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Banking, Commerce and Insurance Committee
January 19, 2016

[LB676 LB751 LB759 LB760 LB761 LB771 LB778]

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, January 19, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB676, LB760, LB761, LB771, LB778, LB751, and LB759. Senators present: Jim Scheer, Chairperson; Matt Williams, Vice Chairperson; Kathy Campbell; Joni Craighead; Nicole Fox; Mike Gloor; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR SCHEER: Being the appointed time, we will start our hearings. Welcome to the Banking, Commerce and Insurance Committee. I'm going to read this today. I'm a little out of practice. We haven't had hearings for quite some time, so as not to forget something, I'll make sure that I'll bring it out. I'm from Norfolk and represent the 19th District and I will serve as Chair of the committee this session. The committee will take up bills in the order that they're posted outside the door. Our hearing today is your public part of the legislative process, your opportunity to express your position on the proposed legislation before us. Committee members will come and go during the hearing. We have to introduce bills in other committees and are called away. It's not an indication that we're not interested in the bill being heard at the time, it's just part of our process. To better facilitate today's proceedings, I would ask you to abide by the following procedures. Information is posted on the chart to my left. Please silence or turn off your cell phones. When you are going to testify, if you could move up to the front three chairs reserved for testifiers so we know when we're running out of testifiers, and we will be able to finish up that hearing. The order of testimonies today will be the introducer, the proponents, opponents, neutral, and then the closing by the introducing senator. Testifiers, please sign in. Hand your pink sheet to the committee clerk, Jan, on my left in the lovely red jacket. When you are testifying, please make sure that you spell your name before you start testifying for the record. We would ask you to be concise, and please limit your testimony to five minutes. We will be running the light system. There are a bank of lights to the front. Green means you are good to go for the next four minutes. Yellow will mean that you have one minute left. Red means you are supposed to stop and if you don't, I will help you. Written materials may be distributed to the committee members as exhibits only while the testimony is being offered. Hand them to the page for distribution to the committee and we will need approximately ten copies, but if you do not have ten copies, one of the two pages will be glad to make those copies for you. To my immediate right is our committee counsel, Bill Marienau, who has been with the Legislature 37 years, which equates in his words--I'm not sure it's new math--38 sessions. So I don't know how that works. Conversely, our committee clerk is Jan Foster over to the left who has been here, again, 33 years, but 34 sessions. Again, slight of hand. I would now ask our committee members to introduce themselves starting with Senator Schumacher.

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

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SENATOR FOX: Nicole Fox, District 7, south Omaha and downtown.

SENATOR LINDSTROM: Brett Lindstrom, District 18, northwest Omaha.

SENATOR WILLIAMS: Matt Williams, District 36, Dawson, Custer and part of Buffalo Counties.

SENATOR CRAIGHEAD: Joni Craighead, District 6, Omaha.

SENATOR CAMPBELL: Kathy Campbell, District 25, east Lincoln.

SENATOR GLOOR: Mike Gloor, District 35, Grand Island.

SENATOR SCHEER: Thank you. Our pages today are Kaylee Hartman from Douglas, Nebraska, and Brenda Gallardo from Wakefield, I believe. Is that correct? Okay. The committee will take up the bills, as I stated, in the order that they were printed which means our first bill is Senator Craighead, LB676. As is the...my preference, our senators when they are introducing a bill will stay in the audience area, will not be part of the committee that will be asking questions, and I would ask our committee to please speak directly into the microphone so that they are picking up all the information for the transcribers, and to remember that our testifiers are testifying, they are not to be interrogated. They are simply providing their input on the bills that we are looking at. So with that, Senator Craighead.

SENATOR CRAIGHEAD: Thank you. Good afternoon, Chairman Scheer and fellow committee members. My name is Joni Craighead, J-o-n-i C-r-a-i-g-h-e-a-d. I represent Legislative District 6 in Omaha in Douglas County. I am here today to introduce LB676 at the request of the Department of Banking and Finance which would amend various sections relating to financial institutions. The bill would provide section by section as follows: Section 1 would amend section 8-1,140 of the Nebraska Banking Act which is the wild card statute for state-chartered banks. This section would be amended to provide that state-chartered banks have the same rights, powers, privileges and immunities as a federally chartered bank doing business in Nebraska as of January 1, 2016. Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually. Section 2 would amend section 8-335 which is the wild card statute for state-chartered savings associations. This section would be amended to provide that state-chartered savings associations have the same rights, powers, privileges and immunities as a federally chartered savings association doing business in Nebraska as of January 1, 2016. Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually. Section 3 would amend section 21-17,115 of the Nebraska Credit Union Act, which is

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the wild card statute for state-chartered credit unions. This section would be amended to provide that state-chartered credit unions have the same rights, powers, privileges and immunities as a federally chartered credit union doing business in Nebraska as of January 1, 2016. Due to state constitutional restrictions on delegation of legislative authority, this statute is amended annually. Section 4 would provide for repealers of amendatory sections. Section 5 would provide for the emergency clause. Thank you for considering this bill. I would like to ask that you support it, and welcome any questions that you may have. [LB676]

SENATOR SCHEER: Thank you, Senator Craighead. Any questions from the committee? Seeing none. Thank you. And I'm assuming you'll be here to close. And we'll now open the testimony to proponents. Welcome, Director. [LB676]

MARK QUANDAHL: (Exhibit 1) Thank you, Chairman Scheer, members of the Banking, Commerce and Insurance Committee. My name is Mark Quandahl. It's Q-u-a-n-d-a-h-l. I'm Director of the Nebraska Department of Banking and Finance. I'm here in support of LB676, which was introduced at the request of the department. LB676 contains the annual equal rights updates for Nebraska's state-chartered depository financial institutions, all of which are under the jurisdiction of the department. Traditionally known as the "wild card" laws, this legislation provides the same rights, powers, and privileges to state-chartered financial institutions as those enjoyed by like federally chartered financial institutions doing business in Nebraska. Due to state constitutional restrictions on the delegation of legislative authority, the statutes need to be amended annually to provide a current reference date. The reference date provided in LB676 is January 1, 2016. Within the bill, section 1 provides equal rights between our 164 state-chartered banks and the national banks chartered by the Office of the Comptroller of the Currency; section 2 provides for equality between the one state-chartered savings and loan association and those chartered by the Office of the Comptroller of the Currency, formerly Office of Thrift Supervision; and section 3 provides the same rights for Nebraska's 14 state-chartered credit unions as those held by federal credit unions chartered by the National Credit Union Administration. LB676 carries the emergency clause. The savings and loan wild card has been in effect since 1971, while the credit union statute was first enacted in 1977. The bank wild card was adopted in 1999, and the annual enactment forestalls any constitutional challenges that we might have. Under each of these sections, there is no exemption from the payment of any taxes imposed by the state. The legislative history for these three statutes shows that department directors have consistently testified that wild card legislation is sensible legislation that provides parity for our state-chartered institutions with their federal counterparts without the need to enact state legislation for each specific power or privilege. I echo that philosophy. I want to thank Senator Craighead for introducing this legislation, and I'd be happy to answer any questions at this time. [LB676]

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SENATOR SCHEER: Thank you, Director. Any questions? Seeing none, you did a great job, evidently. [LB676]

MARK QUANDAHL: Oh, yeah, I can...like I said, I can read English fairly well, so. (Laughter) [LB676]

SENATOR SCHEER: Any other proponents? Welcome, Mr. Hallstrom. [LB676]

ROBERT HALLSTROM: Thank you, Senator. Chairman Scheer, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today on behalf of the Nebraska Bankers Association in support of LB676 to express our annual support for the annual update of the bank and savings and loan wild card bill, and would be happy to address any questions that the committee might have. [LB676]

SENATOR SCHEER: Thank you. Any questions? This is just...I love these. (Laughter) [LB676]

ROBERT HALLSTROM: Thank you. [LB676]

SENATOR SCHEER: Thank you very much. I'm anticipating the whole day going like that yet. Welcome. [LB676]

BRANDON LUETKENHAUS: Good afternoon, Mr. Chairman and members of the Banking, Commerce and Insurance Committee. My name is Brandon, B-r-a-n-d-o-n, Luetkenhaus, L-u-e-t-k-e-n-h-a-u-s, and I'm here on behalf of the Nebraska Credit Union League in support of LB676, in particular the wild card provision for Nebraska's state-chartered credit unions. If you have any questions, I'd be happy to answer those. [LB676]

SENATOR SCHEER: Thank you. Any questions for testifier? Seeing none, thank you. Any other proponents? Not going to have a lot of time here, so seeing none, any opponents? Seeing none of those either. How about in neutral capacity? Seeing none of those as well. Senator Craighead, would you like to close? She waives closing and that will end the hearing on LB676. I should note that I don't normally watch my phone that closely, but I am imminently waiting for a phone call from my son in relationship to two grandchildren being born today, so if I seem preoccupied, I probably am. (Laughter) So if I do step out, you'll know why. [LB676]

SENATOR WILLIAMS: Well, as Senator Scheer in his preoccupied condition approaches the witness stand, we will open the hearing on LB760. I would ask that the proponents please come

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forward so that you're sitting ready to go. And would ask Chairman Scheer to open on LB760. [LB760]

SENATOR SCHEER: Thank you, Senator. I'm here to introduce LB760 on the behalf of the Department of Banking and Finance. It is an update and a cleanup bill in two sections involving banks' and one section involving building and loan associations' internal references to the federal Electronic Fund Transfer Act; will be updated to that act as it existed on January 1, 2016, rather than September 4 of 2005. The Nebraska Legislature can incorporate federal law by reference, but that is only existing federal law, not future federal law in enactments. Finally, a section involving the building and loan associations' automatic teller machines is corrected by changing an internal reference in it from a section governing financial institution branches to a section governing automatic teller machines. That's the bill: three internal references to a federal law update, and one internal reference to the state law corrective. I would urge your advancement to General File on this bill and would be happy to turn this over to the banking department to answer any questions. [LB760]

SENATOR WILLIAMS: Questions for the senator? Seeing none, we'll ask the first proponent to approach the stand. [LB760]

MARK QUANDAHL: (Exhibit 1) Vice Chairman Williams, members of the Banking, Commerce and Insurance Committee, my name is Mark Quandahl. I'm Director of the Nebraska Department of Banking and Finance. I'm appearing here today in support LB760, which was introduced at the request of the department. LB760 proposes to update and coordinate references to the Electronic Fund Transfer Act, 15 U.S.C. 1693, that are found in three of our financial institution statutes. Section 8-135, which relates to bank deposit accounts, references the federal law as it existed on January 1, 2013. Section 8-318, applicable to building and loan association share accounts, contains a reference date of September 4, 2005. Finally, section 8-157.01, the primary statute governing electronic switches and automatic teller machines, is most current and contains a federal reference date of January 1, 2015. LB760 would update those three statute references to the federal act as it existed on January 1, 2016. These amendments are within the first three sections of the bill. Section 4 would amend section 8-345.01, which provides authority to building and loan associations to establish automatic teller machines. The amendment would remove the obsolete reference to (section) 8-157 that at one time included the law governing ATMs, and provide a correct reference to section 8-157.01, which as I indicated earlier, is now the controlling statute. I want to thank Chairman Scheer for introducing this bill, and I will be happy to answer any questions that you might have. [LB760]

SENATOR WILLIAMS: Questions for the director? Seeing no questions, thank you. [LB760]

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MARK QUANDAHL: Thank you. [LB760]

SENATOR WILLIAMS: Are there other proponents for LB760? Seeing none. Are there any opponents? Anyone who would like to testify neutral? Anyone who would like to offer an amendment referencing the Scheer grandchildren? (Laughter) We tried. You will waive closing? Thank you. That will close the hearing on LB760. Moving right along to LB761. Chairman Scheer, you're invited to open on (LB)761. [LB760]

SENATOR SCHEER: Thank you, Vice Chair Williams. I'm introducing LB761 on behalf of the Department of Banking and Finance. This bill does only one thing. It amends three sections of the Consumer Rental Purchase Agreement Act in order to update the internal references to the federal statutes and regulations. The federal Dodd-Frank Act transferred responsibility from the Federal Reserve Board to the Consumer Financial Protection Bureau, the CFPB, for the truth in lending statutes and for federal consumer leasing statutes. As part of this transaction, citations for federal statutes and regulations were changed. This bill would update the Nebraska statutes to correctly reference the pertinent federal provisions. Furthermore, the references would be to the federal provisions as they existed on January 1, 2016, rather than January 1, 2011. Finally, in two places, the internal references to the federal Consumer Credit Protection Act would be updated to act as if it existed on January 1, 2016, rather than January 1 of 2011. That's the bill. The internal references to the federal law updated and in some instances, citations to the federal law corrected. I would urge your advancement of this to the General File. And again, would pose any questions to the department director. [LB761]

SENATOR WILLIAMS: Questions for Senator Scheer? Seeing none, I invite the director. [LB761]

MARK QUANDAHL: (Exhibit 1) Vice Chairman Williams and members of the Banking, Commerce and Insurance Committee, my name continues to be Mark Quandahl, Q-u-a-n-d-a-h-l, Director of the Nebraska Department of Banking and Finance. I'm appearing today in support of LB761 introduced at the request of the department. LB761 would amend the Consumer Rental Purchase Agreement Act which is found in Chapter 69, article 21, of Nebraska statutes. The act governs rent-to-own companies which offer leases for the personal, family, or household property. The act is essentially a best practices and disclosure framework for those entities. The department has investigatory and administrative authority to enforce the act, but no filings or licenses are required. This proposal will update section 69-2103, which is the definitional section of the Consumer Rental Purchase Agreement Act, to reflect changes resulting from the Federal Dodd-Frank Act. Specifically, Congress transferred responsibility for TILA (Truth in Lending Act), also known as Regulation Z, and the federal Consumer Leasing Act, also known as Regulation M, from the Federal Reserve Board to the Consumer Financial Protection Bureau.

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After the transfer, the CFPB modified these regulations resulting in different citations. As such, section 69-2103 needs to be updated to provide accurate cross-references to these regulations, since the CFPB is the federal regulator who would enforce compliance with Regulation Z and Regulation M. Substantively, this amendment poses no significant change in the law. The definition of "credit sale" is unchanged since 2011. The definition of "consumer lease" has been subject to minor modification. In 2011, leases in excess of \$50,000 were excluded from definition. The CFPB has modified that threshold to \$54,600 beginning in 2015. This threshold is modified annually to account for inflation. We would propose a reference to the federal regulations as they exist on January 1, 2016. These amendments are found in section 1 of the bill. The amendments proposed in sections 2 and 3 of the bill would amend section 69-2104 of the act, which sets out the disclosure requirements for the consumer agreements, and section 69-2112, which provides the advertising requirements for consumer agreements covered by the act. The amendments are identical and would provide a reference to federal Consumer Credit Protection Act, from the current January 1, 2011, date to January 1, 2016. I want to thank Chairman Scheer for introducing this bill and I'd be happy to respond to any questions. [LB761]

SENATOR WILLIAMS: Questions for the director? Seeing no questions, thank you, Director. [LB761]

MARK QUANDAHL: Thanks. [LB761]

SENATOR WILLIAMS: Are there other proponents? Anyone here to testify as an opponent? How about anyone to testify neutral? If not, Chairman Scheer...would waive closing. We will close the hearing on LB761. [LB761]

SENATOR SCHEER: Thank you, Vice Chair Williams. Next will be, LB771. Senator Lindstrom to open. [LB771]

SENATOR LINDSTROM: Thank you, Senator Scheer and fellow members of the Banking, Commerce and Insurance Committee. My name is Senator Brett Lindstrom, L-i-n-d-s-t-r-o-m, representing Legislative District 18 in northwest Omaha. Today, I'm bringing LB771 for your consideration. I introduced LB771 at the request of the Department of Banking and Finance to cleanup some language in alliance of state filing requirements with SEC requirements. First, the bill modernizes notice in confirmation requirements by deleting telegrams and adding electronic mail as appropriate forms of communication. This applies to notice given by an issuer of securities being registered by coordination as well as the department in issuing and confirming stop orders denying or suspending the effectiveness of these registrations. Second, the bill updates the Securities Act of Nebraska to align filing requirements of the department to the filing requirements of the SEC. This would allow the department to require issuers of federal covered

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securities to submit any documents to the department they're required to file with the SEC. I believe Director Quandahl will also be testifying today and can help answer any questions. Thank you. [LB771]

SENATOR SCHEER: Thank you, Senator Lindstrom. Any questions for Senator Lindstrom? Seeing none, thank you. Director Quandahl, so nice to see you back again. [LB771]

MARK QUANDAHL: (Exhibit 1) Yes, I've returned. (Laughter) Chairman Scheer, members of the Banking, Commerce and Insurance Committee, my name is Mark Quandahl, Q-u-a-n-d-a-h-l, Director of the Nebraska Department of Banking and Finance. I'm appearing here today in support of LB771, which was introduced at the request of the department. LB771 proposes two amendments to the Securities Act of Nebraska. The Securities Act governs the offer and sale of securities in Nebraska by providing for the registration of securities, broker-dealers, agents, investment advisers and their representatives. The act contains exemptions from registration, anti-fraud provisions, as well as administrative and criminal penalties for violations of the act. The Department of Banking and Finance is charged with enforcing the act and carrying out the act's mandate of investor protection. The first amendment proposed is to section 8-1106 to the Securities Act which governs the registration of securities by coordination. These are securities for which a registration statement has been concurrently filed with the federal Securities and Exchange Commission. There were approximately four thousand such registrations filed with the department in the last fiscal year. This law currently requires telegram notifications in three instances. The first requires the issuers of these securities to notify the department when the federal registration becomes effective. Notification in this instance may also be done by facsimile transmission and that option would be retained in the law. The second instance requires the department to notify a registrant by telephone or telegram when the department issues a stop order retroactively denying or suspending the effectiveness of a registration statement. In the third instance, if the department's notification of the stop order is by telephone, then we are also required to provide a confirmation of the call by letter or telegram. Section 1 of the bill would change all telegram notifications to electronic mail notifications. In addition, the department would be required to send a prepaid letter confirming all notification of stop orders, whether originally made by telephone or electronic mail. These are simple amendments meant to modernize the process and reflect current communication methods. LB771 also proposes to amend section 8-1108.02 of the Securities Act relating to federal covered securities. These are securities exempted from state registration requirements by the federal Securities Act of 1933. Although exempted from state registration, states retain the right to require the filing of any documents and amendments for sales of these securities made in their respective state, and the right to charge a fee. Nebraska currently requires these types of filings and assesses a \$200 fee for the initial filings. Section 2 of the bill would authorize the department to further require issuers of federal covered securities to submit to the department any documents, including amendments, which the issuer is required to file with the SEC. This amendment is proposed to

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address situations where the issuer fails to file a required form with the SEC and then contends it has not violated Nebraska law. The department could exercise this authority by rule, regulation, or order. I want to thank Senator Lindstrom for introducing this bill and I'd be happy to answer any questions. [LB771]

SENATOR SCHEER: Thank you, Director. Are there any questions? Seeing none, thank you. Are there any other proponents for LB771? Seeing none, are there any opponents to LB771? And last, but not least, are there any in a neutral capacity for LB771? Seeing none, Senator Lindstrom waives closing and this will end the hearing on LB...oh, excuse me. Senator Gloor. [LB771]

SENATOR GLOOR: Mr. Chairman, I just noticed a small typo in the statement of intent, "any" is where I think...and it wasn't intended to be and I'll just point that out to the clerk so that we got a record of it and make that quick correction. [LB771]

SENATOR SCHEER: Okay. Thank you, Senator Gloor. That ends the hearing on LB771. The next bill we will look at is LB778. Senator Williams, your opening is awaiting. [LB771]

SENATOR WILLIAMS: Thank you, Chairman Scheer and fellow members of the committee. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s from District 36 and I'm the introducer of LB778, and I'm introducing this on behalf of the Department of Banking and Finance. This bill proposes a number of changes to the Nebraska Money Transmitters Act and the Nebraska Installment Sales Act. I'll give a brief description of the legislation and then turn it over to Director Quandahl to fill in the blanks. There are basically two parts to this bill. First, the bill will repeal obsolete and transitional language that is no longer necessary. This would cleanup the statutes by removing provisions that are no longer used or relevant to the department or the entities governed by these statutes. Second, the bill will change the process that entities would use if there is a proposed change in control under the Installment Sales Act. Under current law, if there is a change of control of a licensee, the entity is required to file a full application for a new license. LB778 would discontinue the requirement for a full application, but an entity would be required to file a notice with the department at least 30 days prior to the proposed change in control. This would give the department the opportunity to review any information necessary to evaluate the proposed acquisition and obtain any additional clarification that may be necessary. The bill would also spell out the circumstances under which the director would not approve a proposed acquisition. Finally, if the director would disapprove a proposed acquisition, the bill provides that the acquiring party may request an administrative hearing on the matter. While I'm not familiar with the application process under the Installment Sales Act, I can attest that licensing applications with the department can be a time-consuming process. So if we can ease up some of the paperwork required by current licensees, and the amount of paperwork of the

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department in the process, I think that's a good thing. This is a brief summary of the bill and I'm sure Director Quandahl will provide some additional detail. I appreciate your attention and would attempt to answer any questions you have. [LB778]

SENATOR SCHEER: Thank you, Senator Williams. Any questions? Seeing none, thank you. Director Quandahl, welcome back. [LB778]

MARK QUANDAHL: (Exhibit 1) Chairman Scheer and members of the Banking, Commerce and Insurance Committee, my name is Mark Quandahl, Q-u-a-n-d-a-h-l, Director of the Nebraska Department of Banking and Finance. I'm appearing here today in support of LB778 which was introduced at the request of the department. LB778 would amend the Nebraska Installment Sales Act and the Nebraska Money Transmitters Act. I'll first discuss the changes proposed by the Nebraska Installment Sales Act. This act regulates companies which purchase consumer installment sales contracts. These companies are generally referred to as sales finance companies. Licensing, contract, and disclosure requirements are set forth in this act. LB778 proposes one substantive amendment to the Installment Sales Act relating to the change of control of a licensee. The act currently requires that a new license application has to be filed if a change of control of a licensee is proposed. As set forth in section 7, the bill would provide for a new change of control approval process which requires the filing of a notice with the Department of Banking and Finance thirty days prior to the change of control. The department would be required to act on these filings within thirty days except in very limited circumstances when it could extend the review process an additional thirty days. Should the department deny a change of control application, LB778 further provides the right to a hearing in accordance with the Administrative Procedure Act. Current law defines a change of control to include direct or indirect ownership of the right to control 25 percent or more of the voting shares of a corporation; the ability of a person or group to elect a majority of the directors or otherwise effect a change in policy; and for noncorporate entities, any change in the principals of the organization. This definition remains unchanged although the bill moves it from section 45-346 to section 45-334, which is the definitional section of the act. The definition is thus broad enough to require a new application where there is a proposed change in one shareholder or principal. We do not believe that is necessary when there is no change in the entity's structure, financial status, bond, business plan, or other management. A shorter prior approval process in other industries we regulate, including banks, mortgage banker firms, allows for an efficient, yet thorough, review of the proposed change. This proposal was modeled after our Residential Mortgage Licensing Act. This proposal is revenue neutral as set forth in the fiscal note. The remaining amendments to the Installment Sales Act are to remove obsolete language related to transitional licensing periods and fees adopted when the installment sales license application and renewal process were moved to the Nationwide Mortgage Licensing System and Registry known as NMLS. As a background, the NMLS is a nationwide licensing system mandated by Congress under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, also known as the

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SAFE Act. Applicants for mortgage banker licenses and individual mortgage originators may file one application on the NMLS and submit it simultaneously to each state where licensing is sought. Nebraska was one of the first eight states to join the NMLS. The NMLS has expanded its scope over the years from mortgage licensing to other types of consumer licenses. Nebraska has kept pace with those changes through amendments to various consumer laws authorizing the use of NMLS licensing process. LB778 will remove the transitional licensing provisions adopted in 2012 for installment sales companies. Prior law set October 1 annual renewal date, so provision was made for the transition to the December 31 annual renewal period under the NMLS. The changes proposed to the Nebraska Money Transmitters Act also relate to the removal of transitional language. The Money Transmitters Act became effective in 2014 and replaced the Nebraska Sale of Checks and Funds Transmission Act. As all former licensees have transferred to the NMLS and have renewed under the Money Transmitters Act, the transitional language relating to fees and license periods is unnecessary. The same is true of section 8-2748, which provided a savings clause for former licensees. LB778 would repeal that statute outright. I want to thank Senator Williams for introducing this bill. I would be happy to answer any questions. [LB778]

SENATOR SCHEER: Thank you, Director Quandahl. Any questions? Senator Schumacher. [LB778]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Just reading through the language on page 9 of one of the operative sentences is, "no person acting personally or as an agent shall acquire control of any licensee." And go back in then and substitute in the definition of "control" from the top of page 7. And it just doesn't seem to read right. Control in the case of any other entity means any change in one or more of the principals. So no person acting personally or as an agent shall change one or more of the principals. I don't know if that flows just right and it's something we might want to address. [LB778]

MARK QUANDAHL: I understand. I don't know exactly how to respond to that other than to say I see what you mean. [LB778]

SENATOR SCHUMACHER: Yeah, I just raise that. I don't know what you intend there to be said. [LB778]

MARK QUANDAHL: More succinctly. [LB778]

SENATOR SCHUMACHER: Well, you know, a control is good. Control is not a change. It's defined as a change, but how do you acquire a change? How does a person acting personally or as an agent acquire a change in one or more of the principals? [LB778]

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MARK QUANDAHL: Would it be sufficient if I got back to you on that? [LB778]

SENATOR SCHUMACHER: Yeah, I mean, I just wanted to get something in the record here so when we bring it up, we might figure out if there's a better way to say what you mean. [LB778]

MARK QUANDAHL: Very good. [LB778]

SENATOR SCHUMACHER: Thank you. [LB778]

MARK QUANDAHL: Yep, thank you. [LB778]

SENATOR SCHEER: Thank you, Senator Schumacher and director. Any other questions for the director? Seeing none, thank you. Are there any other proponents to LB778? Any in opposition to LB778? Anyone in a neutral capacity for (LB)778? Seeing none, Senator Williams waives closing and that will end the hearing on LB778. The next hearing will be LB751. Senator Lindstrom. [LB778]

SENATOR LINDSTROM: Thank you, Chairman Scheer and fellow members of the Banking, Commerce and Insurance Committee. My name is Brett Lindstrom, L-i-n-d-s-t-r-o-m, representing Legislative District 18, northwest Omaha. I'm bringing you LB751 which updates Nebraska statutes to current practice within the banking industry. It eliminates two provisions that are no longer relevant and force financial institutions to spend an unnecessary amount of time and money making application for approvals by the department. The first process that LB751 eliminates is the notice that an institution must provide to all other financial institutions within the county of application. Branching authority was limited in the state of Nebraska until unlimited statewide branching was adopted in 2002. Since then the Department of Banking and Finance have received very few objections regarding new branch locations. The notice provision is no longer relevant and currently serves as an unnecessary additional cost to the bank in making application for branch approval. The second provision of LB751 eliminates the mandate. The publication expenses made by the institution must be paid before the application for new branch can be approved. This applies to applications for a new bank charter, conditional bank charter, bank trust office, stock savings and loan association, cross industry acquisition or merger, and branch applications for bank and credit unions. Many advertising expenses for newspapers and publications across the state are charged on a monthly basis. It is difficult for institutions to get the required confirmation of proof of payment of these expenses to the department in a timely manner. In some instances, applications have been delayed by three to seven days waiting for such documentation. This provision will allow the institutions and the publications to pay on the agreed-upon billing cycle. Thank you. I'd be happy to answer any questions. [LB751]

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SENATOR SCHEER: Thank you, Senator Lindstrom. Any questions? Seeing none, thank you. Welcome back, Mr. Hallstrom. [LB751]

ROBERT HALLSTROM: (Exhibits 1 and 2) Chairman Scheer, members of the committee, my name again 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 LB751. As Senator Lindstrom has noted, there are two primary components of this bill. One is to eliminate the requirement for the Department of Banking to provide each financial institution in the county in which a bank or credit union branch application has been filed in the county in which that branch is to be located of the filing of the application. And the second issue has to do with eliminating proof of payment as a condition precedent to the department granting final approval to the series of applications that Senator Lindstrom noted in his opening remarks. With regard to my testimony, I provided a little bit of a more detailed background on the evolution of branch banking in Nebraska, which essentially up until 1959 all banking activities had to be conducted at the headquarters of the bank. We had drive-through teller operations. We had ATMs that have always been excluded from the definition of branch and then, starting in 1983 through 1997, we allowed a limited number of branches to be established within the community in which the bank was located. We ultimately moved to a limited number of branches in the community in which the bank was located based on the size of the county that you were located in. At one time, we had unlimited branching only between Sarpy and Douglas Counties, and then finally in 2002, we went to our current system of unlimited statewide branching. And as we moved along the course of expanded branching rights, the industry approached the department probably back in the mid-90s, and I think in 1997, we adopted the current notification provisions. The notice initially was required to be provided by the department by certified mail, later was amended to allow a bank to agree to accept an electronic form of notice, and then finally, allowed a bank to designate a central location for receipt of that notice. With the extended or expanded number of branches that have occurred, as Senator Lindstrom noted, there has been fewer and fewer objections. We've gone, I believe, from a standard of convenience and necessity to determine if a branch was appropriate to one in which I think the banking department now looks at the financial capacity and capabilities of the bank making application to operate sufficiently in their new location. As a result, the industry has suggested that that notice is no longer required, or perhaps relevant, and it is a cost to the bank that is making the financial application and just another piece of paper that generally no action is taken upon. So we would ask that that particular notification requirement of the department be removed. With regard to the second issue on payment of publication expenses, we are not removing the requirement that the bank making application pay the publication expenses. We're just simply saying that they don't have to prove that they've been paid before the department can take final action on the application. The general scenario that we get, while it's not an earthshaking matter, is one where the bank may have a monthly billing for their publications in a particular community. They've made an application to locate a branch in that community. They may have had an LPO (loan production office) that's already operating in

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the community and they have to contact the newspaper who is billing them on a monthly basis to say, we'd like to have an itemized statement for this particular publication relating to our branch application. And after getting some quizzical looks over the phone from the person on the other end, they'll finally track it down. They have to send that itemized statement, the bank then has to remit payment, and then ultimately wait for the receipt to come back, and then submit it to the department. Probably three to seven day delay and again it's something that we've checked with the department and we're unaware that the department has any problem with removing this as a condition precedent, but obviously, I don't speak for the department. We'll find out from their silence or their testimony, if that is the case. I have also circulated a proposed amendment to the committee. In the course of putting the bill together, there are two sections of the bill that relate, one to branch bank applications or bank branch applications, and the other one to credit union branch applications. And the original version of the bill did not have the language regarding the elimination of notification by the department in the credit union provisions. This amendment would just bring those two sections into conformity. I'd be happy to address any questions that the committee may have. [LB751]

SENATOR SCHEER: Thank you, Mr. Hallstrom. Any questions from the committee members? Seeing none, thank you. [LB751]

ROBERT HALLSTROM: Thank you, Senator. [LB751]

SENATOR SCHEER: Next proponent. Welcome again. [LB751]

BRANDON LUETKENHAUS: (Exhibit 3) Thank you. Thank you, Mr. Chairman and members of the Banking, Commerce and Insurance Committee. My name is Brandon, B-r-a-n-d-o-n, Luetkenhaus, L-u-e-t-k-e-n-h-a-u-s, and I'm here on behalf of the Nebraska Credit Union League. Our association represents Nebraska's 63 credit unions, and I am here to testify in support of LB751. I want to thank Senator Lindstrom for introducing the bill. Mr. Hallstrom from the Bankers Association referenced an amendment that he's introduced or proposed to this committee which that amendment is dependent upon our...our support of this bill is dependent upon the passage of that amendment. We think that there needs to be parity when it comes to credit unions and banks on this matter for the department, and so we believe that provides it and we want to thank the Bankers Association for helping with this friendly amendment. If you have any questions, I'd be happy to answer those. [LB751]

SENATOR SCHEER: Thank you. Any questions? Thank you very much. [LB751]

BRANDON LUETKENHAUS: Thank you. [LB751]

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SENATOR SCHEER: Next proponent. Seeing none, are there any opponents to LB751? Anyone wishing to testify in a neutral capacity? Welcome back, Director. [LB751]

MARK QUANDAHL: (Exhibit 4) Chairman Scheer, members of the Banking, Commerce and Insurance Committee, my name is Mark Quandahl, Q-u-a-n-d-a-h-l. I'm Director of the Nebraska Department of Banking and Finance. I'm appearing here today in a neutral capacity with regard to LB751. LB751 would eliminate the requirement for the department to provide notice to all financial institutions located within the county in which a bank or credit union made application to establish a bank. Currently, the law provides that such notices are to be sent by first-class mail or electronic mail if the financial institution has agreed to receive such notices by that method. The department has administered the law as it has evolved over the years and will continue to do so as the Legislature directs. Our fiscal note reflects a minimal savings in staff time that is spent on printing and mailing of the notices to the institutions that opted for paper notices. LB751 would further amend a number of statutes relating to financial institution applications made to the department to provide that payment of publication fees for notices of such applications is not a condition precedent to department approval. The department approves or denies all of those applications by order. The orders make findings of fact and conclusions of law as to whether the statutory requirements have been met. On a few occasions, applicants have not provided such proofs of payment of publication notices. It is our practice to issue the order only when such proof is received. Most applicants are able to provide proof of payment before the 15-day notice period has even expired, so we do not believe this is a significant issue. Should an applicant fail to provide such proof after the issuance of the order, other administrative avenues could be pursued. So, I'd be happy to answer any questions at this time. Thank you. [LB751]

SENATOR SCHEER: Thank you, Director. Any questions? Seeing none, thank you, Director. [LB751]

MARK QUANDAHL: Thank you. [LB751]

SENATOR SCHEER: Any others wishing to testify in a neutral capacity on (LB)751? If not, I will close the hearing on (LB)751. [LB751]

SENATOR WILLIAMS: Moving down the agenda items, we will now open the public hearing on LB759 and ask Chairman Scheer to make his introductory remarks. [LB759]

SENATOR SCHEER: Thank you, Vice Chair Williams. I'm here to introduce LB759. This bill would amend the section in the Uniform Commercial Code that governs stop-payment orders. The section tells us that a stop-payment order is effective for six months, but it lapses after 14

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calendar days if the original order was oral and was not confirmed within those 14 days. A stop-payment order may be renewed for additional six months while the stop-payment order is in effect. Currently, that confirmation or renewal must be in writing. This bill would change "writing" to "record." Here is the key. Elsewhere in the Uniform Commercial Code the term "record" is defined as information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable under perceivable form. That's a simple way of saying that the UCC is such a good read. The bottom line...I didn't write this by the way. I'm not even leaving time for a little chuckle. The bottom line is that the bill makes certain that stop-payment order confirmations and renewals can be accomplished electronically. The bill is an example of conforming the statutes to actual practice. Bank customers are already using e-mail for confirmations and renewals. The bill would recognize this broad practice and remove any doubt about its validity. The bill also carries the emergency clause since there is no reason to wait until mid-July for it to become effective. I would urge your advancement of this bill to General File. [LB759]

SENATOR WILLIAMS: Questions for Chairman Scheer? No questions? Wishing to testify as a proponent? [LB759]

ROBERT HALLSTROM: (Exhibit 1) Vice Chairman Williams, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, here before you today as registered lobbyist for the Nebraska Bankers Association in support of LB759. When I first approached Senator Scheer to consider introducing this bill, I suggested that this might be the shortest public hearing on record, but we've had quite a bit of competition in that regard today. Since there's not too many extra ways that you can say we're changing this from "in writing" to allow for "electronic" notices of confirmation and renewal of stop-payment orders, I won't try to say it in a different manner and would simply request that the committee consider advancing the bill to General File. I would note for the record that the frequency with which Director Quandahl and myself have been up here today is designed to send a subliminal message to Senator Scheer that Bob and Mark might be nice names for his grandchildren if they happen to be boys. (Laughter) But with that, I'll move along unless there's any questions of the committee. [LB759]

SENATOR WILLIAMS: Questions for Mr. Hallstrom? Senator Schumacher. [LB759]

SENATOR SCHUMACHER: Thank you, Senator Williams. The actual language change talks in terms of replacing the word "writing" with the word "record." Is there some other section of law that says what "record" is? [LB759]

ROBERT HALLSTROM: Yes, Senator Scheer noted there's a...in another section of the Uniform Commercial Code, which is, I think, the committee counsel probably wrote that it's the vision of

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clarity, information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. And in essence, it means an electronic communication will be recognized. There's been two or three other states that have made this same change due to the uncertainty that if it says "writing" is that the only way that you can confirm or renew a stop-payment order? So it's simply designed to provide clarification in that regard. [LB759]

SENATOR SCHUMACHER: And the paragraph also provides as an existing law, the order is effective for six months and then can be renewed for six months by a record of... [LB759]

ROBERT HALLSTROM: Subsequent written or record, yes, communication. [LB759]

SENATOR SCHUMACHER: But it doesn't say subsequent record, so my question is, when one stops payment on a check, should one in the first record, if you want it to last a year, request it? [LB759]

ROBERT HALLSTROM: No, the way....Senator, good question. The way that the system works is that if you make an oral stop-payment order initially, it is good for a period of 14 days unless within that 14-day period, you have today provided a writing, or in the future if this becomes law, have provided a record. And then it's good for a period of six months from the time that the first oral stop-payment order was issued. Subsequent to that, each in order to get succeeding six-month periods of renewal, you must renew that stop-payment order in writing. If there is a stoppage, if I did it for two six-month periods in a row, and didn't renew it for the third six-month, at that point, if that check happens to resurface and come back through, the comments to the code indicate that the bank, in good faith, can pay that. The fact that there was at one time a stop-payment order, if it's not renewed consecutively, it will not be effective after a particular six-month period of renewal terminates or expires. [LB759]

SENATOR SCHUMACHER: If that's the case, this language, I don't think, says that. I mean, the existing law doesn't say, because it doesn't say that. It says with reference to the additional six months, a stop-payment order may be renewed for an additional six months by a record given to the bank within the period. Once you put the oral order in provided you confirm it within the period during which stop-payment order is in effect. So you could do it in the...if that's not the practice, I think this says you can do it in the first letter, or the first record. Do you want that changed? [LB759]

ROBERT HALLSTROM: Well, no. The first record would be for six months and before the end of that effective six months stop-payment period, I would have to issue a subsequent or a new stop-payment order to renew it for another six months. [LB759]

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SENATOR SCHUMACHER: I don't have any further questions. [LB759]

ROBERT HALLSTROM: Thank you, Senator. [LB759]

SENATOR WILLIAMS: Any further questions? Thank you, Mr. Hallstrom. [LB759]

ROBERT HALLSTROM: Thank you. [LB759]

SENATOR WILLIAMS: Next proponent. [LB759]

BRANDON LUETKENHAUS: Members of the Banking, Commerce and Insurance Committee, my name is Brandon, B-r-a-n-d-o-n, Luetkenhaus, L-u-e-t-k-e-n-h-a-u-s, here on behalf of the Nebraska Credit Union League in support of LB759. I want to thank Senator Scheer for introducing the bill. And for the reasons that the Senator stated, and Mr. Hallstrom, we are in support of this bill. [LB759]

SENATOR WILLIAMS: Questions for the witness? Seeing no questions, any other proponents? Anyone wishing to testify as an opponent? Anyone wishing to testify in a neutral capacity? Seeing none, Senator Scheer waives closing. That will close the hearing on LB759. [LB759]

SENATOR SCHEER: Thank you, Vice Chairman Williams. That concludes the number of bills that we will have today. [LB759]