahls. Bob, in other words, when you set time to comment, what would you specifically mean there? [LB122]

ROBERT HALLSTROM: Well, basically I visited with the legal counsel for the department and with Director Munn as well, and I think that if the institutions that are going to be impacted by the new items that are subject to assessment have any comments that the department will certainly take those into consideration, and if by chance before June 30, 2009 a case is made to come back and alter or revise that in any manner that the department will be willing to entertain that, and that the Bankers Association will work with the department in that respect also. I don't necessarily anticipate that there will be objections raised, but I do think in fairness, and I think the department agreed that those that are going to be impacted should have an opportunity before it goes into effect. [LB122]

SENATOR PANKONIN: Tell me a little more specifically what these things mean, total amount of fiduciary-related assets and then total amount of off-balance-sheet receivables? Can you give us some examples of that? [LB122]

ROBERT HALLSTROM: My understanding, and the department would be better served to address that question, Senator, but my understanding is that currently with regard to, for example, a trust company or a trust department that the fiduciary-related assets may not be counted, if you will, in the total assets of the institution. My understanding is that the department, I think, is looking more at the trust company, rather than just the general assets that the fiduciary related assets, perhaps, should be utilized as well in terms of determining the breadth of what they can asses. Perhaps the fact that they have specialized examination requirements for a trust company that are different than a financial institution may lead them to believe that they should get a larger share, if you will, of the expenses being paid for by that particular segment of the industry. The off-balance-sheet accounts receivable, there could be automobile accounts receivable, I suppose dealer paper types of issues that currently are not, as I understand it, utilized in the assessment of the total assets of a financial institutions. And so that type of issue in terms of increasing the share that any particular financial institution may have to pay in

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the future once this goes into effect is going to be dependent upon whether or not they have a larger amount of that particular type of off-balance-sheet account receivable. [LB122]

SENATOR PANKONIN: So the issue being open is to find some of these and how they will be looked at then? [LB122]

ROBERT HALLSTROM: I think the department can clearly define what they are. I think it is more a matter of just fundamental fairness that the institutions that have not heretofore been paying an assessment of any nature... [LB122]

SENATOR PANKONIN: On those items. [LB122]

ROBERT HALLSTROM: ...on those types of the make up of their asset make up or portfolio... [LB122]

SENATOR PANKONIN: Have a chance to comment before it is fully implemented... [LB122]

ROBERT HALLSTROM: ...have a chance to comment to the department. Exactly. Thank you, Senator. [LB122]

SENATOR PAHLS: Senator Carlson. [LB122]

SENATOR CARLSON: Senator Pahls. Mr. Hallstrom, I'm going to ask a couple of questions, and it may just reveal my limited knowledge of banking. But to kind of follow up on Senator Langemeier's question, I guess I sat here as was kind of surprised that a fine in the area of \$10,000 would be thought of as a significant fine with a financial institution, let alone needing to make arrangements to pay that out over time. I would just like your comment on that. The second part of it, I don't even know what happens to the money that is taken in on fines. [LB122]

ROBERT HALLSTROM: Senator, you and I can sometimes be on the same page with regard to our knowledge level on certain issues in banking, so don't feel badly about that. Probably, again, the department can best answer that. But I think as Director Munn indicated, it is not the traditional financial institution that the department is likely to have to determine good cause to allowing installment payments of those types of fines or assessments, but there are many smaller, whether it is an installment loan company, installment sales company, mortgage banking operation, one might question if they are that small and if that type of fine would put them at risk to require the payments over time that perhaps some questions could be raised, but, again, I think it is probably more of a matter of they're fundamentally sound, the department is in charge of making sure of that, but for cash flow reasons, perhaps they need some extra time with the smallest

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of companies to have time to do that. [LB122]

SENATOR CARLSON: Thank you. [LB122]

ROBERT HALLSTROM: Thank you. [LB122]

SENATOR PAHLS: Senator Hansen. [LB122]

SENATOR HANSEN: Thank you, Senator Pahls. Bob, I will show my limited English skills also. It looks like we are going to have to add another "and" there if I understand your amendment correct. It says after "and" insert "after June 30, 2009." Do we need another "and" there to make it read like it does now, "and may further be based upon the?" [LB122]

ROBERT HALLSTROM: Okay. I am not sure, Senator. It should read now, "and after June 30, 2009 may further be based upon." [LB122]

SENATOR HANSEN: Okay. [LB122]

ROBERT HALLSTROM: I think just quick glance at that probably reads okay. [LB122]

SENATOR PAHLS: Senator Langemeier. [LB122]

SENATOR LANGEMEIER: Thank you, Chairman Pahls and Mr. Hallstrom. And I have been going through that same little...I have been writing in there trying to decide whether we need another "and." The conclusion I get is if we take your amendment and put the "after June 30, 2009 may further be based upon the total amount," basically we are giving them until 2009 to make sure that that report that states off-balance-sheet receivables is correct, right? Or you could move things off of it. If you are going to be assessed based on that report filed, we are just giving them until '09 to make sure that is the right amount they want on it, correct? [LB122]

ROBERT HALLSTROM: I suppose you could look at that that way, Senator, but I am not sure the assessment on this. There may be a question of the fairness of making a switch over to this additional asset-based assessment by the department. I am not sure the fact that it will be assessed to the extent that the department establishes their formula or the methodology is probably going to lead anyone to try and cook the books to move items from one category to the other. My assumption would be if they were to move them from an off-balance-sheet receivable that they will have to have some other type of business activity that may just as well be assessed under another asset category. So I don't know that there is any of that type of activity. I would certainly look to the department to determine whether or not they have thought of that possibility or whether that could something that they would be concerned about. But, again, in

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working with the department, they felt comfortable that giving until the June 30, 2009 was a sufficient time frame to provide this opportunity for comment and implementation. [LB122]

SENATOR LANGEMEIER: Okay. Thank you. [LB122]

SENATOR PAHLS: I see no more, thank you, Bob. [LB122]

ROBERT HALLSTROM: Thank you, Senator. [LB122]

SENATOR PAHLS: Proponents? Opponents? Seeing none, neutral? Seeing none, that will close the hearing on LB122. [LB122]

SENATOR PAHLS: In the meantime, we will introduce Senator Gay and Senator Christensen. The next bill before us is LB124, which was introduced by the Banking, Commerce and Insurance Committee on behalf of the Department of Banking and Finance. My opening on this bill will be limited to asking our Director of Banking and Finance to come forward to testify on the provision of this bill. Thank you, John. When you are ready. [LB124]

JOHN MUNN: (Exhibit 1) Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is John Munn, J-o-h-n M-u-n-n. I am director of the Nebraska Department of Banking and Finance. I am appearing today in support of LB124 which was introduced by the committee at the request of the department. LB124 is the annual wild-card update for Nebraska's state-chartered financial institutions. Wild-card legislation provides the same rights, powers, and privileges to state financial institutions as those enjoyed by like federally chartered institutions that do business in Nebraska. In essence, it gives equal rights to these institutions. Within the bill, section 1 provides equal rights between our 187 state-chartered banks and those banks chartered by the Office of the Comptroller of the Currency. Sections 2 provides for equality between our one state-chartered building and loan association and those associations chartered by the Office of Thrift Supervision. And section 3 provides the same rights for Nebraska's 22 state-chartered credit unions as those held by credit unions chartered by the National Credit Union Administration. My testimony with respect to this bill does not differ from my testimony, or that of my predecessors, in previous years. 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. The savings and loan wild-card has been in effect since 1971 and the credit union statute was first enacted in 1977. The bank wild-card was adopted in 1999. Under these three sections, there is no exemption from the payment of taxes imposed by the state. The annual enactment is necessary to forestall any state constitutional challenges. The sections are important in maintaining the ability of our state institutions to compete with the national entities.

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LB124 carries the emergency clause. Thank you to the committee for its introduction of the bill. I would be happy to answer any questions you may have. [LB124]

SENATOR PAHLS: Any questions? Yes, Senator Hansen. [LB124]

SENATOR HANSEN: Thank you, Senator Pahls. Why do we need an emergency clause on this? [LB124]

JOHN MUNN: Otherwise it would not take effect until, what is it, 90 days after the conclusion of the session. So this would make this particular wild-card available to our financial institutions approximately six months ahead of schedule. All strictly a timing thing. [LB124]

SENATOR HANSEN: All right. Thank you. [LB124]

SENATOR PAHLS: I see no more questions, thank you, John. [LB124]

JOHN MUNN: Thank you, Senator. [LB124]

SENATOR PAHLS: Proponents. [LB124]

ROBERT HALLSTROM: Chairman Pahls, members of the committee, my name is Robert J. Hallstrom, I forgot to spell, H-a-l-l-s-t-r-o-m, the last time I was up here, registered lobbyist for the Nebraska Bankers Association appearing in support of LB124. We have annually since 1999 come back to this committee and to the legislature to request reenactment of the wild-card. Senator Hansen, with regard to your question, one of the issues to keep in mind, Director Munn referenced the constitutional issue, which is the unauthorized delegation of authority. We are required to come back every year and do this in order to be able to implement any changes that have been acted by Congress with regard to either savings and loans, credit unions, or banks with regard to national counterparts that we deal with. For years we had, and we were kind of Johnny-come-lately in coming on board in 1999 with the wild-card. We had preferred up to that time to go through painstakingly and put together state statutes on all of these issues. We finally got a little wiser, I guess, with the passage of time and decided that in many cases it is easier to just piggyback or bootstrap onto the wild-card authority. You will see later this afternoon one of those areas that comes up under LB156 that Senator Langemeier has introduced in that if we have specific state law that may conflict with what authorities are granted to national banks by Congress. We may then have a potential confusion or controversy that leads us to come back and make changes to ensure that the wild-card authority will carry through equally to state-chartered banks. And with that, we would request that the bill be advanced to General File, and would be happy to address any questions of the committee. [LB124]

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SENATOR PAHLS: Seeing no questions, thank you, Bob. [LB124]

ROBERT HALLSTROM: Thank you, Senator. [LB124]

BRANDON LUETKENHAUS: Mr. Chairman, members of the Banking, Commerce and Insurance Committee, my name is Brandon Luetkenhaus, B-r-a-n-d-o-n, last name L-u-e-t-k-e-n-h-a-u-s. I am government affairs director for the Nebraska Credit Union League and a registered lobbyist. Our organization represents 96 percent of the states credit unions and their 420,000 members. I appear before you today to offer our associations support of LB124 as it pertains to credit unions. LB124 includes annual credit union wild-card provision as extremely important to Nebraska's state-chartered credit unions. The wild-card provision is essential to our state-chartered institutions because it provides clarity to those areas not specifically addressed by the state statutes, and extends parity in the services which can be offered by state-chartered credit unions. I would respectfully request the committee's support to advance LB124. Thank you for your consideration. I will answer any questions you have. [LB124]

SENATOR PAHLS: Seeing no questions, thank you Brandon. [LB124]

BRANDON LUETKENHAUS: Thanks. [LB124]

SENATOR PAHLS: Any additional proponents? Opponents? Anybody in a neutral? That concludes this hearing on LB124. [LB124]

SENATOR PAHLS: The next bill before us is LB125, which was introduced by me and all the other members of the Banking, Commerce and Insurance Committee on behalf of the Department of Banking and Finance. My opening on this bill will be limited to now asking our Director of Banking and Finance to come forward to testify on the provisions of this bill. Good afternoon, again. [LB125]

JOHN MUNN: (Exhibit 1) Thank you, Chairman Pahls. Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is John Munn, J-o-h-n M-u-n-n. I am director of the Nebraska Department of Banking and Finance. I am appearing today in support of LB125 which was introduced by members of the committee at the request of the department. LB125 proposes two updates to section 8-148.04 of the Nebraska Banking Act. This statute provides the authority for state-chartered banks to make community development investments and sets guidelines and limits for those investments. Bank community development investments are good for our banks and good for the areas that they serve. A bank may be a leader or a participant in funding facilities and activities that improve the quality of life. Current law provides that a bank can make a direct investment or purchase an equity interest in certain community development projects. The maximum amount a bank can presently invest in all community development projects or entities is 10 percent of its capital and

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surplus. LB125 would increase that aggregate amount to 15 percent of a bank's capital and surplus. This proposal is a direct result of a provision of the Financial Services Regulatory Relief Act of 2006, signed into law by the President on October 13, 2006, which authorizes national banks to increase their aggregate investment in these types of projects from 10 percent to 15 percent of their capital and surplus. The department believes that adoption of this proposal will not create any undue risk to banks which seek to aid their communities by investing a greater amount in development projects. With this update, LB125 has the potential for an overall positive effect on Nebraska communities, especially in rural areas of the state. LB125 proposes a second amendment to section 8-148.04. This amendment would repeal the provision which requires banks to account for these investments as other assets. Depending on the amount of a bank's investment in a community development project, that accounting designation is no longer always correct. Repeal of the section means that the investments will be accounted for according to generally accepted accounting principles and/or call report instructions. I want to close with thanks to the members of the committee for sponsoring this legislation. If there are any questions, I will be happy to try to answer them. Thank you. [LB125]

SENATOR PAHLS: I see a number of hands go up here. Let me start off with Senator Hansen. [LB125]

SENATOR HANSEN: Thank you, Senator Pahls. If it is intended to help rural areas, rural areas, I assume, have smaller banks, so we are talking about less money, but still the percentage is the same. [LB125]

JOHN MUNN: Correct. [LB125]

SENATOR HANSEN: There are some controversial projects out there that communities do. When you say change it from 10 percent to 15 percent, and we make laws that are equal to or greater than what the national government hands to us, is 10 percent a greater restriction than 15 percent? [LB125]

JOHN MUNN: As far as the limit to which the bank can invest? [LB125]

SENATOR HANSEN: Yes. It would be an example of greater than what the federal guidelines have. So we don't really have to go to 15 percent, do we? Is 15 percent a more liberal number than 10 percent? [LB125]

JOHN MUNN: Yes. Yes, and in representation of the issue, of course for us the bottom line is always safety and soundness. [LB125]

SENATOR HANSEN: Right. [LB125]

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JOHN MUNN: We would hate to see a bank spending an inordinate amount of its resources on community development investment projects. That is why we felt previously 10 percent was an appropriate cap. Now I think the 15 percent is still worthy too of consideration. [LB125]

SENATOR HANSEN: Okay. Thank you. [LB125]

JOHN MUNN: And there is a requirement for diversification among those investments. A bank could not have more than 5 percent of its capital in surplus in any one community development investment, like if it was assisting with a low-income housing project would be one thing. In a more rural area when you are talking about quality of life, maybe it is helping to make some particular service available to residents of the area. They can go beyond 5 percent of capital and surplus, but they have to have my approval to do so in one project. So we are trying to spread the risk with another area of the statutes. [LB125]

SENATOR HANSEN: Thank you. [LB125]

SENATOR PAHLS: Senator Gay. [LB125]

SENATOR GAY: John, I had a question. What would 10 percent or 15 percent mean in terms of total dollars available or capital that now could be invested? [LB125]

JOHN MUNN: Let's take a \$50 million rural bank, 8 percent is kind of the standard level of capital, although many of our rural banks are better capitalized than that, but a \$50 million bank that is 8 percent capitalized would have \$4 million in capital. So previous to this, they can invest up to \$400,000...I take that back. It depends on how the capital is allocated among the capital accounts, because we are not including undivided profits in the calculation for state-chartered banks. It would depend on what portion of that \$4 million of capital is in capital stock and surplus. Let's suppose it is \$3 million and that there is another \$1 million in undivided profits. So the \$3 million is the base number, 10 percent of that would be \$300,000, now 15 percent would be \$450,000 that they can invest. However, not more than \$150,000 in any one community development investment. [LB125]

SENATOR GAY: Okay. Then to follow up though, total capital, just an estimate then, what does this allow then...maybe you can't answer this. How much total capital is this going to free up in the state? [LB125]

JOHN MUNN: Oh, for all banks? [LB125]

SENATOR GAY: Yeah. Overall. Got any idea? Maybe you don't have that. [LB125]

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JOHN MUNN: That is a tough question. I will follow up with you on it. [LB125]

SENATOR GAY: To me it is a nice infusion of money, it looks like. I was just trying to educate myself a little bit. [LB125]

JOHN MUNN: Many banks are doing good things, but as far as pure community development investment projects, this is still in its infancy. We talk to a lot of banks, but currently there is only one bank, a rural Nebraska bank, that is active in this area. [LB125]

SENATOR PAHLS: Senator Pankonin. [LB125]

SENATOR PANKONIN: Thanks, Senator Pahls. Just a continuation on that, and I was going to use that example, exact numbers, John. But you said there was one project, and you used the example of low-income housing, but if a bank made that investment, and then that will get into my second part of the question on the balance sheet. Does that investment need to be paid back in a reasonable amount of time? If they invest in a housing project and the payout was 20 years, and even then you don't know, obviously, about the financial solvency of that project. How do you evaluate those? [LB125]

JOHN MUNN: Now, we are not talking about a loan in this instance. [LB125]

SENATOR PANKONIN: I understand that. It is a direct investment. [LB125]

JOHN MUNN: However, the investment that the bank made of the community development nature on a project, there is probably some loan component to that overall project, and revenue on the project would need to be dedicated toward that loan. The banks best hope would be that there might be dividends that could be paid on that community development investment. It is not booked as a loan. [LB125]

SENATOR PANKONIN: Okay. Which gets to my second question, if it is not under other assets, where would you see it? You said generally treatment, but what could that be? [LB125]

JOHN MUNN: When we went into this, began to get more active in this a couple of years ago, it appeared to me that booking it as another asset was appropriate. However, in a situation where a bank has control of a project, has, for instance, more than 51 percent of the ownership of that community investment project, it has been determined that it should be accounted as other real estate owned. And, it is not other real estate owned in the sense of foreclosed real estate, because there is a five-year clock on that where you have to divest yourself of it. It is a different kind of other real estate owned. But the main part of that equation is the bank the majority investor in it? Do they have control of what happens? [LB125]

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SENATOR PANKONIN: And for the rest of meaning ORE, or other real estate owned can a lot of times mean that a bank has foreclosed property and it is actually a negative, so that has to be distinguished in call report, I would assume, what is what. Going back to what Senator Gay said, this could be a vehicle for investment in communities, but obviously only one bank has done it. So if this passes, we need to make sure, I think, that banks understand what they can and cannot do, or if they need to get preapproval from the department. I think it is a good thing, but I think that especially banks that are smaller are going to need guidance so they do the right thing. And from your standpoint, especially, for safety and soundness that they can. So I think if we do get this expanded, we need to make sure that there is sound communication through MBA or whatever, Bob, so people know what they can do. But I think it could be a cool capital that hasn't been used yet. [LB125]

SENATOR PAHLS: Senator Pirsch. [LB125]

SENATOR PIRSCH: Just to kind of follow up on Senator Pankonin's question there, right now there is only one bank that is currently involved, I take it, in a rural setting, correct? Smaller type of... [LB125]

JOHN MUNN: Hebron. [LB125]

SENATOR PIRSCH: Okay, and just to get your idea, is the problem that has kept other banks from joining is the problem that it has been set at ten, and they would only become interested at a larger amount. That isn't a move that is going to make any material change in bank's estimation of the value of pursuing these projects, isn't it? Do you get the feeling that that is based upon some other factor that...what are those primary factors? [LB125]

JOHN MUNN: I guess my feeling, Senator, is that banks generally just haven't had this on their radar screen. In 2005, I participated in three rural development summits the Nebraska Bankers Association conducted in Ogallala, Lexington, and Columbus, and I gave about an hour presentation. I have a power point on this topic that is available on our web site also, and I think there really were bankers seeing this concept for the first time. For whatever reason, I just don't think they have seen this as an arrow in their quiver to help improve the quality of life in their areas. But I had a conversation with a banker about three weeks ago by phone, I send them, I alert them to my power point. I have other information I can send them. I think it is going to come, you know. Plus one thing in my power point, I sometimes I am critical in banks is that the president always puts these projects under his arm and says this is something I will do, and then because of the demands on his or her time they don't get done. I am encouraging them to move these kinds of topics to the next layer of management and hopefully give them a sense, to have them be empowered to work on community development with this tool. [LB125]

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SENATOR PAHLS: Senator Carlson. [LB125]

SENATOR CARLSON: Senator Pahls. Director Munn, could you share a little bit about the one project, did you say it was Fullerton? [LB125]

JOHN MUNN: Hebron. [LB125]

SENATOR CARLSON: Hebron. Could you tell a little bit about that, and why did they do it? What is the benefit of it? What is the community going to gain by it? [LB125]

JOHN MUNN: Sure, actually two projects among that bank's investments. One is they bought a rundown, abandoned single family dwelling, which was on the main street to the business area of Hebron and have fixed it up an hope to have it available for resale at some point. They do not intend to be a long-term purchaser, but there weren't any other investors in town that were coming forward to say, let's get this done. Second project is they purchased a commercial building in the downtown area of Hebron that was falling into disrepair, they are in the process of fixing it up in hopes that it can be leased to a small business, possibly a new small business to town, and then over a period of time, that business would be positioned so they could buy the building from them. So there is some diversification with what they are doing. One challenge that they have run into is that before they started they had a feeling that they would have other individuals, organizations in the community investing with them. That did not happen. Right now, they are the sole player in these two projects, and they had hoped on the commercial building to maybe get some tax increment financing to help with that project. Well, when the bank is the only player, they really aren't too anxious to go to the public and ask for tax increment financing. It would be nice if they were about a one-fifth owner of the project, but for whatever reason they have got 100 percent of both projects. But I think both worthwhile purposes. [LB125]

SENATOR CARLSON: Thank you. [LB125]

SENATOR PAHLS: Senator Langemeier. [LB125]

SENATOR LANGEMEIER: One more and maybe you can get away here, Director Munn. Thank you for your testimony. [LB125]

JOHN MUNN: You bet. [LB125]

SENATOR LANGEMEIER: Mine is somewhat irrelevant to this bill, but not really. When we talk about the percentage of capital and surplus, where do you see...do you see a trend in our banks as consolidation happens across the state, if we are getting bought out? What do you see in that surplus end? I know there is a minimum requirement for

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surplus. Do you see that growing, decreasing, what are the trends as these banks get bigger? Is that surplus getting right down to the minimum or do you see it growing?
[LB125]

JOHN MUNN: No, and I don't think there is any one particular rule of thumb in that regard. Many of the mergers that we have have merged state-chartered institutions, so we still see the other one. But I really don't see a trend there one way or the other. A big change is when a national bank converts to state-charter, many times as national banks any of their excess is going into undivided profits and they continue to carry and grow undivided profits. When they change to state-charter and the surplus portion of the capital account is a part of the equation for figuring like allowable amounts that you can invest in a community development project. Well, then they have to rethink, how do we get money over, how do we rebook undivided profits as surplus? That is the main math exercise I've seen. [LB125]

SENATOR LANGEMEIER: Thank you. [LB125]

SENATOR PANKONIN: Go ahead, Senator. [LB125]

SENATOR PANKONIN: If you think about a bank's capital, you have got capital surplus, and then undivided profits. Think of it as retained earnings. The reason a bank might not want to switch those undivided profits into surplus is if the bank started to shrink in size or whatever and they ever needed...I mean, once that in surplus, it is hard to get it out. Where that is why a lot of times they will let the undivided profit account pile up without changing it into surplus. [LB125]

JOHN MUNN: Well said. [LB125]

SENATOR PAHLS: Seeing no more question, thank you. [LB125]

JOHN MUNN: Thanks for your questions. That was great. [LB125]

SENATOR PAHLS: Thank you. Proponents? This is not a one-man show, this is a two-man show. [LB125]

ROBERT HALLSTROM: Chairman Pahls, once again, Bob Hallstrom, Nebraska Bankers Association, in support of LB125. Your comment reminds me of the old story about the prosecutor and the defense attorney and the judge who were always going up in cases together, and their routine would be same motion, same objection, same ruling. And hopefully in a positive sense, we can get that moving today on these bills. Very briefly as Director Munn has gone over in detail the provisions that are involved or contained within LB125. Good questions from the committee to flesh out other issues, but this, simply put, would allow the state-chartered banks the same authority as the

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nationally chartered institutions. One thing that I might note, and I don't want to overstate this because I do not know personally, that there are a great deal of other projects out there. But in the legislation, I think the only written approval or specific notification provisions for these types of investments and projects involves when there is someone that wants to exceed the 5 percent that is authorized automatically, if you will, by statute. There could be other similar types of investments that are going on out in the communities for these worthy types of projects, but because they don't have any intention or desire to exceed the 5 percent threshold, that perhaps the department isn't specifically aware nor the association of it on the project basis that the Hebron project was. Because, I guess, they must have gone over the 5 percent. With that, I would be happy to address any questions. [LB125]

SENATOR PAHLS: Senator Pankonin. [LB125]

SENATOR PANKONIN: Thanks, Senator Pahls. Going back to the example of Hebron, and I was discussing with Senator Gay a little bit, Bob, is that to give an example to everybody in that case where they had a substandard property that was close to their main business district and it was an eyesore. No private investor had come up, to come to the bank and say I want to borrow the money and buy this and fix it up. And so, consequently, the bank then took those funds and directly bought the property and fixed it up. Is that correct, Director Munn, what happened? So I think, Bob, that is a great purpose and it could really be something that would be important in all of our communities serve, that I would hope that this passes that you would help promote it or have the NBA promote it with examples of what could be done. I mean, I could see this as being, as the question was earlier about how much capital surplus there is in the system, which obviously that number can be obtained fairly quickly, but this could be substantial, could be important for communities if they knew about it. [LB125]

ROBERT HALLSTROM: Yeah, and it runs hand in glove, if you will, with what banks do in their communities in terms of trying to revitalize and energize and keep things going. Senator, I don't begin to suggest what you might have done when you were footloose and fancy free in your younger days, but you are right next door to Otoe County and the Elms Ballroom in Syracuse, Nebraska, very well known, had fallen into disrepair. Now in that particular instance down in Syracuse we were able to get private investors to both do the remodeling and the others to provide the investment to help them do the repair and remodeling. But that would have been an excellent example of something that brings folks to our community on a regular basis, is good for main street businesses. But if we hadn't had the wherewithal for the private individuals to step forward, that would have been an excellent type of project that probably has similar types of examples or comparables across the state. [LB125]

SENATOR PANKONIN: Bob, I appreciate that comment, but I tried to stay away from that place. You could get in trouble down there. [LB125]

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ROBERT HALLSTROM: You were probably well served by that, Senator (laughter).
[LB125]

SENATOR PAHLS: So the next time I go through Syracuse, I am going to be seeing some additional changes in that community, is that what you are... [LB125]

ROBERT HALLSTROM: It is down in the south edge of town. This was done a number of years ago. [LB125]

SENATOR PAHLS: It is a nice community. Any other questions? Thank you, Bob.
[LB125]

ROBERT HALLSTROM: Thank you, Senator. [LB125]

SENATOR PAHLS: Anymore proponents? Opponents? In the neutral? That will close the hearing on LB125. [LB125]

SENATOR PAHLS: The next bill before us is LB126, which was introduced by me and all of the other members of the Banking, Commerce and Insurance Committee on behalf of the Department of Banking and Finance. My opening on the bill will be limited to now asking our Director of Banking and Finance to come forward and testify on the provisions of this bill. When you are ready, John. [LB126]

JOHN MUNN: (Exhibit 1) Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is John Munn, J-o-h-n M-u-n-n. I am the director of the Nebraska Department of Banking and Finance. I am appearing today in support of LB126 which was introduced by members of the committee at the request of the department. LB126 proposes a revision to the statutes which regulate financial institution names. Chapter 8, article 19 of the Nebraska statutes makes it unlawful for two financial institutions within the same village, city, or county to have the same name, or names that are so similar as to be confusing to the public. Section 8-1901 currently defines the term "financial institution" for purposes of article 19 as a bank, savings bank, building and loan association, savings and loan association, or credit union, whether chartered by the state or federal government. LB126 will add trust companies to this definition. As a result, trust companies will be subject to the same scrutiny and restrictions presently applied to all other financial institutions with respect to their names, and the department will have the authority to address any conflicts that could arise in this area. LB126 does not reflect any existing problem. The department was prompted to propose this legislation when it considered a 2006 application by a state-chartered trust company to establish a representative trust office in a city different from its home office city. While there was no conflict between the name of the proposed representative trust office and the names of the financial institutions in its proposed

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location, the department realized at that time that it was questionable as to whether it had any authority regarding names of trust company branch offices and trust company representative offices, or any authority to require a name change in a situation where a trust company might want to relocate its main office to a city where another financial institution had the same name or a confusingly similar name. LB126 removes any such questions. I want to express my appreciation to the members of the committee for introducing this bill. I will be happy to answer any questions. Thank you. [LB126]

SENATOR PAHLS: Senator Hansen. [LB126]

SENATOR HANSEN: Thank you, Senator Pahls. Just a comment, John, is the 2007 version of LB126 is much easier to read, much shorter, and we appreciate it. [LB126]

JOHN MUNN: Good. So noted. [LB126]

SENATOR HANSEN: We didn't like LB126 last year. [LB126]

SENATOR PAHLS: That was under a different chapter. Are you waking us up here? I see no more hands, thank you, John. [LB126]

JOHN MUNN: Thanks. [LB126]

SENATOR PAHLS: Proponents? [LB126]

ROBERT HALLSTROM: Chairman Pahls, members of the committee, my name is Robert J. Hallstrom. I appear before you today as a registered lobbyist for the Nebraska Bankers Association in support of LB126. I think it is prudent of the department to anticipate the potential for issues to arise. We have had similar concerns with regard to banks in the same community operating with somewhat confusing names, and it is always best to anticipate those types of issues, and we support the bill accordingly. Be happy to address any questions. [LB126]

SENATOR PAHLS: Senator Christensen. [LB126]

SENATOR CHRISTENSEN: What is the most interesting conflicting name or an example of conflicting names? [LB126]

ROBERT HALLSTROM: Was it in Chadron. There was an issue in Chadron where you had the First National Bank of Chadron that had been there, I believe, and then through an acquisition, there was another national bank who used national bank in their title and as a result it became the First National Bank of XM Chadron, and that was somewhat confusing and they had indications that customers were calling not realizing that they were at the wrong bank or that type of thing. And I think there was some litigation in a

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department determination over that particular issue. [LB126]

SENATOR PANKONIN: One closer to home, Bob. Two Farmers Bank in Weeping Water. [LB126]

ROBERT HALLSTROM: Yes. [LB126]

SENATOR PANKONIN: Was a confusing and tough... [LB126]

SENATOR PAHLS: Senator Carlson. [LB126]

SENATOR CARLSON: Senator Pahls. Bob, obviously then First Tier and TierOne never entered the picture as being confusing. [LB126]

ROBERT HALLSTROM: I haven't heard that one yet, but that could be. [LB126]

SENATOR CARLSON: We have to keep it straight in our hometown. [LB126]

ROBERT HALLSTROM: In that particular instance, I think the other bank has changed their name and they assumed the name of the former bank. Interesting. [LB126]

SENATOR PAHLS: Any other questions? Thank you, Bob. [LB126]

ROBERT HALLSTROM: Thank you. [LB126]

SENATOR PAHLS: Anymore proponents? Opponents? Anybody in neutral? That closes LB126. Senator Langemeier, I think we are ready. [LB126]

SENATOR LANGEMEIER: (Exhibit 1) Chairman, Pahls, members of the banking committee, my name is Chris Langemeier, it is C-h-r-i-s Langemeier is L-a-n-g-e-m-e-i-e-r, and I am here representing District 23. LB156 I have introduced on behalf of the Nebraska Bankers Association and it would make a number of changes to Nebraska's banking code. First, the requirement to select a cashier and for selecting a secretary from the board of directors to be a member of the board, that requirement to be eliminated. Bankers are currently required by law to formally designate a cashier. With the expectation of this satisfactory requirement, bankers no longer have cashiers and the term is quite archaic. So we are asking for that to be removed. Secretary of the board typically is a clerical type position that is filling out, taking minutes of the board meetings, and it is not something we normally require of a board of director to sit there and physically do that. We usually have somebody, that would be someone in the bank, required to do that responsibility. So we ask for those two removals. Number two is state law regarding permissible bank investments and the permission would be to conform with law and regulations applicable to national banks. This would raise the

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amount that a person can have in investment of a bank, how much of that building could be rented out for other purposes other than just primary banking facilities if they were having extra floors to rent out in a bigger complex they would build in an office park. Number three is state law regarding the payments of premiums and bonuses on demand accounts without being treated as interest. We would ask for your consideration on that. We do offer an amendment, I will have passed out. I know Mr. Hallstrom is going to testify behind me. I think I am going to let him go through this amendment in detail, strikes and adds that were. Thank you. And with that, that would conclude my testimony for right now. If there are any questions, maybe Bob can answer them behind me. [LB156]

SENATOR PAHLS: Thank you, Senator. Proponents? [LB156]

ROBERT HALLSTROM: (Exhibit 2) Chairman Pahls, members committee, my name is Robert J. Hallstrom. I appear before you today as a registered lobbyist for the Nebraska Bankers Association in support of LB156. Senator Langemeier has gone through in fairly concise detail to let you know what the bill does. We simply are requesting a few eliminations from the banking code that are quite dated in their application, removal of the term "cashier" which, with the exception of the state law requirement, probably no one would tell you what or who a cashier is in the bank activities today. Similarly, as Senator Langemeier has referred to the elimination of the requirement for the secretary to be a member of the bank board. Since we have introduced this, one of the other criteria or reasons for making this change that some bankers have been pleased with is that in grooming management succession they have reasons to, perhaps, want someone to take a more active role in learning the ins and outs of the board activities without, perhaps, having to formally designate them as a member of the board. This would allow them to serve in the capacity as secretary without having to be a member of the board. With regard to the bank investment in premises issue, this is one where a number of banks have raised concerns with the policy or the interpretation of the department of banking. There are restrictions on the banks holdings of real estate, even with regard to the bank investment of premises, duly founded on the concept of not having banks engage in speculative investment in real estate, which is certainly justified. In the course of communicating with the Department of Banking as I stated earlier, we had a number of bankers who were concerned that, perhaps, the department's interpretation, which was that you must occupy at least 50.01 of the premises including parking facilities, was, perhaps, a little bit too restrictive. In the course of our research, which we shared with the banking department and which, I think, they took seriously, we found a number of OCC interpretive letters, one of which is attached to my testimony today. This one in particular, interpretive letter 1044 dated December of 2005 was looking at a particular situation in that the bank was going to occupy only 10-20 percent of the premises initially. They obviously had a strategic plan to grow the bank and to, perhaps, have more occupancy in the future, and the OCC and some of the court interpretations that they site there say, while we certainly want to

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restrict speculative investments in real estate by banks, we shouldn't discriminate against them in terms of their ability to maximize the investment of properties that they have. We have had a situation, Mr. Carl Sjulín from West Gate Bank here in Lincoln will testify today regarding his particular situation and involvement in putting his bank facility up here in Lincoln. We have also had bankers, I think, from Trenton, Maywood, Kathleen Thuman, Mick Brosius up in Senator Christensen's district that also had the same type of issue. I think that the department has been more than willing to look at being more flexible. They had suggested rather than simply saying we are going to, perhaps, change our policy or interpretation that adopting the federal regulations upon which the OCC has been more flexible in their approach would be welcomed by the department. So we have put those particular provisions into play here. I think if you look at the situation, number one, we want to make it clear. The department is still going to have the final say. This does automatically require greater flexibility or a different rule of thumb to be adopted. Always the guiding principle of safety and soundness is going to guide the department's decisions in this regard. But we assume it will provide greater flexibility. And I think, particularly in the rural areas where oftentimes a bank facility goes up, the additional space or occupancy, if you will, will service other professionals in the community to make sure that those services continue to be applied and provided in our rural areas of the state. The final issue involving the bill has to do with the issue of interest on demand deposits. Federal law and regulation restricts the payment of interest on demand deposits. What it does do, is it recognizes that certain promotional or advertising types of expenses in the course of an account bonus or an account premium, if you will, can be given in limited amounts without being treated as interest. We have traditionally felt that those same rules should apply and did apply to Nebraska financial institutions, only to find recently that our statute at the state level is broader than the federal statute limiting interest on demand deposits in that our limitations on account bonuses and premiums apply to all accounts, not just demand deposits. We approach the department to try and put together a change that would, again, a theme of the day, conform state-chartered banks powers with those of national banks and thus brought forth LB156. Senator Langemeier referenced the amendments that we have. I don't have the copy of the amendment, but speaking from memory, the first part of the amendment is to remove the word "remote" on page 3, line 26, it talks about remote areas. The department had simply requested that they felt it was sufficient if we just limited their scope of activities to areas in the state, rather than remote areas. We did some research, at the request of the department, and found no definition of remoter areas under the federal regulation or interpretations thereof. So we would suggest removing or striking the word "remote." The second thing that the department has suggested is that we, instead of trying to rehabilitate the section 8-1,123 by matching what the state law says in conformity with the federal law or regulation, that instead upon further reflection we should simply strike or repeal the existing provisions of 8-1,123 and therefore allow or thereby allow the wild-card instead to give state banks the same power and authority in the area of account bonuses and premiums as that that is accorded to national banks. And so that is the second part of the amendment 146 that

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is before the committee. With that, we would respectfully request adoption of the amendment and advancement of the bill to General File. Be happy to address any questions that the committee may have. [LB156]

SENATOR PAHLS: Senator Pankonin. [LB156]

SENATOR PANKONIN: So in other words, Bob, that section 3 would all go away because it would just line up with the wild-card then? [LB156]

ROBERT HALLSTROM: Yes. Basically the new language that was in section 3 was designed to conform our state law provisions to those of federal law, and I think the department just felt it was easier to simply strike or repeal the existing statute and then piggyback onto the wild-card so that the same rules would apply to a national bank and a state bank. [LB156]

SENATOR PANKONIN: Thank you for getting that language changed. It has been long overdue on those two titles. [LB156]

ROBERT HALLSTROM: Thank you. [LB156]

SENATOR PAHLS: Senator Christensen. [LB156]

SENATOR CHRISTENSEN: Thank you, Senator Pahls. On this line 3 on the amendment, says our page strike sections 8-149 and 8-1,123, and then put back in (section) 8-149? [LB156]

ROBERT HALLSTROM: Yeah. What it is, Senator, if you look at the bill, the current bill in its original drafted form was making amendments to both sections 8-149 and section 8-1,123. The amendment instead says take 8-1,123 out, there is an outright repealer clause in there. So now they have to redo the last section of the bill to say we are only amending now 8-149 because the other section is going to completely go away, so it is kind of a technical wordsmithing thing that the bill drafters office has to do. [LB156]

SENATOR CHRISTENSEN: Okay. Is that how you could have just strike that 123 (sic: 8-1,123)... [LB156]

ROBERT HALLSTROM: I think it said sections. So you have to go in and it is now only a section, so we cut down some trees to get that done. [LB156]

SENATOR PAHLS: I see no more questions, thank you. [LB156]

ROBERT HALLSTROM: Thank you, Senator. [LB156]

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SENATOR PAHLS: Anymore proponents, please come forward. Are you ready?
[LB156]

CARL SJULIN: (Exhibit 3) Chairman and members of the committee, my name is Carl Sjulín, C-a-r-l S-j-u-l-i-n. I am president of West Gate Bank, a state-chartered bank based here in Lincoln with approximately \$260 million in assets. We have eight branches and 100 employees. I am testifying today in support of LB156. My comments are directed at section 2 of the bill which relates to investment in bank premises. Section 2 would allow a bank to build or acquire real estate for its current use as well as future expansion. The Nebraska Department of Banking, which regulates state-chartered institutions like West Gate Bank, currently has a rule that requires a bank to occupy at least 51 percent of the premises immediately. As a result of this rule, which has no statutory basis and is contrary to the state's wild-card legislation, Nebraska state banks are limited in owning real estate that accommodates future expansion. The department's 51 percent rule is contrary to the rules governing national banks and their investment in bank premises. National banks are allowed to own real estate that supports their future expansion. There are many examples of national bank office towers in Nebraska where the bank occupied portion of the building is far less than 51 percent. National banks can also own a strip mall where the bank occupies the end cap space which is less than 51 percent of the square footage of the mall. Allowing banks to own such real estate enhances the bank's ability to control the maintenance and future development of the real estate rather than forcing them into third party lease situations. When West Gate Bank built its new main bank headquarters, which is out at the corner of Highway 2 and Old Cheney Road here in Lincoln, we wanted to build a four story building. The site had sufficient parking and zoning approval for a four story building, and the bank was growing at a pace where over the next 20 years we believed it was necessary to build a building of that size to support the operations of the bank and its subsidiaries in the coming years. However, under the department's rule, we had to show that immediately upon completion of construction, West Gate Bank had to occupy at least 51 percent of the building. We ended up building a three story building instead. It would have been very cost effective to add an additional floor, and the fee income from renting the space would also be beneficial to the bank. We now have less room for future expansion which we believe will be needed at some point during the life of the building. LB156 harmonizes state law with federal regulations so that Nebraska state banks have the same rights and privileges as national banks with regard to investments in bank premises. The department's rule is overly restrictive in today's world of banking and forces state banks to set up separate leasing entities to get around the rule or convert to national bank charters. Nebraska loses when this happens. It is important to note that LB156 would not limit the banking department's ability to refuse an application for investment in bank premises when it believes the safety and soundness of the bank or other factors do not warrant such an investment. LB156, which is patterned directly after the federal regulations governing national banks, provides the basis for a bank to show that future expansion space is warranted and a

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prudent investment of the bank's resources. Thank you for the opportunity to testify today, and I would be happy to answer any questions the committee may have. [LB156]

SENATOR PAHLS: Senator Hansen. [LB156]

SENATOR HANSEN: Thank you, Senator Pahls. I just had one quick question, does this apply to also to the parking area too? [LB156]

CARL SJULIN: That is correct. [LB156]

SENATOR HANSEN: So can your bank take up 51 percent of the parking area too? [LB156]

CARL SJULIN: It has to show that it will take up 51 percent. We are aware of... [LB156]

SENATOR HANSEN: Excuse me. Did that limit the size of your parking lot then, too? [LB156]

CARL SJULIN: Yes. [LB156]

SENATOR PAHLS: Carl, I have been to your bank, the three-story. I would like to see what it looked like four-story. That is a beautiful building. I walked in there, I said that building, too bad it is not sitting right across from the Capitol. It is a beautiful building. [LB156]

CARL SJULIN: Thank you. [LB156]

SENATOR PAHLS: Not seeing anymore questions, thank you, Carl. [LB156]

CARL SJULIN: Thanks. [LB156]

SENATOR PAHLS: Just can't get enough of us, right? [LB156]

JOHN MUNN: (Exhibit 4) No. This is great. Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is John Munn, J-o-h-n M-u-n-n. I am director of the Nebraska Department of Banking and Finance. I am appearing before you today in support of the amendments to LB156 which were proposed today. With respect to the amendment which would strike the word "remote" found on page 3, line 26 of the bill, I wanted to advise the committee that the department asked the Nebraska Bankers Association, who brought this bill, for a definition of "remote" as the term is used at the federal level. Since the department would likely be called upon to interpret it in the future, we felt it was important to have some guidance. Research indicated the term has not been interpreted. As such, we believe it should be removed from the bill,

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and therefore support the amendment to strike that word. The department is in support of the amendment which would repeal section 8-1,123 rather than attempting to amend it to match federal law. We believe repeal is more appropriate, because all of our state-chartered banks are federally insured, and in fact are required to be so insured. Because all banks are insured, they have to follow the federal rule as part of their FDIC membership agreement. We also had a concern that if federal legislation to allow corporations to have interest bearing checking accounts would be adopted, the statute would present a problem for our banks. I would be happy to answer any questions. Thank you. [LB156]

SENATOR PAHLS: I see no hands, thank you. [LB156]

JOHN MUNN: Thank you very much. [LB156]

SENATOR PAHLS: Appreciate it. Anymore proponents? Any opponents? Anybody in Neutral? Senator Langemeier. [LB156]

SENATOR LANGEMEIER: Thank you, Chairman Pahls. I am just going to add one final thing. When they are calculating the total square feet, for an example, if you had a building, you build 30,000 square feet and you have a parking lot of 10,000 square feet. When they talk about 51 percent, it is a total. So you have got a total of 40,000 square feet. So you have got a portion of that for your parking, a portion for your building, but it is all one big picture. Does that make sense? With that, I conclude. [LB156]

SENATOR PAHLS: Thank you. That concludes the hearing on LB156. That is it for today. Thank you. [LB156]

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Disposition of Bills:

LB122 - Advanced to General File, as amended.
LB124 - Advanced to General File, as amended.
LB125 - Advanced to General File.
LB126 - Advanced to General File.
LB156 - Advanced to General File, as amended.

Chairperson

Committee Clerk