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Banking, Commerce and Insurance Committee
January 24, 2011

[LB74 LB75 LB76 LB77 LB78]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Monday, January 24, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB74, LB75, LB76, LB77, and LB78. Senators present: Rich Pahls, Chairperson; Beau McCoy, Vice Chairperson; Mark Christensen; Mike Gloor; Chris Langemeier; Dave Pankonin; Pete Pirsch; and Dennis Utter. Senators absent: None. []

SENATOR PAHLS: Good afternoon. This looks like a lively crowd today, see a lot of smiles. Maybe we have enough senators here to get started. I want to welcome you to the Banking, Commerce and Insurance Committee hearing. My name is Rich Pahls, and I represent the Millard section of Omaha. We will take up the bills as posted. And, of course, those of you...you look like a pretty...the usual group in here. You do know our procedures. What I'm going to ask you to do is take a look at some of our rules on the board over here, you know, like the phone. And I'm going to ask you to move to the reserve seats, so I have some feel of how many people are testifying today, and, of course, we will do the typical introducer, proponents, opponents, neutral, and closing. And if you are going to testify, please fill it in and give it to Jan. Again, spell your name correctly. If not, we'll spell it for you, so we do need your help there. And I'm going to ask you to be concise if there are a number of people speaking and give us new information. We need at least ten pieces of information to hand out. And I'll introduce the people right...Bill Marienau, many of you know, and Jan Foster. We do have a couple of senators who are running a little bit late, but I think I'll start over here. []

SENATOR UTTER: I'm Dennis Utter from District 33. []

SENATOR PANKONIN: Dave Pankonin, District 2. []

SENATOR PIRSCH: Senator Pirsch, District 4. []

SENATOR McCOY: Beau McCoy, District 39. []

SENATOR GLOOR: Mike Gloor, District 35. []

SENATOR PAHLS: And we do have two pages. We have Tom Kelly from Sutherland, right? And Matt is not here right now--Matt McNally from Norfolk. Well, I think we are ready to begin, and we will start with LB74. This is being introduced by me on behalf of the Department of Banking and Finance, and my opening is simply going to be allowing the Director of Banking to come forth. Good afternoon again. It's good seeing you again. [LB74]

JOHN MUNN: (Exhibit 1) Chairman Pahls, members of the Banking, Commerce and

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Insurance Committee, my name is John Munn, J-o-h-n M-u-n-n. I'm director of the Nebraska Department of Banking and Finance. I'm appearing today in support of LB74, which was introduced at the request of the department to update laws relating to depository financial institutions under the jurisdiction of the department. Sections 1, 2, and 5 would respectively reenact the wildcard statutes for banks, savings and loan associations, and credit unions. Sections 8-1,140, 8-355, and 21-17,115 provide parity between Nebraska's state-chartered depository institutions and their federal counterparts, but those sections must be reenacted on an annual basis due to the Nebraska Constitution. Under LB74, parity will exist as of January 1, 2011, for our 177 state-chartered banks, 19 credit unions, and one savings and loan association. The emergency clause is requested for these three provisions. Section 3 proposes an amendment to section 8-602, which is the general fee statute for financial institution applications. The amendment is to subsection 8, which sets the application fee for charters and certificates of approval, including credit card bank charters. This amendment will add a cross-reference to clarify that applicants for credit card bank charters are responsible for examination, investigation, and hearing costs which may be incurred by the department in its evaluation of an application. All other charter and certificate applicants listed in this subsection are currently responsible for these costs. In 2004, the credit card bank application fee, which had been in effect since 1983 in a different statute, was moved to section 8-602, and the cross-reference to these costs was unintentionally omitted at that time. Section 4 of the bill will amend section 8-1510 which provides requirements for cross-industry merger and acquisition applications. These are applications in which one type of institution seeks to acquire an institution that has a different form of charter, such as a bank acquiring a credit union. The law requires that the department send first-class mail or electronic notice of these applications to all financial institution offices in the county or counties where the institution which is being acquired has offices. This notice provision is a standard requirement for the majority of depository institution applications which come before the department. In 2010, legislation was adopted which changed those notice requirement laws to allow financial institutions which have more than one office to designate one office where the notices are to be sent. As I informed the committee during my 2010 testimony on LB890, in counties such as Douglas, Lancaster, and Sarpy, it is not unusual for financial institutions to have numerous offices, while other counties such as Buffalo and Hall are host to branches of banks with main offices in another county. A number of those institutions had asked the department to direct those application notices to a single office in the affected county or solely to the main office. Section 8-1510 was inadvertently omitted from the 2010 proposal and section 4 of LB74 corrects that omission. The emergency clause is requested for this section, because the department is finalizing the implementation of the 2010 legislation as well as an electronic notice process for institutions which have selected that option over first-class mail notification. If the department were to receive a cross-industry merger application, we would be able to utilize these procedures immediately. Finally, LB74 would repeal section 8-132.01 of the Nebraska Banking Act. This statute was adopted in 1986 and

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provides that a bank that has a capital deficiency due to capital-impairing loan losses may be allowed to amortize such loan losses over seven years if it has a return to profitability plan approved by the department. In the 24 years since this statute was adopted, significant changes to accounting standards and federal reporting requirements for banks have been adopted rendering this law obsolete. Banks are required to file quarterly financial statements with the Federal Deposit Insurance Corporation. These financial statements are known as "Reports of Condition and Income," and commonly referred to as "call reports." Accounting rules regarding the filing of call reports provide that losses must be identified and acknowledged quarterly. The department does not believe the statute can be rewritten, because a seven-year time period to amortize loan losses cannot comport with current federal accounting and reporting standards under any set of circumstances. As such, we believe section 8-132.01 should be repealed. I want to thank Senator Pahls for sponsoring these updates to the depository financial institution laws, and I'll be happy to respond to any questions. [LB74]

SENATOR PAHLS: Do I have any questions from any of the senators? Seeing none, thank you. [LB74]

SENATOR PAHLS: Proponents? [LB74]

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 LB74. We come before this committee each year to support the extension of the state bank and savings and loan wildcard provisions to put them on parity with their federally-chartered counterparts. We also are supportive of those provisions of the bill that pick up the one omitted statute in terms of providing notices to the banks of a pending merger or acquisition and providing them with greater flexibility regarding the manner in which those will be provided. Although we are in support, I've also come to the committee today with a request regarding the outright repealer provisions of section 8-132.01. The banking department was certainly forthright in coming to us early to let us know of their intentions in this regard. We had an opportunity to review these provisions that are subjected for outright repeal with the Government Relations Committee and board of directors of the NBA, and they indicated their preference that this statute stay on the books. When you look at the background or the history behind this section of law as Director Munn indicated, it was adopted in 1986 right in the midst or right after the banking crisis, financial institution crisis of the mid-eighties. It did not exist with regulatory fiat or approval prior to that time, but the regulators exercised and authorized what we refer to commonly as regulatory forbearance with regard to the seven-year loan loss amortization provision. I think the position of the bankers is that while the director has accurately noted that the regulators are not looking at this as an alternative or an option, even in today's environment, that should they change their mind or create the environment in which these loan loss

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amortization provisions would be appropriate again in the future, that we could and should keep that particular provision of law on the books. I would note that the provisions of (section) 8-132.01 continue to be in the discretion of the director of the Department of Banking. I think the department indicated that they had had one request that had been rejected because of the current regulatory position that's taken on this issue. I'd also note that in the last session of Congress that there was an amendment that was at least proposed, I believe, by one of the congressmen or senators from Colorado that would have reinstated the regulatory forbearance or loan loss amortization provisions under federal law. So for those reasons, we would ask the committee's consideration in not providing for the outright repealer that's in LB74. [LB74]

SENATOR PAHLS: Any questions? Allow me one, because I...the statement that says it...the current accounting and reporting centered under...they can't use this, but you're saying for the potential of using this... [LB74]

ROBERT HALLSTROM: Yeah, if there is ever, Senator, a change in the philosophy of the regulators, I understand right now that they are not recognizing that, and they probably have the department's hands tied in that regard to carry out the state legislation or the provisions of that law. But if they ever have a change of heart, which occurred back in the mid-eighties in terms of them creating that concept for the first time, there may be things put in motion that would not only allow the regulators to approve it, but would perhaps put in motion the changes in the accounting terms that would allow these types of state law provisions to be reinstated. [LB74]

SENATOR PAHLS: So you're just saying, we ought to keep this basically as a placeholder in case it's needed? [LB74]

ROBERT HALLSTROM: That would be accurate. It's a discretionary power or authority within the department. Anyway, nothing forces them to go against the current regulatory position on this issue. [LB74]

SENATOR PAHLS: And, okay, so...but if we would follow what the department is telling us or asking us to do, I should say, and we would remove it, then we'd have to have new legislation to put the... [LB74]

ROBERT HALLSTROM: That would be correct. We'd have to reinstate with a new bill and a new law adopted by the Legislature to put those provisions or the appropriate provisions in law. [LB74]

SENATOR PAHLS: Okay, okay. I see no more questions. Thank you. [LB74]

ROBERT HALLSTROM: Thank you. [LB74]

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SENATOR PAHLS: Any more proponents? Good afternoon. [LB74]

BRANDON LUETKENHAUS: Good afternoon. Mr. Chairman, members of the Banking, Commerce and Insurance Committee, my name is Brandon Luetkenhaus. It's B-r-a-n-d-o-n. Last name L-u-e-t-k-e-n-h-a-u-s, and I'm here on behalf of the Nebraska Credit Union League. Our trade association represents 96 percent of our 72 credit unions in Nebraska. We are here in support of LB74. I want to thank Senator Pahls and Director Munn and their staffs for their work on this bill. In particular, we're supportive of the parity provision, the credit union wildcard provision that provides parity to our 19 state charter credit unions as to the abilities of our 53 federal charter credit unions. We would also support the notification provision as described. [LB74]

SENATOR PAHLS: I just have a question. I'm just...for clarification. How many federal credit unions did you say? [LB74]

BRANDON LUETKENHAUS: Fifty-three federal credit unions. [LB74]

SENATOR PAHLS: And 19... [LB74]

BRANDON LUETKENHAUS: State chartered. [LB74]

SENATOR PAHLS: Okay. Okay. Thank you. [LB74]

BRANDON LUETKENHAUS: Thank you. [LB74]

SENATOR PAHLS: Any more proponents? Opponents? Neutral? That will conclude the hearing on (LB)74. Now we will be ready for (LB)75. This is being introduced by me on behalf of the Department of Banking and Finance. My opening will be, would the director please come forth? Director. [LB75]

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'm director of the Nebraska Department of Banking and Finance. I'm appearing today in support of LB75, which was introduced at the request of the department. Sections 1 and 4 of the bill propose changes to laws affecting residential mortgage loan originators. There have been significant changes to state and federal law over the last three years relating to the licensing and registration of persons and firms engaged in the business of soliciting and making loans on residential real estate. Licensing is required at the state level for mortgage loan originators employed by nonfinancial institutions, while registration at the federal level is required for mortgage loan originators employed by financial institutions. The nationwide electronic licensing system, called the National Mortgage Licensing System and Registry with an acronym, NMLSR, has been operational since July 31,

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2010, for individual mortgage loan originators employed by nonfinancial institutions, and to date the department has processed over 1,000 applications. One of the last components to be implemented under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, also known as the S.A.F.E. Act, is the federal registration process for mortgage loan originators employed by financial institutions. Registrations will also be processed through the NMLSR, and handled entirely at the federal level, although the individual states needed to enact legislation requiring that registration. Nebraska's initial legislation relating to mortgage loan originators employed by financial institutions required registration by July 31, 2010. In 2010, that deadline was legislatively extended to within 60 days past the date that the NMLSR becomes capable of accepting such registrations, because the system was not expected to be functional for registration by July 31, 2010. In mid-2010, the federal banking agencies adopted final rules for registration that became effective October 1, 2010. Included in these rules is a requirement that financial institution mortgage loan originators must complete an initial registration through the NMLSR within 180 days from the date that the agencies issue a public notice that the system is accepting registrations. As a result, section 1 of LB75 changes the 60-day window of registration to 180 days, so that persons employed by Nebraska financial institutions are not at a disadvantage. We have been informed that the federal registration portion of the system will be functional by the end of this month. I'm going to leave the topic of federal registration of mortgage loan originators who work for depository financial institutions and move to section 4 of the bill which deals with our state process for licensing mortgage loan originators who work for nondepository mortgage companies. Section 4 would revise section 45-742 of the Residential Mortgage Licensing Act to clarify that the department may issue a notice of expiration of a mortgage loan originator license if the licensee does not submit a request to renew his or her license, rather than commence revocation procedures. Revocation procedures can be costly and time consuming, but more importantly, under the S.A.F.E. Act and corresponding states' laws, revocation of a mortgage loan originator license by any state makes that person ineligible for a license in any other state. This would be an inappropriate sanction for failing to submit a renewal. Sections 2 and 3 propose amendments to the Loan Brokers Act. Section 2 simply changes the term "advanced" with a "d" to advance to correctly reference all other uses in the act of the term "advance fee." Section 3 would amend the act by revising the definition of loan broker in section 45-190 to provide that persons who, for consideration rather than for an advance fee, arrange or attempt to arrange loans, or assist a borrower in making a loan application, are loan brokers. This amendment reverses a change made in 2009, which was intended to enhance enforcement of the act. That well-intended change has resulted in unforeseen problems. Entities are contending that because they are not charging an advance fee--which is prohibited by the Loan Broker Act--they do not have to comply with any of the requirements of the act. An advance fee, by definition, requires a collected or assessed fee prior to the closing of a loan. The "prior to the closing" language has become the problem. Since the Loan Broker Act goes beyond the advance fee prohibition by requiring the filing with the department of information that will

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safeguard borrowers, this part of the act has been unintentionally compromised. This proposal will reverse the 2009 change by reinstating the term "consideration" for the term "advance fee" in section 45-190. The emergency clause is requested for the entire bill. I want to thank Senator Pahls for sponsoring LB75. I'll be happy to respond to any questions. [LB75]

SENATOR PAHLS: I do not see any questions. Thank you, Director. Proponents? [LB75]

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 LB75. That last name is H-a-l-l-s-t-r-o-m. We are specifically interested in the provisions of section 1 which would bring state law into conformity with the federal regulatory provisions for the time frame within which financial institution employed mortgage loan originators must register with the Nationwide Mortgage Licensing System and Registry. As Director Munn indicated, that is supposed to be up and running and capable of accepting registrations by the end of the month and financial institution mortgage loan originators will have a period of 180 days after that time frame within which to register. Be happy to address any questions. [LB75]

SENATOR PAHLS: I just have a question. The 180 days...that would really not affect the bankers, though, would it? [LB75]

ROBERT HALLSTROM: Yes. The state law provision...state law, I think, as Director Munn indicated in his testimony, state law had to recognize the registry requirements as they relate both to financial institution, mortgage loan originators, and those who are not employed by financial institutions who have other examination and continuing education requirements that are already in play. [LB75]

SENATOR PAHLS: Okay, okay. Senator. [LB75]

SENATOR PANKONIN: Thank you, Senator Pahls. Mr. Hallstrom, I think maybe it'd be interesting...I mean, as I know some of the provisions are...people are going to have to be...there's fingerprinting; because there's been some abuse in this area over the last...during the Great Recession, that that's the impetus for these changes. Could you tell us a little bit? I think people might be curious to know about some of the things that are happening. [LB75]

ROBERT HALLSTROM: Yeah, basically,...yeah, thank you, Senator. Basically, with regard to the financial institution employees, they will, as Senator Pankonin indicates, have to go through a fingerprinting background check. They will be put into the registry if they are originating more than five mortgage loans per year, I believe, is the threshold. They have to renew on an annual basis. And that registry, I think the design, because of

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some of the abuses that were happening, perhaps more so in the mortgage broker industry, but because of the abuses that were happening, one of the component parts is to have this registry which forms a database pursuant to which the public will be able to locate and identify by registration number that's assigned to the individuals that must register, and they can get background information regarding the activities of that person--where they are, where they've been, and so forth. [LB75]

SENATOR PAHLS: Did we just...was it two years ago when we passed legislation that caused some of this to be in effect? I can't recall. [LB75]

ROBERT HALLSTROM: I think it was either two or three years ago. [LB75]

SENATOR PAHLS: Yeah, okay. Time flies. Thank you. Any more proponents? Opponents? Neutral? That closes the hearing. The next one will be LB76. Again, this is a bill I'm introducing on behalf of the Department of Banking and Finance. I'll have Director Munn come up. Keeping you busy today. We're ready when you are, Director. [LB75]

JOHN MUNN: (Exhibits 1, 2) Chairman Pahls, members of the Banking, Commerce and Insurance Committee, my name is John Munn, J-o-h-n M-u-n-n. I'm director of the Nebraska Department of Banking and Finance. I'm appearing today in support of LB76 which was introduced at the request of the department. The Nebraska securities bureau is a division of the department and is responsible for the enforcement of the Securities Act of Nebraska, the Commodity Code, and the Consumer Rental Purchase Agreement Act. LB76 will uniformly amend these three state acts by updating existing date references to federal laws including the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisors Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, the Interstate Land Sales Full Disclosure Act, and the Consumer Credit Protection Act. LB76 will change all existing reference dates which range from 1993 to 2002 to January 1, 2011. We believe it is important to update these federal citations, because the states and the federal government share jurisdiction in the regulation of securities, commodities, and consumer credit. LB76 also corrects an existing cross reference in section 8-1111 of the Securities Act by specifying a subdivision within subsection 22 of that law. This amendment could have been handled as a Revisor's bill. Along with my testimony is a copy of AM40, which I am offering as an amendment to the bill. This amendment will strike all references within the Nebraska Securities Act to the federal Public Utility Holding Company Act of 1935. Research on this act showed that it was replaced by the Public Utility Holding Company Act of 2005. The 1935 act was enacted to combat market imperfections within public utility holding companies that adversely affected investors and energy consumers, and the Securities and Exchange Commission was charged with enforcement of that act. In contrast, the 2005 act consists primarily of provisions relating to access to books and records of public utility companies and their affiliates by state and federal regulators. There is no

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securities registration involved. Thus, while the 2005 act replaced the 1935 act, it is not the regulatory equivalent of the earlier act. Therefore, references in the Securities Act of Nebraska to the federal 1935 act should not be replaced by or updated to the 2005 act. AM40 to LB76 will strike the reference contained on page 7, line 23 of the bill, as well as a second reference within section 8-1110(4), which is shown on page 1, lines 22 through 25, and page 2, line 1 of the amendment. The emergency clause is requested for this entire bill. I want to express my appreciation to Senator Pahls for introducing this bill, and I'd be happy to entertain any questions. [LB75]

SENATOR PAHLS: I see no questions. Thank you, Director. Any proponents? Opponents? Neutral? That closes the hearing on LB76. [LB76]

SENATOR McCOY: We'll now hear the opening on LB77. Senator Pahls. [LB77]

SENATOR PAHLS: Thank you, Senator McCoy. My name is Rich Pahls, P-a-h-l-s. I represent District 31. LB77, this bill comes to us from the Nebraska Bankers Association. The bill would make some changes in the Nebraska Installment Sales Act and the Nebraska Installment Loan Act. First, the bill would clarify that the cost of debt cancellation contracts and debt suspension contracts can be financed in installment sales contracts. Second, the bill would provide that the cost of an electronic title and lien services can be charged to borrowers and financed in installment sales contracts and installment loan contracts. Third, the bill would provide that installment sales licensees and installment loan licensees in addition to financial institutions can issue debt cancellation contracts and debt suspension contracts. That concludes my opening. [LB77]

SENATOR McCOY: Any questions for Senator Pahls? Seeing none, thank you. Proponents for LB77, please? Welcome. [LB77]

POLLY BIEHL: (Exhibit 1) Thank you. Good afternoon, members of the Banking, Commerce and Insurance Committee. My name is Polly Biehl, P-o-l-l-y B-i-e-h-l, and I'm here before you today on behalf of Central States of Omaha to testify in support of LB77. Central States of Omaha is engaged in program development and administration of debt cancellation and debt suspension programs for Nebraska lenders. LB77 would amend the Nebraska Installment Sales Act and the Nebraska Installment Loan Act to clarify the handling of fees for voluntary debt cancellation and debt suspension contracts, and authorize those entities licensed under both acts to offer debt cancellation and debt suspension contracts. A debt cancellation contract is a two-party agreement between the lender and the buyer or borrower in which the lender typically, for a fee, agrees to cancel all or part of a buyer or borrower's obligation to repay an extension of credit from the lender upon the occurrence of a specified event. A debt suspension contract is also a two-party agreement between the lender and a buyer or borrower in which the lender typically, in exchange for a fee, agrees to suspend all or

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part of a buyer or borrower's obligation to repay an extension of credit from the lender upon the occurrence of a specified event. In 2006, the Nebraska Installment Sales Act and the Nebraska Installment Loan Act were amended by LB876 to allow the sale of debt cancellation and debt suspension agreements by financial institutions and their unaffiliated, nonexclusive agents. Provisions were added to both acts at section 45-336 and 45-1024 allowing the fees for these products to be included on the retail installment contract or installment loan. As evidenced both by the language of LB876 as well as its legislative history, LB876 sought to allow the fee for debt cancellation and debt suspension products to be financed over the term of the indebtedness. LB77 seeks to clarify this intent by including fees for debt cancellation and debt suspension contracts in the Nebraska Installment Sales Act's definition of basic time price at (section) 45-335(8), and to the calculation of the basic time price as set forth in section 45-336. LB77 also seeks to include authority to offer debt cancellation and debt suspension contracts by any established lender that is licensed under the Nebraska Installment Sales Act and the Nebraska Installment Loan Act and regulated by the Nebraska Department of Banking and Finance. In addition to financial institutions, therefore, this would include established licensed lenders such as finance companies which are equally important to our state's economy. Under LB77, only those entities licensed under either the Nebraska Installment Sales Act or the Nebraska Installment Loan Act and regulated by the Nebraska Department of Banking and Finance will have the authority to offer debt cancellation and debt suspension products. Both acts currently provide that federal regulation, namely, 12 C.F.R. 37, governing the issuance of debt cancellation and debt suspension contracts, govern debt cancellation and debt suspension products offered and sold in this state. This federal regulation will continue to govern the offer of debt cancellation and debt suspension products in this state under LB77. For these reasons, we respectfully request that LB77 be advanced by the committee to General File for further consideration by the full Legislature. And I'm happy to take any questions that you may have. [LB77]

SENATOR McCOY: Questions? Thank you. [LB77]

POLLY BIEHL: Thank you. [LB77]

SENATOR PANKONIN: Senator McCoy, excuse me. [LB77]

SENATOR McCOY: Oh, I'm sorry. [LB77]

POLLY BIEHL: Yes. [LB77]

SENATOR PANKONIN: Sorry, but I...just, on these specified...is it Miss Biehl? Is that...pronounce it? [LB77]

POLLY BIEHL: Yes. [LB77]

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SENATOR PANKONIN: Okay. I understand what these are, but on specified events would be loss of job, a health issue. Can you give me some examples of specified events? [LB77]

POLLY BIEHL: Sure, loss of life, disability--those are fairly common, FMLA leave, divorce, but triggering events vary, depending on the product. [LB77]

SENATOR PANKONIN: On the product. Okay, thank you. [LB77]

POLLY BIEHL: Correct. [LB77]

SENATOR PANKONIN: But it could be a whole...it's not just one or two. It can be...depending on how the product is offered. [LB77]

POLLY BIEHL: That's correct. [LB77]

SENATOR PANKONIN: Okay. Thank you. [LB77]

SENATOR McCOY: Further questions? Thank you. [LB77]

POLLY BIEHL: Thank you. [LB77]

ROBERT HALLSTROM: (Exhibit 2) Senator McCoy, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as a registered lobbyist for the Nebraska Bankers Association in support of LB77. Ms. Biehl has covered most of the ground with regard to the debt cancellation contracts. I will focus my comments with regard to the provisions of the Nebraska Installment Sales Act and the Nebraska Installment Loan Act that are being amended to clarify the manner in which fees for electronic title and lien services are to be treated, and that is basically in a similar fashion that was described for the debt cancellation contracts and the debt suspension contracts in that they can be treated as part of the amount financed under each of those acts. By way of background, in 2009, the Nebraska Legislature adopted the Nebraska Electronic Lien and Title system and directed the Department of Motor Vehicles by January 1 of this year to implement an electronic title and lien system. That system, I think, was formally put in place in November 2010. There was a pilot program before that time to work out any kinks in the system. It's now up and operational. Under that system, we have gone to an electronic notation of lien and issuance of title. The titles are stored electronically with the Department of Motor Vehicles. After an application is received, the lien is noted on that electronic title and the lender is notified of the lien notation. When the loan is paid off, the lien release likewise is electronically submitted or transmitted to the Department of Motor Vehicles, at which time a title would be put together and sent in connection with directions of the lender. In order for a lender

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to participate in the ELT, they must have a relationship with an approved provider. That is my understanding from checking the Web site of the DMV that there are currently five approved providers with which the participating lenders have relationships. With regard to the specific provisions of the bill, the current law allows for any fees that are paid to public officials for lien releases and the like, and for issuance of title to be a part of the amount financed. These are charges that are paid by the borrower, and they can clearly become part of the amount financed, but they are only covered if they are paid to public officials. The provider fees that are paid in connection with the establishment of the electronic title and lien system, and the lien notation and issuance of title are not paid to public officials, but are rather paid to these approved providers that I mentioned earlier in my testimony. So in order to make them also eligible to become part of the amount financed under these respective acts, we have made the amendments that appear in LB77. We would respectfully request the committee to advance the bill to General File for further consideration. I'd be happy to address any questions of the committee. [LB77]

SENATOR McCOY: Any questions for Mr. Hallstrom? [LB77]

BILL MARIENAU: Do you want to mention this? [LB77]

ROBERT HALLSTROM: (Exhibit 3) Thank you. Oh, excuse me. I have passed away...thank you, Mr. Marienau. I have passed out a...not passed away...I've passed out (laughter) a series of amendments that are technical in nature. There are two locations in the bill where when we enacted the legislation in 2006, made reference to the federal regulation that Ms. Biehl referenced in her testimony, and when the bill was introduced, we had only changed one of the 2006 references to 2011. This would cure that technical defect, and we'd ask that that amendment be adopted as well in advancing the bill. Thank you. [LB77]

SENATOR McCOY: Questions? Thank you, Mr. Hallstrom. Further proponents? [LB77]

LOY TODD: Senator McCoy, members of the committee, my name is Loy Todd. That's L-o-y T-o-d-d. I'm the president and legal counsel for the Nebraska New Car and Truck Dealers Association, testifying in support of LB77. In order to not be repetitive, that's the end of my testimony (laughter). [LB77]

SENATOR McCOY: Thank you, Mr. Todd. Any questions? Seeing none, thank you. Any additional proponents for LB77? Seeing none, any opponents? Neutral testimony? Closing? Senator Pahls waives closing, and that concludes the hearing on LB77. I'll move to LB78. Senator Pahls. [LB77]

SENATOR PAHLS: Thank you, Senator McCoy. My name is Rich Pahls. Rich, R-i-c-h Pahls, P-a-h-l-s. I represent District 31. This bill comes to us from the Nebraska Banking

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Association. Our statutes currently require that depository financial institutions must give security to protect deposits of public funds made by political subdivisions. Excessive amounts insured are guaranteed by the Federal Deposit Insurance Corporation. These institutions give security according to the requirements of the Public Funds Deposit Security Act which was enacted in 1996. The act is very comprehensive and has served us well. However, there are some questions that have arisen, because the act has never set out a definition of political subdivisions even though we use that term frequently. This bill would step in with an all encompassing definition of political subdivision for purposes of the Public Funds Deposit Security Act. In a county, city, village, township, district, authority, or other public corporation or entity where the organized and existing and the direct provisions of the Constitution of Nebraska or laws of the State of Nebraska, or by virtue of a charter, corporate articles, or other legal documents executed under the authority of the Constitution or laws including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. As you can see, we covered a lot. The adoption of the definition should provide some clarity and certainty. Thank you. [LB78]

SENATOR McCOY: Any questions for Senator Pahls? [LB78]

SENATOR PAHLS: Yes. [LB78]

SENATOR McCOY: Senator Langemeier. [LB78]

SENATOR LANGEMEIER: Thank you, Vice Chairman McCoy. Senator Pahls,... [LB78]

SENATOR PAHLS: Yes. [LB78]

SENATOR LANGEMEIER: ...my seven years on this committee, this is a fun day. [LB78]

SENATOR PAHLS: Good. [LB78]

SENATOR LANGEMEIER: ...with this bill. You know, we've seen this bill come before us, before us, and before us from the credit unions wanting public funds. Now, there was some question in the definitions, and now we went from offense to defense, and now the bankers are bringing a bill to keep public funds out of credit union's hands. Is that what this would do? [LB78]

SENATOR PAHLS: No. I think it is to clarify the word that we bandy about a lot, and that would be political subdivision. I think we're actually trying to clarify what a political subdivision is. That's my understanding. [LB78]

SENATOR LANGEMEIER: Okay. I'll just leave that out there. Thank you. [LB78]

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SENATOR PAHLS: Yeah. Right. And I think that could be directed a little later on, but again, if I did cause confusion, I think we're trying to clarify what a public or a political subdivision actually is. Thank you. [LB78]

SENATOR McCOY: Additional questions? Thank you, Senator Pahls. It's time we hear proponents, LB78? [LB78]

ROBERT HALLSTROM: (Exhibit 1) Senator McCoy, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, and I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB78. There's not too many different ways to talk about a bill that simply changes a definition. Senator Pahls said a mouthful when he described what the definition of political subdivision is, but our intent and design is to be all encompassing, so that there is no question as to what constitutes a political subdivision which is required to have pledging of securities under Nebraska law and any other private depositor which in most instances is prohibited from having pledging of securities for those private deposits. We gathered or drew the definition from the Records Management Act in being all encompassing. The background of this bill is that we at the Nebraska Bankers Association receive a number of calls, both from depositors and from financial institutions that are our members regarding what is or is not a political subdivision for which pledging is required. Some of the easy questions are when you get a local hospital that is a nonprofit, but they've suggested that they receive federal grants and assistance and state grants and assistance and somehow they think they might be a quasi-political subdivision or public entity and therefore the bank should pledge securities for the protection of their deposits. They are, obviously, private corporations registered with the Secretary of State and therefore there is no pledging authority under state law. By contrast, there are other issues that I pointed out in my testimony--agricultural societies, cemetery authorities, entities created under the intercooperation act or the Joint Public Agency (Act) where there might be other questions. This should relieve any questions regarding the scope and breadth of what constitutes a political subdivision for purposes of the Political Deposit of Public Funds Act for the security of public funds. This bill, Senator Langemeier, to my knowledge, has absolutely nothing to do with some of those epic battles that we've waged in this committee over who can and can't have public funds; only who, on the other side from the depositor perspective, is required to have pledging of securities and who may not, so be happy to address any questions of the committee. [LB78]

SENATOR McCOY: Any questions for Mr. Hallstrom? Seeing none, thank you. [LB78]

ROBERT HALLSTROM: Thank you. [LB78]

SENATOR McCOY: Additional proponents for LB78? Opponents? Neutral? Seeing

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none. Senator Pahls waives, and that concludes the hearing for LB78 and the hearings for today. [LB78]

SENATOR PAHLS: Thank you. Appreciate everyone's help today. That does conclude the hearing, and I would like to go into exec session. [LB78]