

record your presence and Senator Hannibal, too. Senator Remmers, please record your presence. Senator Marsh. Ten members are excused at the present time. Senator Goodrich, Senator Lynch, Senator Pappas. Senators Lynch and Pappas. All members who are not excused are in their seats, Senator Haberman. We would like to call your attention to a problem, Senator Haberman. I am going to let you proceed with your presentation but we used your time really to make a call of the house because you were recognized to speak. Go ahead.

SENATOR HABERMAN: Members of the Legislature, what I would like to do this morning is I would like to draw to your attention something that happened 76 years ago. Back in 1909 a guaranty fund was created for the protection of bank depositors. Then in 1927 the Legislature created the Guaranty Fund Commission for administrating the fund. The Guaranty Fund Commission was similar to the NDIGC but had a closer relationship with the government because it was created by statute and the Governor appointed the members. In the Twenties due to the economy and the bank problems, in 1928 the fund was short \$15,948,000. Now that amounts to a lot of dollars today. Now the Legislature sought to aid the depositors and appropriated a sum of money for this purpose, the same as we are doing. Now the Governor at that time sought a declaratory judgment as to whether this appropriation was valid. Three Lancaster district judges held it was unconstitutional. The Nebraska Supreme Court agreed in all respects that it was unconstitutional. Now here is why. First, it was offensive to the due process provision of the Constitution, in other words, trying an end run. Second, it was not for a public purpose. Third, it involved the taking of property of the public generally for the relief of private persons without obligation on the part of the state either legal or morally. That is what the Supreme Court ruled. Well, the decision was appealed and the appeal was denied and the court said the state exists for the benefit of all. Any devotion of its powers to merely private ends is such a perversion of its purpose and duties as to utterly void and it is the duty of the judicial agents of the state to protect the community from such perversion. They went on to say to reimburse depositors for losses sustained by them in failed banks clearly appears to be taking money, taking of money belonging to one class to pay the claims of those in another class, and this is in violation of the due process. It also said loss of